

Background.....	7
Resolution.....	8
Vocabulary.....	9
Acronyms.....	12
Surveillance Tech.....	14
Status Quo is Expansion .....	17
AI Integration.....	18
Biometrics Defined.....	19
Biometrics/AI Links.....	20
Kritiks.....	24
“Illegal” .....	25
Kritik Turns Case .....	30
Rejection Alternative.....	32
Language Alternative.....	33
Discourse First .....	35
AT: No Spillover .....	38
AT: Factually Correct .....	39
AT: “Illegal” is Inevitable.....	40
Aff Resps.....	41
PRO.....	47
Need to EXPAND Surveillance .....	48
Need SURVEILLANCE Tech.....	49
Immigration Crisis.....	50
Terrorism .....	52
Terrorism Contention .....	53
General Immigration Links to Terorism.....	57
Biometrics Reduce Terror Risks.....	60
ISIS .....	62
Terror Risks Increasing .....	65
Crime .....	71
Fentanyl.....	72
Need to EXPAND Surveillance to Stop Fentanyl’ .....	73

Immigration Surveillance Core File. *Updated 8-3-24*

Surveillance Key to Stop Fentanyl .....	74
Southern Border Key to Fentanyl .....	81
Fentanyl/Opioids Impacts .....	86
Fentanyl Has the Worst Impacts .....	95
Drug-Human Smuggling Connected .....	96
Manufacturing .....	97
Morality .....	99
Rural Collapse .....	101
Poverty .....	105
Low Wage Work .....	106
Social Services.....	110
Poverty Impacts.....	111
Arms Trafficking TO Mexico .....	114
Human Trafficking .....	116
Surveillance Critical to Reduce Human Trafficking.....	117
Southern Border Sex Trafficking Crisis .....	118
Child Sex Trafficking -- Extent.....	120
Child Sex-Trafficking Impacts .....	122
Disease.....	124
Answers to: Disease Risks Empirically Denied.....	125
Surveillance Critical to Stop Disease Outbreaks.....	126
Disease Impacts.....	130
Mexico Brain Drain .....	133
Mexico Brain Drain Contention .....	134
Brain Drain Hurts Econ .....	137
A2 Drug Violence OWs .....	140
A2 Economic Opportunity OWs.....	141
A2 Remittances.....	142
A2 Repatriation.....	147
Brain Drain Thesis True.....	148
AT: Brain Circulation.....	156
China Espionage .....	166
Politics .....	167

Immigration Surveillance Core File. *Updated 8-3-24*

Bipartisan Political Support for Surveillance .....	168
Answers to Con Contentions .....	169
Answers to Racism.....	170
Answers to: Social Activism .....	172
Answers to: Privacy .....	173
No Privacy Link .....	174
Answers to: Rights Violations .....	178
Privacy Impact Answers.....	179
Answers to: Cybersecurity.....	187
Answers to International Law.....	189
A2: International Humanitarian Law .....	190
Answers to: Surveillance Capitalism .....	195
CON – Solvency Answers.....	205
Expanded Surveillance Won’t Work.....	206
Extensions – Redirection .....	210
CON – Framework .....	213
Moral Obligation to Refugees .....	214
Morality – Golden Rule.....	216
Morality – General – Empathy .....	217
Answers to: Ned to Prioritize the National Interest.....	218
Should Include Refugees .....	220
Supporting Basic Needs Protects Human Rights .....	223
Need to Protect the Human Rights of the Stateless.....	225
Children .....	226
Should Prioritize Justice.....	229
Hospitality.....	234
A2: Rawls – Border Restrictions OK.....	242
A2: Rawls/Community .....	243
A2: Obligation to Countrymen is Greater.....	245
A2: Less of an Obligation to the Stranger.....	246
A2: Only an Obligation to Those We Interact With.....	247
National Interest Most Important.....	248
A2: Buchanan.....	250

Immigration Surveillance Core File. *Updated 8-3-24*

A2: Walzer .....	251
A2: Rights.....	253
States Have a Right to Exclude .....	254
A2: Human Rights .....	268
CON – Answers to Pro Contentions.....	269
Answers to Immigration Crisis.....	270
Crisis Slowing .....	271
Surveillance Towers Don't Solve .....	273
Alternatives are Worse Surveillance is an Alternative to a wall.....	274
Answers to: Surveillance Clears Backlog .....	275
Answers to: Sex Trafficking .....	276
Answers to: Invasive Species.....	285
Extensions- -- Shipping .....	292
Answers to: Terrorism .....	293
ISIS Answers.....	294
Biometrics in Counterterrorism Is Bad .....	301
Kritik of the Terrorism Arguments .....	304
Answers to: Crime .....	307
Answers to: Drugs/Fentanyl .....	309
Answers to: Brain Drain.....	321
Brain Drain False / Brain Gain/Circulation True .....	322
General Frontline.....	329
Not Zero Sum.....	335
Political Stability Turn.....	337
Remittances Turn .....	343
AT//Remittances Misspent.....	346
Mexico Specific Answers .....	347
Mexico Remittances Turn.....	348
Wages Turn.....	350
Immigration Not Key .....	352
Answers to: Surveillance Capitalism.....	357
Answers to: Arms Trafficking.....	359
Answers to: Surveillance Catches Racist Decision-Making .....	360

Immigration Surveillance Core File. *Updated 8-3-24*

Answers to: Crime .....	361
Answers to: Economy .....	362
CON CONTENTIONS .....	367
Economy Immigrants Generally Key to the Economy .....	368
Immigrants key to the economy .....	369
International Law/Asylum .....	372
Surveillance Undermines International Law/Asylum .....	373
Answers to: We Still Support Asylum Claims .....	375
International Law impacts .....	377
Morality – Right to Asylum .....	387
Human Rights .....	389
Border Surveillance Threatens Human Rights.....	390
A2: No Human Rights Claims When People are Stateless/Refugees .....	391
A2: Human Rights are Only “Negative” – No Duty to Help .....	392
Agriculture (US) Collapse.....	407
Agriculture Contention .....	408
Surveillance Destroys Agriculture .....	412
US ag key to global food security .....	414
Death .....	417
Dehumanization .....	422
DOD Tradeoff Links.....	426
“Human-In the Loop” .....	427
Colonialism + Surveillance Beyond the Border .....	429
Border Biopolitics .....	431
Biometrics Bad.....	440
Border Securitization Bad.....	441
Securitization of the Border is Bad .....	443
General Securitization Impacts.....	447
Racism/Bias .....	449
Surveillance Means Racism .....	450
Answers to: Surveillance Tech More Humane .....	470
A2: Automated Surveillance Reduces Discrimination .....	478
Racism Impacts .....	480

Immigration Surveillance Core File. *Updated 8-3-24*

Tyranny.....	482
Slippery Slope .....	484
Democracy/Tyranny .....	487
Answers to: Regulations.....	489
Detention.....	490
Surveillance Supports Detention.....	491
ICE Bad.....	494
Social Movement Prosecution.....	501
Securitization/Discrimination.....	502
Capitalism/Surveillance Industrial Complex.....	506
Value to Life.....	508
Biopolitics .....	512
Privacy .....	527
Surveillance/AI Bad Links.....	533
Mental Health.....	534

# Background

## **Resolution**

The United States federal government should substantially expand its surveillance infrastructure along its southern border.



## Vocabulary

**Algorithms:** Step-by-step instructions for solving a problem or completing a task, often used in computer programs and AI.

**Artificial Intelligence (AI):** Technology that allows computers to perform tasks that typically require human intelligence, like problem-solving or decision-making.

**Asylum:** Protection granted by a nation to someone who has left their native country as a political refugee.

**Biometric Data:** Information based on a person's physical characteristics, like fingerprints, iris patterns, or facial features, used for identification.

**Border Crossing:** A place where people can legally pass from one country to another.

**Border-Industrial Complex:** The interconnected relationships between governments, private companies, and technology firms in managing borders and migration.

**Border Patrol:** Law enforcement officers who monitor and guard a country's borders.

**Border Wall:** A physical barrier built along a country's border to control entry.

**Citizenship:** The status of being a legal member of a particular country.

**Customs:** The official process of checking goods and people entering a country.

**Deportation:** The act of formally removing someone from a country.

**Documentation:** Official papers that prove someone's identity or status.

**Drones:** Unmanned aircraft used for surveillance and monitoring.

**Externalization:** Policies that shift the responsibility of managing refugees and migrants to other countries or regions.

**Facial Recognition:** Technology that identifies people by analyzing their facial features, often used in surveillance systems.

**GPS (Global Positioning System):** A navigation system that uses satellites to determine the location of people or objects on Earth.

**Green Card:** A permit allowing a foreign national to live and work permanently in the United States.

**Immigration:** The act of coming to live permanently in a foreign country.

**Interoperability:** The ability of different computer systems or software to exchange and use information.

**Intersectional Discrimination:** When a person faces unfair treatment based on multiple aspects of their identity, such as race, gender, and immigration status combined.

**License Plate Readers:** Technology used to capture and process license plate numbers of vehicles.

**Migrant:** A person who moves from one place to another, especially to find work or better living conditions.

**National Security:** The protection of a nation against threats to its safety and well-being.

**Non-Refoulement:** A principle that forbids a country from returning asylum seekers to a country where they would be in danger.

**Passport:** An official document issued by a government, certifying the holder's identity and citizenship.

**Privacy:** The state of being free from public attention or interference.

**Profiling:** The practice of categorizing people based on their characteristics, sometimes leading to unfair treatment.

**Racial Discrimination:** Unfair treatment of people based on their race, color, descent, or national or ethnic origin.

**Sanctuary Cities:** Local areas that limit cooperation with national immigration enforcement.

**"Smart" Borders:** The use of advanced technology, like biometrics and AI, to monitor and control border crossings.

**Smuggling:** The illegal transportation of objects, substances, or people across a border.

**Surveillance:** Close observation of a person, group, or area, often using technology.

**Systemic Racism:** Discrimination deeply embedded in society's laws, policies, and practices, often affecting opportunities across generations.

**Techno-Solutionism:** The belief that technology can solve complex social, economic, and political problems.

**Undocumented:** Referring to foreign-born people who don't have a legal right to be or remain in a country.

**Visa:** An endorsement on a passport indicating that the holder is allowed to enter, leave, or stay in a country for a specified time.

## Acronyms

**AI:** Artificial Intelligence

**AST:** Autonomous Surveillance Towers

**CBP:** Customs and Border Protection

**DHS:** Department of Homeland Security

**DACA:** Deferred Action for Childhood Arrivals

**ERO:** Enforcement and Removal Operations

**ESTA:** Electronic System for Travel Authorization

**FEMA:** Federal Emergency Management Agency

**GPS:** Global Positioning System

**ICE:** Immigration and Customs Enforcement

**IFT:** Integrated Fixed Towers

**IIRIRA:** Illegal Immigration Reform and Immigrant Responsibility Act

**LPR:** Legal Permanent Resident (also known as Green Card holder)

**MSC:** Mobile Surveillance Capability

**NTAS:** National Terrorism Advisory System

**POE:** Port of Entry

**RFID:** Radio-Frequency Identification

**RVSS:** Remote Video Surveillance System

**SBI:** Secure Border Initiative

**SENTRI:** Secure Electronic Network for Travelers Rapid Inspection

**TSA:** Transportation Security Administration

**USCIS:** United States Citizenship and Immigration Services

**UAV:** Unmanned Aerial Vehicle (drone)

**USBP:** United States Border Patrol

**VISIT:** Visitor and Immigrant Status Indicator Technology

## Surveillance Tech

### **Types of surveillance, expansion, consolidation**

Customs & Border Patrol, no date, <https://www.cbp.gov/border-security/along-us-borders/us-border-patrol-technology>, U.S. Border Patrol Technology. DOA 6-27-24

**There are three different types of towers: integrated fixed towers, remote video surveillance systems, and autonomous surveillance towers.** They all focus on detecting people from afar, and the makers of the first two types claim that sophisticated cameras, radar sensors, and lasers on the towers can detect a person from over 7.5 miles away. The autonomous surveillance towers are the newest of the group, and though they have shorter range—they can detect a person from 1.7 miles away—they are equipped with movement-detecting radar and detection AI that allows for imagery to be analyzed without human review.

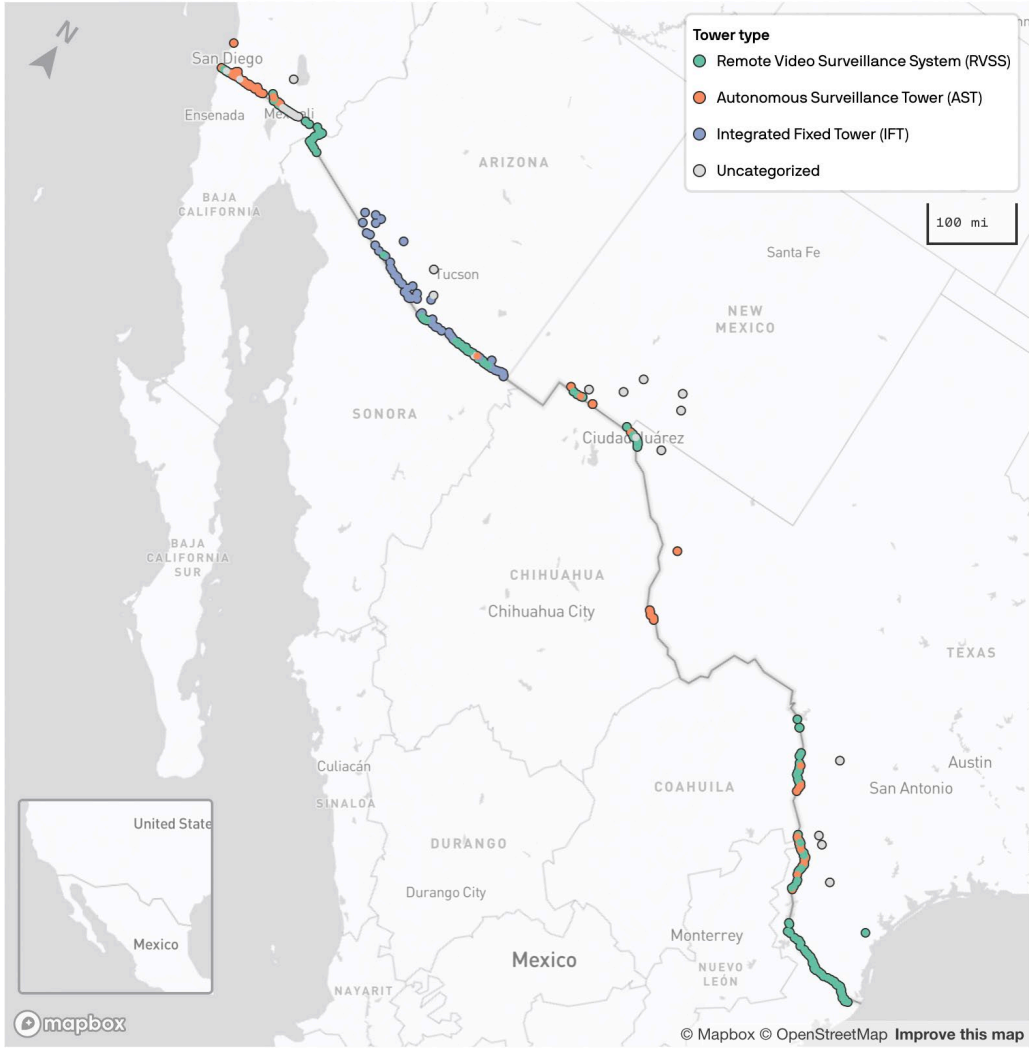
According to the 2023 CBP budget, **the agency plans to consolidate all the towers into one interoperable program and ultimately erect a total of 723 towers between the northern and southern border.**

Operating with a suite of technology and infrastructure assets, **the U.S. Border Patrol utilizes current and future innovation, including autonomous capabilities,** to detect and identify threats in near real time. Modern technology enables the exploitation of data collected by **sensors, towers, drones, assets, agents, facilities,** and other sources informing mission critical decisions in the field and at Headquarters. Key to achieving this, the Border Patrol fosters active engagement with industry and other government agencies to procure, deploy, and efficiently sustain modern technology and infrastructure, keeping front-line personnel safer, more effective, and one step ahead. The Border Patrol invites engagement from external vendors with capabilities that meet mission needs outlined below.

## Operations Assets



Russell Contreras, November 11, 2023, Surveillance towers along U.S.–Mexico border, Axios, <https://www.axios.com/2023/12/12/border-patrol-ai-us-mexico-wall-surveillance-virtual> DOA: 6-27-24





## Status Quo is Expansion

### **US expanding southern border surveillance**

Dave Mass, Electronic Frontier Foundation, March 20, 2023, CBP Is Expanding Its Surveillance Tower Program at the U.S.-Mexico Border—And We're Mapping It, <https://www.eff.org/deeplinks/2023/03/cbp-expanding-its-surveillance-tower-program-us-mexico-border-and-were-mapping-it> DOA: 6-27-24

Update: As of June 5, 2024, the map and dataset has grown to 471 towers. We have also added the locations of Tethered Aerostat Radar Systems (TARS) and Tactical Aerostat Systems (TAS).

To provide researchers with the tools they need to analyze the impact of U.S. border security policy, **EFF is releasing a new map and dataset of more than 290 surveillance towers installed by Customs and Border Protection (CBP)** along the border with Mexico. Compiled using public records, satellite imagery, road trips, and even exploration in virtual reality, EFF's data serves as a living snapshot of the so-called "virtual wall," from the California coast to the lower tip of Texas. We've also included roughly 50 locations CBP has proposed for its next round of towers, as well as automated license plate readers (ALPRs) placed at Border Patrol checkpoints

CONTINUES

**Now CBP (and its sub-division, U.S. Border Patrol) is planning yet another massive expansion of surveillance towers at the U.S.-Mexico border.** Referred to as the "Integrated Surveillance Tower" (IST) or "Consolidated Tower and Surveillance Equipment" (CTSE) program, CBP intends to bring the RVSS and IFT systems under one program and, over the next decade, begin upgrading 135 existing towers with new capabilities, technologies and sensors, while also installing 307 new towers along the Southern border. CBP has indicated these towers would help fill in surveillance gaps caused by the planned conclusion of its tactical aerostat program.

## AI Integration

Dave Mass, Electronic Frontier Foundation, March 20, 2023, CBP Is Expanding Its Surveillance Tower Program at the U.S.-Mexico Border—And We're Mapping It, <https://www.eff.org/deeplinks/2023/03/cbp-expanding-its-surveillance-tower-program-us-mexico-border-and-were-mapping-it> DOA: 6-27-24

**The tower systems are able to automatically detect and track objects up to 7.5 miles away and assist agents in classifying objects 3 miles away**, depending on regional requirements. Dozens more towers will be added at the Canadian border. **Meanwhile CBP is in the process of installing 200 Autonomous Surveillance Towers (ASTs) from Anduril Industries that are controlled by artificial intelligence software, which will also be part of the IST program. In the short term, CBP has earmarked \$204 million for this program in its 2023 and 2024 budgets, which covers the deployment of 74 ASTs by the end of FY 2024 and 100 new towers by the end of FY 2025.**

# Biometrics Defined

## Biometrics defined

**Huszi & Aolain 17** [Huszi-Orban, Krisztina. Aolain, Fionnuala N. 2017, "Use of Biometric Data to Identify Terrorists: Best Practices or Risky Business?" University of Minnesota, <https://www.ohchr.org/sites/default/files/Documents/Issues/Terrorism/biometricsreport.pdf>

The use of biometric tools and data has garnered considerable attention in past years. News articles, analyses and discussion frequently mention 'biometrics', with fingerprints, facial and voice recognition, iris scans or DNA flagged as examples. But, what exactly are 'biometrics' and what is their use? HUMAN RIGHTS CENTER University of Minnesota 5 **Biometrics is the scientific discipline concerned with measurements and metrics related to biological or behavioral human characteristics, that are commonly possessed by all human beings while also being highly representative of a person, thus allowing for the identification of individuals.**3 Such markers may be related to a person's physiological characteristics, such as **finger or palm prints, DNA, and facial, iris, or retina recognition** (i.e. biological biometrics). Others are linked to behavioral patterns, such as recognition based on a person's gait (behavioral biometrics or 'behaviometrics'). As biometric identity attributes are both unique to a person and stable over time,4 they provide for a singularly useful tool for accurate and efficient identification5 and authentication.6 These characteristics7 are also what makes such data particularly sensitive, thus creating a need for secure systems for data storage and processing to mitigate the risk of unauthorized access.

## Biometric data defined

**Accenture 22** [No Author, 01-15-2022, "Request for Information (RFI) on Public and Private Sector Uses of Biometric Technologies: Responses," Accenture, <https://www.ai.gov/rfi/2022/86-FR-56300/Biometric-RFI-2022-combined.pdf>

Regulators, Congress, and other stakeholders need a consistent way of communicating what biometric systems are and how they work in their many and varied applications. They should also understand what technologies, like inference of cognitive and/or emotion state, are not generally categorized as biometric technologies. To that end, Accenture suggests the following amendments to OSTP's biometrics terminology as expressed in the RFI:

- **Biometric Information:** Accenture agrees with OSTP's use of "**biometric information**" to refer to any measurements or derived data of an individual's physical or behavioral characteristics.
- **Biometric Technology:** Accenture believes that OSTP's definition of "**biometric technology**" as a "**system that uses biometric information for recognition or inference**" is too broad because it includes multiple industries that must be regulated separately.
- **Biometric Recognition:** The International Organization for Standardization (ISO) defines Biometric Recognition as the "automated recognition of individuals based on their biological and behavioral characteristics4 ." Further, Biometric Recognition relies on the commonly accepted characteristics of biometric factors as outlined by the National Academy of Sciences: universality, uniqueness, permanence, collectability, performance, acceptability, and circumventions5 .
- **Inference of cognitive and/or emotional state:** This should not be categorized as "biometric technology" because cognitive or emotional state is characterized by none of the commonly accepted National Academy of Sciences characteristics of biometric factors outlined above. Despite relying on an individual's physical and behavior characteristics, inference of cognitive and/or emotional state is typically classified as Emotion Detection or Sentiment Analysis and is in the domain of text, audio, and video analytics technology(ies), not biometric technology.

## Biometrics/AI Links

### **Border surveillance uses biometrics**

IEEE, <https://publicsafety.ieee.org/topics/high-tech-border-security-current-and-emerging-trends>, High-Tech Border Security: Current and Emerging Trends,

**Border security is an essential part of a country's defense and a vital concern for government agencies worldwide.** The complex challenges of preventing terrorism, unauthorized immigration, and drug trafficking have spurred numerous technologies. These reduce the unlawful entry of migrants and the smuggling of dangerous items through ports of entry. This article will explore how current technologies, including biometric identification and artificial intelligence (AI), have revolutionized border surveillance and how regulation should inform the development and deployment of these technologies. As **biometric systems using advanced facial recognition software become increasingly embedded in airports and other ports of entry**, they will be subject to intense criticism. Civil liberties watchdogs will scrutinize their negative impact on legal migrants and asylum seekers fleeing human rights abuses. Government spending watchdogs and other policymakers will also watch closely to ensure these high-tech border security systems deliver on their promise to improve the speed and scale of security monitoring. Continues: Biometric Identification Devices Recent technological advancements have produced a wide variety of biometric identification devices using physical characteristics to identify people crossing borders. **These technologies include digital passports containing biometric data on an embedded RFID chip. They also use fingerprint readers, iris scanners, and networked cameras using facial recognition software backed by artificial intelligence.** This biometric data is shared across . PROS: Highly reliable, accurate, and require no direct contact with border agents. CONS: Biometrics raise privacy and data protection concerns. Border agents need extensive training to use them effectively, and they're susceptible to bias and inaccuracies for people of color. What Works to Promote Border Security? More Technology and Enforcement versus Policy Alternatives The debate over border security is generally divided between two camps. Some believe that governments can seal their borders against unauthorized immigration by force. Others argue that any attempt to do so will be in vain. Further complicating matters, both sides point to different metrics to gauge their preferred policy's success. As Pew Research Center data shows, BPD encounters along the US-Mexico border have recently increased. Border hawks cite this as evidence that the current US administration's comparatively less punitive immigration policies encourage unauthorized migration. But BPD data also shows an increase in migrant deaths along the southern border. Those supporting less restrictive policies point to this as evidence of the harms of stricter border enforcement. Regardless, policy makers must recognize that border security does not exist in isolation. It interacts within a dynamic constellation of forces—including changes to global economies, military and public health matters, and climate change.

### **Border surveillance uses biometrics**

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Amnesty International, 2023, The Digital Border: Immigration, Technology, and Inequality, <https://www.amnestyusa.org/wp-content/uploads/2024/06/The-Digital-Border-Migration-Technology-and-Inequality.pdf>

**Biometrics**<sup>187</sup> **are some of the most common forms of technology used for identification, verification, and authentication purposes for people on the move.**<sup>188</sup> **A range of national and international agencies are building biometric databases to process and store the information of people at and around borders, including to identify origin and transit countries and verify refugees' and migrants' identities.**<sup>189</sup> **Biometric data can make use of fingerprints, retinal scans, facial and voice recognition, as well as blood vessel and vein patterns, ear shapes, gait, and more, for the purpose of verifying a person's identity.**<sup>190</sup> The utility and accuracy of such identification tools, many of which in multiple studies display significantly higher rates of false positives for racialized groups including Black and Indigenous populations,<sup>191</sup> remains an open question. BIOMETRICS Despite calls from human rights organizations to ban their use,<sup>192</sup> States are increasingly using biometric data as the basis for identity verification, both for citizens<sup>193</sup> and non-citizens. Mounting evidence suggests that this technology poses direct threats to the rights to privacy, non-discrimination and equality, and the right to remedy, among others.<sup>194</sup> States and international organizations frequently partner with private sector actors to build tools for capturing, storing, and sharing biometric data,<sup>195</sup> raising questions about the transparency and safety of sensitive information sharing, particularly when this function is outsourced to for-profit actors.<sup>196</sup> Some of these partnerships are now the basis of some of the world's largest databases of biometric data. EURODAC, a massive biometric data collection system, is the basis of enforcement for the EU's Dublin Regulation and requires refugees to immediately surrender fingerprints and often other biometric information. As of 2023, EURODAC was fast approaching its maximum capacity of 7 million datasets,<sup>197</sup> and poised for expansion.<sup>198</sup> A range of human rights organizations have called for a halt to the expansion of EURODAC, citing its frequent inaccuracy and use in justifying deportations and detention of people seeking asylum.<sup>19</sup>

## **Biometric surveillance key in border security**

**Mayhew 15** [Stephen Mayhew, 12-29-2015, "Immigration, border security, and terrorism driving interest in Integrated Biometrics technology," Biometric Update |, <https://www.biometricupdate.com/201512/immigration-border-security-and-terrorism-driving-interest-in-integrated-biometrics-technology>]

In the United States, Integrated Biometrics staff was a part of the International Security Conference (ISC) East in New York City, the Dataworks User Conference in Charlotte, North Carolina, and the 10th Annual Homeland Security Week in Arlington, Virginia. Grimes commented that Integrated Biometrics team members at international events are often asked questions regarding the company's ability to produce truly mobile certified sensors due to its patented LES film. This **technology is made up of a multilayer polymer composite containing nano-scale particles that give off light in the presence of an electrical field.** When a finger is placed on the film, the live skin of the individual serves to form a closed, low-level circuit that generates narrow wavelength light through the luminesce. This produces a reliable, high-resolution analog image of the fingerprint which meets or exceeds the quality standards of the FBI, whose fingerprint standards are followed around the world. The **biometrics identification and authentication applications of LES film-based fingerprint solutions range from military and law enforcement field work to border security**

**to secure purchases for consumer smart phones.** Integrated Biometrics is currently confirming **Q1 2016 event participation requests to events including Intersec in Dubai,** the Consumer Electronics Show (CES) in Las Vegas, the Biometrics for Government and Law Enforcement summit in Washington, D.C., and connect:ID.



# Kritiks



## “Illegal”

### The term “illegality” is engrained in immigration law and objectifies Mexicans

**Inda et. al '13** – Chair and Associate Professor of Latina/Latino Studies, Ph.D. in Anthropology from the University of California, Berkeley in 1997. His research areas include the politics of immigration, governmentality and life politics, the critical study of race and medicine, the anthropology of globalization, and Latino populations in the United States. Dr. Inda is currently Associate Professor of Latina/Latino Studies and Criticism and Interpretive Theory. (Jonathan Xavier Inda & Julie A. Dowling, “Governing Immigration through Crime”, p. 22-23, TS)

There is nothing matter-of-fact, therefore, about the "illegality" of undocumented mi-grants. "Illegality" (in its contemporary configuration) is the product of U.S. immigration law—not merely in the abstract sense that without the law nothing could be construed to be outside of the law, nor simply in the generic sense that immigration law constructs, differentiates, and ranks various categories of "aliens," but in the more profound sense that the history of deliberate interventions beginning in 1965 that have revised and reformulated the law has entailed an active process of inclusion through illegalization (cf. Calavita, 1982, 13; Hagan, 1994, 82; Coutin, 2000). Indeed, the legal production of "illegality" has made an object of Mexican migration in particular, in ways both historically unprecedented and disproportionately deleterious.

**“Illegal Immigrant” dehumanizes migrants – they reduce people to one action and deny their legality**

**Golash-Boza 2013 - Professor of Sociology at the University of California.** (Tanya Golash-Boza, “No human being is illegal: It's time to drop the 'i-word',” Aljazeera, 4/8/13, <http://www.aljazeera.com/indepth/opinion/2013/04/201347111531424247.html>, Accessed 7/31/13)

People who live in the US without permission from the US government are commonly referred to as illegals, illegal immigrants, illegal aliens, undocumented immigrants, or unauthorised migrants. The term you select to describe them has consequences. The first term "illegal" is grammatically incorrect - as it uses an adjective (illegal) as a noun. A person could have entered the country illegally, but that does not mean it is appropriate to call them an "illegal". The US government prefers to use the terms "illegal alien" and "illegal immigrant". However, the fact that the government had adopted a moniker does not mean that the word is accurate or unproblematic. The US government also uses terms such as "criminal alien" and "fugitive alien", which are dehumanising and politically motivated. To universally refer to people who live in the country without authorisation as "illegal immigrants" is incorrect. As David Leopold points out, people who are victims of

Immigration Surveillance Core File. *Updated 8-3-24*

human trafficking and in the US without authorisation merit protection, not prosecution. The terms "illegal immigrant" and "illegal alien" are problematic because they focus all of our attention on one aspect of a person - the fact that they do not have permission to remain in the country. This is problematic because having crossed the border without permission does not render a person necessarily an "illegal immigrant". You can cross the border without permission, and later obtain legalisation and even citizenship. Just as going over the speed limit once does not make you an "illegal driver", nor does crossing the border once make you an "illegal immigrant" or an "illegal alien". Furthermore, as Professor Otto Santa Ana of the University of California, Los Angeles, explains, the use of the adjective illegal implies criminality, and overstaying your visa or evading immigration inspectors is a civil offence.

**Dehumanization is the worst impact, it brings the society to total damnation: a loss of all value to life, justifies all genocides and atrocities.**

**Fasching, Professor of Religious Studies in the University of South Florida 1993** [Darrell J., Part II of The ethical challenge of Auschwitz and Hiroshima: Apocalypse or Utopia?, Chapter 4 "The Ethical Challenge of Auschwitz and Hiroshima to Technological Utopianism", part 4 "The Challenge of Auschwitz and Hiroshima: From Sacred Morality to Alienation and Ethics", Ebooks]

Although every culture is inherently utopian in its potentiality, the internal social dynamic through which its symbolic world-view is maintained as a sacred order has a tendency to transform it into a closed ideological universe (in Karl Mannheim's sense of the ideological; namely, a world-view that promises change while actually reinforcing the status quo) that tends to define human identity in terms advantageous to some and at the expense of others. Historically the process of dehumanization has typically begun by redefining the other as, by nature, less than human. So the Nazis did to the Jews, and European Americans did to the Native Americans, men have done to women, and whites to blacks. By relegating these social definitions to the realm of nature they are removed from the realm of choice and ethical reflection. Hence those in the superior categories need feel no responsibility toward those in the inferior categories. It is simply a matter of recognizing reality. Those who are the objects of such definitions find themselves robbed of their humanity. They are defined by and confined to the present horizon of culture and their place in it, which seeks to rob them of their utopian capacity for theonomous self-transcending self-definition. The cosmicization of social identities is inevitably legitimated by sacred narratives, whether religious or secular-scientific (e.g., the Nazi biological myth of Aryan racial superiority), which dehumanize not only the victims but also the victors. For to create such a demonic social order the victors must deny not only the humanity of the other who is treated as totally alien but also their own humanity as well. That is, to imprison the alien in his or her enforced subhuman identity (an identity that attempts to deny the victim the possibility of self-transcendence) the victor must imprison himself or herself in this same world as it has been defined and deny his or her own self-transcendence as well. The bureaucratic process that appears historically with the advent of urbanization increases the demonic potential of this process, especially the modern state bureaucracy organized around the use of the most efficient techniques to control every area of human activity. The result is, as Rubenstein reminds us, the society of total domination in which virtually nothing is sacred, not even human life. The heart of such a bureaucratic social order is the sacralization of professional roles within the bureaucratic structure such that technical experts completely identify themselves with their roles as experts in the use of techniques while totally surrendering the question of what those technical skills will be used for to the expertise of those above them in the bureaucratic hierarchy. It is no accident that the two cultures that drew the world into the cataclysm of World War II, Germany and Japan, were militaristic cultures, cultures that prized and valued the militaristic ideal of the unquestioningly obedient warrior. In these nations, the state and bureaucratic order became one and the same. As Lewis Mumford has argued, the army as an invention of urban civilization is a near-perfect social embodiment of the ideal of the machine. <sup>37</sup> The army brings mechanical order to near perfection in its bureaucratic structure, where human beings are stripped of their freedom to choose and question and where each individual soldier becomes an automaton carrying out orders always "from higher up" with

unquestioning obedience.

**Rejecting “Illegal Immigrant” representations is key to rehumanizing people – it allows us to see our laws in a different light**

**Golash-Boza 2013 - Professor of Sociology at the University of California**, (Tanya Golash-Boza, “No human being is illegal: It's time to drop the 'i-word',” Aljazeera, 4/8/13, <http://www.aljazeera.com/indepth/opinion/2013/04/201347111531424247.html>, Accessed 7/31/13)

This decision by the AP to refer to actions as "illegal" and not people is crucial because it will help us avoid dehumanising language. One action a person committed - crossing the border without permission or overstaying his/her visa - should not define him/her. In reality, it does not. People who overstay their visa may be eligible for legalisation, and eventually citizenship. And, once they obtain legalisation, they are no longer living in the country without permission. They no longer have to live with the burden of illegality. Changing our language allows us to see how our laws render people unauthorised migrants just as much as their actions do. It permits us to shift our focus from thinking of a person as an "illegal immigrant" and remembering that we are talking about a relationship between what they did - violate the terms of their visa, and the laws that shape which actions are authorised and which are not. Most importantly, it helps us to remember that we are talking about people. It is a big step forward for the AP, and perhaps next the New York Times and other major news outlets, to stop using the "i-word". No human being is illegal. The term "illegal immigrant" simultaneously dehumanises and criminalises people who are denied the opportunity to obtain authorisation from the US government to live in the country they call home.

**Language comes first – metaphoric terms hardwire assumptions into the national dialogue**

**PR Newswire 2006** (PR Newswire, “NABJ Cautions Media Over Language Use in Immigration Debate; Stands in Support of Accuracy in Journalism,” PR Newswire, ProQuest, Accessed 7/31/13)

At the 1994 Unity convention, the four minority journalism groups -- NABJ, NAHJ, the Asian American Journalists Association and the Native American Journalists Association -- issued a joint statement on the term "illegal aliens": “Except in direct quotations, do not use the phrase illegal alien or the word alien, in copy or in headlines, to refer to citizens of a foreign country who have come to the U.S. with no documents to show that they are legally entitled to visit, work or live here. Such terms are considered pejorative not only by those to whom they are applied but by many people of the same ethnic and national backgrounds who are in the U.S. legally.” George Lakoff, a linguistics professor at the University of California at Berkeley was quoted in the New York Times recently: “Metaphors repeated often enough eventually become part of your physical brain,” he said. “Use the word 'illegal' often enough, which suggests criminal, which suggests immoral, and you have framed the issue of immigration to a remarkable degree.”

## **“Illegal” is offensive because it attacks a person, not an action**

**McEwan, 2008**, [Melissa, writer for the Feminist Texican, “Stop Saying ‘Illegal’”-Feminist Texican, ?/?/08, <http://thefeministtexican.wordpress.com/stop-saying-illegal/>, 7/31/13]

While many national news outlets use the term “illegal immigrant,” this handbook calls for the discussion and re-evaluation of its use. Instead of using illegal immigrant, alternative labels recommended are “undocumented worker” or “undocumented immigrant.” Illegal immigrant is a term used to describe the immigration status of people who do not have the federal documentation to show they are legally entitled to work, visit or live here. People who are undocumented according to federal authorities do not have the proper visas to be in the United States legally. Many enter the country illegally, but a large number of this group initially had valid visas, but did not return to their native countries when their visas expired. Some former students fall into the latter category. The term criminalizes the person rather than the actual act of illegally entering or residing in the United States without federal documents. Terms such as illegal alien or illegal immigrant can often be used pejoratively in common parlance and can pack a powerful emotional wallop for those on the receiving end. Instead, use undocumented immigrant or undocumented worker, both of which are terms that convey the same descriptive information without carrying the psychological baggage. Avoid using illegal(s) as a noun.

## **“Illegal” endorses a political agenda – it reflects a racist history**

**Flock, 2013**, [Elizabeth, Former print journalist Elizabeth Flock reported for TIME and PEOPLE magazines before becoming an on-air correspondent for CBS News, “Some law makers will continue to say ‘Illegal Immigrant’”-US News, 4/5/13, <http://www.usnews.com/news/blogs/washington-whispers/2013/04/05/some-lawmakers-will-continue-to-say-illegal-immigrant/>, 7/31/13]

“The phrasing is more about signaling one's political affiliation than about trying to describe immigration,” says Rosa. “We see the promotion of illegality as staking out a claim to a conservative political agenda, while the use of 'undocumented' is staking out a claim to a progressive political ideology. Neither one is neutral.” Immigration-related phrases are often politically charged, and in part that may lie in their history. Geoffrey Nunberg, a linguist and professor at the University of California—Berkeley's School of Information, says both "illegal" and "alien" have rather sordid pasts. He notes that the word “illegal” was first used as a noun in the 1930s and 1940s by the British to describe the Jews who entered Palestine without official permission, and the word “alien,” though used in a pejorative way to describe a foreigner even early in the 20th century, became more negative and scary after science fiction authors began using it to refer to extraterrestrials.

## **“Illegal” entrenches racism – it can trace its history to the Holocaust**

Immigration Surveillance Core File. *Updated 8-3-24*

**Garcia, 2012**, [Charles, served in the administrations of four presidents, of both parties, is the CEO of Garcia Trujillo, a business focused on the Hispanic market. He was named in the book "Hispanics in the USA: Making History" as one of 14 Hispanic role models for the nation. "Why 'Illegal Immigrant' Is a Slur"-CNN, 7/6/12, <http://www.cnn.com/2012/07/05/opinion/garcia-illegal-immigrants>,

When you label someone an "illegal alien" or "illegal immigrant" or just plain "illegal," you are effectively saying the individual, as opposed to the actions the person has taken, is unlawful. The terms imply the very existence of an unauthorized migrant in America is criminal. In this country, there is still a presumption of innocence that requires a jury to convict someone of a crime. If you don't pay your taxes, are you an illegal? What if you get a speeding ticket? A murder conviction? No. You're still not an illegal. Even alleged terrorists and child molesters aren't labeled illegals. By becoming judge, jury and executioner, you dehumanize the individual and generate animosity toward them. New York Times editorial writer Lawrence Downes says "illegal" is often "a code word for racial and ethnic hatred." The term "illegal immigrant" was first used in 1939 as a slur by the British toward Jews who were fleeing the Nazis and entering Palestine without authorization. Holocaust survivor and Nobel Peace Prize winner Elie Wiesel aptly said that "no human being is illegal." Migrant workers residing unlawfully in the U.S. are not -- and never have been -- criminals. They are subject to deportation, through a civil administrative procedure that differs from criminal prosecution, and where judges have wide discretion to allow certain foreign nationals to remain here.

## Kritik Turns Case

**Turn – using “Illegal Immigrant” undermines discussion of immigration – it reflects a narrow viewpoint**

**Golash-Boza 2013 - Professor of Sociology at the University of California**, (Tanya Golash-Boza, “No human being is illegal: It's time to drop the 'i-word',” Aljazeera, 4/8/13, <http://www.aljazeera.com/indepth/opinion/2013/04/201347111531424247.html>, Accessed 7/31/13)

This debate over language drives home the point that all language is politicised. If you choose to continue to call people "illegal" or "illegal immigrant", you make your position on the immigration debate clear. You also make it difficult to have a logical conversation about the problems associated with millions of people living with illegality. In contrast, if you choose to frame the debate around people who live in the US without access to full citizenship, and who must deal daily with the burden of illegality, it allows us to have a conversation about how to move forward and fix the problem - which lies with the burden of illegality, not with the people who came to the US in search of a better life for themselves and their families.

**“Illegal” has political consequences – dehumanization paves the way for regressive immigration policies**

**McEwan, 2008**, [Melissa, writer for the Feminist Texican, “Stop Saying ‘Illegal’”-Feminist Texican, ??/08, <http://thefeministtexican.wordpress.com/stop-saying-illegal/>, 7/31/13]

Saying “illegal(s),” “illegal immigrant(s),” and that pesky double whammy, “illegal alien” (which “Others” a person not once, but twice), only serves to reinforce negative stereotypes and dehumanize people. Furthermore, “illegal [insert-noun-here]” has become synonymous with “Mexican,” so let’s just stop saying “illegal,” shall we? By repeating the phrase “illegal immigrants,” the media and politicians have created a misleading framework to talk about immigration. The repeated use of the term “illegal immigrants” is leading to all sorts of policies created to stop them. Many of them were repeated in the debates. More border fences. Prohibiting driver’s licenses. Some want to stop their kids from attending neighborhood elementary schools.

**Representations of “Illegality” reinforce the vision of immigrants – this reinforces restrictionist policies**

**Leopold 2013 - Past President of American Immigration Lawyers Association** (David Leopold, General Counsel and, “no human being should ever be described as “illegal,” Huffington Post, 4/3/2013, [http://www.huffingtonpost.com/david-leopold/ap-illegal-immigrant\\_b\\_3006392.html](http://www.huffingtonpost.com/david-leopold/ap-illegal-immigrant_b_3006392.html), Accessed 7/31/13)

After years and years of video loops running on the cable television networks, for many Americans the term "illegal alien" conjures up images of people illegally jumping over the Southern border. Most people would be surprised to learn that nearly half the undocumented population entered the U.S. legally. Some came as visitors, others as students, and others as temporary workers. Some fell out of status because they took ill and were forced to drop out of school, others because they fell victim to domestic violence or other crimes, and others because their sponsoring employer mistreated them. Even those foreign nationals that entered the country surreptitiously in direct violation of the immigration law are not "illegal". Some, like victims of human trafficking, are eligible for protection, not prosecution, under our immigration law. Over the past two decades the restrictionists -- those who seek to cut off virtually all immigration and hang a "Closed for Business" sign around the neck of the Statue of Liberty -- have cynically promoted terms like "illegal alien", "illegal" and "illegals" to dehumanize noncitizens who are in the U.S. with or without lawful immigration status. The effort is designed to scare the American public and appeal to peoples' darkest, most base instincts.

## Rejection Alternative

**“Illegal” reflects racist assumptions – it should be rejected in immigration discussions**

**Leopold 2013 - Past President of American Immigration Lawyers Association** (David Leopold, General Counsel and, “no human being should ever be described as “illegal,” Huffington Post, 4/3/2013, [http://www.huffingtonpost.com/david-leopold/ap-illegal-immigrant\\_b\\_3006392.html](http://www.huffingtonpost.com/david-leopold/ap-illegal-immigrant_b_3006392.html), Accessed 7/31/13)

And for many years it was an effective, albeit nefarious, strategy. In 2007, the last time Congress considered immigration reform legislation, a small cadre of nativist groups virtually overloaded the telephone lines to the U.S. Capitol with bitter attacks on "amnesty for illegals". Thankfully, with the increasing political clout of Latino voters -- as demonstrated by the last election -- politicians and the media are taking a hard look at the words they use to talk about immigration. It would be unimaginable today for a presidential candidate -- Republican or Democrat -- to again run a national campaign using the terms "illegal alien," "illegal" or "illegals." These obnoxious words have been revealed for what they are -- racially charged slurs which have no place in America's national immigration conversation or in the media that reports about it.



## Language Alternative

### **The alternative solves – Undocumented immigrant solves dehumanization**

**McEwan, 2008**, [Melissa, writer for the Feminist Texican, "Stop Saying 'Illegal'" -Feminist Texican, ??/08, <http://thefeministtexican.wordpress.com/stop-saying-illegal/>, 7/31/13]

Illegal alien Avoid. Alternative terms are "undocumented worker," or "undocumented immigrant." The pertinent federal agencies use this term for individuals who do not have documents to show they can legally visit, work or live here. Many find the term offensive and dehumanizing because it criminalizes the person rather than the actual act of illegally entering or residing in the United States. The term does not give an accurate description of a person's conditional U.S. status, but rather demeans an individual by describing them as an alien. At the 1994 Unity convention, the four minority journalism groups – NAHJ, Asian American Journalists Association, Native American Journalists Association and National Association of Black Journalists – issued the following statement on this term: "Except in direct quotations, do not use the phrase illegal alien or the word alien, in copy or in headlines, to refer to citizens of a foreign country who have come to the U.S. with no documents to show that they are legally entitled to visit, work or live here. Such terms are considered pejorative not only by those to whom they are applied but by many people of the same ethnic and national backgrounds who are in the U.S. legally."

### **"Undocumented immigrant" is a better alternative – it is more accurate and less dehumanizing**

**McEwan, 2008**, [Melissa, writer for the Feminist Texican, "Stop Saying 'Illegal'" -Feminist Texican, ??/08, <http://thefeministtexican.wordpress.com/stop-saying-illegal/>, 7/31/13]

Avoid. Alternative terms are "undocumented immigrant" or "undocumented worker." This term has been used to describe the immigration status of people who do not have the federal documentation to show they are legally entitled to work, visit or live here. The term criminalizes the person rather than the actual act of illegally entering, residing in the U.S. without documents. Immigrant Similar to reporting about a person's race, mentioning that a person is a first-generation immigrant could be used to provide readers or viewers with background information, but the relevancy of using the term should be made apparent in the story. Also, the status of undocumented workers should be discussed between source, reporter and editors because of the risk of deportation. Undocumented immigrant Preferred term to "illegal immigrant," "illegal(s)" and "illegal alien." This term describes the immigration status of people who do not have the federal documentation to show they are legally entitled to work, visit or live here. Some Latinos say this term more accurately describes people who are in the United States illegally because the word points out that they are undocumented, but does not dehumanize them in the manner that such terms as "aliens" and "illegals" do. Undocumented worker Preferred term to "illegal alien," "illegal immigrant," or "illegal(s)." This term describes the immigration status of people who do not have the federal documentation to show they are legally entitled to work, visit or live here.

### **"Unauthorized Migrant" or "people living in a country illegally" are better alternatives – they accurately reflect a difference between status and action**

**Golash-Boza 2013 - Professor of Sociology at the University of California**, (Tanya Golash-Boza, "No human being is illegal: It's time to drop the 'i-word'," Aljazeera, 4/8/13, <http://www.aljazeera.com/indepth/opinion/2013/04/201347111531424247.html>, Accessed 7/31/13)

The term "undocumented immigrant" is imprecise, as people may live in a country without legal permission, yet have plenty of documents - including birth certificates, passports and consular cards. For this reason, organisations such as the Migration Policy Institute prefer "unauthorised migrant". Unlike "illegal immigrant", "unauthorised migrant" does not have a criminalising tone. If you are driving without a licence, it would make more sense to call you an "unauthorised driver" than an "illegal driver". And, we don't call employers who employ unauthorised immigrants "illegal employers". The Associated Press made the decision to refer to people as living in the country illegally instead of as illegal immigrants because it is more accurate to refer to people's behaviour than to label them because of their behaviour. The AP draws a parallel between this discussion about immigrants and "saying someone was 'diagnosed with schizophrenia' instead of schizophrenic". By focusing on people's behaviour instead of labelling them, we can avoid using people's behaviour to define them.

## Discourse First

### Discourse should come first – the word “Illegal” taints the discussion before it occurs

**Johnson, 2010 – Dean of the University of California Davis School of Law** [Kevin, with Michel Martin, host for National Public Radio, “Which is Acceptable: ‘Undocumented’ or ‘Illegal’”-National Public Radio, 1/7/10, <http://www.npr.org/templates/story/story.php?storyId=122314131>, 7/31/13]

Prof. JOHNSON: I agree with Ruben. I think that terminology is important. And as you say, the power of words has meaning particularly when we talk about a divisive issue like immigration, which is controversial and is very contentious. And for that reason, I think, we need to try to ensure that we have calm, reason and rationality in the debate. And I fear that illegal immigrant - the term - is a loaded term. It's not as loaded as some of its predecessors like illegal alien or wetback. But it still is a loaded term. And when we talk about drivers who violate the driving laws, we don't talk about illegal drivers. We talk about children who work in violation of the child labor laws. We don't talk about illegal children. And I think it's much too comprehensive to talk about illegal immigrants when, as Ruben's column accurately points out, that could be somebody who's reentered after committing felonies. It could be somebody who overstayed a business visa or a tourist visa, but really it creates bad connotations from the outset and it's easy to give in to people to treat dehumanized illegal immigrants in a harsh way than it is to treat people in a harsh way. MARTIN: Dean, can I push you on this point? Just because a term may create bad connotations for some people doesn't mean it's by definition not to be used. Like affirmative action for some people offers bad connotations, they don't think that's a good term, but it does - you know, affirmative action does, more or less, exist. It doesn't - it's not an intrinsically negative term unless one chooses to make it so. So is there something about illegal immigrant per se that you think is by definition so dehumanizing that it can't be used or shouldn't be used in polite discourse? In polite discourse - for people who really are trying to have an honest conversation and aren't trying to spin it one way or the other. Mr. JOHNSON: No, and I wouldn't - I'm not one of the people writing to try to get Ruben's column pulled from the newspaper, and he can use the term, but when you start the discussion by labeling a the person's status as illegal without defining what that precisely means, you create connotations and ill-will toward that person. I mean, there's other terms used in political debates that we know are loaded. We know that the welfare queen is a loaded term. We know that quota queen is a loaded term. MARTIN: Yeah, but that's slang. Mr. JOHNSON: That is slang. This is slang too. This is nothing in the immigration laws. You're not pulling anything out of the statute.

### “Illegal immigrant” expands racist discourse – language is important because it is offensive

**Golash-Boza 2013 - Professor of Sociology at the University of California**, (Tanya Golash-Boza, “No human being is illegal: It's time to drop the 'i-word',” Aljazeera, 4/8/13, <http://www.aljazeera.com/indepth/opinion/2013/04/201347111531424247.html>, Accessed 7/31/13)

Language has been in the news lately. Last Tuesday, on April 2, the Associated Press announced it would no longer use "illegal immigrant" to refer to people living in a country without permission. The previous week, Alaska Republican Congressman Don Young referred workers in his father's farm as "wetbacks", although he subsequently apologised for the racialised slander. Why is language so important? What are people so upset about? The word "wetback" is a reference to the fact that many people who cross into the United States without authorisation must cross the Rio Grande. Mexicans and non-Mexicans use the term colloquially. The US government referred to their 1954 mass repatriation campaigns along the southern border as "Operation Wetback". In her research with Mexican immigrants, Ruth Gomberg-Munoz found that undocumented Mexicans use the Spanish equivalent (mojados) to describe themselves, even if they had not actually gotten their backs wet in the Rio

Immigration Surveillance Core File. *Updated 8-3-24*

Grande. Nevertheless, Gomberg-Munoz chooses not to use the word in her own writing, because many people find the word offensive. It should not be difficult to see why wetback is offensive. It makes light of a dangerous crossing: last year, at least 477 people died attempting to cross over from Mexico to the US. Aside from that, when you call someone a name like wetback, you are making one action they committed into a permanent aspect of who they are. This critique can also be applied to the "i-word".

**“Illegal Immigrant” reinforces stereotypes of immigrants as criminals because language constructs opinion**

**Leopold 2013 - Past President of American Immigration Lawyers Association** (David Leopold, General Counsel and, “no human being should ever be described as “illegal,” Huffington Post, 4/3/2013, [http://www.huffingtonpost.com/david-leopold/ap-illegal-immigrant\\_b\\_3006392.html](http://www.huffingtonpost.com/david-leopold/ap-illegal-immigrant_b_3006392.html), Accessed 7/31/13)

Yes, you read it correctly. There really is no such thing. And not because the Associated Press announced a long overdue change to its Stylebook yesterday and will no longer use “illegal alien”, “illegal” or “illegals” to describe noncitizens unlawfully present in the U.S. It's because “no human being should ever be described as “illegal.” Period. These insensitive terms are also legally incorrect. They erroneously imply that a noncitizen unlawfully in the U.S. is, by virtue of his or her very presence, committing a criminal offense, rather than a civil immigration violation. Is it surprising then that many Americans buy the false restrictionist line that all unlawfully present foreign nationals are criminals? In fact, there is only a discrete group of non-citizens whose very presence in the U.S. is a crime, including those who illegally reentered the country after deportation. But the argument against the use of these words to describe people is not merely technical. Words really matter in the age of Twitter where 140 character tweets can fly around the world in nanoseconds. Reference to a human being as “illegal” overly simplifies and unfairly characterizes the complexities of the national immigration reform debate. The dysfunctional immigration law which plagues American families and business is a convoluted web of nonsensical rules and regulations that can easily trap any foreign national into an unfixable civil immigration violation.



## AT: No Spillover

### **Stereotypes of “Illegals” affect everyone because racism spills over**

**PR Newswire 2006** (PR Newswire, “NABJ Cautions Media Over Language Use in Immigration Debate; Stands in Support of Accuracy in Journalism,” PR Newswire, ProQuest, Accessed 7/31/13)

The debate is not just one focused on Hispanics, added Ernie Suggs, NABJ vice president for print and a reporter at the Atlanta Journal Constitution. "At the same time blacks faced discrimination in the South, Hispanics -- particularly Mexicans -- faced similar discrimination in the Southwest," Suggs said. "This is an issue for all of us." According to the U.S. Census, more than three million of the suspected 12-15 million undocumented immigrants in the U.S. come from countries outside Mexico and Latin America, including Russia, Poland, Ireland, China, India and Canada. The NABJ Stylebook -- a digital guide for language usage in newsrooms found online at <http://www.nabj.org/newsroom/stylebook> -- also suggests more accurate terms such as "undocumented immigrant." "On TV especially, what is said, along with what is seen, has a powerful impact on viewers," said Barbara Ciara, anchor and managing editor at WTKR in Norfolk and NABJ vice president for broadcast. "It's a matter of accuracy."

## AT: Factually Correct

**“Illegal” isn’t even factually correct – it is only selectively applied**

**McEwan, 2008**, [Melissa, writer for the Feminist Texican, “Stop Saying ‘Illegal’”-Feminist Texican, ??/08, <http://thefeministtexican.wordpress.com/stop-saying-illegal/>, 7/31/13]

But the phrase “illegal immigrant” is misleading. There’s a grain of truth, but the emphasis is only selectively applied — it’s misapplied — we don’t call speeders “illegal drivers” or people who jaywalk “illegals.” And that selective application to immigrants is harmful. The National Association of Hispanic Journalists lays it all out for us: Alien A word used by the U.S. government to describe a foreign-born person who is not a citizen by naturalization or parentage. People who enter the United States legally are called resident aliens and they carry alien registration cards also known as “green cards,” because they used to be green. While Webster’s first definition of the term “alien” is in accordance with the government’s interpretation, the dictionary also includes other, darker, meanings for the word, such as “a non-terrestrial being,” “strange,” “not belonging to one,” “adverse,” “hostile.” And the Encyclopedia Britannica points out that “in early times, the tendency was to look upon the alien as an enemy and to treat him as a criminal or an outlaw.” It is not surprising then that in 1798, in anticipation of a possible war with France, the U.S. Congress passed the Alien and Sedition Acts, which restricted “aliens” and curtailed press freedoms. By 1800 the laws had been repealed or had expired but they still cast a negative shadow over the word. In modern times, with science-fiction growing in popularity, “alien” has come to mean a creature from outer space, and is considered pejorative by most immigrants.

**The alternative “Undocumented migrant” is more accurate – accuracy is key to framing the debate**

**PR Newswire 2006** (PR Newswire, “NABJ Cautions Media Over Language Use in Immigration Debate; Stands in Support of Accuracy in Journalism,” PR Newswire, ProQuest, Accessed 7/31/13)

NABJ stands firmly in support of its sister organization, the National Association of Hispanic Journalists, in its plea that newspapers, television and radio outlets avoid using the term “illegal aliens” in the context of the current debate, as it is inaccurate and susceptible to misinterpretation. Terms such as “undocumented immigrant” or “economic refugee” are more accurate, do not unfairly criminalize a human being and are more widely accepted terms in use by such respected journalism organizations as the New York Times and Associated Press. “The words we use can in fact frame the debate,” said NABJ President Bryan Monroe, assistant vice president for news at Knight Ridder, “and we all need to make sure those words are not loaded with baggage and off-the-mark. Language does matter. If we can’t be accurate, we’re not doing our jobs.”

## **AT: “Illegal” is Inevitable**

**“Illegal” isn’t inevitable – the Supreme Court stopped using it**

**Garcia, 2012**, [Charles, served in the administrations of four presidents, of both parties, is the CEO of Garcia Trujillo, a business focused on the Hispanic market. He was named in the book "Hispanics in the USA: Making History" as one of 14 Hispanic role models for the nation. "Why 'Illegal Immigrant' Is a Slur"-CNN, 7/6/12, <http://www.cnn.com/2012/07/05/opinion/garcia-illegal-immigrants>,

(CNN) -- Last month's Supreme Court decision in the landmark Arizona immigration case was groundbreaking for what it omitted: the words "illegal immigrants" and "illegal aliens," except when quoting other sources. The court's nonjudgmental language established a humanistic approach to our current restructuring of immigration policy.



## Aff Resps

### Using illegal when quoting is alright – it is more important to reflect the context

**Golash-Boza 2013 - Professor of Sociology at the University of California**, (Tanya Golash-Boza, "No human being is illegal: It's time to drop the 'i-word'," Aljazeera, 4/8/13, <http://www.aljazeera.com/indepth/opinion/2013/04/201347111531424247.html>, Accessed 7/31/13)

Here are the new AP guidelines: illegal immigration: Entering or residing in a country in violation of civil or criminal law. Except in direct quotes essential to the story, use illegal only to refer to an action, not a person: illegal immigration, but not illegal immigrant. Acceptable variations include living in or entering a country illegally or without legal permission.

### No solvency for spillover – Congress uses the word "Illegal"

**Flock, 2013**, [Elizabeth, Former print journalist Elizabeth Flock reported for TIME and PEOPLE magazines before becoming an on-air correspondent for CBS News, "Some law makers will continue to say 'Illegal Immigrant'" -US News, 4/5/13, <http://www.usnews.com/news/blogs/washington-whispers/2013/04/05/some-lawmakers-will-continue-to-say-illegal-immigrant>, 7/31/13]

Members of Congress used the phrase dozens of times over the last several years to describe a person who migrates to the U.S. illegally, as well as the terms "illegal alien" and "undocumented," according to an analysis from the Sunlight Foundation reporting tool Capitol Words, which scans the Congressional Record. Republicans favored "alien" while Democrats more often used "undocumented." Reps. Lamar Smith, R-Texas, and Ted Poe, R-Texas, employed the term "illegal immigrant" the most over the last five years. A staffer for Smith says the congressman will continue to use the phrase, and trusts the AP will keep quoting people who do so as well. Homeland Security Secretary Janet Napolitano is also unlikely to change her ways – at a reporter breakfast last week she said she didn't worry about the phrase she used to describe a person in the U.S. illegally. "They are immigrants who are here illegally. It's an illegal immigrant," she said. Poe's office did not respond to questions about whether the congressman would also continue to use the term. Jonathan Rosa, an assistant professor of linguistic anthropology at the University of Massachusetts—Amherst, says he believes the AP's decision will have an impact on lawmakers, but won't change their discourse overnight.

### No need for their alternative – Illegal will die out in language

**Flock, 2013**, [Elizabeth, Former print journalist Elizabeth Flock reported for TIME and PEOPLE magazines before becoming an on-air correspondent for CBS News, "Some law makers will continue to say 'Illegal Immigrant'" -US News, 4/5/13, <http://www.usnews.com/news/blogs/washington-whispers/2013/04/05/some-lawmakers-will-continue-to-say-illegal-immigrant>, 7/31/13]

Nunberg thinks the phrase "illegal immigrant" will eventually become relegated to fringe groups, not lawmakers. "I call it rump language - words that survive on the far right or far left die out," he

## Immigration Surveillance Core File. *Updated 8-3-24*

**SAYS.** One right-wing group already responded to the change: the Americans for Legal Immigration PAC says it plans to use the phrase "illegal invader" to balance the AP's decision.

### Alternative fails – the use of “Illegal” is inevitable due to journalism

**Garcia, 2012,** [Charles, served in the administrations of four presidents, of both parties, is the CEO of Garcia Trujillo, a business focused on the Hispanic market. He was named in the book "Hispanics in the USA: Making History" as one of 14 Hispanic role models for the nation. "Why 'Illegal Immigrant' Is a Slur"-CNN, 7/6/12, <http://www.cnn.com/2012/07/05/opinion/garcia-illegal-immigrants>,

While the Supreme Court has chosen language less likely to promote hatred and divisiveness, journalists continue using racially offensive language. University of Memphis journalism professor Thomas Hrach conducted a study of 122,000 news stories published between 2000 and 2010, to determine which terms are being used to describe foreign nationals in the U.S. who are out of status. He found that 89% of the time during this period, journalists used the biased terms "illegal immigrant" and "illegal alien." Hrach discovered that there was a substantial increase in the use of the term "illegal immigrant," which he correlated back to the Associated Press Stylebook's decision in 2004 to recommend "illegal immigrant" to its members. (It's the preferred term at CNN and The New York Times as well.) The AP Stylebook is the decisive authority on word use at virtually all mainstream daily newspapers, and it's used by editors at television, radio and electronic news media. According to the AP, this term is "accurate and neutral."

### “Illegal” is accurate – the alternative obscures the truth to push a leftist agenda

**Navarrette, 2010 – Columnist for San Diego Tribune,** [Ruben, with Michel Martin, host for National Public Radio, "Which is Acceptable: 'Undocumented' or 'Illegal'"-National Public Radio, 1/7/10, <http://www.npr.org/templates/story/story.php?storyId=122314131>, 7/31/13]

Mr. NAVARRETTE: Right. MARTIN: You said it may even be sort of a justification for treating people - mistreating people because it's dehumanizing. But, you say, that the creed of the immigrant rights movement that, quote, no human being is illegal is nonsense. Why is it nonsense? Mr. NAVARRETTE: Yeah, because we're - human beings do sometimes commit illegal acts. They are here unauthorized. They're here without permission in the United States. Their presence here is illegal, it's unauthorized. It's - if it wasn't a problem, we wouldn't round them up and deport them back to Mexico or whatever country they're from. So it's really kind of a semantic discussion about whether or not they're here illegally or not. This phrase that I hear sometimes bandied about on the left - no human being is illegal - is to my mind a way to justify the presence of people who are here without permission by saying it's no big deal and everybody has a right to come here and better their situation and ergo we should have an open border. And so, I think it's a predicament that the folks on the left are in. At the end of the day, the toughest argument - I know, because I have to fight with the folks on the right all the time - the argument that always stumps me is what part of illegal don't you understand? These people are here illegally. And I think, when the left hears that, they decided, well, let's just change the word and we'll be done with it. MARTIN: Okay, Dean Johnson, what about you?

**The term “Illegal” is accurate because they are an unauthorized migrant**

**Navarrette, 2010 – Columnist for San Diego Tribune**, [Ruben, with Michel Martin, host for National Public Radio, “Which is Acceptable: ‘Undocumented’ or ‘Illegal’”-National Public Radio, 1/7/10, <http://www.npr.org/templates/story/story.php?storyId=122314131>, 7/31/13]

Mr. NAVARRETTE: I don't think - you know, if you did a search, if you did a search in my business of various New York Times, Washington Post, LA Times stories, AP stories, going back for the last five or 10 years, you would find thousands of references to the phrase illegal immigrant. I don't think we could say that all those papers, all those news outlets, are committing an act of slang, that they're bandying about slang. I mean, the term is accurate. They're here illegally. They have an unauthorized presence here. As I point out in my column, it's a little tricky when you get down to the border because some people who come by are committing felonies because they've been deported before. Some people are committing misdemeanors. Some people are merely committing an administrative violation. Mr. JOHNSON: Which is... MARTIN: Hold on... Mr. NAVARRETTE: It's no crime technically, it's an administrative violation, but it has a remedy. The remedy is to be deported back to your home country. Mr. JOHNSON: Unless... MARTIN: Gentlemen, let me jump in just briefly to say if you're just joining us, this is TELL ME MORE from NPR News. We're talking about the use of the term illegal versus undocumented to describe persons who are in the U.S. without proper authorization, and we're talking about whether it matters which term you use. We're talking with syndicated columnist Ruben Navarrette. And we're talking with Kevin Johnson. He's dean of the law school at the University of California at Davis. Ruben, let me push you on this. There was a column in the New York Times a couple of years ago, in 2007, by editorial writer Lawrence Downes, and he wrote the word illegal modifies not the crime but the person, and by definition that that is the problem, that normally when we describe certain behavior, we're describing acts. We're describing, we say - well, murder, I don't know. One does use the term murderer but generally as a sort of a - we say a person who did the following as opposed to this person is that and that - so what do you make of that argument? I mean, we don't generally say Martha Stewart, illegal stock-trader. We don't say - you know... Mr. NAVARRETTE: I think it does modify the person. I think the phrase legal immigrant also modifies the person. It tells me that that person came legally. If someone comes illegally or overstays their visa once here, that means they're here illegally.

**“Illegal” is the most accurate term - other alternatives wouldn't be as correct**

**Leitsinger, 2012**, [Miranda, staff writer for NBC News, “Drop the ‘I’ word? Debating the term ‘illegal immigrant’”-NBC News, 11/7/12, [http://usnews.nbcnews.com/\\_news/2012/07/11/12664426-drop-the-i-word-debating-the-term-illegal-immigrant?lite](http://usnews.nbcnews.com/_news/2012/07/11/12664426-drop-the-i-word-debating-the-term-illegal-immigrant?lite), 7/31/13]

Likewise, the law is against them. There's no question that immigration laws are legitimate and that every illegal immigrant knows perfectly well that he is breaking American law. What's left? Pound on the table, demanding that illegal aliens be referred to in ways that obscure their illegality, such as “undocumented worker” or simply “immigrant.” “Unauthorized worker” is less deceitful, but still evades the basic fact of illegality. The most accurate label for non-citizens who are in the United States without permission is “illegal alien.” It is used repeatedly in statutes, judicial rulings, and executive orders and captures the essence of the person's situation: an alien is defined in the U.S. Code as “any person not a citizen or national of the United States,” and their presence here is illegal, i.e., in violation of the law. “Illegal immigrant” is less precise: “immigrant” has the specific legal meaning of a foreigner who has been granted lawful permanent residence (a green card). But in common usage “immigrant” means any foreigner living here, so “illegal immigrant” is less formal, but still accurate.

## **The material world only acquires meaning through mediation by language and discourse.**

**Anand 2007** (Dibyesh, PhD (Bristol), MA (Hull), BA Honours (St Stephen's College, Delhi) Reader in International Relations Centre for the Study of Democracy, Westminster University, London, Geopolitical exotica: Tibet in western imagination p. 12-16 2007, MT)

Theorizing Representation Constructionist theories (Hall 1997b, 15-74) are best suited for a contextualized understanding of social and political concepts like representation and identity. They do not argue that the material world does not exist but that it acquires meaning only through the mediation of language and discursive systems.

Though such a discursive approach characterizes the work of many scholars, no one has been more prominent than Foucault (1970, 1971, 1980, 1984, 1986) in shaping it. Foucault is concerned with the production of knowledge and meaning not through language but through discourse. Discursive practices have their own inclusionary and exclusionary aspects. Discursive practices are characterised by the delimitation of a field of objects, the definition of a legitimate perspective for the agent of knowledge, and the fixing of norms for the elaboration of concepts and theories. Thus, each discursive practice implies a play of prescriptions that designate its exclusions and choices. (Foucault 1976, 199) Foucault's reformulation of discourse also calls for recognition of the explicit linkage between knowledge, truth, and power. Identification of the knowledge-power (pouvoir/savoir) nexus reveals the linkage of truth claims with systems of power: Truth isn't outside power, or lacking of power: contrary to a myth whose history and functions would repay further study, truth isn't the reward of free spirits, the child of protracted solitude, nor the privilege of those who have succeeded in liberating themselves. Truth is a thing of the world: it is produced only by virtue of multiple forms of constraint. (Foucault 1980, 291) The recognition of the constructed character of truth facilitates a critical political positioning.

Nothing is sacrosanct. However, this does not undermine the impact of truth claims on the lives of people. All knowledge, once applied in the "real" world, has real effects and in that sense becomes true.<sup>1</sup> This Foucauldian identification and exploration of the link between power, knowledge, and truth is radical in its implication. It shifts the terrain of inquiry from the question "What is truth?" to the question "How do discursive practices constitute truth claims?" In terms of representation, we may see the implication as a shift in the focus from some core reality beneath/behind representations to the modalities of their functioning. The question is no longer whether a representation is true or false but what discursive practices operate to render it true or false. It is not about how representations reflect some subjects but, more crucially, how subjectivity itself is constructed within discursive practices, how representational regimes are productive of subjectivity. Discourses then are "practices which form the objects of which they speak" (Foucault 1972., 49).

Adopting this approach to Tibetan identity, the pertinent question shifts from "How far do representations (both Western and self-) of Tibetans reflect their identity?" to "How do representational regimes affect the discursive production of Tibetanness?" This helps us look at Tibetanness as a politicized identification process, instead of some pre-given, essentialized, fixed object.

## **Representations must precede policy discussion.**

**Crawford 2002** (Neta, PhD MA MIT, BA Brown, Prof. of poli sci at boston univ. Argument and Change in World Politics, 2002 p. 19-21, MT)

Coherent arguments are unlikely to take place unless and until actors, at least on some level, agree on what they are arguing about. The at least temporary resolution of meta-arguments- regarding the nature of the good (the content of prescriptive

norms); what is out there, the way we know the world, how we decide between competing beliefs (ontology and epistemology); and the nature of the situation at hand (the proper frame or representation)- must occur before specific arguments that could lead to decision and action may take place. Meta-arguments over epistemology and ontology, relatively rare, occur in instances where there is a fundamental clash between belief systems and not simply a debate within a belief system. Such arguments over the nature of the world and how we come to know it are particularly rare in politics though they are more frequent in religion and science. Meta-arguments over the “good” are contests over what it is good and right to do, and even how we know the good and the right. They are about the nature of the good, specifically, defining the qualities of “good” so that we know good when we see it and do it. Ethical arguments are about how to do good in a particular situation. More common are meta-arguments over representations or frames- about how we ought to understand a particular situation. Sometimes actors agree on how they see a situation. More often there are different possible interpretations. Thomas Homer-Dixon and Roger Karapin suggest, “Argument and debate occur when people try to gain acceptance for their interpretation of the world”. For example, “is the war defensive or aggressive?”. Defining and controlling representations and images, or the frame, affects whether one thinks there is an issue at stake and whether a particular argument applies to the case. An actor fighting a defensive war is within international law; an aggressor may legitimately be subject to sanctions. Framing and reframing involve mimesis or putting forward representations of what is going on. In mimetic meta-arguments, actors who are struggling to characterize or frame the situation accomplish their ends by drawing vivid pictures of the “reality” through exaggeration, analogy, or differentiation. Representations of a situation do not re-produce accurately so much as they creatively re-present situations in a way that makes sense. “mimesis is a metaphoric or ‘iconic argumentation of the real.’ Imitating not the effectivity of events but their logical structure and meaning.” Certain features are emphasized and others de-emphasized or completely ignored as their situation is recharacterized or reframed. Representation thus becomes a “constraint on reasoning in that it limits understanding to a specific organization of conceptual knowledge.” The dominant representation delimits which arguments will be considered legitimate, framing how actors see possibilities. As Roxanne Doty argues, “the possibility of practices presupposes the ability of an agent to imagine certain courses of action. Certain background meanings, kinds of social actors and relationships, must already be in place.” If, as Donald Sylvan and Stuart Thorson argue, “politics involves the selective privileging of representations, “it may not matter whether one representation or another is true or not. Emphasizing whether frames articulate accurate or inaccurate perceptions misses the rhetorical import of representation- how frames affect what is seen or not seen, and subsequent choices. Meta-arguments over representation are thus crucial elements of political argument because an actor’s arguments about what to do will be more persuasive if their characterization or framing of the situation holds sway. But, as Rodger Payne suggests, “No frame is an omnipotent persuasive tool that can be decisively wielded by norm entrepreneurs without serious political wrangling.” Hence framing is a meta-argument.

**Political reality only comes into being after we describe the world. Thus we have to deal with how the Affirmative represents the world before we can move on to any other question**

**Blieker 2000** (Roland, Professor of IR at University of Queensland, “Contending Images of World Politics”, p. 227-228, MT)

While the conceptual contours of the postmodern will always remain elusive, the substantial issues that this image of world politics has brought to the forefront have clear and important implications. Critical engagements with modernity have emerged from a dissatisfaction with what Lyotard famously described as a long modern tendency to ground and legitimize knowledge in reference to a grand

narrative, that is, a universalizing framework which seeks to emancipate the individual by mastering the conditions of life (Lyotard, 1979, pp. 7-9). Even when such a master narrative seems unquestionably desirable, it inevitably legitimizes and objectivizes certain interpretations and political agendas, thereby excluding everything that does not fit into its corresponding view of life. Authors who are said to represent a postmodern image of the world politics grapple with the implications that emerge from the prevalence of master narratives in world politics. They challenge the way in which scientific discourses that have emerged from the Cartesian separation of the object and subject mask the constituted dimensions of life. They engage prevalent thinking patterns so that we can see the world from more than one perspective, and that marginalized voices can be brought into the realm of dialogue. This search for epistemological tolerance and inclusion is as much political as it is philosophical. Ant its practical applicability is – needless to say – virtually unlimited. It is in this sense that, for instance, all feminisms can be thought of as a postmodern' (Sylvester, 1994, p. 16). The purpose of this essay is not to summarize the great variety of postmodern approaches to the world politics. Several authors have already done so (see for instance, Brown, 1994; Devetak, 1996). The main effort of this essay thus revolves around demonstrating how something termed postmodernism may work. From such a perspective the 'how' is as important as the 'is'. In fact, the 'how' becomes the 'is' insofar as the nature of something is identified primarily as the process through which it works. The prime task of such an approach consists not of looking at modernity or postmodernity as metaphors of contemporary world politics, but of understanding – and acting upon – the more fundamental recognition that all forms of thought are metaphorical in nature. They cannot be anything else, for language itself is a series of metaphors through which we make sense of the world that surrounds us. And since we need language not only to communicate, but also to form our opinions of social phenomena, we inevitably think, live and politicize through a series of metaphors – that is, through forms of conceptualizing that contain inevitable gaps between a representation of an event and the event itself. Various implications follow from an approach that acknowledges the metaphorical nature of our understanding of world politics. At the beginning is perhaps the simple recognition that representation is an essential aspect of the political process. Political reality, F.R. Ankersmit stresses, 'is' not first given to us and subsequently represented; political reality only comes into being after and due to representations' (1996, pg. 47). What this means for an analysis of world politics is that before being able to move to any other question, one has to deal with how the representation has structured the object it seeks to

**PRO**

## Need to EXPAND Surveillance

### Current surveillance inadequate

Office of the Inspector General, 2021, <https://www.oig.dhs.gov/sites/default/files/assets/2021-02/OIG-21-21-Feb21.pdf>, CBP Has Improved Southwest Border Technology, but Significant Challenges Remain,

In response to Executive Order 13767, U.S. Customs and Border Protection **(CBP) has implemented an array of new tools and technologies that have enhanced Border Patrol's surveillance capabilities** and efficiency along the southwest border. **However, these upgrades are incomplete as CBP has deployed about 28 percent of the surveillance and subterranean technology solutions planned**, even after receiving more than \$700 million in funding since fiscal year 2017. Shifting priorities, construction delays, a lack of available technology solutions, and funding constraints hindered CBP's planned deployments. Consequently, **most southwest Border Patrol sectors still rely predominantly on obsolete systems and infrastructure with limited capabilities.** CBP also uses a variety of independent and standalone surveillance systems and tools to enhance situational awareness and increase agents' capability to observe and respond to illegal activities along the border. Commonly used systems and tools include fixed and mobile surveillance equipment, agentcentric devices, unmanned aircraft, and sensor detection systems and devices.



## Need SURVEILLANCE Tech

### Need surveillance tech where physical surveillance fails

Office of the Inspector General, 2021, <https://www.oig.dhs.gov/sites/default/files/assets/2021-02/OIG-21-21-Feb21.pdf>, CBP Has Improved Southwest Border Technology, but Significant Challenges Remain,

According to DHS, **the use of technology in the border environment is an invaluable force multiplier for increasing situational awareness. Technology supports persistent surveillance of large areas where individuals may attempt to cross illegally into the country or breach the border or border wall.** CBP relies on various tools and technologies to support Border Patrol's mission operations in these challenging environments along the southwest border where agents face extreme conditions, such as steep mountainous terrain and dense ground cover. **These conditions can impede physical access, make certain areas difficult for agents to patrol, and increase the need for effective technology. Figure 3 depicts the various southwest border environments.**

## Immigration Crisis

### More apprehensions last year than 3 previous years

House Committee on Homeland Security, 6-27, 24,  
<https://homeland.house.gov/2024/06/27/startling-stats-bidens-mass-parole-catch-and-release-agenda-continues-to-fuel-historic-border-crisis-endanger-americans/>, STARTLING STATS:  
BIDEN'S MASS-PAROLE, CATCH-AND-RELEASE AGENDA CONTINUES TO FUEL HISTORIC BORDER CRISIS, ENDANGER AMERICANS

Today, the House Committee on Homeland Security released its May "Startling Stats" factsheet, outlining the May 2024 U.S Customs and Border Protection (CBP) border encounter data. According to CBP, **Southwest border encounters exceeded 170,000 last month, and total nationwide encounters exceeded 240,000 for the 11th month in a row—which adds up to more than 3.1 million encounters in that timeframe.** For comparison, CBP recorded roughly the same number of encounters nationwide from Fiscal Years (FY) 2017-2020 combined.

### Massive increase in immigration

House Committee on Homeland Security, 6-27, 24,  
<https://homeland.house.gov/2024/06/27/startling-stats-bidens-mass-parole-catch-and-release-agenda-continues-to-fuel-historic-border-crisis-endanger-americans/>, STARTLING STATS:  
BIDEN'S MASS-PAROLE, CATCH-AND-RELEASE AGENDA CONTINUES TO FUEL HISTORIC BORDER CRISIS, ENDANGER AMERICANS

**Since President Biden and Secretary Mayorkas took office, there have been more than 9.7 million encounters nationwide and more than 7.9 million encounters at the Southwest border.** Additionally, roughly 2 million known gotaways have evaded Border Patrol agents since FY2021. **Nationwide border encounters** by OFO at ports of entry (119,376) **have increased over 300% compared to May 2021.** Since January 2023, 636,600 individuals have scheduled appointments with the CBP One app. Since the program began, 462,100 Cubans, Haitians, Nicaraguans, and Venezuelans have been mass paroled under the administration's CHNV parole program at ports of entry. Since FY21, 372 individuals whose names appear on the terrorist watchlist have been caught crossing our Southwest border illegally. So far this fiscal year, **CBP has arrested 26,384 aliens with criminal convictions or outstanding warrants nationwide.** Since the beginning of FY24, CBP, including Air and Marine Operations (AMO), has seized enough fentanyl at the Southwest border to kill over 3 billion people.

### More and more terrorists trying to enter the US illegally

Julia Ansley, 9-14, 23, Number of people on terrorist watchlist stopped at southern U.S. border has risen, <https://www.nbcnews.com/politics/national-security/number-people-terror-watchlist-stopped-mexico-us-border-risen-rcna105095>

**This year U.S. border agents have encountered a “growing number of individuals” on the FBI’s terrorist watchlist trying to enter the country via the southern border,** according to the Homeland Threat Assessment released Thursday by the Department of Homeland Security. **As of July, 160 migrants whose identities match those on the Terrorist Screening Dataset had been apprehended by Customs and Border Protection trying to cross the U.S.-Mexico border during fiscal year 2023, compared to 100 in fiscal year 2022.** Fiscal years end on Sept. 30. The number of all people, including U.S. citizens, on the terrorist watchlist who had been stopped at the southern border as of July this fiscal year was 216, compared to 165 in all of fiscal year 2022. The number of border crossers on the watchlist was higher in fiscal year 2019, at 280. **A DHS official told reporters that the increase from fiscal 2022 to 2023 is consistent with the overall increase in migrants crossing the border and the rising number of migrants coming from areas of conflict.** The number of migrants from the Eastern Hemisphere more than doubled, from 110,000 in fiscal year 2022 to 228,000 so far in fiscal year 2023, the Homeland Threat Assessment said. The Eastern Hemisphere includes Africa and the Middle East, among other areas. “The increase in encounters of individuals on the terror screening data set are largely commensurate with the increased flow to the border more broadly,” a DHS official told reporters. “Naturally, as we see more people arrive at the border from different countries, we are more likely going to see an increase in individuals who might be on the watchlist or directly related to terror activity.” Those on the watchlist include people who may be family members of suspected terrorists; their crossings make up just 0.01% of the more than 1 million crossings of the southern U.S. border in the last fiscal year, another DHS official said. “DHS is and always will work tirelessly to screen, vet and prevent anyone who poses a threat from entering the country,” the DHS official said. Sen. Dianne Feinstein, D-Calif., then the ranking member of the Intelligence Committee, said in 2016 that more than 1 million people were on the terrorist watchlist. (The “no fly” list, a subset of the watchlist, is much smaller.) Historically, people on the watchlist are far more likely to be stopped entering U.S. airports than crossing the U.S.-Mexico border. The Homeland Threat Assessment did not say how many airport travelers were found to be on the watchlist in 2023. **The assessment also found that foreign and domestic terrorists are likely to continue to be a threat to U.S. homeland security in 2023.** The threat of people who are radicalized in the U.S. “will remain high but unchanged,” the officials said.

## **Terrorism**

## Terrorism Contention

### **Terrorism**

Allison & Morrell explained in 2024 that

Allison & Morrell, June 10, 2024, GRAHAM ALLISON is Douglas Dillon Professor of Government at Harvard University; MICHAEL J. MORELL is Senior Counselor and Global Head of Geostrategic Risk at Beacon Global Strategy. He was Deputy Director of the Central Intelligence Agency, The Terrorisrim Warning Lights Are Blinking Red Again, Foreign Affairs, <https://www.foreignaffairs.com/united-states/terrorism-warning-lights-are-blinking-red-again> check\_logged\_in=1&utm\_medium=promo\_email&utm\_source=lo\_flows&utm\_campaign=article\_link&utm\_term=article\_email&utm\_content=20240627

Next, consider means and opportunity. Airport security may have tightened significantly since 9/11, but weekly mass shootings prove that it remains relatively easy in the United States to buy high-powered assault weapons and enough ammunition to kill large numbers of people in a short period of time. Last year, **hundreds of individuals on the United States' terrorist watch list attempted to enter the country via the southern border. It is not difficult to imagine a person, or even a group, with the intent to do harm slipping across a border—where U.S. officials reported 2.5 million encounters with migrants in 2023—and then purchasing assault rifles and carrying out a large massacre. There is no shortage of locations across the United States where hundreds, if not thousands, of people gather on a regular basis—and all may be ready targets for those seeking to incite terror.**

Crista Bryant explained in July that

Crista Case Bryant, 7-1, 24, <https://www.csmonitor.com/USA/Military/2024/0701/biden-trump-terrorism-border-security-china>, Christian Science Monitor, Are terrorists slipping across the US border? What the evidence show

Part of the challenge is how to allocate U.S. resources. Mr. O'Leary, who worked on FBI **counterterrorism investigations for more than two decades** until stepping down last fall, **says the government has pivoted away from the terrorism threat to focus on Russia, China, and great-power competition. He stresses the need to stay alert, 20-plus years into the global war on terror, with U.S.-designated terrorist groups, such as Al Qaeda and ISIS, growing. For example, Al Qaeda's core membership increased approximately tenfold from 2001 to 2018, according to estimates**

**There is a growing risk of ISIS attack in the US from immigrated terrorists. David ignatious explains that**

Immigration Surveillance Core File. *Updated 8-3-24*

David Ignatius, 6-26, 24, Washington Post, That clock ticking on our border policy impasse could be a time bomb, <https://www.washingtonpost.com/opinions/2024/06/26/border-policy-terrorist-time-bomb/>

Here's how our border mess could become an election-year nightmare: Imagine that hundreds of Tajik migrants from Central Asia enter the United States through a smuggling network that the FBI subsequently discovers might have links to the Islamic State-Khorasan terrorist group. Some of the migrants are arrested nearly a year after they entered the country, but many still have not been located. In our scenario, the FBI scrambles to find what could be a ticking ISIS-K time bomb. It uses wiretaps and sting operations to locate recent arrivals who may have some connection to the Islamic State spinoff. But it's playing catch-up. The Department of Homeland Security's inspector general reports that the agency lacks the vetting tools it needs to identify and stop migrants with possible terrorist connections at the border. Folks, this isn't a hypothetical. All of these details are real. Intelligence officials haven't found evidence of an organized ISIS-K plot against the homeland. But the awful truth is that they don't know what's out there. **America, with its porous border, is vulnerable to the stream of people who enter the country every day. FBI Director Christopher A. Wray has been delivering hair-on-fire warnings about this problem for months. His latest came in June 4** testimony to a Senate committee: **"Increasingly concerning is the potential for a coordinated attack here in the homeland" such as the March attack by Tajik members of ISIS-K that killed 139 people at a Moscow concert hall. In early June, the FBI and DHS arrested eight Tajik migrants in New York, Philadelphia and Los Angeles.** The operation, aided by FBI wiretaps, was first reported by the New York Post. The paper said that at least one of the suspects had slipped into the country across the Mexico border more than a year ago. Surveillance showed that some of the Tajiks had used "extremist rhetoric," according to CNN. "Rather than risk the worst-case scenario of a potential attack, senior US officials decided to move in and have the men apprehended," CNN reported. Concern about the ISIS-K threat grew earlier this year when the intelligence community received new information that more than 400 Central Asian migrants had entered the United States through a "human smuggling network" potentially connected to ISIS, according to NBC News. Because of what one official told me was "extra caution," about 150 of these "persons of interest" have been arrested, but about 50 haven't been located, the network said. **This flow of Central Asian migrants is a new headache for DHS. Officials estimate that about 40 people from that region cross into the United States every day, and that there are now "tens of thousands" of undocumented migrants here from Tajikistan, Uzbekistan, Afghanistan and other Central Asian countries. Most are economic migrants arriving through smuggling networks that operate using social media, cheap travel, transit through layovers in Europe — and then easy entry into the United States.** The big gap in the system is that DHS lacks the tools to vet potentially dangerous migrants seeking asylum at border points of entry. It needs more people and resources to query classified databases and use biometric data. Despite the lessons of 9/11, intelligence agencies remain wary about sharing highly classified information without secure facilities, which are lacking at most border posts.

**This could involve a nuclear attack. Squassoni explains**

**Squassoni 10/9/15** - senior fellow and director of the Proliferation Prevention Program at CSIS

Sharon Squassoni and Amelia Armitage, "Nuclear Smuggling: From Moldova to ISIS?"

[csis.org/publication/nuclear-smuggling-moldova-isis](http://csis.org/publication/nuclear-smuggling-moldova-isis)

On October 7, 2015, the Associated Press released a report detailing several years of undercover investigations into Eastern European smuggling of nuclear and radiological materials. The report highlighted activity in Moldova over the last five years that involved small quantities of uranium, as well as the radioactive material cesium. The sellers, according to the report, hoped the material would find its way into the hands of Islamic extremists. Q1: How big of a threat is nuclear smuggling, and what is its connection to terrorism? A1: In locations where governance and rule of law are weak, illicit activities tend to thrive, and illegal sales of nuclear and radioactive materials are no exception. Corruption, organized crime, and nuclear materials are a dangerous mix. Reported cases of nuclear smuggling soared in the immediate aftermath of the collapse of the Soviet Union in the mid-1990s as a result of lax security and a bad economy. There are some indications that material that entered the black market then may still be for sale today. In addition to Moldova, most states in the Black Sea region have had similar cases—including Georgia, Ukraine, Kazakhstan, and Tajikistan. The evidence connecting nuclear smuggling with terrorist groups is more elusive. In the 1990s, the group Aum Shinrikyo had a nuclear weapons development program that did not progress very far, and some documents indicate al Qaeda interest in nuclear weapons and radiological material. For other organizations, there is little evidence regarding capabilities or intentions of terrorist organizations. An article by kidnapped journalist John Cantlie in ISIS's glossy magazine, Dabiq, in May 2015 argued that a scenario in which ISIS could purchase a nuclear weapon (from Pakistan?) was more plausible than it had been in the past. It is hard to know whether this constitutes evidence of ISIS interest or intention, and it certainly sheds no light on the probability of success. While experts can debate the probability of a nuclear terrorist incident, no one debates the consequences. Nuclear terrorism is considered one of the biggest threats to U.S. national security today, and the United States and many of its allies have worked hard since 2001 to reduce the risks. The Obama administration began a series of nuclear security summits in 2010 to enhance awareness of the risks and will host the final summit in March 2016 in Washington, D.C. Q2: What would it mean if these materials were to wind up in the hands of extremists? A2: The most recent case in Moldova involved cesium—a highly radioactive material that cannot be used in a nuclear weapon but could be paired with ordinary explosives to create a radioactive mess. This kind of "dirty bomb" is considered to be within most terrorist groups' wherewithal, as opposed to the more technically demanding challenge of acquiring/manufacturing a nuclear weapon. A dirty bomb would disperse radioactivity, potentially contaminating a wide area and causing panic. Q3: What is the risk of such an attack? A3: Terrorists typically seek targets of opportunity, which is why it is so important to secure such material before it enters the black market. Over the years, a number of potential sales have been interrupted or the material confiscated during sting operations. Often, the perpetrators are arrested during the sale of sample material, raising the question whether larger quantities actually exist in the black market. To date, no dirty bomb has been used, and our capabilities globally to detect radioactive material have improved. Q4: What is being done to prevent nuclear material trafficking? A4: Efforts to prevent, detect, deter, and respond to nuclear material trafficking are wide ranging. The U.S. government has spent close to \$1 billion annually under the Cooperative Threat Reduction Program to eliminate the risk of "loose nukes" since the 1990s, and since 2002, U.S. allies have spent a similar amount under the Global Partnership Program. International conventions such as the Convention for the Physical Protection of Nuclear Material have been expanded over time, and countries have agreed to implement UN Security Council Resolution 1540 to criminalize actions that could give nonstate actors access to weapons of mass destruction-related technologies, material, or equipment. Internationally, the International Atomic Energy Agency offers assistance to its members to ensure the physical security of nuclear materials and tracks incidents through its Incident and Trafficking Nuclear Database. Bilaterally, countries cooperate to train border guards and strengthen export controls. The bottom line is that it is possible to protect against the misuse of nuclear material, but it will require a shared sense of urgency and purpose in enhancing nuclear security.

Biometric surveillance can solve even if migrants are released into the US, as the information is collected. Woodward explains

Immigration Surveillance Core File. *Updated 8-3-24*

**Woodward 1** [Woodward, John D., 2001, "Biometrics: Facing Up to Terrorism," Rand Corporation, [https://www.rand.org/pubs/issue\\_papers/IP218.html](https://www.rand.org/pubs/issue_papers/IP218.html)]

As the criminal investigation of the September 11th attacks appears to demonstrate, some of the terrorists were able to enter the United States using valid travel documents under their true identities, passing with little difficulty through immigration procedures at U.S. ports of entry. Once in the country, they patiently continued their planning, preparation, training, and related operational work for months and in some cases years until that fateful day. **Once inside the United States, the terrorists cleverly took advantage of American freedoms to help carry out their attacks.** According to media reports, however, at least three of the suicide attackers were known to U.S. authorities as suspected terrorists. In late August 2001, the Central Intelligence Agency (CIA) passed information to the INS to be on the lookout for two men suspected of involvement in terrorist activities. The CIA apparently obtained videotape showing the men, Khalid Almihdhar and Nawaf Alhazmi, talking to people implicated in the U.S.S. Cole bombing. The videotape was taken in Kuala Lumpur, Malaysia, in January 2000. It is not clear when the CIA received it. When the INS checked its database, it found that a Almihdhar and Alhazmi had successfully passed through INS procedures and had already entered the United States. The CIA asked the Federal Bureau of Investigation (FBI) to find them. But with both men already in the United States, the FBI was looking for two needles in a haystack. The FBI was still seeking the two when the hijackers struck. Khalid Almihdhar and Nawaf Alhazmi are believed to have been hijackers on American Airlines flight 77, which crashed into the Pentagon. As the above details illustrate, **we need a better way to identify individuals whom we know or suspect to be terrorists when they attempt to enter the United States. The use of biometric facial recognition is one way to make such identifications,** particularly when U.S. authorities already have a photograph of the suspected terrorist whom they seek.



## General Immigration Links to Terrorism

### **Terrorists could cross the Southern border and create massacres with guns**

Allison & Morrell, June 10, 2024, GRAHAM ALLISON is Douglas Dillon Professor of Government at Harvard University; MICHAEL J. MORELL is Senior Counselor and Global Head of Geostrategic Risk at Beacon Global Strategy. He was Deputy Director of the Central Intelligence Agency, The Terrorisrim Warning Lights Are Blinking Red Again, Foreign Affairs, [https://www.foreignaffairs.com/united-states/terrorism-warning-lights-are-blinking-red-again?check\\_logged\\_in=1&utm\\_medium=promo\\_email&utm\\_source=lo\\_flows&utm\\_campaign=article\\_link&utm\\_term=article\\_email&utm\\_content=20240627](https://www.foreignaffairs.com/united-states/terrorism-warning-lights-are-blinking-red-again?check_logged_in=1&utm_medium=promo_email&utm_source=lo_flows&utm_campaign=article_link&utm_term=article_email&utm_content=20240627)

Next, consider means and opportunity. Airport security may have tightened significantly since 9/11, but weekly mass shootings prove that it remains relatively easy in the United States to buy high-powered assault weapons and enough ammunition to kill large numbers of people in a short period of time. Last year, **hundreds of individuals on the United States' terrorist watch list attempted to enter the country via the southern border. It is not difficult to imagine a person, or even a group, with the intent to do harm slipping across a border—where U.S. officials reported 2.5 million encounters with migrants in 2023—and then purchasing assault rifles and carrying out a large massacre. There is no shortage of locations across the United States where hundreds, if not thousands, of people gather on a regular basis—and all may be ready targets for those seeking to incite terror.**

### **Terror risks increasing, southern border at-risk**

Allison & Morrell, June 10, 2024, GRAHAM ALLISON is Douglas Dillon Professor of Government at Harvard University; MICHAEL J. MORELL is Senior Counselor and Global Head of Geostrategic Risk at Beacon Global Strategy. He was Deputy Director of the Central Intelligence Agency, The Terrorism Warning Lights Are Blinking Red Again, Foreign Affairs, [https://www.foreignaffairs.com/united-states/terrorism-warning-lights-are-blinking-red-again?check\\_logged\\_in=1&utm\\_medium=promo\\_email&utm\\_source=lo\\_flows&utm\\_campaign=article\\_link&utm\\_term=article\\_email&utm\\_content=20240627](https://www.foreignaffairs.com/united-states/terrorism-warning-lights-are-blinking-red-again?check_logged_in=1&utm_medium=promo_email&utm_source=lo_flows&utm_campaign=article_link&utm_term=article_email&utm_content=20240627)

Two and a half decades later, **Christopher Wray, the director of the FBI, is soundi**ng similar **alarms**. His discussions within the Biden administration are private, but his testimony to Congress and other public statements could not be more explicit. Testifying in December to members of the Senate Intelligence Committee, Wray said, “When I sat here last year, I walked through how **we were already in a heightened threat environment.**” **Yet after Hamas attacked Israel on October 7, “we’ve seen the threat from foreign terrorists rise to a whole nother level,**” he added. In speaking about those threats, **Wray has repeatedly drawn attention to security gaps at the United States’ southern border, where thousands of people each week enter the country undetected.** Wray is not the only senior official issuing warnings. Since he became commander of United States Central Command (CENTCOM) in 2022, General Erik Kurilla has been pointing out the worrying capabilities of the terrorist groups his forces are fighting in the Middle East and South Asia. **These include al Qaeda, the Islamic State (also known as ISIS), and especially Islamic State Khorasan (ISIS-K), the ISIS affiliate that operates in**

Immigration Surveillance Core File. *Updated 8-3-24*

**Afghanistan and Pakistan.** Christine Abizaid, the outgoing director of the National Counterterrorism Center, described “an elevated global threat environment” while speaking at a conference in Doha last month. And in testimony before the House Judiciary Committee just last week, U.S. Attorney General Merrick Garland, speaking about the possibility of a terrorist attack on the United States, said that the “threat level . . . has gone up enormously.” Only with complete access to intelligence information could one form a fully independent view of the threat. But the FBI director’s and the CENTCOM commander’s statements almost certainly reflect the classified intelligence they are reading and the law enforcement and military operations in which their organizations are involved. Their words should be taken seriously. **In the years since 9/11, other officials have warned about terrorist threats that, fortunately, did not materialize, but that does not mean Wray’s and Kurilla’s comments today should be discounted. The wax and wane of terrorism warnings over the years has generally corresponded with the level of actual risk. In many cases, too, those warnings triggered government responses that thwarted terrorists’ plans. Given the stakes, complacency is a greater risk than alarmism.** Combined, the stated intentions of terrorist groups, the growing capabilities they have demonstrated in recent successful and failed attacks around the world, and the fact that several serious plots in the United States have been foiled point to an uncomfortable but unavoidable conclusion. **Put simply, the United States faces a serious threat of a terrorist attack in the months ahead.** Fortunately, the United States has learned a great deal over the past 30 years about how to combat terrorist threats, including threats that are not yet well defined. President Joe Biden and his administration should now use that playbook. It includes steps the intelligence community should take to better understand the threat, steps to prevent terrorists from entering the United States, and steps to put pressure on terrorist organizations in the countries where they find sanctuary. One of the best models to follow is the set of measures Clinton authorized when the terror threat rose in the summer and fall of 1999. Those steps prevented a number of attacks, including at least one attack on the U.S. homeland. That success—as well as the United States’ failure to prevent 9/11—offers valuable lessons for modern policymakers. Today, as then, it is better to be proactive than reactive.

## **Apprehensions of individuals on the terrorist watch list increasing; only a few people can commit a large terrorist act**

Crista Case Bryant, 7-1, 24, <https://www.csmonitor.com/USA/Military/2024/0701/biden-trump-terrorism-border-security-china>, Christian Science Monitor, Are terrorists slipping across the US border? What the evidence shows,

**The U.S. Border Patrol is encountering a far higher number of individuals on the terrorist watch list, with the annual total increasing from single digits during the Trump administration to 172 in fiscal year 2023. That’s not just a result of increased illegal immigration; the proportion of encounters involving someone on that watch list grew more than tenfold, from 0.0007% to 0.008%, according to government data. That’s a tiny fraction of total flows, but experts point out that just a handful of people can carry out significant attacks.**

## **Terrorist threat on the border increasing**

Richard Goldberg and Connor Pfeiffer, 6-28, 24, Post-Biden, we must secure the border to address the looming national-security threat, NY Post, <https://nypost.com/2024/06/28/opinion/post-biden-we-must-secure-the-border-to-address-looming-national-security-threat/>

Just two days after news broke that 50 ISIS-linked illegal migrants were on the loose somewhere in the United States, President Biden dismissed the threat of terrorists entering our country through the southern border during his debate with Donald Trump. Whether it was an intentional deception or merely another example of mental decay, the facts are clear: Our enemies now walk

Immigration Surveillance Core File. *Updated 8-3-24*

among us, and Biden's open-border policy constitutes one of the gravest national-security threats we face. **Eight Tajik nationals were arrested in June for ISIS-K ties. They had crossed into our country** illegally and were initially allowed to stay under Biden's policies. This week we learned **400 others illegally entered with an ISIS-linked facilitator. China, Russia and Iran are converging in the Western Hemisphere, and their nationals are crossing the border — an imminent national-security threat that can no longer be ignored.** The Biden administration's policy failures in Latin America provide ample opportunities for our adversaries to gain advantage. **Condoning Mexico's relapse toward one-party rule and deepening insecurity is handing the cartels greater power, as Chinese fentanyl suppliers inflict overdose mass casualties on our citizens via Mexico and the Chinese Communist Party exploits the U.S.-Canada-Mexico Agreement to its advantage.**

### **No past risks from immigrants but risks are now increasing**

Crista Case Bryant, 7-1, 24, <https://www.csmonitor.com/USA/Military/2024/0701/biden-trump-terrorism-border-security-china>, Christian Science Monitor, Are terrorists slipping across the US border? What the evidence show

Historically, **there is little evidence that unauthorized immigrants carry out attacks.** A University of Maryland project on radicalization lists only 21 of 3,528 offenders as being an "undocumented resident." **A 2019 academic pape found that a correlation between migration and terrorism in Western Europe was driven in part by right-wing groups aggrieved by the influx.** **Until recently there was no empirical evidence that foreign terrorist groups were crossing the U.S. border. Now that is shifting, however, amid increased flows and a broader range of nationalities crossing illegally. "Al Qaeda and their affiliates, ISIS and their affiliates, have all identified this as a vulnerability in the United States' defense,"** says Christopher O'Leary, an FBI counterterrorism veteran now serving as senior vice president of global operations with The Soufan Group. "You have massive waves of people coming across; it's certainly reasonable to think that you could blend into that."

## Biometrics Reduce Terror Risks

Crista Case Bryant, 7-1, 24, <https://www.csmonitor.com/USA/Military/2024/0701/biden-trump-terrorism-border-security-china>, Christian Science Monitor, Are terrorists slipping across the US border? What the evidence shows,

“We know what’s going to happen if we close our eyes and turn away and hope the bogeyman is going to go away,” he says. What is being done? According to U.S. Customs and Border Protection, **when Border Patrol agents encounter migrants crossing the southwest border illegally, they screen and vet those individuals.** Agents ask for names, birthdates, and other biographical information, and take fingerprints and retinal scans. **This biometric data can help establish a migrant’s identity if they use an alias or don’t have an ID. Their information is then checked against law enforcement and national security databases for “derogatory” information. No such information turned up during the initial screenings of the eight Tajiks. If such information comes to light later, as it did in this case, “enforcement action” will be taken** accordingly, Department of Homeland Security Secretary Alejandro Mayorkas said June 26 in Tucson, Arizona. “The safety and security of the American public is indeed our highest priority.”

### **Biometric technologies crucial in maintaining safety**

**Woodward** [Woodward, John D. No Date, “BIOMETRICS: FACING UP TO TERRORISM” RAND Corporation, <https://www.rand.org/content/dam/rand/www/external/congress/terrorism/phase1/biometrics.pdf>]

As the nation recovers from the attacks of September 11, 2001, we must rededicate our efforts to preventing any such terrorist acts in the future. While there is no easy, foolproof technical fix to counter terrorism, **the use of biometric technologies might help make America a safer place.** **Biometrics refers to the use of a person’s physical characteristics or personal traits to identify, or verify the claimed identity, of that individual. Fingerprints, faces, voices, and handwritten signatures are all examples of characteristics that have been used to identify us in this way.** **Biometricbased systems provide automatic, nearly instantaneous identification of a person by converting the biometric, for example a fingerprint, into digital form and then comparing it against a computerized database.** This RAND Issue Paper discusses how biometric technologies could be used to impede terrorism in three critical areas: 1. Controlling access to sensitive facilities at airports, 2. Preventing identity theft and fraud in the use of travel documents, and, 3. Identifying known or suspected terrorists with a proposed counterterrorist application known as FaceCheck. CONTROLLING ACCESS Sensitive areas of the nation’s ports of entry, particularly airport facilities, need to be safeguarded so that only authorized personnel can gain access to them. Currently, badges and tokens, such as a key or pass card, are used to identify authorized personnel and to control access to these areas. The system assumes that whoever possesses the badge or the pass card is the person who should be granted access, when in reality, badges and tokens are easily forged, stolen or misplaced. **security can be enhanced, however, by combining something a person must physically possess with something a person must know (such as a password or a personal identification number, PIN).** The system is still easily compromised, however, because given the profusion of PINs and passwords and our difficulty remembering them, PINs are often written down on the card itself or on a piece of paper stored in close proximity to the card. Access control to sensitive facilities can be further improved by using biometric-based identifiers. In other words, instead of identifying an individual based on something the person has (a badge), or something he knows (a password or a PIN), that person will be identified based on something he is. **For example, instead of flashing**

Immigration Surveillance Core File. *Updated 8-3-24*

**a badge, airline staff with a need to access sensitive areas of airports could be required to present a biometric, for example, their iris, to a sensor.** From a foot away and in a matter of seconds, this device captures the person's iris image, converts it to a template, or computer readable representation of the iris, and searches a database containing the templates of authorized personnel for a match. **A match confirms that the person seeking access to a particular area is in fact authorized to access that area.**

## Biometric technologies necessary in counter-terrorism efforts

**Mayhew 16** [Stephen Mayhew, 4-3-2016, "Biometrics in healthcare, banking and counter-terrorism trending this week," Biometric Update |, <https://www.biometricupdate.com/201604/biometrics-in-healthcare-banking-and-counter-terrorism-trending-this-week>]

According to security experts, recent terrorist attacks in Brussels will impact the development and deployment of facial recognition technology. Continued **attacks in public spaces will encourage both U.S. and European lawmakers and border security professionals to ramp up the collection and real-time analysis of biometric data from travellers, along with the expansion of terrorist biometric databases.** Human Recognitions Systems' (HRS) CEO and founder Neil Norman recently appeared on the BBC current affairs show Newsnight to discuss shifting behaviours and the importance of technology, such as biometrics, to provide additional defences against terror attacks.

## Biometric recognition technology help to identify terrorists

**Woodward 1** [Woodward, John D., 2001, "Biometrics: Facing Up to Terrorism," Rand Corporation, [https://www.rand.org/pubs/issue\\_papers/IP218.html](https://www.rand.org/pubs/issue_papers/IP218.html)]

As the criminal investigation of the September 11th attacks appears to demonstrate, some of the terrorists were able to enter the United States using valid travel documents under their true identities, passing with little difficulty through immigration procedures at U.S. ports of entry. Once in the country, they patiently continued their planning, preparation, training, and related operational work for months and in some cases years until that fateful day. **Once inside the United States, the terrorists cleverly took advantage of American freedoms to help carry out their attacks.** According to media reports, however, at least three of the suicide attackers were known to U.S. authorities as suspected terrorists. In late August 2001, the Central Intelligence Agency (CIA) passed information to the INS to be on the lookout for two men suspected of involvement in terrorist activities. The CIA apparently obtained videotape showing the men, Khalid Almihdhar and Nawaf Alhazmi, talking to people implicated in the U.S.S. Cole bombing. The videotape was taken in Kuala Lumpur, Malaysia, in January 2000. It is not clear when the CIA received it. When the INS checked its database, it found that a Almihdhar and Alhazmi had successfully passed through INS procedures and had already entered the United States. The CIA asked the Federal Bureau of Investigation (FBI) to find them. But with both men already in the United States, the FBI was looking for two needles in a haystack. The FBI was still seeking the two when the hijackers struck. Khalid Almihdhar and Nawaf Alhazmi are believed to have been hijackers on American Airlines flight 77, which crashed into the Pentagon. As the above details illustrate, **we need a better way to identify individuals whom we know or suspect to be terrorists when they attempt to enter the United States. The use of biometric facial recognition is one way to make such identifications,** particularly when U.S. authorities already have a photograph of the suspected terrorist whom they seek.

## ISIS

### **ISIS terrorists entering the US now**

House Homeland Security Committee, 6-27, 24,  
<https://homeland.house.gov/2024/06/26/chairman-green-on-reports-of-isis-connected-smuggling-network-exploiting-the-border-theres-literally-no-one-president-biden-wont-turn-away/>, CHAIRMAN GREEN ON REPORTS OF ISIS-CONNECTED SMUGGLING NETWORK EXPLOITING THE BORDER: "THERE'S LITERALLY NO ONE PRESIDENT BIDEN WON'T TURN AWAY"

Today, House Committee on Homeland Security Chairman Mark E. Green, MD (R-TN) **released the following statement after a shocking report by NBC News that more than 400 inadmissible aliens "who have come to the U.S. from Central Asia and elsewhere as 'subjects of concern' because they were brought by an ISIS-affiliated human smuggling network."** According to the report, roughly 150 have since been arrested after entering the country, but 50 remain unaccounted for.

"In President Biden and Secretary Mayorkas' America, border security and immigration enforcement have become a punchline. There's literally no one President Biden won't turn away—including illegal aliens from problematic countries smuggled in by networks connected to ISIS. Every alarm is flashing red, and my committee has long warned that this administration's open-borders agenda is bringing bad actors into the homeland in droves. DHS has now admitted yet again that this is true. This is unacceptable, preventable, and absolutely terrifying. True leaders would have accepted responsibility, adjusted their policies, and stepped aside for those who will enforce the laws they swore to uphold. Chuck Schumer and Senate Democrats also own this catastrophe—they had the chance to remove Secretary Mayorkas, yet broke with centuries of precedent and refused to even hold an impeachment trial. The Biden administration and its congressional enablers have failed the American people."

### **Growing risk of ISIS attack in the US from immigrated terrorists**

David Ignatius, 6-26, 24, Washington Post, That clock ticking on our border policy impasse could be a time bomb, <https://www.washingtonpost.com/opinions/2024/06/26/border-policy-terrorist-time-bomb/>

Here's how our border mess could become an election-year nightmare: Imagine that hundreds of Tajik migrants from Central Asia enter the United States through a smuggling network that the FBI subsequently discovers might have links to the Islamic State-Khorasan terrorist group. Some of the migrants are arrested nearly a year after they entered the country, but many still have not been located. In our scenario, the FBI scrambles to find what could be a ticking ISIS-K time bomb. It uses wiretaps and sting operations to locate recent arrivals who may have some connection to the Islamic State spinoff. But it's playing catch-up. The Department of Homeland Security's inspector general reports that the agency lacks the vetting tools it needs to identify and stop migrants with possible terrorist connections at the border. Folks, this isn't a

Immigration Surveillance Core File. *Updated 8-3-24*

hypothetical. All of these details are real. Intelligence officials haven't found evidence of an organized ISIS-K plot against the homeland. But the awful truth is that they don't know what's out there. **America, with its porous border, is vulnerable to the stream of people who enter the country every day. FBI Director Christopher A. Wray has been delivering hair-on-fire warnings about this problem for months. His latest came in June 4** testimony to a Senate committee: **"Increasingly concerning is the potential for a coordinated attack here in the homeland" such as the March attack by Tajik members of ISIS-K that killed 139 people at a Moscow concert hall. In early June, the FBI and DHS arrested eight Tajik migrants in New York, Philadelphia and Los Angeles.** The operation, aided by FBI wiretaps, was first reported by the New York Post. The paper said that at least one of the suspects had slipped into the country across the Mexico border more than a year ago. Surveillance showed that some of the Tajiks had used "extremist rhetoric," according to CNN. "Rather than risk the worst-case scenario of a potential attack, senior US officials decided to move in and have the men apprehended," CNN reported. Concern about the ISIS-K threat grew earlier this year when the intelligence community received new information that more than 400 Central Asian migrants had entered the United States through a "human smuggling network" potentially connected to ISIS, according to NBC News. Because of what one official told me was "extra caution," about 150 of these "persons of interest" have been arrested, but about 50 haven't been located, the network said. **This flow of Central Asian migrants is a new headache for DHS. Officials estimate that about 40 people from that region cross into the United States every day, and that there are now "tens of thousands" of undocumented migrants here from Tajikistan, Uzbekistan, Afghanistan and other Central Asian countries. Most are economic migrants arriving through smuggling networks that operate using social media, cheap travel, transit through layovers in Europe — and then easy entry into the United States.** The big gap in the system is that DHS lacks the tools to vet potentially dangerous migrants seeking asylum at border points of entry. It needs more people and resources to query classified databases and use biometric data. Despite the lessons of 9/11, intelligence agencies remain wary about sharing highly classified information without secure facilities, which are lacking at most border posts.

### **ISIS can acquire a dirty bomb, the risk alone makes a sustained attack against them necessary**

**Squassoni 10/9/15** - senior fellow and director of the Proliferation Prevention Program at CSIS

Sharon Squassoni and Amelia Armitage, "Nuclear Smuggling: From Moldova to ISIS?"  
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On October 7, 2015, the Associated Press released a report detailing several years of undercover investigations into Eastern European smuggling of nuclear and radiological materials. The report highlighted activity in Moldova over the last five years that involved small quantities of uranium, as well as the radioactive material cesium. The sellers, according to the report, hoped the material would find its way into the hands of Islamic extremists. Q1: How big of a threat is nuclear smuggling, and what is its connection to terrorism? A1: In locations where governance and rule of law are weak, illicit activities tend to thrive, and illegal sales of nuclear and radioactive materials are no exception. Corruption, organized crime, and nuclear materials are a dangerous mix. Reported cases of nuclear smuggling soared in the immediate aftermath of the collapse of the Soviet Union in the mid-1990s as a result of lax security and a bad economy. There are some indications that material that entered the

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black market then may still be for sale today. In addition to Moldova, most states in the Black Sea region have had similar cases—including Georgia, Ukraine, Kazakhstan, and Tajikistan. The evidence connecting nuclear smuggling with terrorist groups is more elusive. In the 1990s, the group Aum Shinrikyo had a nuclear weapons development program that did not progress very far, and some documents indicate al Qaeda interest in nuclear weapons and radiological material. For other organizations, there is little evidence regarding capabilities or intentions of terrorist organizations. An article by kidnapped journalist John Cantlie in ISIS's glossy magazine, Dabiq, in May 2015 argued that a scenario in which ISIS could purchase a nuclear weapon (from Pakistan?) was more plausible than it had been in the past. It is hard to know whether this constitutes evidence of ISIS interest or intention, and it certainly sheds no light on the probability of success. While experts can debate the probability of a nuclear terrorist incident, no one debates the consequences. Nuclear terrorism is considered one of the biggest threats to U.S. national security today, and the United States and many of its allies have worked hard since 2001 to reduce the risks. The Obama administration began a series of nuclear security summits in 2010 to enhance awareness of the risks and will host the final summit in March 2016 in Washington, D.C. Q2: What would it mean if these materials were to wind up in the hands of extremists? A2: The most recent case in Moldova involved cesium—a highly radioactive material that cannot be used in a nuclear weapon but could be paired with ordinary explosives to create a radioactive mess. This kind of “dirty bomb” is considered to be within most terrorist groups’ wherewithal, as opposed to the more technically demanding challenge of acquiring/manufacturing a nuclear weapon. A dirty bomb would disperse radioactivity, potentially contaminating a wide area and causing panic. Q3: What is the risk of such an attack? A3: Terrorists typically seek targets of opportunity, which is why it is so important to secure such material before it enters the black market. Over the years, a number of potential sales have been interrupted or the material confiscated during sting operations. Often, the perpetrators are arrested during the sale of sample material, raising the question whether larger quantities actually exist in the black market. To date, no dirty bomb has been used, and our capabilities globally to detect radioactive material have improved. Q4: What is being done to prevent nuclear material trafficking? A4: Efforts to prevent, detect, deter, and respond to nuclear material trafficking are wide ranging. The U.S. government has spent close to \$1 billion annually under the Cooperative Threat Reduction Program to eliminate the risk of “loose nukes” since the 1990s, and since 2002, U.S. allies have spent a similar amount under the Global Partnership Program. International conventions such as the Convention for the Physical Protection of Nuclear Material have been expanded over time, and countries have agreed to implement UN Security Council Resolution 1540 to criminalize actions that could give nonstate actors access to weapons of mass destruction-related technologies, material, or equipment. Internationally, the International Atomic Energy Agency offers assistance to its members to ensure the physical security of nuclear materials and tracks incidents through its Incident and Trafficking Nuclear Database. Bilaterally, countries cooperate to train border guards and strengthen export controls. The bottom line is that it is possible to protect against the misuse of nuclear material, but it will require a shared sense of urgency and purpose in enhancing nuclear security.



## Terror Risks Increasing

Crista Case Bryant, 7-1, 24, <https://www.csmonitor.com/USA/Military/2024/0701/biden-trump-terrorism-border-security-china>, Christian Science Monitor, Are terrorists slipping across the US border? What the evidence show

Part of the challenge is how to allocate U.S. resources. Mr. O’Leary, who worked on FBI counterterrorism investigations for more than two decades until stepping down last fall, **says the government has pivoted away from the terrorism threat to focus on Russia, China, and great-power competition. He stresses the need to stay alert, 20-plus years into the global war on terror, with U.S.-designated terrorist groups, such as Al Qaeda and ISIS, growing. For example, Al Qaeda’s core membership increased approximately tenfold from 2001 to 2018, according to estimates**

### **ISIS terror threat to the US increasing**

Katie Bo Lillis and Josh Campbell, 6-14, 24, CNN, ‘ISIS isn’t done with us’: Arrested Tajiks highlight US fears of terror attack on US, <https://www.cnn.com/2024/06/14/politics/isis-us-fears-terror-attack/index.html>

**The recent arrest of eight Tajik nationals believed to have connections to ISIS has heightened concerns among national security officials that a dangerous affiliate of the now-splintered terror group could potentially carry out an attack on US soil**, according to multiple US officials who spoke to CNN. Members of the group initially entered the US at the southern border and requested asylum under US immigration law. It’s unclear whether they entered at the same time and place. By the time intelligence collected on overseas ISIS targets connected the men to the terror group, they had already been vetted by immigration authorities and allowed into the country, officials said. Though there is no hard evidence indicating they were sent to the US as part of a terror plot, at least some of the Tajik nationals had expressed extremist rhetoric in their communications, either on social media or in direct private communications that US intelligence was able to monitor, three officials said. That discovery set off a flurry of emergency investigative efforts by federal agents and analysts across the country, sources said, including physical and electronic surveillance of the men — a counterterrorism operation reminiscent of the years immediately following 9/11, when the FBI investigated numerous homegrown plots. **After a period of surveillance, federal officials in recent days faced a difficult decision: whether to continue surveilling the men** in order to determine if they were part of any potential plot or wider terrorist network, or to move in and take them off the street. Rather than risk the worst-case scenario of a potential attack, senior US officials decided to move in and have the men apprehended by ICE agents, one source told CNN. **The men remain in federal custody on immigration charges and will eventually be deported following the counterterror investigation into them.** Tajiks recruited by ISIS Of particular concern to US officials was that the men hail from Tajikistan, a corner of Central Asia that in recent years has been a source of steady recruitment by ISIS-K, the Afghanistan-based affiliate of the Islamic terrorist group. ISIS-K is led primarily by Tajiks, who have carried out a series of recent attacks in Europe on behalf of the group, including the Crocus Hall attack in Moscow in March that killed more than 100 people. National security officials fear that at least some of the eight Tajiks were ripe for radicalization by ISIS-K while they were inside the United States, potentially struggling with isolation, financial stress or discrimination — all things that could make a person susceptible to ISIS propaganda glorifying violence. Senior officials now see a so-called “lone-wolf” attacker who emerges seemingly from nowhere as perhaps the more likely — and

Immigration Surveillance Core File. *Updated 8-3-24*

potentially equally dangerous — threat, rather than the more traditional coordinated plot carried out by trained operatives. Compared to terror networks, whose communications can provide possible avenues for surveillance exploitation, lone individuals who do not telegraph their attack plans to anyone present an additionally difficult challenge for security officials. “We can’t assume it’s not all of the above,” said one senior US official. “We’re too early to know everything we want to know about the depth and texture of the links that might be there” between these eight people and ISIS. **The episode comes as senior intelligence officials have been publicly warning that global conditions have put the risk of a terror attack on US soil at its highest level in recent memory — at the same time that many national security officials also acknowledge that American drawdowns in Afghanistan and elsewhere in the Middle East have reduced intelligence-gathering on traditional terrorism threats.** “It’s no secret that since our drawdowns in various places around the world, we collect less intelligence. This was always a tradeoff we knew we were making,” the senior US official said. Former acting CIA Director Michael Morell this week co-wrote a widely circulated piece in Foreign Affairs warning that terrorism warning lights are “blinking red,” echoing a recent warning by FBI Director Christopher Wray, who said he sees “blinking lights everywhere I turn.” “The combination of stated intentions of terrorist groups, **growing capabilities they have demonstrated in recent successful and failed attacks around the world, and the fact that several serious plots in the United States have been foiled, point us to an uncomfortable but unavoidable conclusion,**” the Foreign Affairs piece read. “Put simply, **the United States faces a serious threat of a terrorist attack in the months ahead.**” Gaps in intelligence collection Intelligence officials are keenly aware of gaps in intelligence collection in Afghanistan, where ISIS-K is primarily based. While officials believe that ISIS-K mainly tries to radicalize and inspire attackers rather than train and field operatives, the group’s rise to prominence is a relatively new phenomenon. That means that there is much that US counterterrorism analysts don’t know about its strategy, recruitment efforts and operational tactics. US officials and analysts who closely track Islamist terror groups do know that ISIS-K has dramatically ramped up its online propaganda machine. Rather than training and deploying fighters — as al Qaeda did in the 9/11 attacks, for example — ISIS-K has instead focused on radicalizing vulnerable populations. Tajikistan, for example, is one of the poorest countries in the world and its population faces extreme religious repression, both factors that terrorism experts say can make a population vulnerable to radicalization. Colin Clarke, a researcher who specializes in terrorism, said the group is creating “charismatic propaganda” to reach “out to diasporas that are already in place in Europe, in North America and in the region in Central Asia, and attempting to inspire people to conduct attacks.” “It seems like it’s just a matter of time before they’re able to pull something off successfully,” Clarke said. Concerns about the border **The arrests also puts a spotlight on vulnerabilities at the US southern border,** an issue Republicans have amplified in the midst of a presidential election year. “We are literally living on borrowed time,” Republican Oklahoma Sen. James Lankford said from the Senate floor on Wednesday during a speech about the threat of terrorists entering the US through the southern border. A June 7 report released by the DHS inspector general found that asylum seekers were not always screened in a timely fashion and that border agents could not access all the federal data they needed to vet noncitizens seeking admission into the US. The US is “at risk of admitting dangerous persons into the country or enabling asylum seekers who may pose significant threats to public safety and national security to continue to reside in the United States,” the report said. US officials have been paying particular attention to immigrants from Central Asian countries including Tajikistan since last summer, when a group Uzbek nationals who had crossed the southern border were later found to have been assisted in traveling to the United States by a facilitator who had ties to ISIS. The episode sparked a scramble across the US government to locate and investigate those people. The security of the southern border has been a political sticking point between Republicans and the Biden administration. Two US officials also said that it spurred national security officials to ensure that immigration and intelligence authorities were appropriately monitoring anyone traveling from Tajikistan, Uzbekistan and Kazakhstan. “I think what [the incident with the Uzbek nationals] did last summer was suggest central Asians are potentially a population of concern, given what we know about the global ISIS network right now,” the senior US official said. In 2023, CBP reported 169 encounters with individuals identified as “potential matches” with names on the terrorism watch list. But that’s not necessarily a reliable gauge of the number of actual terrorists who may be trying to enter the United States, US officials argue. When a name pings on a terror watch list, it could mean any number of things: a person could have a very loose, attenuated connection to a known terrorist. Or they could belong to a legacy terror group — like the FARC — that isn’t known for conducting attacks on US soil. Or they could simply have a similar name as a person of legitimate concern. That’s what happened with the Jordanian national who was arrested at the gates of the US Marines base at Quantico earlier this year, two US officials said. Although his name returned a hit against one of the watch lists, it turned out to be a “bad match,” according to the senior US official. The blending of criminality and terrorism in poor countries — like Tajikistan — can also prove incredibly difficult for law enforcement officials to unravel. A person may have regular contact with a family member who has done some paid work for ISIS, for example, without themselves sharing any sympathy for the group. But, Clarke said, the risk is there: **Crushing poverty [and] an extremely religious population that’s suppressed by its leaders — it’s almost a perfect formula for exporting jihadists.**” Said one law enforcement source: “It’s become cliché, but remains absolutely true: We may be done with ISIS, but **ISIS isn’t done with us.**”

## Foreign terrorist organizations attempting to attack the US

Allison & Morrell, June 10, 2024, GRAHAM ALLISON is Douglas Dillon Professor of Government at Harvard University; MICHAEL J. MORELL is Senior Counselor and Global Head of Geostrategic Risk at Beacon Global Strategy. He was Deputy Director of the Central Intelligence Agency, *The Terrorisrim Warning Lights Are Blinking Red Again*, Foreign Affairs, [https://www.foreignaffairs.com/united-states/terrorism-warning-lights-are-blinking-red-again?check\\_logged\\_in=1&utm\\_medium=promo\\_email&utm\\_source=lo\\_flows&utm\\_campaign=article\\_link&utm\\_term=article\\_email&utm\\_content=20240627](https://www.foreignaffairs.com/united-states/terrorism-warning-lights-are-blinking-red-again?check_logged_in=1&utm_medium=promo_email&utm_source=lo_flows&utm_campaign=article_link&utm_term=article_email&utm_content=20240627)

Assessing the threat from abroad, **Wray told the Senate Homeland Security Committee last October that Washington cannot “discount the possibility that Hamas or another foreign terrorist organization may . . . conduct attacks here” in the United States. In April, he told the House Appropriations Committee that “the potential for a coordinated attack here in the homeland” was “increasingly concerning.”**

## Terrorists attempt to enter the US through the Southern Border

Allison & Morrell, June 10, 2024, GRAHAM ALLISON is Douglas Dillon Professor of Government at Harvard University; MICHAEL J. MORELL is Senior Counselor and Global Head of Geostrategic Risk at Beacon Global Strategy. He was Deputy Director of the Central Intelligence Agency, *The Terrorisrim Warning Lights Are Blinking Red Again*, Foreign Affairs, [https://www.foreignaffairs.com/united-states/terrorism-warning-lights-are-blinking-red-again?check\\_logged\\_in=1&utm\\_medium=promo\\_email&utm\\_source=lo\\_flows&utm\\_campaign=article\\_link&utm\\_term=article\\_email&utm\\_content=20240627](https://www.foreignaffairs.com/united-states/terrorism-warning-lights-are-blinking-red-again?check_logged_in=1&utm_medium=promo_email&utm_source=lo_flows&utm_campaign=article_link&utm_term=article_email&utm_content=20240627)

The United States faces a serious threat of a terrorist attack in the months ahead.

**Wray has focused on one country as a potential state sponsor of terrorism: Iran.** In October, he told the Senate Homeland Security Committee that Tehran continues to plot against high-ranking “current or former” U.S. government officials as a means of exacting revenge for the United States’ assassination of senior Iranian military official Qasem Soleimani in January 2020. Although Iranian plans have failed so far, there is no guarantee that the next one will. The successful killing of a U.S. citizen, especially if it takes place on U.S. soil, would not only strike fear among the American public but also plunge Tehran and Washington into a crisis on a scale unseen since the Iranian regime took power in 1979.

**The FBI director has also highlighted a specific security vulnerability.** In December, **Wray warned the Senate Judiciary Committee that foreign terrorists trying to get into the United States have the “ability to exploit any point of entry, including our southwest border.”** In March, he drew the Senate Intelligence Committee’s attention to **“a particular network [operating on the southern border].”** He told the committee that **this smuggling network has overseas facilitators with “ISIS ties that we are very concerned about.”**

## Global terror threats increasing

Allison & Morrell, June 10, 2024, GRAHAM ALLISON is Douglas Dillon Professor of Government at Harvard University; MICHAEL J. MORELL is Senior Counselor and Global Head of Geostategic Risk at Beacon Global Strategy. He was Deputy Director of the Central Intelligence Agency, The Terrorisrim Warning Lights Are Blinking Red Again, Foreign Affairs, [https://www.foreignaffairs.com/united-states/terrorism-warning-lights-are-blinking-red-again?check\\_logged\\_in=1&utm\\_medium=promo\\_email&utm\\_source=lo\\_flows&utm\\_campaign=article\\_link&utm\\_term=article\\_email&utm\\_content=20240627](https://www.foreignaffairs.com/united-states/terrorism-warning-lights-are-blinking-red-again?check_logged_in=1&utm_medium=promo_email&utm_source=lo_flows&utm_campaign=article_link&utm_term=article_email&utm_content=20240627)

Kurilla has been sounding similar alarms from CENTCOM. The forces under his command conducted 475 ground operations and 45 airstrikes against ISIS targets in Iraq and Syria last year—killing or capturing almost 1,000 of the group’s fighters. In a March statement, Kurilla affirmed that both ISIS and al Qaeda “remain committed to inflicting violence.” Although U.S. forces have kept ISIS from controlling large portions of Iraq and Syria, by Kurilla’s count, the group still has at least 5,000 fighters. **Over the span of just two weeks in early 2024, ISIS conducted 275 attacks—its highest rate in years. Al Qaeda, meanwhile, continues to operate from Afghanistan and Yemen. Kurilla has called particular attention to ISIS-K, the ISIS affiliate in Afghanistan and Pakistan.** In March 2023 testimony to the Senate Armed Services Committee, he warned that the group would be able to carry out an “operation against U.S. or Western interests abroad in under six months with little to no warning.” His words proved prescient earlier this year, when ISIS-K mounted the deadliest terror attack Iran had experienced since the founding of the Islamic Republic, in which two suicide bombers killed at least 95 people at a memorial on the anniversary of Soleimani’s death. ISIS-K struck again in March, when four terrorists killed 145 people and injured 550 more in a brazen attack on a concert hall in Moscow. **The commander of United States Africa Command (AFRICOM), General Michael Langley, has painted a similar picture. In testimony in March before the Senate Armed Services Committee, Langley noted that al Qaeda and ISIS are exploiting “underdeveloped, undergoverned areas” and that “recent military takeovers in West Africa are giving space to violent extremist organizations.”** Langley told the committee that his forces conducted 18 attacks on those terrorist groups in 2023 as part of a larger campaign. His testimony is consistent with the assessment of most terrorism experts in and out of government that al Qaeda and ISIS groups in Africa are thriving. Observable trends add weight to these officials’ concerns. Most important is the growing number of both successful and foiled attacks. **According to the Global Terrorism Index, deaths from terrorism increased by 22 percent from 2022 to 2023. This year has already seen the two large ISIS-K attacks in Iran and Russia.** And were it not for the outstanding work of German intelligence and police, the list of successful acts of terrorism in the past few months would have been longer. German authorities arrested foreign nationals who were allegedly planning attacks on the Cologne Cathedral late last year and the Swedish parliament building in Stockholm in March. **Foiled plots inside the United States should be the ultimate wake-up call.** In April 2022, the Justice Department charged an Iranian government official based in Tehran with attempting to hire a hit man to assassinate former U.S. National Security Adviser John Bolton. The following month, the FBI reported that it had thwarted the plans of an Iraqi national living in Ohio to smuggle four people across the

southern border to assassinate former President George W. Bush. Most recently, the FBI—as part of the Biden administration’s effort to convince Congress to reauthorize Section 702 of the Foreign Intelligence Surveillance Act—shared declassified intelligence with Politico showing that the agency had stopped a plot to attack critical infrastructure in the United States last fall.

**According to the FBI, the organizer inside the United States was in regular contact with a foreign terrorist group, had identified specific targets, and had made sufficient preparations to put the plan into motion. A final piece of the puzzle is the string of recent statements by terrorist groups calling for attacks.** Many pegged their threats to the events of October 7.

Shortly after that day’s attack, al Qaeda issued a statement urging Muslims around the world to seize a “once in a lifetime” opportunity to commit acts of violence in support of Hamas’s cause. In January, al Qaeda in the Arabian Peninsula (AQAP) released videos calling for attacks on commercial flights worldwide and on targets in New York City. And in March, during the Muslim holy month of Ramadan, an ISIS-K spokesperson called on individuals to carry out lone-wolf attacks on Christians and Jews in the United States, Europe, and Israel. When terrorist groups make explicit threats to the United States, Washington should listen. It is not uncommon for adversaries to say precisely what they are going to do—as bin Laden did before 9/11.

### **Israel-Hamas war will create a generation of terrorists**

Allison & Morrell, June 10, 2024, GRAHAM ALLISON is Douglas Dillon Professor of Government at Harvard University; MICHAEL J. MORELL is Senior Counselor and Global Head of Geostrategic Risk at Beacon Global Strategy. He was Deputy Director of the Central Intelligence Agency, *The Terrorisrim Warning Lights Are Blinking Red Again*, Foreign Affairs, [https://www.foreignaffairs.com/united-states/terrorism-warning-lights-are-blinking-red-again?check\\_logged\\_in=1&utm\\_medium=promo\\_email&utm\\_source=lo\\_flows&utm\\_campaign=article\\_link&utm\\_term=article\\_email&utm\\_content=20240627](https://www.foreignaffairs.com/united-states/terrorism-warning-lights-are-blinking-red-again?check_logged_in=1&utm_medium=promo_email&utm_source=lo_flows&utm_campaign=article_link&utm_term=article_email&utm_content=20240627)

**Motives abound for potential perpetrators of terrorist attacks. Two decades of war in Afghanistan and Iraq, as well as U.S. drone strikes in more than a dozen other countries, have generated resentment toward the United States that could drive individuals to seek violent retribution. More recently, Israel’s ongoing response to the horrific attacks on October 7 has killed at least 36,000 people (of which more than half are civilians) in Gaza. That operation will have what Director of National Intelligence Avril Haines has called a “generational impact on terrorism” and will create what Kurilla has described as “the conditions for malign actors to sow instability throughout the region and beyond.”** The assassination of Soleimani in 2020, too, has prompted Iran to attempt attacks in the United States ever since. These efforts may accelerate as Iran faces a deepening conflict with Israel and instability at home following the death of its president. Even the threat of domestic extremism and lone-wolf attacks—the least predictable forms of terrorism—is likely to grow more serious as the United States approaches a polarized election between two candidates who regularly issue dire warnings that a victory by the other side would be the death knell of American democracy.

## **Terror groups still have organizational structures that kill**

Allison & Morrell, June 10, 2024, GRAHAM ALLISON is Douglas Dillon Professor of Government at Harvard University; MICHAEL J. MORELL is Senior Counselor and Global Head of Geostrategic Risk at Beacon Global Strategy. He was Deputy Director of the Central Intelligence Agency, The Terrorisrim Warning Lights Are Blinking Red Again, Foreign Affairs, [https://www.foreignaffairs.com/united-states/terrorism-warning-lights-are-blinking-red-again-check\\_logged\\_in=1&utm\\_medium=promo\\_email&utm\\_source=lo\\_flows&utm\\_campaign=article\\_link&utm\\_term=article\\_email&utm\\_content=20240627](https://www.foreignaffairs.com/united-states/terrorism-warning-lights-are-blinking-red-again-check_logged_in=1&utm_medium=promo_email&utm_source=lo_flows&utm_campaign=article_link&utm_term=article_email&utm_content=20240627)

The final factor is organizational capacity. The United States' "war on terror" has eliminated large numbers of fighters and planners. But as Kurilla warned earlier this year, **ISIS and other groups still have the leadership, foot soldiers, and organizational structures necessary to orchestrate attacks. Wray, too, has urged lawmakers not to take too much comfort in terrorist groups' shrinking sizes. As he said in December, "Let's not forget that it didn't take a big number of people on 9/11 to kill 3,000 people."**

In the fall of 1999, U.S. intelligence agencies collected information that strongly suggested bin Laden and al Qaeda were preparing to launch multiple attacks to coincide with the millennium. Although the adversary and the timing were clear, the targets and method of attack were not. This lack of detail did not stop Clinton from ordering a swift and sweeping response. As Tenet recounts in his memoir, what followed was a "frenzy of activity": the CIA conducted operations in 53 countries against 38 targets, including the detention of dozens of suspected terrorists. The CIA engaged foreign partners, most notably working with Canadian authorities to break up an Algerian terror cell in Canada and helping Jordanian authorities arrest 16 terrorists planning an attack on tourists in Amman. As a result, no terrorist group successfully carried out an attack at the millennium. Among the more celebrated successes was the arrest of al Qaeda operative Ahmed Ressay, which thwarted the group's plan to attack Los Angeles International Airport in December 1999. Immigration officers in Port Angeles, Washington, were on high alert because of the Clinton order, and they pulled Ressay aside at the U.S.-Canadian border crossing. In the trunk of his car, they discovered 100 pounds of high explosives and materials for multiple detonators. Ressay was later convicted on terrorism charges.

## Crime

### **Criminals who commit violence are crossing the border**

Michael Lee, 6-25, 24, Fox News, Border security: Massive spike in criminal migrants entering US since 2021, data shows, <https://www.foxnews.com/politics/massive-spike-criminal-migrants-entering-us-since-2021-data-shows>

**The amount of criminal immigrants attempting to enter the U.S. has spiked in recent** years, U.S. Customs and Border Protection data reveals. Over 13,000 "criminal noncitizens" have attempted to enter the U.S. and been apprehended by Border Patrol agents in Fiscal Year 2024, a rise from 4,269 in FY 2019. **CBP defines "criminal noncitizens" as "individuals who have been convicted of one or more crimes**, whether in the United States or abroad, prior to interdiction by the U.S. Border Patrol," the agency's website notes. **Such border apprehensions had been on the decline** before FY 2021, with CBP recording 8,531 in 2017, 6,698 in 2018, 4,269 in 2019, and 2,438 in 2020. **Since then, however, the number has continued to rise**, hitting 10,763 in 2021, 12,028 in 2022, and 15,267 in 2023, the most recent full year for which data is available. **ILLEGAL IMMIGRANT SUSPECT ACCUSED OF KILLING JOCELYN NUNGARAY WORE ICE ANKLE MONITOR** A Border Patrol processes an immigrant Immigrants are photographed at a U.S. Border Patrol processing center after they crossed the U.S.-Mexico border on December 07, 2023 in Lukeville, Arizona. (John Moore/Getty Images) **Many of the criminal aliens who have been caught at the border this year have been convicted of serious crimes, including 814 for assault, battery, or domestic violence; 23 for homicide or manslaughter; and 168 for sexual offenses. But the data does not account for the number of criminal aliens who were able to slip into the country undetected or were released with unclear criminal backgrounds**, cases that have once again entered the national spotlight. Such cases include the arrest of Victor Antonio Martinez Hernandez, a 23-year-old illegal El Salvadorian migrant accused of raping and killing Maryland mother Rachel Morin. Martinez Hernandez had attempted to enter the country illegally four times after being accused of a similar murder in his native El Salvador, the last of which he was able to elude the detection of border security. In another case, two Venezuelan migrants are accused in the killing of Houston-area 12-year-old Jocelyn Nungaray. In that case, suspects Johan Jose Martinez-Rangel, 22, and Franklin Jose Peña Ramos, 26, entered the country illegally and were released with court dates. Rachel Morin, left and her alleged killer Victor Martinez Hernandez is accused of the rape and murder of Rachel Morin August 5, 2023, in Bel Air, Maryland. (Hartford County Sheriff's Office/Tulsa Police Department) **ILLEGAL IMMIGRANT SUSPECT ACCUSED OF KILLING JOCELYN NUNGARAY WORE ICE ANKLE MONITOR** placeholder While neither suspect had a previous criminal record in Harris County, their background in their native Venezuela is less clear as a result of a lack of cooperation in sharing information between the Venezuelan and U.S. governments. The two then made their way to what has become an immigrant hotspot in Houston, where Harris County District Attorney Kim Ogg told Fox News has seen an uptick in illegal immigrant crime. Jocelyn Nungaray murder suspects in separate mug shots Franklin Jose Peña Ramos, left, and Johan Jose Martinez-Rangel have been charged in the killing of Jocelyn Nungaray in Houston, Texas, on Monday, June 17. (Harris County Jail) **CLICK HERE TO GET THE FOX NEWS APP**

"Unfortunately, **we see a great deal of violence committed by illegal immigrants, and we see as many victimized by other illegals and regular people here. It's an enormous problem**. This was bound to happen," she told Fox News. "It's one of those things that as an elected prosecutor, you are just waiting for other shoe to drop. I'm just sick and sickened this little girl was the innocent victim of these two monsters."

## **Fentanyl**



## **Need to EXPAND Surveillance to Stop Fentanyl'**

### **Surveillance needs to be expanded to stop fentanyl**

Quinn Owen, Mireya Villarreal, and James Scholz, 11-7, 23, 'It's very challenging': Inside the fentanyl fight at the border, <https://abcnews.go.com/Politics/fighting-fentanyl-border-agents-working-thwart-narcotics-smuggling/story?id=104689211>

NOGALES, Arizona -- **Senior government officials are concerned that Congress may not pass enough funding to secure the border**, as federal authorities work under immense pressure to stop illegal narcotics smuggling. ABC News took an exclusive look at ground zero for the fight against one particularly deadly drug: fentanyl. **Southern Arizona has become a massive corridor for trafficking the synthetic opioid with nearly half of all border seizures occurring at federal checkpoints in the state.** At the Mariposa Port of Entry in Nogales, Arizona, U.S. Customs and Border Protection Acting Commissioner Troy Miller told ABC News his **front-line officers are in dire need of more technology, manpower and the tools to improve incoming cargo detection.** **"The headline here is we need additional resources to continue our fight against fentanyl,"** Miller said. ABC News observed the critical balancing act performed by customs officers responsible for catching drugs while facilitating the flow of legitimate commercial trade -- about \$4 trillion worth annually. **"It's very challenging," Miller said. "It's certainly very challenging as we see the seizures go up year after year. But I can say, as we organize and we're going after these ruthless criminals that are killing American citizens, all of our partners are focused on this particular fight." Using X-ray scanning technology, drug sniffing dogs and classic detective experience, CBP is seizing 860% more fentanyl compared to 2019.**

## Surveillance Key to Stop Fentanyl

### AI-enabled surveillance used to stop drug flow

Department of Homeland Security, no date, accessed 7-27, 4, <https://www.dhs.gov/ai/using-ai-to-secure-the-homeland>, Using AI to Secure the Homeland

U.S. Customs and Border Protection (CBP) uses AI to help screen cargo at ports of entry, validate identities in the CBP One app, and enhance awareness of threats at the border. AI models are used to automatically identify objects in streaming video and imagery. Real-time alerts are sent to operators when an anomaly is detected, enhancing CBP's ability to stop drugs and other illegal goods from entering the country.

### Surveillance limits fentanyl flow to the US

Customs & Border Patrol, No date, CBP: America's Front Line Against Fentanyl, May 24, 2024 <https://www.cbp.gov/frontline/cbp-america-s-front-line-against-fentanyl> DOA: 7-5-24

It is a scourge taking the lives of more than 150 Americans each day – around **55,000 every year**. But it's not cancer, heart disease or even COVID – although those are also devastating to the population. It's **the number of overdose deaths from synthetic drugs, such as illicit fentanyl**. With the other health issues, agencies such as the Centers for Disease Control and Prevention (CDC) take the lead in protecting the American public. With fentanyl and other synthetic drugs crossing our borders, it's U.S. Customs and Border Protection (CBP). "In my 30 years as a customs official, the trafficking of synthetic illicit drugs like fentanyl is one of the toughest, most daunting challenges I have ever seen," said CBP Senior Official Performing the Duties of the Commissioner Troy Miller. "We have the right capabilities from interdiction to intelligence capabilities. We're in the right places at our land borders and between the ports in international airports, in both the passenger and air cargo environments and at our maritime borders, too. And we know what works. Intelligence-driven operations, relentless, targeting people, partnerships, and technology. CBP is well positioned to lead the federal government's efforts in this fight." "We have a multi-layered strategy for tackling the fentanyl and synthetic opioid issue," said Joe Draganac, director of CBP's Fentanyl Campaign Directorate established under CBP's new Strategy to Combat Fentanyl and Other Synthetic Drugs. **"We're going after the precursor chemicals, the pill presses and parts, the supply chain and movement of finished product, and the [money] that finances these illicit organizations."** Draganac said. **"This touches every part of our authority; there's a border nexus for all of this."** Taking the Fight to the Source **Much of the problem is that chemicals and tools to make the dangerous drugs are coming into the U.S. from locations such as East Asia through legitimate means – cargo on airplanes, ships and express couriers – and those items many times go to locations in Mexico, where the finished products are made and smuggled across the southwest border. Intercepting those drugs is done by traditional CBP methods, such as X-rays and drug detection dogs,** but Draganac pointed out the agency is trying to be active and stop the shipments long before they leave foreign shores. "International collaboration is key," he explained, citing one example. "With the air cargo, much of it is transiting through South Korea, so we really focus on working with the Korean government and how we can collaborate together to disrupt these movements." Draganac said CBP works with the government of Mexico to intercept the production materials and products going there and the finished drugs coming back into the U.S. "As we become more successful in slowing down these other supply chain routes, we know [the smugglers will] change," he said, but CBP and its international partners need to be nimble enough to anticipate and be ready for those changes. "It's about reciprocal

Immigration Surveillance Core File. *Updated 8-3-24*

information sharing, as well as capacity building and training – educating them on trends, how we target, what to look for, and what we’re seeing.” Korea Customs Service conducts mail inspections and flags items Recently, a CBP delegation visited the South Korea International Mail Facility to learn more about how the Korea Customs Service conducts mail inspections and flags items for contraband or illegal substances, to include fentanyl and other synthetic drugs. Photo courtesy of Korea Customs Service Draganac also said that while fentanyl might not yet be a problem in some of the origin and transit countries, it wasn’t a problem here until just recently, and it could be those countries’ problem soon. For example, South Korea – where drugs that are “uppers” are more popular than the “downers” of opioids – is seeing an influx of meth, one of those “uppers,” coming from Mexico through the U.S. “So, there’s this reciprocal problem set that we as a global community can work to help each other out on,” he said, emphasizing to other countries how CBP can help them with their drug problems. A Growing Threat **The threat of fentanyl is certainly an issue that has increased exponentially in the nearly 10 years since the drug started being intercepted in the U.S. In 2014, illicit fentanyl was basically unknown to CBP, with just 22 pounds intercepted in the first bust. Since then, the amount has skyrocketed each year, with the latest amount seized at the border and ports of entry topping more than 27,000 pounds from October 2022 to the end of September 2023.** When you consider that just 2 milligrams of fentanyl is a lethal dose, if all that was pure fentanyl and had actually entered into the country, it would have represented more than 6 billion lethal doses coming into the U.S. during fiscal year 2023. That’s why targeting the precursor chemicals and equipment to make the drugs before they leave foreign locations became so important for CBP and why the job of intercepting what still gets through the overseas shipping points remains a top priority for CBP as well. **“Early on this year, CBP became hyper focused on countering fentanyl,”** said Robert Renner, a chief watch commander at CBP’s National Targeting Center. He pointed to operations such as Blue Lotus, a multiagency effort led by CBP that featured targeted inspections at border crossings in California and Arizona, leveraging advanced analytics, intelligence capabilities, and coordination with federal, state, tribal and local partners. That operation – along with Border Patrol’s complementary operation, Four Horsemen, that worked between ports of entry and at checkpoints near the border – yielded more than 10,000 pounds of fentanyl, in addition to another 10,000 pounds of other narcotics, such as cocaine and methamphetamine. **Using intelligence gathered during Blue Lotus, CBP launched Operation Artemis and Border Patrol’s complementary Operation Rolling Wave in the summer of 2023. These operations consisted of multidisciplined interagency jump teams at strategic locations with an enhanced focus on disrupting the supply chain used in the development and movement of fentanyl. Operation Artemis led to over 900 seizures, including more than 13,000 pounds of precursor chemicals and more than 467 pill presses and pill molds to make fentanyl and fentanyl-laced pills,** over 270 pounds of finished fentanyl in powder and laced-pills, plus an additional 1,162 pounds of methamphetamine and over 11,233 pounds of other drugs. Rolling Wave had its own successes bringing in more than 3,635 pounds of fentanyl, plus another 29,734 pounds of other narcotics to include 5,340 pounds of cocaine, more than 14,272 pounds of marijuana, and meth seizures topping 10,014 pounds. Another CBP-led, counter-fentanyl effort is Operation Apollo in Southern California. Underway since October of 2023, Apollo is CBP’s national counter-fentanyl operation that concentrates law enforcement efforts from all levels on leveraging valuable partnerships, collecting and sharing intelligence, and disrupting drug and chemical supply. CBP joined with state, tribal, and local law enforcement counterparts, as well as federal counterparts from various participating agencies. Border Patrol agents seized 60 packages of fentanyl Border Patrol agents seized 60 packages of fentanyl that were hidden in a vehicle’s gas tank in Desert Center, California, in October 2023. The total weight of fentanyl pills was 99.5 pounds with an estimated value of \$1.1 million. CBP photo Supervisory Border Patrol Agent William Ramirez heads a plains-clothes group of Border Patrol intelligence unit agents working in the target-rich area near San Diego. “We proactively target vehicles that we suspect of being involved in narcotics moving,” Ramirez said. “Things that don’t add up, don’t make sense, that’s what catches our attention. We’re surveillance heavy.” Ramirez is a veteran agent who has seen many iterations of counter-narcotics operations, including Four Horsemen and Rolling Wave, which also targeted fentanyl, among many other efforts. He said what sets this one apart is how taking that whole-of-CBP approach to the operation is engrained into the fabric of it, not just a product of chance. **“Our success comes from really collaborating with strategic partners we have in place,”** which includes many local law enforcement officers, he said. “When we see something that warrants enforcement, we send the ‘bat signal’ out, and they roll out with us. They’re very, very good at what they do.” Ramirez added while they’ve always done a good job at sharing intelligence with other CBP components and law enforcement partners, Operation Apollo has really ramped up that information sharing process and integrated it into the operation. “We’re not just targeting the cars coming in; we’re building upon that,” he said. “We have our other partners at [CBP’s] National Targeting Center, and they’re building upon these cases and generating actionable intelligence and getting that back out to the field. We’re keeping that intel cycle going. That’s the most important thing. With intel, if you hoard it and don’t disseminate it properly, then it’s no good.” And Ramirez is seeing success from his perspective. He noted that just a few days before he spoke, they were seeing the fentanyl seizure amounts down, maybe just 20 kilograms since October. But suddenly, they had one seizure of nearly 30 kilograms, more than doubling what they had seen in the first few months of Operation Apollo. He believes the new approach they’re taking is making a difference and how

Immigration Surveillance Core File. *Updated 8-3-24*

the new approach of having all of CBP working together to stop fentanyl is demonstrated with Operation Apollo. “What’s different is that now there are guys looking at this stuff and getting us feedback and generating future targets for us,” Ramirez said. “Everyone’s on the same page. Everything’s connected. It only makes us better as an agency.” **Renner said the surge operations CBP conducted proved what the agency’s intelligence experts suspected all along: Fentanyl was – and still is – a growing threat.** “It confirmed intel, and it also illuminated the challenges and gaps CBP faces,” he said, leading to CBP recommending legislative changes and more engagement with foreign law enforcement partners, to name just a couple of adjustments the agency is making for the better. “Our intel drives operations that drive impactful change. Because under that change, you’re going to get your disruptions, sanctions and arrests, but you’ll also make the positive change: the identification of new acquisitions you need, the changes in legislation, the changes in workforce and readiness. Artemis has revamped the way CBP is going to look at that threat.” New Investments for the Fight **CBP’s position as America’s front line puts it in a position to catch illicit fentanyl coming across the border, particularly in the Southwest. The agency has made unprecedented investments in technology, putting in surveillance systems at the borders and deployed new X-ray technology at the ports of entry** <sup>123</sup> large-scale drive-through X-ray systems, as well as revising the inspection process to significantly increase vehicle and truck scanning rates across the Southwest border. 88 low-energy portals to scan passenger occupied vehicles. 35 multi-energy portals to scan commercially occupied vehicles. The addition of all these tools allows CBP to scan more vehicles and conveyances in a shorter amount of time, increasing the efficiency and accuracy of the agency’s operations and catching more of the deadly drugs, precursors and equipment used to make the illicit products. CBP anticipates all systems will be installed in 2026. After these installations, the scanning rates are estimated to increase from 1-2% of personally-owned vehicles to approximately 40%, and from 15-17% for commercial vehicles to more than 70%. While the high-tech solutions are expected to yield even more illicit drug busts, CBP is also using a definitely low-tech but highly skilled detection method: drug-sniffing dog teams. “We started training our canine teams on fentanyl in 2017,” adding to the drugs the dogs and their handlers have been trained to detect, said Donna Sifford, the director of CBP’s Field Operations Canine Academy in Front Royal, Virginia. “Currently, we are the only federal agency training [canines] on fentanyl.” Because of the dangerous nature of fentanyl, extra safety precautions are taken in the training and when the dogs are deployed to the field. For training, CBP’s Laboratories and Scientific Services has provided pharmaceutical grade fentanyl, which comes wrapped in triple-sealed, industrial-strength polyethylene bags that allow the dogs to smell the drug while keeping them safe from actually being exposed. Training on the safe handling of these aids is part of the curriculum. While in training, canine instructors carry a fentanyl response kit, consisting of six doses of naloxone nasal spray, such as Narcan – a powerful, short-term antidote to opioid exposures for the people and the dogs – in addition to safety glasses and gloves, among other personal protective equipment. Also, years ago – even before fentanyl came into the picture – they started training the dogs to do a passive response. That means the dogs sit when a drug is indicated, as opposed to a positive response – scratching and biting at the package, which could cause a deadly accidental exposure. “Any time the dog alerts, we automatically presume it is the most dangerous drug, whether fentanyl, meth or other dangerous narcotics,” Sifford said. “We automatically use all the safety protocols.” CBP is also helping train law enforcement partners here in the U.S., as well as international partners, learn how to train their dogs on the safe detection of fentanyl. “That way, we can increase the detection of fentanyl,” Sifford added. Trade Enforcement Plays a Critical Role in the Fight Fentanyl, its precursors and equipment – such as pill presses – used to make the drug often times enters the U.S. through common trade pathways, such as air cargo and express courier. That helps add to the complexity of the threat. These shipments can be declared as legitimate goods because some do have a legitimate purpose, making it crucial to identify the suspect shipments through analysis early on. This is why CBP’s Office of Trade plays a key role in the fight. “We’re looking at supply chain vulnerabilities, different logistic operators, and bringing different perspectives to the same look, as well as bringing more tools to enable the analyses and research,” said Erik Grotz, the director of the office’s Trade Intelligence Division, citing, for example, the tools the Office of Trade uses to stop products being made by forced labor from coming into the U.S. “We’re bringing as many capabilities as we can to bear against the problem set.” He added many of the chemicals and tools used to make fentanyl have legitimate uses. His office helps identify where those normally legitimate imports are being brought in for illegitimate purposes. “We are identifying data points in the movement of goods and people, helping reduce the amount of time in analyzing the information to make sure the legitimate trade can continue unencumbered, while also stopping those destined to illicit actors,” Grotz said. “We’re attacking as many different nodes in the illicit supply chain as possible. We’re leaving no stone unturned.” But exponential increases in the volume of trade entering the U.S. especially small, low value packages that many Americans receive directly to their front door also raises the number of stones that CBP needs to turn over. Fundamental changes in the way modern trade enters the U.S., the complexity of global supply chains, and the unprecedented volume of imported goods have made this more challenging, especially when it comes to the precursors and pill presses used to make synthetic drugs. Transnational criminal organizations use the opacity and complexity of global supply chains to conceal illegal activity, and they adapt their operations to evade detection, requiring CBP and its law enforcement partners to consistently remain one step ahead of criminal actors. To that end, the Office of Trade – as well as the other offices in CBP tracking and seizing fentanyl – is using information and intelligence to look for the needles in mountains of haystacks, represented by the hundreds of millions of small packages that enter the U.S. each year, without holding up every legitimate shipment. “We have to look for the people doing it,” said John Everett, the director of Trade’s Advanced Trade Analytics Platform. “We have to find their associates. And that’s where we look in our information, and ask, ‘Who do they typically work with? Who are the carriers? Are they constantly using [the same delivery service] to bring stuff over? How do we put people into the same network and focus our

Immigration Surveillance Core File. *Updated 8-3-24*

enforcements efforts on that?" Piecing together all the information to build a clearer picture of what's really going on – and doing it in a timely fashion – is the biggest challenge. That's why the Office of Trade has to work across all CBP offices, departments and law enforcement lines, emblematic of the whole-of-CBP approach being taken. Office of Trade specialist goes through boxes during Operation Bitter Pill at the JFK Mail Facility in New York. An Office of Trade specialist goes through boxes during Operation Bitter Pill at the JFK Mail Facility in New York. Photo by Jesse Andrews "We're trying to decrease that analytical research cycle so we can quickly identify those targets of value," Everett said. It's also opened up conversations between the agency and the retailers and shippers who rely on a good working relationship with CBP. "They have a significant part to play, and we need to foster this dialogue to grow and strengthen our partnership with the private sector to make more inroads on this problem set," Grotz said. "We have a huge footprint in the industry," Everett said. "We are the primary conduit for our trade community," building on a culture of trust between CBP and the trade community and making it easier to get those partners to adjust for the benefit of all. CBP's Scientists Part of the Fight In addition, CBP's Office of Laboratories and Scientific Services plays a key role in identifying the drugs and even the drugs' point of origin. One of the key changes the labs made in response to the proliferation of fentanyl was the establishment of 16 forward operating laboratories to augment the capabilities of the main eight state-of-the-art facilities strategically located across the U.S. "By having these forward operating labs, we are able to analyze the presumptive results made at ports of entry and confirm those results and get the answers back to the officers within 24 hours, as opposed to the days or weeks it might have taken before," said Terra Cahill, a special advisor in Laboratories and Scientific Services' Chief Science Officer Division. Cahill said some of the lab work is now done within CBP, as opposed to farming it out to other agencies, which cuts down analysis time and confirms what CBP's intelligence suspects. "It's been great because we can validate things that we read in the intel products. We can verify other reporting that's out there. It's real-time information." Cahill said CBP's labs started a joint fentanyl attribution program with the U.S. Food and Drug Administration and the Drug Enforcement Administration where CBP sends samples to those entities so each can do analyses unique to their skill sets to add to what CBP has determined about a sample. She said this effort underscores how CBP is leading a whole-of-government approach to the fentanyl problem. "We bring our experts from these agencies together to try and understand fentanyl attribution, where it's coming from," Cahill said. "We're hoping we'll be able to say, 'This seizure is linked to this seizure, and this seizure is linked to this seizure,' and from these linkages it may help us determine where the samples are coming from, using other intelligence that comes in. Our goal is to collaborate to get a better picture of what the fentanyl smuggling networks look like." Randall Phillips oversees the forward operating labs throughout the Southeastern United States, particularly in Miami, New Orleans, and Memphis, Tennessee, as well as covering trade specialties out of Savannah, Georgia. The ports of entry in those locations see a lot of express consignment shipments coming from the same areas where fentanyl, its analogues, precursor chemicals, and pill presses also come from. The laboratories' quick turnarounds for those ports are making an impact, without delaying shipping that might tip off the bad guys or keep American consumers and businesses from receiving their packages on time. "We expedite analysis, because if something sits too long, [the bad guys] know something is up," he said. "Anything we do that delays that analysis is potentially going to impact the success of [law enforcement-controlled deliveries]. That is the reason we have forward operating laboratories." Phillips said they have to be a neutral party as scientists. That way, they can feel confident the information given to CBP's intelligence analysts is valid and without bias, and can lead to more valid case work in investigations. "We can't go in with the preconceived notion that something is methamphetamine or fentanyl," he said. "We have to treat it as a true unknown, and we have to look at the science and see what the science tells us." In addition to the tools CBP has in the form of all of its labs, they're employing a truly microscopic technology to find the tiniest of indicators of where something might come from: pollen. "Pollen is unique to every species of plant on the planet. Think of it as a fingerprint for a plant," said Andrew Laurence, a CBP palynologist – a pollen scientist. "Every region of the world is made up of either different plants altogether or the same plants but they grow in different abundances." So even if the same pollens common to different areas of the world are on something, these scientists can still narrow down the origin depending on the number of spores on a sample. That "pollen fingerprint" can not only determine origin, but also the travel history of an object. For example, while some pollens are heavy and travel far, others might be more easily blown off in transit. Or there might be higher quantities of some types. Or there might be a pollen unique to some area of the world at a particular time of year. The palynologists have to see the whole picture. "We look at the entire pollen profile," Laurence said. And he said it's incredibly accurate for scientists who know what to look for. They can even look at what's trapped in a vehicle's air filter to trace back where that smuggler might have originated, allowing CBP to work with foreign law enforcement in their interdiction efforts. "It's very accurate, because every point on the planet is unique. So, if you have the references to do that, you could get it down to someone's backyard. It comes down to how much information we have." He said there are stacks of pollen atlases that specify which pollens are where in the world. These CBP experts must know and be able to access the information to track down the one out of millions of different pollen types – including hybrids and mutations – they could encounter. "There's no such thing as automation in palynology," Laurence said. "Computers can't do this." "We can get a lot of information as far as the whole chain of where something is produced and how it got here, and then do something about it," he said, adding it's just another bit of information the agency uses to stop the deadly drugs. "We are just one piece of the puzzle." Eyes in the Skies Mike Linhares is an air interdiction agent – a pilot – from CBP's Bellingham Air and Marine Branch in Washington state, a unit that patrols the Pacific Northwest coast. He said the tactics and techniques used in a normal air surveillance mission to give law enforcement on the ground an extra set of "eyes in the sky" are the same as any other mission, whether it's watching criminal suspects or human smugglers. But with fentanyl, they step up their response game just a bit more. "When those cases come in, and they are dealing with fentanyl, we certainly put a higher priority on them and make sure to maximize the assets we have available to support those cases," he said, adding they use planes and helicopters, as well as ground-controlled drones for that surveillance mission. "We do our best to prioritize those tasks." The real-time surveillance by Air and Marine Operations gives operators on the ground a better picture of what might be going on hidden from their ground perspective but visible to the CBP assets in the air. "Usually the [criminal] targets

Immigration Surveillance Core File. *Updated 8-3-24*

are doing things to make sure they're not being followed," Linhares said. "If we're there, that provides some cushion for the agents on the ground." He added **that having surveillance on the scene paints a more recent picture for the people on the ground because the latest intelligence could be a day or even a week old.**

**Infrared cameras in the aircraft above also help them identify heat signatures and detect further threats.**

Linhares said the emphasis on fentanyl has prompted even better working relationships between Air and Marine Operations and other CBP components, as well as other local, state, federal and tribal law enforcement partners. "It's a constant education piece for us getting out there and communicating what assets and tools we have," he said. "We're always working to develop and cultivate those relationships with our law enforcement partners to protect the folks here in the United States." Protecting The Front Line In addition to protecting the American public, CBP is also taking measures to protect its workforce who might come in contact with deadly fentanyl. Assistant Chief Patrol Agent Gerardo Carrasco is a career Border Patrol agent and CBP's operational medical advisor. He said that while protective measures – gloves, masks, training on safe handling techniques, and availability of Narcan – against fentanyl exposure have been a part of how officers and agents are trained and equipped, they're still working to overcome some of the unknowns. "We're providing information, guidance, and education on fentanyl, the dangers associated with it, how to prevent contamination, and the use of personal protective equipment," he said. Those in the field are being given new resource cards – available physically and virtually over a secure intranet site – that outline the dos and don'ts of safe handling of the drugs. They're also teaching those agents and officers what to do if there is an exposure, which happens less than most people think. "Early on, there was a lot of panic regarding exposures. But very rarely was there evidence those were true exposures," Carrasco said. "So that is something we've been fighting against from the very beginning." Shawn Carroll is CBP's Office of Field Operations medical liaison. He said the fact that most finished fentanyl which shows up at a port of entry is mixed with some cutting agent reduces the real risk of a deadly exposure for those who might uncover something being smuggled in. "If you get dusted with it – a package explodes and you get dusted in the face – will you have some effect? Absolutely. Could it slow your breathing and cause you to be drowsy? Absolutely. Is it going to kill you? No, it's not going to kill you," Carroll said. "But you will need some medical care." That's why the training – not just for field officers and agents but even office workers – on how to care for someone after a possible exposure is so important. New videos are also being made to educate the workforce. Carrasco pointed out basic lifesaving skills also being taught are good for a number of threats, inside and outside of the CBP workplace. "It's more than a one trick pony. I can use those skills for car accidents or shootings or cardiac events, in so many situations, in addition to narcotic overdose," he said. Another important tool used by CBP are the handheld chemical analyzers to examine samples in the field to give preliminary results. Handheld analyzers use laser and infrared technologies to identify presumptively unknown materials. "The technology uses a laser, which can be used directly through clear packaging, so you don't have to open up the sample," said Natalie Underwood, a chemist with CBP's Laboratories and Scientific Services INTERDICT Science Center, a centralized facility in the Washington, D.C., area that provides scientific support. The Fourier Transform Infrared Spectroscopy part of the scanner involves infrared light that compliments laser analysis in cases where dark samples or samples that fluoresce light and interfere with the laser's operation. Add in immunoassay test strips specific to fentanyl and fentanyl analogues that agents and officers have to use, and you get multiple ways to identify presumptively a sample. That is especially important when samples are mixed heavily with cutting agent. "It's really like a toolbox," Underwood said. "So, there are multiple tools that officers have access to." Using CBP's narcotics reach back capabilities, CBP officers and agents send field-collected data for adjudication of "No Match Found" or uncertain results. Within an hour, the officer or agent has a response. In fiscal year 2023, the reach back capability reviewed approximately 70,000 scans. Nearly 350 scans indicated the presence of fentanyl or fentanyl analogues. During that same time, approximately 1,000 forensic samples analyzed by the forward operating laboratories identified the presence of fentanyl or fentanyl analogues, and another 1,400-plus cases analyzed by CBP's eight regional laboratories confirmed the drug or its analogues. Underwood went on to explain that once a presumptive positive test result comes back from a handheld analyzer or narcotic field test kit, laboratories such as hers and the seven other permanent laboratories can use specialized instrumentation to confirm presumptive identifications, which is especially important for eventual prosecution of the smugglers. In addition, these identifications confirming the officers' and agents' presumptive findings, give them more confidence in the handheld analyzers or narcotic field test kits. "We want to get officers in the rhythm of using these devices along with the other tools they have," Underwood said. CBP officers in the field like having that presumptive test result in their hands, to have an indication of what they are handling, and in turn, to help them to know how to protect themselves, although they already take significant measures before anything is analyzed. "To the naked eye, especially with hard narcotics, we can assume or presume what it is, but there's no way to confirm what it is without applying a formal process to verify what it is," said Watch Commander Robert Pagan from the San Diego area. "The scanners allow us to use technology where we can sample that actual substance that's been concealed within a vehicle, concealed within packaging such as cellophane or shrink wrap or duct tape, to evade inspection." That confirmation is vital when prosecution is applied later. In addition, officers and agents know what to do as far as protecting themselves from harmful drugs, such as fentanyl, which can kill with a dosage as small as 2 milligrams. Pagan is responsible directly for about 100 men and women and another 500-600 not directly under his control. It's important to him and all supervisors to ensure the safety of those under their watch. "This enhances our ability to test these controlled substances in a much safer fashion," he said. "It's a safer practice when testing these substances, as opposed to using a traditional field test kit," which requires the package to be opened, potentially exposing those in the vicinity to include CBP officers and innocent bystanders; the scanner builds distance and layers into the process. Pagan characterized the handheld scanners as highly dependable, and his people find them invaluable. "Our personnel are an investment," he said. "The only way we succeed in our agency is when we invest in our employees, and part of that investment is keeping them safe." Ramirez added having these handheld scanners in the field raises the safety level when the stakes are so high

## Immigration Surveillance Core File. *Updated 8-3-24*

and the drug is so dangerous. “The threat is real. We’re seeing it on a daily basis down here on the streets,” he said. “The handheld scanners are making our job a lot easier, safer, which is the most important thing. I want to lead the team to a successful day, but everyone goes home at the end of the day. Safety is paramount.” An Updated Strategy While the surge operations were successful, CBP operators and leadership recognized the need for a steady state of fighting this continuing threat of fentanyl and its analogues. CBP leadership established a special working group to renew and realign efforts into a new, all-encompassing strategy. The group brought together experts from the uniformed components as well as CBP subject matter experts from international relations, laboratories, budget, and communications, among others. They put together a new plan to replace the opioid strategy which launched in 2018 and was retired in 2021 after meeting its goal to improve detection and identification capabilities as well as safety measures with a new emphasis on deadly fentanyl. “We began by aligning whole-of-CBP efforts against a shared priority. These efforts focused on workforce and community safety, domestic and international partnerships, and targeting the fentanyl supply chain,” said Deputy Chief Patrol Agent Alfredo Lozano, the group’s leader. “We borrowed from the original four goals of the opioid strategy of 2018 focused on safety and created new goals to enhance operations against those engaged in the production, trafficking and distribution of fentanyl.” **The new counter fentanyl strategy reorganizes how CBP deals with the deadly drug, including mandating continuous operations against the smuggling of fentanyl, its analogues, precursors, and equipment to manufacture it.** The strategy will replace past CBP surge operations. The agency has formed a new business model to make cooperation and information sharing between CBP divisions easier and reformed how the agency interacts with other federal, state, tribal and local law enforcement entities from seizure to prosecution. Draganac is the new single line-of-effort director for the counter fentanyl operations. “I think this is a threat that will continue,” he said. “Our strategy and the foundation we build now is something that we use to build a sustainable organizational structure to respond.” And Draganac added the development of this new approach while CBP is also tackling key mission areas, such as border security, is evidence of how well it is positioned to take on a changing problem such as fentanyl. “People need to understand how quickly this agency pivots to emerging threats,” he said. Grotz pointed out it’s not just a U.S. problem. It is cheap and easy to produce, and there’s a demand for the drug. That’s what makes CBP’s vigilance with the trade community – and with all other stakeholders – so important. “When you look at traditional narcotics problem sets, there are specific source countries and a myriad of transit countries and consumption countries,” such as the coca plant used to make cocaine being limited to South American countries where it can be grown, he said. “But for fentanyl, any country that is in the pharmaceutical market is going to have that possible nexus.” Cahill reiterated how important working with other federal, state, tribal and local law enforcement agencies is to being successful in this fight. “As an organization, we’re working together well, taking in information from all these different sources and using it for our targeting,” she said. **Renner said fentanyl and synthetic drugs are problems not going away any time soon ... and neither are CBP’s efforts to stop them.** “If we keep pressuring, maybe the fentanyl pills will go away, but synthetic drugs are still going to be here, because they’re so easy to make,” Renner said. “We’re going to be expanding more with our federal, state and local law enforcement partners in this fight. We need to stack together and stop that threat. We need to save lives.” Looking back on those tragic overdose death numbers from synthetic opioids such as fentanyl – 150 people in the U.S. each day, around 55,000 each year – Draganac summed up why this is such an important issue for the country and the world to solve ... and why CBP is so dedicated to this fight. “Americans are dying. Kids are dying,” he said. “That’s why CBP is doing this.”

## Surveillance used for drug enforcement

Dave Mass, Electronic Frontier Foundation, March 20, 2023, CBP Is Expanding Its Surveillance Tower Program at the U.S.-Mexico Border—And We're Mapping It, <https://www.eff.org/deeplinks/2023/03/cbp-expanding-its-surveillance-tower-program-us-mexico-border-and-were-mapping-it> DOA: 6-27-24

**Automated License Plate Readers (ALPRs). We have also mapped out 39 Border Patrol checkpoints where ALPR systems have been installed, either by CBP or the Drug Enforcement Administration. These cameras collect the license plates of vehicles that pass, attach a timestamp and GPS coordinates, then upload that data to a searchable database.** The data is stored for 15 years—far longer than the retention period of any state or local law enforcement agency. CBP's ALPR vendor, Perceptics, was breached in 2019, resulting in the leak of 105,000 license plate images. A year later, the Government Accountability Office concluded that only about half of border checkpoints were using ALPR systems as intended with a system for documenting the outcomes of secondary inspections of vehicles.

**Surveillance successfully used to interdict drugs**

Edward Graham, 7-10, 24, <https://www.nextgov.com/artificial-intelligence/2024/07/ai-can-enhance-border-security-wont-close-workforce-gap-lawmakers-say/397943/>

Dan Bishop, R-N.C. — chair of the Subcommittee on Oversight, Investigations and Accountability — said “using artificial intelligence can help alleviate the manpower issue” and added that these tools are bolstering border security as “cartel tactics and use of technology have become increasingly advanced.”

Federal officials have touted the benefits of enhanced tools and their ability to identify more illicit contraband. **CBP said its use of non-intrusive inspection systems in fiscal year 2022, for instance, resulted in “the interdiction of more than 100,000 pounds of narcotics, approximately \$2 million of undeclared U.S. currency and the identification of 86 illegal travelers.”**



## **Southern Border Key to Fentanyl**

### **Southern border key to fentanyl; need to expand surveillance to stop it**

Christian Penichet-Paul, As Assistant Vice President of Policy and Advocacy, October. 25, 2023, Illicit Fentanyl and Drug Smuggling at the U.S.-Mexico Border: An Overview, <https://immigrationforum.org/article/illicit-fentanyl-and-drug-smuggling-at-the-u-s-mexico-border-an-overview/>

**The United States faces a growing challenge related to illicit fentanyl.** As the challenge grows, the conversation often turns to drug smuggling into the U.S. and how the situation at the U.S.-Mexico border enhances the problem. Illicit fentanyl has devastating impacts across all corners of the United States, causing public health issues in thousands of American communities large and small, from the southern border to New England, and the Pacific Northwest to the Midwest. To provide solutions to this challenge, it is important to acknowledge and have an accurate perspective of how illicit fentanyl and drug smuggling interacts with U.S. borders. I. Drug Seizures at the Border: By the Numbers Data indicates drug seizures at the U.S.-Mexico border, by pounds seized, are trending down. The good news, at closer look, can be misleading. **Seizures of heavier, less-potent drugs like marijuana are down while illicit fentanyl**, a drug 100 times more potent than morphine, **are up significantly: 480 percent higher at the southern border in fiscal year (FY) 2023 compared to FY 2020.** U.S. Customs and Border Protection's (CBP) Border Patrol and Office of Field Operations (OFO)

together seized nearly 549,000 pounds of illicit drug substances nationwide in FY 2023. Most seizures concerned marijuana (150,000 pounds) and methamphetamine (140,000 pounds), but a notable and growing portion consisted of fentanyl (27,000 pounds). The total number of drug seizures by weight is below previous years: 16 percent below FY 2022, 40 percent below FY 2021, and 50 percent below FY 2020. Overall, this represents a downward trend. Yet, seizures of fentanyl in FY 2023, totaling 27,000 pounds, surpassed fentanyl seizures from the previous three years. CBP data, which tracks the agency's seizures at the southern, northern, and U.S. coastal borders and interior checkpoints, provides a more detailed picture of the drug apprehensions. U.S. Southern Border The U.S.-Mexico border extends 1,954 miles, spanning four states and about 26 land Ports of Entry (POEs). CBP must interdict illicit substances across this vast and sometimes rugged expanse, both between and at POEs. CBP data indicates most illicit drug substances are smuggled through POEs, contrary to common belief that they are smuggled between ports of entry, particularly in areas without fencing or other physical barriers. The data also indicates that most illicit fentanyl encountered by CBP is smuggled through POEs at the southern border. The Border Patrol and OFO seized a total of 241,000 pounds of illicit drug substances along the southern border, both at and between POEs, in FY 2023. The trend at the southern border mirrors the nationwide trend: seizures at the southern border by pounds are down compared to previous years, including 16 percent below FY 2022 and 66 percent below FY 2020. Overall, seizures at the southern border in FY 2023 account for 44 percent of Border Patrol and OFO seizures nationwide.

**Border officials at POEs must manage enormous amounts of trade and travelers. In just one month**, in July 2023, OFO processed 16.5 million pedestrians, passenger vehicles, and cargo trucks along the southern border. At the same time, border officials interdict efforts to smuggle illicit substances into the U.S. In FY 2023, OFO seized 176,000 pounds of illicit drug substances at POEs, accounting for about 73 percent of the total amount seized at the southern border. The Border Patrol, which covers areas between POEs, seized the remainder 65,000 pounds, or 27 percent. This data indicates most smuggling of illicit drug substances into the U.S. happens at ports of entry, not between. **Hidden in compartments in vehicles and cargo, smuggling is often quicker and more expedient at POEs compared to traveling through rough terrain between ports.** **While it might appear easier to smuggle illicit fentanyl between POEs, there are tools that detect the movement of illicit drugs between ports that likely make it a more difficult option. These tools include the heightened presence of Border Patrol agents along the border and detection technology, including Integrated Surveillance Towers (ISTs), Land Interdiction Multi-Role Enforcement Aircraft (MEA), tunnel detection programs, and other radar and remote surveillance technology.** CBP data also shows illicit fentanyl smuggling is increasing, and that most of the fentanyl seized by the Border Patrol and OFO is coming across the southern border. Border officials seized 4,600 pounds of fentanyl along the southern border in 2020, a number that skyrocketed to 26,700 pounds in FY 2023 – a 480 percent increase. Most of the fentanyl seized by the two agencies in FY 2023, about 98.9 percent (26,700 out of 27,000 pounds), was seized

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at the southern border. The remaining 305 pounds were encountered at the northern border (2 pounds) and at U.S. maritime borders and interior checkpoints (303 pounds). Of the fentanyl seized at the southern border, the vast majority, about 23,900 pounds or 90 percent, was seized at POEs. **The fact that most illicit fentanyl is smuggled through POEs adds credence to nationwide evidence that illicit drugs are predominantly smuggled through land ports, not between.** CBP's data shows fentanyl smuggling to the U.S. is increasing, most of it is smuggled through the southern border, and a majority of that comes through ports of entry. U.S. Northern and Maritime Borders The U.S. border with Canada spans 5,525 miles, from Washington State to the tip of Maine and along Alaska's eastern front. CBP must interdict illicit substances across this vast, northern border. In addition, CBP's Air and Marine Operation (AMO) secures America's maritime borders, deploying aircraft and maritime vessels to inspect cargo and confront possible threats. CBP data indicates that drug seizures at the northern border are down compared to previous years, with 55,100 pounds seized in FY 2023 compared to 60,100 pounds in FY 2022 (an 8 percent decrease) and 84,900 pounds in FY 2021 (a 35 percent decrease). In this respect, seizures at the northern border mirror the downward trend at the southern border. However, **unlike the southern border, seizures of illicit fentanyl at the northern border are miniscule, but also trending downward.** CBP seized two pounds of fentanyl in FY 2023, compared to 14 pounds in FY 2022 (an 85 percent decrease) and 22 pounds in FY 2021 (a 91 percent decrease). While the data does not definitively answer why seizures of fentanyl at the northern border have been so infrequent, it is possible that illicit drug trafficking organizations are focusing their smuggling operations along the U.S. southern and, increasingly, maritime borders. U.S. maritime borders are protected by CBP AMO, which includes 1,800 federal agents and support personnel responsible for interdicting migrants and unlawful cargo in maritime and air environments, as well as beyond the border in the interior of the U.S. AMO's seizure data is kept separate from the Border Patrol and OFO numbers. AMO seized a total of 304,400 pounds of illicit drug substances nationwide in FY 2023.[1] CBP's AMO data does not indicate a downward trend in seizures by pound similar to the downward trends at the southern and northern borders, but rather points to an overall increase in FY 2023: higher than FY 2022 (270,400 pounds for the full year) and FY 2020 (287,400 pounds for the full year).[2] The data shows that seizures of illicit fentanyl increased significantly between FY 2021 and FY 2022, before increasing slightly in FY 2023. There were 1,453 pounds of fentanyl seized in FY 2023. This is a small increase from seizures for FY 2022 (1,325 pounds or a 10 percent increase) and a significant increase from FY 2021 (786 pounds or an 85 percent increase). Fentanyl smuggling at maritime borders is likely to become a growing concern. How Much Fentanyl Is Reaching the U.S.? CBP officers and agents successfully interdict a significant amount of illicit drug substances smuggled into the U.S., but obviously cannot completely stop the flow of all drugs into the country. The U.S. Drug Enforcement Administration (DEA) stated in December 2022 that the agency seized more than 10,000 pounds of fentanyl powder in the U.S. in 2022, while noting that "[m]ost of the fentanyl being trafficked by the Sinaloa and CJNC Cartels is being mass-produced at secret factories in Mexico with chemicals sourced largely from China." If law enforcement agencies working in the U.S. are interdicting illicit fentanyl made in Mexico, it is conclusive that illicit drug substances are being successfully smuggled into the country. While we do not have specific numbers on the amount that "gets away" or is not interdicted, it is important to consider that **CBP and other border authorities may need additional resources to further stop the flow of illicit substances into the U.S.** The Congressional Research Service (CRS) noted in July 2019 that "[o]f the total amount of illicit drugs that reach the U.S. border by land, air, or sea... an unknown portion is successfully smuggled into the country." CBP is the primary agency charged with safeguarding U.S. borders, but it is not the only agency that seizes illicit drugs, including at the border. Federal, state, local, and tribal law enforcement agencies are involved in enforcement actions that may result in drug seizures. The CRS report notes that "there is no central database housing information on illicit drug seizures from all law enforcement agencies, federal or otherwise." And, even with such a central database, its insight into successful drug smuggling might be imprecise. It is therefore hard to ascertain the amount of illicit drug substances successfully smuggled into the U.S. II. Background on Fentanyl The U.S. Drug Enforcement Administration (DEA) describes fentanyl as a "synthetic opioid...a Schedule II controlled substance that is similar to morphine but about 100 times more potent." There are two types of fentanyl. Pharmaceutical fentanyl is typically used under the supervision of licensed medical professionals to treat patients with severe pain – when properly used and prescribed it tends to pose little risk to patients. Illicitly manufactured fentanyl smuggled to the U.S., however, is typically produced in Mexico in clandestine labs with little to no oversight. Precursor chemicals for its manufacture largely come from China or India, though sometimes they also are made in the U.S. and smuggled south to Mexico.[3] Illicit fentanyl is sometimes sold as a powder or a nasal spray. It may also be laced into other illicit drugs to increase the potency of those drugs or pressed into pills to look like legitimate prescription opioids. The DEA notes that, "[t]wo milligrams of fentanyl can be lethal depending on a person's body size, tolerance and past usage." How can we put that into perspective? Fentanyl's Potency There are 1,000 milligrams in one gram of fentanyl, which turns out to be about 500 potential lethal doses (1,000 divided by 2) in just one gram. Each pound has 453.6 grams. When multiplied by 500, this comes out to about 226,700 potential lethal doses in one pound of fentanyl. This exercise is not an exact science, but it helps demonstrate the drug's potency in small quantities. Of course, not every dose of fentanyl results in death, but increasing use of illicit synthetic opioids like fentanyl are exacting an enormous toll – killing 150 people each day according to the Centers for Disease Control (CDC). Overall, between June 2020 and May 2021, more than 100,000 Americans died from a drug overdose. Commission on Combating Synthetic Opioid Trafficking Congress established a Commission on Combating Synthetic Opioid Trafficking in 2019 charged with examining the synthetic opioid threat to the U.S.[4] The commission published its final report in February 2022. The report examines the causes: it traces the origins of illicit fentanyl and other synthetic opioid misuse to the U.S. Food and Drug Administration's (FDA) approval of the prescription opioid painkiller OxyContin in 1995. As the report notes, "[p]eople with

## Immigration Surveillance Core File. *Updated 8-3-24*

substance-use disorder, unable to continue obtaining prescription drugs, often turned to heroin and then – sometimes unknowingly – to powerful synthetic opioids.” In time, illicit criminal networks were producing and smuggling synthetic opioids to the U.S. Drug cartels quickly benefited from the rise of illegal synthetic opioids because they were and continue to be cheaper and easier to produce than other illicit substances, while being more difficult to interdict. As the Commission notes, “such a small amount goes such a long way, traffickers conceal hard-to-detect quantities in packages, in vehicles, and on persons and smuggle the drugs across the U.S.-Mexico border.” The Commission’s report highlights the key concept of supply and demand. It determines that it is not possible to reduce the availability of illegal synthetic opioids like fentanyl by focusing on supply alone. In making this determination, the report considered the Mexican drug cartels’ financial and paramilitary strength, including “its use of violence against those who stand in their way.” The Commission found that, to “reduce illegal supply, the United States must also reduce demand,” including through public health awareness campaigns, expanded high-quality treatment programs, and intervention efforts to prevent fatalities. Criminal Penalties The DEA provides sentencing guidelines for those convicted of smuggling illicit substances across a U.S. border. Every sentence has a mandatory minimum and an accompanying fine. Mandatory minimum sentences and accompanying fines increase when the amount illicit substances carried across the border reaches a certain threshold, the trafficker has been caught trafficking drugs before, and/or the trafficking resulted in a serious injury or death. For instance, a first-time offense smuggling illicit fentanyl across a U.S. border carries a mandatory sentence of five to 40 years imprisonment and a \$5 million fine. However, if the trafficking resulted in serious injury or death, there is a mandatory life sentence. If this was the second time the person was caught trafficking fentanyl, the mandatory minimum sentence increases to ten years to life in prison and a mandatory \$8 million fine. In federal judicial districts along the U.S. southern border, drug trafficking is one of the most prosecuted crimes. There are five districts along the U.S.-Mexico border. In fiscal year (FY) 2022, there were 1,827 drug trafficking charges in the Southern District of California (S.D. Cal.), accounting for 53 percent of all prosecuted crimes in the district. The other districts also had notable rates of trafficking prosecutions: 508 cases (or 12 percent) in the District of Arizona (D. Ariz.), 274 (13 percent) in the District of New Mexico (D.N.M.), 972 (16 percent) in the Western District of Texas (W.D. Tex), and 981 (14 percent) in the Southern District of Texas (S.D. Tex) were on drug smuggling charges. Drug trafficking prosecutions in S.D. Cal. are significantly higher than other judicial districts along the border, likely due in part to heightened CBP and other federal law enforcement presence in the district and San Ysidro being one of the busiest ports of entry in the U.S. III. Fentanyl and the Border Drug seizures at the U.S.-Mexico border, by pounds seized, are trending down, yet it is important to acknowledge that there is an increase in illicit fentanyl smuggling into the U.S. The challenge, however, is not purely an immigration issue. **Illicit fentanyl is being smuggled predominantly**

### **by U.S. citizens and through ports of entry. Federal programs to stop the flow of fentanyl, when successful, ultimately focus on interdiction technology and targeted inspections.**

Who Is Smuggling Illicit Drugs? Evidence indicates that illicit fentanyl is primarily brought to the U.S. by American citizens and usually through legal ports of entry. The calculation is simple: illicit drug smuggling organization are likely to prefer U.S. citizens as smugglers because they are less likely to raise alarms or undergo additional vetting when re-entering the U.S. through a legal port. The U.S. Sentencing Commission recently released an annual report on incidents related to fentanyl trafficking. In fiscal year (FY) 2022, 19,851 drug trafficking offenses were reported to the Commission. Of these, 2,362 (about 12 percent) were fentanyl-trafficking cases. This represents a steady increase since FY 2018, when there were only 422 reported offenders – an increase of about 460 percent in four years. The report shows that most fentanyl trafficking offenders in FY 2022 were U.S. citizens (88 percent). The vast majority were men (82 percent), with an average age of 35 years. A large proportion (40 percent) had little or no prior criminal history. Data from previous years also indicates the significant role U.S. citizens play in fentanyl smuggling. In 2021, 86 percent of fentanyl trafficking convictions were for U.S. citizens. The Cato Institute also notes how just 0.02 percent of people (279 out of 1.8 million migrants) encountered by the Border Patrol for crossing unlawfully possessed fentanyl. While CBP and other border officials must deal with challenges at the border related to processing asylum seekers, the trafficking of fentanyl itself is largely connected to U.S. citizens. CBP Interdiction Efforts On March, 21, 2023, DHS announced a new coordinated effort, Operation Blue Lotus, to target the smuggling of illicit fentanyl into the U.S. Led by CBP and Homeland Security Investigations (HSI) agents, the operation reportedly stopped more than 900 pounds of fentanyl from coming into U.S. in just its first week. The operation included increases in targeted inspections conducted by CBP officers and HSI agents at ports along the border, as well as using canine units and advanced scanning technology to inspect cargo. By May 2023, Operation Blue Lotus and other efforts had interdicted more than 10,000 pounds of illicit substances. In one port of entry, the operation saw an increase of 2,000 percent in seizures and the arrest of 284 people on fentanyl charges. Operation Blue Lotus lasted from March 13 to May 10, 2023. DHS stated that the insights learned during the operations will enhance the department’s approach to interdicting illicit substances in the future. The Biden administration has called in its FY 2024 budget request for additional resources to interdict illicit fentanyl and other illicit substances, including \$305 million for non-intrusive inspection systems, with a primary focus on fentanyl detection at ports of entry. The budget also includes funding requests for CBP’s Forward Operation Labs (FOLs) at POEs, which conduct real-time analysis of unknown substances, enabling CBP to quickly identify unknown powders and other substances, and the Repository for Analytics in Virtualized Environment (RAVEN) program to help special investigative units identify, disrupt, and dismantle transnational criminal organizations and their networks. IV.

**Recommendations** Border policies play a critical role in the interdiction of illicit substances being smuggled into the U.S. Yet, illicit fentanyl and opioids are far more than just an immigration or border issue. Tackling this problem will require a broad-based, comprehensive government response. Included in that response, the federal government can take steps at the border to help tackle this challenge. Key policies and programs, some already implemented, can help stop the flow of illicit synthetic opioids along the U.S. borders: **Advanced Technology at Ports. Authorize funding for targeted inspections conducted by**

### **CBP officers and HSI officers at ports of entry to stop the smuggling of illicit fentanyl and other illicit substances into the U.S.**

This element includes expanding on recent surge operations that stopped more than 900 pounds of illicit fentanyl from coming into the U.S. in a single week. Address the Demand for Illegal Synthetic Opioids. To reduce the availability of illegal synthetic opioids like fentanyl, the federal government must help reduce the demand for such substances, including through public awareness campaigns, expanded high-quality treatment programs, and intervention efforts to prevent fatalities. Bolster Inspections at International Mail Facilities (IMFs). Provide CBP and U.S. Postal Service with the authority and resources, including facility space and scanning technology, to screen and inspect incoming mail shipments. An oversight report from the U.S. Postal Service's Inspector General found that postal inspectors interdict only a fraction of the drugs entering through the U.S. mail. Enhance Data Collection on Drug Seizures. Establish a central database housing information on illicit drug seizures by law enforcement agencies at the federal level, which would consolidate information and enhance data availability. Federal agencies could also incentivize state, local, and tribal law enforcement agencies to collect and report such data to help establish a more robust view of drug seizures in the nation. Hire Additional CBP Personnel. Provide CBP with funding to hire additional OFO officers, Border Patrol and AMO agents and support personnel to help interdict the smuggling of illicit fentanyl and other drugs into the U.S. Specifically, CBP should hire 600 new OFO officers and 100 more agriculture specialists annually until they reach staffing requirements identified each year in the agency's Workforce Staffing Model. In FY 2019, OFO identified a need for 26,837 CBP officers and 3,148 agriculture specialists. These recommendations can help play a positive, first step in stopping the flow of illicit substances into the U.S. and, long-term, in reducing the overall demand for illicit synthetic opioids. Conclusion **The U.S. must find innovative solutions to stop and reverse the prevalence of illicit fentanyl in American communities.** CBP data indicates overall drug seizures at the U.S.-Mexico border and our maritime borders, by pounds seized, are trending down. However, there is a key exception: seizures of lighter and more potent illicit fentanyl are increasing at a fast pace. Illicit fentanyl, more potent than heroin or morphine, can be cheaply produced and smuggled in small quantities. Data shows that most illicit fentanyl is smuggled into the U.S. through the southern border and, specifically, through Ports of Entry (POEs) and by U.S. citizens. Maritime borders are also susceptible to fentanyl smuggling. To stop the flow of illicit fentanyl into America, it is important to focus on policies and programs that understand how fentanyl is being smuggled into the U.S. and by whom. There is also a need to address demand, since focusing on supply itself is unlikely to solve the challenge.

### **Mexico key to fentanyl**

USA Facts, 9-27, 23, <https://usafacts.org/articles/are-fentanyl-overdose-deaths-rising-in-the-us/>, Are fentanyl overdose deaths rising in the US?, US report finds Mexico is dominant source of fentanyl trafficked into US,

Fentanyl is a synthetic opioid that is up to 50 times stronger than heroin and 100 times stronger than morphine. Like other opioids, fentanyl use can lead to dependency and addiction. **Most illicit fentanyl is made in labs outside the country and smuggled across the US-Mexico border.**

Veronica Stracqualursi, February 8, 2022, <https://www.cnn.com/2022/02/08/politics/fentanyl-commission-report/index.html>

### **A new government report out Tuesday details how opioid trafficking in the United States has changed in recent years, with Mexico now a "dominant source" of the country's fentanyl supply and synthetic opioids rapidly saturating drug markets.**

In its report, the federal Commission on Combating Synthetic Opioid Trafficking – a bipartisan group of US lawmakers, experts and officials from federal departments and agencies – warns that if the US does nothing to change its response to the new challenges, more American lives will be lost. "This is one of our most-pressing national security, law enforcement, and public health challenges, and we must do more as a nation and a government to protect our most precious resource — American lives," said Republican Sen. Tom Cotton of Arkansas and Democratic Rep. David Trone of Maryland, the commission's co-chairs, in a letter included in the report. From June 2020 to May 2021, fentanyl and synthetic opioids accounted for roughly two-thirds of the more than 100,000 deaths in the US from drug overdoses, the report found. The fatalities were mostly among Americans ages 18 to 45. Fentanyl, a type of synthetic opioid, has been the "primary driver" of the US opioid epidemic and is 50 times more potent than heroin, according to the report. It found that while 70% to 80% of fentanyl that federal authorities seized between roughly 2014 to 2019 had come from China, Mexico is now the "dominant source" of fentanyl in the US. Fentanyl is trafficked principally by land across the US' southern border with Mexico, though cartels have also increased use of the US Postal Service, the report said. The commission noted that synthetic opioids are prevalent in illegal, long-standing heroin markets, suggesting that "cheaper" and "more-potent" synthetic opioids are replacing other traditionally misused

Immigration Surveillance Core File. *Updated 8-3-24*

opioids. Fentanyl, besides being laced in heroin, is also manufactured into counterfeit tablets, including brand names such as Adderall and Xanax, in “minute” quantities, which the report called “particularly troubling.” “Of deepest concern is that most consumers are not — at least initially — seeking fentanyl specifically,” the report said. Without intervention, the US “will continue to see the number of overdoses rise as markets for illicit drugs evolve, respond, and produce an even wider variety of synthetic opioids, and transnational criminal organizations (TCOs) diversify the presence of synthetic opioids in nonopioid drugs and into pills to expand the market beyond traditional opioid users,” the report warned.

## **Fentanyl/Opioids Impacts**

### **Fentanyl kills**

Julia Ansley, 9-14, 23, Number of people on terrorist watchlist stopped at southern U.S. border has risen, <https://www.nbcnews.com/politics/national-security/number-people-terror-watchlist-stopped-mexico-us-border-risen-rcna105095>

Americans are much more likely to die from illegal drug overdoses than terrorist attacks, the report noted. **The Centers for Disease Control and Prevention data said more than 100,000 Americans have died from drug overdoses in the last year, with more than 75% of those overdoses coming from fentanyl and other synthetic opioids.** “While terrorists pose an enduring threat to the Homeland, drugs kill and harm far more people in the United States annually. The increased supply of fentanyl and variations in its production during the last year have increased the lethality of an already deadly drug, a trend likely to persist in 2024,” the threat assessment said.

### **The opioid crisis risks massively destructive terrorism – synthetic opioids can be weaponized and spread**

Morell 17 (Michael Morell, the former Acting Director and Deputy Director of the Central Intelligence Agency, is one of our nation's leading national security professionals, with extensive experience in intelligence and foreign policy. During his 33-year career at CIA, Michael served as Deputy Director for over three years, served twice as Acting Director, served for two years as the Director of Intelligence, the Agency's top analyst, and for two years as Executive Director, the CIA's top administrator.)(“The Opioid Crisis Becomes a National Security Threat”, July 26, 2017, [https://www.thecipherbrief.com/column\\_article/opioid-crisis-becomes-national-security-threat](https://www.thecipherbrief.com/column_article/opioid-crisis-becomes-national-security-threat))

On October 23, 2002, dozens of armed Chechen terrorists seized a Moscow theater and took some 850 people hostage. Because of the layout of the theater, the number of extremists, and the large amount of explosives in their possession, a SWAT-type raid was out of the question.

When two of the hostages were murdered almost three days into the crisis, the Russian government chose to pump an incapacitating agent into the theater via the air vents. But the agent was too toxic, and while all the extremists were killed, so too were some 130 of the hostages. The Russians have never publicly identified the particular chemical agent used, but it is widely believed to have been carfentanil.

Fast forward to June 2016, when authorities in Vancouver, Canada seized one kilogram of carfentanil. The agent was sent via mail from China to an address in Canada, and it was hidden in a package that was declared on a customs form to be printer accessories. It was the largest seizure of carfentanil to date.

Carfentanil, a synthetic opioid, is highly toxic. The drug is 10,000 times stronger than morphine and 5,000 times more potent than heroin. Only 20 micrograms, roughly the size of a grain of salt, can be fatal. The seizure in Vancouver was enough to kill 50 million people – every man, woman, and child in Canada.

## Immigration Surveillance Core File. *Updated 8-3-24*

Carfentanil was developed in the 1970s as a tranquilizer for large animals – elephants and hippos. Dr. Rob Hilsenroth, the executive director of the American Association of Zoo Veterinarians said last year that carfentanil is so powerful that zoo officials wear protective gear “just a little bit short of a hazmat suit” when sedating animals because even one drop in a person’s eye or nose can be fatal.

The **extreme lethality** of carfentanil has led most countries to **classify it as a chemical weapon**. It is banned from the battlefield under the Chemical Weapons Convention. Andrew Weber, President Barack Obama’s Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Program, said it plainly and simply last year: “It’s a weapon.”

So, what is a chemical weapon doing on the streets of Canada – and the U.S.? Over the past year, drug dealers have learned that they can cut carfentanil into the heroin they sell to increase the “high” and to increase profits, as heroin is 15 times more expensive than carfentanil. In a public warning last fall, the Drug Enforcement Administration said “carfentanil is surfacing in more and more communities” and that it “has been linked to a significant number of overdose deaths in various parts of the country.”

The drug is **largely produced in China** by thousands of small chemical firms and shipped either through Mexico and Canada to the United States or directly through the mail system, often after an order is placed online. It is **also produced by drug cartels** in Mexico (with key ingredients imported from China). China, working with the United States, is now regulating carfentanil production and export, but the large number of producers there means the problem has only been reduced, not resolved.

There are signs that the **production of carfentanil could be moving here** as well, particularly after the Chinese government’s crack down. Some of **equipment** used to make carfentanil in China has been **found in the United States**. And the key ingredient to fentanyl – a less potent cousin of carfentanil – has also been discovered in the U.S., suggesting that fentanyl is being manufactured here. In May, federal agents in Massachusetts seized 50 kilograms of a key chemical used to make fentanyl.

The public discussion about – and the government focus on – carfentanil is all about the dangerous role it plays in the contemporary drug epidemic – with good reason. **Drug overdoses, with a growing number caused by carfentanil, are now the leading cause of death from injury in the United States, surpassing motor vehicle accidents, suicides, and homicides.** Some police and paramedics have themselves overdosed after coming into contact with carfentanil.

But **the drug also constitutes a significant threat to national security. It is a **weapon of mass destruction**.**

Indeed, **carfentanil is the perfect terrorist weapon**. It is readily **available in large quantities**. It comes in several forms – including tablets, powder, and spray. It can be **absorbed through the skin or through inhalation**. It **acts quickly**. And, it is **deadly**. Peter Ostrovsky, a senior official of the Immigration and Customs Service, said last fall, “Could it be weaponized? Yeah, it could be weaponized.” In short, **a single terrorist attack using carfentanil could kill thousands of Americans.**

And, there has been little focus on the drug as a terrorist weapon. In the Director of National Intelligence’s 2017 Worldwide Threat hearings, the issue of synthetic opioids was treated as part of the international drug problem, not as a terrorism risk. No one from either the Obama or Trump administrations has spoken publicly about the threat. The same is true for Congress. There has been little to no work by think tanks or the media on the terrorism risks.

This needs to change. There needs to be an NSC-directed policy and strategy on getting our arms around the national security risks of carfentanil – including increasing the focus of the Intelligence Community as well as the law enforcement and homeland security communities. There needs to be a focus by Congress, in part, to oversee the work of the Executive Branch. There needs to be work done at the state and local level that is integrated with what is happening at the federal level. There is a great deal to do.

Immigration Surveillance Core File. Updated 8-3-24

Both al Qaeda and ISIS have said they are interested in acquiring weapons of mass destruction and that they would use them if they acquired them. Osama bin Laden called it a religious duty to do so. ISIS has used chemical weapons on the battlefield in Iraq and Syria. And now such a weapon is easily available to them. It would be a terrible tragedy if foreign terrorists were to use the consequences of our own domestic drug problem against us – particularly when it is so easy to see what might be coming.

## **Fentanyl deaths are increasing**

In 2022, 73,654 people died from a fentanyl overdose[1] in the US, more than double the amount of deaths from three years prior in 2019. Fentanyl deaths have increased every year for the past decade, but 2022 marked the smallest year-over-year growth at 4.3%.

## **Developments and attacks are coming now – spurs inter-state wars AND non-state actors which ensure escalation – taboo eroded, empirics prove, tech and motive are here**

Henry de Quetteville et al 18. Special Correspondent @Telegraph, Technology. Former foreign correspondent in France, the Balkans and the Middle East., citing James Giordano, professor of neurology, chief of the Neuroethics Studies Program, and co-director of the O’Neill-Pellegrino Program in Brain Science and Global Health Law and Policy at Georgetown University Medical Center. He is an member of the Defense Advanced Research Projects Agency’s panel on neuroethics, legal, and social issues, and serves as a senior science advisory fellow to the Joint Staff at the Pentagon. His latest book is Neurotechnology in National Security and Defense: Practical Considerations, Neuroethical Concerns (CRC Press), citing Gavin Williamson, UK Secretary of Defense, citing Aimen Dean, also known as Ramzi is a Bahrainian man who was a founding member of al-Qaeda. In 1998, he joined the Secret Intelligence Service and became an MI6 spy, citing Hamish de Bretton-Gordon, a chemical weapons expert and chief operating officer of SecureBio Limited. He was formerly a British Army officer for 23 years and commanding officer of the UK's CBRN Regiment and NATO's Rapid Reaction CBRN Battalion, August 3, 2018, “The rise of biological and chemical weapons After Salisbury, how ready is the UK?”, <https://www.telegraph.co.uk/news/rise-of-biological-chemical-weapons/>. Rez

With nerve agents having been deployed in Syria, Malaysia and Salisbury, the 100 year taboo on the use of chemical weapons is in danger of collapse. The stakes could not be higher as gene-editing technologies put a new generation of bio-weapons within reach of almost anyone.

The small town of Melksham, in rural Wiltshire, is an unlikely location for one of the world’s largest producers of gas masks. Yet there, next to Farmers’ Roundabout, is a warehouse containing a production line that can turn out a quarter of a million masks a year. Models include the FM54, a sinister-looking bit of kit used by the SAS. This is Avon Protection, originally founded in the late 19th century as a tyre factory but which, come the First World War, spotted a new market for its rubber presses.

Today, business is booming. Orders are flooding in from the US military and the MoD. A contract is up for grabs from Canada’s army. India is keen. ‘All this CW has been good for us,’ says an executive. By CW he means chemical warfare. And it’s true. On Avon’s factory floor, permeated by the distinctive smell of its essential raw material, blue and yellow presses relentlessly inject molten rubber into dense matt-metal moulds. Every four minutes a new mask emerges, ready to be trimmed and equipped with tubes, visors and filters. Amid the beauty of Melksham’s peaceful surroundings, these blank-eyed robo-humanoid visors, worthy of Darth



Vader, are the starkest possible reminder that 100 years after we thought we had said goodbye to all that, a new age of poison weapons is upon us.

It is an era in which a series of unprecedented plots and attacks – from England to Australia – has projected this darkest of the arts of war far from the traditional battlefield. They have seen an airport departure lounge and a medieval cathedral city in the West Country laced with the deadliest toxic chemicals, upsetting a diplomatic and military status quo established in the wreckage of the First World War, and blowing away one of armed conflict’s weightiest taboos like a breeze dispersing clouds of mustard gas over the trenches of the Western Front. Worse, some fear that with emerging threats from DIY bioweapons, this may just be the beginning.

The new age of weapons of mass destruction (WMD) has been decades in the making. As Aimen Dean, MI6’s mole in **al-Qaeda**, recounts in his new book *Nine Lives*, Osama bin Laden’s terror group plotted to smear deadly chemicals on the door handles of luxury cars in Britain in the late 1990s. After 9/11, Dean delivered intelligence that **Abu Khabab**, an al-Qaeda weapons engineer, had managed to develop a viable poison-gas device destined for New York’s subway system. The plot never came to fruition.

Terrorists **continue to fantasise** about striking fear into civilian populations with chemical and biological weapons. Last August, intelligence agencies in Australia intercepted an Isil plot that allegedly would have involved the release of toxic hydrogen sulphide gas. And just last month, German authorities arrested Seif Allah **Hammami**, a 29-year-old Tunisian who had apparently managed to manufacture significant quantities of ricin, a bioweapon first developed by the US during the First World War.

But it is in Syria that the century-old toxic taboo has truly been blown away. Since 2012, chlorine and sarin gas have repeatedly been dropped from the jets and helicopters of the Assad regime, as well as fired in warheads attached to artillery rockets. **Isil too has deployed gas in Syria** – both in contravention of the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare – known in short as the Geneva Protocol – which was first signed in 1925.

The Protocol was an attempt to ensure that the horrors of the Great War were never repeated, yet in Syria today, just as on the Western Front then, chemical munitions have targeted networks of trenches housing enemy fighters. **Bashar al-Assad** spent four years besieging Aleppo with conventional weapons. When, in December 2016, he started using chemicals instead, the city fell in just over two weeks. Little matter that all too often they hit civilians too, as shown by heartbreaking images of choking, gagging, foaming men, women and children broadcast around the world. Ghouta in 2013 remains the deadliest single attack, almost unimaginable in scale. The final death toll has never been pinned down, but the US administration estimates almost 1,500 were killed. Hundreds more have died in over three dozen subsequent attacks in Syria that the world knows of.

Having been unleashed anew in Syria in 2012, it was only five years before these weapons were deployed – in February 2017 – in an exclusively civilian arena. The scene was the budget-airline terminal at Kuala Lumpur airport. Just as sarin is many times more toxic than chlorine, so VX is many times more toxic than sarin. And it was VX that was used to assassinate Kim Jong-nam, exiled half-

Immigration Surveillance Core File. *Updated 8-3-24*

brother of the North Korean dictator Kim Jong-un, when two women smeared the agent on his body in what they claim to have thought was a prank. Currently on trial, they could face the death penalty if their story is not believed.

But even that brazen attack was as nothing to what unfolded in Salisbury on 4 March this year, when the Russian military officer turned British spy Sergei Skripal and his daughter Yulia were found unconscious on a bench. Skripal was a victim of Novichok, a nerve agent that is perhaps 1,000 times more toxic than sarin. **Invisible and deadly, it brought a menace** to Britain's streets that **most of us never imagined we would have to consider – let alone experience**. And that shock only deepened when, earlier this month, and out of the blue, Charlie Rowley, 45, and Dawn Sturgess (who died last weekend), 44, also fell victim to Novichok in Amesbury, just down the road from Salisbury.

On top of the attacks in Syria and the killing of Kim Jong-nam, the targeting of the Skripals and its protracted consequences made a devastating conclusion inescapable: a century after Wilfred Owen wrote of 'Gas, gas' and of the victim 'yelling out and stumbling And flound'ring like a man in fire or lime', the use of chemical weapons had become normal again.

It is easy to see why. Toxic chemicals are the perfect weapon for our fake news world, where everything is disputable, objective truth malleable or elusive, blame and attribution hard to pin down. Take the Skripal attack: afterwards Russia's propaganda machine went into overdrive, peddling countless claims and counterclaims of its own: that the British state was itself responsible; that Yulia and her father were sedated and poisoned. Spinning this web of ambiguity was all the easier because of the absence of any international body empowered to attribute responsibility for attacks. The independent Organisation for the Prohibition of Chemical Weapons (OPCW) identified the Novichok in Salisbury, but pointing to its source was not within its remit. Moscow's media trumpeted its failure to do so as exculpation anyway.

For a former superpower like Russia, chemical weapons offer an alluring asymmetry too, helping to level the playing field against the better-financed, better-equipped militaries of NATO. 'We're in a position now where we're going into a new Cold War,' says Hamish de Bretton-Gordon, former commander of the British Army's Joint Chemical, Biological, Radiological and Nuclear Regiment (CBRN), which, ironically, was disbanded in 2011, a year before WMD were first deployed in Syria. While we overmatch Russia in most areas, in chemical weapons their offensive capability more than overmatches us. If Russia did decide broadly to hit us with this stuff, we'd be found wanting.'

Novichok, which de Bretton-Gordon describes as 'the world's blue riband nerve agent', was developed in Shikhany, a town on the Volga that houses a military research establishment. Experts estimate that Russia has perhaps a few tons of it, enough 'to carry out assassinations but not to wage war'. Still, only tiny doses are needed to block a crucial enzyme – acetylcholinesterase – which breaks down the neurotransmitter acetylcholine. When that happens, large branches of the nervous system become overexcited and ultimately shut down.

'The first thing that happens is bowel and bladder incontinence,' says Stefano Costanzi, associate professor in the department of chemistry at American University in Washington, DC, and an expert in the effects of chemical weapons. 'Eventually that is followed

by the collapse of the nervous system, with death typically resulting from respiratory failure and seizures.’ **How long that takes depends on exposure and dose. It can be minutes.**

Dr Stephen Jukes, intensive care consultant at Salisbury District Hospital, where the Skripals were treated (and where Rowley and Sturgess were taken), has described trying ‘all our therapies’ to keep Sergei and Yulia alive. Due to an astonishing coincidence, two doctors on duty had just returned from a course at Porton Down, Britain’s world-leading equivalent to Shikhany, when the pair were brought in. Recognising what looked like symptoms of nerve-agent poisoning, they made sure to include diazepam and atropine in their battery of treatments – the drugs compensate for some of the effects of acetylcholinesterase blockage – and plunged the Skripals into an artificial coma to prevent brain damage.

Then it was a question of waiting. ‘It is key to keep the victims alive long enough for their bodies naturally to restore their ability to break down acetylcholine,’ says Costanzi. Dr Jukes says that hospital staff did indeed wait, but more in hope than expectation.

**‘When we first realised this was a nerve agent, we were expecting them not to**

**survive.’** he told the BBC. His colleague Dr Duncan Murray attributed the fact that the Skripals did pull through to ‘very good, generic, basic critical care’. But simple good fortune, like the fact that Porton Down is just down the road from Salisbury, played a big part too. ‘There are only 10 or so countries in the world that could have possibly responded to the Skripal attack,’ one British official told me. ‘And even then we were very lucky.’

Soldiers march across Kim Il Sung Square, **North Korea**. The country **is known to hold stocks of VX nerve agent as well as long range nuclear missiles**

Lucky, and stretched to the absolute limit. Lorna Wilkinson, nursing director at the hospital, has said that when policeman Nick Bailey was also admitted with **symptoms of poisoning similar to the Skripals’ ‘there was a real concern as to how big this could get’.** She and fellow medical staff worried that **it could become ‘all-consuming and involve many casualties’.** According to de Bretton-Gordon, even containing the attack as it was required the deployment of ‘every bit of this country’s military establishment’. So could Britain cope with a bigger attack?

Responsibility for responding to major disasters in Britain lies with the Civil Contingencies Secretariat (CCS) in the Cabinet Office, which liaises with intelligence agencies and the Office for Security and Counter Terrorism (OSCT) at the Home Office to draw up the National Risk Register Of Civil Emergencies (NRR) – a list of 80 or so critical threats to the country, from flooding to a collapse of the national grid to cyber attacks. The NRR distinguishes between natural hazards or accidents, and malicious attacks, and even produces a table ranking these threats by their impact severity and likelihood, both on a scale of 1 to 5. The table makes it easy to see, for example, that the natural disaster the CCS is most worried about is a pandemic flu outbreak, which is given a 5 impact rating, and a 4 for its relative likelihood of occurring in the next five years.

When it comes to malicious acts, **chemical**, biological, radiological and nuclear (CBRN) **attacks are deemed the most severe threat to this country.** **Larger-scale incidents could include... much greater numbers of casualties and widespread, long-term impacts of a magnitude above all others,’** the cheery document suggests.

As one British diplomatic source puts it, **‘We assumed that the use of chemical weapons by states had drawn to an end. But their repeated use in Syria ate away at that.** Then the sheer recklessness of the Skripal attack shocked not just us but a lot of our allies around the world.’ **And it’s not just states.** **Aimen Dean has called Salisbury a ‘big neon advertisement’ to jihadists about the potency of chemical attacks.**

British efforts to reverse this normalisation of WMD have included participating with the US and France in air strikes in Syria in April, aimed at redrawing some Obama-era ‘red lines’ that were blurred by six years of unpunished chemical attacks by the Assad regime. At the same time Gavin Williamson, the Defence Secretary, has pledged £48 million to build a new chemical weapons defence centre at Porton Down, and elements of de Bretton-Gordon’s disbanded CBRN regiment are being reconstituted. Quietly, this summer, the British Government has also pursued a high-stakes diplomatic gambit to ensure chemical attacks are no longer easy to get away

## Immigration Surveillance Core File. *Updated 8-3-24*

with, by granting the OPCW powers to attribute blame for chemical attacks. Russia has repeatedly blocked such moves, but last month a special session of OPCW member states was convened and despite Russian pressure, 106 members turned up and 82 voted in favour of granting the OPCW powers 'to identify the perpetrators of the use of chemical weapons' – initially in Syria alone but then, so Britain hopes, around the world. 'The taboo against the use of these weapons is breaking down and today the OPCW has not just the power to say the chemical weapons have been used, but can also point the finger at whoever did it,' the then Foreign Secretary Boris Johnson said afterwards.

If the worst came to the worst, however, and a major attack did unfold, Britain would fall back on the Reserve National Stock, a chain of warehouses filled with antidotes and drugs for use in the event of a catastrophic WMD event. It was established in the 1970s after the eradication of smallpox, when dumps of the smallpox vaccine were maintained just in case the disease re-emerged. In 1995, after sarin terror attacks on the Tokyo subway launched by the Aum Shinrikyo cult, nerve-gas antidotes were added. Following 9/11, countermeasures for anthrax were also included; then, in 2003, the nerve agent response was upgraded with better drugs and personal-protection gear. Critical chemical- and biological- weapon treatments are strategically positioned around the country, with the aim of getting essential supplies to almost any affected location within five hours.

The kind of items in the stock is made clear in an NHS England document, identified with the bland 'Gateway Reference Number 03088'. '1. Nerve agent antidote pod to treat 90 people. 2. Obidoxime further treatment for nerve agent poisoning. 3. Dicobalt edetate pod for treatment of cyanide poisoning in 90 people. 4. Botulinum antitoxin... Antibiotic pods (oral ciprofloxacin) to treat 250 adults for 10 days... with post-exposure prophylaxis for anthrax, plague or tularaemia...'

You get the picture.

The Reserve National Stock is kept under review, to ensure it contains the right kit and drugs to meet current threats. But that also begs a question: will it be able to respond to threats in the future? For no sooner have WMD resurfaced than the nature of the threat they pose is changing.

Today, for example, biological **pathogens can be modified to 'improve' their lethality using gene-editing techniques such as Crispr-Cas9.** Because of their ease of use, these techniques – more usually lauded for their medical applications – have been described by James Clapper, America's national intelligence director until last year, as weapons of mass destruction, as **they do not require a vastly sophisticated lab.** **'It makes it easy for individuals to operate outside a formal institutional setting,'** says James Giordano, professor of neurology and biochemistry at the Pellegrino Center for Clinical Bioethics of Georgetown University Medical Center in Washington, DC. 'Crispr lends itself to biohacking.'

**Biohacking sounds subversive, but in fact is merely the name given to the growing trend for DIY bioengineering, carried out by amateurs with no malicious intent, usually on entirely benign organisms, such as yeast.**

Take a turn off the stalls of Shepherds Bush Market in west London, for example, and you will come across 45 purple and pink shipping containers. This is Open Cell, where biotech innovators can rent access to lab equipment like a thermal cycler (to reproduce DNA) for a few hundred pounds a month. Open Cell has the relaxed campus feel common to many collaborative working spaces of which entrepreneurs are fond. Except here, budding young companies are working on encouraging flies to do the pollinating work of bees, say, or exploiting potato waste to make chipboard-like material. It is a sign of London's thriving biotech start-up scene. But it is also a sign of how biotech is breaking out of the state- or university-run lab. 'That is exactly our passion,' says Open Cell's co-founder, biotechnologist Thomas Meany. He makes plain that security is a top concern, pointing to CCTV on site and constant threat assessments, as well as vetting of potential tenants. 'We work with organisms you might find in your tummy or on your skin,' he says. 'We don't use anything that could be potentially hazardous.'

Nevertheless, Open Cell is part of what Giordano calls 'an increasingly global independent DIY movement' in biotech. 'It is not a Wild West of biohacking cowboys,' he says. 'But the ubiquity of these techniques now means people may drift outside the norm of a community through a "let's see what happens" spirit. They may not be operating with controls to see something bad coming then mitigate it if it happens. Then of course other groups may simply not care – they want to see if they can do something a bit disruptive. **They might say, "Let see if we can build something that will make people sick."**

Immigration Surveillance Core File. *Updated 8-3-24*

Such people, Giordano says, **could find themselves the tools of states looking to sow chaos but not take any blame**. ‘They could create bio-agents that are not even categorised by the biological weapons convention because they are new. You could take something common like E.coli and make it more pathogenic.’

He points to the case last year of two academics at the University of Alberta in Canada who ordered segments of horsepox DNA – related to smallpox – off the internet, and put them together so they became infectious. What particularly shocked peers was that the pair then published their work – effectively unveiling a deadly recipe. ‘You shake your head and wonder how it happened,’ says Giordano. ‘Before gene editing, of course, that’s not such a problem. But now putting out these types of recipes creates real problems because they will be read outside institutions where regulations are very stringent. I am very concerned about the external community. This is new territory. It needs to be surveillable and enforceable.’

Or as Clapper put it in his Worldwide Threat Assessment of the US Intelligence Community: ‘Given the broad distribution, low cost, and accelerated pace of development of this [gene-editing] technology, its deliberate or unintentional misuse might lead to far-reaching economic and national security implications.’

What people like Clapper fear is a genetically modified pox threat outpacing efforts to contain it, creating a pandemic which **could kill not thousands but, in the doomsday scenario, millions**. Last year Bill Gates said a bioweapon strike represented a bigger than nuclear attack, and put the potential death toll at 30 million. The economic fallout would also be catastrophic. This is hard to calculate, but in a paper some 20 years ago the Center for Disease Control in America tried to estimate the cost of containing an anthrax-based bioterror attack. The total? \$26.2 billion per 100,000 persons exposed.

## Iran is using Hezbollah to link up with cartels---they’ll exploit instability to attack the US

**Ruehl 9-1-17** (John, B.A. US Studies and International Relations, M.A. Peace and Conflict Studies from Universidad Jaume I, currently a policy analyst at The Excalibur Group, “Why is Hezbollah involved in Mexico’s Drug War?” <https://politicsmeanspolitics.com/why-is-hezbollah-involved-in-mexicos-drug-war-ee64e6c902b9>)

You wouldn’t really know it judging by our selective concern of world conflicts, but there is currently a pretty violent war going on in Mexico. Since 2006, over 150,000 people have died from violence between drug cartels and government forces. **Casualties continue to increase**, suggesting it is entirely possible we haven’t even seen the worst of it. An internal memo from the Tucson Police Department in 2010 **revealed** that **Hezbollah had been forming ties with Mexican drug cartels**, helping them to launder money while also fueling the weapons and drugs trade. **Hezbollah**, a Shia Islamic militant group and political party based in Lebanon, has been active since the 1980s. It is backed primarily by Iran and Syria, and has continually supported Assad’s forces in the Syrian Civil War. Labelled a terrorist organization by numerous countries and institutions, it **is one of the most powerful non-state adversaries facing the US**. Hezbollah ships tons of South American cocaine to Europe, in order to fund its military operations in the Middle East. But together with Iranian elements operating in Latin America, a wider geopolitical agenda becomes apparent. **In 2011, Iranian forces attempted an assassination against the Saudi ambassador to the US, aided by Hezbollah and the infamous Los Zetas cartel**. Though the attack was thwarted, it points to the ability of foreign entities to be in a position to strike the US. A 1992 bombing against the Israeli embassy in Argentina has been linked to Hezbollah, while they are also present in Brazil, Central America, and Mexico. The group is essentially used as a proxy military force by Iran. There are fears that **Hezbollah** and other terrorist groups **have been using** the **instability in Mexico to smuggle operatives and weapons into the US, meaning Iran could be in a position to undermine American sovereignty in a violent way**, without officially

Immigration Surveillance Core File. *Updated 8-3-24*

declaring war. **Weapons smuggled** from Iraq to storage in **Mexico by Hezbollah support the idea that the group is** at least providing weapons to cartels, or **preparing to use them** themselves. Regardless of **Hezbollah's** intentions, their **actions would be seriously hindered were it not for the instability in Mexico**. The War on Drugs is impossible to win, because people will always find ways to get drugs. Therefore, the violence in Mexico will remain constant, or simply relocate. Expect Hezbollah to be where the action is.

## Fentanyl Has the Worst Impacts

USA Facts, 9-27, 23, <https://usafacts.org/articles/are-fentanyl-overdose-deaths-rising-in-the-us/>, Are fentanyl overdose deaths rising in the US?

**Early in the opioid epidemic, overdose deaths were largely driven by a flood of prescriptions for drugs such as Hydrocodone, Oxycodone, Oxymorphone, and Morphine.** Pharmaceutical fentanyl was approved by the Food and Drug Administration as a pain reliever in 1998 and was typically prescribed to patients with severe or chronic pain. As prescriptions for these drugs fell, heroin, and eventually illegally made fentanyl, became the main cause of opioid overdose deaths. **Drug dealers may mix fentanyl with other drugs such as heroin, cocaine, meth, and MDMA to increase the drugs' effects — sometimes without the user's knowledge.** Lethal dose of fentanyl **Because fentanyl is significantly stronger than other opioids, doses as small as two milligrams can be lethal.** And with users unaware of how much fentanyl they are using, it's an especially dangerous combination. The DEA found that 6 out of 10 fentanyl-laced fake prescription pills contain a potentially lethal dose of fentanyl.

Quinn Owen, Mireya Villarreal, and James Scholz, 11-7, 23, 'It's very challenging': Inside the fentanyl fight at the border, <https://abcnews.go.com/Politics/fighting-fentanyl-border-agents-working-thwart-narcotics-smuggling/story?id=104689211>

But **with more than 100,000 people dying from drug overdoses last year, officials say they believe there is more work to be done.** **Fentanyl has been linked to the majority of overdose deaths in the U.S.,** according to the Centers for Disease Control and Prevention. The synthetic opioid is 50 times stronger than heroin and 100 times stronger than morphine, according to the CDC.

## **Drug-Human Smuggling Connected**

Quinn Owen, Mireya Villarreal, and James Scholz, 11-7, 23, 'It's very challenging': Inside the fentanyl fight at the border, <https://abcnews.go.com/Politics/fighting-fentanyl-border-agents-working-thwart-narcotics-smuggling/story?id=104689211>

Across the border from Nogales, the notorious Sinaloa cartel unofficially controls much of the territory, Miller said. Law enforcement officers say they believe the same criminal organizations that route drugs up to the border are also responsible for human smuggling. "I think right now it is extremely important we continue to go after the transnational criminal organizations that are trafficking fentanyl, that are taking advantage of the world's most vulnerable people and making money off those individuals," Miller said.



## Manufacturing

### **The opioid crisis is decking manufacturing---causes labor shortages**

**Cutter 7-26-17** (Chip, Managing Editor at LinkedIn News, former business news reporter at the Associated Press, “The **opioid crisis is creating a fresh hell for America’s employers**” <https://www.linkedin.com/pulse/opioid-crisis-creating-fresh-hell-americas-employers-chip-cutter/>)

The epidemic is also having **a devastating effect on companies** — large and small — **and their ability to stay competitive**. **Managers** and owners **across the country** are at a loss in how to deal with addicted workers and potential workers, **calling the issue one of the biggest problems they face**. **Applicants are increasingly unwilling or unable to pass drug tests**; then there are **those who pass** only to **show signs of addiction once employed**. Even more confounding: how to respond to employees who have a legitimate prescription for opioids but whose performance slips. “That is really the battlefield for us right now,” said Markus Dietrich, global manager of employee assistance and worklife services at chemical giant DuPont, which employs 46,000 worldwide. **The issue is amplifying labor shortages** in industries like trucking, which has had difficulty for the last six years finding qualified workers. It’s also pushing employers to broaden their job searches, recruiting people from greater distances when roles can’t be filled with local workers. **At stake is** not only safety and **productivity within companies** — but the need for humans altogether, with some manufacturers claiming opioids force them to automate work faster. One nonprofit called the misuse of prescription drugs a hidden workplace epidemic. McClellan, who runs the American Mug & Stein pottery, puts it more plainly: **“It’s a freaking nightmare.”** **The biggest threat in manufacturing, period!** To understand the scope of the problem, it’s helpful to consider the recent experience of one company in America’s heartland. Balco is a Wichita, Kan.-based producer of building materials, part of the larger publicly traded CSW Industrials. With construction booming, the company’s products — like expansion joint covers that help buildings to safely sway in the wind — are in demand; it needs more people to make them. So earlier this year, Balco went on a hiring binge, tripling the size of its production staff at its Kansas facility by adding 35 workers. Within weeks, though, problems emerged. Some new employees abruptly stopped showing up. Others got sloppy, missing details and making mistakes that required co-workers to re-do their work down the production line. After three months, two thirds of the freshly hired employees — 24 of the 35 — had been fired or quit. The company’s senior manager of manufacturing operations, Tom L. Shupe, blames substance abuse — and, specifically, opioids for the majority of the problems. “It’s all addiction issues,” Shupe, a 37-year veteran of the company, said in a recent interview at a coffee shop near his home outside of Oklahoma City. He called the opioid epidemic “probably the biggest threat in manufacturing, period.” Balco drug tests new hires and conducts random follow-up screenings for employees, but that can’t snuff out those who get sober specifically for the test or who relapse after a bout in recovery. Shupe said the company’s found synthetic urine on property and now requires drug screens to be observed — meaning a lab representative monitors in the restroom — to prevent cheating. “We’ve actually had quite a few folks turned away at that stage. Once they realized it’s going to be witnessed, they’ll just say, ‘Screw it, I’m done,’ and walk away from it,” he said. The drug epidemic has changed how the company operates, too. It used to put job ads up and quickly take them down, finding itself overrun with applicants. Now, Shupe keeps the ads up, knowing he may need to continuously replace workers. The difficulties in spotting possible addiction issues have made it far tougher to spot a future higher performer in an interview. “You’re like, ‘Wow, I never saw that coming, you know?’” he said. “Nowadays, it’s so masked, it’s very difficult to pick up on some of that until you get right into it and you employ them.” So, Shupe’s turning to an alternative: machines. He’s now working with engineering students at a local college to mechanize some of Balco’s work done by humans — automating part of a metal fabrication process that currently requires six people but, aided by technology, could be done with one. He said the hiring and retention challenge associated with opioids and other substances “forces my hand to look at automation.” **“You’re going to see manufacturing jobs slowly going away for, if nothing else, that reason alone,”** he said of **the drug crisis**. **“It’s getting worse, not better.”** **Economists have noticed**. In Congressional testimony earlier this month, Federal Reserve chair Janet Yellen related **opioid use to a decline in the labor participation rate**. **The past three Fed surveys on the economy**, known as the Beige Book, **explicitly mentioned employers’ struggles in finding applicants to pass drug tests as a barrier to hiring**. The surveys, snapshots of economic conditions in the Fed’s 12 districts, don’t mention the type of drugs used. Lab giant Quest Diagnostics reported in May that positive drug test results had reached a 12-year high, driven largely by an increase in marijuana and cocaine use, based on its analysis of 10 million workplace drug screenings. Heroin rates were steady among the general workforce, while opioid use actually declined slightly in its results. Dr. Todd

Immigration Surveillance Core File. *Updated 8-3-24*

Simo, the chief medical officer of background check firm HireRight, notes that a positive test for an opioid will be thrown out if an applicant can produce a prescription, regardless of whether the person is taking the drug as prescribed. "It doesn't matter if the donor is using one OxyContin a day or 12," Simo said. "Once they have a legitimate and verifiable medical explanation for the result, the medical review officer is bound to report that as a negative drug screen." While he's gotten more questions from employers about testing for opioids, Simo said it would be "a bit of hyperbole" to suggest employers can't fill jobs because of drug tests. Still, at Congressional hearing last month focused on opioids and their economic consequences, Ohio attorney general Mike DeWine estimated that **40 percent of applicants** in the state either **failed or refused a drug test. This prevents people from operating machinery**, driving a truck or getting a job managing a McDonald's, he said.

## Morality

### **Magnitude of the opioid crisis creates a moral obligation to act to end it.**

**Jackson-Smith, Johns Hopkins Berman Institute of Bioethics, 2020**

(Hunter Jackson, August 2020, "Ethics, Public Health, and Addressing the Opioid Crisis," Journal of Ethics | American Medical Association, <https://journalofethics.ama-assn.org/article/ethics-public-health-and-addressing-opioid-crisis/2020-08>, DoA 10/16/2021, DVOG)

The alleviation of pain is one of the oldest and most central duties charged of physicians. Ailing patients seek health care in the hopes that it will ease their suffering, and clinicians often take great satisfaction when they are able to reduce their patients' discomfort. There is not a single clinician who has not, at some point in their training or practice, been confronted with a patient in pain, prescribed a pain medication, or been touched by a patient whose pain they could not ease. Clinicians wish to ease suffering, but their prescription pads are a source of potentially dangerous and addictive drugs. In the context of the growing opioid crisis, pain management and approaches to opioid prescribing have taken on an entirely new ethical component. **Opioid misuse has become one of the gravest and most consequential public health threats facing the United States today.**<sup>1</sup> Per the National Institutes of Health, **the number of US drug overdose deaths has increased markedly over the past 2 decades, primarily due to the role of opioids.**<sup>2,3</sup> **In 2018, there were 67 367 drug overdose deaths in the United States—70% of which involved opioids.**<sup>4</sup> **Between 1999 and 2017, the age-adjusted drug overdose death rate in the United States more than tripled—from 6.1 per 100 000 to 20.7 per 100 000.**<sup>5</sup> **Yet these statistics barely scratch the surface of the negative effects of opioid misuse. The impacts of opioid misuse ripple throughout families and communities and have created a new epidemic of despair.** In fact, the opioid crisis has reached such a level of concern that, in 2017, the US Department of Health and Human Services (**HHS**) **declared it a nationwide public health emergency** in order to authorize the mobilization of resources, institute public health powers, promote multisector responses, and facilitate innovative strategies to combat it.<sup>6</sup> **This declaration has been renewed every year since its inception**, having most recently been reaffirmed on January 14, 2020.<sup>7</sup> **This multiyear state of emergency is not the norm, and it highlights our failures to sufficiently control this crisis.** As noted on HHS' public health emergency declarations page, **the typical emergency is declared in response to a natural disaster and lasts several months.**<sup>8</sup> We as a medical community and a **society must take this opioid emergency declaration seriously, paying particular attention to multidisciplinary innovative strategies aimed at prevention. Furthermore, there remains a substantial need for ethics involvement in this crisis**—something a public health emergency declaration does not address. Broad Impact and Engaging Stakeholders **One of the central components of a public health emergency is to promote multisectoral engagement. This strategy is of particular importance for addressing the opioid crisis due to its deep, far-reaching impacts across a broad spectrum of medical and social disciplines. As such, this theme issue strives to engage key stakeholders to promote a diversity of ethical perspectives and to generate understanding among communities of professionals. The importance of this topic and the scope of its impact is evident in the diversity of contributors' perspectives, each of which deserves thoughtful consideration in social, cultural, clinical, and ethical conversations about what we owe individuals, families, and communities affected by pain and our responses to it.** Public Health Declaring a public health emergency requires that the true urgency underlying the emergency be recognized. It also necessitates that those in health care fields understand the population focus of a public health emergency and engage in population-level thinking. As such, a public health emergency declaration implies an urgent need for clinicians of all kinds to consider their role in responding to the emergency. The declaration should prompt those in health care to answer the call to align their practice with public health strategies and to become more involved in

controlling the emergency. Unfortunately, **HHS' 5-point opioid strategy to address the public health emergency noticeably neglects the need for public health interventions and policy.**<sup>9</sup> **The primary focus remains treatment oriented and responsive.** The aggressive marketing strategies of pharmaceutical companies, clinicians' inadequate training to appropriately manage pain, and a failure to sufficiently treat mental health have been identified as primary causal factors underlying the opioid epidemic.<sup>10, 11, 12</sup> Although these factors are certainly of central importance, they neglect many crucial underlying factors, such as social determinants and policy, that play a role in a person's health trajectory. Therefore, **a central question we must consider is this: What role should the government and society play in combatting the opioid epidemic?**<sup>13</sup> **Public health-focused modalities must be explored and pursued in the context of opioid misuse,** and clinicians in all specialties should become more proactive in public health not only in the clinic or hospital but also in their communities.<sup>14</sup> Ethics Efforts have been made to increase attention to the ethics of the opioid crisis, particularly in the areas of prescription practices, naloxone availability, and clinician regulations.<sup>15, 16, 17</sup> However, **the ethics of this crisis still have not been sufficiently addressed. Ethics, both as a guide for what ought to be done and a practice, must be central to any and all strategies we use in combatting this public health emergency.** Its importance in this matter cannot be understated. Furthermore, **the ethical issues inherent in the opioid crisis extend beyond treatment.** Several important ethical questions have been brought to public consciousness: **What obligations do pharmaceutical companies have to society due to their role in instigating the crisis? And how do we most appropriately address the underlying factors driving substance misuse and addiction?** Yet even these questions require much deeper ethical discussion and are by no means conclusively answered. There are many more questions that remain largely unaddressed: **What obligations does the state hold to address opioids, both illicit and prescribed?** And how ought we to prioritize funding for opioid prevention and treatment initiatives? These are questions that require our thoughtful attention. It is my sincere hope that you, the reader, will take from this theme issue the need for (1) greater infusion of ethics into our discussions of strategies for addressing opioid misuse and (2) motivating those in health care fields to actively engage in public health regardless of their practicing specialty.

## Rural Collapse

### **Opioid crisis is destroying rural farming communities—decreases economic and agricultural output**

**Columbia Basin Health Association, 2020** ("Small Towns and Rural Areas Hit Hard by Opioid Crisis," August 2020, <https://www.cbha.org/about-us/cbha-blog/2020/august/small-towns-and-rural-areas-hit-hard-by-opioid-c/>, DoA 10/16/2021, DVOG)

Not according to the U.S. Centers for Disease Control and Prevention (CDC). In fact, over the last decade, issues once associated with city life have slowly crept into rural areas. **Opioid misuse, often perceived as a problem of urban areas, has found its way into America's small towns. Now, these communities are faced with the resulting loss, crime, and destruction that accompanies misuse of opioid** prescription drugs such as OxyContin, Oxycodone, Vicodin, Fentanyl, and of the illegal counterpart, heroin. A report by the CDC reveals that **drug overdose deaths are rising in rural areas across the U.S. In 2015, the overdose death rate for rural areas surpassed the death rate for urban or suburban areas and people living in rural areas were four times more likely to die from overdoses in 2015 than they were in 1999.** In 2015 alone, opioids were involved in more than 33,000 deaths; four times the number of opioid-involved deaths than in 2000. The epidemic impact reaches others, too: a recent University of Michigan study that found rates of babies born with opioid withdrawal symptoms rising much faster in rural areas than in urban areas. A Landscape of Prescription Painkillers So what's happened? How is it that these idyllic small towns, once rich with multi-generational small businesses, farms and ranches, have been reduced to main-drag strips fraught with dealers and dotted with big box stores and fast food chains? For a culture that marks time by the seasons, the opioid crisis is a perfect storm of circumstances. **Some speculate that the recession of 2008 is a factor, as many rural areas still have not rebounded. Unemployment, falling incomes, businesses closing down and dwindling community resources have made it all but impossible to improve living conditions.** Fear, stress, and emotional distress over living conditions and financial stability are often major contributors to substance abuse. To understand the opioid epidemic, it's important to see that it has come in three waves, each building on the one before it; magnifying its traction. A Perfect Storm for a Health Crisis The Great Recession that began in 2007 is partly to blame. **Over the last decade these towns have seen a significant drop in unemployment and they still haven't recovered. Slowly, family-owned businesses have dissolved and the chance to earn a good living has been replaced by limited and poorly-compensated service jobs. Readily available opioids have become "drugs of solace" that mask physical and emotional pain** in a world offering little hope that conditions will improve. Labor-Intensive Jobs + Overprescribing = Addiction **Many people in rural areas work jobs in mining, manufacturing, and agriculture which often lead to chronic pain or injuries. These jobs are often physical and sometimes dangerous. As a result, chronic pain and injuries are more common, and the cost of taking time off from work to heal is so great that many have come to rely on opioid pain medications just to keep working and functioning. What starts as a legitimate prescription for pain can often lead to an addiction to opioids.** Rural doctors are often overworked, and treatments for chronic pain, such as physical or occupational therapy, are limited. Some say opioid prescriptions became the go-to for rural physicians and the beginning of an addiction for some patients. Small Town Strong - Social and Kinship Networks Family relations, family life, and community ties are the fabric of small town support systems and social lives. People work hard, look people in the eye, and know each other's business. These social and kinship networks operate on trust for each other. The community is built on trust, reciprocity, and cooperation. Friends and neighbors help each other out, share resources, and work together. So it's not uncommon to sustain an injury on the job, receive a prescription for an opioid, and then share or sell the prescriptions among each other. According to the National Institute of Drug Abuse, people often share their unused pain relievers, unaware of the dangers of nonmedical opioid use. Most adolescents who misuse prescription pain relievers are given them by a friend or relative. Healthcare Access Compounds the Problem **Stigma and judgement, not knowing what pain-management questions to ask a physician, lack of local treatment facilities, and an absence of**

### **health insurance are just a handful of the challenges that patients with an addiction face in rural communities.**

In these depressed communities, comprehensive substance abuse treatment services are limited at best and absent most often. Lack of resources and funding lead to a limited health and social service infrastructure. Not having access to evidence-based treatment such as Medication Assisted Treatment (MAT) or support services for long-term recovery coupled with shortages of mental health providers only serve to fail these vulnerable populations. The absence of treatment services locally results in patients having to travel long distances to receive the proper care they need. It's been shown that having to travel long distances to receive substance abuse treatment often results in lower completion rates of substance abuse treatment programs. The ultimate challenge is figuring out how to get rid of these barriers to treatment, so these rural communities can become strong again.

## **U.S. agriculture exports are key to global stability**

**Castellaw 17**—(National Security Lecturer at the University of Tennessee, Retired Lieutenant General in the United States Marine Corps). John Castellaw. "Food Security Strategy Is Essential to Our National Security". Agri-Pulse. 5/1/2017. <https://www.agri-pulse.com/articles/9203-opinion-food-security-strategy-is-essential-to-our-national-security>. Accessed 6/28/21.

The United States faces many threats to our National Security. These **threats include** continuing wars with **extremist elements such as ISIS and** potential **wars with** rogue state **North Korea** or regional **nuclear** power **Iran**. The **heated** economic and diplomatic **competition with** **Russia** and a surging **China** could spiral **out of control**. Concurrently, we face threats to our future security posed by **growing civil strife, famine, and refugee and migration challenges** which create **incubators for extremist** and anti-American government **factions**. Our **response** cannot be one dimensional but instead **must be** a nuanced and comprehensive National Security Strategy combining all elements of National Power **including a Food Security** Strategy. An American Food Security Strategy is an imperative factor in reducing the multiple threats impacting our National wellbeing. **Recent history has shown** that reliable food supplies and **stable prices produce** more stable and **secure countries**. Conversely, food insecurity, particularly in poorer countries, can lead to **instability, unrest, and violence**. **Food insecurity drives mass migration** around the world from the Middle East, to Africa, to Southeast Asia, **destabilizing neighboring populations**, generating conflicts, **and threatening** our own security by disrupting our economic, military, and **diplomatic relationships**. Food system **shocks** from extreme food-price volatility can **be correlated** with protests and riots. Food price related protests toppled governments in **Haiti and Madagascar** in 2007 and 2008. In 2010 and in 2011, food prices and grievances **related to food policy were one of the major drivers of the Arab Spring uprisings**. Repeatedly, history has taught us that a strong agricultural sector is an unquestionable requirement for inclusive and sustainable growth, broad-based development progress, and long-term stability. The impact can be remarkable and far reaching. Rising income, in addition to reducing the opportunities for an upsurge in extremism, leads to changes in diet, producing demand for more diverse and nutritious foods provided, in many cases, from American farmers and ranchers. **Emerging markets** currently **purchase 20 percent of U.S. agriculture exports** and that figure is expected to **grow as populations boom**. Moving early to ensure stability in strategically significant regions requires long term planning and a disciplined, thoughtful strategy. To combat current threats and work to prevent future ones, our national leadership must employ the entire spectrum of our power including diplomatic, economic, and cultural elements. The best means to prevent future chaos and the resulting instability is positive engagement addressing the causes of instability before it occurs. This is not rocket science. We know where the instability is most likely to occur. **The world population will grow by 2.5 billion people by 2050**. Unfortunately, this massive population boom is **projected to occur primarily in the most fragile and food insecure countries**. This alarming math is not just about total numbers. Projections show that the greatest increase is in the age groups most vulnerable to extremism. There are currently 200 million people in Africa between the ages of 15 and 24, with that number expected to double in the next 30 years. Already, 60% of the unemployed in Africa are young people. Too often **these situations deteriorate into shooting wars** requiring the deployment of our military forces. We should be continually mindful that the price we pay for committing military forces is measured in our most precious national resource, the blood of those who serve. For

Immigration Surveillance Core File. *Updated 8-3-24*

those who live in rural America, this has a disproportionate impact. Fully 40% of those who serve in our military come from the farms, ranches, and non-urban communities that make up only 16% of our population. Actions taken now to increase agricultural sector jobs can provide economic opportunity and stability for those unemployed youths while helping to feed people. A recent report by the Chicago Council on Global Affairs identifies agriculture development as the core essential for providing greater food security, economic growth, and population well-being. Our active support for food security, including agriculture development, has helped stabilize key regions over the past 60 years. A robust food security strategy, as a part of our overall security strategy, can mitigate the growth of terrorism, build important relationships, and support continued American economic and agricultural prosperity while materially contributing to our Nation's and the world's security.





# **Poverty**

## Low Wage Work

### **Illegal immigrants take low wage jobs, causing poverty**

#### **Steven Camarota explained in 2013**

Steven A. Camarota, Director of Research, Center for Immigration Studies, September 13, 2023, [https://edworkforce.house.gov/uploadedfiles/9.13.23\\_camarota\\_testimony\\_help\\_subcommittee\\_hearing\\_on\\_open\\_borders\\_and\\_workforce.pdf](https://edworkforce.house.gov/uploadedfiles/9.13.23_camarota_testimony_help_subcommittee_hearing_on_open_borders_and_workforce.pdf), Illegal Immigration and the U.S. Labor Marke

One of the most important reasons to limit immigration and enforce those limits is to protect the interests of American workers. **There is evidence that illegal immigrants adversely impact the wages and employment of some American workers. One of the chief arguments for tolerating illegal immigration is that the low unemployment rate means there are not enough workers. However, this ignores the dramatic long-term decline in labor force participation, particularly among working-age, less-educated, U.S.-born men.** Those not in the labor force do not show up as unemployed because they are not actively looking for work. In total, there are some 44 million U.S.-born 16- to 64-year-olds not in the labor force — nearly 10 million more than in 2000. Using large-scale illegal immigration to fill jobs may please employers, but doing so has allowed policy-makers to largely ignore the extremely troubling decline in participation. Research shows ***the fall-off in participation contributes to profound social problems, from crime and welfare dependency to suicide and drug overdoses.*** Overview: • **The current surge of illegal immigration is unprecedented.** Some 2.6 million inadmissible aliens have been released into the country by the administration since January 2021. There have also been 1.5 million “got-aways” — individuals observed entering illegally but not stopped. Visa overstays also seem to have hit a record in FY 2022. • We preliminarily estimate that the illegal immigrant population grew to 12.6 million by May of this year, up 2.4 million since January 2021. Perhaps nine million are now in the labor force. However, additional research is necessary to confirm these estimates. • All prior research, and the limited data on the current surge, indicate **that the overwhelming majority of illegal immigrants have modest education levels.** Based on prior research, some 69 percent of adult illegal immigrants have no education beyond high school, 13 percent have some college, and 18 percent have at least a bachelor’s degree. • **Due to their education levels, they are heavily concentrated in lower-wage, less-skilled jobs such as construction labor, building cleaning and maintenance, food service and preparation, groundskeeping, retail sales, and food processing. However, the vast majority of workers in these jobs are still U.S.-born or legal immigrants. • The notion that illegal immigrants only do jobs American’s don’t want is false.** Even in the two dozen occupations where illegal immigrants are 15 percent or more of all the workers, 5.7 million U.S.-born Americans are employed. • **Though often the focus of illegal immigration debate, farmworkers comprise less than 1 percent of the entire U.S. labor force; and less than 5 percent of all illegal immigrants work is in that relatively small sector.** • There is clear evidence that immigration reduces the wages and employment of some U.S.-born workers, though distinguishing the impact of illegal immigration in particular is difficult. However, it should be pointed out that lower wages can also result in higher profits for employers or lower prices for consumers. • **Illegal immigration has to be understood in the context of the extremely troubling decades-long decline in labor force participation among less-educated U.S.-born men, which coincides with the rapid increase in immigration since the 1960s.** • For example, 96 percent of “prime-age” (25 to 54) U.S.-born men with no more than a high school education were in the labor force in 1960, meaning they were working or at least looking for work. By 2000 it had fallen to 87 percent and by 2023 it was just 82 percent. • Job competition with immigrants, including illegal immigrants, is not the only reason for this decline. However, immigration, including tolerating large scale illegal immigration, has allowed society to ignore the decline and the accompanying social pathologies. Introduction The current surge of illegal immigration raises concerns about the impact on public safety, national security, public coffers, social services, schools, hospitals, and the rule of law. While these things are all certainly important, my testimony will focus specifically on the impact of

Immigration Surveillance Core File. *Updated 8-3-24*

illegal immigration on the U.S. labor market. **Congress set limits on legal immigration and has allocated funds to enforce those limits for good reason. One of these reasons is to protect American workers**, especially those Americans with relatively fewer years of schooling who are most likely to compete with illegal aliens. There is research on the education level of illegal immigrants and the types of jobs they tend to do. This helps to determine, to a large extent, their impact on the U.S. labor market, both in terms of the labor they provide to employers and the potential impact they have on American workers. While having access to illegal immigrant workers may be desirable from the point of view of business owners, there is evidence that illegal immigration reduces the wages and employment of working-class Americans. The Current Surge of Illegal Immigration Border Encounters and Aliens Released. From January 2021 through July 2023 there have been seven million “encounters” at U.S. borders.<sup>1</sup> There has never been a 2.5-year period with this many encounters, which in the past were referred to as “apprehensions”. There are differences between the two terms but, as best I can tell, the current sustained surge is unprecedented. The administrative data that is probably the most relevant to growth in the illegal immigrant population is the number of inadmissible aliens released into the United States. Court records and other information on Department of Homeland Security (DHS) websites indicate that about 2.6 million (possibly 2.7 million) inadmissible aliens have been released into the country since the start of the Biden administration.<sup>2</sup> The decision to release these aliens represents new additions to the illegal immigrant population. Many of those released have pending asylum applications or are parolees. But they are still subject to deportation under the Immigration and Nationality Act and are illegal immigrants. Got-Aways. In addition to those released into the interior of the country, there are so-called “got-aways”. This is defined by DHS as “the number of subjects who, after making an unlawful entry, are not turned back or apprehended”. Between 2011 and 2019, there was some fluctuation, from a low of 86,000 in 2011 to a high of 172,000 in 2013. The number averaged about 128,000 in the three fiscal years before Covid (2017, 2018, and 2019), and was roughly 137,000 in 2020. In 2021, the number more than doubled to 391,000.<sup>3</sup> DHS has not published any newer numbers. However, Fox News has reported that there were 599,000 got-aways in FY 2022.<sup>4</sup> Further, at a May press conference, Secretary Mayorkas seemed to confirm a reporter’s question that there had already been more than 530,000 got-aways in FY 2023 at that time.<sup>5</sup> All told, this indicates that there have been 1.5 million got-aways since the president took office.<sup>6</sup> On an annual basis, the 600,000 got-aways in FY 2022 and 2023 is 4.5 times what they averaged in the first three years of the Trump administration before Covid-19. Visa Overstays. A significant number of new illegal immigrants, and perhaps a majority before the current border surge, were admitted legally on a temporary visa or under the visa waiver program and then did not leave the country when the time limit expired. DHS for FY 2022 showed 850,000 foreign visitors overstayed their authorized stay in that year. The total overstay rate for 2022 was 3.64 percent, which is more than double the rate of recent years. Of course, not all of these individuals stay long term, and there is always some number of people who leave the country but their departure was not properly recorded.<sup>7</sup> Still, the current level of overstays is much higher than in 2021 and the years before Covid-19.<sup>8</sup> Census Bureau Data. Administrative data such as border encounters, aliens released, and gotaways give us a sense of what has been happening. But they do not show how many illegal immigrants actually live in the United States. The Census Bureau collects data on an annual and monthly basis that reports the size of the total foreign-born or immigrant population — individuals who are not U.S. citizens at birth. The bureau’s surveys ask about country of birth, year of arrival in the United States, and if the person is a U.S. citizen. Other information in the surveys such as education, age, sex, and occupation can provide a picture of the labor market impact of immigration. Further, it is well established that illegal immigrants are included in Census Bureau surveys, though some share get missed.<sup>9</sup> Various organizations, including my own, as well as DHS, Pew Research, the Center for Migration Studies, and the Migration Policy Institute have compared administrative data on legal immigration to the total foreign-born population in Census surveys to obtain a baseline estimate of the size and composition of the illegal immigrant population.<sup>10</sup> What the Monthly Census Data Shows. The largest Census Bureau survey that captures the foreignborn population is the American Community Survey (ACS), which is released annually, and reflects the population in July of each year. The most recent ACS available is for 2021, so it is not much help in evaluating the recent illegal surge. However, the monthly Current Population Survey (CPS), which the Census Bureau collects for the Bureau of Labor Statistics, provides the most up-to-date data available, though it is much smaller than the ACS. Because of the way the CPS is weighted, it is not really designed to capture a sudden influx of illegal immigrants. Still, the CPS is released each month so it can provide a look at the foreignborn population, and it does show enormous growth in the foreign-born population in the last two and a half years. Estimating the Illegal Population in 2023. The CPS shows 49.1 million immigrants (legal and illegal) in the country in May of this year, up from 45 million in January of 2021 — an increase of 4.1 million in just 29 months. This increase can be seen as unprecedented.<sup>11</sup> Using administrative data on legal immigration and making reasonable assumptions about outmigration and mortality, we estimate that the post-1980 legal immigrant population in the CPS grew from 28.4 million in January 2021 (our prior estimate), to 30.5 million in May 2023 — a 2.1 million increase.<sup>12</sup> The May 2023 CPS also shows 42.8 million post-1980 immigrants (legal and illegal) in the country.<sup>13</sup> If our estimate of the post-1980 legal population is correct, then there were 12.3 million illegal immigrants in the CPS in May of this year (42.8 million minus 30.5 million).<sup>14</sup> Adjusted for undercount, the total illegal population stood at 12.6 million in May, 2.4 million larger than in January 2021. The growth is certainly a very large increase in such a short time. Moreover, it must be pointed out that all of these figures represent net increases — not the number of newcomers. The number of new arrivals is large but is always offset by outmigration (including deportations), natural mortality, and in the specific case of illegal immigrants, legalizations (e.g., successful asylum applicants and marriage to an American). However, it should also be noted that our January 2021 estimate of 10.2 million represented a low point after Covid. In 2019, we estimate the illegal population was 11.5 million. So relative to the number before Covid, the current total is large but not dramatically so. Further, most research showed decline or stability in the decade prior to Covid (2019) in the number of illegals in the country.<sup>15</sup> Finally, it must again be emphasized that our new estimates are all still only preliminary.<sup>16</sup> Effect on the Labor Force The Educational Level of Illegal Immigrants. Educational

Immigration Surveillance Core File. *Updated 8-3-24*

attainment is a key factor when considering the impact of illegal immigrants on the labor force because it determines what type of jobs they typically do. All prior research indicates that the overwhelming majority of illegal immigrants have modest education levels. Averaging estimates from the Migration Policy Institute (MPI) and the Center for Migration Studies (CMS) indicates that 69 percent of illegal immigrants have no education beyond high school, 13 percent have some college, and 18 percent have at least a bachelor's.<sup>17</sup> Based on the citizenship of individuals encountered at the border and Census Bureau data, I find that new illegal immigrants who arrived during the current surge also have similarly modest levels of education.<sup>18</sup> While some illegal immigrants are well educated, their primary impact on the labor market is to increase the supply of workers with no more than a high school education. *Illegal Immigrants by Occupation*. It is likely that there are now roughly 8.8 million illegal immigrants in the U.S. labor force.<sup>19</sup> Due to their education levels, they are heavily concentrated in lower-wage less-skilled jobs such as construction labor, building cleaning and maintenance, food service and preparation, groundskeeping, retail sales, and food processing. In a 2018 Center for Immigration Studies report, we estimated the illegal share of workers in all 474 occupations as defined by the Department of Commerce using Census Bureau data.<sup>20</sup> Even in the two dozen occupations where illegal immigrants are 15 percent or more of the workers, there are still 5.7 million U.S.-born Americans and 2.2 million legal immigrants employed. The notion that illegal immigrants only do jobs American's don't want is simply false. It is true that most Americans do not face significant job competition from illegal immigrants, because they tend to have more years of schooling or they work in the public sector, where there are relatively few illegal immigrants. But millions of Americans do compete with them for jobs. Those who do face competition from illegal immigrants tend to be the least educated and poorest Americans — U.S.-born and legal immigrant. *Farm Labor*. The need for agricultural labor often dominates the discussion on illegal immigrant workers. **Many people mistakenly assume that most illegal immigrants work on farms, but this has not been true for many decades.** In fact, only about 1 percent of the entire American labor force is employed in agriculture, so it is impossible for farm workers to account for a large share of all illegal immigrant workers. In the aforementioned 2018 Center for Immigration Studies report by myself and two colleagues, we estimated that just 4 percent of all illegal aliens in the labor force were employed in agriculture. Pew Research estimates a similar percentage.<sup>21</sup> Although illegal immigrants make up a significant share of workers in this small sector, only a tiny share of all illegal immigrants are farm workers. The vast majority work in the service, construction, and other sectors discussed above are U.S.-born or legal immigrants. *Evidence that Immigration Reduces Wages*. Despite assertions to the contrary, **there is clear evidence that immigration does reduce the wages and employment of some U.S.-born workers,** though distinguishing the impact of illegal immigration in particular is difficult. In its 2017 magisterial report, the National Academies of Sciences, Engineering, and Medicine reviewed the research on the effects of immigration on the U.S. labor market and cited numerous academic studies showing negative wage impacts from immigration, particularly on the least educated.<sup>22</sup> A 2019 review of over 50 studies by economist Anthony Edo took a more international perspective and again came to the same conclusion. Edo points out that low-skill immigration tends to make low-skill natives the “losers” and high-skill natives the “winners”, with an increase in inequality as one of the consequences.<sup>23</sup> Of course, **lower wages for some Americans can increase** economic opportunities for other workers, and it can also **increase profits** for businesses and lower prices for consumers. **But there is no free lunch; these benefits require that some Americans, typically at the bottom of the labor force, lose out.** *Trump Slowdown May Have Helped Workers*. A report by Karen Zeigler published earlier this year found that the number of new immigrants (legal and illegal) averaged 1.38 million from 2017 to 2019, compared to 1.62 million in 2015 and 1.75 million in 2016. A significant part of this falloff seems to have been a reduction in illegal immigration. We further found that this slowdown coincided with a 3.2 percent increase (inflation adjusted) in median weekly wages for U.S.-born workers without a bachelor's, in contrast to slight declines in the prior four years. Labor force participation also increased during the slowdown much more than it did in the years before the Trump administration.<sup>24</sup> A new study in *Economic Review* finds something similar. It shows that the downturn in immigration during Trump's presidency coincided with an increase in job offers in areas where immigrants had traditionally been settling relative to lower immigration areas. Further, advertised wages grew substantially more in areas that had become more dependent on immigration than lower immigration areas. This lends support to the idea that the slowdown during the Trump administration helped U.S.-born workers.<sup>25</sup> The period 2017 to 2019 represented a real-world test of whether restricting immigration during a good economy would improve things for American workers. There is evidence that the U.S.-born benefited from a reduction in immigration, including less illegal immigration. The Overall Decline in Labor Force Participation. One of the arguments for immigration, including tolerating illegal immigration, is that the low unemployment rate means there are not enough workers. But this ignores the enormous increase in the share of U.S.-born people who are of working age, but not in the labor force. They do not show up as unemployed because they are not actively looking for work. The labor force participation rate is the share of working-age people either working or looking for work. In a report published in August for the Center for Immigration Studies my coauthor and I show that in April 2023, 78 percent of working-age (16 to 64) U.S.-born men of all education levels were in the labor force, down from 83 percent in April 2000, and 89 percent in 1960.<sup>26</sup> If participation returned only to the 2000 level, it would still add 4.8 million men to the labor force. Participation has also declined some for U.S.-born women since it peaked in 2000. If U.S.-born women's participation returned to the level in 2000, it would add 1.7 million more women to the labor force. *Decline in Work Among the Less-Educated*. As already discussed, immigration mainly increases the supply of workers with modest levels of education, and it is precisely such workers who have seen their labor force participation decline the most. For men (16 to 64) with no more than a high school degree, the participation rate declined from 88 percent in 1960 to 77 percent in 2000 to 67 percent in 2019 (preCovid), and it remains at that level as of April of this year. If we

Immigration Surveillance Core File. *Updated 8-3-24*

exclude the young and those who might have retired early and focus only on “prime age” men (25 to 54), who are traditionally the most likely to work, we still find a decline for those with no education beyond high school from near universal participation of 96 percent in 1960 to 87 percent in 2000 to just 82 percent in 2023. For U.S.-born women (25 to 64) with no more than a high school degree, the participation rate declined from 73 percent in 2000 to 67 percent in 2023, which is a little higher than it was in 2019 before Covid, but still quite low relative to the recent past. The overall picture is one of a substantial decline in work among the U.S.-born, that is most pronounced among those who do not have great deal of education. Immigrants, it should be noted, have not experienced the same decline. Has Immigration Caused the Decline in Work? The extent to which immigration reduces the wages of some U.S.-born workers, particularly those with relatively few years of schooling, undermines the incentive to work. The fall-off in immigration in the first three years of the Trump administration certainly coincided with an increase in labor force participation among workers without a bachelor’s degree. A 2019 Center for Immigration Studies analysis of EEOC discrimination cases found numerous instances where immigrants were used to replace U.S.-born workers.<sup>27</sup> Other research finds a negative impact on the employment of young U.S.-born workers, while more than one study has found a negative impact on the employment of Black Americans from immigration.<sup>28</sup> However, it seems certain that many factors have contributed to the decline in labor force participation. Some researchers believe globalization and automation have weakened demand for less-educated labor and caused a long-term decline in wages, making work less attractive.<sup>29</sup> If correct, then tolerating large scale illegal immigration is highly counterproductive since it primarily adds lesseducated workers. Other researchers point to overly generous welfare and disability programs that undermine work.<sup>30</sup> Some research holds that changing expectations about men as providers, including the decline in marriage, has caused them to value work less.<sup>31</sup> There is also evidence that substance abuse, obesity, and criminal records can be causes and effects of the decline in work.<sup>32</sup> Immigration is likely only one of many factors that has reduced the labor force participation of the working-age. But immigration almost certainly has an indirect impact on labor force participation by allowing our society to ignore this problem. Ignoring the Decline in Participation. One of the things most striking about the enormous decline in native labor force participation is how little it is ever discussed, particularly when the need for more workers is mentioned. Our August 2023 report on labor force participation shows that the total number of U.S.-born, working-age (16 to 64) men and women not in the labor force was 44 million in April of 2023, nearly 10 million more than in April 2000.<sup>33</sup> The continued arrival of so many immigrant workers, a large share of whom are illegally in the country, allows policy-makers to ignore this huge deterioration in participation. After all, why worry about all the American-born people not in the labor force when we can simply bring in ever more immigrants to fill jobs? The extensive list of politicians and business groups currently calling for giving work authorization to illegal immigrants in the last two months is but the latest example of how immigration allows opinion leaders to focus on giving more jobs to immigrants to deal with a tight labor market rather than deal with all of the U.S.- born Americans on the economic sidelines.<sup>34</sup> Conclusion Administrative data on border encounters, got-aways, apprehensions, and visa overstays all indicate that illegal immigration has accelerated dramatically since President Biden took office. So often the discussion about the current surge, or illegal immigration in general, is framed in terms of hardships illegal immigrants face or the implications illegal immigration has for crime. But the need to enforce immigration laws exists for many reasons, including to protect American workers, especially those with modest levels of education. These workers already earn the lowest wages and are the most likely to be unemployed or out of the labor force entirely. The overwhelming majority of illegal immigrants have no education beyond high school and primarily compete with the U.S.-born, and legal immigrants, in lower paid occupations that require modest levels of education. Perhaps as important as the direct competition for jobs, is that tolerating so much illegal immigration allows the business community, policy-makers, and the public to ignore the decades-long huge decline in labor force participation — the share of the working-age holding a job or at least looking for one. This decline is especially pronounced among the less-educated U.S.-born men and long predates Covid. There is a near consensus that this dramatic decline is contributing to profound social problems, including crime, social isolation, and so-called deaths of disappear such as drug overdoses and suicides. Dealing with this problem is extremely hard. It will require undertaking the politically difficult task of reforming our welfare and disability programs so that returning to work is emphasized whenever possible. Combating substance abuse and the mental health crisis defy easy solutions, but expanding treatment options is clearly necessary. Re-examining our approach to globalization, including the wisdom of off-shoring so many good-paying factory jobs, should also be considered. **Real wages for the less-educated have declined or stagnated for decades.** Allowing wages to rise must be a big part of the solution.<sup>35</sup> Reducing illegal immigration by enforcing our immigration would help in this regard. Dealing with the decline in labor force participation is so difficult because it is not only an economic problem or even one caused solely by misguided public policy. Fixing it will involve changing norms and reestablishing the importance and value of work. Simply turning to eager immigrants to fill jobs is easy, and it’s why that is what we have generally done in recent years. But we face a clear choice as a country: Either undertake the difficult policy and social reforms needed to address the decline in labor force participation or continue to allow in ever more immigrants to take jobs and then somehow deal with all the social problems that come from having so many working-age people not working.

## Social Services

**High rates of migration are overwhelming social services and aggravating homelessness. Candice Owens explained in 2023 that**

**Caitlin Owens, September 23, 2023,**

**<https://www.axios.com/2023/09/23/housing-crisis-migrant-immigrants-homeless>, Migrant surge makes U.S. housing crisis worse**

**A surge in new migrants is colliding with the U.S.' housing crisis, and even putting a minor dent in the shelter problem is costing state and local governments millions.** Why it matters: **Cities simply don't have enough affordable homes, enough shelters or enough money to help everyone who needs it, straining scarce resources and leaving thousands of people out on the street.** The big picture: Soaring housing costs and the end of some pandemic-era safety nets have fueled an affordable housing shortage, causing homelessness to rise in many cities. **Homelessness in the U.S. had a record spike from 2022 to 2023,** according to a Wall Street Journal analysis. Now, state and local officials are also scrambling to house thousands of migrants arriving from the border. What they're saying: "We need more units. We need to confront the broader housing crisis," New York City Comptroller Brad Lander tells Axios in an interview. "If we can help folks that have been in shelter a long time get housing subsidies, and if we can help asylum seekers get work authorizations ... they won't be competing for the same units," he adds. Zoom in: New York City is legally required to provide shelter to anyone who requests it. The city was caring for nearly 60,000 migrants and asylum seekers at the beginning of September, according to the comptroller's office. **Migrants accounted for more than half of the city's shelter population,** according to a report released this month. It just announced a lease of a World War II-era airfield as an emergency shelter site. **Chicago homeless advocates estimate the city has more than 68,000 unsheltered people,** in addition to nearly 9,500 migrants. City officials tell Axios they expect migrant support efforts to cost more than a quarter of a billion dollars this year. Local advocates say that's more than they've ever seen deployed toward the local homeless population, though a city official told a community meeting this summer that homelessness resources aren't being diverted to aid migrants. "Chicago's severely underfunded homelessness system has led to fighting for scarce resources," the Chicago Coalition for the Homeless says in a statement released to Axios. "We should not be pitting Black and Brown communities against each other. We must and can do better." Denver is grappling with more than 1,300 migrants in dedicated shelters, while others have turned to homeless encampments. **Caring for migrants has cost the city more than \$24 million.** It has also used federal dollars to bus newcomers elsewhere. Massachusetts Gov. Maura Healey estimated the state is spending \$45 million monthly to shelter unsheltered people and migrants. The number of families in state shelters reached a new all-time high of 6,528 last week — nearly half of them in hotels or motels. Washington, D.C., established an office dedicated to migrants in 2022 in an effort to avoid overwhelming its homeless social services.

## Poverty Impacts

### **Poverty kills**

Oshan Jarow explained in 2013 that

Oshan Jarow Jul 14, 2023, Poverty is a major public health crisis. Let's treat it like one, <https://www.vox.com/future-perfect/23792854/poverty-mortality-study-public-health-antipoverty-america-deaths-poor-life-expectancy>, Vox

"We need a whole new scientific agenda on poverty and mortality," said David Brady, a professor of public policy at the University of California Riverside, whose recent co-authored study aims to jump-start that agenda by asking just how many Americans die from poverty each year. It's well established that poverty is bad for your health. But as a public health issue, the US knows less about the direct link between poverty and death than we know about, say, the link between smoking and death. Current estimates suggest smoking kills 480,000 Americans per year. Obesity kills 280,000, and drug overdoses claimed 106,000 American lives in 2021. Together, risk factors and their mortality estimates help motivate public health campaigns and government-funded efforts to save lives. But **how many Americans does poverty actually kill?** The question has received little attention compared to other mortality risks, and meanwhile, poverty remains prevalent across the country. Brady — alongside sociologist Hui Zheng at Ohio State University and Ulrich Kohler, a professor of empirical social research at the University of Potsdam — published their study in April in the Journal of the American Medical Association. Their **results find poverty is America's fourth-leading risk factor for death, behind only heart disease, cancer, and smoking. A single year of poverty, defined relatively in the study as having less than 50 percent of the US median household income, is associated with 183,000 American deaths per year. Being in "cumulative poverty," or 10 years or more of uninterrupted poverty, is associated with 295,000 annual deaths** Amelia Karraker, a health scientist administrator at the National Institute on Aging, explains that research has shown a variety of pathways that connect poverty and mortality. These range from neighborhood amenities and nutrition down to the impacts of stress on the body: **"Being poor is really stressful, which we know from NIH-supported research has implications for what's actually happening in the body at the cellular level, which ultimately impacts health and mortality,"** she said. Crucially, that doesn't mean you'll find "poverty" written as the cause on anyone's death certificate. Risk factors are only correlations that imply an association but not necessarily causation (although new research found that cash transfers to women in low- and middle-income countries cut mortality rates by 20 percent). But proving an association is a necessary step toward deciphering whether poverty might be more than an association. For example, there is an association between the number of Nicolas Cage movies released and the number of people who drown in swimming pools that year. No one is arguing that we should dissuade Cage from releasing films in order to combat drowning. But there is also an association between cigarette smoking and lung cancer. Here, we do believe one causes the other, so we do try and dissuade people from smoking to combat lung cancer deaths. Arguing that poverty is more like the latter elevates the debate from a statistics squabble to one of literal life and death. "We just let all these people die from poverty each year," Brady said. "What motivated me to think about it in comparison to homicide or other causes of death in America is that people would have to agree that poverty is important if it's actually associated with anywhere near this quantity of death." Without a number attached to the relationship, presenting poverty as a serious public health risk falls a little flat. **"Poverty and mortality are tightly correlated"** isn't exactly as galvanizing a message as "poverty kills nearly 200,000 Americans a year." But the key question is what it means to "die from poverty." As a social determinant of health, the government already recognizes a direct line between economic conditions and health outcomes. Physicians are now going a step further, establishing a movement known as anti-poverty medicine that aims not only to identify poverty as a health risk but develop treatments. Attaching a death toll contributes a new data point — perhaps even a rallying point — to illuminate the ties between poverty and death, and just maybe, it will motivate a more urgent anti-poverty agenda on the grounds that it could save lives. Poverty is more than just another mortality risk Measured in relative terms, **poverty in the US is significantly worse than in similarly wealthy countries. Meanwhile, US citizens face a higher mortality rate at almost every age than residents of peer countries, and that disparity is growing.** Even according to the US Census Bureau's supplemental poverty measure (an approach that tries to blend relative methods with absolute ones, while accounting for government programs like SNAP benefits and tax credits), nearly 26 million Americans remained in poverty in 2021. Brady, Zheng, and Kohler analyzed data from 1997–2019, drawing from the Panel

Immigration Surveillance Core File. *Updated 8-3-24*

Study of Income Dynamics and the Cross-National Equivalent File. Since the data ends before the Covid-19 pandemic began, and poverty likely compounded the pandemic's death toll, they believe their findings are conservative. In 2019, being in poverty was 10 times more of a mortality risk than murder, 4.7 times more than firearms, and 2.6 times as deadly as drug overdoses. And poor people die younger than others. Their mortality rates begin diverging from the rest around age 40, reaching a peak disparity near 70, and converging back with the rest around 90. The study used a Cox model, a type of statistical analysis commonly used in medical research to isolate the effects of a given variable (often particular drugs, but in this case, poverty) on how long patients survive. But no matter how you analyze it, singling out annual deaths across an entire country from a fuzzy cause like poverty is a statistical nightmare. It's difficult to imagine how one could untangle all the confounding factors — like the reverse effect of how poor health also affects income — to deliver a plausible number. One of the few previous efforts came from a group of epidemiologists in 2011, who estimated poverty's death toll at 133,000 per year. And while few prior studies aimed to directly estimate deaths attributable to social factors, there is a decades-long history of wrangling statistical complexities to frame poverty as an actual cause of death. Brady cited a famous 1995 paper by sociologists Bruce Link and Jo Phelan, making the case that over and above mere risk factors, social conditions like poverty should be seen as "fundamental causes of disease" that put you at risk of more proximate risks, like heart disease. **Link and Phelan's paper argued that if you break down a fundamental cause of disease into its more tractable causes of death, like breaking the mortality risks of poverty down into a cocktail of heart disease, lung cancer, and drug overdoses, fundamental causes like poverty get ousted from the picture. Treating individual risk factors alone leaves the underlying social condition intact, and it will continue putting people at risk of other risk factors.** Rather than tracing all the different pathways that lead from poverty to mortality and focusing public health-inspired anti-poverty efforts on each one separately, Link and Phelan urged an approach that stays with poverty. "If we wish to alter the effects of these potent determinants of disease, we must do so by directly intervening in ways that change the social conditions themselves," they write. Nearly three decades later, clinicians are putting these ideas into practice. **Physicians are now prescribing anti-poverty as medicine** While the use of social determinants of health as a framework is gaining significant traction among physicians, companies, and even the WHO, Lucy Marcil, a pediatrician and associate director for economic mobility in the Center for the Urban Child and Healthy Family at Boston Medical Center, feels they don't go far enough. She helped coin the idea of anti-poverty medicine in 2021. She explained that "anti-poverty medicine is one step further upstream to the root cause. Social determinants of health are important, but getting someone access to a food pantry doesn't really address why they're hungry in the first place." "I started this work about a decade ago," Marcil told Vox. "At the time, there was a lot of confusion when I would say that I try to get more people tax credits because it helps their health. Now it's pretty well established at most major academic medical centers that trying to alleviate economic inequities is an important part of trying to promote health." **Putting a number on poverty's death count could help build the case for anti-poverty programs embedded within systems of clinical care** (like free tax preparation offered in health care systems that already have the community's trust, an initiative Marcil pioneered). "If I'm able to say to a funder or to a health system, 'Look, it's been published in a reputable journal that there are X number of deaths in our country every year due to poverty,' I have a much stronger case for why they should pay for [anti-poverty] programs," she said. But physicians can only go so far upstream of poverty. Even before the study positioned long-term poverty as a greater mortality risk than obesity or dementia, public health scholars had been arguing that anti-poverty efforts should play a central role in a national agenda for public health. A national anti-poverty agenda for public health Public health campaigns against poverty face a strange and difficult landscape. One thing Americans seem to dislike more than poverty is welfare. Although 82 percent of Americans reported dissatisfaction with efforts to reduce poverty and homelessness in a 2021 Gallup poll, only 40 percent in a 2019 Pew Research Center survey felt the government should provide more aid to those in need. Even after President Joe Biden's temporary expansion to the child tax credit (CTC) nearly cut child poverty in half and showed no signs of fostering welfare dependence among recipients, critics were unmoved. The policy expired at the end of 2021, 3.7 million American children fell back into poverty, and we've yet to see the program return. Meanwhile, as the Atlantic's Derek Thompson writes, "a typical American baby is about 1.8 times more likely to die in her first year than the average infant from a group of similarly rich countries," and child poverty is a major risk factor in all manners of infant mortality. At the federal level, another reason to quantify poverty's death toll could be to add mortality estimates to the cost-benefit analyses that groups like the Congressional Budget Office (CBO) use to score policies and their impacts. Telling Americans that the expanded CTC almost single-handedly reduced child poverty by half hasn't yet proved compelling enough to make the changes permanent. If the CBO were to include in their cost estimates that the expanded CTC would save a certain number of American lives per year, or conversely, that letting it expire would cost a certain number of American deaths, maybe the policy discourse would move more urgently. **Finding strategies to help support policy implementation is crucial because, ultimately, treating poverty as a public health issue will require a stronger welfare state that benefits low-income Americans.** "No country in the history of capitalist democracies has ever accomplished sustainably low poverty without an above-average welfare state," Brady said. "And so until you get serious about expanding the welfare state in all its forms, you're not serious about reducing poverty." Relative to similarly rich countries, the US has high poverty rates, high mortality rates, and a



Immigration Surveillance Core File. *Updated 8-3-24*

confusing welfare state. It has the second largest welfare state in the world if you include things like subsidies for employer-based health insurance, tax-favored retirement accounts, and homeowner subsidies. These mostly benefit those who are already well-off.

## Arms Trafficking TO Mexico

### Arms trafficking TO Mexico now

Zachary Goodwin, 8 Sep 2020, US Hemorrhaging Weapons to Mexico, One at a Time, <https://insightcrime.org/news/analysis/us-mexico-border-hemorrhaging-weapons/#:~:text=A%20recent%20UN%20report%20shows,from%20global%20arms%20trafficking%20trends.>

**A recent UN report shows that traffickers move weapons from the United States to Mexico in small quantities**, even a single firearm at a time, in a divergence from global arms trafficking trends. In its latest report on global firearms trafficking, the United Nations Office on Drugs and Crime (UNODC) noted that seizure data from 2016 and 2017 indicated that **the flow of firearms at the US-Mexico border “appears to occur in smaller individual batches than the general global pattern.”** Exceptionally large seizures — defined as eighteen guns or more — accounted for roughly half of seizures at borders worldwide, whereas seizures of fewer than six firearms accounted for between 60 to 70 percent of all those seized at the US-Mexico border. The largest seizure there was of some 60 weapons. The rest involved fewer than 20 guns, with nearly half of seizures comprising just a single firearm. SEE ALSO: Coverage of US/Mexico Border **This method of smuggling weapons in small, constant shipments is known as “ant trafficking.”** While the individual smugglers appear unaffiliated with a criminal group, the large scale of US-Mexico ant trafficking and evidence that weapons are often bought from a centralized source, then dispersed for transport, indicate that Mexican organized crime groups are involved, according to the report. An examination of US Customs and Border Protection (CBP) news releases from May through July show that **seizures of one to two firearms occurred regularly, primarily at the Yuma, Arizona, and Del Rio, Texas, points of entry and exit.** InSight Crime Analysis

### This results in massive violence in Mexico

Parker Asmann, 31 Aug 2019, Lack of US Gun Control Provokes Record Bloodshed in Mexico, <https://insightcrime.org/news/analysis/lack-us-gun-control-record-bloodshed-mexico/>

**US firearms have flowed into the hands of corrupt security forces and criminal organizations in Mexico for years**, yet the United States is still struggling to stem the tide of deadly weaponry moving across its southern border. Between 2013 and 2018, 70 percent of the 96,036 firearms recovered by Mexican authorities and turned over to the US Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) were traced back to the United States, according to official government data. In 2018 alone, half of the 16,343 firearms recovered in Mexico were manufactured in the United States. **This comes as Mexico**, a country with the third most gun-related deaths in the world, **continues to see historic levels of violence.** In 2017, Mexico suffered its most homicidal year in history since such records started being kept in 1997. The number of killings surged again in 2018, and the country is on pace to reach a record high once more by the end of 2019. **Firepower has also increased.** As of the end of July 2019, Mexico

Immigration Surveillance Core File. *Updated 8-3-24*

Foreign Minister Marcelo Ebrard said that the number of assault weapons and automatic rifles seized at crime scenes in the country has jumped by 122 percent and 63 percent, respectively. In the border city of Tijuana, the San Diego Union-Tribune reported that “nearly every single gun seized by police since 2016 came from the United States,” according to Tijuana’s police chief. The city has become one of the most deadly in the world as rival gangs wage a ruthless war to control sales of synthetic drugs like methamphetamine and fentanyl. **Some experts estimate that more than 210,000 weapons are smuggled across the US-Mexico border each year.** A Market Issue **The problem of US-sourced firearms finding their way into the hands of Mexico’s organized crime groups is a market issue. The United States has a glut of weapons — especially high-powered ones — and lacks strong control mechanisms. At the same time, criminal actors in Mexico are in constant search of such weaponry.** “Criminal actors in Mexico are using weapons to control whatever happens economically in their territory, and to dispute territory between each other,” John Lindsay-Poland, a researcher and activist at Global Exchange, told InSight Crime. “The demand side of the market has not changed, and dynamics on the supply side are really perfect to meet that demand.”

# **Human Trafficking**

## **Surveillance Critical to Reduce Human Trafficking**

### **Use of deep learning in surveillance technologies can reduce trafficking**

Magna Scientia Advanced Research and Reviews, June 2024, Advanced surveillance and detection systems using deep learning to combat human trafficking, [https://www.researchgate.net/publication/381584931\\_Advanced\\_surveillance\\_and\\_detection\\_systems\\_using\\_deep\\_learning\\_to\\_combat\\_human\\_trafficking](https://www.researchgate.net/publication/381584931_Advanced_surveillance_and_detection_systems_using_deep_learning_to_combat_human_trafficking)

Human trafficking remains one of the most heinous crimes, often hidden in plain sight, making it a complex challenge for law enforcement worldwide. **The integration of deep learning into advanced surveillance and detection systems presents a promising frontier in the fight against this global issue. This review article explores the transformative impact of deep learning algorithms on surveillance technologies designed to detect patterns and anomalies indicative of human trafficking activities.** We delve into various case studies where artificial intelligence (AI)-powered surveillance has not only facilitated the identification and rescue of victims but also significantly hindered the operational capabilities of trafficking networks. By analyzing the deployment of these systems in different contexts, this article assesses their effectiveness, the ethical implications of surveillance, the balance between privacy and security, and the future potential for scaling these technologies. Additionally, we explore the collaborative dynamics between AI technology developers and law enforcement agencies, emphasizing the need for a synergistic approach to maximize the impact of these technologies. This review aims to provide a comprehensive understanding of how cutting-edge deep learning applications are becoming crucial tools in the strategic arsenal against human trafficking, offering a beacon of hope for victims and a significant challenge to traffickers.

### **AI surveillance solves child sex-trafficking**

Department of Homeland Security, no date, accessed 7-27, 24, <https://www.dhs.gov/ai/using-ai-to-secure-the-homeland>, Using AI to Secure the Homeland

U.S. Immigration and Customs Enforcement (ICE) uses AI for document analysis, language translation, phone number normalization, and facial recognition in certain investigations. **Facial recognition helps ICE's Homeland Security Investigations identify and rescue victims of child sexual exploitation (CSE). The use of facial recognition at ICE has led to arrests of suspected CSE perpetrators and the rescue of victims in previously cold cases.**

## **Southern Border Sex Trafficking Crisis**

### **Massive sex trafficking crisis at the southern border**

Walters, 2023, July 27, Senior Research Associate, Richard and Helen DeVos Center; Emma is a Senior Research Associate in the Richard and Helen DeVos Center for Life, Religion, and Family at The Heritage Foundation, U.S. Is a Top Destination for Child Sex Trafficking, and It's Happening in Your Community, [https://www.heritage.org/crime-and-justice/commentary/us-top-destination-child-sex-trafficking-and-its-happening-your#:~:text=%E2%80%9CIn%202018%2C%20over%20half%20\(%2C%20pornography%2C%20and%20broken%20families](https://www.heritage.org/crime-and-justice/commentary/us-top-destination-child-sex-trafficking-and-its-happening-your#:~:text=%E2%80%9CIn%202018%2C%20over%20half%20(%2C%20pornography%2C%20and%20broken%20families) Emma is a Senior Research Associate in the Richard and Helen DeVos Center for Life, Religion, and Family at The Heritage Foundation.

**The crisis at the southern border is directly linked to an increase in child trafficking in the United States.** In April, a whistleblower told Congress' House Judiciary Committee that the "United States federal government has become the 'middleman' in a multibillion-dollar human trafficking operation targeting unaccompanied minors at the southern border." In May, **U.S. Customs and Border Protection encountered an average of 435 unaccompanied minors per day. One study suggests that drug cartels and traffickers will exploit 60% of these children in prostitution, forced labor, and child pornography. To make matters worse, in June alone, the Biden administration released 344 kids to non-related adults in the U.S.—most of whom already had multiple children in their care. These children are prime targets for traffickers—for sex or labor.** Notably, half of U.S. Immigration and Customs Enforcement's "most wanted" criminals for child trafficking are from Mexico.

### **Border security critical to reduce human trafficking; every instance must be stopped**

Slavery is alive and well today all across the world, and it comes in the form of human trafficking. January is National Human Trafficking Awareness Month. **Human trafficking is today's form of slavery as men, women, and children are recruited and exploited by being forced into labor against their will. There are many forms of trafficking, most notably forced sex exploitation, as well as domestic servitude, and factory and agricultural work.** Victims of human trafficking experience physical and psychological abuse while being isolated from the world. It's a tool their captors use to control them. **Every form of human trafficking is an atrocity, and every victim deserves to be rescued,** rehabilitated, and cared for. **One way in which the United States can help curb human trafficking is improving border security.** In the U.S., immigrants, especially **immigrant women, make up the largest portion of trafficking victims.** The Department of State estimates that in 2016, 57,700 victims had been trafficked into the U.S. annually. The true number is likely much larger and impossible to determine. In fiscal year 2021, there were nearly 2 million migrant apprehensions along the U.S.-Mexico border, and that number only accounts for the people encountered by border agents. More than 400,000 more migrants eluded apprehension and are counted among the "got-aways." Last year also met another unfortunate record—**147,000 unaccompanied migrant children entered into the U.S.,** 122,000 were taken into the U.S. custody, the previous record being 69,000. While some minors make it into the country with information on family members they have in the U.S., others end up in the foster system. According to the Department of State, a large number of child sex trafficking survivors in the U.S. were at one time in the foster care system. **Being an immigrant places these children at a higher risk since they tend to have lower levels of education, an inability to speak English, and a lack of family and friends.** **Sophisticated transnational syndicates are notorious for using children to get single, adult**

Immigration Surveillance Core File. *Updated 8-3-24*

**males not just across the border, but through Border Patrol processing. Once these men are granted a stay, they smuggle the children back across the border where they will continue to be trafficked.** Studies done by the Latin American branch of the Coalition Against Trafficking In Women estimates that **60% of Latin American children who set out to cross the border alone or with smugglers have been caught by the cartels and are being abused in child pornography or drug trafficking.** In 2019, **the Department of Homeland Security, under the Trump Administration, launched a pilot program that allowed for ICE to DNA test families that were deemed suspicious of fraudulent activity. This program was designed to help prevent minors from being trafficked or recycled, and it resulted in criminal charges for the adults exploiting them.** Yet **this program was met with great disdain by activist groups and lawmakers and is not being used by the current administration.** **Under the Biden administration, human traffickers are busier than ever, expediting the flow of migrants across the southern border.** The president has made it abundantly clear that his administration does not wish to stop illegal immigration, nor does it wish to enable necessary enforcement of the immigration laws that are on the books. It is factors such as these that drive large numbers of people to surge the border, overwhelming federal and local agencies and—most importantly—risking the lives of millions. With the Border Patrol overwhelmed by the large number of migrants to process, they are being compelled to get people through as quickly as possible, leading to a less rigorous vetting process. It is unknown how many victims of human trafficking have been smuggled across the border to date, but it is clear that scandalously loose border policies and inadequate federal resources incentivize innocent people to put themselves at the mercy of human smugglers, fueling human trafficking in the United States. Human trafficking must be a fight that Americans work together to combat relentlessly, across party lines. In the U.S., **almost no group is more vulnerable to falling victim than migrants recently arriving, specifically children who have no legal guardian.** The U.S. must work towards restricting human trafficking by securing and maintaining its borders. Customs and Border Protection personnel should be given every tool at their disposal to intercept and stop human trafficking efforts, both at and between ports of entry.

## **Child Sex Trafficking -- Extent**

### **Sex trafficking of minors increasing**

**Cammack, 8-30, 22**, Rep. Kat Cammack serves Florida's Third Congressional District. She sits on the Agriculture Committee and Homeland Security Committee as the lead Republican on the Subcommittee for Emergency Preparedness, Response, and Recovery., The Human Trafficking Crisis At The Border Is Coming To Your Hometown, <https://cammack.house.gov/media/in-the-news/human-trafficking-crisis-border-coming-your-hometown#:~:text=And%20tragically%2C%20children%20making%20the,child%20pornography%20and%20drug%20trafficking.>

### **Hundreds of thousands of migrants are crossing into our country illegally every day, and our border has never been less secure.**

When Biden announced changes to the policies at our border soon after taking office, millions of migrants flooded our borders to take advantage of the lax rules, entering and disappearing without a trace. Others have attempted to enter the U.S. with ill-intentions, engaging in criminal activity both along the border and inside the country. Particularly, **human trafficking has become one of the largest issues facing our border security, with men, women, and children being exploited and forced into labor against their** will. Considered the modern form of slavery, human trafficking has become one of the world's most lucrative businesses, bringing in an estimated \$150 billion annually for evil predators. Over the last year and a half under the Biden administration, human traffickers at the border have been busier than ever since the president practically hung a "Welcome" sign on our country's front door. This administration has made it abundantly clear they have no intention of enforcing the immigration laws currently on the books, as proven by their destructive policies. In fact, one of the first actions the administration took back in February of 2021 was reinstating "catch-and-release," the policy that requires the Department of Homeland Security (DHS) to release unprocessed migrants into the United States while awaiting their court hearings. Additionally, Democrats' repeated attempts to end Title 42, along with the Supreme Court's recent ruling that ended the Trump administration's "Remain in Mexico" policy, have left CBP agents' toolboxes almost empty. Without these necessary policies, our CBP agents have no ability to control the influx of migrants at the border or properly check the backgrounds of those entering the country. The number of crossings along the southern border has reached new, historic highs for each month that has passed since Joe Biden took office; in June of this year, U.S. border authorities processed immigrants over 1.7 million times in this fiscal year, by and large passing the previous record set in 2021 despite there still being six months left in 2022. These historic highs mean that the number of trafficked persons is rising as well, especially considering that in 2021 alone, more than 400,000 migrants evaded apprehension, being counted among the "got-aways" at the border. Just recently, it was revealed in the June 2022 border statistics issued by U.S. Customs and Border Protection (CBP) that encounters of unaccompanied children increased 4 percent from May, with the average number of unaccompanied minors taken into CBP custody averaging 752 per day. And tragically, children making the journey across the border alone are most vulnerable to traffickers—a study predicts nearly 60 percent of unaccompanied minors crossing the border have been caught by cartels and are being forced into child pornography and drug trafficking. Over my five trips to the border, **I have seen children as young as two months old being smuggled by coyotes across the Rio Grande. On my first trip to McAllen, Texas in 2021, I met a little girl who couldn't speak because her vocal cords had been severely damaged by gang members who sexually abused her.**

### **152,000 minors vulnerable to sex trafficking**

**House Homeland Security Committee, 9-14, 2023, "THE BORDER IS OPEN": BORDER PATROL WIFE, CHILD TRAFFICKING EXPERT, FENTANYL MOM TESTIFY ON HUMAN COST OF BORDER CRISIS**, <https://homeland.house.gov/2023/09/14/the-border-is-open-border-patrol-wife-child-trafficking-expert-fentanyl-mom-testify-on-human-cost-of-border-crisis/>

**"As you mentioned in your testimony, in 2022 alone immigration authorities encountered 152,000 unaccompanied minors, an all-time high. Many of these children who enter the U.S.**



**illegally will be put at risk of sexual exploitation.** In fact, it's estimated that **72% of those trafficked in the U.S. are immigrants.**

## **Child Sex-Trafficking Impacts**

### **Children can be sold 10X a day**

**House Homeland Security Committee, 9-14, 2023, "THE BORDER IS OPEN": BORDER PATROL WIFE, CHILD TRAFFICKING EXPERT, FENTANYL MOM TESTIFY ON HUMAN COST OF BORDER CRISIS, <https://homeland.house.gov/2023/09/14/the-border-is-open-border-patrol-wife-child-trafficking-expert-fentanyl-mom-testify-on-human-cost-of-border-crisis/>**

Today, the House Committee on Homeland Security, led by Chairman Mark E. Green, MD (R-TN), held a full committee hearing to examine the human cost of Homeland Security Secretary Alejandro Mayorkas and President Biden's historic crisis at the Southwest border. **Tim Ballard, a former special agent for the Department of Homeland Security in the Internet Crimes Against Children (ICAC) Task Force**; Sandy Snodgrass, a mother who lost her son to fentanyl poisoning and the founder of Alaska Fentanyl Response; and Mayra Cantu, the wife of a Border Patrol agent, provided hard-hitting and heart-wrenching testimony about the effects of the border crisis on their personal and professional lives. Lee Gelernt, deputy director of the American Civil Liberties Union (ACLU) Immigrants' Rights Project, also provided testimony. This hearing was part of the Committee's five-phase investigation into the unprecedented crisis at the Southwest border and President Biden and Secretary Mayorkas' reckless open-border policies. Watch the full hearing here. Mr. Ballard **highlighted** his experience in combating international child exploitation in his opening statement: "The horrors a child faces as a victim of human trafficking demand that we take action. **A child can be sold up to 20 times per day, six days a week for ten years or even longer depending on when the abuse began...Poor U.S. border security and broken U.S. policy are feeding the growth of human trafficking in the United States...Tragically, as a result of this administration's reckless policies, DHS and HHS have unwittingly become a child trafficking delivery service. This must stop.**"

### **And it's not just physical abuse, but also pornography**

Walters, 2023, July 27, Senior Research Associate, Richard and Helen DeVos Center; Emma is a Senior Research Associate in the Richard and Helen DeVos Center for Life, Religion, and Family at The Heritage Foundation, U.S. Is a Top Destination for Child Sex Trafficking, and It's Happening in Your Community, [https://www.heritage.org/crime-and-justice/commentary/us-top-destination-child-sex-trafficking-and-its-happening-your#:~:text=%E2%80%9CIn%202018%2C%20over%20half%20\(,%2C%20pornography%2C%20and%20broken%20families](https://www.heritage.org/crime-and-justice/commentary/us-top-destination-child-sex-trafficking-and-its-happening-your#:~:text=%E2%80%9CIn%202018%2C%20over%20half%20(,%2C%20pornography%2C%20and%20broken%20families) Emma is a Senior Research Associate in the Richard and Helen DeVos Center for Life, Religion, and Family at The Heritage Foundation.

**Child traffickers also frequently use minors to produce pornography. This creates a double harm: Not only are children sexually abused, but videos of their abuse are uploaded to major pornography websites like Pornhub, and their abuse is played over and over again.** This is one area where public outrage and action have made progress. After a series of articles exposing Pornhub's hosting of child pornography, the website deleted 80% of its content overnight—about 10 million videos. And Discover, Mastercard, and Visa immediately cut ties with the site.



## **Disease**

## **Answers to: Disease Risks Empirically Denied**

### **Wrong – Covid**

#### **New disease risks emerging**

Rivers, 7-2, 24, CAITLIN RIVERS is Director of the Center for Outbreak Response Innovation and an Associate Professor at the Johns Hopkins Center for Health Security. From 2021 to 2022, she served as founding Associate Director of the Center for Forecasting and Outbreak Analytics at the Centers for Disease Control and Prevention. She is the author of the forthcoming book *Crisis Averted.*, <https://www.foreignaffairs.com/united-states/america-still-not-ready-next-outbreak>

With the acute phase of the COVID-19 pandemic barely in the rearview mirror, **already a new round of public health threats is facing doctors and epidemiologists. In March, the U.S. Department of Agriculture confirmed that avian influenza A, also known H5N1 and bird flu, had made the leap from wild birds to dairy cattle. The virus has been detected in at least 129 herds across 12 states.** Inactivated virus has been found in some 20 percent of commercial milk samples, suggesting that even more herds may be affected. A survey of wastewater data hints at the same conclusion. **Already, three dairy workers, two in Michigan and one in Texas, have been confirmed as infected.** Thankfully, unlike in previous outbreaks—when approximately half the people infected with H5N1 died—these workers’ illnesses were mild. **At the same time, a new outbreak of mpox is alarming epidemiologists in the Democratic Republic of the Congo.** Although the 2022 outbreak in the United States was primarily spread through the sexual networks of gay men, the current outbreak in the DRC seems to be spreading through contact between household members and between heterosexual partners. **This is especially concerning because the strain of the virus involved is more deadly than the one that fueled the 2022 outbreak, with an estimated case fatality risk of five to ten percent.** Although neither of these events is dangerous to the American public right now, the future remains opaque.

## Surveillance Critical to Stop Disease Outbreaks

### US engages in cooperative disease border surveillance know

Center for Disease Control, February 20, 2024, <https://www.cdc.gov/migration-border-health/php/bids-program/index.html>, Binational Border Infectious Disease Surveillance Program

Binational Border Infectious Disease Surveillance Program **The Binational Border Infectious Disease Surveillance (BIDS) program works with U.S. states on the U.S.-Mexico border to improve binational detection, reporting, and prevention of infectious diseases.** About BIDS **The BIDS program is coordinated by CDC Division of Global Migration Health's (DGMH) Southern Border Health and Migration**

**Branch.** BIDS partners with the U.S.-Mexico Border Health Commission, an international leadership organization committed to improving health and quality of life along the U.S.-Mexico border. In alignment with the Global Health Security Agenda, BIDS projects address a wide range of priority diseases including COVID-19, influenza, tuberculosis, and vector-borne and foodborne diseases. BIDS program goals Improve surveillance for infectious diseases of binational importance Develop strategies to control infectious diseases in the border regionA and advance health equity for populations experiencing disparities Strengthen implementation of the Operational Protocol for Binational Communication and Coordination on Disease Notifications and Outbreaks for bilateral infectious disease preparedness and response Funding recipients CDC DGMH provides funding to state public health agencies to address unique epidemiologic and disease detection and control needs of the diverse and dynamic border region. Projects involve local health agencies and other key partners. CDC provides technical assistance to funding recipients and facilitates coordination with the Mexico Ministry of Health. 2020–2024 Funding Recipients: Map of the United States southern border states, California, Arizona, New Mexico, and Texas, and their border counties. BIDS officers are located in San Diego County and Imperial County in California; in Phoenix, Arizona; Doña Ana, New Mexico. Texas has three BIDS sites, located in three different public health regions: El Paso County in Public Health Region 9/10, Maverick County in Public Health Region 8, and in Cameron County in Public Health Region 11. BIDS Program officers are located in each southern border state. BIDS activities **BIDS partners implement and enhance surveillance, communication,**

**preparedness, and interventions to identify, report, and respond to binational disease cases**

**and outbreaks.** Surveillance **BIDS partners tailor surveillance activities to local disease control**

**priorities and may also conduct special projects to inform surveillance needs.** Examples include: Enhancing surveillance systems to identify binational cases Surveillance for respiratory illnesses, including influenza and COVID-19, in border communities and border-crossing populations Conducting surveys at land ports of entry to understand border crossers' mobility patterns, knowledge, attitudes, and practices related to infectious diseases Investigation of binational contacts for tuberculosis cases in Imperial County, California, and Mexicali, Baja California, Mexico Communication and Preparedness The BIDS program promotes systematic communication among partners and preparedness for infectious disease outbreaks. These activities prepare BIDS partners to detect and respond to illnesses and events of binational significance. Examples include: Creation and adoption of the: Technical Guidelines for United States-Mexico Coordination on Public Health Events of Mutual Interest Operational Protocol for Binational Communication and Coordination on Disease Notifications and Outbreaks Infectious Disease Prioritization for Multijurisdictional Engagement at the United States Southern Border Region Coordination and facilitation of public health preparedness exercises to build binational partnerships with Mexico and test communication pathways. BIDS past to present U.S. and Mexican federal and border state health authorities have been collaborating since 1999 to detect and monitor infectious diseases along the U.S.-Mexico border. Since then, the BIDS program has evolved to address changing epidemiologic and preparedness priorities. To learn more about how BIDS started, read the U.S.-Mexico Border Infectious Disease Surveillance Project: Establishing Binational Border Surveillance (2003)

### Surveillance critical to stop disease outbreaks

World Health Organization, June 24, 2022, <https://www.who.int/emergencies/surveillance>, Surveillance in Emergencies

**Public health surveillance is the continuous, systematic collection, analysis and interpretation of health-related data. Disease surveillance data: serves as an early warning system for impending outbreaks that could become public health emergencies; enables monitoring and evaluation of the impact of an intervention, helps track progress towards specified goals; and** monitors and clarifies the epidemiology of health problems, guiding priority-setting and planning and evaluation public health policy and strategies. **Humanitarian emergencies increase the risk of transmission of infectious diseases and other health conditions such as severe malnutrition. An effective disease surveillance system is essential to detecting disease outbreaks quickly before they spread, cost lives and become difficult to control. Effective surveillance can improve disease outbreak detection in emergency settings, such as in countries in conflict or following a natural disaster.**

## This includes electronic surveillance

Anjaria, 2023, Pranav Anjaria,<sup>1</sup> Varun Asediya,<sup>1</sup> Prakrutik Bhavsar,<sup>1</sup> Abhishek Pathak,<sup>2</sup> Dhruv Desai,<sup>3,\*</sup> and Veerupaxagouda Patil<sup>4,,</sup> Anjaria -- <sup>1</sup>College of Veterinary Science and Animal Husbandry, Kamdhenu University, Anand 388001, Gujarat, India, Artificial Intelligence in Public Health: Revolutionizing Epidemiological Surveillance for Pandemic Preparedness and Equitable Vaccine Access, [https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10383160/#:~:text=Artificial%20Intelligence%20\(AI\)%2Dbased,and%20news%20articles%20%5B1%5D](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10383160/#:~:text=Artificial%20Intelligence%20(AI)%2Dbased,and%20news%20articles%20%5B1%5D).

**Epidemiological surveillance involves systematic gathering, analysis, interpretation, and sharing of health data, with the goal of preventing and controlling diseases.** Artificial Intelligence **(AI)-based epidemiological surveillance is a promising approach to detecting, monitoring, and predicting the spread of diseases that employs AI technologies to analyze data from multiple sources, such as electronic health records, social media, and news articles** [1]. By identifying real-time trends, these systems provide relevant insights to health officials, enabling disease outbreak responses that effectively protect public health. AI offers a significant advantage over traditional disease surveillance methods due to its ability to predict future outbreaks, empowering public health officials to take proactive and preventive measures at an early stage. **Moreover, AI-based systems dynamically learn from new data, continuously improving their predictive accuracy [2], thereby enhancing the effectiveness of disease surveillance. This adaptive learning capability means that AI systems are superior to traditional methods, which are more static and lack the sensitivity required to accurately forecast outbreaks and identify emerging diseases.**

## Surveillance used to detect disease at the border

Mitchell et al, 5-29, 24, Cedar L. Mitchell, PhD<sup>1,2,3</sup>; Audrey Kennar, MSPH<sup>1,4,5</sup>; Yvonne Vasquez<sup>6</sup>; Kaitlyn Noris<sup>2</sup>; Thomas Williamson, MPH<sup>3</sup>; Andrea Mannell, MPH<sup>2</sup>; Anissa Taylor, MPH<sup>2</sup>; Irene Ruberto, PhD<sup>3</sup>; Theresa A. Cullen, MD<sup>2</sup>; Mariana Singletary, MD<sup>2</sup>; Seema Shah, MD<sup>5</sup>; Hector Ocaranza, MD<sup>6</sup>; Alfonso Rodriguez Lainz, PhD, DVM<sup>4</sup>; Kimberly E. Mace, PhD<sup>7</sup>, : Increases in Imported Malaria Cases — Three Southern U.S. Border Jurisdictions, 2023, CDC Logo Morbidity and Mortality Weekly Report (MMWR), Notes from the Field: Increases in Imported Malaria Cases — Three Southern U.S. Border Jurisdictions, 2023 | MMWR (cdc.gov)

Summary What is already known about this topic? **Approximately 2,000 malaria cases are imported into the United States annually,** mostly among U.S. residents with recent travel to areas with endemic malaria. What is added by this report? **In 2023, reports of imported malaria in three U.S. southern border jurisdictions increased from cases reported in 2022.** Enhanced case investigations documenting traveler residency indicated higher percentages of malaria infections among new arrivals to the United States who traveled through at least one country with endemic malaria, including crossing land borders. What are the implications for public health practice? Outreach and education about malaria should be provided to local health care professionals and new arrivals, including migrants, with travel through areas with endemic malaria, to facilitate identification of cases, initiation of prompt treatment, and reduction in morbidity. Introduction Malaria is a severe and potentially fatal mosquito-borne disease caused by infection with *Plasmodium* spp. parasites. Although malaria is no longer endemic in the United States, imported infections are reported annually; the primary risk group has been U.S.

Immigration Surveillance Core File. *Updated 8-3-24*

residents traveling to areas where malaria is endemic (1). In 2023, sporadic locally acquired mosquito-transmitted malaria cases were reported in several U.S. states (2,3). This report describes increases in imported malaria cases in 2023 compared with 2022 in three public health jurisdictions along the U.S. southern border. Top Investigation and Outcomes **During January–December 2023, a total of 68 imported malaria cases were identified from reportable disease surveillance systems in Pima, Arizona** (18), San Diego, California (27), and El Paso, Texas (23), compared with 28 cases in 2022 (three in Pima, 12 in San Diego, and 13 in El Paso) (Table). Because malaria case counts were higher than expected, enhanced case investigations were initiated. **Malaria cases were defined according to CDC case definitions.\* To describe imported malaria cases in these three jurisdictions, this report summarized patient travel and illness characteristics by U.S. residence status. New arrivals were non–U.S.-born persons who had arrived in the United States within the preceding 6 months and were classified into the following three subgroups: 1) newly arrived refugees (i.e., officially admitted to the United States as part of the U.S. Refugee Admissions Program), 2) other new arrivals (including asylum seekers and other migrants), and 3) persons whose immigration status was unknown.** Among jurisdictions, differences were identified in epidemiologic investigation protocols for patients without a local address and whether they were included in local surveillance case counts. This activity was reviewed by CDC, deemed not research, and was conducted consistent with applicable federal law and CDC policy.† Among the 68 imported malaria cases identified in 2023, 15 (22%) occurred among U.S. residents, two (3%) among newly arrived refugees, 49 (72%) among other newly arrived migrants (i.e., asylum seekers and other migrants), and two (3%) among travelers with unknown immigration status. The local public health jurisdictions attempted an interview with 61 (90%) patients. Among the 68 patients with malaria, 33 (49%) met residence criteria for inclusion in local surveillance case counts (i.e., the 15 U.S. residents, two newly arrived refugees, and 16 [33%] of the 49 other newly arrived migrants). The U.S. residents and refugees traveled directly from another country with endemic malaria to the United States. Among the 49 other newly arrived migrants, 46 (94%) had traveled through one or more countries with endemic malaria, including the country of origin (complex travel). The median travel duration was 29 days (range = 8–85 days), and 36 (73%) persons reported having traversed land borders. Overall, 63 (91%) patients with malaria were hospitalized; no deaths were reported. Nearly one third (21; 31%) of patients with malaria experienced severe disease (1), of which *Plasmodium vivax* was reported among 11 (52%), *P. falciparum* among six (29%), and another or unknown *Plasmodium* spp. parasite among four patients. Severe malaria was more common among other newly arrived migrants (18 of 49; 37%) than among U.S. residents (one of 15; 7%). Top Preliminary Conclusions and Actions Imported malaria in three U.S. southern border jurisdictions increased in 2023, particularly among new arrivals to the United States with recent, complex transit through at least one country with endemic malaria. During the same period, entry of asylum seekers and other migrants into the United States across the southern land border increased.§ In light of the different jurisdictional protocols used in case investigations, implementation of classifications and consistent investigation and reporting protocols for non-U.S. residents could facilitate better characterization of malaria incidence among new arrival subgroups in different jurisdictions.¶ **New arrivals to the United States with complex travel through areas with endemic malaria are potentially at higher risk for malaria and, for reasons not fully understood, for more severe illness.** Health care professionals should obtain a complete travel history, consider malaria among symptomatic patients with recent travel through areas where malaria is endemic, and initiate prompt testing and, if indicated, treatment.\*\* Outreach and education about malaria directed to local health care professionals and to new arrivals with recent travel in areas with endemic malaria are crucial because prompt care seeking, diagnosis, and treatment of malaria will reduce morbidity in this population.

## Biometric data important for vaccine verification among other things

**McKenna 23** [Paula Mc Kenna, 1-17-2023, "Digital health technology used in emergency large-scale vaccination campaigns in low- and middle-income countries: a narrative review for improved pandemic preparedness," Taylor & Francis, <https://www.tandfonline.com/doi/full/10.1080/14760584.2023.2184091>]

Many people worldwide, especially those living in LMICs, lack an official proof of identity [Citation63]. **For vaccine delivery, it is critical to reliably verify the identity of the individuals to avoid inaccurate vaccine tracking and delivery and to reduce duplicate medical records and record falsification** [Citation64, Citation65]. Digital health tools help provide



Immigration Surveillance Core File. *Updated 8-3-24*

reliable identification in a safe way in a large-scale vaccination campaign in emergency settings. **Biometrics are commonly used for identification with various technologies developed and implemented to identify individuals using fingerprints, iris, face, and voice recognition** [Citation66]. Based upon the **learnings from recent Ebola outbreaks, it is important that biometric tools can be contactless, like iris scanning or facial recognition** [Citation27]. In the case of highly transmissible infectious pathogens, fingerprinting can represent a risk of transmission and may require additional hygiene measures to reduce this risk [Citation67]. **Numerous biometric-based identification methods exist and could be integrated into a tool for a vaccine campaign.** Several tools used for vaccination campaigns (e.g. Vxnaid [Citation27], Simprints [Citation49], Open-source Smart Register Platform [OpenSRP] FHIR Core [Citation45,Citation46], Co-WIN [Citation36]) employ biometric identification based on iris scanning, fingerprint scanning, or facial recognition to identify unique individuals. VaxiGlobal supports biometrics via Simprints [Citation51], highlighting the benefit of interoperability between the identified tools. If biometric identification is not possible, alternative identification modalities can include the manual entry of a unique identifier, QR/barcode scanning of a person's campaign card or voucher supported by some tools (e.g. DHIS2 COVID-19 [Citation34], Vxnaid [Citation27,Citation53], OpenSRP FHIRCore [Citation45,Citation46], mVacciNation [Citation44]). DHIS2 COVID-19 sends unique SMS codes to registered mobile phone numbers to verify persons for vaccination [Citation34]. The Oracle Health Management System [Citation26], developed by Oracle in collaboration with the Tony Blair Institute, AfriDoctor [Citation28], Simprints [Citation49], and Vaxiglobal [Citation51] can link identified vaccinees with their health records. The Oracle Health Management System creates an electronic health record in a cloud database for every person vaccinated, highlighting the usefulness of a cloud-based tool [Citation26]. Digital health records are beyond the scope of the present review, although they provide an opportunity for sustainable use of health information.

## Disease Impacts

**Diseases cause extinction --- existential outbreaks are structurally inevitable ---**  
COVID was the first warning shot.

**Excler et al. 21** – Jean-Louis Excler, International Vaccine Institute, Seoul, Republic of Korea; Melanie Saville, Coalition for Epidemic Preparedness Innovations (CEPI), London, UK; Seth Berkley, Gavi, the Vaccine Alliance, Geneva, Switzerland; Jerome H. Kim, International Vaccine Institute, Seoul, Republic of Korea

Jean-Louis Excler, Melanie Saville, Seth Berkley, and Jerome H. Kim, "Vaccine development for emerging infectious diseases," *Nat Med* 27, 591–600, 4-12-2021, <https://www.nature.com/articles/s41591-021-01301-0>

**Newly emerging and reemerging infectious viral diseases have threatened humanity throughout history. Several interlaced and synergistic factors including demographic trends and high-density urbanization, modernization favoring high mobility of people by all modes of transportation, large gatherings, altered human behaviors, environmental changes with modification of ecosystems and inadequate global public health mechanisms have accelerated both the emergence and spread of animal viruses as existential human threats. In 1918, at the time of the 'Spanish flu', the world population was estimated at 1.8 billion. It is projected to reach 9.9 billion by 2050, an increase of more than 25% from the current 2020 population of 7.8 billion (<https://www.worldometers.info>). The novel severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) responsible for the coronavirus disease 2019 (COVID-19) pandemic<sup>1,2,3</sup> engulfed the entire world in less than 6 months, with high mortality in the elderly and those with associated comorbidities. The pandemic has severely disrupted the world economy. Short of lockdowns, the only means of control have been limited to series of mitigation measures such as self-distancing, wearing masks, travel restrictions and avoiding gatherings, all imperfect and constraining. Now with more than 100 million people infected and more than 2 million deaths, it seems that the addition of vaccine(s) to existing countermeasures holds the best hope for pandemic control. Taken together, these reasons compel researchers and policymakers to be vigilant, reexamine the approach to surveillance and management of emerging infectious disease threats, and revisit global mechanisms for the control of pandemic disease<sup>4,5</sup>.**

Emerging and reemerging infectious diseases

The appearance of new infectious diseases has been recognized for millennia, well before the discovery of causative infectious agents. Despite advances in development of countermeasures (diagnostics, therapeutics and vaccines), world travel and increased global interdependence have added layers of complexity to containing these infectious diseases. Emerging infectious diseases (EIDs) are threats to human health and global stability<sup>6,7</sup>. A review of emerging pandemic diseases throughout history offers a perspective on the emergence and characteristics of coronavirus epidemics, with emphasis on the SARS-CoV-2 pandemic<sup>8,9</sup>. As human societies grow in size and complexity, an endless variety of opportunities is created for infectious agents to emerge into the unfilled ecologic niches we continue to create. To illustrate this constant vulnerability of populations to emerging and reemerging pathogens and their respective risks to rapidly evolve into devastating outbreaks and pandemics, a partial list of emerging viral infectious diseases that occurred between 1900 and 2020 is shown in Table 1.

[[Figure Omitted]]

Although nonemerging infectious diseases (not listed in Table 1), two other major mosquito-borne viral infections are yellow fever and dengue. Yellow fever, known for centuries and an Aedes mosquito-borne disease, is endemic in more than 40 countries across Africa and South America. Since 2016, several yellow fever outbreaks have occurred in Angola, Democratic Republic of Congo, Nigeria and Brazil to cite a few<sup>10</sup>, raising major concerns about the adequacy of yellow fever vaccine supply. Four live attenuated vaccines derived from the live attenuated yellow fever strain (17D)<sup>11</sup> and prequalified by the WHO (World Health Organization) are available<sup>12</sup>.

## Immigration Surveillance Core File. Updated 8-3-24

Dengue is an increasing global public health threat with the four dengue virus types (DENV1–4) now cocirculating in most dengue endemic areas. Population growth, an expansion of areas hospitable for *Aedes* mosquito species and the ease of travel have all contributed to a steady rise in dengue infections and disease. Dengue is common in more than 100 countries around the world. Each year, up to 400 million people acquire dengue. Approximately 100 million people get sick from infection, and 22,000 die from severe dengue. Most seriously affected by outbreaks are the Americas, South/Southeast Asia and the Western Pacific; Asia represents ~70% of the global burden of disease (<https://www.cdc.gov/dengue>). Several vaccines have been developed<sup>13</sup>. A single dengue vaccine, Sanofi Pasteur's Dengvaxia based on the yellow fever 17D backbone, has been licensed in 20 countries, but uptake has been poor. A safety signal in dengue-seronegative vaccine recipients stimulated an international review of the vaccine performance profile, new WHO recommendations for use and controversy in the Philippines involving the government, regulatory agencies, Sanofi Pasteur, clinicians responsible for testing and administering the vaccine, and the parents of vaccinated children<sup>14</sup>.

Two bacterial diseases, old scourges of humanity, are endemic and responsible for recurrent outbreaks and are increasingly antimicrobial resistant. Cholera, caused by pathogenic strains of *Vibrio cholerae*, is currently in its seventh global pandemic since 1817; notably, the seventh pandemic started in 1961<sup>15</sup>. Global mortality due to cholera infection remains high, mainly due to delay in rehydrating patients. The global burden of cholera is estimated to be between 1.4 and 4.3 million cases with about 21,000–143,000 deaths per year, mostly in Asia and Africa. Tragic outbreaks have occurred in Yemen and Haiti. Adding to rehydration therapy, antibiotics have been used in the treatment of cholera to shorten the duration of diarrhea and to limit bacterial spread. Over the years, antimicrobial resistance developed in Asia and Africa to many useful antibiotics including chloramphenicol, furazolidone, trimethoprim-sulfamethoxazole, nalidixic acid, tetracycline and fluoroquinolones. Several vaccines have been developed and WHO prequalified; these vaccines constitute a Gavi-supported global stockpile for rapid deployment during outbreaks<sup>16</sup>.

Typhoid fever is a severe disease caused by the Gram-negative bacterium *Salmonella enterica* subsp. *enterica* serovar Typhi (S. Typhi). Antimicrobial-resistant S. Typhi strains have become increasingly common. The first large-scale emergence and spread of a novel extensively drug-resistant (XDR) S. Typhi clone was first reported in Sindh, Pakistan<sup>17,18</sup>, and has subsequently been reported in India, Bangladesh, Nepal, the Philippines, Iraq and Guatemala<sup>19,20</sup>. The world is in a critical period as XDR S. Typhi has appeared in densely populated areas. The successful development of improved typhoid vaccines (conjugation of the Vi polysaccharide with a carrier protein) with increased immunogenicity and efficacy including in children less than 2 years of age will facilitate the control of typhoid, in particular in XDR areas by decreasing the incidence of typhoid fever cases needing antibiotic treatment<sup>21,22</sup>.

### A model of vaccine development for emerging infectious diseases

The understanding of emerging infectious diseases has evolved over the past two decades. A look back at the SARS-CoV outbreak in 2002 shows that—despite a small number of deaths and infections—its high mortality and transmissibility caused significant global disruption (see Table 1). The epidemic ended as work on vaccines was initiated. Since then, the disease has not reappeared—wet markets were closed and transmission to humans from civets ceased. Consequently, work on vaccines against SARS-CoV ended and its funding was cut. Only a whole inactivated vaccine<sup>23</sup> and a DNA vaccine<sup>24</sup> were tested in phase 1 clinical trials.

**Following a traditional research and development pipeline, it takes between 5 and 10 years to develop a vaccine for an infectious agent. This approach is not well suited for the needs imposed by the emergence of a new pathogen during an epidemic.** Figure 1 shows a comparison of the epidemic curves and vaccine development timelines between the 2014 West African Ebola outbreak and COVID-19. The 2014 Ebola epidemic lasted more than 24 months with 11,325 deaths and was sufficiently prolonged to enable the development and testing of vaccines for Ebola, with efficacy being shown for one vaccine (of several) toward the end of the epidemic<sup>25,26</sup>. What makes the COVID-19 pandemic remarkable is that the whole research and development pipeline, from the first SARS-CoV-2 viral sequenced to interim analyses of vaccine efficacy trials, was accomplished in just under 300 days<sup>27</sup>. Amid increasing concerns about unmitigated transmission during the 2013–2016 Western African Ebola outbreak in mid-2014, WHO urged acceleration of the development and evaluation of candidate vaccines<sup>25</sup>. To ensure that manufacturers would take the Ebola vaccine to full development and deployment, Gavi, the Vaccine Alliance, publicly announced support of up to US\$300 million for vaccine purchase and followed that announcement with an advance purchase agreement. Ironically, there had been Ebola vaccines previously developed and tested for biodefense purposes in nonhuman primates, but this previous work was neither 'ready' for clinical trials during the epidemic nor considered commercially attractive enough to finish development<sup>28</sup>.

[[Figure Omitted]]

From these perceived shortcomings in vaccine development during public health emergencies arose the Coalition for Epidemic Preparedness Innovations (CEPI), a not-for-profit organization dedicated to timely vaccine development capabilities in anticipation of epidemics<sup>29,30</sup>. CEPI initially focused on diseases chosen from a list of WHO priority pathogens for EIDs—Middle East respiratory syndrome (MERS), Lassa fever, Nipah, Rift Valley fever (RVF) and chikungunya. The goal of CEPI was to advance candidate vaccines through phase 2 and to prepare stockpiles of vaccine against eventual use/testing under epidemic circumstances. CEPI had also prepared for 'disease X' by investing in innovative rapid response platforms that could move from sequence to clinical trials in weeks rather than months or years, such as mRNA and DNA technology, platforms that were useful when COVID-19 was declared a global health emergency in January 2020, and a pandemic in March 2020<sup>31,32</sup>.

CEPI has been able to fund several vaccine development efforts, among them product development by Moderna, Inovio, Oxford–AstraZeneca and Novavax. Providing upfront funding helped these groups to advance vaccine candidates to clinical trials and develop scaled manufacturing processes in parallel, minimizing financial risk to vaccine developers. The launch of the larger US-funded Operation Warp Speed<sup>33</sup> further provided companies with funding—reducing risks associated with rapid vaccine development and securing initial commitments in vaccine doses.

Vaccine platforms and vaccines for emerging infectious diseases

**Vaccines are the cornerstone of the management of infectious disease outbreaks and are the surest means to defuse pandemic and epidemic risk. The faster a vaccine is deployed, the faster an outbreak can be controlled.** As discussed in the previous section, the standard vaccine development cycle is not suited to the needs of explosive pandemics. New vaccine platform technologies

however may **shorten that cycle** and make it possible for multiple vaccines to be more **rapidly developed, tested and produced**<sup>34</sup>. Table 2 provides examples of the most important technical vaccine platforms for vaccines developed or under development for emerging viral infectious diseases. Two COVID-19 vaccines were developed using mRNA technology (Pfizer–BioNTech<sup>35</sup> and Moderna<sup>36</sup>), both showing safety and high efficacy, and now with US Food and Drug Administration (FDA) emergency use authorization (EUA)<sup>37,38</sup> and European Medicines Agency (EMA) conditional marketing authorization<sup>39,40</sup>. While innovative and encouraging for other EIDs, **it is too early to assert that mRNA vaccines represent a universal vaccine approach that could be broadly applied to other EIDs (such as bacterial or enteric pathogens)**. While COVID-19 mRNA vaccines are a **useful proof of concept**, gathering lessons from their **large-scale deployment** and **effectiveness** studies still **requires more work and time**.

[[Figure Omitted]]

While several DNA vaccines are licensed for veterinary applications, and DNA vaccines have shown safety and immunogenicity in human clinical trials, no DNA vaccine has reached licensure for use in humans<sup>41</sup>. Recombinant proteins vary greatly in design for the same pathogen (for example, subunit, virus-like particles) and are often formulated with adjuvants but have longer development times. Virus-like particle-based vaccines used for hepatitis B and human papillomavirus are safe, highly immunogenic, efficacious and easy to manufacture in large quantity. The technology is also easily transferable. Whole inactivated pathogens (for example, SARS-CoV-2, polio, cholera) or live attenuated vaccines (for example, SARS-CoV-2, polio, chikungunya) are unique to each pathogen. **Depending on the pathogen**, these **vaccines** also **may require biosafety level 3 manufacturing** (at least for COVID-19 and polio), **which may limit the possibility of technology transfer for increasing the global manufacturing capacity**.

Other vaccines are based on recombinant vector platforms, subdivided into nonreplicating vectors (for example, adenovirus 5 (Ad5), Ad26, chimpanzee adenovirus-derived ChAdOx, highly attenuated vectors like modified vaccinia Ankara (MVA)) and live attenuated vectors such as the measles-based vector or the vesicular stomatitis virus (VSV) vector. Either each vector is designed with specific inserts for the pathogen targeted, or the same vector can be designed with different inserts for the same disease. The development of the Merck Ebola vaccine is an example. ERVEBO is a live attenuated, recombinant VSV-based, chimeric-vector vaccine, where the VSV envelope G protein was deleted and replaced by the envelope glycoprotein of Zaire ebolavirus. ERVEBO is safe and highly efficacious, now approved by the US FDA and the EMA, and WHO prequalified, making VSV an attractive ‘platform’ for COVID-19 and perhaps for other EID vaccines<sup>26</sup> although the –70 °C ultracold chain storage requirement still presents a challenge.

Other equally **important considerations are speed of development, ease of manufacture and scale-up, ease of logistics** (presentation, storage conditions and administration), **technology transfer to other manufacturers to ensure worldwide supply, and cost of goods**. Viral vectors such as Ad5, Ad26 and MVA have been used in HIV as well as in Ebola vaccines<sup>42</sup>. Finally, **regulatory authorities do not approve platforms but vaccines**. Each vaccine is different. However, with **each use** of a specific technology, **regulatory agencies may**, over time, **become more comfortable with underlying technology** and the overall safety and efficacy of the vaccine platform, **allowing expedited review and approvals in the context of a pandemic**<sup>43</sup>. With COVID-19, it meant that the regulatory authorities could permit expedited review of ‘platform’ technologies, such as RNA and DNA, that had been used (for other conditions) and had safety profiles in hundreds of people.

## **Mexico Brain Drain**

## Mexico Brain Drain Contention

### **Mexico addressing brain drain now but restrictive US immigration policy key Pells 2018**

[Rachael, reporter whose work covers research and research policy, including funding, academic publishing, ethics and misconduct. Separately, she covers higher education across Latin America. Rachael completed her MA in journalism at Goldsmiths University, London, and holds a BA in English from Oxford Brookes University, "Mexico's brain drain leaves universities struggling to fill research posts", <https://www.timeshighereducation.com/features/mexicos-brain-drain-leaves-universities-struggling-fill-research-posts>]

It will need to: a McKinsey Global Institute report published last year estimates that 9 million Mexican jobs will be lost by 2030 as a result of automation. But a major barrier to building a knowledge economy in Mexico is the country's dramatic brain drain. The US alone is currently home to more than 300,000 Mexican-born postgraduates, and many never return. "It's lost talent," says Hernández. "So it's not simply a matter of creating more master's and PhD programmes in Mexico: we also need to take advantage of all of these skilled people who have gone elsewhere." With political tensions between Mexico and the US worsening and visa restrictions tightening for immigrant workers, Mexican universities could very well have their wish granted. But they may also have to accommodate significantly more students. As of 2017, an estimated 140,000 people brought to the US illegally as children, most of them Mexican, were enrolled in US post-secondary education under President Obama's Deferred Action for Childhood Arrivals arrangements. Their future remains unclear but, should these "dreamers" ultimately be forced to return to their countries of origin, as President Trump has threatened, Mexico's universities will have to expand very rapidly to absorb them. But contingency plans are in place. Puentes (Bridges) is a programme devised by ANUIES to match dreamers with courses back in Mexico, so they can continue their studies as seamlessly as possible if they are deported. "We don't want to use it, but the programme is there in case of the worst scenario," says Hernández. "We are working together with US associations who stand with us in solidarity. They want to keep their Mexican students, who are really US students now, anyway." Some Mexican observers predict that worsening relations with the US and tighter US visa restrictions could also convince more Mexican students to stay home, which could, in turn, reduce the brain drain. However, Rumbos suspects that globally facing students will just opt for other Western countries instead: "Some Mexican students are choosing to go to graduate school in Canada or Europe, rather than the US, because they want to be in 'politically correct' countries. I'm not sure if, when they graduate, they will come back to Mexico," she says. For Mexico to hold on to more of its best students, its universities will have to develop high-quality degrees that guarantee good jobs. That would require the current generation of Mexican academics to make way for an influx of better qualified teachers and researchers. But, according to Rumbos, there are currently "very few jobs in most big public universities since retirement is not compulsory. This makes it hard to hire young people." Efforts are being made to nurture young talent, however. The country's main science funder, the National Council for Science and Technology (Conacyt), has launched a number of postdoctoral scholarship schemes for students within Mexico and abroad. Figures are difficult to come by, but Rumbos estimates that "a few hundred" scholarships have been awarded so far. "On the downside, there is no certainty of what will happen once the [researchers'] initial contract with Conacyt – which lasts around eight years – expires," she says. "Will the universities hire these people? Will Conacyt, under a new administration, renew the initial contracts? How will these people be evaluated and who will evaluate them? Nobody really knows."

### **Brain drain makes Mexico's economy unsustainable Millán 2013**

[Omar SanDiegoRed, <http://www.sandiegored.com/en/news/48995/Mexico-s-brain-drain-to-U-S-a-phenomenal-loss> GJones@JDI]

The brain drain and flight of human capital of Mexicans who immigrate north is the equivalent of transferring \$6 billion annually to the United States, about .5 per cent of that country's GNP, said a leading researcher. Alejandro Díaz Bautista, a member of Mexico's National Council of Science and Technology and an economics professor

### Immigration Surveillance Core File. *Updated 8-3-24*

at the College of the Northern Border, said that the number of Mexican professionals living abroad in the last few years grew by 153 per cent, from 411,000 to 1.3 million. This exodus constitutes "a phenomenal economic loss for Mexico" in the last six years, he said. The investment made developing that capacity is lost, as is the possibility that these professionals' work will contribute to Mexico's development and economic growth, he said. This migration involves talented people already educated, such as scientists, who move from Mexico to the United States or other developed countries. Their departure is principally driven by the lack of opportunities, by the search for better salaries, and for greater security and a better standard of life. "In today's knowledge-based world, it's more valuable to have these minds who can contribute to economic development than to take away the product of a gold mine or a part of a country's oil," Díaz Bautista said. In the last few years, it's estimated that more than five million Mexicans with an education above high school have decided to move to the United States, which shows that the programs to bring them back home have failed. Developing countries such as Mexico need a public policy that tries to retain its qualified professionals by offering them better employment options and incentives to those who have left to return home to contribute to their country's economy, he said. He said that Mexico has generated 8 million professionals in the last few years, and that 900,000 of them are already in the United States. He said that at least 125,000 people with a master's or doctorates have left the country. Among the Latin American countries, Mexico's suffers the most from this brain drain. He said that loss will have grave consequences for years to come.

### **Mexico's key to the global economy** **O'Neil 2014**

Shannon K., Senior Fellow of Latin American Policy for CFR, "Mexico on the Brink", 2/19, [www.foreignpolicy.com/articles/2014/02/19/mexico\\_on\\_the\\_brink](http://www.foreignpolicy.com/articles/2014/02/19/mexico_on_the_brink)

All told, Mexico is doing better than many analysts expected, but is still not reaching its potential pace of advancement. While the recent 3 to 4 percent GDP growth is welcome news, it is below the rate the country needs to move up the global economic ranks -- and more important, to break out of the "middle-income trap" that leaves few resources available to improve the quality of life for the have-nots. Opening the economy to the global winds was necessary, but not sufficient to assure long-term development. Mexico is now at a crossroads. It could continue down a path of growth and social change to become a leading democracy with an energetic middle class. Or it could become bogged down by its many challenges: violence, interest-group politics, and the corrupting call of crony capitalism. Much rides on the outcome, especially for many of Mexico's 112 million citizens who do not yet enjoy the living standards of other OECD countries. But in an ever more integrated global economy, what happens to Mexico matters to the rest of the world and, in particular, to the United States.

### **Economic decline causes nuclear war** **Kemp 2010**

Geoffrey, Director of Regional Strategic Programs at The Nixon Center, served in the White House under Ronald Reagan, special assistant to the president for national security affairs and senior director for Near East and South Asian affairs on the National Security Council Staff, Former Director, Middle East Arms Control Project at the Carnegie Endowment for International Peace, 2010, *The East Moves West: India, China, and Asia's Growing Presence in the Middle East*, p. 233-4

The second scenario, called Mayhem and Chaos, is the opposite of the first scenario; everything that can go wrong does go wrong. The world economic situation weakens rather than strengthens, and India, China, and Japan suffer a major reduction in their growth rates, further weakening the global economy. As a result, energy demand falls and the price of fossil fuels plummets, leading to a financial crisis for the energy-producing states, which are forced to cut back dramatically on expansion programs and social welfare. That in turn leads to political unrest: and nurtures different radical groups, including,

Immigration Surveillance Core File. *Updated 8-3-24*

but not limited to, Islamic extremists. The internal stability of some countries is challenged, and there are more "failed states." Most serious is the collapse of the democratic government in Pakistan and its takeover by Muslim extremists, who then take possession of a large number of **nuclear weapons**. The **danger of war** between India and Pakistan **increases** significantly. Iran, always worried about an extremist Pakistan, expands and weaponizes its nuclear program. That further enhances nuclear proliferation in the Middle East, with Saudi Arabia, Turkey, and Egypt joining Israel and Iran as nuclear states. Under these circumstances, the potential for nuclear terrorism increases, and the possibility of a nuclear terrorist attack in either the Western world or in the oil-producing states may lead to a **further devastating collapse** of the world economic market, with a tsunami-like impact on stability. In this scenario, major disruptions can be expected, with dire consequences for two-thirds of the planet's population.



## Brain Drain Hurts Econ

### **Brain drain hurts Mexican economy**

**Zúñlga and Molina 2008**

Elena, and Miguel, "Demographic Trends in Mexico: The Implications for Skilled Migration," migrationpolicy.org, <https://www.migrationpolicy.org/research/demographic-trends-mexico-implications-skilled-migration>

Although Mexico is best known in the United States as a source of low-skilled immigrants, it also provides a rapidly growing flow of professionals. In fact, the skill level of Mexican immigrants is gradually rising, with an increasing proportion of U.S.-bound immigrants educated to the equivalent of high-school level and beyond. This change is driven in part by educational developments in Mexico itself. Mexico's supply of educated individuals is growing almost five times faster than overall population growth despite the fact that domestic opportunities for professionals are not expanding as quickly. This creates an incentive for skilled Mexicans to migrate to the United States. Projections suggest that the domestic supply of professionals will exceed demand until about 2025, after which demand will outstrip supply and a shortfall of highly skilled individuals is likely to emerge. Until that point, however, any increase in international demand for highly skilled workers could find a swift response from Mexican professionals. Ultimately these trends have more consequence for Mexico than for the United States. Although highly skilled Mexican immigrants make up only a small proportion of professionals in the United States, their numbers are equivalent to 8 percent of all professionals living in Mexico. Emigration has reduced pressure on the Mexican labor market, but the Mexican economy's inability to create sufficient opportunities to retain its most educated individuals may have a detrimental effect on long-term growth.

### **Brain drain robs countries of skilled workers and significantly stunt the economy**

**Lowell 2003**

(B. Lindsay Lowell is part of the Institute for the Study of International Migration at Georgetown University.) "Skilled Migration Abroad or Human Capital Flight?," migrationpolicy.org, <https://www.migrationpolicy.org/article/skilled-migration-abroad-or-human-capital-flight> GJones@JDI

Does the international flow of highly skilled migrants connect and spark the circuits of an interconnected global economy, or does the flow transfer scarce human capital from the poor world to the rich? Not since the 1970s has concern about "brain drain" been as prominent, doubtless due to the increasing numbers of highly skilled migrants now on the move. The "New Economy" of the 1990s brought the issue to the fore as the developed world competed for workers in information technology and communications from the developing world. Two conditions are necessary for the term "brain drain" to apply to a given country. First, there must be a significant loss of the highly educated population. Second, adverse economic consequences must follow. A detailed examination of these conditions reveals that while the direct impact of significant outflows of human capital will likely have a negative effect on economic growth, feedback effects may actually stimulate economic growth. **Skilled Migration in the Western Hemisphere** There are few current estimates of how many of the world's international migrants are highly educated. We do know that in the Western Hemisphere, most highly skilled migrants go to the United States, the world's single largest magnet for skilled migrants. We also know that there are relatively few highly educated people in developing countries, and that the highly educated are very likely to migrate. Data are presented here for Latin America, Central America, and the Caribbean (Lowell and Suro 2002). Only about one-fifth of Latin Americans have completed high school or some college. But looking at those who have migrated we find that, on average, a little over half of Latino immigrants in the United States have a secondary education or better. This is true

for 85 percent of South Americans, two-thirds of Caribbean immigrants, one-third of Central Americans, and just over one-quarter of Mexicans. Well-educated Latin Americans are at least two and a half times more likely to be in the United States than the home-country population. What are the demographic impacts, however, on the sending countries? While it is true that large numbers of less-educated Latino immigrants are in the United States, they are a small fraction of those in the sending countries who could potentially migrate. At the low end of the educational spectrum, less than six percent of Latin Americans with a primary education or less live in the United States. At the upper ends of the spectrum the loss of Latin Americans can be rather large. As indicated in Figure 1, a large number of immigrants in the U.S. completed their education in their home country. While the sending country has financed their education, it ultimately forgoes its investments and other returns on migrant talents. The Caribbean has the greatest share of its well-educated population living in the United States. Roughly one-third of the Caribbean's secondary, as well as its college-educated population, live abroad. Countries with the largest impact in the hemisphere are Jamaica and Haiti, which have two-thirds of just their college-educated population living in the United States. In contrast, South Americans in the United States represent less than three percent of the southern continent's highly educated population. There are relatively few South Americans in the United States, so they do not make up a significant share of the sending population. The losses of well-educated Mexicans and Central Americans fall in between. For unknown reasons, particularly large shares of Central Americans with a secondary education are found in the United States—about two-fifths of Salvadorans and a little over a third of Nicaraguans. While the more dramatic of these figures do not establish clearly that a brain drain exists from developing countries in the Western Hemisphere to the United States, they should give pause. The first necessary condition for a brain drain, after all, is a significant loss of the highly educated population. Economic Research on Development The second necessary condition for "brain drain" is that adverse economic consequences follow. A useful way to think about the research is to consider direct impacts and indirect impacts (feedback effects). The direct economic impacts are likely adverse. Neo-classical economists concluded in the 1970s that a loss of skilled workers would retard national growth. Recent research drawing on "new or endogenous growth" theory adds the common sense observation that human capital, an educated workforce, is one of a country's most valuable assets. One study found that a one-year increase in the average education of a nation's workforce increases the output per worker by between five and 15 percent (see Barro and Sala-i-Martin 1995). Low levels of education slow economic growth, the studies argue, damage the earnings of low-skilled workers, and increase poverty. There are also, however, positive indirect impacts (Lowell and Findlay 2002). "Optimal brain drain" theory finds some support for the notion that the possibility of emigration for higher wages induces more students in the sending country to pursue higher education. Many end up staying and improving the country's educational profile. Feedback from expatriates includes today's more than \$32 billion in remittances sent to Latin America (Agencia EFE 2003), a figure often larger than U.S. aid or foreign direct investment. In a shrinking global village, expatriates also keep their social and professional networks, stimulating a reverse flow of innovations and technological capacity. And many expatriates do return home with valuable experience and networks. Indeed, return migration may provide optimal returns to both sending and receiving countries. It is impossible to summarize the available research and reach a single conclusion. The best we can say is that the direct impact of an outflow of human capital, just like monetary capital flight, will likely adversely affect economic growth. However, the strength of feedback effects must be evaluated, as they can generate positive economic growth. In fact, the accompanying typology (see text box) of skilled emigration illustrates the range of possible effects that complicates further the simple classifications of direct and indirect impacts. **Concluding Observations** While definite conclusions are still waiting on more solid data, concerned observers will not shrug off the renewed discussion of brain drain. Although the Western Hemisphere may have some of the world's greatest brain drain, there are large outflows from Africa and elsewhere, too (Lowell and Findlay 2002). The magnitude of the educational losses, coupled with the realistic theoretic and empirical evaluation of economic impacts, make adverse brain drain all too likely a reality for some developing nations. Arguably, from a sociological perspective, one would also want to factor in adverse social and political consequences of losing a scarce and potentially influential pool of talent. The ramifications may extend beyond the economic realm. It is also quite possible for a nation to benefit

economically from its skilled emigrants in general, but to experience significant losses in other fields, e.g., its artistic endeavors or scientific advances. Compared to the rich countries, the developing world has little in the way of investment in science, and its density of science workers is 10 to 30 times smaller—what United Nations Secretary General Kofi Annan calls the "two worlds of science." The challenge is convincing policymakers to take the issue seriously and to implement immigration policies and multilateral agreements that optimize the flow of skilled migrants. Research must be ongoing, but it must also entertain a variety of outcomes and be willing to delve into sub-sectors of the political economy.

## **Brain drain bad for developing countries Blessing 2015**

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Human Capital Flight and its endless resulting effect have been a crucial issue worthy of discussion in both the traditional and contemporary global economic sphere. After the stock market crash of 1929 which marked the emergence of the Great depression, and the end of the Second World War in 1945, the emigration of skilled workforce from poor countries increased rapidly. The loss of intellectual capital, called the Brain drain, has been one of the greatest obstacles to the development of some countries of the world. In 2000 almost 175 million people (2.9%) of the world's population, were living outside their country of birth for more than a year. Of these, about 65 million were economically active. The purpose of this research is to understand the cause of Human Capital Flight in MINT countries (Mexico, Indonesia, Nigeria and Turkey), the socio-economic impact on income and economic growth to the sending country as well as the host country, and ways to reverse the effects of brain drain, thereby creating a brain-gain. Brain drain is a product of both internal and external factors working simultaneously to push educated and highly-skilled individuals out of their country and pull them into developed nations respectively. Although, human capital flight in a way stimulates education, generates significant remittances, and brings about unequalled contributions from both the returnees and the diaspora abroad. But, the biggest problem arises when it reduces human stock and causes fiscal losses. Also, these individuals after gaining the much anticipated experience, exposure and wealth choose not to return to their native country due to the lack of an environment conducive for professional growth. To reverse brain drain and boost economic growth, every government should create a conducive environment for investment that will ensure employment opportunities and reduce poverty. It should also put in place good institutional framework, maintain zero tolerance for corruption and must provide the much needed infrastructures necessary for growth and satisfaction such as employment opportunities, affordable and functional education, good health care system, security, and good roads and transportation systems. These are arguably the dominant factors which constitute a good life.

## **A2 Drug Violence OWs**

### **Work opportunities are the key factor influencing emigration – empirical data Hauer 2017**

[Adriane Louise Frieda, Master in International Management Escola de Administração de Empresas de São Paulo of Fundação Getulio Vargas, "WHAT ARE THE CAUSES OF DIFFERENT BRAIN DRAIN RATES IN EMERGING MARKETS? -AN EXPLORATORY STUDY OF BRAZIL AND MEXICO", [https://bibliotecadigital.fgv.br/dspace/bitstream/handle/10438/20409/Thesis%20final-Adriane%20Hauer\\_05.03..pdf?sequence=3&isAllowed=y](https://bibliotecadigital.fgv.br/dspace/bitstream/handle/10438/20409/Thesis%20final-Adriane%20Hauer_05.03..pdf?sequence=3&isAllowed=y)]

A similar picture was observed with regards to the Mexican participants, though the motivational factors differ to a small extent, which is likely to be explained by the PESTLE analysis and the "personality factor" influencing a decision as established in the framework. To elaborate, similar to Brazil, the predominant factor that motivated Mexicans to move abroad were related to study purposes (67%). Furthermore, career prospects (36%), better work opportunities (35%) and cultural experience (32%) were highlighted. Better salary was 97 mentioned, but was not the most important domain (26%). Interestingly, violence / crime were less dominant forces than in Brazil (only 17%) (see figure 41). Similar to the case of Brazil, most of the participants that are currently living in Mexico, but that have lived abroad, did so because of study purpose (65%). Hence, again, looking at the results of the people that are currently living abroad, can conclude that the motivational factors for highly skilled and educated people to migrate on a permanent basis are diverse. The fact that a diverse range of factors motivates people to move abroad is also manifested in the factors Mexicans mentioned with regard to their wish to move abroad on a permanent basis. The most influential factors have been: Better work opportunities (52%), better lifestyle abroad (50%), better salary abroad (42%), cultural experience (35%) and crime / violence in Mexico (31%) (see figure 43).

## **A2 Economic Opportunity OWs**

### **Lack of opportunity not causing brain drain**

#### **Hauer 2017**

[Adriane Louise Frieda, Master in International Management Escola de Administração de Empresas de São Paulo of Fundação Getulio Vargas, "WHAT ARE THE CAUSES OF DIFFERENT BRAIN DRAIN RATES IN EMERGING MARKETS? -AN EXPLORATORY STUDY OF BRAZIL AND MEXICO", [https://bibliotecadigital.fgv.br/dspace/bitstream/handle/10438/20409/Thesis%20final-Adriane%20Hauer\\_05.03..pdf?sequence=3&isAllowed=y](https://bibliotecadigital.fgv.br/dspace/bitstream/handle/10438/20409/Thesis%20final-Adriane%20Hauer_05.03..pdf?sequence=3&isAllowed=y)]

In the case of Mexico, it is more difficult to examine a relationship between economic development and brain drain as Mexico's economic situation has improved post 2008 with a steady growth rate of more than 2% of GDP over the past few years (see table 16). One could conclude that the positive economic development has influenced the wish of many Mexicans (67%) to return to Mexico, as outlined in hypothesis 1. Similar to Brazil, most Mexicans wish to return because of social ties, predominantly family and friends. This is further manifested in 102 the fact that 37% of the Mexican survey participants that had lived abroad came back because of social ties (see figure 46). Interestingly, many Mexicans have also mentioned the wish to return to Mexico to open their own business and to give back to Mexico. This can be closely linked to Mexico's strong economic development and the rise in entrepreneurial activities over the past few years, as outlined in the PESTLE analysis. Furthermore, similar to Brazil, of the Mexicans currently living abroad, who have an economic situation abroad definitely better than in Mexico, only 48% wish not to return to Mexico. Hence, as with the case of Brazil, other important factors influence the decision-making process of moving abroad and returning to the home country.

## A2 Remittances

### **LPR status end remittances – sponsoring family migration reduces incentive to send money back**

**Collier 2013**

Paul, professor of economics and policy at Oxford, “Migration Hurts the Homeland”

<https://www.nytimes.com/2013/11/30/opinion/migration-hurts-the-homeland.html> swan

OXFORD, England — Liberals have long fought for the rights of immigrants. Businesses have long fought for the right of people to immigrate. It’s a crucial distinction. Mark Zuckerberg of Facebook created a lobbying organization, FWD.us, this year to try to unite the two causes by casting comprehensive immigration reform in the United States as an issue of justice. “Eleven million people is a lot of people who are being treated unfairly right now,” he said. As self-serving as Mr. Zuckerberg’s advocacy may be —

immigration reform happens to align nicely with the interests of the technology industry — his high-minded rhetoric reflects an attempt to appeal to pro-immigration liberals, who presume that opening doors wider is the humane thing to do. But humane for whom? What’s good for migrants from poor places is not always good for the countries they’re leaving behind. Migration is good for poor countries, but not in every form, and not in unlimited amounts. The migration that research shows is unambiguously beneficial is the kind in which young people travel to democracies like America for higher education and then go home. Not only do these young people bring back valuable skills directly learned in the classroom; they bring back political and social attitudes that they have assimilated from their classmates. Their skills raise the productivity of the unskilled majority, and their attitudes accelerate democratization. For example, global data on students from poor countries who have studied abroad since 1950 shows that those who went to democracies accelerated political liberalization in their home societies out of all proportion to their numbers. Democratization across Latin America, Africa and Asia has been supported by this process. In an opinion article in The Washington Post last spring, Mr. Zuckerberg asked, “Why do we kick out the more than 40 percent of math and science graduate students who are not U.S. citizens after educating them?” My response: Whatever the reason, it is a highly effective way of helping poorer societies. Even what looks like a brain drain can sometimes be beneficial. When educated people emigrate and settle in a richer country, the poorer country suffers a direct loss; but by demonstrating that the effort to acquire education can end triumphantly, it can encourage many others to pursue an education, too. The brain drain becomes a reality only if

too many of the educated leave. Continue reading the main story But many poor countries have too much emigration. I do not mean that they would be better with none, but they would be better with less. The big winners from the emigration of the educated have been China and India. Because each has over a billion people, proportionately few people leave. In contrast, small developing countries have high emigration rates, even if their economies are doing well: Ghana, for instance, has a rate of skilled emigration 12 times that of China. If, in addition, their economies are in trouble, they suffer an educational hemorrhage. The top rankings for skilled emigration are a roll call of the bottom billion. Haiti loses around 85 percent of its educated youth, a rate that is debilitating. Emigrants send money back, but it is palliative rather than transformative. China and India, with their low rates of emigration and high rates of return, have dominated global thinking about how migration affects countries of origin. But the core development challenge is now whether the poor, small societies can catch up. Unlike China and India, they have too much emigration. They can do little about it, but we can do quite a lot: Their emigration rates are set by our

immigration policies. Newsletter Sign Up Continue reading the main story Opinion Today Every weekday, get thought-provoking commentary from Op-Ed columnists, The Times editorial board and contributing writers from around the world. Sign Up You will receive emails containing news content, updates and promotions from The New York Times. You may opt-out at any time.

Much of the pressure for more rapid immigration comes from diasporas wanting to bring in dependent relatives. But bowing to this pressure is not necessarily humane: Bringing relatives to America reduces the incentive to send remittances back home. Migrant families do well for themselves by jumping into a chain of lifeboats headed for the developed world, but this can be at the expense of the vastly larger group of families left behind. Seemingly the most incontestable case for a wider door is to provide a refuge for those fleeing societies in meltdown. The high-income democracies should indeed provide such a refuge, and this means letting more people in. But the right to refuge need not imply the right to residency. The people best equipped to flee from societies in meltdown are their elites: The truly poor cannot get farther than a camp over the border. Post-meltdown, the elites are needed back home. Yet if they have acquired permanent residence they are reluctant to return. For example, South Sudan, one of the

**Immigration Surveillance Core File. Updated 8-3-24**

world's poorest countries, is bleeding a remittance outflow: Government officials told me that key people can be coaxed back only by high salaries, and even then they leave their families abroad and send their Sudanese earnings back to them. Our priority should be to design policies of refuge that reconcile our duty of rescue with the legitimate concerns of post-conflict governments to attract back the people who could rebuild their countries. Émigrés face a coordination problem: Going home is much less scary if others are doing the same. The right to refuge could include sunset rules linked to peace settlements and the monitored efforts of post-conflict governments. Bright, young, enterprising people are catalysts of economic and political progress. They are like fairy godmothers, providing benefits, whether intended or inadvertent, to the rest of a society. Shifting more of the fairy godmothers from the poorest countries to the richest can be cast in various lights. It appeals to business as a cheap supply of talent. It appeals to economists as efficient, since the godmothers are indeed more productive in the rich world than the poor. (Unsurprisingly, our abundance of capital and skills raises their productivity.) It appeals to libertarians as freeing human choice from the deadening weight of bureaucratic control. At the more radical end of this spectrum, aficionados of Ayn Rand will see it as the triumphant release of the strong minority from the clutches of the weak majority: "migrants shrugged." Many on the left, for their part, don't like to recognize that we're taking away fairy godmothers. They prefer to believe that they're helping poor people flee difficult situations at home. But we might be feeding a vicious circle, in which home gets worse precisely because the fairy godmothers leave. Humanitarians become caught up trying to help individuals, and therefore miss the larger implications: There are poor people, and there are poor societies. An open door for the talented would help Facebook's bottom line, but not the bottom billion.

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**Remittances don't offset brain drain - studies  
Docquier and Rapoport 2012**

[Frédéric, FNRS and IRES, Université Catholique de Louvain, and Hillel, Department of Economics, Bar-Ilan University, "Globalization, Brain Drain, and Development", Journal of Economic Literature 2012, 50(3), 681–730]

Immigration Surveillance Core File. *Updated 8-3-24*

At a macro level, the only empirical studies to look at remittances and the brain drain across a range of countries are two **recent papers** (Faini 2007, and Niimi, Özden, and Schiff 2010), both of which **use cross-country macroeconomic approaches to claim that the highly skilled remit less.** Faini (2007) shows that **remittances decrease with the proportion of highly skilled individuals among emigrants and concludes that this suggests that the negative impact of the brain drain cannot be counterbalanced by higher remittances.** Faini's result is confirmed by Niimi, Özden, and Schiff (2010) after instrumenting the number of emigrants (but treating the proportion of highly skilled as exogenous). Such analyses tell us whether countries which send more (or a larger share of) highly skilled emigrants receive more or less in remittances than countries that send relatively less skilled emigrants. However, there are many other ways that countries differ, and so any correlation between remittances and the skill level observed across countries may be driven by other factors. For example, if poverty is a constraint to both migration and education, we may find richer developing countries being able to send more migrants (yielding more remittances), and that these migrants also have more schooling. Moreover, these studies suffer from the fact that they use migration data for emigrants to the OECD area only while the remittance data are for remittances sent from all over the world, not just the OECD. This creates important potential sources of bias. At a micro level, Bollard et al. (2011) combine fourteen household surveys of immigrants in eleven destinations. They find a mixed relationship between education and the likelihood of remitting, but a strong positive relationship between education and the amount remitted conditional on remitting.<sup>21</sup> Combining these intensive and extensive margins suggests that education has an overall positive effect on remittances, with an expected amount remitted of \$1,000 annually for a migrant with a university degree against \$750 for someone without a university degree. The micro-data also allow the reasons why the more educated remit more to be investigated. Bollard et al. (2011) find the higher **income** earned by migrants, rather than the characteristics of their family situations, **explains much of the higher remittances.** Note that these results hold for most of the surveys used, and for the pooled sample. In contrast, **Dustmann and Mestres (2010)** use successive waves of the German Socio-Economic Panel (GSEP) database (one of the fourteen surveys used by Bollard et al. 2011) and **show a negative effect of education on remittances after controlling for intentions to return and for household composition at destination.** We can now partially answer the two questions posed at the beginning of this section. As we have seen, the micro and macro **studies available give contradictory answers** to the first question (as to whether the highly skilled remit more). We conjecture that this could be due to the above mentioned issues in the macro studies but could also be due to sample composition issues in Bollard et al. (2011). Indeed, they find higher expected remittances among the highly skilled in most surveys but lower remittances in a minority of them (e.g., GSEP) while the pooled micro data are not necessarily representative of the size and skill structure of global migration. Let us consider for a moment that Bollard et al.'s (2011) results are more trustworthy.<sup>21</sup> There is also a lot of anecdotal evidence that highly skilled emigrants remit large amounts. To give just one example, Kangasniemi, Winters, and Commander (2007) report that nearly half of Indian medical doctors working in the United Kingdom remit income to their home country and, conditional on remitting, remit on average 16 percent of their income. and give a good approximation of the macro picture. Simple arithmetic suggests that the highly educated, who represent one-third of total emigration to the OECD and send home on average 25 percent more than migrants with primary and secondary education, send about 40 percent of total remittances. This is clearly substantial. However, **in the absence of surveys matching sending and receiving households and looking at the relationship of interest—not to mention the difficulties in identifying the effect of remittances on children's education, we have no way of knowing the extent to which these remittances re**  
**Brain drain outweighs the effects of remittances.**

**Cerovic 17** – economist in the IMF's Western Hemisphere Department, where she works as desk economist for the Dominican Republic. Previously, she worked on several countries in the Middle East and Central Asia Department, as well as an Advisor to the Executive Director. Before joining the IMF, she was an economist at the Central Bank of Montenegro

(Svetlana, with Kimberly Beaton, 6/29. "Migration and Remittances in Latin America and the Caribbean: Brain Drain Versus Economic Stabilization." <https://blogs.imf.org/2017/06/29/migration-and-remittances-in-latin-america-and-the-caribbean-brain-drain-versus-economic-stabilization/>)

Emigrants from Mexico and Central America tend to be younger (on average, about 20 years old) and have lower levels of education compared with those from South America and the Caribbean. Of the latter groups, about 40 percent have attended college (or



Immigration Surveillance Core File. *Updated 8-3-24*

beyond). With a high share of skilled workers leaving their home countries, the Caribbean in particular has been suffering from “brain drain.” With lower levels of education, emigrants from Mexico and Central America tend to work in lower-skilled occupations and have lower wages, but they also send a higher share of their income back to their families.

The departure of people of working age reduces the labor force and weakens the growth of the home country, and this effect is likely to be strongest for countries facing a brain drain. But the money migrants send home brings a number of benefits to their families and provides financial resources for trade and investment.

Our analysis suggests that the overall impact of these forces depends on the profile of migrants and the amount of money they send home—with different net effects on growth across the region.

For countries with highly skilled emigrants like Caribbean countries and, to a lesser extent, South American countries, the negative impact on growth from emigration is not fully compensated by the money migrants send home. In contrast, for Central American countries, the negative effects of emigration seem to be broadly (or more than) offset by gains from their higher remittance receipts.

### **Remittances don’t boost growth for developing countries- brain drain outweighs**

**DeSilver 1-29-18** [Drew DeSilver is a senior writer at Pew Research Center, “Remittances from abroad are major economic assets for some developing countries,”

<http://www.pewresearch.org/fact-tank/2018/01/29/remittances-from-abroad-are-major-economic-assets-for-some-developing-countries/>, kdd]

Studies have shown that **remittances can reduce the depth and severity of poverty in developing countries**, and that they’re associated with increased household spending on health, education and small business. **However, there’s little evidence that they have much impact on overall economic growth in receiving countries.** Researchers have suggested several explanations for this seeming paradox, including that **much of the apparent increase in remittances in recent decades may be an artifact of improved measurement methods rather than more actual cash; that economic data and modeling techniques may be inadequate to detect any growth effects; and that remittances from migrants may be partially offset by the depressing effect those migrants’ absence has on their home country’s economy.**

### **Remittances don’t offset losses from brain drain**

**Docquier and Rapoport ’07** [Frédéric Docquier is Research Associate at the National Fund for Economic Research and Professor of Economics at the Université Catholique de Louvain. He holds a PhD in Economics from the University of Aix-Marseille 2, Hillel Rapoport is Professor of Economics at the Paris School of Economics, University Paris, “Skilled Migration: The Perspective of Developing Countries,” June,

<https://www.biu.ac.il/soc/ec/students/teach/835/data/2012/IZAdp2873.pdf>, kdd]

In words, this means that **for a beneficial brain drain to obtain through remittances, the transfer received by each remaining resident must be relatively high** so that a large share of the population gains access to education. **This is unlikely when migration costs are quite high** (as  $\tau \geq k > 0$ ) and, more generally, does not seem to portray the evidence on remittance behavior in developing countries. Although remittances are generally positively correlated with donors’ incomes, meaning that skilled emigrants are presumably important remitters, the results from empirical studies are mixed. Most micro-studies (e.g., Lucas and Stark, 1985, Cox et al., 1998, Brown

Immigration Surveillance Core File. *Updated 8-3-24*

and Poirine, 2005) ...nd a positive effect of education on the probability of sending remittances and on the amounts remitted after controlling for income, which suggests that remittances have a loan repayment component. However, at an aggregate level, Faini (2007) shows that **migrants' remittances decrease with the proportion of skilled individuals among emigrants and concludes that "this result suggests that the negative impact of the brain drain cannot be counterbalanced by higher remittances"**. This does not imply that remittances by skilled migrants are negligible, especially if the proportion of temporary migrants increases; for example, Kangasniemi et al. (2004) show that nearly half (45%) of Indian medical doctors working in the UK remit income to their home country and that remitters transfer on average 16% of their income.

ach credit constrained households.

## A2 Repatriation

### **Immigrants will choose to stay in the US – multiple reasons**

**Tigau 2017**

[Camelia, Fall 2016 Visiting Scholar, Baker Institute Mexico Center, and Researcher, Center for Research on North America, "SKILLED MEXICAN MIGRANTS IN TEXAS: WHAT THE NUMBERS HIDE", <https://www.bakerinstitute.org/media/files/files/76c88ca8/MEX-pub-Migrants-071017.pdf>]

Do they plan to return to Mexico? The repatriation aspirations of the interviewees do not necessarily depend on the number of years in the United States but on the relationships they have maintained in Mexico. The phrase "never say never" applied to the Mexican women interviewed. For both genders, returning to Mexico was considered more of a remote possibility than an actual plan, especially in the case of individuals with children. Discussion: Organization of the Mexican Skilled Diaspora The field evidence indicates that foreign professionals abroad, sometimes referred to as "talents" or "brains," do not like to be labeled as such and they often refuse to be considered a loss for their country of origin. Even though many of the interviewees do not consider the possibility of returning to Mexico permanently, some also do not aspire to obtain U.S. citizenship; this can perhaps be considered a "mechanism of resistance." Many of the highly skilled migrants in this study still want to be considered Mexicans, even though they hate corruption in their home country and never plan to go back. A Mexican identity is therefore a symbol more than a cause for action. Theoretical perspectives on talent circulation assume that for such people, networks and associations of skilled diasporas should be appealing. A number of organizations specifically seek skilled Mexican migrants living in Texas, with the objective of creating networks of cooperation among them. They are designed as more than just spaces in which to meet with other Mexicans. For instance, Texas chapters of the Global Network of Mexican Talents (RTM, for its initials in Spanish) in Dallas, Houston, and McAllen are open to skilled Mexican citizens living abroad who are interested in volunteer opportunities and who wish to help Mexico through various activities, such as promoting teaching and research. The RTMs are part of a Mexican governmental initiative led by the Ministry of Foreign Affairs, and they depend on the interest and willingness of the Mexican consuls in each city for their everyday operations. This creates problems, as some consuls are not particularly interested in boosting these associations; moreover, some consuls change frequently, so while one consul may be willing to participate, the next may not. The association must be able to respond to such ongoing changes. Limited financial resources are another challenge for the associations. RTMs often reject the idea of receiving funds from the Mexican government, as it suggests a loss of their independence. Mexico has very limited funds for these associations, in any case. However, RTMs can raise funds if they structure their local chapters like NGOs.

## Brain Drain Thesis True

### Brain drain is true – gain and circulation theories rely on a faulty reading of investment – skilled immigration can only hurt the country of origin

#### **Schiff '18**

[Maurice. Research Analyst at the World Bank, PhD Economics University of Chicago. "Beneficial Brain Drain and Non-Migrants' Welfare." *Institute of Labor Economics Discussion Paper Series*, April 2018. <http://ftp.iza.org/dp11483.pdf2//GBS-JV>]

Starting in the 1990s, a series of papers appeared that were much more sanguine about skilled labor migration. These studies (e.g., Mountford 1997; Vidal, 1998; Beine et al. 2001, 2008) did not appeal to the benefits identified by the early contributors. Rather, they showed – both theoretically and empirically – that since the return on investment in education in the richer host countries is greater than in the source country, migration prospects raise the expected return on education and consequently raise its level. In other words, a brain drain induces a brain gain. Beine et al. (2008) studied the net impact of the brain drain on source countries' average stock of human capital. They found that most countries with low levels of human capital and low brain drain rates experienced a net brain gain (i.e., an increase in residents' average human capital stock) while countries where the brain drain was over 18 percent and/or the share of the skilled in the population was over 5 percent tended to experience a net brain drain. And though a majority of countries experienced a net brain drain, the overall impact on developing countries' average human capital stock was positive. Based on the latter result, the authors concluded that the traditional pessimistic view of the brain drain is not justified, especially not at the aggregate level. Another study by Shreshta (2017) finds that a change in the British Army's selection criterion for Nepalese Gurkha soldiers towards a minimum level of education – when none had been required before – had a positive impact on non-migrants' education and income. The author concludes that "Despite not being selected in the British Army or emigrating elsewhere, these non-migrants benefited directly from additional schooling." However, two additional elements – a negative and a positive one – must be taken into account in order to assess whether the policy resulted in a net cost or benefit, namely **the cost of producing the additional education and the (potential) positive externality associated with it**. These issues are addressed in Sections 2 and 3. I have argued elsewhere that optimism about the size and impact of the brain drain-induced brain gain may be excessive (Schiff 2006). 1 And though a net brain gain has tended to be seen as a benefit and has been referred to as a "beneficial brain drain" in the literature, **its impact on the welfare of the resident (or non-migrant) population is generally ambiguous or negative**. Individuals select the education level that maximizes their expected utility. The latter rises with an opening up of the economy and leads them to increase their investment in education. They are in fact making a bet where they unambiguously win if they are able to migrate and where the impact if they are unable to migrate is either negative or ambiguous. Thus, educated residents – who constitute the majority of educated people in most source countries (Docquier and Marfouk 2006, Beine et al. 2008) – **may very well end up worse off**. It is nevertheless the case that their education choice is optimal ex ante, though a source country government must deal with the actual situation of its

resident s and may well be more concerned with their welfare than with that of emigrants (as discussed below) . Hence, individual and government objectives need not coincide .

### **Brain drain thesis is correct – over half a billion people would migrate if they could**

#### **Omelandiuk '18**

[Irena. Senior Policy Adviser International Organization for Migration. "Migration," in *Handbook of Globalization and Development*. Available via Googlebooks, 2018//GBS-JV]

Migration is often described as the third pillar of globalisation alongside international trade and finance (O,dcn and Schiff 2007). There are an estimated 244 247 million inter national migrants' in the world, or 3.3 4.0 percent of the global population.2 of whom half are females, and 740 million internal migrants (10M 2016), Gallop World Poll Surveys in more than 150 countries reveal that **another 630 million of the world's adults dream of moving abroad permanently** (10M 2011). Millions of young people arc traveling the world as students, working holiday-makers or visitors. More than a billion international tourists arc on the move every year. and this is expected to grow to 2 billion by 2030.

### **Cases of brain gain are rare and insignificant while brain drain is common and substantial**

**Marsh and Oyelere 17** (Robin R. Marsh and Ruth Uwaifo Oyelere, 10/18/17, Robin Marsh is a Research Specialist at the Institute for the Study of Societal Issues for the University of California Berkeley, Ruth Uwaifo Oyelere holds a Ph.D. from the University of California, Berkeley. She is currently an Associate Professor at Morehouse College, "Global Migration of Talent: Drain, Gain, and Transnational Impacts", [https://link-springer-com.proxy.lib.umich.edu/chapter/10.1007/978-3-319-62734-2\\_11](https://link-springer-com.proxy.lib.umich.edu/chapter/10.1007/978-3-319-62734-2_11)) MKIM

The debate on brain drain relates to the 'winners' and 'losers' at a national or subnational level. Those who argue emigration leads to brain drain claim the majority of tertiary educated emigrants from developing countries are educated in government subsidized institutions of higher learning established to build human capital for national development. Hence a direct loss for source countries occurs when a country's human capital is depleted through permanent or long-term emigration at the expense of governments, further exacerbated by lost future tax revenues (Capuano and Marfouk 2013). Another argument for why emigration leads to delayed development is concern for the radically reduced supply of innovators needed to drive economic growth and social change. This is especially relevant for smaller source countries with skilled emigration rates of 30 percent or higher. While a counter argument is that these individuals provide remittances which can be growth stimulating, clearly private remittances cannot compensate for the societal losses sustained by source countries, as noted in Collier (2013). A number of economists have countered brain drain concerns by hypothesizing that skilled emigration may actually lead to 'brain gain' for source countries under certain conditions. They argue that the prospect of emigration to countries with higher returns to education induces greater investment (public and private) in

education and skills acquisition to prepare for employment or study abroad. Net brain gain results when more individuals are propelled to invest in higher education (or invest more per capita) than actually succeed in out-migrating, leading to a net increase in the stock of highly educated residents. A study by Beine et al. (2008) shows mixed results on brain gain from a data set of emigration rates by education levels for 127 developing countries. The data show slight brain gain for larger developing countries, including the major emerging economies of China, India, Brazil, and Indonesia, whereas small- and mid-size countries with mid-level tertiary enrolment combined with skilled emigration rates of 20 percent or higher experience brain drain without the compensatory brain gain. Worldwide, there are more losers than winners, and, whereas the net gains of the winners rarely exceed 1 percent of the skilled labor force, “in contrast the losses of the losers can be substantial and exceed 10 percent in many small Caribbean and Pacific countries” (Beine et al. 2008, p. 26). Furthermore, increased tertiary enrolment rates may be the result of factors unrelated to the prospect of out-migration, namely, increased government emphasis and spending on higher education.

### **“Brain Gain” wrong – brain drain destroys innovation programs that are key to growth**

**Kapur 17** (Davesh Kapur, 3/7/17, Davesh Kapur is director at the Center for the Advanced Study of India, Madan Lal Sobti Associate Professor for the Study of Contemporary India, and Professor of Political Science at the University of Pennsylvania, “Addressing the brain drain: A partial cosmopolitanism approach”, <https://www-tandfonline-com.proxy.lib.umich.edu/doi/pdf/10.1080/02580136.2016.1263375?needAccess=true>) MKIM

The inevitable persistence of large income gaps across countries over the foreseeable future will ensure that the international human capital dynamics will be a major development issue in the decades ahead. International human capital flows have a range of development-related consequences. In recent years, concerns about the migration of human capital from developing countries have undergone a sea change. While in earlier years this migration was viewed with alarm, the sentiment has become much more sanguine in recent years. To some extent this is typical of development thinking which is prone to swing from one extreme to the other. Neither extreme is warranted. Any simple judgment about the desirability and consequences of poor to rich talent flows would be facile. But the idea that the migration of a significant fraction of a country’s best and brightest is not particularly harmful and is even beneficial to the country is simply unwarranted. Although the effects are undoubtedly complex, it does not change the fundamental reality that countries need talent for innovation and to build institutions and implement programmes – the key pillars of long-term development.

### **Brain drain is true—fewer tertiary educated workers in sending countries**

**Okoye 15** (Dozie Okoye, Department of Economics, Dalhousie University “Can brain drain be good for human capital growth? Evidence from cross-country skill premiums and education costs” pg. 86, December 4, 2015)

#### 4.3. Quantitative results

The effect of the brain drain on the proportion of tertiary educated workers: In this section, I solve the model for the steady state of the economies in my dataset for various rates of skilled migration. This is in order to understand how big the brain and drain effects are across different economies. From the dataset, which is summarized in Table 8, the average skilled–unskilled labor ratio varies across the countries with an average of about 3.7%, and an average wage premium of 5.3. The earlier analysis suggests that with the low proportion of skilled workers, relative to the skill premium, these economies will be cost-constrained on average. Thus, the model will predict that increasing the rate of skilled emigration should have no effect on the proportion of individuals obtaining an education, and a reduction in the steady-state proportion of skilled workers.

This happens to be the case in the quantitative exercise: for tertiary educated workers, there is virtually no brain effect for most countries. Poland is the only country with a positive brain effect, and a brain gain at the tertiary-level. This occurs because Poland has an unusually low skill premium for a country with its skilled–unskilled labor ratio in the dataset. The skill premium for tertiary educated workers is 1.5 in Poland, and the second lowest skill premium for secondary educated workers in the dataset is Sri Lanka at 1.88 (Poland also has the lowest skill-premium at the level of secondary-educated workers at 1.3).

The prominent effect of a brain drain on the steady-state proportion of tertiary educated workers comes from the drain effect; it does not increase the proportion of individuals getting an education, but reduces the skilled–unskilled labor ratio as more skilled workers leave the economy. Only the skilled workers who are left behind stand to benefit from increased emigration, as they become relatively scarce, and experience an appreciation in their steady-state wages. I report the results for the countries with the lowest and highest skilled–unskilled labor ratios respectively, as well as those for Poland, the full set of results are in Table 9.

### **Brain drain is real – the aff activates numerous pull factors that draw skilled workers away from their home countries**

**Krasulja et al 16** (Nevena Krasulja, masters student at Union University Nikola Tesla, “BRAIN-DRAIN –THE POSITIVE AND NEGATIVE ASPECTS OF THE PHENOMENON”, ЕКОНОМКА, July 2016, Date Accessed: 6/24/18, <https://www.ceeol.com/search/article-detail?id=585394> )//rsb

Exploring the literature on the brain-drain issue, we can conclude that this phenomenon is very present and current from different social aspects. Human capital and knowledge, are the driving force of development of every country, so at first it can be concluded that the brain-

drain from underdeveloped and developing countries is detrimental to the overall situation of these countries. On the other hand, the countries to which educated people are going to find jobs and obtain better living conditions, are in a position to brain-gain. However, analyzing the available theories we encountered three completely contradictory economic standpoints when it comes to the outcome of brain drains. The first consider that the brain drain has a “neutral” impact on the home country. The second generation of researchers claims that the country which qualified people are leaving in search of a better life definitely suffers a loss, while the third movement argues that the brain-drain could actually be observed as an opportunity and incentive for the home countries in the direction of thinking about revising the educational systems.

There are a number of push and pull factors which influence the brain-drain phenomenon and that are generated from the general social, economic, family to geographical and natural conditions. Recent research has shown that the home country shall experience a strong democratic influence when a large number of young people are looking to study in foreign democratic countries. On the other hand, those who leave their home countries after graduation continue to send money, usually for different family reasons, which has a great significance in most underdeveloped countries in the overall economic order. In the research of any social phenomena the globalization factor must not be forgotten. It affects the transformation of the brain-drain phenomenon to brain-circulation phenomenon. Many countries are developing programs and policies which shall help in returning their experts “home”, and also attract foreign qualified personnel by simultaneously strengthening its economy and competitiveness. Recent research suggests that taking advantage of a strong Diaspora no longer leaves the country “desperate” when qualified personnel migrate. Through various forms of exchange, they can always provide the necessary assistance to the development of the home country and thus contribute to its further economic development.

We can conclude, based on the data we obtained, that the number of people in 2010 who sought “a better life” in a foreign country tripled compared to the 1960s (<http://esa.un.org/migration>). This alarming figure is the motive for authors to continue to work on this phenomenon in the context of their country.

**Brain drain thesis real, zero-sum and dependent on country reputation according to numerous studies- the affirmative multiplies the US “brain gain” Harvey and Groutsis 15** (William S Harvey, senior lecturer at the University of Exeter Business School, an associate fellow in the Centre for Corporate Reputation, University of Oxford, and an honorary senior lecturer at the University of Sydney Business School, and Dimitria Groutsis, senior lecturer in the Discipline of Work and Organisational Studies at the University of Sydney Business School, “Reputation and talent mobility in the Asia Pacific”, *Asia Pacific Journal of Human Resources*, 2015, Date Accessed: 6/25/18, <https://onlinelibrary.wiley.com/doi/full/10.1111/1744-7941.12047> )//rsb



There is a wealth of academic research on talent management in various regional contexts (Collings and Mellahi 2009; Cooke 2011, 2012; Jones et al. 2012; McDonnell, Collings and Burgess 2012; McDonnell, Stanton and Burgess 2011). The Asia Pacific is an underresearched region in the context of talent management, but is highly diverse with varying levels of economic development. Although the aim of this paper is not to provide an exhaustive overview of the initiatives of different countries, we provide an extensive and cross-section of examples rather than a few select examples to highlight the sheer diversity and complexity of global and domestic talent issues across the region. Through this illustration we show the intersections between talent mobility and reputation. The Asia Pacific is an important region of analysis in the context of the import of global talent and the export of domestic talent because countries within this region have experienced brain gain, brain drain, brain exchange, brain circulation and brain waste. These guiding concepts are defined as follows. A brain gain is when a country experiences a net gain of human capital (Stark, Helmenstein and Prskawetz 1997); a brain drain is when a country experiences a net loss of human capital (Grubel and Scott 1966); a brain exchange is when there is no net gain or loss of human capital but movement of people does occur (Straubhaar 2000); brain circulation is when a migrant returns to and/or invests in the host and/or home country (Saxenian 2005); and brain waste is when people are not working in areas commensurate with their training and skills (Nakamuro and Ogawa 2010). Reputation also arguably impacts the mobility of talent and is used here following Fombrun's (1996) definition, namely that it is based on the aggregation of the perceptual judgments of stakeholders in relation to its competitors, and following Walker (2010), namely that reputation can be positive or negative, and is generally stable and enduring. While Fombrun (1996) and Walker (2010) focused on reputation in the context of organisations, we extend the use of reputation to the context of countries while also making reference to the individual as a purveyor of reputation, both of which are important because the reputations of countries and individuals are arguably significant when considering talent mobility in the Asia Pacific.

Over the last two to three decades, the attraction of global talent has emerged as a key policy concern for many countries in order to fill skill shortages in the labour market as well as to bolster economic competitiveness. National governments have come to recognise the enormous value of imported human capital resources in all areas of their economy (Al Ariss and Syed 2011; Tung 2008; Wright 2013). Building a positive country reputation for attracting talented workers from abroad is considered not only effective for national competitiveness, but also for encouraging additional skilled workers to move via the process of chain migration (MacDonald and MacDonald 1964). For instance, in Australia such initiatives include the well-known 457 visa category, which allows businesses to sponsor and nominate foreign workers if they are unable to find a suitably skilled Australian citizen or permanent resident to fill a position listed in the 'Consolidated Sponsored Occupations List' (Department of Immigration and Citizenship (DIAC) 2012). This example demonstrates how governments in the Asia Pacific are making active attempts to build reputations as countries open to attracting global talent across a range of skilled professions. Research from the private sector suggests that a country's reputation is an important pull factor in attracting talent. Employer Branding Today (2011), for example, finds that countries with negative reputations will struggle to attract talented workers.

**The brain drain thesis is true --- our authors compare the potential benefits from remittances and conclude the negative consequences outweigh**

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### 3. Brain Drain

Existing data indicate the extent of high-skilled migration and its continuing growth over time. Highskilled migrants come from every corner of the world, especially from poorer, smaller, and isolated economies, and move to larger, wealthier, English-speaking OECD countries. In light of this, it is not surprising that the term “brain drain” dominates popular discourse on high-skilled migration (Gibson and McKenzie 2011a). Ironically, the term brain drain first appeared in the British media a little over half a century ago to depict the loss of skilled labor from Britain, mainly to the United States, as noted by Clemens (2013), and Britain still remains one of the largest source countries of high-skilled emigrants. The earlier literature was mostly theoretical, as exemplified by Grubel and Scott (1966), who provide a theoretical framework with which to examine the implications of high-skilled emigration for economic outcomes in the sending countries. They conclude that, if an emigrant takes with them the value of their marginal product, welfare loss is not of concern in competitive and efficient markets. A similar paper by Berry and Soligo (1969) points out that although the sending countries lose their skilled workforce, they will be compensated with remittances from the emigrants and knowledge transmission. More important, they argue that a sending country may gain if emigrants leave behind their assets. The 1970s saw the emergence of a more pessimistic view, still mostly theoretical in nature, arguing that **high-skilled emigration depletes poorer developing countries of their most scarce asset—human capital**. The term “brain drain” was used to emphasize the importance and the “unfair” nature of the issue. Among the most prominent papers, Bhagwati and Hamada (1974) highlight the importance of social externalities from the highly skilled at a time when the role of human capital was taking a more central role in development economics. An additional concern on the effects of brain drain was motivated by public finance implications. Although the migrant-sending developing country finances the education of emigrants, the returns on these investments are reaped by the migrant-receiving, high-income countries. Furthermore, the sending country is exposed to significant losses in tax revenues from the emigration of people with relatively high earning potential. A third issue was based on the concern that high-skilled emigration would amplify existing inequality between the rich and the poor. The theoretical conclusions from the earlier literature were later corroborated with empirical evidence showing that emigration puts upward pressure on wages, especially of the groups who are similar to the emigrants. Mishra (2007) finds that, for Mexico, emigration increased wage inequality, with the greatest increase for the higher wage earners (those with 12–15 years of schooling). There is, however, little impact on aggregate welfare. Desai et al. (2009) show that emigration leads to losses in national income as a result of forgone taxes. More specifically, the paper suggests that high-skilled emigration may cost India 2.5 percent of tax revenues annually, corresponding to 1 percent of annual national income. Desai

et al. (2009) first produce counterfactual incomes for what high-skilled Indian migrants in the United States would have earned if they had stayed and worked in India. The values are then used to obtain the net fiscal contribution—both direct and indirect—of these migrants to the Indian economy. The authors compare the results with the gain to the economy from remittances and conclude that the exodus had a **negative overall impact.**

## **AT: Brain Circulation**

**Even if brain circulation is true, the tradeoff is still zero-sum- workers who come back promote their host country, increasing the number of migrants and causing further brain drain**

**Harvey and Groutsis 15** (William S Harvey, senior lecturer at the University of Exeter Business School, an associate fellow in the Centre for Corporate Reputation, University of Oxford, and an honorary senior lecturer at the University of Sydney Business School, and Dimitria Groutsis, senior lecturer in the Discipline of Work and Organisational Studies at the University of Sydney Business School, “Reputation and talent mobility in the Asia Pacific”, Asia Pacific Journal of Human Resources, 2015, Date Accessed: 6/25/18, <https://onlinelibrary.wiley.com/doi/full/10.1111/1744-7941.12047> )//rsb

Brain circulation is arguably a zero-sum game between the home and host country. Here, we are not referring to the first and second waves of skilled migration where there is the debate about whether countries have experienced a brain drain (first phase) or brain circulation (second phase). Instead, we are referring to foreign talent returning to their home country and subsequently investing in their former host country. A broader issue is that even if returning skilled migrants do not re-circulate to their host country, but make a positive impact by returning to their home country, then to what extent are they building the reputation of the host country as a place for world-class tertiary education and professional training? Arguably, returning skilled migrants who do not invest in their host country can still play critical roles as ‘reputation-builders’ for their host countries. The argument here is that through demonstrating their expertise and value abroad, they help to build the reputation of host countries as educators and developers of highly skilled talent. The Australian government, for example, has recognised the high value of British talent in certain fields such as construction and engineering, and targeted the United Kingdom as a source of talent through expos, job fares and recruitment events in London in order to fill skill shortages in Australia (DIAC, 2011a, b).

**Skilled workers leave their home country to take bad jobs in the US – it’s brain waste, which undercuts any positive kickback effect**

**Harvey and Groutsis 15** (William S Harvey, senior lecturer at the University of Exeter Business School, an associate fellow in the Centre for Corporate Reputation, University of Oxford, and an honorary senior lecturer at the University of Sydney Business School, and Dimitria Groutsis, senior lecturer in the Discipline of Work and Organisational Studies at the University of Sydney Business School, “Reputation and talent mobility in the Asia Pacific”, Asia Pacific Journal of Human Resources, 2015, Date Accessed: 6/25/18, <https://onlinelibrary.wiley.com/doi/full/10.1111/1744-7941.12047> )//rsb

Many educated immigrants in the United States have faced significant difficulties with labour market performance, according to US Census data (Mattoo, Neagu and Özden 2008). Although skilled migrants from developing Asian countries performed better than skilled migrants from Latin America and Eastern Europe, there were still some concerning statistics for skilled migrants from the Asia Pacific. Of the skilled migrants who arrived in the United States in the 1990s, for example, only the following proportion of males with bachelor's degrees from their home countries held skilled jobs on arrival: 33% from South Korea, 46% from Taiwan, 40% from the Philippines and 55% from Vietnam (Özden 2006, 238). Hence, the issue of brain waste among migrants from the Asia Pacific has been a major problem in the United States, with the statistics likely to be significantly lower for skilled migrant women who frequently compromise their careers for their male partners (Yeoh and Willis 2005). The above statistics are significant because it appears that organisations within the United States hold a particular bias towards certain migrant groups. It is critical to ensure that migrant skills are recognised, otherwise host countries run the risk of creating a reputation among potential talent as countries where migrants cannot work in areas commensurate with their education, training and skills.

Another significant finding from Mattoo, Neagu and Özden (2008) and Özden's (2006) research is that if other countries attract educated migrants through appealing migration policies, then the average quality of migrants to the United States as well as their likelihood of occupying a skilled job declines. In other words, there is a market for global talent and those countries which build a reputation for offering the best incentives will not only attract the best workers, but also affect the perceptions of mobility opportunities among potential talent in overseas countries. Finally, although brain waste is a problem for many skilled migrants at the point of arrival in a host country, there is less empirical evidence concerning the role of brain waste over time.

### **Brain circulation is wrong in the context of high skilled immigration – Remittance rates prove**

**Kapur 17** (Davesh Kapur, 3/7/17, Davesh Kapur is director at the Center for the Advanced Study of India, Madan Lal Solti Associate Professor for the Study of Contemporary India, and Professor of Political Science at the University of Pennsylvania, "Addressing the brain drain: A partial cosmopolitanism approach", <https://www.tandfonline.com.proxy.lib.umich.edu/doi/pdf/10.1080/02580136.2016.1263375?needAccess=true>) MKIM

Finally, it has been argued that those who leave may still be helping their home countries. Migrant remittances to developing countries total almost half a trillion dollars, three times as much as is sent in official development assistance. But this number is misleading in that most remittances come from low-skilled migrants, not high skilled. Other benefits include the value of the diaspora to economic partners in trade and investment and the potentially transformative effects of returnees, which depend on the tendency of highly skilled migrants to return. Just as absent talent can undermine institutions, return migrants may strengthen them. For instance, Spilimbergo (2009) finds support for a positive association between the number of student migrants at academic institutions in democratic countries and the quality of institutions in their countries of origin (there was no association for students in non-democratic host countries). But these arguments should not get around the basic

reality that all countries want immigrants with high levels of human capital for a reason. They are the future innovators, entrepreneurs, institution builders and tax payers. Conversely, their loss can harm domestic knowledge access 50 Kapur (Agrawal, Kapur, McHale, and Oettl 2011), have adverse fiscal consequences for source countries (Desai, Kapur, McHale, and Rogers 2009), and weaken institutions (Kapur and McHale 2005). So how can we address this tension?

### **Empirics prove circulation denied**

**Parris Chang and Zhiduan Deng 18** - Dr. Chang is professor of political science and director of the Center for East Asian Studies at the Pennsylvania State University. Dr. Deng is a research associate of the Center (Parris Chang and Zhiduan Deng, "The Chinese Brain Drain and Policy Options," accessed 6-27-18, slideheaven.com, <https://slideheaven.com/the-chinese-brain-drain-and-policy-options.html>)  
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Brain drain has become a growing problem in China's overseas education, especially since the Tiananmen incident of June 1989. Many students have found it more difficult to adjust to the home environment. Some are afraid they would be punished for political reasons if they went home. Some use the issue as an opportunity to seek permanent overseas residence. Beijing is facing various difficulties in coping with the brain drain problem. Restrictions always anger students abroad. Family members often discourage students from returning. Incentives to attract students to return are inadequate. Most important, after Tiananmen Western governments refused to cooperate with Beijing and allowed Chinese students to stay. Concerned with the brain drain, Beijing is reconsidering its policy on foreign study. Of the policy alternatives, a continuation of the open policy appears to remain optimal, though some adjustments are necessary. In addition, several technical solutions to the brain drain problem are worth considering. or its c r a c k d o w n on the p r o - d e m o c r a c y demonstration in June 1989, Beijing has been p a y i n g a high price. A notable consequence is C h i n a ' s growing brain drain, mainly because students are not returning h o m e upon completion o f their overseas education. In late 1989, w e conducted a mail survey a m o n g the Chinese students studying on ten A m e r i c a n campuses, t The survey found that the T i a n a m e n incident has seriously undermined the students' confidence and faith in their h o m e g o v e r n m e n t . A m o n g the respondents, 77.9 percent felt C h i n a ' s political situation had deteriorated; **72.6 percent said they would be most concerned about China's political situation if they were to return home; 71.3 percent felt they would find it very hard to adjust to the home environment;** 42.2 percent were pessimistic and 50.9 percent had mixed feelings about the future of China's reforms; and 61.3 percent said they were not optimistic regarding their future career prospects in China. Since Tiananmen most Chinese students have indicated their intentions to stay abroad until the home political situation significantly improves. Many of them are even prepared to stay overseas permanently. For Beijing, this situation suggests a serious problem. Most individuals who have left China are young and among the best and brightest. Despite China's great demands for high-level manpower in its modernization, it is now difficult to predict when the students will come back, or even if they will come back at all. In addition, the fact that many students abroad do not want to return has generated a strong impact on those at home. Increasingly, when students are leaving China, many are apparently not preparing to return. The Difficuldes Facing Beijing Despite its concern over the problem, Beijing has faced a variety of difficulties in bringing students home after their overseas education, especially after Tiananmen. These difficulties include the influence of families on students abroad, foreign influence on Chinese students abroad, insufficient incentives to return, China's limited control over its students abroad, and China's limited influence upon foreign governments. The Influence of Families on Students Abroad Beijing's efforts to battle the brain drain are often frustrated by the influence of students' families. When considering whether to return home after their foreign education, students are often discouraged by family members. In addition, for most students abroad the advice and suggestions from their own families are usually more trustworthy and convincing than the opinions of the government. Lured by various opportunities in the host countries, many Chinese students and their families have put study abroad or immigration as their primary goal in recent years. For many families, it is not easy to send their children abroad to study. It is also difficult for the students to establish themselves academically or financially in foreign countries. Therefore, when students complete their overseas education, their families often dissuade them from returning home. Our survey found that **62.6 percent of the respondents said their families would support their decisions to stay abroad**

permanently; 23 percent thought their families would not care if they decided not to return home; 12.6 percent predicted their families would not support their decisions to stay abroad; and 1.8 percent were not sure about their families' attitudes. The survey findings show that the majority of the students' families would support their deciding not to return to China. Also, a considerable portion of the 116 Studies in Comparative International Development/1992 families would not oppose such decisions, though they would not voice their support. The advice given by families has significantly influenced students' decisions about future residency. In addition to our mail survey, we have interviewed 150 Chinese students in the United States. Of them, 93, or more than 60 percent, have decided to stay abroad for at least two or three years after their overseas training. Among these 93 students, more than half indicated that they have changed their plans to return to China partially because of their family's opinions, and only less than 20 percent said they had already sought immigration when they first came to the United States. When asked whose advice they would base their decision on regarding whether or not to return to China, more than 80 percent of the interviewed students said they would listen to the suggestions of families over that of the government. About 30 percent said they would take only the advice of their families regardless of the government's position even if they could consider opinions of both sides.

## Western values prevent brain circulation

**Parris Chang and Zhiduan Deng 18** - Dr. Chang is professor of political science and director of the Center for East Asian Studies at the Pennsylvania State University. Dr. Deng is a research associate of the Center (Parris Chang and Zhiduan Deng, "The Chinese Brain Drain and Policy Options," accessed 6-27-18, slideheaven.com, <https://slideheaven.com/the-chinese-brain-drain-and-policy-options.html>)  
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**Western influence is apparently another obstacle to Beijing's plan to combat the problem of brain drain.** The Chinese government encounters two major difficulties in this regard. First, Western influence has changed the social values of many Chinese students abroad. In various degrees, many students have adopted the prevalent individualism of the Western culture. **Such changes in individual values have affected**

the students' thinking on how soon, or even whether, they should **return to China** after overseas training. It now appears that many students will no longer put the state interest above their own, as they were taught and required to do in China. These students hold that individual interest should not be always sacrificed to the state, and they should not be forced to return home simply on grounds of patriotism. In addition, today, unlike the 1950-60s period, non-return after foreign education is not considered by the Chinese population as an act of betrayal. On the contrary, many students now think they can serve the home country and still be patriotic while staying overseas. As students change their previous stances regarding the relationship between the state and individual interests, they come to view their stay abroad as morally and politically justifiable. The second aspect of **Western influence involves political and ideological positions.** An undesirable consequence of Beijing's policy of foreign study seems to be the fact that ideologically the Chinese government is losing more and more students to the West. A **significant number of students have evidently changed their political beliefs during their study abroad.** Of the respondents to our survey, 46.2 percent said their political views have greatly changed since they came to the United States; 47.8 percent have changed slightly; and only 6 percent indicated that their political views have not changed. Not only have students changed their political views, many even openly criticize the Chinese social and political systems. Angered by the Tiananmen incident, tens of thousands of People's Republic of China (PRC) students abroad have openly denounced the measure taken by their home government. In Beijing's view, the Western governments were behind these anti-Communist activities. Although the accusation lacks hard evidence, it does suggest that the massive student involvement in protests would be impossible without the influence of the host governments, and that many students did not hesitate to participate in the protests because their political positions had already changed toward the Western ideas of democracy and individual freedoms. The changes of values and political stances among students have caused increasing brain drain from China in recent years, and even more so since Tiananmen. As their confidence in the home government eroded, many students decided to stay abroad until there are clear signs of political and economic improvements at home. For those who already intended not to return, what happened in China has strengthened their determination.

## Plan reverses only incentive for circulation

**Alex 17** – common writer on U.S. China relations, author of "Why does the United States allow China to buy many big companies of U.S.?" (Zhou Alex, "Do Chinese people not want to come back to China when they go to America?", 3-

19-17, <https://www.quora.com/Do-Chinese-people-not-want-to-come-back-to-China-when-they-go-to-America>) // NJ

United States remains the world's most prosperous, powerful and innovative country and it draws thousands of immigrants annually from all around the world. Among the U.S.'s immigrants, Chinese immigrants now make up the largest single group of all arrives. In the past before China's economy boom, even at 2000s, at that time the average annual salary of China was around 10,000 yuan (1200 USD). The living quality gap between China and U.S. was huge. A low wage labor worker in U.S. make 10 times money compared to the average Chinese. It made U.S. a parades in the eye of Chinese people. There was a very popular TV drama named "Beijinger in New York". People was eager to come to the paradise to land their American dream. Part of them choose to go illegally through human trafficking. Those who were down on the luck died in the sea. After they arrived in U.S. they worked in Chinatown as they did not speak English and had no valid working permit. A small group of very talented students came to U.S. and after graduation they found job in U.S. "From 1978 to the end of 2004, there were 815 thousand of Chinese students study abroad. Those who returned back was only 198 thousand, more than 75% of them remained abroad." Read a statistic from Education Ministry of China. (1) Nowadays, with the rising income of Chinese middle class, and the frustration toward the country's ultra-competitive education system, increasing number of outward looking Chinese families send their kids to study abroad. U.S is the most populous destination. In 2015 alone around half a million Chinese students went to study aboard. Almost half of the group choose U.S. as the host country. (2) 90% of the students are self funded(2). The average tuition U.S. charged on these international students are between 40,000~50,000 USD per year. In 2014 the Chinese students group alone contribute to a 9.8 billion USD to the economy of U.S. . (3) After graduation, instead of remaining in States, 80% of them returned back to China. The trend is sparked partly by the economy of China. It is able to offer increasing number of white collar job in different industrial sectors varying from IT/mobile technology, finance, engineering. The average salary may not be able to beat the western country. But they believe that the international education background and familiarity toward their own culture make them be promoted easier in China. Another reason is more about practical matters. Unlike those highly selective pioneers before, not everyone is able to successfully land a job in States after graduation. Even for those who has a job offer, they have to take a lottery to apply for a H1B Working Visa, which only supply 80,000 opening annually for students from all over the world and is typically be vastly outstripped during its first opening day. For those who does not get selected, they have to return home. Except students, another major Chinese group who come to U.S. is tourist. In 2014, 1.8 million Chinese tourists visited America and spent a whopping \$21.1 billion. (4) Definitely most of them returned back. U.S. government also tried to entice more tourists by extending the tourist visa for Chinese to 10 years in 2014. In conclusion, when Chinese people come to U.S. , no matter if they want to stay here or not, even though they want to stay here, majority of them returned back.

### **Brain circulation false – western education outweighs other factors**

**Cao 14** - PHD Sociology, Columbia University, Professor of Chinese Studies, Head of School of Contemporary Chinese Studies , Faculty of Humanities and Social Sciences, UNNC (Cong Cao, "China's Reverse Brain Drain Regaining and Retaining Talent", International Studies of Management & Organization, 7-12-14, <https://www-tandfonline-com.proxy.lib.umich.edu/doi/pdf/10.2753/IMO0020-8825440203?needAccess=true>) // NJ

So what stops Chinese students from repatriating? Attractions in their host country pull them to stay abroad. The host-country benefits regarded by students in the United States and Canada as superior to those in China and as a disincentive to their returning included: better career opportunities, high salaries, and preparation to enter the workforce (Dimmock and Leong 2010; Kellogg 2010; Tung 2007; 64 Tharenou & Seet (Australia) Wadhwa et al. 2009a, 2011; Zeithammer and Kellogg 2013); a higher quality of education, especially for children, and better opportunities for children (Tung 2007; Wadhwa et al. 2009a, 2009b); and a better quality and way of life (Tung 2007; Wadhwa et al. 2009b). Chinese students in New Zealand did not intend to repatriate (Bai 2008), in part to gain a return on their investment in their education through working for at least a short time in New Zealand or other countries (33%). Career opportunities,



family life, children's education, and a happy settlement into a Western lifestyle were strong barriers to the return to China of graduates living in Australia (Yang and Welch 2010). Zeithammer and Kellogg (2013) found that Chinese Ph.D. graduates tended to remain in the United States because of the large salary disparity between the two countries. If the salary gap narrowed to half, their return rate would increase more than threefold (to 27% of graduates). Overall, Chinese students studying abroad appear to remain because the costs of repatriating would exceed the benefits, supporting expectancy theory (Comay 1971). Opportunities for children (Figure 1) appear significant in family deliberations about repatriation. In support of family systems theory (Brett and Stroh 1995), the evidence suggests that the family system affects whether the family remains abroad or repatriates with the graduate. Partners and children did not always repatriate with returnees; half remained in their host country while the graduate repatriated alone (Keren, Guo, and Ping 2003; Wadhwa et al. 2011). A substantial minority of spouses did not support their partner's return, perhaps explaining why spouses remained abroad, and a larger portion was neutral (Guo and Iredale 2003; Keren, Guo, and Ping 2003; Wadhwa et al. 2011). Returnees said that Canada and the United States provided better opportunities for children and their education, and so the family stayed (Tung 2007; Wadhwa et al. 2009b; Yang and Welch 2010).

### **Even if skilled workers return home the infrastructure is not strong enough to support them**

**Harvey and Groutsis 15** (William S Harvey, senior lecturer at the University of Exeter Business School, an associate fellow in the Centre for Corporate Reputation, University of Oxford, and an honorary senior lecturer at the University of Sydney Business School, and Dimitria Groutsis, senior lecturer in the Discipline of Work and Organisational Studies at the University of Sydney Business School, "Reputation and talent mobility in the Asia Pacific", *Asia Pacific Journal of Human Resources*, 2015, Date Accessed: 6/25/18, <https://onlinelibrary.wiley.com/doi/full/10.1111/1744-7941.12047> )//rsb

Like the Philippines, Indonesia is another Asia Pacific country which has exported a significant volume of its labour force. Although reliable statistics are not readily available, it is estimated that approximately 800 000 Indonesian citizens were working abroad in 2008 (Sukamdi 2008). Having said this, the Indonesian government aims to stop sending its skilled workers abroad from 2017, according to the Manpower and Transmigration Minister, Muhaimin Iskandar (Jakarta Globe 2012). The minister qualified his statement by saying that this target may not be reached, not least because there may not be enough jobs in Indonesia. Hence, a challenge for Indonesia will be both opening-up opportunities for returning Indonesians and ensuring those opportunities are commensurate to their education, skills and training. According to the International Organization for Migration (2010), challenges exist for returning talent, such as having to return to the address stated on their passport, which creates major logistical challenges if their family, friends and professional contacts have relocated to a different region, cutting them off from important social ties and therefore opportunities. In addition, very little

assistance is available for insurance claims or for aid for those migrants wishing to start up entrepreneurial or business ventures. In short, limited infrastructure is in place at present to support Indonesian returnees, which raises major questions about how the country will manage this process as increasing volumes of talent return with viable and useful skills and qualifications. Another major issue for returning Indonesians is finding work, let alone in an area equivalent to their prior training. Chain migration argues that people from the same home country will move to the same places by passing important migration information to one another through social networks (MacDonald and MacDonald 1964). However, Indonesians abroad will arguably quickly hold negative perceptions of their home country if economic opportunities are not attractive for them to return, which will play the opposite role of chain migration and reduce talent mobility back to the country.

Thailand's Reverse Brain Drain (RBD) project has been an attempt by the national government to engage with Thai professionals living overseas to help the economic development of Thailand, particularly in the area of science and technology (Reverse Brain Drain Project 2012). The program was initiated in 1997 under the National Science and Technology Development Agency (NSTDA) in order to produce and disseminate new workforce planning knowledge for Thailand's needs. The logic behind this program is that funding is dependent on: how innovative the project is; the extent to which it will aid and extend Thailand's competitiveness; and its commercial viability, including how it engages with Thai expertise abroad (International Labour Organization 2009). To date, many of the partnerships have been with Thai universities or immigrant associations abroad. Wickramasekara (2013) cites the above initiative as a good example of promoting brain circulation, which is hard to dispute given the extensive list of positive past, present and future projects. However, Dahles (2009) cites a number of countries, including Thailand, which have implemented initiatives for attracting talent, but then have little in the way of institutional support to retain talent. The result is that although some returning talent benefit from economic opportunities, the majority find they do not fully utilise the training and skills acquired abroad, working in lower level positions in their home country. Naudé (2007) agrees that governments need to implement long-term strategies that will keep talent engaged as opposed to short-term projects, which are very effective initially, but are likely to lead to brain waste in the longterm because talent will either leave the country or remain in the country and work in areas not commensurate to their skills. The case of Thailand highlights an important program which has catalysed the return of its talent through building the country's reputation for new business and economic opportunities, but it is questionable whether this program has been successful at keeping these skilled workers engaged and maintaining a long-term reputation for economic opportunities after the individual projects have been completed.

### **Workers won't return home – no brain circulation**

**Krasulja et al 16** (Nevena Krasulja, masters student at Union University Nikola Tesla, "BRAIN-DRAIN –THE POSITIVE AND NEGATIVE ASPECTS OF THE PHENOMENON", ЕКОНОМИКА, July 2016, Date Accessed: 6/24/18, <https://www.ceeol.com/search/article-detail?id=585394> )//rsb

It is obvious that the economists, at the global level, are very interested in the aforementioned issue. In fact, if the outflow continues at the “already seen” continuity, that could lead to dramatic economic and social consequences (Sattaur, 1989). Of course, economists of the countries from which people are leaving, as well as of those in which they are arriving, closely monitor the situation.

It is important to note that the situation should be perceived firstly from the standpoint of global labour mobility. The qualified workforce moves to destinations with a promising outlook for better income. The research conducted in five countries suggests that growth in income after migration to developed countries has increased to an extremely high 40,000 - 60,000 \$ per year. Of course, only highly educated employees were represented in the sample. It is certain that the stated situation creates a particular type of barrier to migrants who are not sufficiently qualified. While they can easily move to more developed areas in developed countries, such opportunities do not exist in underdeveloped countries as well as in developing countries (Gibson & McKenzie, 2010).

Of course, one must not forget the fact that the brain-drain to the most popular “destination” leaves employees from their home country in an unenviable position. For example, in the US alone, engineers from developed countries with PhDs account for 47% of the workforce working on computer software development. The situation is similar with employees in the medical profession (Gibson & McKenzie, 2011).

Also, often the emigrants in the immigrant country do the jobs for which they are overqualified. This phenomenon is called “brain-waste.” According to statistical reports, educated people from the science, technology, engineering and mathematics fields are often working lower class jobs. Also, reports from 2008, from the territory of the US, indicate that 90% of emigrants with a Master’s Degree and 96% of those with a PhD Degree have jobs which require only a college diploma and where most of the employees do not possess higher qualifications from their home country (Mattoo et al., 2008).

It is not a rare situation that a certain number of qualified migrants, after some time, decide to return to their home country. The most common reasons for this are improvement of the economic situation and better conditions in the labour market. Favourable outcomes of return are the logical outcome – they now “employ” their new experiences, financial resources, business connections and acquaintances in their own country. Also, according to various researches, highly educated migrants upon returning to their country often choose to start their own business. In fact, the duration of stay and the amount of money they have earned at the destination are positively correlate with the start of entrepreneurial activity. This trend is especially present among the Turkish migrants (Dustmann& Kirchkamp, 2001).

In the opinion of many authors, when the situation is viewed from a broader perspective, the majority of migrants returning home are those who did not achieve a satisfactory performance abroad. On the other hand, those who have provided good jobs and living conditions rarely come back regardless of the situation in their home country. Consideration should be given to the trend of large multinational companies opening their branches in a growing number of developing countries, as so often the migrants, as employees of the foreign branch, return to work the same job, but now from their home country (Luo & Wang, 2001).

### **Brain circulation doesn't work- the negative effects of brain drain outweigh**

**Srivastava '18** [Dr. Babita Srivastava, holds a Ph.D. in Commerce/Business Administration from the University of Allahabad, is a professor of economics at William Paterson University, "Economic Impact of Brain Drain in Developed and Developing Countries," accessed 6-4-18, [https://www.aeaweb.org/conference/2018/preliminary/paper/r5STr4yk\\_kdd](https://www.aeaweb.org/conference/2018/preliminary/paper/r5STr4yk_kdd)]

**Brain drain** does not show damaging results right away; rather, it takes time to produce any significant economic effects. The worry of economists is that this problem will balloon to unmanageable levels and action will not be taken against the growth of Brain Drain. The issue is the highly education individuals who leave for better opportunities are the only source that can improve their countries' economic systems. Developing nations rely on equilibrium, where they benefit from other countries' stronger economies without those same economies drawing away all their resources, which include educated workers. Without this balance, there is no reinvestment back into their economy. Looking at both the positive and negative effects, how should one perceive brain drain and manage its effects? Socially and economically, the negatives outweigh the positives. Therefore, brain drain should be viewed negatively. It should be stopped or, at the very least, managed. One way that it can be managed is that highly educated illegal immigrants should not be permitted to take up the work that they are educated for in the nation in which they are illegally living. They can often work for minimum or illegally lower wages, making it difficult or impossible for legal educated workers to get the same work. The developed countries should also make stricter rules to get permits for work authority.

### **Developing countries won't benefit from brain circulation**

**Srivastava '18** [Dr. Babita Srivastava, holds a Ph.D. in Commerce/Business Administration from the University of Allahabad, is a professor of economics at William Paterson University, "Economic Impact of Brain Drain in Developed and Developing Countries," accessed 6-4-18, [https://www.aeaweb.org/conference/2018/preliminary/paper/r5STr4yk\\_kdd](https://www.aeaweb.org/conference/2018/preliminary/paper/r5STr4yk_kdd)]

Developing nations need to learn to manage in the "New Economy." As academic scholar Allan C. Ornstein puts it, this new economy "deals with the exchange of knowledge and ideas, or in urban squalor, where old and new knowledge, values, and ideas collide" (Ornstein, 2015, p. 148). Whereas there was a trade of products, traditionally, in this new economy, there is a movement of knowledge, information, and skills. Unfortunately, many developing nations suffer from even greater economic disparity than the United States, and extraordinary governmental corruption (Ornstein, 2015, p. 148). These factors all combine to make it very difficult for a nation that is not actively fighting brain drain to properly



## China Espionage

### Illegal immigration supports Chinese espionage

Hankinson, 5-31, 24, Simon is a Senior Research Fellow in the Border Security and Immigration Center at The Heritage Foundation, Biden's Border Crisis Promotes Foreign Espionage in Plain Sight, <https://www.heritage.org/immigration/commentary/bidens-border-crisis-promotes-foreign-espionage-plain-sight>

**In March, a Chinese man wandered onto a Marine Corps base** at Twentynine Palms, California. **He was believed to have crossed illegally into the U.S.** and was released by DHS pending a decision in his asylum application. He claimed to have been lost. But it isn't that easy to stumble onto what the Marine Times called their "vast combat training installation located in the remote California desert." Though he was apprehended, he scouted out the security at our biggest Marine base. According to the Wall Street Journal, there have been around 100 such "innocent" incidents in recent years. **These are likely amateurs carrying out one-off espionage gigs for China.** China's 2017 National Intelligence Law demands that, "all organizations and citizens shall support, assist, and cooperate with national intelligence efforts." Earlier this year, The Heritage Foundation Oversight Project filed Freedom of Information Act (FOIA) requests with the Defense Department to see how many bases had been targets of such surveillance. To date, they have only received information from Pearl Harbor, but **responses from that base alone showed multiple intrusions by Chinese nationals in the past few years.** China has many potential amateur spies to choose from. Their Belt and Road initiative construction projects in Africa and Asia are notorious for bringing in workers from China rather than hiring locals. Chinese investment in the U.S. Northern Marianas Islands brought problems from "human trafficking to birth tourism, labor abuse, money laundering, and public corruption," according to the commonwealth's governor. Soon, these same ills may be coming to the mainland United States. **Hiring thousands of Chinese nationals to work in sensitive U.S. industries or locations invites a problem that political analyst John Hulsman calls espionage "hiding in plain sight." This year so far, 27,000 Chinese nationals have been apprehended at the southern border,** and most of them will be released after they state a "credible fear" of persecution. If they apply, for asylum, they can get authorization to work within six months, after which Chinese-owned businesses can legally hire them. You couldn't invent a cheaper, faster, less scrutinized foreign work-visa program if you tried. First, there is the Hotel Rössli in Unterbach, Switzerland. It overlooks an airbase where the Swiss want to keep F-35 jets bought from the U.S. The hotel was bought by Chinese investors, the Wang family, although they had no idea how to run an inn, closed the restaurant, and spent most of their time back in China. It is hardly speculating to suggest that China might be interested in acquiring access to property only 100 yards from where state-of-the-art F-35's will be kept. Second, there is a risk from Chinese-owned companies that service our undersea cables. The first undersea cables were laid in the 1860s, and even today almost all internet traffic flows through undersea fiber optics. The cables are vulnerable, as the U.S. demonstrated by secretly tapping into Soviet cables in the Cold War. China may now be using the same playbook against us. S.B. Submarine Systems—a Chinese company—reportedly turned off the Automatic Identification System (AIS) location devices on several ships servicing undersea cables for days at a time. Deliberately turning off AIS is almost always an indicator of nefarious activity—usually sanctions-evasion—and was "unusual for commercial cable ships and lacked clear explanation," according to the Wall Street Journal. Cables carrying internet traffic are important to the national economy and present convenient targets for sabotage in time of conflict. Even if they aren't yet physically touching cables, the fact that Chinese-owned vessels and crew are servicing America's undersea cables means that Beijing knows the location of critical infrastructure. >>> **The Biden Administration Wants Even More Money to Distribute Illegal Aliens Throughout the United States** And by owning land near cable landing sites, Chinese firms can access cables before they reach the sea floor. A May 9 hearing of the House Homeland Security Committee highlighted how Chinese nationals are exploiting our porous southern border to illegally enter the United States. They are not vetted for criminal records back home, nor ties to the Chinese army or intelligence services. This allows our main adversary a steady supply of possible espionage assets. **With their families still back home, many Chinese illegally living in the U.S. are subject to pressure from the long arm of the Chinese government even if they aren't active agents.** One step to improve security would be to require Chinese to go through the U.S. Refugee Admissions Program, in which applicants remain abroad pending acceptance as refugees.

## **Politics**

## **Bipartisan Political Support for Surveillance**

Hilary Beaumont, 4-3, 23, The Guardian, Virtual wall: how the US plans to boost surveillance at the southern border, <https://www.theguardian.com/us-news/2023/apr/03/us-mexico-border-surveillance-towers-customs-border-protection>

The towers are part of a web of systems meant to monitor and deter migration and smuggling across the US-Mexico border that includes drones, licence plate readers, checkpoints, ground sensors, and data and biometrics collection. **Both Republican and Democratic administrations have invested in such systems since the early 2000s. CBP is prioritising the deployment of border tech** “to enhance awareness and strengthen safety in US border regions”, a spokesperson for the agency said, adding that the towers help detect and track irregular migration and suspicious vehicles.



# Answers to Con Contentions

## Answers to Racism

### **1. Biometric recognition can be used to stop racial bias by police officers in real-time**

**Burt 22** [Chris Burt, 3-9-2022, "AI bias poorly understood, activists warn," Biometric Update |, <https://www.biometricupdate.com/202203/ai-bias-poorly-understood-activists-warn>]

Biased artificial intelligence systems need to be reigned in through a combination of regulation, education, and transparency, according to civil society experts discussing how AI impacts civil rights. The context in which technologies like facial recognition are deployed is critical to understanding their impacts, they say. The Brookings Institution's TechTank podcast tackles the topic in an episode titled: 'Civil rights and artificial intelligence: Can the two concepts coexist?'. Host Nicol Turner Lee, a senior fellow of governance studies and director of the Center for Technology Innovation, says multiple times towards the beginning of the episode that facial recognition has resulted in wrongful arrests of black men and women, but those cases and biometrics are not the main focus of the program. Joining Turner Lee to discuss AI bias were Renee Cummings of the University of Virginia's School of Data Science and Lisa Rice, National Fair Housing Alliance CEO. Rice begins with the transparency barrier that AI system deployment creates, and the deep inequalities in the marketplace, referring to the U.S. legal and political systems. Data driven systems must be scrutinized and "remodeled" to avoid inflicting harms on consumers, she says. Cummings notes the potential benefits of AI deployment, and the risks that go along with that potential. Algorithms have become responsible for high-stakes decisions within the criminal justice system, according to Cummings, and are colliding with "race-based laws." These are coded and designed into systems, perhaps subconsciously. "Blackness as a data point for risk," is the result. Rice says that there are thousands of race-based laws found in U.S. history, and most people are not aware of that fact, which hinders them from coming to terms with the racial context algorithms are created and deployed within. "Because people don't know the history, they think it doesn't exist," Rice says. The conversation **turned to the coding of race into credit scores and zip codes, so that even systems that claim to be race-agnostic can perpetuate bias, and the related concept of "data trauma."** Similarly, the concept of "disparate impact," coined as part of fair housing efforts by the Nixon Administration, involves laws or policies that appear neutral that in application have a discriminatory effect. Despite this, **AI can also be deployed to address these disparities, including in policing, the Cummings says. Increased transparency and early warning systems can warn of officers departing from accepted practices.** Facial recognition is mentioned briefly in the context of AI surveillance systems, Rice says the **existing civil rights laws can be used to fight many existing instances of discrimination, but at the same time not every instance of algorithmic bias can be litigated.** Federal regulators have failed to keep up with the technology, she says, making technology the next civil rights frontier. Better measurement and better education for data scientists can help reduce algorithmic bias, the podcasts participants say. The **EU's approach to regulating algorithms, with facial recognition and others classified as 'high-risk,' can provide guidance for the U.S.** in terms of its commitment to human rights. The 'Purpose, Process and Monitoring' framework formulated by the National Fair Housing Alliance for algorithmic fairness could be broadly applied, Rice says, and together with better auditing systems can lead to better outcomes from the use of AI.

### **2. Reform solves. Researchers have already identified ways to reduce the impact of bias among biometric systems. Full ban doesn't solve**

**Burt 20** [Chris Burt, 11-2-2020, "Method for facial recognition bias reduction with adversarial network shows promise," Biometric Update |, <https://www.biometricupdate.com/202011/method-for-facial-recognition-bias-reduction-with-adversarial-network-shows-promise>]

Immigration Surveillance Core File. *Updated 8-3-24*

**A prominent trio of biometrics researchers have proposed a way to remove the difference, or bias, from facial recognition performance between different demographics.** A paper jointly written by Sixue

Gong, Xiaoming Liu and Anil K. Jain, all of Michigan State University, 'Jointly de-biasing face recognition and demographic attribute estimation,' was presented at the European Conference on Computer Vision (ECCV) 2020. The

**researchers propose a novel de-biasing adversarial network (DebFace), which “learns to extract disentangled feature representations for both unbiased face recognition and**

**demographics estimation.** The network proposed in the paper is made up of one identity classifier and three demographic classifiers, one each for gender, age, and race. Correlation among feature factors is minimized through adversarial learning to reduce the influence of factors associated with bias, and the researchers also designed a scheme for combining demographics with identity features to improve the demographic balance of faces represented. The question of whether bias could be trained out of facial recognition without reducing overall accuracy to the lowest

common denominator was recently raised by ID4Africa Executive Director Dr. Joseph Atick during the organization's livecast 'Spotlight on Face Recognition Technology.' Improving overall performance without including additional bias is non-trivial, Sixue told Biometric Update in an email. "Since demographic attribute is

discriminative to identities (different races can't be the same subject), its removal will inevitably lead to a more challenging setting for FR," she explains. "DebFace sacrifices the accuracy for cohorts with a large number of face samples while it improves the accuracy of cohorts with less images." The overall results of their

**experiments were encouraging, with reduction in bias and improved demographics estimation with performance comparable to state-of-the-art systems, according to the paper.**

**“One strategy to reduce bias while keep the demographic information is to raise the feature discriminability for under-represented cohorts by adding extra capacity to the corresponding feature extraction functions, but remaining the ones for features of well-represented cohorts,”** says Sixue. "In this way, the general performance on all the cohorts can be increased, and meanwhile, the gap of accuracy can be decreased between under-represented cohorts and well-represented cohorts."

## Answers to: Social Activism

### 1. Protests often fail when they turn violent in which backlash detracts support from the movement

De Witte 18 [Melissa De Witte, 10-12-2018, "How violent protest can backfire," Stanford News, <https://news.stanford.edu/2018/10/12/how-violent-protest-can-backfire/>]

**Protestors are not helping their cause when they turn violent toward their opposition.** In fact, their **aggressions could increase support for the very people they're protesting against, according to new research by Stanford sociologist Robb Willer.** New research by Stanford sociologist Robb Willer and **colleagues suggests that protesters who otherwise enjoy high levels of public support can lose it if they use violence.** (Image credit: Getty Images) The research – inspired by recent confrontations between white nationalist protesters and anti-racist counter-protesters in Charlottesville, Virginia, and Berkeley, California – found that **violence by anti-racist protesters can lead people to view them as unreasonable, a perception that may lead to people identifying less with the group.** However, violence by white supremacists didn't change people's opinion because they already saw the white supremacists as extremely unreasonable, said Robb Willer in a paper published Oct. 11 in *Socius: Sociological Research for a Dynamic World*. Brent Simpson of the University of South Carolina and Matthew Feinberg of the University of Toronto are co-authors on the paper. When anti-racists turn their protest into violence it can backfire even further: In some cases, it can influence support for the other side, said Willer.

**“Our central finding is that even protesters who otherwise enjoy high levels of public support – anti-racist activists counter-protesting a gathering of white nationalists – can lose support from the general public if they use violence,”** said Willer. **“In fact, we found that support for white nationalists was heightened among those who read that anti-racist counter-protesters had attacked them.”**

## **Answers to: Privacy**

## No Privacy Link

### Private homes and ranches are excluded

Russell Contreras, November 11, 2023, Surveillance towers along U.S.–Mexico border, Axios, <https://www.axios.com/2023/12/12/border-patrol-ai-us-mexico-wall-surveillance-virtual> DOA: 6-27-24

How they work: **Autonomous surveillance towers** contain 360-degree pan radars and sensors that can scan for miles. The towers are outfitted with AI software that distinguishes people from desert animals. Towers **can be programmed to block off sections of surveillance areas, like homes on private ranches, so they don't monitor those regions.**

### Migrants lose privacy outside of surveillance

Amnesty International, 2023, The Digital Border: Immigration, Technology, and Inequality, <https://www.amnestyusa.org/wp-content/uploads/2024/06/The-Digital-Border-Migration-Technology-and-Inequality.pdf>

While the interference with an individual's right to privacy is only permissible under international human rights law if it is neither arbitrary nor unlawful, **people on the move** – with precarious immigration status; migrants, refugees, and asylum seekers alike – **are increasingly required to sacrifice more of their personal data and privacy in order to reunite with family, avoid the degrading conditions of brick-and-mortar detention, or gain access to asylum.**

Technology-driven alternatives to detention bring to the fore the question of whether these are proportionate or necessary, particularly when they disproportionately impact Black and racialized people,<sup>263</sup> impact peoples' health<sup>264</sup> and ability to obtain work,<sup>265</sup> and have wide-ranging privacy implications.<sup>266</sup>

### No constitutional right to privacy in public places

**Woodward 1** [Woodward, John D., 2001, "Biometrics: Facing Up to Terrorism," Rand Corporation, [https://www.rand.org/pubs/issue\\_papers/IP218.html](https://www.rand.org/pubs/issue_papers/IP218.html)]

Though these facial recognition systems are not technically perfected, they are improving. There is little reason to doubt that as the technology improves, it will eventually be able to identify faces in a crowd as effectively as it currently identifies a face scanned under controlled circumstances. And while civil libertarians might decry the use of this technology as an invasion of privacy, the key lies in balancing the need <sup>15</sup> for security with the need to protect civil liberties.<sup>8</sup> In this regard, three brief points need to be made: **First, we do not have a constitutional right to privacy in the face we show in public. The United States Supreme Court has determined that government action constitutes a "search" when it invades a person's reasonable expectation of privacy.** <sup>But the</sup> **Court has found that a person does not have a reasonable expectation of privacy in those physical characteristics that are constantly exposed to the public, such as one's facial**

**features, voice, and handwriting.** Therefore, although the Fourth Amendment requires that a search conducted by government actors be “reasonable,” which generally means that the individual is under suspicion, the use of facial recognition does not constitute a search. As a result, the **government is not constrained, on Fourth Amendment grounds, from employing facial recognition systems in public spaces.** Although the use of facial recognition may generate discussion of the desirability of enacting new regulations for the use of the technology, such use is allowed under our current legal framework. **Secondly, current legal standards recognize that we are all subject to heightened scrutiny at our borders and ports of entry.** The “border exception” to the Fourth Amendment recognizes the “the longstanding right of the sovereign to protect itself by stopping and examining persons and property crossing into this country.”<sup>9</sup> Accordingly, **such searches are reasonable and do not require a warrant, probable cause, or even reasonable suspicion.** When we transit our borders, therefore, the authorities can closely scrutinize our person and property in ways that they could not do in another setting. Even within our own borders, the 16 law requires airport facilities to conduct security screening of passengers’ persons and personal effects, and it is unlawful even to make jokes about threats on airport property. Finally, it is worth noting that **facial recognition systems are not relied upon to make final determinations of a person’s identity.** Rather, the **system alerts the authorities so that additional screening and investigation can take place.** And though the system will make false matches that will subject innocent passengers to additional questioning and scrutiny, the current system routinely does the same.

## Can’t solve privacy/general surveillance harms – the government spies on you in many ways

STEVEN OVERLY, 02/28/2024, Politico, Politicc Magazine, The Government Really Is Spying On You — And It’s Legal, <https://www.politico.com/news/magazine/2024/02/28/government-buying-your-data-00143742>

The freakout moment that set journalist Byron Tau on a five-year quest to expose the sprawling U.S. data surveillance state occurred over a “wine-soaked dinner” back in 2018 with a source he cannot name. **The tipster told Tau the government was buying up reams of consumer data — information scraped from cellphones, social media profiles, internet ad exchanges and other open sources — and deploying it for often-clandestine purposes like law enforcement and national security in the U.S. and abroad. The places you go, the websites you visit, the opinions you post — all collected and legally sold to federal agencies.** In his new book, *Means of Control*, Tau details everything he’s learned since that dinner: **An opaque network of government contractors is peddling troves of data, a legal but shadowy use of American citizens’ information that troubles even some of the officials involved.** And attempts by Congress to pass privacy protections fit for the digital era have largely stalled, though reforms to a major surveillance program are now being debated. On today’s episode of POLITICO Tech, Tau and I discussed the state of our personal privacy and the checks on all this government surveillance. I asked what differentiates the U.S. from authoritarian states like China when it comes to data collection, how our digital footprints will impact policy areas like abortion and what broader implications we can expect for civil liberties. He didn’t sugarcoat his responses. “Any nightmare use for data you can think of will probably eventually happen,” Tau said. “It might not happen immediately, but it’ll happen eventually.” The following interview has been edited down for length and clarity. Listen to the longer interview with Tau on today’s episode of POLITICO Tech, available on Apple, Spotify and Simplecast. Tell me about this dinner. Why did it leave you so freaked out that you had to write a whole book? This source described essentially a world in which the government had figured out that it could buy the geolocation data of cellphones, millions, possibly even billions of cellphones, mostly collected through apps or online advertisers, and it could use it in a surveillance program. And that’s what the Pentagon was experimenting with. It would eventually stand up and become a full-fledged program within the DOD. It would also expand to other government agencies like DHS. And it was a peek into a whole new way of doing surveillance that I hadn’t thought about. The data that you’re talking about in this book, a lot of times it’s not data that’s collected through traditional legal channels or even through cyberattacks, but rather the government purchasing it from companies that have scraped it from mobile phones, ad exchanges, social media. What difference has that made in terms of both what the government knows about people and also how it uses that information? A lot of these companies that I profiled in the book are virtually unknown to the average American. I think everyone knows what Google has about them. I think everyone knows what Facebook does. But these are companies, tiny, obscure data brokers, in some cases massive billion-dollar companies, but very little public-facing presence and almost no direct consumer relationship. Some of these companies focus on consumer data. Some focus on social data. Some focus on movement data. Companies often claim that this data is collected with your consent and that it’s completely anonymous. But is that true? When you

Immigration Surveillance Core File. *Updated 8-3-24*

dig deep into those claims, you'll realize that neither is really true. That, for the most part, yes, perhaps there is some clause in a privacy policy that says that location data may be resold to other entities, but generally speaking, those **privacy policies indicate that it will be sold for commercial purposes or for targeted advertising. Rarely, if ever, do they mention that there might be a government buying it; there might be some public safety entity or military unit using this data.** So **the second main claim that a lot of these vendors make is that the data is anonymized, that they've stripped it of names or addresses that could reveal who a phone belongs to, say, in a geographical movement set. And that isn't true either, because where your phone spends its evenings, for example, is likely the address of its owner, and it can be cross-checked against other property records. And in many other kinds of data sets, there's ample evidence that you can be re-identified even if your name is not in them.**

**Police are buying data and using it secretly to surveill citizens**

Brian **Tau**, Investigative Journalist, in **OVERLY, 02/28/2024**, Politico, Politicco Magazine, The Government Really Is Spying On You — And It's Legal, <https://www.politico.com/news/magazine/2024/02/28/government-buying-your-data-00143742>

You compare to some degree the state of surveillance in China versus the U.S. **You** write that China wants its citizens to know that they're being tracked, whereas in the U.S., "the success lies in the secrecy." What did you mean by that? **That was a line that came in an email from a police officer in the United States who got access to a geolocation tool that allowed him to look at the movement of phones. And he was essentially talking about how great this tool was because it wasn't widely, publicly known. The police could buy up your geolocation movements and look at them without a warrant. And so he was essentially saying that the success lies in the secrecy, that if people were to know that this was what the police department was doing, they would ditch their phones or they would not download certain apps.** That is the main theme of what I saw in looking at these government programs in the United States: That, by and large, the lawyers justified them on the grounds that they were open source, that this was data you could buy. But if you started poking around asking about them, FOIA-ing the contracts, they really didn't want to talk about them. You write in the book about what you call "gray data," which is information that's generated by this widening world of connected devices. How is that changing the nature of surveillance and this data that the government and others have access to? **So what I call gray data is essentially data that's sort of there for the taking; that's the byproduct of moving around the web or using some sort of service. So think of these Bluetooth devices that we all increasingly carry now. Your Bluetooth wireless headphones are actually just constantly pinging everything around it trying to tell a phone, another endpoint, that it's there.** And these clever governments or their contractors or these private companies have figured out, "Hey, you know, I could just run a little bit of code on a million phones around the world and just start vacuuming up all the Bluetooth signals around it." And some of these contractors have found willing government buyers for this data. **Another example I give in the book is car tires. For example, did you know that your car tires actually**



**broadcast a wireless signal to the central computer of your car, telling it what the tire pressure is? Well, that's all well and good, and it's there for perfectly legitimate safety reasons. But of course, governments have figured this out. They figured out that the car tire is a proxy for the car. And if you just put little sensors somewhere or you run the right code on devices that you scatter around the world, then you can kind of track people with car tires. I am familiar with governments experimenting with it.** And there is a company that has put up sensors in various American cities that they claim is for traffic monitoring, and I think that's probably correct. But I'm also aware that, at the very least, the intelligence community has figured out how to do it for national security purposes, too. I don't know how deeply it's penetrated to being a mass surveillance kind of technology, but it's definitely something governments know how to use. I wonder if you might connect some of these bigger questions about surveillance and about civil liberties to the ways it can affect everyday lives. One example that comes up in the book was abortion access. **With abortion access, you think about the fact now that there's a patchwork of state laws around abortion and that in the previous era, before the Roe v. Wade decision, that was the reality as well. And in some states, there were these underground abortion clinics where people could go and have the procedure, even though it was against state law. And if you imagine trying to set up something like that today, I just don't think it would be possible, and it wouldn't be possible because all the devices we carry around, everywhere we go on an app like Uber, every email or Google query that we make or send is logged somewhere. The fact is that if a prosecutor in a state where abortion is illegal wants access to that data, they will get it. And so, essentially, we've built a society where everything is logged and when everything is logged, it's very hard to move around the world with any sort of privacy or anonymity.**

## Answers to: Rights Violations

### Surveillance reduces physical detention

Amnesty International, February 5, 2024,  
<https://www.amnesty.org/en/documents/pol40/7654/2024/en/>, Primer: Defending the rights of refugees and migrants in the digital age

**Migration-related detention is often abusive and discriminatory, both because it is often arbitrary and targets racialised people and because human rights violations by states and abuses by private entities often happen during migration detention.<sup>11</sup> Migration-related detention carries the risk of having racially disparate impacts by targeting people on the basis of their perceived race, ethnicity, and religion.<sup>12</sup> Moreover, detention in itself constitutes a severe restriction of human rights and a serious intrusion on the right to liberty in particular, which can only be restricted in specific and most exceptional of circumstances. Under international law, the enjoyment of personal liberty should be any individual's default condition.** Migrants, refugees and asylum seekers, like anyone else, must benefit from a legal presumption of liberty and, as a consequence, any restrictions to their liberty shall be clearly prescribed by law, strictly justified by a legitimate purpose, necessary, proportionate and nondiscriminatory. Several states have adopted ATD programmes, purportedly to reduce the use of immigration detention, including measures such as bail, designated residence, home curfews, community-based supervised release or case management.<sup>13</sup> **Some governments have also adopted non-custodial programmes based on tech-enabled electronic ATD products (e-ATDs), such as electronic ankle monitors, voice recognition and facial recognition apps. For example, in 2004 the United States (US) Department for Homeland Security (DHS) initiated two programmes, the Intensive Supervision Appearance Program (ISAP) and the Electronic Monitoring Device Program, to implement non-custodial measures for migrants and asylum seekers. According to US Immigration and Customs Enforcement (ICE), they were intended to "provide expanded options for release of adult aliens, by assisting officers in closely monitoring aliens released into the community".<sup>14</sup> The ISAP program reached over 350,000 enrollees but has been on the decline**

## Privacy Impact Answers

### **Too vague to be legit**

Chris DL **Hunt 11**, PhD Candidate in law and WM Tapp Scholar, Gonville & Caius College, University of Cambridge, “Conceptualizing Privacy and Elucidating its Importance: Foundational Considerations for the Development of Canada’s Fledgling Privacy Tort”, <http://queensu.ca/lawjournal/issues/pastissues/Volume37a/5-Hunt.pdf>)

The “right to be let alone” occupies a hallowed place in privacy discourse. Although the phrase was coined by Judge Cooley<sup>42</sup>—who used it not to justify a right to privacy, but rather to explain why tort law regards trespass to the person as wrongful—it is now generally attributed to Warren and Brandeis, who invoked it throughout their seminal 1890 article.<sup>43</sup> The latter authors analyzed numerous cases of trespass, defamation, confidence, and especially common law copyright, and identified a latent principle of privacy—operating unarticulated— which they argued should thenceforth be protected independently, as a distinct tort.<sup>44</sup> This principle of privacy, expressed as a “right to be let alone”, is anchored in the more fundamental interest of an “inviolable personality”.<sup>4</sup> The Warren and Brandeis formulation has come under much academic criticism. The first problem is its vagueness.<sup>46</sup> Because neither the “right to be let alone” nor the concept of “inviolable personality” is adequately defined, <sup>47</sup> the article gives no practical or conceptual guidance on the scope of the right.<sup>48</sup> A related criticism is that the phrase “right to be let alone” itself appears to be less a definition of privacy than simply a description of one example of it.<sup>49</sup>

### **Privacy is too sweeping/broad**

Chris DL **Hunt 11**, PhD Candidate in law and WM Tapp Scholar, Gonville & Caius College, University of Cambridge, “Conceptualizing Privacy and Elucidating its Importance: Foundational Considerations for the Development of Canada’s Fledgling Privacy Tort”, <http://queensu.ca/lawjournal/issues/pastissues/Volume37a/5-Hunt.pdf>, AB)

The second criticism, stemming from the above mentioned vagueness, is that this conception of privacy is overly broad. As Gavison explains: [It] cover[s] almost any conceivable complaint anyone could ever make. A great many instances of “not letting people alone” cannot readily be described as invasions of privacy. Requiring that people pay their taxes or go into the army, or punishing them for murder, are just a few . . . examples.<sup>50</sup> This conceptual over breadth is evident in how the “right to be let alone” has been used in American constitutional jurisprudence, where it is often equated with privacy<sup>51</sup> and is taken to encompass the right to “live one’s life as one chooses”. <sup>52</sup> This includes the “privilege of an individual to plan his own affairs . . . [and] do what he pleases”.<sup>53</sup> This “substantive”<sup>54</sup> conception of privacy confers a zone of decisional autonomy, and currently forms the basis for the right to abortion in American constitutional law.<sup>55</sup> It has been much criticized as being really an “assertion of liberty per se [rather] than one of privacy”.<sup>56</sup> A narrower and clearer definition of privacy is needed.

People have plenty of privacy

Carolyn **Doyle & Mirko Bagaric 5**, “The right to privacy: appealing, but flawed”, The International Journal of Human Rights, Volume 9, Issue 1, 2005, p. 3-36, Taylor & Francis Online, AB)

Immigration Surveillance Core File. *Updated 8-3-24*

The existence of a right to privacy is dubious. Even if such a right does exist it is not a very important right, ranking well down in the list of interests that are conducive to human flourishing. Privacy proponents have been incapable of explaining the foundation for such a right and why it should enjoy a high level of legal protection. The present level of protection of privacy in specific contexts both through legislation and at common law is adequate, particularly in view of the recourse now available under the doctrine of confidence in relation to public disclosures of intimate information. The right to privacy can be seen as a late-twentieth/early twenty-first century First World invention, indicative of a highly individualistic society fearful of the capabilities of the technology it has developed. However the alarmist rhetoric of privacy advocates who proclaim the imminent demise of privacy does not match reality: in fact, it is arguable that citizens in Western societies enjoy a level of de facto privacy unprecedented in history.<sup>158</sup> As to the threats posed by the monitoring capabilities of the new information technologies, it is now becoming apparent that technology itself can provide the means to counter them.<sup>159</sup> The current legal focus and level of discussion concerning the right of privacy is a clear illustration of the human propensity for losing perspective. It follows that very few interests should be subjugated to the right of privacy.

**Privacy can't be restored – technological and corporate invasions happen all the time.**

**Lewis 2014**

James Andrew Lewis is a senior fellow and director of the Strategic Technologies Program at the Center for Strategic and International Studies. Previously, US Departments of State and Commerce as a Foreign Service officer and as a member of the Senior Executive Service. *"Underestimating Risk in the Surveillance Debate"* - Center For Strategic & International Studies - Strategic Technologies Program – December - <http://csis.org/publication/underestimating-risk-surveillance-debate>

On average, there are 16 tracking programs on every website.<sup>4</sup> This means that when you visit a website, it collects and reports back to 16 companies on what you've looked at and what you have done. These programs are invisible to the user. They collect IP address, operating system and browser data, the name of the visiting computer, what you looked at, and how long you stayed. This data can be made even more valuable when it is matched with other data collections. Everything a consumer does online is tracked and collected. There is a thriving and largely invisible market in aggregating data on individuals and then selling it for commercial purposes. Data brokers collect utility bills, addresses, education, arrest records (arrests, not just convictions). All of this data is recorded, stored, and made available for sale. Social networking sites sell user data in some anonymized form so that every tweet or social media entry can be used to calculate market trends and refine advertising strategies. What can be predicted from this social media data is amazing—unemployment trends, disease outbreaks, consumption patterns for different groups, consumer preferences, and political trends. It is often more accurate than polling because it reflects peoples' actual behavior rather than the answer they think an interviewer wants to hear. Ironically, while the ability of U.S. agencies to use this commercial data is greatly restricted by law and policy, the same restrictions do not apply to foreign governments. The development of the Internet would have been very different and less dynamic if these business models had not been developed. They provide incentives and financial returns to develop or improve Internet services. There is an implicit bargain where you give up privacy in exchange for services, but in bargains between service providers and consumers, one side holds most of the cards and there is little transparency. But the data-driven models of the Internet mean that it is an illusion to think that there is privacy online or that NSA is the only entity harvesting personal data.

## **Privacy is an unobtainable right – it always trades off with itself leading to circumvention of the plan’s efforts**

David **Pozen 15**, Associate Professor of Law at Columbia University, 6/28/15, 83 U. CHI. L. REV. \_\_ (2015), “Privacy-Privacy Tradeoff,” [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2624281](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2624281)

Privacy clashes with important social values. We are told as much all the time.<sup>1</sup> Commentators struggle to reconcile privacy and security,<sup>2</sup> privacy and efficiency,<sup>3</sup> privacy and technological innovation,<sup>4</sup> and privacy and free speech, among other (real or imagined) antinomies. Privacy is constantly being juxtaposed with competing goods and interests, balanced against alternative needs and demands. Legal and policy debates about privacy revolve around these tradeoffs.

But privacy also clashes with itself. That is to say, in myriad social and regulatory contexts, enhancing or preserving privacy along a certain dimension may entail compromising privacy along another dimension. If they wish to be more analytically rigorous, theorists and decisionmakers must take such privacy-privacy tradeoffs into account. If they wish to advance the cause of privacy, civil libertarians must do the same.

Privacy-privacy tradeoffs come in a variety of flavors. Sometimes they are unexpected and unwanted. When EU citizens began exercising their right to be forgotten last year and flooded Google with “delete me” requests, the deleted links quickly reappeared—in more concentrated form—on a website devoted to documenting Internet censorship.<sup>7</sup> Other times, privacy-privacy tradeoffs are consciously cultivated and promoted. The Transportation Security Administration’s PreCheck program invites travelers to “volunteer personal information in advance” if they wish “to leave on their shoes, belts and light outerwear and keep their laptops in their bags.” 8 Enhanced governmental access to your data can be traded for reduced access to your body and belongings.

In many cases, privacy-privacy tradeoffs simply follow from scarce resources and opportunity costs. A tenant on a fixed budget who spends money soundproofing her walls will have less to spend on mending her window curtains or protecting her online identity. Alternatively, these tradeoffs may be caused by behavioral responses and dynamic feedback effects. Increasing airline-passenger privacy levels from X at Time 1 to a multiple of X at Time 2 may increase the odds of a terrorist attack, with the consequence that passengers’ privacy levels will be reduced to a fraction of X at Time 3. In still other cases, risk is redistributed across different aspects or bearers of privacy, by establishing a forensic DNA database, law enforcement officials may impair the privacy of everyone whose DNA is included but protect the privacy of a smaller group who will not be needlessly investigated for the crimes of others. By stripping its analysts of “any privacy or anonymity when they look at [collected] data,”<sup>9</sup> an intelligence agency may deter them from exceeding their investigative mandates and thereby secure a measure of privacy for the rest of society—or at least for the analysts’ love interests.<sup>10</sup>

## Deontological theories of privacy rights are baseless and guaranteed to fail

Carolyn Doyle & Mirko Bagaric 5, "The right to privacy: appealing, but flawed", The International Journal of Human Rights, Volume 9, Issue 1, 2005, p. 3-36, Taylor & Francis Online, AB)

Non-consequentialist (rights) theories. The leading contemporary non-consequentialist theories are those which are framed in the language of rights. Following the Second World War, there has been an immense increase in 'rights talk',<sup>81</sup> both in the number of supposed rights and in total volume. Rights doctrine has progressed a long way since its original aim of providing 'a legitimisation of ... claims against tyrannical or exploiting regimes'.<sup>82</sup> As Tom Campbell points out: The human rights movement is based on the need for a counter-ideology to combat the abuses and misuses of political authority by those who invoke, as a justification for their activities, the need to subordinate the particular interests of individuals to the general good.<sup>83</sup> There is now, more than ever, a strong tendency to advance moral claims and arguments in terms of rights.<sup>84</sup> Assertion of rights has become the customary means to express our moral sentiments. As Sumner notes: There is virtually no area of public controversy in which rights are not to be found on at least one side of the question – and generally on both.<sup>85</sup> The domination of rights talk is such that it is accurate to state that human rights have at least temporarily replaced maximising utility as the leading philosophical inspiration for political and social reform.<sup>86</sup> Despite the dazzling veneer of deontological rights-based theories, when examined closely they are unable to provide convincing answers to central issues such as: what is the justification for rights? How can we distinguish real from fanciful rights? Which right takes priority in the event of conflicting rights? Such intractable difficulties stem from the fact that contemporary rights theories lack a coherent foundation. It has been argued that attempts to ground rights in virtues such as dignity, concern or respect are unsound and that they fail to provide a mechanism for moving from abstract ideals to concrete rights.<sup>87</sup> A non-consequentialist ethic provides no method for distinguishing between genuine and fanciful rights claims and is incapable of providing guidance regarding the ranking of rights in the event of a clash. In light of this, it not surprising that the number of alleged rights has blossomed exponentially since the fundamental protective rights of life, liberty and property were advocated in the seventeenth and eighteenth centuries. Today, all sorts of dubious claims have been advanced on the basis of rights: for example, 'the right to a tobacco-free job', the 'right to sunshine', the 'right of a father to be present in the delivery room', the 'right to a sex break',<sup>88</sup> and even 'the right to drink myself to death without interference'.<sup>89</sup> Novel rights are continually evolving and being asserted. A good example is the recent claim by the Australian Prime Minister (in the context of the debate concerning the availability of IVF treatment to same-sex couples or individuals) that each child has the right to a mother and father. In a similar vein, in light of the increasing world oil prices, it has been declared that this violates the right of Americans to cheap gasoline. In England, the Premier League has been accused of violating the right of football club supporters to an F.A. Cup ticket. Due to the great expansion in rights talk, rights are now in danger of being labelled as mere rhetoric and are losing their cogent moral force. Or, as Sumner points out, rights become an 'argumentative device capable of justifying anything [which means they are] capable of justifying nothing.'<sup>90</sup> Therefore, in attempting to uncover the scope and content of 'emerging' rights such as the right to privacy it is normally unhelpful to consider the issue from the perspective of a deontological rights-based normative theory. Against the background of such a theory, proponents of the right can simply assert the existence of a right to privacy and equally validly, opponents can assert a 'right to know'. An impasse is then reached because there is no underlying ideal that can be invoked to provide guidance on the issue. As with many rights, the victor may unfortunately be the side which simply yells the loudest.<sup>91</sup> This may seem to be unduly dismissive of rights-based theories and pay inadequate regard to the considerable moral reforms that have occurred against the backdrop of rights talk over the past half-century. There is no doubt that rights claims have proved to be an effective lever in bringing about social change. As Campbell correctly notes, rights have provided 'a constant source of inspiration for the protection of individual liberty'.<sup>92</sup> For example, recognition of the (universal) right to liberty resulted in the abolition of slavery; more recently the right of equality has been used as an effective weapon by women and other disenfranchised groups. For this reason, it is accepted that there is an ongoing need for moral discourse in the form of rights. This is so even if

deontological rights-based moral theories (with their absolutist overtones) are incapable of providing answers to questions such as the existence and content of proposed rights, and even if rights are difficult to defend intellectually or are seen to be culturally biased. There is a need for rights-talk, at least at the 'edges of civilisation and in the tangle of international politics'.<sup>93</sup> Still, the significant changes to the moral landscape for which non-consequentialist rights have provided the catalyst must be accounted for. There are several responses to this. First, the fact that a belief or judgment is capable of moving and guiding human conduct says little about its truth – the widespread practice of burning 'witches' in medieval times being a case in point. Secondly, at the descriptive level, the intuitive appeal of rights claims, and the absolutist and forceful manner in which they are expressed, has heretofore been sufficient to mask fundamental logical deficiencies associated with the concept of rights. Finally, and perhaps most importantly, we do not believe that there is no role in moral discourse for rights claims, simply that the only manner in which rights can be substantiated is in the context of a consequentialist ethic.<sup>94</sup>

## Privacy is not an absolute right- government must violate it to function

Robert Gerstein, Professor of Political Science, UCLA, PHILOSOPHICAL DIMENSIONS OF PRIVACY, Ferdinand Schoeman, ed., 1984, p.247-8.

If privacy is a constitutional right it is immediately apparent that it cannot be an absolute right. Governments have always compelled people to disclose some sorts of information about themselves, and it is hard to see how they could get along effectively without the ability to do so. If the argument for privacy is made so broadly as to sweep away tax returns, accident reports, and the capacity to compel testimony on personal matters in civil cases, for example, it must surely be rejected. The right of privacy cannot be understood as embodying the rule that "privacy may never be violated."

## Philosophers disagree over the value of privacy

Silas Wasterstrom, law professor, GEORGETOWN LAW JOURNAL, October 1998, pp. 59-60

But there are serious obstacles to using moral philosophy to justify fourth amendment law. First, a growing number of philosophers have come to doubt that the techniques of moral philosophy can ever succeed in providing neutral ground that will allow us to escape our own beliefs and desires or, indeed, that this is even a coherent goal. Second, even if philosophers themselves were more self-confident, judges still would have to decide which philosophers to listen to. Unfortunately, moral philosophers who have thought about privacy do not speak with one voice. On the contrary, they are hopelessly divided about what privacy is; about whether it is a value in itself, or whether it is only valuable because of its consequences; about whether respect for privacy is a facet of respect for personhood; about what claims the word privacy encompasses; and even about whether it describes a coherent concept at all. A judge who is determined to make use of what moral philosophy has to offer would have to evaluate and choose between these conflicting positions. Moral philosophy may offer ways to think

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about the choice more clearly. But it does not offer a technique for making the choice "objectively" or in a fashion uncontaminated by the viewpoint of the person doing the choosing.

### **Legal interests different from philosophical privacy interests; security must be balanced.**

Silas Wasterstrom, law professor, GEORGETOWN LAW JOURNAL, October 1998, p. 60-1

Moreover, even if we overlook the disagreements that divide moral philosophers and assume that judges could separate good moral philosophy from bad without reference to their own preferences, it still is doubtful that the writings of moral philosophers provide much that is useful to settle contemporary disputes about the meaning of the fourth amendment. Most of these writings are on an extremely high level of generality. **Philosophers have argued at length about what "privacy" means, and about the justifications for treating it as a value or a right. In contemporary legal discourse, however, it is uncontroversial that some value should be attached to privacy. The important issue in most fourth amendment cases is the balance that should be struck between that value and competing concerns, such as interests in effective law enforcement and in decisionmaking based upon full information. Beyond the injunction to take privacy seriously, moral philosophers have little to say about this crucial question.**

### **Biometric data critical in catching criminals and terrorists**

**UN CTED 21** [No Author, 2021, "CTED Analytical Brief: Biometrics and Counter-Terrorism," United Nations Security Council Counter-Terrorism Committee Executive Directorate (CTED), [https://www.un.org/securitycouncil/ctc/sites/www.un.org.securitycouncil.ctc/files/files/documents/2021/Dec/cted\\_analytical\\_brief\\_biometrics\\_0.pdf](https://www.un.org/securitycouncil/ctc/sites/www.un.org.securitycouncil.ctc/files/files/documents/2021/Dec/cted_analytical_brief_biometrics_0.pdf)

**Biometrics are the use of a person's physical characteristics or personal traits to identify or verify the claimed identity of that individual.** <sup>1</sup> These can include fingerprints, face, vein pattern, eye, iris print, DNA, blood, voice, gait, or signature. <sup>2</sup> **Private entities and public authorities have increasingly used biometrics to validate and identify individuals, granting or restricting access to locations, services, or devices.** Public sector users include law enforcement and security agencies, criminal justice, immigration, and social welfare processes (including to prevent identity fraud and theft) and the authentication of beneficiaries of humanitarian aid. <sup>3</sup> Since the adoption of Security Council resolutions 2322 (2016) and 2396 (2017), the use of biometrics for counter-terrorism purposes – notably in the context of border management and security – has become increasingly widespread. Council resolution 2322 (2016) calls on Member States to share information about foreign terrorist fighters (FTFs) **and other individual terrorists and terrorist organizations, including biometric and biographic information.** In its resolution 2396 (2017), the Council decides that States shall develop and implement systems to collect biometric data, which could include fingerprints, photographs, facial recognition, and other relevant identifying biometric data, in order to responsibly and properly identify terrorists, including FTFS, in compliance with domestic law and international human rights law. **The Council also encourages Member States to share this data responsibly among relevant Member States and with relevant international bodies, including the International Criminal Police Organization** (INTERPOL)

### **Biometric technologies crucial in maintaining safety**



**Woodward** [Woodward, John D. No Date, "BIOMETRICS: FACING UP TO TERRORISM" RAND Corporation,  
<https://www.rand.org/content/dam/rand/www/external/congress/terrorism/phase1/biometrics.pdf>]

As the nation recovers from the attacks of September 11, 2001, we must rededicate our efforts to preventing any such terrorist acts in the future. While there is no easy, foolproof technical fix to counter terrorism, **the use of biometric technologies might help make America a safer place**. **Biometrics refers to the use of a person's physical characteristics or personal traits to identify, or verify the claimed identity, of that individual. Fingerprints, faces, voices, and handwritten signatures are all examples of characteristics that have been used to identify us in this way. Biometricbased systems provide automatic, nearly instantaneous identification of a person by converting the biometric, for example a fingerprint, into digital form and then comparing it against a computerized database.** This RAND Issue Paper discusses how biometric technologies could be used to impede terrorism in three critical areas: 1. Controlling access to sensitive facilities at airports, 2. Preventing identity theft and fraud in the use of travel documents, and, 3. Identifying known or suspected terrorists with a proposed counterterrorist application known as FaceCheck. CONTROLLING ACCESS Sensitive areas of the nation's ports of entry, particularly airport facilities, need to be safeguarded so that only authorized personnel can gain access to them. Currently, badges and tokens, such as a key or pass card, are used to identify authorized personnel and to control access to these areas. The system assumes that whoever possesses the badge or the pass card is the person who should be granted access, when in reality, badges and tokens are easily forged, stolen or misplaced. **Security can be enhanced, however, by combining something a person must physically possess with something a person must know (such as a password or a personal identification number, PIN).** The system is still easily compromised, however, because given the profusion of PINs and passwords and our difficulty remembering them, PINs are often written down on the card itself or on a piece of paper stored in close proximity to the card. Access control to sensitive facilities can be further improved by using biometric-based identifiers. In other words, instead of identifying an individual based on something the person has (a badge), or something he knows (a password or a PIN), that person will be identified based on something he is. **For example, instead of flashing a badge, airline staff with a need to access sensitive areas of airports could be required to present a biometric, for example, their iris, to a sensor.** From a foot away and in a matter of seconds, this device captures the person's iris image, converts it to a template, or computer readable representation of the iris, and searches a database containing the templates of authorized personnel for a match. **A match confirms that the person seeking access to a particular area is in fact authorized to access that area.**

## **Biometric technologies necessary in counter-terrorism efforts**

**Mayhew 16** [Stephen Mayhew, 4-3-2016, "Biometrics in healthcare, banking and counter-terrorism trending this week," Biometric Update |,  
<https://www.biometricupdate.com/201604/biometrics-in-healthcare-banking-and-counter-terrorism-trending-this-week>]

According to security experts, recent terrorist attacks in Brussels will impact the development and deployment of facial recognition technology. Continued **attacks in public spaces will encourage both U.S. and European lawmakers and border security professionals to ramp up the collection and real-time analysis of biometric data from travellers, along with the expansion of terrorist biometric databases.** Human Recognitions Systems' (HRS) CEO and founder Neil Norman recently appeared on the BBC

current affairs show Newsnight to discuss shifting behaviours and the importance of technology, such as biometrics, to provide additional defences against terror attacks.

## **Biometric recognition technology help to identify terrorists**

**Woodward 1** [Woodward, John D., 2001, "Biometrics: Facing Up to Terrorism," Rand Corporation, [https://www.rand.org/pubs/issue\\_papers/IP218.html](https://www.rand.org/pubs/issue_papers/IP218.html)]

As the criminal investigation of the September 11th attacks appears to demonstrate, some of the terrorists were able to enter the United States using valid travel documents under their true identities, passing with little difficulty through immigration procedures at U.S. ports of entry. Once in the country, they patiently continued their planning, preparation, training, and related operational work for months and in some cases years until that fateful day. **Once inside the United States, the terrorists cleverly took advantage of American freedoms to help carry out their attacks.** According to media reports, however, at least three of the suicide attackers were known to U.S. authorities as suspected terrorists. In late August 2001, the Central Intelligence Agency (CIA) passed information to the INS to be on the lookout for two men suspected of involvement in terrorist activities. The CIA apparently obtained videotape showing the men, Khalid Almihdhar and Nawaf Alhazmi, talking to people implicated in the U.S.S. Cole bombing. The videotape was taken in Kuala Lumpur, Malaysia, in January 2000. It is not clear when the CIA received it. When the INS checked its database, it found that a Almihdhar and Alhazmi had successfully passed through INS procedures and had already entered the United States. The CIA asked the Federal Bureau of Investigation (FBI) to find them. But with both men already in the United States, the FBI was looking for two needles in a haystack. The FBI was still seeking the two when the hijackers struck. Khalid Almihdhar and Nawaf Alhazmi are believed to have been hijackers on American Airlines flight 77, which crashed into the Pentagon. As the above details illustrate, **we need a better way to identify individuals whom we know or suspect to be terrorists when they attempt to enter the United States. The use of biometric facial recognition is one way to make such identifications**, particularly when U.S. authorities already have a photograph of the suspected terrorist whom they seek.

## Answers to: Cybersecurity

### **AI critical to protect cyber security**

Department of Homeland Security, no date, accessed 7-27, 24, <https://www.dhs.gov/ai/using-ai-to-secure-the-homeland>, Using AI to Secure the Homeland

The Cybersecurity and Infrastructure Security Agency (CISA) is using AI to improve its ability to identify and report cyber vulnerabilities in our nation's critical infrastructure like power plants, pipelines, and public transportation. CISA's Cybersecurity Division uses machine learning and natural language processing models to collect and sort vulnerability data before it is presented to human analysts. CISA's experts can then more efficiently assess cyber risks that are shared in publications like the Known Exploited Vulnerabilities Catalog and the National Vulnerability Database. The Science and Technology Directorate (S&T) supports CISA in this effort through S&T's Cyber Analytics and Platform Capabilities project.

### **AI used to defend against cyber attacks**

Department of Homeland Security, no date, accessed 7-27, 24, <https://www.dhs.gov/ai/using-ai-to-secure-the-homeland>, Using AI to Secure the Homeland

DHS combines leading cybersecurity methods and proven AI-powered applications to protect networks and critical infrastructure from AI-enhanced attacks.

"The proliferation of accessible artificial intelligence (AI) tools likely will bolster our adversaries' tactics. Nation-states seeking to undermine trust in our government institutions, social cohesion, and democratic processes are using AI to create more believable mis-, dis-, and mal-information campaigns, while cyber actors use AI to develop new tools and accesses that allow them to compromise more victims and enable larger-scale, faster, efficient, and more evasive cyber attacks."

-Homeland Threat Assessment 2024

### **DHS deploying defensive AI**

Department of Homeland Security, no date, accessed 7-27, 24, <https://www.dhs.gov/ai/using-ai-to-secure-the-homeland>, Using AI to Secure the Homeland

Deploying Defensive AI

To defend against the malicious use of AI, DHS is deploying defensive AI:

Malware Reverse Engineering uses machine learning techniques to disrupt adversaries' malware development lifecycle.

Cyber Vulnerability Reporting uses automation, machine learning, and natural language processing to dramatically increase the accuracy and relevancy of vulnerability data. With the enhanced data Cyber Vulnerability Reporting provides, human analysts can make informed decisions more efficiently to keep our networks and critical infrastructure safe.

## **Answers to International Law**

## **A2: International Humanitarian Law**

### **International Humanitarian Law doesn't protect refugees in conflict situations**

Vincent Chetail, June 2014, Director of the Global Migration Centre and Professor of Public International Law at the Graduate Institute of International and Development Studies. He is a Board Member of the Geneva Academy of International Humanitarian Law and Human Rights and, from 2004 to 2012, was Research Director of the Geneva Academy. He was also Head of the Master in International Affairs from 2009 to 2012, *Armed Conflict and Forced Migration: Systematic Approach to International Humanitarian Law, Refugee Law, and International Human Rights Law*, In *The Oxford Handbook of International Law and Armed Conflict*, <http://www.oxfordhandbooks.com/view/10.1093/law/9780199559695.001.0001/law-9780199559695-e-28> DOA: 9-25-15

Refugees caught in armed conflicts represent an archetypal case for testing the potential of the complementarity approach. The overlapping between international humanitarian law, refugee law, and human rights law is not disputable in this particular situation and their cumulative application reveals some unexpected conclusions. Although international humanitarian law is supposed to be the main branch of international law applicable in times of armed conflict, closer scrutiny of its specific norms proves rather frustrating (Section A). Indeed, international humanitarian law has little to provide for protecting the specific needs of refugees caught up in armed conflicts.

### **International Humanitarian Law indifferent to refugees**

Vincent Chetail, June 2014, Director of the Global Migration Centre and Professor of Public International Law at the Graduate Institute of International and Development Studies. He is a Board Member of the Geneva Academy of International Humanitarian Law and Human Rights and, from 2004 to 2012, was Research Director of the Geneva Academy. He was also Head of the Master in International Affairs from 2009 to 2012, *Armed Conflict and Forced Migration: Systematic Approach to International Humanitarian Law, Refugee Law, and International Human Rights Law*, In *The Oxford Handbook of International Law and Armed Conflict*, <http://www.oxfordhandbooks.com/view/10.1093/law/9780199559695.001.0001/law-9780199559695-e-28> DOA: 9-25-15

The impact of international humanitarian law on the refugee protection regime is particularly complex and ambiguous. On the one hand, its primary function in the field of forced migration is a preventive one. The explicit prohibition of forced displacement aims to prevent civilians from becoming refugees.<sup>15</sup> On the other hand, international humanitarian law is relatively indifferent to the specific needs of refugees who are in the territory of a party to an armed conflict.

Among the 576 articles of the Geneva Conventions and their Protocols, only three provisions explicitly refer to refugees.<sup>16</sup> Furthermore, all of them are exclusively applicable in times of international armed conflict and occupation. By contrast, international humanitarian law does not contain any specific provision on refugees in non-international armed conflicts despite these representing the majority of armed conflicts around the world. Neither Common Article 3 of the Geneva Conventions and AP II, nor the International Committee of the Red Cross (ICRC) Customary Study specifically addresses refugees.<sup>17</sup> This curious omission does not mean that refugees are left without protection by international humanitarian law. (p. 705) They are still protected as civilians provided they are not directly participating in hostilities. Nevertheless, besides the general protection of the civilian population as a whole, refugees are not conceived by international humanitarian law as persons in need of specific protection in non-international armed conflicts.

Even in international armed conflicts, international humanitarian law still apprehends refugees through the particular prism of its own concepts and categorization schemes. From this angle, the distinction between combatants and non-combatants is one of ‘the cardinal principles [...] constituting the fabric of humanitarian law’.<sup>18</sup> Though it is frequently assumed that ‘one cannot be a refugee and a fighter at the same time’,<sup>19</sup> this question remains open both in law and practice. It even constitutes the prerequisite for identifying the relevant applicable norms under international humanitarian law.

Refugees may fall within the definition of ‘combatant’ under Article 4 of GC III as supplemented by Article 43(1) of AP I, when they belong to a party to the conflict—other than their country of origin—fighting against the latter or any other states.<sup>20</sup> If not, refugees are civilians and accordingly benefit from the protection against the effect of hostilities. The crux of the matter is then whether refugees are ‘protected persons’ under international humanitarian law. There is, however, no unequivocal answer to this question. International humanitarian law instead provides a piecemeal frame of protection which depends on a complex set of various factors, including the ratification of AP I, the nationality of refugees, and the time of their arrival on the territory of states parties. While some are protected persons under AP I, the great majority of refugees caught in international armed conflicts are not covered by this last instrument. In such a case, they must accordingly fulfil the ordinary conditions required by international humanitarian law to be considered as protected persons. (p. 706)

### **IHL doesn’t protect refugees against internment**

Vincent Chetail, June 2014, Director of the Global Migration Centre and Professor of Public International Law at the Graduate Institute of International and Development Studies. He is a Board Member of the Geneva Academy of International Humanitarian Law and Human Rights and, from 2004 to 2012, was Research Director of the Geneva Academy. He was also Head of the Master in International Affairs from 2009 to 2012, *Armed Conflict and Forced Migration: Systematic Approach to International Humanitarian Law, Refugee Law, and International Human Rights Law*, In *The Oxford Handbook of International Law and Armed Conflict*,

<http://www.oxfordhandbooks.com/view/10.1093/law/9780199559695.001.0001/law-9780199559695-e-28> DOA: 9-25-15

If refugees do not fulfil the conditions imposed by Article 73, or if they are in the hands of a state not party to AP I, they may fall under the general definition of protected persons contained in Article 4 of GC IV. This last provision covers most—but not all—refugees once they are ‘in the hands of a Party to the conflict or Occupying Power of which they are not nationals’. In such cases, they will benefit from the full range of guarantees contained in GC IV as well as the specific protection granted by Article 44. This last provision acknowledges that refugees who are by definition not protected by their state of origin cannot be treated as an ‘enemy alien’ because they simply have the nationality of the other party to the conflict.<sup>29</sup> Article 44 thus mitigates the traditional criterion of nationality, which determines the applicability of GC IV, in order to take into account the particular situation of refugees.

Though limited to nationals of the other state party to an international armed conflict, the *rationae personae* scope of Article 44 is more inclusive than Article 73 of AP I. Contrary to the latter, the former is not confined to those who were recognized as refugees before the beginning of hostilities, but also covers those who fled their own country during the conflict. Furthermore, Article 44 retains a broad and factual definition of the term ‘refugee’ as referring to all nationals of an enemy state ‘who do not, in fact, enjoy the protection of any government’. It is thus not limited to the refugees under the UN Convention relating to the Status of Refugees which was adopted two years after GC IV and then amended in 1967 by the New York Protocol. Article 44 also includes beneficiaries of other complementary forms of protection in the state of asylum, whether such protection is based on its domestic law or other international instruments.<sup>30</sup> (p. 708)

However, the potentially significant number of persons covered by Article 44 is undermined by the vague and permissive obligation contained therein. As confirmed by the drafting history,<sup>31</sup> the ICRC Commentary,<sup>32</sup> and the legal doctrine,<sup>33</sup> the provision’s loose wording recommends that belligerents do not consider refugees as enemies exclusively because of their nationality. The Detaining Power thus retains a particularly broad discretion in considering whether or not refugees should be treated as enemy nationals. Hence, Article 44 does not prevent the Detaining Power from taking security measures, such as internment, against refugees who are considered as a danger to its own security.

### **At best, IHL provides some very limited protection**

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<http://www.oxfordhandbooks.com/view/10.1093/law/9780199559695.001.0001/law-9780199559695-e-28> DOA: 9-25-15

The general definition of ‘protected persons’ under GC IV does not include all refugees who are non-nationals of a party to an international armed conflict. Article 4(2) explicitly excludes nationals of a neutral or co-belligerent state which has ‘normal diplomatic representation’ in the belligerent state on whose territory they are located or nationals of a co-belligerent state with diplomatic relations with the occupying state in whose hands they are.<sup>34</sup> In such cases, refugees who have fled from neutral or co-belligerent states will only benefit from the general protection afforded to the civilian population, unless the concerned state has ratified AP I and the refugees have been recognized as such before the outbreak of the hostilities.

Furthermore, nationals of an Occupying Power who are in the territory of the occupied state are not covered by the definition of protected person because Article 4 is circumscribed to non-nationals. Though not considered as protected persons, refugees who are nationals of the Occupying Power are specifically addressed by Article 70(2) of GC IV. The wording of this last provision is again not a model of clarity and needs to be quoted *in extenso*:

Nationals of the Occupying Power who, before the outbreak of hostilities, have sought refuge in the territory of the occupied State, shall not be arrested, prosecuted, convicted or deported from the occupied territory, except for offences committed after the outbreak of hostilities, or for offences under common law committed before the outbreak of hostilities which, according to the law of the occupied State, would have justified extradition in time of peace.

(p. 709)

Article 70(2) is the only provision in the whole Fourth Geneva Convention which explicitly applies to nationals of a state party to an international armed conflict. Such a departure from the traditional stance of international humanitarian law remains nevertheless in line with the general duty of the Occupying Power to respect the laws in force in the occupied country. As stressed by the ICRC Commentary, the rationale of Article 70(2) ‘is derived from the idea that the right to asylum enjoyed by them [ie refugees] before the occupation began must continue to be respected by their home country, when it takes over control as Occupying Power in the territory of the country of asylum’.<sup>35</sup>

However, the protection granted by international humanitarian law should not be overestimated. Article 70(2) suffers from three main drawbacks. First, the prohibition expressed in this provision is limited to some specific measures only: arrest, prosecution, conviction, and deportation. As observed by Dinstein, it says nothing about the other measures which may be taken against refugees (such as confiscation of property or denial of religious freedom).<sup>36</sup> This represents a considerable lacuna where Article 73 of AP I does not apply.

Secondly, similarly to Article 73 of AP I, Article 70(2) of GC IV is confined to refugees who reached the occupied territory ‘before the outbreak of the hostilities’.<sup>37</sup> This *rationae temporis* qualification creates a dangerous protection gap. Indeed, nationals who fled from their own country during a conflict are the most vulnerable to acts of revenge by their state of origin when the latter occupies the territory of the asylum state.<sup>38</sup> States’ obsession not to encourage desertion and treason is further confirmed by this last limitation.

Thirdly, the prohibition contained in Article 70(2) is not absolute. It may be exposed to two significant exceptions which reflect the conflicting interests at stake. First, refugees can be arrested, prosecuted, convicted, and deported for non-political offences committed before the hostilities, provided that these offences would have justified extradition in time of peace under the law of the occupied territory. This

Immigration Surveillance Core File. *Updated 8-3-24*

subtly qualified exception endorses the traditional distinction made in refugee law between ordinary criminals and refugees.<sup>39</sup> It is aimed at ensuring that refugees are not sanctioned for the reasons they have fled their own state when it becomes (p. 710) the Occupying Power. However, the risk of abuse is still apparent since Article 70(2) says nothing about the procedure to be followed, and in particular whether this is up to the Occupying Power or the occupied authorities to interpret and apply the conditions laid down therein.

The other exception is even more straightforward, as it refers to any 'offences committed after the outbreak of hostilities' without any other qualifications. From the angle of international humanitarian law, the refugee is still considered as a national of the Occupying Power. He retains, as such, some duties of allegiance towards his own country in times of armed conflict and must abstain from activities which may be construed as treason.<sup>40</sup> In an echo of the concern of states, the ICRC Commentary assumes that 'once war has broken out, [...] the higher interest of the State take precedence over the protection of individual'.<sup>41</sup>

As exemplified by Article 70(2), the reach of international humanitarian law is equivocal to say the least. Overall, while providing a vital protection to civilians, it has little to offer to refugees as a specific group of concern. Refugee protection under international humanitarian law thus remains incomplete and fragmented. Under both treaty and customary law, international humanitarian law offers no specific protection to refugees caught in non-international armed conflicts. Even in international armed conflict, it does not provide a tailored, specific, and comprehensive regime of refugee protection. International humanitarian law attempts instead to encapsulate refugees within its own notion of protected persons. By doing so, it gives the impression of trying to resolve a problem it has itself created.

More fundamentally, enclosing refugees under the generic label of protected person fails to address their specific needs. On the one hand, the definition of protected persons under international humanitarian law does not include all refugees and other persons in need of protection. Beside the cases mentioned before, it excludes all nationals of a belligerent state who flee to a state that is not a party to the conflict during and/or because of the hostilities. On the other hand, even if refugees correspond to the definition of protected persons, they benefit as such from the same guarantees as ordinary aliens within the territory of a party to the conflict. As demonstrated above, the only two provisions specifically devoted to refugees in GC IV are conspicuously weak and ambiguous.

## Answers to: Surveillance Capitalism

### **Immigration policies are tools of capitalism used to determine wages and increase classism**

**Berlinschi and Squicciarini 11**(Ruxanda and Mara, LICOS Centre for Institutions and Economic Performance, "On the Political Economy of Illegal Immigration"  
[http://www.researchgate.net/profile/Ruxanda\\_Berlinschi/publication/241763586\\_On\\_the\\_Political\\_Economy\\_of\\_Illegal\\_Immigration/links/0c96053bbbb9695b7b000000.pdf](http://www.researchgate.net/profile/Ruxanda_Berlinschi/publication/241763586_On_the_Political_Economy_of_Illegal_Immigration/links/0c96053bbbb9695b7b000000.pdf) 2011 JM)

This paper is related to the literature on the impact of migration on the host country and on the political economy of immigration policies. The seminal paper by Borjas (1995), shows that if **migrants bring no capital with them, immigration increases total income** in the host country, but also generates a redistribution of wealth from labour to capital revenues. If migrants bring some capital with them, the impact of immigration on total income of natives and on its redistribution between labour and capital owners is lower. A number of papers have developed political economy models explaining the formation of immigration policies. Benhabib (1996) analyses how immigration policies that impose capital requirements to migrants would be determined under majority voting, when natives differ in their capital holdings. Facchini and Willman (2005) model policies restricting international factor mobility when domestic groups bid for protection and the government maximizes a welfare function that depends both on voters' welfare and on contributions from the interest groups. Epstein and Nitzan (2006) analyze the determination of migration quotas in a contest between workers and capital owners, whose preferences towards immigration are exogenously given and where the government's objective function is a weighted sum between total welfare and lobbying transfers received. In their model, lobbying enhances compromise when the government does not intervene in the policy proposal, but may lead to extreme policies when the government intervenes in the policy proposal. An increase in the weight given by the government to social welfare may either increase or decrease the migration quota, depending on its impact on lobbying efforts by each group. All these papers only considered legal migration. Another strand of the literature has focused on illegal immigration and has studied optimal policies when the government wants to limit the flow of illegal immigrants. The pioneering paper of Ethier (1986) analyses the effectiveness of border versus internal enforcement in combating illegal immigration. In that model, skilled and unskilled workers are used to produce a final good via a neoclassical production function. Illegal immigrants increase the supply of unskilled workers. Firms employ unskilled labour up to the point in which the wage equals the marginal labour productivity. In absence of wage rigidities, illegal immigration reduces the unskilled wage and increases the skilled wage. In presence of wage rigidities, it increases unskilled unemployment rate without affecting the skilled workers. Border enforcement, modelled as the probability for an illegal entry attempt to fail, **determines the supply of illegal migrants**. Internal enforcement, modelled as the probability for a firm employing an illegal worker to be caught and pay a fine, **determines the wage gap between 5 illegal migrants and unskilled legal workers**. The model shows that using a mix of border and internal enforcement is less costly than using only one of type of enforcement. Woodland and Yoshida (2006) extend Ethier's setting to a two-country context,

distinguishing between the cases of capital mobility and capital immobility and relaxing the assumption of immigrants' risk neutrality. They show that non-neutral attitudes to risk may lead to multiple and unstable equilibria. Illegal immigration is reduced by tighter border control and greater internal enforcement. The effect of these policies on the origin country's wage rates depends on the degree of capital mobility and the effect of internal enforcement on the host country's illegal wage rate depends on immigrants' attitude to risk. Chau (2001) analyses the role of amnesty policies. The paper argues that amnesty programs may allow the authorities to increase welfare by binding their own hands when border and internal enforcement policies are time-inconsistent. All these early papers on illegal immigration rest on the assumption that illegal immigration is always undesired and governments are willing to fight it.

## **Maintaining the security at the Mexican border is necessary to defeat the capitalistic monster that this country has become**

**Kaye 10-** (Jeffrey Kaye, Los Angeles Emmy Award winning author for News Hour and a former magazine writer and freelance reporter that worked on four continents, "Moving Millions: How Coyote Capitalism Fuels Global Immigration", p.188, TS)

" If the migrants don ' t show up for the next harvest, Nick says he 'll have to destroy entire orchards that were planted more than a century ago, " reported ABC News correspondent John Qui ñ ones after interviewing a pear grower in Lake County, in northern California. " Most of his crop, almost two million pounds, lies on the ground, rotting away. Thanks to increased security along the Mexican border, thousands of migrant workers who harvest the nation ' s fruits and vegetables never showed up to work. " Across the country, an apple farmer in upstate New York had the same lament, " We need to import this labor to pick crops or we ' re going to be importing our crops, " John Teeple, told a newspaper reporter. The flurry of apocalyptic - sounding news reports prompted a sober analysis of the claims by the migration expert Philip L. Martin, a professor of agricultural economics at the University of California, Davis. Examining the pear industry, Martin found not only that the business was in decline anyway, but also that the Lake County pear harvest actually increased in 2006 over the previous year. " These reports of farm labor shortages are not accompanied by data that would buttress the anecdotes, like lower production of fruits and vegetables or a rise in farm wages as growers scrambled for the fewer workers available, " Martin pointed out.

## **The financial vulnerability of Mexican immigrants is exploited by American companies for a capitalistic gain—they are paid less and treated less than human**

**Kaye 10-** (Jeffrey Kaye, Los Angeles Emmy Award winning author for News Hour and a former magazine writer and freelance reporter that worked on four continents, “Moving Millions: How Coyote Capitalism Fuels Global Immigration”, p.168, TS)

**Loose controls accommodated industry ’ s needs, allowing Mexican laborers to travel freely back and forth across the border. The policy was essentially “ easy come, easy go.” The U.S. Commissioner - General of Immigration, an agency then under the Department of Commerce and Labor, did not even bother to get an accurate count of the number of incoming Mexicans, estimated at more than fi fty thousand a year. Labor contractors and recruiters fanned out throughout the border areas to ensure a steady stream of Mexican workers, disregarding an1885 federal law that specifically prohibited American employers from signing contracts promising jobs to migrants before they arrived in the country. Unregulated migration served both countries. Mexico had an escape valve for its poorest citizens, who were unemployed and potentially revolutionary. U.S. industries were provided a ready source of cheap labor. Representatives of large industrial enterprises told Congress that they were so dependent on Mexican labor that immigration restrictions would leave them on the verge of bankruptcy. A 1910 U.S. congressional commission reported that Mexican railroad workers were not only plentiful, they also were cheap, at least compared to “ the English - speaking races formerly employed by most of the railroad companies.” Railroad companies paid nearly all their Mexican track maintenance workers less than \$ 1.25 a day, compared to the daily rate of \$ 1.50 or more (a 20 percent difference) earned by just about every English, Greek, Irish, and Norwegian employee. The report noted that in addition to their low pay rates, the railroads prized Mexicans for their docility, finding that they were well suited to the hot climate “ and regarded as being very tractable; in fact, they are noted for their passive obedience.” A Texas cotton grower said, “ They are content with whatever you give them. [T]hey’ re more subservient, if that ’ s the word.”**

**The loosening of immigrant restrictions perpetuates the ‘coyote capitalism’ that smuggles workers without consideration—this also encourages businesses and governments to pass around workers like simple objects, reinforcing the dehumanization they experience**

**Kaye ’10** (Jeffrey Kaye, Los Angeles Emmy Award winning author for NewsHour and a former magazine writer and freelance reporter that worked on four continents, “Moving Millions: How Coyote Capitalism Fuels Global Immigration”, p. 5-6)//cl

In other words, immigration should be seen more as a symptom or a reaction to policies and conditions than as a problem. Immigration is a fact of life. Given the right set of circumstances, people (not to mention our prehuman ancestors) have always moved and always will. Labor migration persists for at least two main reasons. First, global and local businesses rely on human mobility and on ready, vulnerable pools of labor, often available at bargain basement prices. Second, successful migrants — who number among the most assertive, determined, and entrepreneurial people in the world — are able to overcome the forces and obstacles arrayed against them. It’s the law of supply and demand. Just as the drug trade feeds apparently insatiable appetites, **overwhelming borders and policing, the world ’ s migrants as well as the businesses and economies that love them make sure the human flow continues. It is a global system that may be called “coyote capitalism.”** Coyotes are human smugglers, or as professors Gilbert G. Gonzalez and Raul A. Fernandez described them, “unauthorized Mexican labor recruiters.” **This neutral - sounding phrase filters out the legal baggage** to arrive at a basic job description. It allows us to think of coyotes in economic terms rather than as fanged creatures of the underworld. Similarly, coyote capitalism straddles the realms of the legitimate and the unlawful, evoking a netherworld in which many migrants find themselves. This is not to suggest that most migrants are smuggled, although many are. **Coyote capitalism describes a system of interlocking, dependent relationships, some “authorized,” some not.** It is also a system of avoidance and transference. The coyotes ’ job is to ensure that human cargo gets from one place to another. They are shippers who take no responsibility for the consequences of moving freight, either at the place of departure or the destination. **Coyote capitalism allows businesses and governments (in both developed and developing nations) to pass workers around and pass the buck.** If your policy is to export labor, there are fewer expectations to create jobs. If you import workers, you can excuse yourself for developing an economy dependent on migrant labor. And if you develop business or trade policies that encourage people to move around in search of opportunities, you are only the middleman, just the coyote.

**Any action that encourages immigrants across the border only further objectifies them under the capitalist enterprise where migrant policies are used to further labor demands of businesses, trading off with the needs and rights of the worker**

**Kaye '10** (Jeffrey Kaye, Los Angeles Emmy Award winning author for NewsHour and a former magazine writer and freelance reporter that worked on four continents, "Moving Millions: How Coyote Capitalism Fuels Global Immigration", p. 6-8)//cl

Across the globe, **migrants commonly perform the so-called- D jobs — labor that is dirty, dangerous, or demeaning.** The migrant - dependent industries are the same everywhere. Many of the world ' s farms, fields, hospitals, nursing homes, and construction sites would be losing enterprises if not for the work of foreign laborers. Ditto for hotels and restaurants, labor - intensive manufacturing, and low - skilled services. **Armies of migrant domestic workers clean, nanny, and nurse. Some are victims of ruthless traffickers, serving masters who keep them in conditions of indentured servitude.** Although migrants are overrepresented in low - wage, lower - skilled work, at the opposite end of the skills spectrum, global industries often compete for well - trained professionals. Taken together, **the promise of jobs, the willingness of employers to hire migrants, and the calculation by migrants that leaving is better than staying are all powerful incentives for crossing borders — legally or not.** Migrant incomes are lubricants for the often extensive networks of recruiters, traffickers, and smugglers who get them to their destinations. Industries rely on the billions of dollars migrants send back to their homelands. **The interconnected machinery comprising today ' s labor market forms a complex, global migration industry. In the face of such forces, efforts to fashion rational, consistent, and humane migration policies have been elusive.** Benjamin E. Johnson, director of the migrant advocacy group the Immigration Policy Center, eloquently summed up the conundrum: **"We send two messages at our border: ' Help Wanted ' and ' Keep Out, ' "** he told a congressional committee. Johnson nailed it, describing the default official approach as " schizophrenia. "Formulating sensible policy requires rulemakers to weigh competing interests. But a key issue is basic: **Is it possible to formulate migration policies that balance the labor requirements of businesses and economies with the needs and rights of migrant workers? Or are migrant workers interchangeable parts, expendable widgets whose export and import should be calibrated and adjusted according to our needs?** Other questions flow from those. Clearly, importing nations have come to rely on migrants as integral to their labor force. But what should be done in exchange? Do migrant - dependent businesses or economies have obligations to the families, communities, and countries left behind? Developed nations and companies often adopt policies — both domestic and global — that have the effect of promoting migration. Should there be checks on such strategies? At the same time, less wealthy nations actually encourage their citizens to leave, for both political and economic purposes. Should more be done to encourage sustainable economies that don ' t rely on the sacrifices that migration often entails? Increasingly, businesses are forming tentative and unusual coalitions with immigrant advocacy groups. Who wins when partners in the "strange bedfellows " alliances have competing priorities? Most Western countries argue over how many immigrants are too many. We focus on the size of the fences or the number of visas. But should we also pay more attention to the behavior of people importers? We go after human smugglers, but what about

Immigration Surveillance Core File. *Updated 8-3-24*

the other middlemen, the legal recruiters? Just as we try to monitor the importers of foreign food or toys, do we need to keep a closer eye on those in the people import business and hold them more accountable for the treatment of their human cargo? Migration is a global phenomenon. Given that fact, how reasonable is it for politicians to adopt national immigration policies as if they were the equivalent of local zoning ordinances passed with a nod toward placating homeowners' associations with a NIMBY (not in my backyard) mentality?

**Policymakers need to not only make sure economic interests do not trump human rights; they also should recognize that migration does not take place in a vacuum.** Besides considering the international context, they need to reject the disease model of immigration that tries to treat it in isolation from its causes. Taking account of the reasons people migrate will allow them to shape humane and rational migration policies.

### **Immigrants that cross the border end up trapped in cycles like the padrone system**

**Kaye '10** (Jeffrey Kaye, Los Angeles Emmy Award winning author for NewsHour and a former magazine writer and freelance reporter that worked on four continents, "Moving Millions: How Coyote Capitalism Fuels Global Immigration", p. 81-82)//cl

This line of conversation was common for the times. The period of mass migration from Europe had kindled a virtual obsession among restrictionist politicians and their enablers in the pseudoscientific eugenics movement who were fanatical about cataloging the relative and what they considered innate abilities of ethnic and racial groups. "What is the poorest?" the chairman remembered asking the mine owner. "The dago," was the reply. The Alabama congressman expressed surprise. "Worse than the Negro?" he pressed. "Yes," replied the coal operator, explaining that even so, he would prefer to hire Italians than Negroes. Burnett was confused. "Then why do you want the Italian?" he asked. The preference was a matter of pure economics. "For the purpose of regulating the price, not the quantity," the businessman explained. A fellow committee member understood immediately why Italian immigrants were a better value. "The padrone system," clarified Congressman William G. Brown of West Virginia. **The padrone system was a corrupt practice in which international networks of recruiters, placement agents, bankers, contractors, and subcontractors trafficked in Italian immigrants, turning most of them into indentured laborers.** The system flourished after the Civil War, when American industries needed a supply of workers to sustain production. **In 1864, Congress had obligingly passed the Act to Encourage Immigration, allowing employers to require migrant workers to "pledge the wages of their labor" for up to a year to "repay the expenses of emigration."** Even though the law was repealed four years later, **abusive practices of private recruitment and placement agencies continued for decades.** In 1890, congressional investigator Victor L. Ricketts described the padrone system as "probably the worst evil connected with our modern immigration." **"Twenty - seven thousand Italian immigrants were landed at New York last year, and probably two - thirds of them are subject to a bondage almost as pernicious as the African slave system that prevailed in the Southern states thirty years ago,** Ricketts told a newspaper reporter.



Immigration Surveillance Core File. *Updated 8-3-24*

**Similarly, increased migration to the U.S. in the twentieth century resulted in the 'el enganche' system where migrants were exploited for even more profit**

**Kaye '10** (Jeffrey Kaye, Los Angeles Emmy Award winning author for NewsHour and a former magazine writer and freelance reporter that worked on four continents, "Moving Millions: How Coyote Capitalism Fuels Global Immigration", p. 82-83)//cl

While the padrone arrangement was a particularly odious practice, U.S. immigration history is bound up with the active recruitment of migrants, a practice dating back to the colonial era when businesses advertised in Europe their growing need for workmen and artisans. In the early nineteenth century, construction firms sent agents to Europe hoping to attract canal builders. At the end of the century, U.S. railway companies and farmers seeking cheap labor looked south, to Mexico. They developed a system known as el enganche (the hooking), in which labor contractors along the U.S. side of the border paid commissions to agents in Mexico (enganchadores ) to procure hundreds of thousands of Mexican workers. **Like the padroni, the contractors often made their money by renting housing in labor camps to migrants and charging them inflated prices for food and supplies.** Recruitment of migrant workers during the nineteenth century provided the English language with colorful expressions. In the garment business, the widespread use of contracted labor was referred to as the sweating system. The middlemen were known as sweaters because they made their profits by sweating the difference between what they earned from contractors and what they paid their workers. Sweatshops were the places where the work was done. In China, flesh peddlers abducted people from the streets to be used as laborers in colonies in Southeast Asia, South Africa, Cuba, Australia, and Canada. Those tricked into working were said to have been Shanghaied.

**Many migrants fall under the spell of opportunity, seeking out a more prosperous life but often end up swindled, abused, traded off like toys, and threatened with deportation by companies**

**Kaye '10** (Jeffrey Kaye, Los Angeles Emmy Award winning author for NewsHour and a former magazine writer and freelance reporter that worked on four continents, "Moving Millions: How Coyote Capitalism Fuels Global Immigration", p. 87-88)//cl

In Edison, New Jersey, I met Subbu (he asked me not to use his full name), an Indian national, in the United States on a work visa. He had just returned from taking his wife, an Indian - trained scientist, for her New Jersey driver ' s test. As we left their sparsely furnished apartment and drove down Oak Tree Road, one of America ' s most densely populated areas for Indian ex - pats, Subbu said the concentration of Indian - owned businesses and restaurants and the sari - clad women made him feel as if he were back in India. Subbu moved to New Jersey from Bangalore in 2007. He had expected to work full - time, but after a year he lost his job as a systems analyst for JP Morgan Chase, even before the financial tailspin. When I met him, he was biding his time, hoping for another placement. At any given time, as many as fi ve hundred thousand people — there are no accurate figures — are working in the United States on nonimmigrant " specialty occupation" H- 1B temporary work visas. Each year, the government issues eighty - five thousand such visas (sixty- fi ve thousand for holders of bachelor ' s degrees or higher, and, since 2005, an additional twenty thousand for foreigners with masters ' or Ph.D. degrees from an American university), good for a maximum of six years. During the go - go economic boom years of

Immigration Surveillance Core File. *Updated 8-3-24*

2007 and 2008, so many companies were applying for foreign workers that the quota was reached soon after the April application period started, and federal immigration officials cut off petitions after the first week. But the recession of 2008 – 2009 seemed to dampen enthusiasm for importing workers. The number of applications dropped, and the application window reverted to preboom levels of months instead of a week. Subbu had been sending money home to his mother in his hometown of Mysore near Bangalore, and had planned to return there himself with his wife and children. He wanted to care for his mother and see that his kids become fluent in Kannada, his native tongue and one of India's official languages. So, like many migrants, Subbu was not planning a permanent stay in the United States. He paid a body shop a \$ 3,500 fee and arrived in New Jersey from India in 2007. He expected to be hired out as a systems analyst earning about \$ 70,000 a year. Once settled, he would send for his family. As a condition of employment, the recruiter had him sign a seven - page agreement pledging to work for the agency for eighteen months or face a lawsuit if he didn't. Subbu didn't know it, but that requirement is illegal according to an immigration attorney I asked to review the agreement. The recruiter was attempting to treat Subbu as a bonded laborer. But as it turned out, the contract was the least of Subbu's difficulties. There was no job. The recruiter, who has offices in India and New Jersey, put him up in a four - bedroom house in New Jersey with eleven other recruits. (The recruiter was later cited for operating an illegal boardinghouse.) Subbu stayed there for five months, and in that time was paid \$ 500. Unemployment is common in the recruitment industry, despite assurances to the contrary. H - 1B workers describe the downtime as being "on the bench." Another Indian H - 1B worker who was at the house at the same time confirmed Subbu's story, and said he had similar problems — no work for three months. The recruiter eventually placed Subbu after transferring the visa to another body shop. As he put it, one recruiter "rented me out to another one, and then rented me out to JP Morgan Chase." He said the bank, his ultimate employer, was unaware of the convoluted arrangements. Each of the body shops took a cut from his pay, even though he wound up with a still respectable \$ 100,000 for the year he worked there. Subbu reckoned that he was owed about \$ 6,000 by the recruiter who brought him to the United States, and he was bitter. "I have been exploited to the maximum," he said. He was angry at fellow Indians, those who run recruitment agencies and tell their workers that if they complain, they'll be sent back to India. "They are trying to swindle us by not giving us proper salary and creating fear. People who are coming with this type of visa are not coming as illegal immigrants. They are coming in with a valid visa. They have valid degrees and a valid education, so they are afraid [that if they speak out] they will not only spoil their image, they will spoil their family's reputation also." Subbu's experience is not isolated. I spoke to half a dozen H - 1B employees with similar stories, who asked to remain anonymous. In 2000, the Baltimore Sun, after reviewing hundreds of court records and government documents, found numerous cases in which unscrupulous body shops billed U.S. companies at rates three to four times the salaries they actually paid the workers. They also interviewed H - 1B workers who were not paid what they had been promised and were threatened with deportation if they challenged their employers. In 2007, Patni Computer Systems, a global technology company headquartered in India, agreed to pay more than \$ 2.4 million to 607 H - 1B workers following a U.S. Department of Labor investigation that determined the workers had been underpaid. Patni supplied IT workers to such companies as State Farm Insurance, MetLife, and General Electric.

## Immigrants come to the US for cheap labor and that furthers the capitalist gap in the economy

**Kaye 10-** (Jeffrey Kaye, Los Angeles Emmy Award winning author for News Hour and a former magazine writer and freelance reporter that worked on four continents, "Moving Millions: How Coyote Capitalism Fuels Global Immigration", p.166-167, TS)

The federal foray into migration management came during a period when a growing economy needed more workers and consumers. It was the beginning of a series of immigration laws and policies in the United States that often have tracked national fortunes and business cycles, opening and closing the doors as the demand for labor increased and dipped. The 1864 law established the U.S. Immigration Bureau, which was supposed to increase the supply of migrants to American industry to meet its production needs during the Civil War. (Because the law allowed recruiters to require workers to sign contracts pledging their wages for a year, organized labor and their supporters attacked the legislation for creating a “species of servitude.” It was repealed in 1886.) In the late nineteenth century, America shifted from an agricultural to an urban and industrial power. The growth of railroad companies, mines, steel, meatpacking industries, and industrial farming required more and more migrant workers. Railroads — among them Illinois Central, the Burlington, and the Northern Pacific — sent agents to Europe to entice migrants to move. Owners of mines and factories also sent emissaries abroad on recruiting expeditions. The captains of enterprise found migration to be as great a boon as the expansion of industry: “Were the owners of every gold and silver mine in the world compelled to send to the Treasury at Washington, at their own expense, every ounce of the precious metals produced, the national wealth would not be enhanced one - half as much as it is from the golden stream which flows into the country every year through immigration,” wrote the industrialist Andrew Carnegie. During the 1860s and 1870s — years of post - Civil War Reconstruction, territorial expansion, and rapid industrialization — new settlers were in great demand. So much so that twenty - five of the thirty - eight states provided migrants with economic incentives, including good deals on property and real estate tax exemptions. Southern states were part of the scramble. They desperately needed cheap labor to replace emancipated slaves.

## **The economy is addicted to foreign labor. Any withdrawal from it will crush capitalism.**

**Kaye 10-** (Jeffrey Kaye, Los Angeles Emmy Award winning author for News Hour and a former magazine writer and freelance reporter that worked on four continents, “Moving Millions: How Coyote Capitalism Fuels Global Immigration”, p.251, TS)

Microsoft ’ s long - term plan for more migrant employees to spur economic growth stood in sharp contrast to the firm ’ s immediate financial reality. With declining revenue,

Microsoft needed to control costs. As one arm of the company pushed to be allowed to import more foreign workers, another was preparing dismissal notices. Two and half weeks after making its case to import “ people from around the world, ” the company announced that it would be eliminating fourteen hundred jobs right away, and might lay off up to twenty - six hundred additional employees over the next eighteen months. To the Microsofts of the world, the globe is a mighty chessboard with pieces that need to be moved around in accordance with longterm goals, grand strategies, challenges from other major players, and the circumstances of play. Mobility is key, and if the rules of play inhibit movement, then the players seek to change them. Generally missing from the calculation is a sense of the common good. It’s a global system that I earlier referred to as “coyote capitalism,” one whose skewed priorities place the welfare of migrants at the bottom of the list. Properly addressing migration requires not only a commitment to address its causes, but a reexamination of values, a better understanding of enforcement regimes and vested interests, and the realization that an international issue entails a global approach. Even though the demand for migrant workers rises and dips over time and with economic fluctuations, the overall appetite in the developed world for the brains and brawn of foreign labor seems unrelenting. Like addicts, we need the next fix. We are hooked. The cravings come from all sectors of the economy. “ There are only so many brains available, ” the president of a U.S. high - tech market research firm told Investor ’ s Business Daily. “ And either they ’ re going to get them or we are. ”

# **CON – Solvency Answers**

## Expanded Surveillance Won't Work

### Easy for migrants to escape the surveillance

Phippen, 2021, J. Weston Phippen is a writer and editor based in Santa Fe, New Mexico., Politico, 'A \$10-Million Scarecrow': The Quest for the Perfect 'Smart Wall', <https://www.politico.com/news/magazine/2021/12/10/us-mexico-border-smart-wall-politics-artificial-intelligence-523918>

**Smugglers and migrants did find a way around the towers, much more quickly than CBP could build them.** Take, for example, the cameras. Matthew Longo, researcher and author of The Politics of Borders, told me a story that he said not only sums up SBInet's failures, but that speaks to the predicament all border technology confronts. Boeing's first cameras were fixed, pointed at one area. When smugglers caught onto this, **they moved migrants through the blind spots. Then Boeing developed cameras that scanned the land. So, smugglers sent decoys to distract CBP while the main group scuttled past, out of sight. "So, then they created this new kind of camera that was 360-degree, super-fancy vision," Longo says. "But it didn't look down." The towers became a place to hide safely, literally beneath CBP's eyes. "This was three different versions, and each solution generated a new problem," Longo laughs. "There is a constant adaptation between the tech and border crossers, and it quickly becomes an arms race to the bottom."**

### Customs and Border Patrol doesn't have the capabilities to use the tech

Office of the Inspector General, 2021, <https://www.oig.dhs.gov/sites/default/files/assets/2021-02/OIG-21-21-Feb21.pdf>, CBP Has Improved Southwest Border Technology, but Significant Challenges Remain,

**CBP faced additional challenges that reduced the effectiveness of its existing technology. Border Patrol officials stated they had inadequate personnel to fully leverage surveillance technology or maintain current IT systems and infrastructure on site.** Further, we identified security vulnerabilities on some CBP servers and workstations not in compliance due to disagreement about the timeline for implementing DHS configuration management requirements. **CBP is not well-equipped to assess its technology effectiveness to respond to these deficiencies.** CBP has been aware of this challenge since at least 2017 but lacks a standard process and accurate data to overcome it. Overall, these deficiencies have limited CBP's ability to detect and prevent the illegal entry of noncitizens who may pose threats to national security. Deploying adequate technologies is essential for CBP to ensure complete operational control of the southern border.

### They don't have enough people

Immigration Surveillance Core File. *Updated 8-3-24*

Office of the Inspector General, 2021, <https://www.oig.dhs.gov/sites/default/files/assets/2021-02/OIG-21-21-Feb21.pd>, CBP Has Improved Southwest Border Technology, but Significant Challenges Remain,

Border Patrol faced additional impediments that reduced the effectiveness of its technology on mission operations. Specifically, **Border Patrol officials stated they lacked the manpower to fully utilize field technology systems for surveillance as CBP continued to struggle to fill gaps created by routine staff retirements and resignations. CBP also stated it lacked on-site support personnel to maintain its increasingly complex technology and infrastructure. Further, we identified security vulnerabilities on some CBP servers and workstations that were not in compliance with DHS configuration management requirements**

## No proof the systems work

Dave Masse, 3-20, 23, CBP Is Expanding Its Surveillance Tower Program at the U.S.-Mexico Border—And We're Mapping It, <https://www.eff.org/deeplinks/2023/03/cbp-expanding-its-surveillance-tower-program-us-mexico-border-and-were-mapping-it>

Surveillance towers along the border have had a troubled history. In the mid-2000s, the Secure Border Initiative aimed to place "SBInet" towers along the border, but only got as far as installing a few dozen in Arizona before bipartisan outcry over technical problems, cost, delays, and ineffectiveness resulted in it being shut down. Throughout the 2010s, CBP took another run at a tower-based system, resulting in disparate tower systems—the Integrated Fixed Tower (IFT) and Remote Video Surveillance System (RVSS)—provided by different vendors that could not interact with another. **Despite spending more than a billion dollars since 2005, the Government Accountability Office concluded in 2017, CBP was "not yet positioned to fully quantify the impact these technologies have on its mission."** Now CBP (and its sub-division, U.S. Border Patrol) is planning yet another massive expansion of surveillance towers at the U.S.-Mexico border. Referred to as the "Integrated Surveillance Tower" (IST) or "Consolidated Tower and Surveillance Equipment" (CTSE) program, CBP intends to bring the RVSS and IFT systems under one program and, over the next decade, begin upgrading 135 existing towers with new capabilities, technologies and sensors, while also installing 307 new towers along the Southern border. CBP has indicated these towers would help fill in surveillance gaps caused by the planned conclusion of its tactical aerostat program. The tower systems are able to automatically detect and track objects up to 7.5 miles away and assist agents in classifying objects 3 miles away, depending on regional requirements. Dozens more towers will be added at the Canadian border. Meanwhile CBP is in the process of installing 200 Autonomous Surveillance Towers (ASTs) from Anduril Industries that are controlled by artificial intelligence software, which will also be part of the IST program. In the short term, CBP has earmarked \$204 million for this program in its 2023 and 2024 budgets, which covers the deployment of 74 ASTs by the end of FY 2024 and 100 new towers by the end of FY 2025. A chart showing that CBP wants to install 336 new towers and upgrade 172 existing towers A more granular breakdown of CBP's tower plan is available here. That's why it's important to document the towers as they exist today and continue to track them as the system expands. Our current map is the most comprehensive available to the public, but it still depicts only a portion of what's already been installed and what will be installed in the years ahead. This data will allow for many types of research, on issues ranging from border policy to environmental impact. For example, the placement of the towers undermines the myth that border surveillance only affects unpopulated rural areas: a large number of the existing and planned targets are positioned within densely populated urban areas. Also, journalists traveling the border need to identify the location of towers in order to document them and interview residents who live and work under constant surveillance. Border security researchers can use this data to independently evaluate whether the towers meet CBP's stated goals, such as intercepting drug smuggling and human trafficking. Sam Chambers, a researcher at University of Arizona, is currently studying whether the placement of towers results in migrants taking more perilous routes across the desert. "The data provided by EFF are an invaluable resource for researchers like myself," Chambers says. "It allows us to document the actual impacts of a 'virtual wall' on undocumented border crossers—by comparison of the locations and capabilities with records of known border crosser mortalities. It also makes it possible to more precisely estimate the increased physiological toll resulting from specific surveillance technologies. I expect to use this resource to expand on my past work and bring light to the harms brought upon by what would otherwise be called a 'smart' and 'humane' alternative." About the Towers Currently, the map includes three primary styles of towers implemented by CBP: An Integrated Fixed Tower in a desert valley An Integrated Fixed Tower in Cochise County, Ariz. Integrated Fixed Towers (IFT). These structures are from vendor Elbit Systems of America, part of an Israeli corporation that has come under criticism for its role in surveillance in Palestine. Elbit previously was a subcontractor on the failed SBInet project, and has built many of the new towers at the same locations of the original SBInet towers. IFTs are exclusively found in Arizona, with several controversial towers installed on tribal lands owned by the Tohono O'odham nation. IFTs can

## Immigration Surveillance Core File. *Updated 8-3-24*

reportedly detect a person up to 7.5 miles away. An RVSS tower overlooking a city. A Remote Video Surveillance System in Nogales, Ariz. Remote Video Surveillance Systems (RVSS). These structures from vendor General Dynamics are most commonly, but not exclusively, found near the border fence. The platform at the top usually includes two sensor rigs with electro-optical and infrared cameras and a laser illuminator. The monopole version of the RVSS is found throughout the Southwest, but a new model—the "relocatable RVSS" (R-RVSS)—has been installed throughout the Rio Grande Valley in South Texas. RVSSs can reportedly detect a person up to 7.5 miles away, however the range may vary depending on the particular regional requirement. An Autonomous Surveillance Tower in a desert landscape. An Autonomous Surveillance Tower in Imperial County, Calif. Autonomous Surveillance Towers (AST). These "Sentry" towers are made by Anduril Industries, founded by Oculus creator Palmer Luckey. According to CBP, an AST "scans the environment with radar to detect movement, orients a camera to the location of the movement detected by the radar, and analyzes the imagery using algorithms to autonomously identify items of interest." In July 2020, CBP announced plans to acquire 200 of these towers by the end of Fiscal Year 2022, a deal worth \$250 million. These towers are heavily concentrated in Southern California, with patches popping up in southern New Mexico and the Big Bend, Laredo, and Del Rio Border Patrol sectors in Texas. Because they are so new, and have yet to appear in updated, publicly available satellite imagery, we have only documented a small portion of these installations in our data set. ASTs can detect a person up to 1.7 miles away and a vehicle 2.2 miles away, according to company materials. The map also includes unusual and novel surveillance towers, such as a new Elbit tower that was installed on the Cochise County Community College campus and a tower installed on the property of Warren Buffet's son's ranch, both near Douglas, Ariz. Another Anduril tower was located 30 miles north of the San Diego border, where it watches the Pacific Ocean from the cliffs near the Del Mar dog beach. We have also included towers installed at inland border checkpoints as well as a number of towers of which we were unable to conclusively determine the models. We will continue to update and add to the data as we document new towers and technologies. If you are aware of a tower that isn't on our map, or know of a tower that has been relocated, please email [aos@eff.org](mailto:aos@eff.org). Automated License Plate Readers (ALPRs). We have also mapped out 39 Border Patrol checkpoints where ALPR systems have been installed, either by CBP or the Drug Enforcement Administration. These cameras collect the license plates of vehicles that pass, attach a timestamp and GPS coordinates, then upload that data to a searchable database. The data is stored for 15 years—far longer than the retention period of any state or local law enforcement agency. CBP's ALPR vendor, Perceptics, was breached in 2019, resulting in the leak of 105,000 license plate images. **A year later, the Government Accountability Office concluded that only about half of border checkpoints were using ALPR systems as intended with a system for documenting the outcomes of secondary inspections of vehicles.**

## Migrants escape detention

Rosenblum, Marc R., Irene Gibson, et al. FY 2021 Southwest Border Enforcement Report, U.S. Department of Homeland Security, Aug. 2022, FY 2021 Southwest Border Enforcement Report -

August 2022 ([dhs.gov](https://www.dhs.gov)) **Despite the relatively high number of encounters in 2021, improvements in CBP's estimated at the-border apprehension rate—which averaged 78 percent in 2018–2020, compared to 35 percent in 2002–2004—kept the estimated number of entries without inspection far below the levels observed in the early 2000s. 7 Based on preliminary data, DHS estimates that about 660,000 border crossers evaded apprehension in 2021.** This estimate represents an increase over the low levels observed in 2014–2020 (160,000/year), but it is lower than any year 2000–2010 and only one-third as high as the estimates for 2000–2006 (1.9 million/year) (Figure 1).





## Extensions – Redirection

### Surveillance just redirects migration

Phippen, 2021, J. Weston Phippen is a writer and editor based in Santa Fe, New Mexico., Politico, 'A \$10-Million Scarecrow': The Quest for the Perfect 'Smart Wall', <https://www.politico.com/news/magazine/2021/12/10/us-mexico-border-smart-wall-politics-artificial-intelligence-523918>

Democrats frame the smart wall as a humane alternative to a physical wall, which they have often likened (despite their one-time support for them) as outdated and quasi-barbaric, “a 14th-century solution to a 21st-century problem,” as Rep. Cuellar put it. Trump played into this with get-tough rhetoric about the virtues of a physical barrier. While visiting the border he once remarked that his wall was designed to absorb heat, which would presumably burn the flesh of any migrant who attempted to climb it. “You can fry an egg on that wall,” Trump joked. **A surveillance tower won’t burn anyone. Migrants can’t fall off of it. But the idea that it is any more humane is puzzling, especially because they have not slowed migration. The towers have only redirected it elsewhere.** This was the heart of the question Boyce had first asked when he noticed the untouched water jugs volunteers had stashed along the remote Arizona highways. Where had the migrants gone? After graduate school, as a post-doctoral student at the University of Arizona, that still unanswered question led him to collaborate with Sam Chambers, who’d come to the same university after studying the migratory patterns of elk. Their goal was simple: map the new routes the migrants were using and document the consequences. In October, Chambers and I met in the Tumacacori Mountains, south of Tucson and west of Nogales, on the side of a country road. The worst of the summer heat was past, but the temperature was still 88 degrees. He pointed to an SBlnet tower, 100 yards up a hill and through the chaparral. Then he started to climb. Not on a trail, just straight up — over the jagged rocks, yucca and through the mesquite. Dr. Sam Chambers speaking in Sasabe, Arizona on October 6, 2021 Chambers in Sasabe, Ariz., on Oct. 6, 2021. **“Nobody had looked to see if surveillance towers were being evaded or not,”** Chambers said as we walked. “You’re doubling, tripling the distance and exertion by adding these towers.” The most reliable way to track the paths of migration was to document the locations of those who didn’t make it. So Chambers and Boyce collected data from the Pima County Office of the Medical Examiner, which had recorded the locations of every migrant body found in its district. That included SBlnet territory. At the top of the hill, beneath the tower, Chambers swigged from a water bottle. We looked out across a network of ravines. The border was five miles away. What was the tower doing so far back? I asked. **“This surveillance stuff is not about stopping everyone,” Chambers said. “It’s about manipulation.”** There was a time when Mexican vendors sold water jugs with a map glued to the side. The map displayed various mountain peaks, and migrants were directed to follow the promontories to highways where they would be picked up. Towers made that impossible. A 10-mile journey became a 20-mile march, and migrants increasingly relied on smugglers to guide them through arroyos, along mountainsides, weaving a path beyond sight of the towers. This is what Boyce and Chambers have termed CBP’s “corral apparatus,” an intentional strategy to

funnel migrants into “a narrower corridor of movement” where they’re more likely to become isolated, confused, and where “physiological strain, suffering and mortality are likely to be greatest.” The very point of the surveillance tower placement, they contend, was to increase the difficulty of the journey. **“An initial strategy was to channel people into certain areas, to funnel them to a place where it’s easier to apprehend them,” James Lewis, who had advised on SBInet, told me. “That’s not good from a crosser perspective because they’re forced into more inhospitable areas, and the casualty rate goes up.”** This corralling has an official name, it’s called “prevention through deterrence.” The Clinton administration devised this strategy and CBP still practices it today — consciously or not. During the program’s first stages, in the mid-1990s, the U.S. raised walls near border cities with the intent to push migrants into the desert. Metrics like “a shift in flow” of migratory routes and “fee increase by smugglers” were signs of effectiveness. And deaths were an expected outcome. “Illegal entrants crossing through remote, uninhabited expanses of land and sea along the border,” the policy said, will “find themselves in mortal danger.” **The government likely figured this would be an added deterrent, as stories of dead fathers and siblings filtered back through migrant networks. That is not what happened. Instead, as people left broken economies and rampant violence for the U.S., the death toll along the border soared and still the migrants came. The report Chambers and Boyce wrote, which published this year, showed a map with dots to represent each migrant death recorded from 2004 to 2006 (before SBInet) and from 2007 to 2009 (after SBInet). Before the towers rose in the desert, the dead are dispersed, many in the lowlands where the firm and level ground makes for easier travel. But after the arrival of SBInet, the dots grow in number and begin to concentrate along the rocky western slopes and canyons of the Tumacacori Mountains. “They’re having to walk longer distances,” Chambers said of the migrants, as he pointed below. It was a road, similar to one where Boyce had first laid water jugs some 20 years ago. The road followed a dry riverbed where trees provided enough cover from the car lights but was now exposed to the SBInet tower that we stood beneath. “We could stand here and sit in the shade. It’s livable,” he said. “But if you’re doing long distances you’re going to get hyperthermia. Your body is using up water, and once you can’t sweat there’s no way to cool yourself down.”**

## Migrants just shift to the sea

Phippen, 2021, J. Weston Phippen is a writer and editor based in Santa Fe, New Mexico., Politico, ‘A \$10-Million Scarecrow’: The Quest for the Perfect ‘Smart Wall’, <https://www.politico.com/news/magazine/2021/12/10/us-mexico-border-smart-wall-politics-artificial-intelligence-523918>

Anduril’s system soon will cover much of the border. And I wanted to see a sentry tower, as it were, in the wild. Both CBP and Border Patrol declined my request to observe how they use the system. Neither the agencies nor Anduril would tell me exactly where they’d placed the towers. So after meeting with Chambers, I drove west from Arizona on Interstate 8 toward San Diego, where the Sentry Tower has been tested for more than two years. At California’s State Route 94, I turned south, stopping often with binoculars to scan the hillsides. As the sun set, I spotted a sentry tower on a hill that overlooked the Mexican border town of Tecate, set about a mile back. The path to the tower circled the hill, and the rental car nearly bottomed out over the rutted road. It was dark, chilly, and a thick fog descended. As I stepped out of the car to stare at the city lights across the border, the sentry tower panned toward me and paused. Walls run from here nearly to the California coast, and I could see where CBP had blasted and dug, at great cost and almost impossible angles through the mountains to lay a foundation for the wall. The sentry tower, by contrast, whirred happily the hill’s dirt crest, its legs stretched out and the solar panels aimed south. To the west of the hill a series of ravines

Immigration Surveillance Core File. *Updated 8-3-24*

rose and fell, much like those Chambers had shown me in Arizona. **It was easy to imagine migrants crawling over the damp rocks, hiding on the other side of the canyon to evade the tower. Maybe, sometime in the future researchers will create a map of the sentry tower's toll.** But there might be hints of it already. Much farther to the west, in the Pacific Ocean, **migrants are now taking to the sea in increasing numbers, where they cross the waters at night in fiberglass fishing skiffs.** Sometimes the skiffs crash. The migrants are thrown into the dark sea and in the morning the waves push the splintered wreckage of the boats to land. The wall separating the US and Mexico was seen in Ciudad Juárez, Mexico on November 30, 2021. A view of the U.S. over a portion of the wall, as seen from the Ciudad Juárez side of the border. After half an hour, a Border Patrol agent parked beside my car to ask what I was doing. He'd seen me from the sentry tower's camera, he said. He lit a cigarette. As we talked about the tower, he said smugglers from the other side have started to shine laser pens at the camera to blind it. He took a drag and, as he exhaled, he said, "They're always coming up with something new."

# CON – Framework

## Moral Obligation to Refugees

### Failure to help refugees is a moral failure

Nicholas Kristof, New York Times, Refugees Who Could Be Us,  
[http://www.nytimes.com/2015/09/06/opinion/sunday/nicholas-kristof-refugees-who-could-be-us.html?smid=tw-share&\\_r=0](http://www.nytimes.com/2015/09/06/opinion/sunday/nicholas-kristof-refugees-who-could-be-us.html?smid=tw-share&_r=0) DOA: 9-22-15

**Granted, assimilating refugees is difficult. It's easy to welcome people at the airport, but more complex to provide jobs and absorb people with different values.** (In Jordan, I once visited a refugee family hoping for settlement in the United States and saw a poster of Saddam Hussein on the wall; I wondered how that adjustment would go.) In any case, let's be clear that the ultimate solution isn't to resettle Syrians but to allow them to go home. "Stopping the barrel bombs will save more refugees dying on the route to Europe than any other action, because people want to return to live in their homes," noted Lina Sergie Attar, a Syrian-American writer and architect. **There has been a vigorous public debate about whether the photo of Aylan's drowned body should be shown by news organizations. But the real atrocity isn't the photo but the death itself — and our ongoing moral failure to save the lives of children like Aylan.**

### Moral obligation to help refugees, economic benefits irrelevant

Martin Wolf, September 22, 2015, Financial Times, A refugee crisis that Europe Cannot Escape,  
<http://www.ft.com/cms/s/0/3967804c-604b-11e5-a28b-50226830d644.html#ixzz3mWOWGivB>

In deciding what to do, the EU must draw a distinction between refugees and immigrants. **Countries have legal and moral obligations to refugees.** They do not have such obligations to other immigrants. **Compassion for the desperate has to be distinct from a cooler assessment of the advantages and disadvantages of immigration.** It may be helpful to argue that refugees could provide economic benefits to the recipient country. In many cases, no doubt, resourceful people who so much want to enter will do just that. But that is not the reason why they should be accepted.

### Obligation to provide aid and assistance to strangers outside of our political community

Michael Walzer, philosopher, 2008, Spheres Of Justice: A Defense Of Pluralism And Equality, Kindle Edition, page number at end of card

I won't try to recount here the history of Western ideas about strangers. In a number of ancient languages, Latin among them, strangers and enemies were named by a single word. We have come only slowly, through a long process of trial and error, to distinguish the two and to acknowledge that, **in certain circumstances, strangers (but not enemies) might be entitled to our hospitality, assistance, and good will. This acknowledgment can be formalized as the principle of mutual aid, which suggests the duties that we owe,** as John Rawls has written, "not only to definite individuals, say to those cooperating together in some social arrangement, but **to persons generally.**" **1 Mutual aid extends across political (and also cultural, religious, and**

Immigration Surveillance Core File. *Updated 8-3-24*

**linguistic) frontiers.** Walzer, Michael (2008-08-05). Spheres Of Justice: A Defense Of Pluralism And Equality (p. 33). Basic Books. Kindle Edition.

## **Morality – Golden Rule**

### **We should follow the Golden Rule when dealing with refugees**

**Arizona Central**, September 24, 2015, Pope Francis Urges Congress to Show Compassion for Immigrants, <http://www.azcentral.com/story/news/politics/immigration/2015/09/24/pope-francis-urges-congress-show-compassion-immigrants/72734356/> DOA: 9-25-15

**Pope Francis delivered lawmakers a message of compassion and understanding for immigrants** Thursday as part of his historic, nearly hour-long speech to joint session of Congress, a bitterly divided body that has grappled with border-security and immigration-reform issues for a decade. In doing so, the pope appealed to the United States' time-honored reputation as a nation of immigrants. "We, the people of this continent, are not fearful of foreigners, because most of us were at once foreigners," said Pope Francis, the first-ever leader of the Roman Catholic Church to address U.S. senators and representatives. "I say this to you as the son of immigrants, knowing that so many of you are also descendants of immigrants." Citing the global refugee crisis as well as immigration to the United States from Mexico and Central America, **the pope**, who was often interrupted by applause, **reminded lawmakers of the Golden Rule, "Do unto others as you would have them do unto you."** He also told the joint session on Capitol Hill that **immigrants are looking for a better life for themselves and their loved ones, which is the same that anyone would want for their children. "We must not be taken aback by their numbers, but rather view them as persons, seeing their faces and listening to their stories, trying to respond as best we can to their situation," the pope said.** "To respond in a way which is always humane, just and fraternal. We need to avoid a common temptation nowadays, to discard whatever proves troublesome." The Golden Rule guides in "a clear direction," he said. **"Let us treat others with the same passion and compassion with which we want to be treated," Pope Francis said. "Let us seek for others the same possibilities which we seek for ourselves. Let us help others to grow, as we would like to be helped ourselves.**

"In a word, if we want security, let us give security," he continued. **"If we want life, let us give life. If we want opportunities, let us provide opportunities."**



## Morality – General – Empathy

### **Empathy compels us to help the refugees**

Nicholas **Kristof, 9-4-15**, New York Times, Refugees Who Could Be Us, [http://www.nytimes.com/2015/09/06/opinion/sunday/nicholas-kristof-refugees-who-could-be-us.html?smid=tw-share&\\_r=0](http://www.nytimes.com/2015/09/06/opinion/sunday/nicholas-kristof-refugees-who-could-be-us.html?smid=tw-share&_r=0) DOA: 9-6-15

**WATCHING the horrific images of Syrian refugees struggling toward safety** — or in the case of Aylan Kurdi, 3, drowning on that journey — **I think of other refugees. Albert Einstein. Madeleine Albright. The Dalai Lama. And my dad. In the aftermath of World War II, my father swam the Danube River to flee Romania** and become part of a tide of refugees that nobody much cared about. **Fortunately, a family in Portland, Ore., sponsored his way to the United States, making this column possible. If you don't see yourself or your family members in those images of today's refugees, you need an empathy transplant. Aylan's death reflected a systematic failure of world leadership, from Arab capitals to European ones, from Moscow to Washington.**

### **Empathy demands assistance for refugees**

Robert Kuttner is co-editor of The American Prospect and a visiting professor at Brandeis University's Heller School. His latest book is Debtors' Prison: The Politics of Austerity Versus Possibility, Co-founder and co-editor, American Prospect, September 9, 2015, Huffington Post, Refugee Blues, [http://www.huffingtonpost.com/robert-kuttner/post\\_10092\\_b\\_8097064.html](http://www.huffingtonpost.com/robert-kuttner/post_10092_b_8097064.html) DOA: 9-22-15

On Sunday, **I accompanied the employment minister, Ylva Johansson, to a rally** organized by the youth movements of the Social Democrats, the Greens, and other progressive parties. **The featured speaker was the prime minister himself.** As thousands braved a nasty rainstorm to attend the outdoor rally, **Löfven declared, "We need to decide right now what kind of Europe we are going to be. My Europe takes in refugees. My Europe doesn't build walls,"** he said. **Johansson added, in our conversation, "In Sweden we are different and we need to stay different. To feel empathy with the suffering of another person, a person who is not like ourselves, is part of being human. To solve this refugee crisis is not rocket science, it is not impossible."**

## **Answers to: Ned to Prioritize the National Interest**

### **Prioritizing the national interest results in massive human rights abuses**

Allen Buchanan, political philosopher at Duke, 2004 Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law, Kindle Edition, page/location number at end of card

Moreover, in the current context in which the most serious violent conflicts occur within states, **Morgenthau's assertion that we reduce the risk of violence by setting aside concern for human rights and pursuing only the national interest rings hollow. Today the subordination of human rights and other moral concerns to national interest often takes the form of the oppression of national minorities. The pursuit of national interest, rather than being an effective strategy for peace as Morgenthau envisioned it, has proved to be a recipe for violent internal conflict that often spills across borders.** (One might overlook this fundamental point if one wrongly believed that each state contains one nation and that therefore the pursuit of the national interest serves the interests of everyone in the state.) Allen Buchanan. Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law (Oxford Political Theory) (Kindle Location 1426). Kindle Edition.

### **Wealthy countries shouldn't *only* act in their national interest**

Allen Buchanan, political philosopher at Duke, 2002, Beyond National Interest, Philosophical Topics 30 (2):97-131, p. 104

**There is nothing natural or commonsensical about the assertion that foreign policy may be much less ought to be-guided exclusively by the goal of maximizing the national interest.** To the contrary, on its face this thesis is diametrically opposed to the acknowledgment that there are human rights-rights that all persons have regardless of whether they are our fellow citizens. **It is also apparently at odds with the commonsense belief that a rich and powerful state such as the United States from time to time ought to act charitably toward less fortunate peoples by supplying aid in times of disaster, even if, strictly speaking, justice does not require it.** Because the Permissible Exclusivity Thesis itself takes no position on what the national interest is, one cannot assume congruence between pursuit of the national interest and respect for human rights or the promptings of charity. It is also important to understand that proponents of the Permissible Exclusivity Thesis are wrong if they assume that it only allows the subordination of concerns about the human rights of persons in other countries to the pursuit of the national interest. The Permissible Exclusivity Principle asserts that it is permissible, in the domain of foreign policy, to do whatever is necessary to further the national interest, including violating the most basic human rights of anyone whose rights stand in the way of that goal, whether or not he is a fellow citizen. Taken literally, the Permissible Exclusivity Principle is a much more radical doctrine than might first appear.

**The greater risk is that we will ignore human rights, not the national interest**

Allen Buchanan, political philosopher at Duke, 2002, *Beyond National Interest*, *Philosophical Topics* 30 (2):97-131, p. 123-4

Notice, also, how unpersuasive it would be to argue that once we admit considerations other than the national interest into the foreign policy debate, we will be on a slippery slope toward the excesses of human rights utopianism or thoroughly impartial cosmopolitanism. If history is any indication of what the future will be like, the danger is not that states will neglect the national interest in an ecstasy of self-sacrificial cosmopolitanism. On the contrary, the greater risk is that they will continue in systematically devaluing the claims of persons in other states.

## Should Include Refugees

### Excluding refugees is based on violence

Jeffrey **ISAAC** Poli Sci @ Indiana '96 "A New Guarantee on Earth: Hannah Arendt on Human Dignity and the Politics of Human Rights" *The American Political Science Review*, Vol. 90, No. 1 (Mar., 1996), pp. 70-72

Such examples of political praxis illustrate two of the most important features of Arendt's vision of the politics of human dignity. The first is that the most important locus of such a politics is neither the nation-state nor the international covenant or tribunal. These are, of course, crucial loci of power. The nation-state is still the preeminent political actor on the world scene. Constitutional limitations on the exercise of state power, forms of federated authority, and international legal codes--each a way of placing a kind of constraint upon state sovereignty--are all necessary **if the rights of minorities, refugees, and dissenters are to be secured. But the primary impetus for such rights will always come from elsewhere, from the praxis of citizens who insist upon these rights and who are prepared to back up this insistence through political means.** The words of Albert Camus are apposite: "Little is to be expected from present-day governments, since these live and act according to a murderous code. Hope remains only in the most difficult task of all: to reconsider everything from the ground up, so as to shape a living society inside a dying society. Men must therefore, as individuals, draw up among themselves, within frontiers and across them, a new social contract, which will unite them according to more reasonable principles" (1991, 135-36). Arendt's essays "Civil Disobedience" and "On Revolution" take up this very theme of a new social contract. Both deal with the subject of resistance to moribund and oppressive power and treat this resistance as a prefiguration of a new politics centered upon voluntary associations and council forms rather than formal or official state institutions. The "lost treasure" of the revolutionary tradition is, for Arendt, the model of an associational politics that exists beneath and across frontiers, shaking up the boundaries of the political and articulating alternative forms of allegiance, accountability, and citizenship (see Isaac 1994). Echoing Camus, Arendt writes that if there exists an alternative to national sovereignty, then it is such an associational politics, which works according to "a completely different principle of organization, which begins from below, continues upward, and finally leads to a parliament." She quickly adds that the details of such a politics are less important than its civic spirit, a spirit that resists the deracinating tendencies of modern political life (1972, 231-33).<sup>(29)</sup> That such a politics runs against the principle of sovereignty is for Arendt one of its strengths. As many commentators have observed, there is a deep pathos to Arendt's treatment of revolution, which is for her a glorious, empowering, and yet evanescent phenomenon, like a fire that burns brightly for only a moment (see Miller 1979). Arendt recognized the paradox of rebellion in the modern world, namely, that powerful associational impulses would be coopted by more official forms of politics. Yet, this can be viewed as the great virtue of this kind of politics--that it challenges the status quo and calls attention to itself in ways which demand redress and incorporation. In other words, such forms of resistance invigorate formal politics and keep it true to the spirit of human dignity. Their vigilant insistence gives force to the support for human rights that is proclaimed, but often honored in the breach, by more authoritative domestic and international bodies. The second important feature of Arendt's vision of the politics of human dignity is that there is no single community, or single category of citizenship, that can once and for all solve the problem of human rights in the late modern world. One arena of human rights praxis is clearly the state itself, and one kind of citizenship appropriate to it is clearly what we think of as "domestic" citizenship--membership in the nation state as an American, or Italian, or Croatian. But it should be clear that the idea of "domestic" is simply an adjunct of the idea of sovereignty itself; it denotes those matters contained within the boundaries of sovereign power and subject to it. As such it encourages domesticity where vigor is also needed. For there is no reason to imagine that relevant human rights issues, or relevant communities, correspond to the boundaries of nation-states. Local, regional, and global forms of citizenship are equally possible and equally real. One can speak about the rights of aborigines, for example, as a Mohawk, as a Canadian, as a North American, as a human. In each case different forms of organization would be appropriate; in each case one would speak to a different, though not necessarily mutually exclusive, audience. How human rights claims are articulated and mobilized can and will vary from case to case and from time to time, as political identities are transformed and new alliances forged.<sup>(30)</sup> It would be equally mistaken to conflate ideas of community and citizenship with formal political organizations, be they states, nations, or confederations. In "On Revolution" Arendt writes about self-chosen "elites," groups of citizens distinguished by nothing but their deep interest and participation in specific public matters. She describes such elites as constituting, through their very own efforts, "elementary republics." In the Arendtian view it is possible to imagine a multiplicity of overlapping "republics," sometimes in tension with one another, sometimes in support of one another. The kinds of international legal institutions and federated state arrangements that she endorses would constitute ineffective security for human rights were they not authorized, empowered, and invigorated by a robust civil society of such "republics."

The Helsinki Citizens' Assembly, formed in 1990 as an outgrowth of links formed between East European dissidents and West European peace activists after the Helsinki Accords in 1975, is an interesting example of what Arendt might have envisioned.<sup>(31)</sup> As Mary Kaldor, a co-founder, describes the assembly, "it is not addressed to governments except in so far as

Immigration Surveillance Core File. *Updated 8-3-24*

they are asked to guarantee freedom of travel and freedom of assembly so that citizens' groups can meet and communicate. It is a strategy of dialogue, an attempt to change society through the actions of citizens rather than governments...in short, to create a new political culture. In such a situation, the behavior of governments either changes or becomes less and less relevant" (Kaldor 1989, 15). The assembly has been described as a loose association of citizens acting together in self-organized associations, movements, and initiatives across national boundaries. It is hardly indifferent to the policies of governments; petitioning, demonstrating, and fostering debate about state policies regarding human rights have been central to its activities. But the power that its members have been able to constitute is an important force in its own right; indeed, it is only because of this power, an organizational and an ethical power, that it is capable of supporting more directly "political" efforts, such as legislation, and of influencing the course of state action. According to Kaldor, "we don't represent anyone except the movements and institutions in which we are involved. In many cases, we represent no one but ourselves. And our power rests not on whom we represent but in what we do--in what we say, in our ideas, in our quest for truth, in the projects we undertake. It rests on our energy and commitment" (Kaldor 1991, 215). Groups such as the Helsinki Citizens' Assembly and Amnesty International embody the kind of **associational politics** central to Arendt's conception of modern citizenship. They are forms of collective empowerment that might **provide a new foundation for human dignity. They play an indispensable role in calling attention to human rights abuses, giving voice to the disenfranchised and persecuted,** and empowering citizens to act in concert on behalf of the expansion of rights. **They seek not only to alter state policies,** for example, **on matters such as minority and refugee rights,** but also **to offer their own, unofficial support for displaced or persecuted people.** A group such as Spanish Refugee Aid, with which Arendt was involved, was no substitute for state policies hospitable to the rights of Spanish refugees, nor was it a substitute for diplomatic efforts to change a dictatorial regime; but the voluntary organization of relief efforts and forms of **solidarity is itself an indispensable and preeminently political effort,** without which more hospitable state policies would not be possible. Not a wholesale alternative to other, more inclusive or official, forms of political community, such endeavors themselves constitute vital forms of civic participation and empowerment. They can be viewed as "elementary republics" of citizens committed to human rights. Our world is in many ways different from the one Arendt described in her Preface to the first edition of *The Origins of Totalitarianism*. Writing in 1951, with the recent experiences of world war and Holocaust seared into her memory, and another world conflict dangerously imminent, she noted that "this moment of anticipation is like the calm that settles after all hopes have died" (1973, vii). From her perspective the world, still reeling after the traumatic shocks of totalitarianism and mass destruction, seemed to be hurtling toward other, no less disturbing, forms of violence and human suffering. In contrast, we are witnesses to the end of the Cold War. Our more optimistic contemporaries, invoking Hegel with apparent conviction, only yesterday proclaimed the end of history and the triumph of liberal democracy. Yet, few today are sanguine about the state of the world. As I write this essay millions of innocent civilians are starving in Rwanda and Kenya, the victims of brutal civil conflict. Kurds in Iraq and Turkey, Tamils in Sri Lanka, Palestinians in the West Bank and Gaza. Armenians in Nagorno-Karabakh, and countless other national minorities clamor for human rights. In the heart of Europe, Sarajevo is under Serbian siege, and Bosnian Muslims suffer a brutal, murderous campaign of "ethnic cleansing." (32) German neo-Nazi youth regularly vandalize and burn refugee hostels, to the cheers of large crowds of sympathetic bystanders. Throughout France, Italy, and Germany there are increasingly audible calls to exclude "foreigners" in the name of "real citizens," "true" French, or Italians, or Germans who do not wish to share their country with the others. Across the Atlantic Ocean things are no different, as the Clinton administration recently turned back Haitian refugees fleeing a brutal dictatorship, just as its predecessors had done before with refugees displaced by economic trauma and civil war in El Salvador and Guatemala (see United Nations 1993, Zolberg 1989).

The 1992 Human Rights Watch World Report notes that in the wake of the Cold War "**respect for human rights faces a dangerous challenge in the rise of exclusionary ideologies...**the quest for ethnic, linguistic or religious purity, pursued by growing numbers, lies behind much of today's bloodshed. By **closing the community to diversity and stripping outsiders of essential rights,** these **dangerous visions of enforced conformity nourish a climate of often brutal intolerance**" (1992, 1). Arendt, writing more than forty years ago, observed that "under the most diverse conditions and disparate circumstances, we watch the development of the same phenomena--homelessness on an unprecedented scale, rootlessness to an unprecedented depth" (1973, vii). Such a vision sounds grimly familiar.

While Arendt is not a theorist well known for her reflections on human rights, her writing is an indispensable resource for thinking about the threats to human dignity in the late modern world. As she recognized, human rights are not a given of human nature; they are the always tenuous results of a politics that seeks to establish them, a vigorous politics intent on constituting relatively secure spaces of human freedom and dignity. And as she saw, the nation-state, far from being the vehicle of the self-determination of individuals and peoples, is in many ways an obstacle to the dignity that individuals and communities seek. **Those interested in human rights,** who wish to provide a new guarantee for human dignity, **have no alternative but to take responsibility upon themselves, to act**

politically as members of elementary republics, locally and globally, on behalf of a dignity that is in perpetual jeopardy in the world in which we live. A

## Supporting Basic Needs Protects Human Rights

### Supporting basic needs is essential to rights protection

Jacqueline Bhabha, Jr. Lecturer in Law at Harvard Law School, director of Harvard's University Committee on Human Rights Studies, 2009, Human Rights Quarterly, "Arendt's Children: Do Today's Migrant Children Have a Right to Have Rights?" Project Muse.

<http://muse.jhu.edu/search/results?action=search&searchtype=author&section1=author&search1=%22Bhabha%2C%20Jacqueline.%22>.

**Access to basic shelter, subsistence level welfare payments, and in-kind benefits is as fundamental to modern conceptions of rights in general, and children's rights in particular, as is protection from physical violence. The same is true for access to such social and economic rights as education and health care,** as the Committee on the Rights of the Child has frequently noted in its concluding observations on states parties' periodic reports. <sup>38</sup> **Yet here too, public officials operate under personal codes of conduct that translate into dramatic rights denials.** Sylvia da Lomba has remarked, "Curtailments of social rights for irregular migrants in host countries have become essential components of restrictive immigration policies. . . . The threat of destitution as a deterrent against irregular migration generates acute tensions within host states between immigration laws and human rights protections." <sup>39</sup> Consider this Spanish case: Sixteen-year-old 'Abd al Samad R. has been in Ceuta [an autonomous Spanish city located on the Moroccan coast] for about five years, including two and a half years living at the San Antonio Center. While at San Antonio he was diagnosed as suffering from renal disease, a potentially life-threatening medical condition, and he received medical treatment. Then, in October 2001 he was told to leave San Antonio, apparently for disciplinary infractions. When we interviewed 'Abd al Samad on November 8, 2001, he was living with a group of other children and youth in makeshift hovels squeezed between a breakwater and piles of ceramic tiles and other building supplies. He had received no medical treatment since leaving San Antonio, although he was frequently in severe pain. "The pain comes often, when it is cold, or when someone hits me," he said. "I tried to go to the hospital when I was in pain but they wouldn't admit me. *They won't accept you at the hospital unless some one from San Antonio comes with you.* When the pain comes I can't move so who will come to take me to the hospital?" <sup>40</sup> Without official confirmation of the child's social entitlements, he remained outside the categories established by the state—in effect not a person before the law. These exclusionary attitudes were translated directly into rightlessness. The acute risks to which this willful exclusion, combined with the fear of detection as an irregular migrant by state officials, can give rise were noted by the European Court of

Human Rights in the case of *Siliadin v. France*. In this case, an unaccompanied child from Togo, “unlawfully present in [France] and in fear of arrest by the police . . . was . . . subjected to forced labour . . . [and] held in servitude,” compelled to carry out housework and child care for fifteen hours a day without holidays. <sup>41</sup> The Court commented that the applicant “was entirely at [her employers’] mercy, since her papers had been confiscated . . . [S]he had no freedom of movement or free time. As she had not been sent to school . . . the applicant could not hope that her situation would improve.” <sup>42</sup> **Irregular migration status increases the risk of invisibility and thus gross rights violations. As the Court pointed out, states parties must recognize this serious risk and act “with greater firmness . . . in assessing the infringements of the fundamental values of democratic societies.” In other words, according to the Court, states have an obligation to “see” Arendt’s children—willful and selective blindness is not a legitimate option .**



## Need to Protect the Human Rights of the Stateless

**Statelessness is equal to losing the right to have rights- leads to totalitarianism**

Seyla Benhabib, professor of political science and philosophy at Yale, June 2004, "The Rights of Others."

[http://books.google.com/books?id=3cuUHAJNmuYC&dq=Seyla+Benhabib+“Rights+of+Others”&printsec=frontcover&source=bl&ots=d-pqxd2bJq&sig=Oyb7-wKIE-80M8AlnsdkH3bLD80&hl=en&ei=rqtKSqWVIYqmNurxjIoO&sa=X&oi=book\\_result&ct=result&resnum=1](http://books.google.com/books?id=3cuUHAJNmuYC&dq=Seyla+Benhabib+“Rights+of+Others”&printsec=frontcover&source=bl&ots=d-pqxd2bJq&sig=Oyb7-wKIE-80M8AlnsdkH3bLD80&hl=en&ei=rqtKSqWVIYqmNurxjIoO&sa=X&oi=book_result&ct=result&resnum=1)

After Kant, it was Hannah Arendt who turned to the ambiguous legacy of cosmopolitan law, and who dissected the paradoxes at the heart of the terminally based sovereign state system. One of the great political thinkers of the twentieth century, Hannah **Arendt argued that the twin phenomena of "political evil" and "statelessness" would remain the most daunting problems into the twenty-first century as well** (Arendt 1349.;134; [1951]1968;seeBenhabib[1996] 21103). **Arendt always insisted that among the root causes of totalitarianism was the collapse of the nation—state system in Europe during the two world wars. The totalitarian disregard for human life and the eventual treatment of human beings as "superfluous" entities began, for Hannah Arendt, when millions of human beings were rendered "stateless" and denied the "right to have rights." Statelessness, or the loss of nationality status, she argued, was tantamount to the loss of all rights. The stateless were deprived not only of their citizenship rights; they were deprived of any human rights. The rights of man and the rights of the citizen, which the modern bourgeois revolutions had so clearly delineated were deeply imbricated. The loss of citizenship rights, therefore, contrary to all human rights declarations, was politically tantamount to the loss of human rights altogether.** This chapter begins with an examination of Arendt contribution; thereafter, I develop a series of systematic considerations which are aimed to show why neither the right to naturalization nor the prerogative of denaturalization can be considered sovereign privileges alone; the first is a universal human right, while the second - denaturalization - is its abrogation.

## Children

**There is a special moral obligation to refugee children because they are uniquely vulnerable**

**Julianne Duncan, Ph.D. Director, Office of Children's Services Migration and Refugee Services/U.S. Conference of Catholic Bishops. Joint Testimony of Migration and Refugee Services/U.S. Conference of Catholic Bishops and Lutheran Immigration and Refugee Service before The Senate Subcommittee on Immigration February 28, 2002. <http://www.usccb.org/mrs/duncantestimony.shtml>**

Because of our long experience in caring for and advocating on behalf of unaccompanied minors, Mr. Chairman, our testimony today will point out changes in law we believe are required, as laid out in Senator Feinstein's bill, to reform the current system. In the view of MRS/USCCB and LIRS, our **government's treatment of unaccompanied alien children should be governed by the following principles: The Federal government has a special responsibility to ensure that unaccompanied alien children are treated with dignity and care.** Children are our most precious gifts. Their youthfulness, lack of maturity, and inexperience make them inherently vulnerable and in the need of the protection of adults. Unaccompanied alien children are among the most vulnerable of this vulnerable population. They are separated from both their families and their communities of origin, they are often escaping persecution and exploitation, they often find themselves in a land in which the language and culture are alien to them, and they are thrust into complex legal proceedings that even adults have great difficulty navigating and understanding. Unaccompanied minors should be held in the least restrictive setting as possible, preferably with family members or with a foster family. Secure facilities should be used on a very limited basis and only when absolutely necessary to protect a child's immediate safety or the safety of the community. Minors should be reunited with parents, guardians, or other family members within the United States as soon as possible. While a family is **in temporary detention, they should not be separated unless it is in the best interest of the child. Because of their special vulnerability and inability to represent themselves, unaccompanied children should be provided with legal representation and guardians ad litem to assist them in immigration proceedings and to see that care and placement decisions are made with a child's best interest in mind.** Mr. Chairman, **these principles are not currently governing U.S. policy toward unaccompanied alien children in the United States. Instead, thousands of children each year are held in detention, some with juvenile criminal offenders, with little or no access to legal assistance and with decreasing ability to reunite with family members.**

**International consensus – US must fulfill moral responsibility to protect child asylee seekers.**

Rachel **Bien** an associate at Outten & Golden LLP, clerked for Judge Thomas G. Nelson on the United States Court of Appeals for the Ninth Circuit, '03. **“NOTHING TO DECLARE BUT**

**THEIR CHILDHOOD: REFORMING U.S. ASYLUM LAW TO PROTECT THE RIGHTS OF CHILDREN” *Journal of Law and Policy* 12 pg. 840-841**

**The growing international consensus that child asylum seekers require special protections has important implications for U.S. asylum laws.** Although the U.S. asylum system currently does not differentiate between adult and child applicants, **the United States should build on recent proposals to afford greater procedural protections to child asylum seekers** with substantive provisions that address the forms of persecution unique to children. With millions of children suffering from the consequences of armed conflicts around the world, **the international community has a special legal and moral obligation to ensure that child asylum seekers receive adequate care and protection. As this record of violence makes clear, a world unwilling to protect children is one in which** “children are slaughtered, raped, and maimed . . . exploited as soldiers . . . starved and exposed to extreme brutality.”<sup>202</sup> In short, **it is a world devoid of the most basic of human values. The United States has an important role to play in ensuring that children who escape such turmoil are properly protected.**

Refugee children suffer trauma and often do not receive the help they need

National Child Traumatic Stress Network and Refugee Trauma Task Force, Established by Congress in 2000 is a collaboration of academic and community-based service centers whose mission is to raise the standard of care and increase access to services for traumatized children and their families across the United States. Combining knowledge of child development, expertise in the full range of child traumatic experiences, and attention to cultural perspectives, the NCTSN serves as a national resource for developing and disseminating evidence-based interventions, trauma-informed services, and public and professional education. 2005

<[http://74.125.47.132/search?q=cache:8wvH\\_mjc7L0J:www.nctsn.org/nctsn\\_assets/pdfs/promising\\_practices/MH\\_Interventions\\_for\\_Refugee\\_Children.pdf+social+services+available+for+refugee+children&cd=11&hl=en&ct=clnk&gl=us](http://74.125.47.132/search?q=cache:8wvH_mjc7L0J:www.nctsn.org/nctsn_assets/pdfs/promising_practices/MH_Interventions_for_Refugee_Children.pdf+social+services+available+for+refugee+children&cd=11&hl=en&ct=clnk&gl=us)>

As discussed extensively in the White Paper I, refugee children experience a great number of stressors throughout their pre-migration, flight, and resettlement experiences that impact on their psychological well being. **Refugee children experience trauma resulting from war and political violence in their countries** of origin prior to migration, **as well as during flight or in refugee camps. These multiple stressors include direct exposure to war time violence and combat experience, displacement and loss of home, malnutrition, separation from caregivers, detention and torture and** a multitude of **other traumatic circumstances affecting the children’s health, mental health and general well being. A**

**large number of studies have documented a wide range of symptoms experienced by refugee children**, including anxiety, recurring nightmares, insomnia, secondary enuresis, introversion, anxiety and depressive symptoms, relationship problems, behavioral problems, academic difficulties, anorexia, and somatic problems (Allodi, 1980; Almqvist & Brandell-Forsberg, 1997; Angel, Hjern, & Ingleby, 2001; Arroyo & Eth, 1985; Boothby, 1994; Cohn, Holzer, Koch, & Severin, 1980; Felsman, Leong, Johnson, & Felsman, 1990; Gibson, 1989; Goldstein, Wampler, & Wise, 1997; Hjern, Angel, & Hoejer, 1991; Hodes, 2000; Kinzie, Sack, Angell, Manson, & Roth, 1986; Krener & Sabin, 1985; Macksoud & Aber, 1996; Masser, 1992; McCloskey & Southwick, 1996; McCloskey, Southwick, Fernandez-Esquer, & Locke, 1995; Mollica, Poole, Son, Murray, & Tor, 1997; Muecke & Sassi, 1992; Paaredekooper, de Jong, & Hermanns, 1999; Papageorgiou et al., 2000; Weine, Becker, Levy, & McGlashan, 1997; C. Williams & Westermeyer, 1983), **and linked the presence of these symptoms to exposure to trauma** prior to migration. **With high prevalence of posttraumatic stress symptoms among refugee children reported to be between 50-90%** (Lustig et al., 2004), **many refugee children are in need of trauma-informed treatment and services**. Despite evidence for the need for such treatment, **refugee children in resettlement are unlikely to benefit from mental health services because they rarely use them**. This problem is not unique to *refugee* children, as many recent reviews have observed that few U.S. children in need of mental health services receive care (Collins & Collins, 1994; Kataoka, Zhang, & Wells, 2002; Stephenson, 2000; Surgeon General's Report, 1999). Epidemiological studies report that **fewer than 20% of children who need mental health care actually receive services** (Lahey, Flagg, Bird, & Schwab-Stone, 1996). In addition, **of those children who do receive services, fewer than 50% receive the appropriate service relative to their need** (Kazdin, 1996). Because refugee children face additional barriers to receiving care, experts suspect that most refugee children in need of mental health services do not find their way into the existing mental health care system (Geltman, Augustyn, Barnett, Klass, & Groves, 2000; Westermeyer & Wahmanholm, 1996). One survey of refugee *health* programs in nine metropolitan areas in the U.S. found that while 78% **of the sites offered mental health care, only 33% of the sites carried out mental health status examinations** (Vergara, Miller, Martin, & Cookson, 2003). This suggests that **refugees with mental health problems are unlikely to be identified, and thus unlikely to receive treatment**. Overall, these findings suggest that **interventions that facilitate access and engagement in mental health services for refugee children are needed**.

## **Should Prioritize Justice**

### **Justice should be the primary goal of the international system**

Allen Buchanan, political philosopher at Duke, 2004 *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law*, Kindle Edition, page/location number at end of card

The moral theory of international law whose main elements I develop in subsequent chapters is justice based in two senses: (1) justice, understood chiefly as respect for basic human rights, serves as the fundamental vantage point from which to evaluate the existing international legal system and to formulate proposals for improving it; and (2) a recognition of the moral obligation to help ensure that all persons have access to institutions of justice—understood as institutions that protect their basic human rights—supplies the chief moral reason for trying to develop an international legal system guided by the ideal of justice. In the next chapter, I begin to flesh out the understanding of basic human rights that is the core of the justice-based approach. In the present chapter I argue that justice should be a primary moral goal of the international legal system. This is a normative statement about the value that should shape the construction of the international legal system, not a description of the purpose for which the system was created, and not a claim about the main function of the system as it now exists or has existed in the past. In making the case that justice should be a primary goal, I first rebut the charge that peace is the only proper goal for the international legal system and argue that the pursuit of justice in and through international law need not be inimical to peace. Second, I argue that justice is not only a permissible goal for the international legal system—something we are permitted to pursue—but but a morally obligatory one. In other words, I argue that the enterprise of trying to construct a just international legal system is morally required. To accomplish this step in the overall argument, I explain and support what I call the Natural Duty of justice, the principle that each person has a limited moral obligation to help ensure that all persons have access to institutions, including legal institutions, that protect their basic human rights. Third, I show that taking seriously the idea that justice is a primary, morally obligatory goal of the international legal system requires a particular conception of the state. On this conception, the state is to serve in part as an instrument of justice; it should not be conceived as a discretionary association whose sole function is to serve the mutual benefit of its members. In rejecting the conception of the state as a discretionary association for mutual benefit, I am directly attacking the dominant international relations view that states should support international law only so far as it serves their "national interests." I aim to make it clear that acknowledging that there are human rights is incompatible with the widely held view that foreign policy should be or may be determined solely by the national interest. Allen Buchanan. *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law* (Oxford Political Theory) (Kindle Locations 945-947). Kindle Edition.

## **Moral obligation to pursue international justice**

Allen Buchanan, political philosopher at Duke, 2004 *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law*, Kindle Edition, page/location number at end of card

So far I have argued that it is reasonable to make justice a primary moral goal of the international legal system—that a proper appreciation of the value of peace does not preclude us from attempting to make the international legal order an instrument for and an embodiment of justice. Now I want to advance a stronger claim: doing so is morally obligatory. There are two arguments for this stronger claim, corresponding to two fundamentally different conceptions of the nature of justice. The first conception founds obligations of justice in our cooperative interactions with others; the second bases them directly in the nature of persons, regardless of whether we interact with them or not. In the end I will suggest that the latter approach is more promising, because of certain difficulties with the interactionist approach. But since interactionist views of global justice perhaps comprise the most developed approach to global distributive justice currently available, I will consider them in some detail as well. Allen Buchanan. *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law (Oxford Political Theory)* (Kindle Locations 1062-1063). Kindle Edition.

## **Three reasons there is a moral obligation to pursue justice in the international system**

Allen Buchanan, political philosopher at Duke, 2004 *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law*, Kindle Edition, page/location number at end of card

This first argument for the conclusion that justice is a morally obligatory goal of international law focuses on the global basic structure as a set of institutions, or a super-institution, within which individuals and groups in different states interact cooperatively. It is this interaction, which takes the form of participation in the global basic structure, that makes the justice of the basic structure a matter of moral concern for all of us, regardless of which state we happen to live in. The argument itself does not state that we can have obligations of justice only toward those with whom we interact cooperatively or, more specifically, with those with whom we are included within the institutional framework of cooperation, but those who rely exclusively on it apparently think that the fact of cooperative interaction is morally crucial. This argument concerning the global basic structure parallels one offered by Rawls regarding the domestic basic structure. In *A Theory of Justice*, which focuses on domestic institutions, Rawls rightly emphasized that the basic structure of the cooperative scheme of a particular state has profound and enduring, nonconsensual sensual and unchosen effects on the prospects of

individuals and groups interacting within it, and that this makes the domestic basic structure a subject of judgments of justice. But if the domestic basic structure is a subject of justice, and the institutions that comprise it can be made more just, then justice must be included among the institutional goals because, as Rawls says, justice is the first virtue of social institutions. In other words, when the concept of justice applies to basic institutions—those which profoundly affect persons' most fundamental human interests—justice is a morally imperative institutional goal, so long as those institutions have not yet achieved justice, but have the potential to be made more just. Substituting 'global basic structure' for '(domestic) basic structure' in Rawls's argument appears to make no difference to the soundness of the argument.

As I have already suggested, a distinction can be drawn between theories of distributive justice that ground obligations in the fact of interaction and those that do not. According to the interactionist view, relations of justice only obtain among those who are engaged in cooperation with one another. The global basic structure argument stated above provides those who subscribe to the interactionist conception of justice with a way of arguing that justice ought to be a primary goal of the international legal system. Thomas Pogge offers a special version of the interactionist approach, one that relies on the general moral obligation not to harm other persons! According to Pogge, we ought to work to make the global basic structure more just because by participating in an unjust global basic structure we inflict harms on persons. Assuming that the international legal system is an important element of the global basic structure, it follows that we ought to make justice a goal of international law. And assuming that justice is fundamental to the assessment of institutions that affect the basic interests of persons encompassed by them, we ought to make justice a primary goal of international law.

Pogge's insight is invaluable. He reminds us that the global basic structure is a human creation and that by simply accepting it as a fact of life we are supporting massive injustices.

The second argument for the conclusion that justice is a morally obligatory goal of the international legal system does not rely on an interactionist conception of justice. It does not assume that obligations of justice obtain only among those who interact cooperatively and it therefore does not need to assume that there is a global basic structure within which individuals around the globe interact. Instead, this second type of argument relies on the premise that there is a Natural Duty of justice: that even if there were no global basic structure of cooperation or any form of interaction whatsoever among individuals across borders, we would still have a limited obligation to help create structures that provide all persons with access to just institutions. (The modifier 'Natural' signals that this obligation attaches to us as persons, independently of any promises we make, undertakings we happen to engage in, or institutions in which we are implicated). If we add to the assertion that there is such a Natural Duty of justice the premise that international law can play an important role in ensuring that all persons have access to just institutions, we get the conclusion that justice is a morally obligatory goal of international law. The Natural Duty of justice is the limited moral obligation to contribute

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to ensuring that all persons have access to just institutions, where this means primarily institutions that protect basic human rights. Justice assumes that securing justice for all persons requires institutions, but this is not an unreasonable assumption. However, the Natural Duty does not assume an exclusively institutional view about justice of the sort that Liam Murphy has effectively criticized.<sup>1</sup> This is the view, which Murphy attributes to Rawls, that the most basic principles of justice apply only to institutions or to persons in their institutional roles.<sup>1</sup> According to this hyper-institutionalist conception of justice, there are no basic principles of justice that apply directly to the actions of individuals as such. All principles of justice that apply to individual actions are derived from principles of justice that apply directly to institutions. Allen Buchanan. *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law* (Oxford Political Theory) (Kindle Locations 1100-1104). Kindle Edition.

### **International obligations to justice because all human beings are equal**

Allen Buchanan, political philosopher at Duke, 2004 *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law*, Kindle Edition, page/location number at end of card

Taking the Moral Equality Principle seriously commits us to the Natural Duty of justice, because a proper understanding of the Moral Equality Principle implies that to show proper regard for persons we must help ensure that their basic rights are protected. And this in turn requires us to embrace a cosmopolitan view of international law, rejecting both the idea that states are moral persons and the position that states are merely institutional resources for their own peoples. As Brian Barry puts it: "At the heart of moral cosmopolitanism is the idea that human beings are in some fundamental sense equal." The Natural Duty of justice as I understand it says that equal consideration for persons requires helping to ensure that they have access to institutions that protect their basic human rights. This will sometimes require creating new institutions and will often require reforming existing institutions. Allen Buchanan. *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law* (Oxford Political Theory) (Kindle Locations 1120-1122). Kindle Edition.

### **All systems must develop in a just manner**

Allen Buchanan, political philosopher at Duke, 2004 *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law*, Kindle Edition, page/location number at end of card

This book is an attempt to develop moral foundations for international law. The existing international legal system, like any domestic legal system, can and ought to be evaluated



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from the standpoint of moral principles, including, preeminently, principles of justice. Legal institutions and for that matter **all institutions that deeply affect the life prospects of human individuals must be designed to function in conformity with principles of justice, because principles of justice specify the most basic moral rights and obligations that persons have.**

Allen Buchanan. Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law (Oxford Political Theory) (Kindle Locations 85-88). Kindle Edition.

## Hospitality

**We should be hospitable and welcome others in need – embracing is a means to overcome our own racism and fear of the other**

LAACHIR2007 [Karima, lecturer in cultural theory at university of Birmingham, Mobilizing Hospitality, isbn: 978075467015177-178 ]

The European popular imagination has been haunted by images of Europe inundated by foreigners — economic and political refugees — perceived as 'we scroungers', job-snatchers' and 'threats to security'. Some politicians started to foment these fears to pick up extra votes, especially extreme right- movements, which have been gaining ground in local and parliamentary elect The increasing popularity of leaders of far right parties, who all publicly voice xenophobia and racism against those perceived as foreigners, are alarming examples of the return of exclusionist popular nationalism and fascism to haunt postcolonial Europe. 'Immigration' demands and those of ethnic minorities, especially religious demands, have become contentious issues in Europe. Hospitality has become more difficult since the 9/11 attacks and the subsequent 'war on terror' led by the American Government. The terrorist bombings in Madrid (March 2004) and London (July 2005) have been interpreted by some as a conflict between contending civilizations, Western and Islamic. The lives of diasporic Muslims and of immigrants in Europe and the United States have become subject to constant surveillance and are the subject of various regulations that aim to keep Muslim Fundamentalist networks under control. However, the lives of ordinary European Muslims have been deeply affected by these changes and, as a result, their loyalty, together with their European citizenship and strong cultural affiliation to Europe as their homeland, have been brought into question. They are now viewed with distrust and caution. Hospitality is important, therefore, as an analytical concept since it opens up the debates of welcoming 'otherness' beyond issues of the reception of immigrants by their 'host' countries, towards more important problems of living together with people of 'different' cultural, religious and social affiliations. More than ever before, the world is a melting pot of different cultures and thus we are confronted with the theme of how to survive with the 'other', or those perceived as others, without seeing them as a threat or danger. The problem of xenophobia and racism (which is not limited to Europe) in the last decades after the horrors of colonialism and fascism raises a crucial question about the relationships between communities of different 'race', religion and culture. The 'us' and 'them' differentiation — camouflaged in various discourses: 'ethnic' (a soft word for 'racial'), 'religious', but mainly cultural terms — is marked by a strong degree of xenophobia, fear and racism. Technological and communicative revolutions, economic and political upheavals, such as deindustrialization, unemployment, poverty and the mass displacement of populations are all factors that have 'once again invited many to find in populist ultranationalism, racism, and authoritarianism, reassurance and a variety of certainty that can answer radical doubts and anxieties over self-hood, being, and belonging' (Gilroy, 2000: 155).

OUR AFFIRMATIVE IS AN EMBRACE OF INFINITE HOSPITALITY TO THE OTHER. THERE IS DANGER SURROUND GIVING FULL ACCESS TO NONCITIZENS, AND WE INVITE IT ANYWAYS. THE STATUS QUO'S PLACING CONDITIONS ON HOSPITALITY, THIS INSPIRES NATIONALISM AND VIOLENCE OVER THE OTHER. OUR INFIN HOSPITALITY TOWARD THE OTHER INTERRUPTS THESE ATTEMPTS AT MASTERY AND CREATES A N POSSIBILITY FOR ETHICS.

**MOLZ AND GIBSON IN 2007** [Jennie, asst prof of sociology, college of Holy Cross, and Sarah, lecturer in cultural studies, University of Surrey, *Mobilizing Hospitality*, isbn: 9780754670155, p 8-10 ]

**The metaphor of hospitality structures contemporary debates on nationalism, migration, multiculturalism, and asylum. Who feels at home within the nation? Who is excluded or fails to feel at home in the nation? Is a host necessarily a citizen of the host nation-state? Why are immigrants, refugees, and asylum seekers imagined as guests of the host nation-state? These are important questions for understanding the metaphors of hospitality and the home in contemporary debates on national identity and citizenship (Kelly 2006). Hospitality is intimately connected to nationalism where crossing the border into the nation (whether as an immigrant or as a tourist is dependent upon national definitions of what counts as hospitality, and the figure towards whom hospitality is offered and received (Rosello, 2001, viii). In the context of debates on nationalism and immigration, discourse of hospitality work to blur 'the distinction between a discourse of rights and a discourse of generosity, the language of social contracts and the language of excess and gift-giving' (Rosello (2001: 9). In these debates, the Kantian cosmopolitan right of 'universal hospitality' is in tension with the sovereignty of the nation-state (see Benhabib, 2004, 2005). In studies of migration, multiculturalism and postcolonialism, the metaphor of hospitality is frequently invoked (Ahmed, 2000, 2004; Rosello, 2001; Hage, 2002, 2003; Chan, 2005; Still, 2006). But this metaphor of hospitality is a dead metaphor (Rosello, 2001: 3) since such studies employ the metaphor of 'hospitality' precisely to reveal the hostility present within such policies of managing diversity within the 'host nation'. In constructing 'the immigrant as guest' (Rosello, 2001), the host nation excludes the immigrant from feeling at home in the nation. This opposition between host/guest, native/stranger maintains the line between power/powerlessness, ownership/dispossession, stability/nomadism (Rosello, 2001: 18). Such a rhetoric of hospitality is ideological as it enables 'some people to have fantasies of control' (Hage, 2002: 165; see Gibson, this volume) in the power relation between host and welcome. Similarly multicultural national imaginaries which often employ the metaphor of hospitality are revealed to be, in fact, 'not very hospitable' (Ahmed, 2000: 190) as they continue to position 'the natives' as hosts who decide whether guests/ strangers will or will not be welcomed. Discourses of multiculturalism involve the contradictory processes of 'incorporation and expulsion' (Ahmed, 2000: 97) or an 'inclusive exclusion' (Laachir this volume). The guests/strangers in such a narrative of multiculturalism are consequently placed under a 'debt of hospitality' (Chan, 2005: 21) to the host nation. Such uses of the metaphor of hospitality in studies of migration and multiculturalism similarly ignore the historical social relations of colonialism, which involved the transformation of guests into hosts (Ahmed, 2000: 190). Whether the host nation welcomes, expels, or deters the stranger these responses to the other are all premised on the same power relation. It is the native who is empowered to feel at home and to assume the position of the host. If the immigrant is imagined as 'the guest,' the 'host nation' maintains its historical position of power and privilege in determining who is or is not welcome to enter the country, but only under what conditions of entry. Hospitality, however, is not simply a question of crossing (or not) the border. The question today, Bauman argues, is how to live with strangers daily and permanently (1997: 55). The host nation, despite empirical evidence to its contrary, often imagines itself narcissistically as being hospitable. Derrida's distinction between a limited conditional hospitality and an infinite, unconditional hospitality has been critically engaged with to puncture these narcissistic myths nations use to construct the current so-called problem of asylum (on Britain see Ahmed, 2004, and Gibson, 2003, 2004) and in this volume; on the Netherlands see Metselaar, 2005; on France see Rosello, 2001, and Still, 2004; on Australia see Kelly 2006, Pugliese, 2002, and Schlunke, 2002; and on New Zealand see Worth, 2006). In such studies, the figure of the asylum seeker is constructed as 'the uninvited' (Harding, 2000), where the nation-state imagines itself to be a 'reluctant host' (Derrida and Cohen, 1989) who is unwilling to generously offer hospitality to such unwelcome and parasitical guests. The tension between the human right to asylum (which is ratified in international agreements) is often in contrast to the right of the nation-state to maintain control over its borders. While the metaphor of hospitality in discourses of nationalism and immigration has empowered the nation to assume the powerful position of the host, it is precisely this metaphor that needs to be deconstructed in order to conceive alternative ways of figuring the social relations between citizens, immigrants, refugees, asylum seekers and nation-states. The metaphor of hospitality needs to be deconstructed in order to interrogate the different contexts in which it is deployed as a means of legitimating the power of some while disavowing the rights of others. If the immigrant is imagined as a guest (Rosello, 2001) the figure of the immigrant is conceived either negatively in anti-immigration discourses as a parasite or positively**

in discourses of multiculturalism as a grateful guest. While the host-guest paradigm has been useful in theorizing social

relations between strangers within studies of nationalism, immigration, and multiculturalism, **rather than imagining the immigrant through the binary opposition of host/guest it is important to re-conceive the social relations that characterize the relations between host and guest, citizen and immigrant. Hospitality is about the other questioning and interrupting the self, rather than reasserting the mastery of the self.** Instead of rejecting the metaphor of hospitality, the contributors to this book take opportunity to consider the promise of hospitality (see the chapters by Gibson, Kuntsman, Laachir, and Still in this volume) reconfiguring social relations between strangers within studies of nationalism, immigration, and multiculturalism. A key point of intersection between the discourses we have just described is the way the concept of home is evoked in the ethics and politics of welcoming the other. **National discourses of hospitality frame the nation-state as a 'home' that is open to (certain) foreigners, but whose borders must be protected;** while in tourism, the notion of hospitality suggests a range of possible homes, including the cities and local places tourists visit, the homes of friends and family members who host travellers, or the hotel or resort that serves as the tourist's 'home-away-from-home'. Tourism and migration mobilities both imply a movement away from home, but also toward a new (permanent or temporary) home. For example, migration studies often 'foreground acts of "homing" or "re-grounding" which point towards the complex interrelation between travel and dwelling' (Hannam, Sheller and Urry, 2006: 10; see Hage 1997 on 'migrant home-building' and Brah 1996 on diasporic 'homing desires'). The chapters in this book suggest that just as much as hospitality is associated with mobility, it is equally concerned with stasis and rest (a place to eat, sleep, or recuperate). Indeed, hospitality occurs precisely at this intersection between travel and dwelling. To host or to be hosted are both forms of travelling and dwelling and dwelling-in-travelling where the mobilities of guests, travellers and foreigners intersect with hosts and homes.

OUR AFFIRMATIVE IS AN EXTENSION OF INFINITE HOSPITALITY TO THE OTHER THAT CHALLENGES THE VISION OF THE STATE THAT STATES ONLY RELATE POSITIVELY TO ITS OWN CITIZENS. THIS SEEMINGLY IMPOSSIBLE CHALLENGE ALLOWS A NEW MODEL OF LIVING WITH DIFFERENCE

**MOLZ AND GIBSON IN 2007** [Jennie, asst prof of sociology, college of Holy Cross, and Sarah, lecturer in cultural studies, University of Surrey, Mobilizing Hospitality, isbn: 9780754670155, p 4-5]

Because several of the chapters in this collection engage directly with Derrida's work on hospitality, we want to take a moment here to outline Derrida's critique of Kant's universal hospitality and to reflect on Derrida's contribution to our understanding of hospitality as a framework for thinking about the ethics of social relations in a mobile world. Derrida explains that because **Kant's notion of hospitality relies on conditions of reciprocity, duties and obligations between people and nation-states it delimits rather than opens up borders and possibilities. Derrida admonishes that Kant's hospitality is 'only juridical and political; it grants only the right of temporary sojourn and not the right of residence; it concerns only the citizens of States'** (Derrida, 1999: 87). In contrast, **Derrida draws a distinction 'between an ethics of hospitality (an ethics as hospitality) and a politics of hospitality'** (Derrida, 1999: 19), **seeing Kant's formulation of hospitality as a politics of conditional hospitality opposed to an ethics of infinite, unconditional and absolute hospitality** (Gibson, 2003). **The laws of hospitality place a series of conditions upon the welcoming of others, but the law of hospitality — hospitality as an ethics — 'tells us or invites us to give us the order or injunction to welcome anyone, any other one, without checking at the border'** (Derrida and Dutton, 1997: 8). **What Derrida encourages us to think about is a hospitality that is infinite, absolute and completely open — the welcoming of the other and regardless of who that other is, regardless of the potential dangers and risks involved.** An ethics of hospitality entails opening one's borders or doors to *anyone*, acting beyond our own self-interest. It is not an easy thing to imagine and indeed Derrida is fully aware of this difficulty. As Gibson observes: Absolute hospitality is impossible as it undermines the condition of a nation or state, which is constituted through the erection of frontiers and borders. Absolute hospitality requires the "generosity" of the state even as the ethical notion of absolute hospitality goes beyond any frontier or border of the state (2003: 375). **Absolute hospitality is impossible for the nation-state, and equally aporetic in the case of interpersonal exchange of hospitality, for in welcoming the foreigner unconditionally, the host must relinquish the mastery of his or her home which is the condition of being able to offer hospitality in the first place. In other words, absolute hospitality requires us to go beyond even beyond the very conditions that enable a state or a person to offer hospitality at all.** Derrida is concerned with the difficulty in thinking through these two supplementary meanings of hospitality as an ethics and as a politics. If the two meanings of hospitality remain mutually irreducible, it is always in the name of pure and hyperbolic hospitality that it is necessary, in order to render it as effective as possible, to invent the best arrangements [dispositions], the least bad conditions, the most just legislation. This is necessary to avoid the perverse effects of an unlimited hospitality whose risks I tried to define. This is the double law of hospitality: to calculate the risks, yes, but without closing the door on the incalculable, that is, on the future and the foreigner (Derrida, 1999: 87).

and Duttman, 2005: 6). **His concern is not to reconcile the politics of hospitality with an ethics of hospitality, but rather extend a provocative challenge that speaks to the politics of self-other relations and draws out a model for living with difference.**

OUR POLITICS IS PART OF A CONSTANT ONGOING ATTEMPT AT INSTITUTING A TRUE DEMOCRATIC TREATMENT OF THE OTHER. OUR PLAN ALLOWS A GLIMPSE OF EMBRACE TOWARD NONCITIZENS WHICH MAKES POSSIBLE MORE DEMOCRATIC POLITICS

**LAACHIR IN 2007** [Karima, lecturer in cultural theory at university of Birmingham, Mobilizing Hospitality, isbn: 9780754670151, pp. 188-189 ]

**Derrida introduces the absolute irreducibility between the ethics of unconditional hospitality, which is based on the absolute welcome of the Other without any restrictions, and the politics of conditional hospitality, which is based on the restrictions of law making.** Even though the *hiatus* between the ethics (the law) of hospitality and the politics (the law) of hospitality exists, the two cannot exist separately. **This aporia does not mean paralysis, but in fact, it means the primacy of ethics of hospitality over politics, and thus, keeping alive the danger of hostility in the making of the politics of hospitality as a 'political invention' that respects the uniqueness of the other every time a decision is taken.** Derrida stresses that neither hospitality nor ethics can exist without politics or democracy and vice versa. **Democracy, like hospitality is marked by the same aporia between the law and the laws, between incalculability, unconditionality and calculability, conditionality.** Derrida suggests **the idea of democracy-to-come that would free the interpretation of the concept of equality from its 'phallogocentric schema of fraternity', which has dominated Western democracies.** The concept of fraternization has played an important role in the history of the formation of political discourse in Europe, especially in France. Such a democracy would be 'a matter of thinking altogether without hierarchical difference' (Derrida, 1997a: 232). **Democracy-to-come has the character of 'the incalculable', like the unconditional hospitality, but its incalculability, that resists 'fraternization', or the tribal and the national, allows the calculability of politicization and thus ameliorates the existing democracy. It is an opening of democracy beyond the juridical and towards a space where the juridical and the ethical can intersect, where the law and laws of hospitality co-uncomfortably and paradoxically cohabit. It is a form of 'providing constant pressure on the state, a pressure with emancipatory intent aiming at its infinite amelioration, the perfectibility of politics, the endless betterment of actually existing democracy'** (Critchley, 1999: 281). If post-war immigrants in Europe were considered for a long time as a temporary foreign labour force and thus had to be kept outside political and social affairs, the most recent realization of their settlement in the host countries has given rise to a 'sociological approach' that still grants them a marginal place in society. The immigrants and their descendants are used to 'strengthen' the coherence of the main community and thus reinforce the dialectic of proximity and distance which situates the immigrants and their descendants (who are European citizens) in a position of social foreignness and territorial exteriority. Moreover, the cultural specificity of Europe's postcolonial diaspora has been constructed in terms of 'double culture', that is, a culture that cannot integrate with the European one (especially Muslim cultures) because of their irreducible differences. The emergence of Islam in the public sphere has made Islamic rituals visible and thus has raised the idea of its incompatibility with Europe's 'secular' values. Therefore, **hospitality is not only marked by the 'autochthonous' but also by the 'familial' and the national that exclude the other, but it is also marked by the legacy of colonialism with its hierarchical and racist subordination of other cultures and people.** Descendants of postcolonial migrants still carry the image of the ex-colonial 'immigrant' with its violent colonial residue that relegates them to the margins of society on the basis of their 'cultural', 'ethnic', 'religious' and social affiliations that are sometimes deemed incompatible with European values. The history of post-war immigration to Europe must not be limited to the crude economic perspective (Europe's need of a labour force after the Second World War) because that denies the historical complexity of colonialism and postcolonialism. The history of immigration is part of the imperial history of Europe. With their mixed origins and cultures, descendants of post-war immigrants can resist monolithic representations of cultures and histories and can suggest new alliances and solidarity that transcend skin colour and thus open up hospitality beyond nationalistic and ethnic determinism.

OUR AFFIRMATIVE IS NOT CONDITIONAL HOSPITALITY. WE ARE ETHICAL BECAUSE WE INVITE THE OTHER INTO THE HOME WITH INFINITE HOSPITALITY

**LAACHIR IN 2007** [Karima, lecturer in cultural theory at university of Birmingham, Mobilizing Hospitality, isbn: 9780754670155, p 178-179]

This chapter engages with Derrida's critique of the concept of hospitality in Western philosophy and culture, which he defines as being a conditional hospitality, a hospitality of invitation and not visitation. **You invite someone to your country, to your home and you set the rules for that invitation. In that sense, your welcome of the other remains limited by law and jurisdiction. This type of hospitality, according to Derrida, does not interrupt the mastery of the host over his/her home or national space. Quite the opposite; it is a reassertion of that mastery. Unconditional hospitality, on the other hand, is about allowing the self to be interrupted or questioned by the welcome of the other, that is, to welcome the other without setting restriction or limitations.** My question is how can we use Derrida's idea of the intervention of unconditional hospitality or ethics in the realm of conditional hospitality or politics at a time when hospitality is marked by closure and fear, especially in France, his 'home' country? I examine the way hospitality is marked by an 'inclusive exclusion' of Europe's postcolonial settlers, who are perceived as aliens with no links to their host country and who are viewed as a threat to the uniformity and integrity of the nation. I argue that the attempt to fix the social, economic and cultural mobility of these diverse postcolonial diasporic communities is a manifestation of the perpetuation of colonial culture that still preserves the same power structures that existed in the colonial era.

CONDITIONAL HOSPITALITY IS A GESTURE THAT MAINTAINS CONTROL OVER THE OTHER. UNCONDITIONAL HOSPITALITY INTERRUPTS THIS.

**MOLZ AND GIBSON IN 2007** [Jennie, asst prof of sociology, college of Holy Cross, and Sarah, lecturer in cultural studies, University of Surrey, Mobilizing Hospitality, isbn: 9780754670155, p 5-6]

As critics working especially in the area of migration and multiculturalism remind us, **our official and informal policies toward welcoming the other for the most part fall far short of Derrida's ideal of absolute hospitality** (see Gibson in this volume). **While we might find in political and popular rhetoric gestures toward multiculturalist tolerance and metaphors of generous hospitality surrounding the reception of migrants, these discourses often serve to reiterate a specific power relation between the self and the other.** As Yegenoglu (2003) notes, **'far from laying the grounds for an interruption of sovereign identity of the self, multiculturalist respect and tolerance implies the conditional welcoming of the guest within the prescribed limits of the law and hence implies a reassertion of mastery over the national space'** (16). In other words, **hospitality tends to reassert the identity and belonging-ness of the host against the movement, shifting, unstable, un-belonging-ness of the guest. But in Derrida's deconstruction of hospitality, the binary opposition between host and guest unravels:** The *h&c'* who receives (the host), the one who welcomes the invited or received *hôte* (the guest), the welcoming *h&c* who considers himself the owner of the place, is in truth a *hôte* received in his own home. He receives the hospitality that he offers in his own home; he receives it from his own home — which, in the end, does not belong to him. The *hôte* as host is a guest (Derrida, 1999: 41). Like Derrida, **we want to destabilize hospitality as a paradigm and 'host' and 'guest' as distinct categories, by 'mobilizing hospitality' — by opening it up and by questioning its closures, by examining the nuanced fluidity of categories such as host and guest,** and by disassociating stasis with hosts/homes and movement with guests/travel. **We take as our starting point the mobilities of tourism and migration, which are generating new patterns of circulation, intersection and proximity between strangers.** The chapters in this book bring debates around voluntary and obligatory mobilities into conversation by examining the politics of travelling and staying still and by interrogating the ethical responses to mobile others who are more or less invited, more or less welcome. >

CURRENT WESTERN HOSPITALITY IS MARKED BY PATERNALISTIC CONTROL. OUR HOSPITALITY THROWS THE QUESTION INTO QUESTION. WE INTERVENE IN THE NAME OF THE UNCONDITIONAL. WE SHOULD REFUSE RISK MANAGEMENT POLITICS BECAUSE IT IS THE CONTROL OF THESE CALCULATIONS THAT CLOSSES US OFF TO THE BORDERS.

MUST HOLD OPEN A SPACE FOR THE INCALCULABLE OTHER.

**LAACHIR IN 2007** [Karima, lecturer in cultural theory at university of Birmingham, Mobilizing Hospitality, isbn: 9780754670155, p 182-183]

According to Derrida, **hospitality in the 'Western' tradition is marked by the paternal and the phallogocentric, or by the logic of the master/host, nation, the door or the threshold. His critique calls into question the limitations of this specifically 'European' history of hospitality and suggests a future beyond this history, and thus a hospitality beyond the logic of 'paternity'** (and its extension to the nation) or the *logos*. **This does not mean that nation states should open their borders unconditionally to any 'new' comer or that they should go beyond their national interests to 'welcome' the other.** In fact, **Derrida's critique is a call to resist the tyranny of the state and its law making while opening up democratic institutions beyond a certain patriotic reductionism.** That is what Derrida calls his 'New International', a rebellion against patriotism: 'compatriots of every country, translator-poets rebel against patriotism' (1997a: 57). Hospitality lives on the paradox of presupposing a nation, a home, a door for it to happen but once one establishes a threshold, a door or a nation, hospitality ceases to happen and becomes hostility (Derrida, 2001: 6). Therefore, **hospitality is marked by a double bind and its impossibility is the condition of its possibility. It stays on the threshold that keeps it alive and open to new-corners. The distinction introduced in Derrida's works between, on the one hand, unconditional hospitality or 'absolute desire for hospitality' and on the other, conditional hospitality or the rights and duties that condition hospitality** (a law, a conditional ethics, a politics) **is not a distinction that 'paralyzes' hospitality.** In fact, it aims at directing our attention to find an 'intermediate schema' between the two, 'a radical heterogeneity, but also indissociability' in the sense of calling for the other or prescribing the other. **To keep alive the aporia between ethics (the law of hospitality) and politics (the laws of hospitality) is to keep political laws and regulations open to new changes and circumstances and to keep alive the fact that hospitality is always inhabited by hostility. It is the question of intervening in the conditional hospitality in the name of the unconditional, an intervention that, though surrounded by contradictions and aporias, recognizes the need of 'perverting' the laws for the sake of 'perfecting' them. Derrida stresses the aporetic relationship between the unconditional hospitality or ethics, which starts with risks, and the conditional hospitality or politics that starts with the calculation or controlling of these risks. However, if this calculation means the closure of all boundaries, not only territorial but also cultural, social and linguistic, this would mean the death of the nation. If the other by definition is incalculable, political calculations have to include a margin for the incalculable.** In other words, **Derrida** (1997a: 13) **refuses to close down hospitality to the logic of 'paternity'** (and its extension the nation) or the *logos* because hospitality is the anti-logic of the *logos*, that is, of closure and determinism.

OUR HOSPITALITY CANNOT BE CALCULATED – IT IS INFINITELY RELATABLE TO THE OTHER

**LAACHIR IN 2007** [Karima, lecturer in cultural theory at university of Birmingham, Mobilizing Hospitality, isbn: 9780754670155, p 180-181]

**Kant's universal hospitality as a condition for world peace does not leave any space for any form of ethical consideration as it is solely based on the 'legal' or the juridical.** In light of this, Derrida (2001: 22) accuses Kant of restricting hospitality to state sovereignty, as he defines it as a law: 'Hospitality signifies here *the public nature* (publicity) of public space, as it is always the case for the juridical in the Kantian sense; hospitality is dependent on and is controlled by the law and the state police'. **Kant limits universal hospitality to a number of juridical and political conditions** (it is first limited only to citizens of states, it is only temporary, and so on) **which, though institutional, are ba**

**on a common 'natural right' of the possession of the surface of the earth.** Unlike Kant, Emmanuel Levinas **introduces the disjunction between the host and the guest, the host becoming the guest of the guest in his/her own home as the home of the other, that is, to be welcomed by the face of the other that one intends to welcome.** In *Totalite et Infini*, Levinas (1961) criticizes the 'tyranny of the state' when hospitality becomes part of the state and becomes political because even though this becoming political is a response to the call of the third and a response to 'aspiration', it still deforms the I and the other and thus introduces 'tyrannical violence'. Politics, therefore, should be left on its own, because in Levinas's words 'it judges them [the I and the other who have given rise to it] according to universal rules, and thus as [being] *in absentia*'.<sup>4</sup> In other words, the political renders the face invisible at the moment of bringing it into the space of public phenomenality. In *Adieu To Emmanuel Levinas* (1999a: 21), Derrida reflects on Levinas' *Totalite et Infini*, which he perceives as 'an immense treatise of hospitality'. In this treatise, Levinas insists that the face that must be welcomed, must not be reduced to 'thematization' (*thematization*) or description, and neither to hospitality. The face refers to the infinite alterity of the other who is free from any theme and who cannot be described. In other words, the other cannot be possessed or mastered. **Hospitality, therefore, is opposed to thematization because it is the welcoming of the other who cannot be calculated or known, that is, the other is infinite and 'withdrawing from the theme'** (Derrida, 1999a: 23). Welcoming or receiving in the Levinasian sense implies the act of receiving an ethical relation. Thus, the welcome to come presupposes 'recollection' (*le recueillement*) or the 'the intimacy of the home-with-oneself'. He claims that the 'at-home-with-oneself does not mean to close oneself off, but rather is a 'de-orientation towards the transcendence of the other' (Derrida, 1999a: 92). Therefore, Levinas recognizes that there can be no welcome of the other or hospitality without this radical alterity which in turn presupposes 'infinite separation'. Thus, 'the at-home-with-oneself would thus no longer be a sort of nature or rootedness but a response to a wandering, the phenomenon of wandering it brings to a halt' (Derrida, 1999a: 92). Levinas suggests a theory of respecting the other instead of 'mastering him/her; that is, a theory of desire that bases itself on infinite separation instead of negation and assimilation.' Levinas attempts to change the conventional tradition of the relation to alterity as an appropriation of the same in its totality to a different mode of relation based on respect of the infinity and heterogeneity of the other. Hospitality in the Levinasian sense also presupposes feminine alterity.<sup>6</sup> Hospitality comes before or precedes property and thus its law dictates that the host who welcomes the invited or received guest is in truth a guest received in his own home. It is this absolute precedence of the welcome where the master of the house is already a received *h&c'* (host) or a guest in his own home that would be called 'feminine alterity' (Taliterit6 feminine'). The pervertible or perverting nature of the law of hospitality implies that absolute hospitality should break with hospitality as a pact or a right or duty, as the former means the welcoming not only of the foreigner but of the absolute, unknown other. What is needed today in comparing Kant and Levinas, and with regard to the right of refuge in a world of millions of displaced people, Derrida argues (1999: 101), is to 'call out for another international law, another border politics, another humanitarian politics, indeed a humanitarian commitment that effectively operates beyond the interests of the Nation-States.'

We must INVIGORATE A POLITICS NOT BASED ON DESPAIR OR INJURY, BUT HOPE.

**MOLZ AND GIBSON IN 2007** [Jennie, asst prof of sociology, college of Holy Cross, and Sarah, lecturer in cultural studies, University of Surrey, *Mobilizing Hospitality*, isbn: 9780754670155, p 15]

The metaphor of mooring moves us in this direction, suggesting as it does the notion of safe harbour, but also the possibility of (re)launching our journey. For Ghassan Hage (2002, 2003) hospitality is intertwined with hope: **[W]hat we are talking about when it comes to discussing hospitality towards asylum seekers, or compensation for the colonised indigenous people of the world, or compassion towards the chronically unemployed [is]: the availability, the circulation and the exchange of hope.** **Compassion, hospitality and the recognition of oppression are all about giving hope to marginalised people** (2003: 9). **That hospitality is not just about the gift of repose, but also about the gift of hope. Making the guest feel at home is not just about seeing to his or her physical comfort or embodied needs (though these are certainly important); it is also about instilling in the guest with a feeling of hope and a sense of being 'propelled' forward** (Hage, 2005). As Hage has eloquently argued, hospitality provides not only a place to be safely still, but also the hope of moving: **For what is security if it isn't the capacity**



**to move confidently? And what is 'home' if not the ground that allows such a confident form of mobility [...]. A home has to be both closed enough to offer shelter and open enough to allow for this capacity to perceive what the world has to offer and provide us with enough energy to go and seek it (2003: 28.)In other words, **hospitality mobilizes the guest. Hospitality, hope, and hope are all intricately inscribed upon one another as the gift of staying still *and* moving forward.****

## **A2: Rawls – Border Restrictions OK**

### **Assumes people are in livable conditions**

Joseph Carens, 2013, Joseph H. Carens is a professor at the Department of Political Science of the University of Toronto, Canada. His research interests are mainly focused on contemporary political theory, especially on issues related to immigration and political community, *The Ethics of Immigration*, Kindle Edition, page number at end of card.

Even though he says that immigration would not be a serious problem, Rawls is not in favor of open borders. Why not? The answer, I think, is that there would be considerable economic and other differences between societies even in his realistic utopia, as a result of differences in policy choices. Indeed some political communities would even be decent hierarchies rather than liberal democracies. In his only brief discussion of immigration later in the book, Rawls repeats his responsibility argument and says in a footnote that this entails “a least a qualified right to limit immigration” without saying what those qualifications are. 22 So, when Rawls says that immigration is “not a serious problem in a realistic utopia,” he is saying in effect that using coercion to restrict migration raises no serious moral issues so long as those seeking to migrate are living in conditions above some minimum threshold in their original society. This is puzzling. What if I don’t like the “people” into whom I am born? Perhaps I reject all of their fundamental values (and accept those of some other “people”). If we recognize the moral equality of all human beings, we should presumably have to explain why assigning someone to a “people” at birth (with a right to leave but no right of admittance elsewhere) adequately respects this moral equality, given the vast consequences of such an assignment for one’s life chances and one’s life projects. Why can’t one have the right to change “peoples”? Of course, one can if another “people” is willing to let one in, but why should it be entirely up to them? I think that the reason that Rawls does not see any of these issues as a serious problem, at least in the sense of something that requires discussion, is that he is implicitly seeing individuals as having moral claims only as members, not as human beings. Carens, Joseph (2013-10-16). *The Ethics of Immigration* (Oxford Political Theory) (p. 268). Oxford University Press. Kindle Edition.

## **A2: Rawls/Community**

### **Miller assumes people's needs are met where they live**

Joseph Carens, 2013, Joseph H. Carens is a professor at the Department of Political Science of the University of Toronto, Canada. His research interests are mainly focused on contemporary political theory, especially on issues related to immigration and political community, *The Ethics of Immigration*, Kindle Edition, page number at end of card.

Miller is more careful in his language but winds up at the same point. For example, he claims that people have no fundamental moral right to migrate so long as they live in a society that provides them with "access to an adequate range of options ... defined in terms of generic human needs rather than in terms of the interests of any one person in particular." 23 He acknowledges that some people who would like to enter and settle will be prevented from doing so and that they have some moral claim: "They are owed an explanation for their exclusion." 24 But the explanation he requires is simply that their exclusion must serve the perceived interests of the society that they are trying to enter: "An adequate explanation will be one that links immigration policy to the general goals of the society in question." 25 So, the moral claim that potential immigrants have turns out to be very weak. Restricting entry requires a justification but not much of one. As in Rawls's case, I find Miller's position puzzling. Why are the moral claims of ordinary migrants so weak? Unlike Rawls he sees that peaceful people are being excluded and that this exclusion must be justified to the person subject to it. But then the justification that he requires turns out to be minimal. Even if he has rejected the idea that free movement should be regarded as a human right, why doesn't he think that the interests of the potential migrant in getting in should at least be weighed against the costs to the state of admitting her? Why is any legitimate public policy goal sufficient justification? Miller appeals to the idea of priority for compatriots here, but, as I will argue in more detail below, granting some priority to compatriots is not the same as making their interests a trump. He also appeals to the value of self-determination, but self-determination admits of degrees. Why is any hindrance to the state's plans, no matter how small, sufficient to justify exclusion? Indeed, as I suggested in the previous chapter, if we value human freedom, we might say that the fact that exclusion prevents peaceful human beings from going where they want should shift the burden of proof to the state. The state could be obliged to show both that it cannot achieve its policy goals in any other way than through restricting immigration (given that there are often many ways to pursue any given goal) and that the goal itself is important enough to justify restricting an important human freedom. Carens, Joseph (2013-10-16). *The Ethics of Immigration* (Oxford Political Theory) (p. 269). Oxford University Press. Kindle Edition.

**There is an obligation to protect someone's basic human rights even if the people are not members of the same state**

Allen Buchanan, political philosopher at Duke, 2004 *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law*, Kindle Edition, page/location number at end of card

Suppose, for example, that I do nothing to violate your human rights, stating that I do so out of equal concern and respect for you, out of a proper recognition of the fact that you are a person. But suppose also that someone else is intent on violating your most basic human rights and I can help prevent you from being treated unjustly, without incurring serious costs to myself—all I need do is to help support a police and court system that will prevent you from being murdered by people who hate you because of the color of your skin or from being persecuted because of your religious beliefs. If I refuse to make such efforts to prevent you from having your most basic human rights violated, can I reasonably expect you or anyone else to believe me when I say that I respect all persons and am concerned about their well-being? Only a laughably anemic conception of what it is to recognize the moral importance of persons—an absurdly attenuated view about what it is to respect persons and to be concerned about their well-being—would count my merely refraining from violating other persons' rights as sufficient. Of course it is another matter as to whether or under what conditions I ought to undergo sacrifices to help ensure that other persons' basic human rights are protected. But the Natural Duty does not generally require sacrifices. Notice this feature of the foregoing hypothetical example: Nothing was said about my relationship to you. The intuition that I ought to do something to help ensure that your basic human rights are protected did not depend upon any assumption that you and I are interacting cooperatively, much less that we are citizens of the same state. It depended only on a proper recognition of what I owe you as a person. The fact that there is something obvious I can do to help ensure that your basic rights are protected may depend upon your being within the jurisdiction of law enforcement institutions that I can work to improve, but that is not what drives the intuition. Allen Buchanan. *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law (Oxford Political Theory)* (Kindle Locations 1144-1147). Kindle Edition.

## **A2: Obligation to Countrymen is Greater**

### **Obligations to one's own countrymen are not absolute**

Allen Buchanan, political philosopher at Duke, 2004 *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law*, Kindle Edition, page/location number at end of card

The objections to Realism Proper undercut Fiduciary Realism. If international relations is not a Hobbesian war of each state against all, then state officials can sometimes observe moral constraints without acting irresponsibly toward their own people. Fiduciary Realism is also subject to an objection of its own. Its picture of morality is gravely truncated: Even though state officials have a fiduciary obligation to their countrymen, it cannot be an absolute one. Allen Buchanan. *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law* (Oxford Political Theory) (Kindle Locations 506-508). Kindle Edition.

## **A2: Less of an Obligation to the Stranger**

### **Sure, but still an obligation**

Joseph **Carens**, 2013, Joseph H. Carens is a professor at the Department of Political Science of the University of Toronto, Canada. His research interests are mainly focused on contemporary political theory, especially on issues related to immigration and political community, *The Ethics of Immigration*, Kindle Edition, page number at end of card.

I do not disagree with the claim that we are entitled to care more for our nearest and dearest than for distant strangers. There may be some cosmopolitans who think that the idea that all human beings are of equal moral worth requires us, individually and collectively, to give the same weight to the interests and concerns of all human beings, always and everywhere, regardless of our relationships with them, but I am not one of them. 33 I do not think that the principle of equal moral worth entails this sort of abstract universalism, and my argument for open borders does not entail this extreme form of cosmopolitanism. I am not denying the moral relevance of particularistic attachments. Rather I am arguing that the moral claims of particularistic attachments are limited. They are constrained by considerations of justice. 34 The question is not whether we may favor compatriots over outsiders but rather in what ways we may do so. Some ways of favoring compatriots are morally permissible, while others are morally unacceptable. I am arguing that it is morally impermissible to favor current members of our community by excluding peaceful outsiders seeking to enter and settle. Many other ways of favoring compatriots may be morally permissible and some may even be morally required. Carens, Joseph (2013-10-16). *The Ethics of Immigration* (Oxford Political Theory) (pp. 273-274). Oxford University Press. Kindle Edition.

## **A2: Only an Obligation to Those We Interact With**

**If obligations only exist to people we know and interact with, there are no human rights**

Allen Buchanan, political philosopher at Duke, 2004 *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law*, Kindle Edition, page/location number at end of card

My main concern at this juncture is to avoid the assumption that we only have duties of justice toward those with whom we are interacting acting cooperatively. Elsewhere I have argued that this assumption is based ultimately on a view I call justice as Self-Interested Reciprocity, according to which obligations of justice only obtain among those who are potential net contributors to social cooperation with one another." Without rehearsing my objections against that conception of justice, let me simply say that its implication is that there is no such thing as human rights, whether these be negative or positive rights. Human rights are rights persons have simply by virtue of their being persons, independently of what might be called their strategic attributes, that is, whether they can be net contributors to our well-being (or can detract from it by harming us). Allen Buchanan. *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law (Oxford Political Theory)* (Kindle Locations 1235-1236). Kindle Edition.

## **National Interest Most Important**

**Governments have to concern themselves with their own survival because their decisions impact many people and impact future generations**

Hans Morgenthau, political scientist, 1950, The American Political Science Review, The Mainsprings of American Foreign Policy: The National Interest v. Moral Abstractions, p. 853

Indeed, the rule of morality in this respect is not precisely the same between nations as between individuals. The duty of making its own welfare the guide of its actions, is much stronger upon the former than upon the latter; in proportion to the greater magnitude and importance of national compared with individual happiness, and to the greater permanency of the effects of national than of individual conduct. Existing millions, and for the most part future generations, are concerned in the present measures of a government; while the consequences of the private actions of an individual ordinarily terminate with himself, or are circumscribed within a narrow compass

**Since no international body can protect individual nations, individual nations must protect themselves**

Hans Morgenthau, political scientist, 1950, The American Political Science Review, The Mainsprings of American Foreign Policy: The National Interest v. Moral Abstractions, p. 854-5

The fundamental error which has thwarted American foreign- policy in thought and action is the antithesis of national interest and moral principles. **The equation of political moralism with morality and of political realism with immorality is itself untenable. The choice is not between moral principles and the national interest, devoid of moral dignity, but between one set of moral principles, divorced from political reality, and another set of moral principles, derived from political reality.**

**The basic fact of international politics is the absence of a society able to protect the existence, and to promote the interests, of the individual nations. For the individual nations to take care of their own national interests is, then, a political necessity. There can be no moral duty to neglect them;** for **as the** international society is at present constituted, the **consistent neglect of the national interest can only lead to national suicide. Yet it can be shown that there exists even a positive moral duty for the individual nation to take care of its national interests.** In the absence of an integrated international society, in particular, the attainment of a modicum of order and the realization of a minimum of moral values are predicated upon the existence of national communities capable of preserving order and realizing moral values within the limits of their power. It is obvious that such a state of affairs falls far



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short of that order and realized morality to which we are accustomed in national societies. The only relevant question is, however, what the practical alternative is to these imperfections of an international society based upon the national interests of its component parts. The attainable alternative is not a higher morality realized through the application of universal moral principles, but moral deterioration through either political failure or the fanaticism of political crusades. The juxtaposition of the morality of political moralism and the immorality of the national interest is mistaken. It operates with a false concept of morality, developed by national societies but unsuited to the conditions of international society. In the process of its realization, it is bound to destroy the very moral values which it is its purpose to promote. Hence, the antithesis between moral principles and the national interest is not only intellectually mistaken but also morally pernicious. **A foreign policy derived from the national interest is in fact morally superior to a foreign policy inspired by universal moral principles.**

### **Failure to protect the national interests of the state will result in its destruction**

Kenneth Waltz, Political Scientist, 1984 (NEOLIBERALISM AND ITS CRITICS, ed. Keohane, pp. 117-8)

**A self-help system is one in which those who do not help themselves, or who do so less effectively than others, will suffer. Fear of such unwanted consequences stimulates states to behave in ways that tend toward the creation of balances of power.** Notice that the theory requires no assumptions of rationality or of constancy of will on the part of all the actors. The theory says simply that if some do relatively well, others will emulate them or fall by the wayside. Obviously, the system won't work if all states lose interest in preserving themselves. It will, however, continue to work if some states do, while others do not, choose to lose their political identities, say, through amalgamation. Nor need it be assured that all of the competing states are striving relentlessly to increase their power. **The possibility that force may be used by some states to weaken or destroy others does, however, make it difficult for them to break out of the competitive system.**

## A2: Buchanan

### **He agrees it's a limited duty**

Luke William Hunt, 2014, Human Rights Quarterly, The Global Ethics of Helping and Harming, v. 36(4), pp. 798-819 (Luke William Hunt is on fellowship at the University of Virginia, where he is pursuing a Ph.D. focused on philosophy of law and political philosophy. Prior to beginning his doctoral studies, he completed law school and was a law clerk for Judge James P. Jones, United States District Court for the Western District of Virginia. He then worked at the US Department of Justice for six years.), p. 809

In Chapter two of Justice, Legitimacy, and Self-Determination, Buchanan makes the general point that the duties of rescue and beneficence include “an implicit proviso that the cost of acting on it is not ‘excessive’ . . . that it is a limited duty.”

### **States only have a moral duty to do their fair share**

Luke William Hunt, 2014, Human Rights Quarterly, The Global Ethics of Helping and Harming, v. 36(4), pp. 798-819 (Luke William Hunt is on fellowship at the University of Virginia, where he is pursuing a Ph.D. focused on philosophy of law and political philosophy. Prior to beginning his doctoral studies, he completed law school and was a law clerk for Judge James P. Jones, United States District Court for the Western District of Virginia. He then worked at the US Department of Justice for six years.), p. 810

In a lengthy and crucial footnote, **Buchanan argues that the limit of this duty should be similar to the limit proposed by Liam Murphy in Moral Demands** in Nonideal Theory. Murphy calls his theory the “collective principle of beneficence,” which is based upon the idea that the demands of utilitarianism are extreme only because we view them in terms of the partial compliance of others.<sup>34</sup> **In other words, the reason our duty to help others seems so extreme is because the vast majority of people do not comply with their duty to help others. If everyone did their fair share in aiding the needy, then the demands on each one of us would be drastically reduced. The failure of others to comply with their duty of beneficence is the basis of Murphy’s theory, and he accounts for this failure by proposing a “compliance condition.”** Roughly, the compliance condition states that one’s duty of beneficence should not exceed what the duty would be under conditions in which everyone else fully complied with their duty.<sup>35</sup> Thus, Buchanan’s position seems to be that institutional duties of rescue and beneficence are limited to a fair share of the collective responsibility. If applied to states, this position would run as follows:

- (1) States have a duty to take actions that will optimize aggregate human rights.
- (2) However, in circumstances in which each state does not comply with (1), a particular state is not required to sacrifice more than it would have to sacrifice under circumstances in which all states comply with (1).
- (3) Therefore, in circumstances in which each state does not comply with (1), a particular state has a duty to take actions—within the parameters of (2)—that will optimize aggregate human rights.<sup>36</sup>

A2: Walzer

**There is no enforceable right to accept refugees and Walzer's claims do not apply to current mass numbers**

Michael Walzer, philosopher, 2008, Spheres Of Justice: A Defense Of Pluralism And Equality, Kindle Edition, page number at end of card

**Since ideological (far more than ethnic) affinity is a matter of mutual recognition, there is a lot of room here for political choice— and thus, for exclusion as well as admission. Hence it might be said that my argument doesn't reach to the desperation of the refugee. Nor does it suggest any way of dealing with the vast numbers of refugees generated by twentieth-century politics. On the one hand, everyone must have a place to live, and a place where a reasonably secure life is possible. On the other hand, this is not a right that can be enforced against particular host states.** (The right can't be enforced in practice until there is an international authority capable of enforcing it; and were there such an authority, it would certainly do better to intervene against the states whose brutal policies had driven their own citizens into exile, and so enable them all to go home.) Walzer, Michael (2008-08-05). Spheres Of Justice: A Defense Of Pluralism And Equality (p. 50). Basic Books. Kindle Edition.

**There may be an insistence on charity for those outside the political community, but it cannot be an issue of justice because they are outside the community**

Michael Walzer, philosopher, 2008, Spheres Of Justice: A Defense Of Pluralism And Equality, Kindle Edition, page number at end of card

**We might opt for a world without particular meanings and without political communities: where no one was a member or where everyone "belonged" to a single global state.** These are the two forms of simple equality with regard to membership. If all human beings were strangers to one another, if all our meetings were like meetings at sea or in the desert or by the side of the road, then there would be no membership to distribute. **Admissions policy would never be an issue.** Where and how we lived, and with whom we lived, would depend upon our individual desires and then upon our partnerships and affairs. Justice would be nothing more than non-coercion, good faith, and Good Samaritanism— a matter entirely of external principles. If, by contrast, all human beings were members of a global state, membership would already have been distributed, equally; and there would be nothing more to do. The first of these arrangements suggests a kind of global libertarianism; the second, a kind of global socialism. These are the two conditions under which the distribution of membership would never arise. Either there would be no such status to distribute, or it would simply come (to everyone) with

Immigration Surveillance Core File. *Updated 8-3-24*

birth. **But** neither of **these arrangements is likely to be realized in the foreseeable future;** and there are impressive arguments, which I will come to later, against both of them. **In any case, so long as members and strangers are, as they are at present, two distinct groups, admissions decisions have to be made, men and women taken in or refused. Given the indeterminate requirements of mutual aid, these decisions are not constrained by any widely accepted standard.** That's why **the admissions policies of countries are rarely criticized, except in terms suggesting that the only relevant criteria are those of charity, not justice. It is certainly possible that a deeper criticism would lead one to deny the member/ stranger distinction. But I shall try, nevertheless, to defend that distinction and then to describe the internal and the external principles that govern the distribution of membership.** Walzer, Michael (2008-08-05). Spheres Of Justice: A Defense Of Pluralism And Equality (p. 34). Basic Books. Kindle Edition.

## A2: Rights

### **States have an obligation to protect the rights of their own citizens, not the rights of other citizens**

Michael Blake, Philosopher, 2003, *Philosophy & Public Affairs*, Volume 41, Issue 2, Immigration, Jurisdiction, and Exclusion, pages 103–130, Spring 2013

What I want to emphasize, in this context, is that, while the first demand is universal, the second two are emphatically local. **The state is under a universal demand to avoid violating human rights**, that is, whether the violation occurs within its jurisdiction or not. **But the state is under no correspondingly universal obligation to protect or fulfill the rights of humans qua humans.** The state is instead obliged to protect and fulfill the rights of only some humans, namely, those who happen to be present within its territorial jurisdiction. This limitation does not seem by itself to run up against the liberal demand for the equality of persons; it is instead the means by which that equality is to be made operational in a world of territorial states. Thus, **an assault in France upon a French citizen is undoubtedly a violation of human rights**, and is undoubtedly to be regretted by all states, French or otherwise. **But the United States is not obliged to devote its institutional capacity to the vindication of the rights of the French citizen to be free from assault.** (Indeed, it would likely strike the French government as rather problematic if the Americans began to build institutions devoted to the punishment of French rights-violators.) **The United States is able to devote its own institutional capacity to the protection and fulfillment of the rights of those present on American soil. It does this not because it values French lives less than American lives**; after all, it would—if it were just—devote just as much time and effort to an assault upon a French tourist as to an assault upon an American citizen. **It is able to devote its own institutional capacity in this way because of the jurisdictional limitation of the United States government, which is authorized and obligated to protect and fulfill human rights only within a particular part of the world's surface.<sup>18</sup> Those who participate in the American system, further, are authorized and obligated to help support this system's ability to protect and fulfill human rights in this way.**

## States Have a Right to Exclude

Freedom of Association means states can close its borders to anyone it wants, including refugees

Christopher Heath Wellman, professor of philosophy, University of St. Louis, 2008, Immigration and the Freedom of Association, Published in Ethics, October,  
<http://philosophyfaculty.ucsd.edu/faculty/rarneson/phil267fa12/Immigration%20Proofs.pdf>  
DOA: 9-30-15

In this article I appeal to freedom of association to defend a state's right to control immigration over its territorial borders. Without denying that those of us in wealthy societies may have extremely demanding duties of global distributive justice, I ultimately reach the stark conclusion that every legitimate state has the right to close its doors to all potential immigrants, even refugees desperately seeking asylum from incompetent or corrupt political regimes that are either unable or unwilling to protect their citizens' basic moral rights.

High value place on the right to associate

Christopher Heath Wellman, professor of philosophy, University of St. Louis, 2008, Immigration and the Freedom of Association, Published in Ethics, October,  
<http://philosophyfaculty.ucsd.edu/faculty/rarneson/phil267fa12/Immigration%20Proofs.pdf>  
DOA: 9-30-15

To appreciate the presumptive case in favor of a state's right to control its borders that can be built upon the right to freedom of association, notice both that (1) freedom of association is widely thought to be important and that (2) it includes the right not to associate and even,

Immigration Surveillance Core File. *Updated 8-3-24*

in many cases, the right to disassociate.

That freedom of association is highly valued is evident from our views on marriage and religion. In the past, it was thought appropriate for one's father to select one's marital partner or for one's state to determine the religion one practiced, but, thankfully, those times have (largely) passed. Today, virtually everyone agrees that we are entitled to marital and religious freedom of association; we take it for granted that each individual has a right to choose his or her marital partner and the associates with whom he or she practices his or her religion. Put plainly, among our most firmly settled convictions is the belief that each of us enjoys a morally privileged position of dominion over our self-regarding affairs, a position which entitles us to freedom of association in the marital and religious realms.

Freedom to associate includes the right to disassociate

Christopher Heath Wellman, professor of philosophy, University of St. Louis, 2008, *Immigration and the Freedom of Association*, Published in *Ethics*, October, <http://philosophyfaculty.ucsd.edu/faculty/rarneson/phil267fa12/Immigration%20Proofs.pdf>  
DOA: 9-30-15

Second, notice that freedom of association includes a right to reject a potential association and (often) a right to disassociate. As Stuart White explains: "Freedom of association is widely seen as one of those basic freedoms which is fundamental to a genuinely free society. With the freedom to associate, however, there comes the freedom to refuse association. When a group of people get together to form an association of some kind (e.g., a religious association, a trade union, a sports club), they will frequently wish to exclude some people from joining their association. What makes it their

association, serving their purposes, is  
that they can exercise this 'right to exclude.'

In the case of matrimony, for instance, this freedom involves more than merely having the right to get married. One fully enjoys freedom of association only if one may choose whether or not to marry a second party who would have one as a partner. Thus, one must not only be permitted to marry a willing partner whom one accepts; one must also have the discretion to reject the proposal of any given suitor and even to remain single indefinitely if one so chooses. As David Gauthier puts it, "I may have the right to choose the woman of my choice who also chooses me, but not the woman of my choice who rejects me."

2

We understand religious self-determination similarly: whether, how, and with whom I attend to my humanity is up to me as an individual. If I elect to explore my religious nature in community with others, I have no duty to do so with anyone in particular, and I have no right to force others to allow me to join them in worship.

Countries have the right to associate with who they wish

Christopher Heath Wellman, professor of philosophy, University of St. Louis, 2008, *Immigration and the Freedom of Association*, Published in *Ethics*, October,  
<http://philosophyfaculty.ucsd.edu/faculty/rarneson/phil267fa12/Immigration%20Proofs.pdf>  
DOA: 9-30-15

The nonvoluntary nature of political states can raise complex problems for those who would defend a state's right to political self-determination (problems I address at length elsewhere), but here I would like merely



Immigration Surveillance Core File. *Updated 8-3-24*

to highlight some of the unpalatable implications that follow from denying a country's right to freedom of association.

4

In particular, consider

the moral dynamics of regional associations like the North American Free Trade Agreement (NAFTA) or the European Union (EU). If legitimate states did not enjoy a right to freedom of association—a right which entitles them to decline invitations to associate with others—then they would not be in a position to either accept or reject the terms of these regional associations. Think of Canada's choice to join NAFTA, or Slovenia's decision to enter the EU, for instance. No one believes that it would be permissible to force Canada into NAFTA or to coerce Slovenia to join the EU. (Of course, nor may Canada or Slovenia unilaterally insert themselves into these associations!) And the reason it is wrong to forcibly include these countries is because Canada's and Slovenia's rights to self-determination entitle them to associate (or not) with other countries as they see fit. Put plainly, if one denies that legitimate states like Canada and Slovenia have a right to freedom of association, one could not explain why they would be righteously aggrieved at being forced into these mergers.

Indeed, there would be even more awkward implications because, without positing a right to freedom of association, we could not satisfactorily explain what is wrong with one country forcibly annexing another. Imagine, for instance, that a series of plebiscites revealed both that an overwhelming majority of Americans wanted to merge with Canada and that an equally high proportion of Canadians preferred to maintain their independence. Would it be permissible for the United

Immigration Surveillance Core File. *Updated 8-3-24*

States to forcibly annex Canada? I assume without argument that, even if the United States could execute this unilateral merger without disrupting the peace or violating the individual rights of any Canadians, this hostile takeover would be impermissible. The crucial point for our purposes is that one cannot explain the wrongness of unilateral annexations like this unless one supposes that countries like Canada enjoy a right to autonomy, a right which accords Canadians the freedom to associate with others as they see fit

States have the right to associate

Christopher Heath Wellman, professor of philosophy, University of St. Louis, 2008, Immigration and the Freedom of Association, Published in Ethics, October, <http://philosophyfaculty.ucsd.edu/faculty/rarneson/phil267fa12/Immigration%20Proofs.pdf>  
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If the analysis to this point has been sound, then there is no reason to doubt that groups, even political states, can have rights to autonomy analogous to those enjoyed by individuals. Even if one agrees that legitimate states can have rights to self-determination, though, one might still question the argument sketched above on the grounds that the intimacy of marriage makes freedom of association immeasurably more important in the marital context than in the political realm. After all, in the vast majority of cases, fellow citizens will never even meet one another. On this point, consider Stuart White's contention that "if the formation of a specific association is essential to the individual's ability to exercise properly his/her liberties of conscience and expression, or to his/her ability to form and enjoy intimate attachments, then exclusion rules

Immigration Surveillance Core File. *Updated 8-3-24*

which are genuinely necessary to protect the association's primary purposes have an especially strong presumption of legitimacy."

6

Transposing White's reasoning, one might insist that, since there is no intimacy among compatriots, it is not at all clear why we need to respect freedom of association for groups of citizens.

Important for states to be able to control membership in their own state

Christopher Heath Wellman, professor of philosophy, University of St. Louis, 2008, *Immigration and the Freedom of Association*, Published in *Ethics*, October, <http://philosophyfaculty.ucsd.edu/faculty/rarneson/phil267fa12/Immigration%20Proofs.pdf>  
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What is more, for several reasons it seems clear that control over membership in one's state is extremely important. To see this, think about why people might care about the membership rules for their golf club. It is tempting to think that club members would be irrational to care about who else are (or could become) members; after all, they are not forced to actually play golf with those members they dislike. But this perspective misses something important. Members of golf clubs typically care about the membership rules because they care about how the club is organized and the new members have a say in how the club is organized. Some members might want to dramatically increase the number of members, for instance, because the increased numbers will mean that each individual is required to pay less. Other members might oppose expanding the membership because of concerns about the difficulty of securing desirable tee times, the wear and tear on the course, and the increased time it takes to play a round if there are more people on the course at any given time.

Immigration Surveillance Core File. *Updated 8-3-24*

And if there is nothing mysterious about people caring about who are (or could become) members of their golf clubs, there is certainly nothing irrational about people being heavily invested in their country's immigration policy. Again, to note the lack of intimacy among compatriots is to miss an important part of the story. It is no good to tell citizens that they need not personally (let alone intimately) associate with any fellow citizens they happen to dislike because fellow citizens nonetheless remain political associates; the country's course will be charted by the members of this civic association. The point is that people rightly care very deeply about their countries, and, as a consequence, they rightly care about those policies which will effect how these political communities evolve. And since a country's immigration policy affects who will share in controlling the country's future, it is a matter of considerable importance

An important part of self-determination is determining who the "self" is

Christopher Heath Wellman, professor of philosophy, University of St. Louis, 2008, *Immigration and the Freedom of Association*, Published in *Ethics*, October, <http://philosophyfaculty.ucsd.edu/faculty/rarneson/phil267fa12/Immigration%20Proofs.pdf>  
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These examples of the golf club and the political state point toward a more general lesson that is worth emphasizing: because the members of a group can change, an important part of group self-determination is having control over what the "self" is. In other words, unlike individual self-determination, a significant component of group self-determination is having control over the group which in turn gets to be self-determining. It stands to reason, then, that if there is any group whose self-determination we care about, we should be concerned about its rules

Immigration Surveillance Core File. *Updated 8-3-24*

for membership. This explains why freedom of association is such an integral part of the self-determination to which some groups (including legitimate states) are entitled. If so, then anyone who denies that we should care about the freedom of association of nonintimate groups would seem to be committed to the more sweeping claim that we should not care about the self-determination of any nonintimate groups. But, unless one implausibly believes that we should care only about intimate groups, then why should we suppose that only the self-determination of intimate groups matters? Thus, people rightly care deeply about their political states, despite these states being large, anonymous, and multicultural, and, as a consequence, people rightly care about the rules for gaining membership in these states. Or, put another way, the very same reasoning which understandably leads people to jealously guard their state's sovereignty also motivates them to keep an eye on who can gain membership in this sovereign state.

Self-determination over immigration is important because it impacts resource allocation

Christopher Heath Wellman, professor of philosophy, University of St. Louis, 2008, *Immigration and the Freedom of Association*, Published in *Ethics*, October, <http://philosophyfaculty.ucsd.edu/faculty/rarneson/phil267fa12/Immigration%20Proofs.pdf>  
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A second, less obvious, reason to care about immigration policy has to do with one's duties of distributive justice. As I will argue in the next section, it seems reasonable to think that we have special distributive responsibilities to our fellow citizens. If this is right, then in the same way that one might be reluctant to form intimate relationships because of the moral freight attached, one might want to limit the number of people with whom one shares a morally significant political relationship.

Immigration Surveillance Core File. *Updated 8-3-24*

Thus, just as golf club members can disagree about the costs and benefits of adding new members, some citizens might want to open the doors to new immigrants (e.g., in order to expand the labor force), while others would much rather forgo these advantages than incur special obligations to a greater number of people.

Finally, rather than continue to list reasons why citizens ought to care about issues of political membership, let me merely point out that citizens today obviously do care passionately about immigration. I do not insist that the current fervor over political membership is entirely rational, but it is worth noting that anyone who submits that freedom of association in this context is of no real importance is committed to labeling all those who care about this issue as patently irrational. Thus, even though the relationship among citizens does not involve the morally relevant intimacy of that between marital partners, the considerations quickly canvassed above, as well as the behavior of actual citizens, indicate that we need not conclude that control over immigration is therefore of negligible significance. If so, then neither the observation that (1) individual persons are importantly disanalogous to political states nor the fact that (2) freedom of association is much more important for individuals in the marital context than for groups of citizens in the political realm should lead us to abandon our initial comparison between marriage and immigration. As a consequence, we have no reason to abandon the claim that, like autonomous individuals, legitimate political regimes are entitled to a degree of self-determination, one important component of which is freedom of association. In sum, the conclusion initially offered only tentatively can now be endorsed with greater conviction: just as an individual has a right to determine whom

Immigration Surveillance Core File. *Updated 8-3-24*

(if anyone) he or she would like to marry, a group of fellow-citizens has a right to determine whom (if anyone) it would like to invite into its political community. And just as an individual's freedom of association entitles him or her to remain single, a state's freedom of association entitles it to exclude all foreigners from its political community.

The right to exclude immigrants is deontological

Christopher Heath Wellman, professor of philosophy, University of St. Louis, 2008, Immigration and the Freedom of Association, Published in Ethics, October, <http://philosophyfaculty.ucsd.edu/faculty/rarneson/phil267fa12/Immigration%20Proofs.pdf>  
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Before turning to the case against political freedom of association,

I would like to highlight two features of the view I am advancing here:

(1) I defend a deontological right to limit immigration rather than a consequential account of what would be best, and (2) my view might be dubbed "universalist" rather than "particularist" insofar as it neither suggests nor implies that only distinct nations, cultures, or other "communities of character" are entitled to limit immigration. Consider each of these points in turn.

First, let me stress that I seek to defend a deontological conclusion about how legitimate states are entitled to act, not a consequential prescription for how to maximize happiness or a practical recipe for how states might best promote their own interests. I understand that groups can have weighty reasons to limit immigration in certain circumstances, but what the best policy would be for any given state's constituents (and/or for those foreigners affected) will presumably depend upon a variety of empirical matters, matters about which others are more knowledgeable. Thus, I doubt that any one-size-fits-all immigration policy exists,

Immigration Surveillance Core File. *Updated 8-3-24*

and I, qua philosopher, have no special qualification to comment on the empirical information that would be relevant to fashioning the best policy for any given state. However, if anything, I am personally inclined toward more open borders. My parents were born and raised in different countries, so I would not even be here to write this article if people were not free to cross political borders. What is more, my family and I have profited enormously from having lived and worked in several different countries, so it should come as no surprise that I believe that, just as few individuals flourish in personal isolation, open borders are typically (and within limits) best for political communities and their constituents. Still, just as one might defend the right to divorce without believing that many couples should in fact separate, I defend a legitimate state's right to control its borders without suggesting that strict limits on immigration would necessarily maximize the interests of either the state's constituents or humanity as a whole. My aim is merely to show that whatever deontological reasons there are to respect freedom of association count in favor of allowing political communities to set their own immigration policy.

No obligation to accept asylum seekers

Christopher Heath Wellman, professor of philosophy, University of St. Louis, 2008, Immigration and the Freedom of Association, Published in Ethics, October,  
<http://philosophyfaculty.ucsd.edu/faculty/rarneson/phil267fa12/Immigration%20Proofs.pdf>  
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As implausible as it might initially seem, I suggest that, even in cases of asylum seekers desperately in need of a political safe haven, a state is not required to take them in. I adopt this stance not because I am



Immigration Surveillance Core File. *Updated 8-3-24*

unmoved by the plight of asylum seekers but because I am not convinced that the only way to help victims of political injustice is by sheltering them in one's political territory. In my view, these people might also be helped in something like the fashion in which wealthy societies could

choose to assist impoverished foreigners: by, as it were, exporting justice.

Admittedly, one cannot ship justice in a box, but one can intervene, militarily if necessary, in an unjust political environment to ensure that those currently vulnerable to the state are made safe in their homelands.

26 Let me be clear: I am not suggesting that this is always easy or even advisable, nor do I assert that states are necessarily obligated to take this course of action. I claim instead that where asylum seekers are genuinely left vulnerable because their government is either unable or unwilling to protect their basic rights, then their government is illegitimate, it has no claim to political self-determination, and thus it stands in no position to protest if a third party were to intervene on behalf of (some of) its constituents. Think, for instance, of the Kurds in Iraq.

One way to help them is to allow them to emigrate en masse. Another option, though, is to use military force to create a safe haven and no-fly zone in Northern Iraq. And since the Iraqi government was the party threatening the Kurds, it had no right to object to this interference with its sovereignty. I suspect that Walzer stops short of this conclusion only because he wrongly, I think, respects the political self-determination of virtually all states, even those persecuting asylum seekers. Walzer and I diverge on this point, then, not because I am less

impressed than he by the plight of asylum seekers but because he is more impressed than I by the claims to political self-determination of failed and rogue states, those regimes either unable or unwilling to secure their citizens' basic moral rights. Thus, I once again conclude that affluent societies have a duty to help but that it is a disjunctive duty:

Immigration Surveillance Core File. *Updated 8-3-24*

just as global poverty requires wealthy states to either export aid or import unfortunate people, the presence of those desperately seeking political asylum renders those of us in just political communities duty bound either to grant asylum or to ensure that these refugees no longer need fear their domestic regimes. Miller seems to me to get it just right when he suggests: “The lesson for other states, confronted with people whose lives are less than decent, is that they have a choice: they must either ensure that the basic rights of such people are protected in the places where they live—by aid, by intervention, or by some other means—or they must help them to move to other communities where their lives will go better. Simply shutting one’s borders and doing nothing else is not a morally defensible option here.”<sup>28</sup>

Accepting refugees is morally arbitrary

Christopher Heath Wellman, professor of philosophy, University of St. Louis, 2008, *Immigration and the Freedom of Association*, Published in *Ethics*, October, <http://philosophyfaculty.ucsd.edu/faculty/rarneson/phil267fa12/Immigration%20Proofs.pdf>  
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It is important to note, though, that those who make an exception for refugees (as defined by international law) apparently cannot do so on principled grounds. As theorists like Andrew Shacknove and Michael Dummett have pointed out, restricting the status of refugees to those who have crossed an international border because of a well-founded fear of persecution is morally arbitrary. See Andrew Shacknove, “Who Is a Refugee?”

*Ethics*

95 (1985): 274–84; and Michael Dummett,

*On Immigration and Refugees*

(New

York: Routledge, 2001).

## A2: Human Rights

### **Human rights are not absolute**

Allen Buchanan, political philosopher at Duke, 2004 *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law*, Kindle Edition, page/location number at end of card

This is not to say that rights are absolute constraints that invariably ably "trump" all other considerations. Rather, the point is that the existence of a right makes a difference as to which considerations are sufficient reasons for a course of action. Thus the fact that some action would increase overall well-being may often be a sufficient reason in favor of it; but in cases in which the action would violate a right, the fact that the action would increase overall well-being is not a sufficient reason for doing it. This is perfectly compatible, of course, with acknowledging that it may be justifiable to infringe a right under certain extraordinary circumstances, as when respecting the right would be almost certain to produce an enormous amount of suffering for many innocent people. To assume that one cannot hold that there are human rights without regarding them as carrying absolute, exceptionless obligations that always "trump" every other consideration is to indulge in caricature. Allen Buchanan. *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law (Oxford Political Theory)* (Kindle Locations 381-383). Kindle Edition.

# **CON – Answers to Pro Contentions**

## **Answers to Immigration Crisis**

## Crisis Slowing

### Illegal Immigration decreasing

Camilo Montoya-Galvez Updated on: July 1, 2024. Illegal crossings at U.S.-Mexico border fall to 3-year low, the lowest level under Biden, <https://www.cbsnews.com/news/border-crossings-us-mexico-border-june-2024/>

**Illegal crossings along the U.S. southern border fell to a 3-year low in June following President Biden's drastic move to curtail asylum** and continued efforts by Mexico to stop migrants heading north, according to preliminary Customs and Border Protection data obtained by CBS News. Border Patrol processed approximately 84,000 migrants who crossed the U.S.-Mexico border without authorization in June, the lowest monthly level since Mr. Biden took office in January 2021, when the agency reported just over 75,000 migrant apprehensions, the internal statistics show. **June's migrant apprehension tally was also the fourth consecutive monthly drop**, continuing an unexpected downward trend in illegal border crossings that started in the early spring. Border Patrol agents recorded 118,000 migrant apprehensions in May; 129,000 in April; 137,000 in March; and 141,000 in February, according to public government figures. Migrant crossings dropped across border regions, including in remote and rugged stretches of Arizona and California that had become the busiest sectors for illegal entries. **The marked reduction in migration comes weeks after Mr. Biden invoked a presidential power frequently cited by the Trump administration to ban most migrants from asylum if they crossed into the U.S. between official border crossings**, known as ports of entry. The asylum crackdown — which includes exemptions for unaccompanied children and those who wait in Mexico for a chance to be processed at a port of entry — has allowed U.S. immigration officials to more quickly deport larger numbers of migrants, mainly those from Mexico and other countries in Latin America. The sustained decrease in unauthorized border entries has also occurred against the backdrop of a months-long campaign by Mexican officials to slow U.S.-bound migration by carrying out more deportations to southern Mexico and preventing migrants from boarding trains and buses. The aggressive operation began after a meeting between top American and Mexican officials in December, when migrant apprehensions at the U.S. border reached a quarter of a million, a record. Beyond U.S. and Mexican policies, other factors also influence migrant migration, including weather patterns and tactics by smugglers, who control the movement of migrants in many parts of Mexico. Temperatures along the U.S. border, for example, have increased rapidly and are expected to continue climbing further into the summer. **Senior U.S. officials told CBS News the partial asylum ban is the main driving force behind the steep decline in crossings**. One official noted the drop has been more acute since the crackdown was announced on June 4. In the past week, the average of daily migrant apprehensions fell below 2,000 — or nearly half of May's 3,800 average, internal CBP data show. That number is also close to the 1,500 threshold the Biden administration set to suspend the asylum restrictions.

### Immigration slowing

Immigration Surveillance Core File. *Updated 8-3-24*

Diana Roy, Amelia Cheatham, and Claire Klobucista, Council on Foreign Relations, January 2024, How the U.S. Patrols Its Borders, <https://www.cfr.org/backgrounders/how-us-patrols-its-borders>

However, **between December 2023 and April 2024, illegal border crossings dropped by some 50 percent**. Secretary of Homeland Security Alejandro Mayorkas credited the decrease to various U.S. efforts, including stronger border enforcement and the expansion of legal immigration pathways. Other experts also point to Mexican authorities' increased efforts to slow U.S.-bound migration and rising deportations.

### **Status quo solves**

Secretary Alejandro N. Mayorkas, Department of Homeland Security, Secretary Mayorkas Delivers Remarks Following an Operational Briefing, 6-26, 24, <https://www.dhs.gov/news/2024/06/26/secretary-mayorkas-delivers-remarks-following-operational-briefing>

**Across the entire southern border, Border Patrol encounters have dropped by over 40 percent**. We are removing more noncitizens without a legal basis to stay here, nearly doubling the rate at which we are removing noncitizens directly from Border Patrol custody, here in Tucson and across the southern border. In three weeks, we have operated over 100 international repatriation flights to more than 20 countries and removed or returned more than 24,000 individuals.

The President's actions are working because of their tough response to illegal crossings and because they build on our sustained efforts to exercise our full authorities to enforce the law and impose consequences for illegal entry. We are attacking the smuggling organizations that prey on the vulnerable even as the smugglers try to undermine our actions. We are also working with partner nations in the region and building lawful pathways for people to seek humanitarian relief in a safe and orderly way.



## **Surveillance Towers Don't Solve**

### **Most entry is legal, so towers are useless**

Tate Ryan-Mosley, MIT Technology Review, 4-17, 23,  
<https://www.technologyreview.com/2023/04/17/1071682/us-pouring-money-surveillance-towers-southern-border/>, The US is pouring money into surveillance tech at the southern border,

So why is the program being expanded so drastically? We're not totally sure, and the agency declined to comment on the record. According to Maass, justifications are rooted in the crisis mentality of agencies responding to migration at the border. "All you hear is Crisis at the border, crisis at the border," he says, but usually the real crises are happening at points of entry or along common migration routes. **"You don't need a surveillance tower to know that there's a bunch of asylum seekers camped out under a bridge in El Paso," he says.**

Donatti also points out that **migrants overwhelmingly enter the US legally and without trying to evade authorities, so surveillance tech isn't needed in most cases. As legal options are squeezed, would-be migrants resort to more dangerous ones, but Donatti says more surveillance doesn't address the root problem. "We know what the consequences of this massive investment in technology have been. But we don't have any indication as to its efficacy," Donatti says.**

## Alternatives are Worse

### Surveillance is an Alternative to a wall

Schmidtke, 6-15, 2019, RACHEL SCHMIDTKE, Former Program Associate, Migration, Mexico Institute; Advocate for Latin America, Refugees International, Three Alternatives to a Wall That Will Strengthen the Southern U.S. Border, <https://www.wilsoncenter.org/article/three-alternatives-to-wall-will-strengthen-the-southern-us-border>

3. Investing in technology and personnel **A wall's function is to create a physical barrier to prevent people from crossing. However, a wall cannot perform the myriad functions necessary to apprehend crossers, screen migrants, detect illicit behavior**, etc. Department of Homeland Security staffers, border patrol agents and z\_Technology, including cameras, fixed towers and aerial and underground sensors, can help combat cartels that are using highly sophisticated technology to cross the border. Expanding agencies like the Immigration and Customs Enforcement's Counterterrorism and Criminal Exploitation Unit prevents terrorists and other criminals from exploiting the nation's immigration system through fraud. Investing in the Biometric Entry-Exit System at all ports of entry helps screen those who enter into the United States efficiently and effectively. The need for a 21st-century approach to border security is something both Republicans and Democrats have called for, aiming to find new solutions to emerging problems. **Placing the appropriate technology in the right places and training and building the skill set of personnel in key agencies makes America safer.** The shutdown over the border wall needs to end. Many people in charge of keeping America safe are currently working without pay. Transportation Security Administration agents are calling in sick, and the growing strain on those who work for the Border Patrol, the FBI, the Drug Enforcement Administration and the Secret Service could negatively impact the morale and quality of work of these vital agencies. Agreeing on a bipartisan deal to end the shutdown and paying the people who are in charge of our nation's security makes America safer. Let us have a discussion in Congress about the border, with people who work and live at the border, to come up with bipartisan, contemporary, cost-effective solutions to improve our border security.

## **Answers to: Surveillance Clears Backlog**

### **Surveillance means more detention and more backlog**

**U.S. Customs and Border Protection is trying to build AI-powered border surveillance systems that automate the process of scanning people trying to cross into the U.S., an effort that experts say could push migrants to take more perilous routes and clog the U.S. immigration**

**court and detention pipeline.** To achieve full autonomy across the borderlands, CBP held a virtual “Industry Day” in late January, where officials annually brief contractors on the department’s security programs and technology “capability gaps.” One of the main shortcomings: Too many missed border crossing detections because border agents spend long work shifts in front of computers. Presentations and other materials shared at Industry Day are public record, but they are geared toward third-party contractors—and often go unnoticed. The Markup is the first to report on the details of CBP’s plans. If all goes as hoped, then U.S. Border Patrol “operators would need only to periodically monitor the system for accountability and compliance,” officials wrote, according to meeting documents.

## Answers to: Sex Trafficking

### **Traffickers will just shift to other crossing**

**Cammack, 8-30, 22**, Rep. Kat Cammack serves Florida's Third Congressional District. She sits on the Agriculture Committee and Homeland Security Committee as the lead Republican on the Subcommittee for Emergency Preparedness, Response, and Recovery., The Human Trafficking Crisis At The Border Is Coming To Your Hometown, <https://cammack.house.gov/media/in-the-news/human-trafficking-crisis-border-coming-your-hometown#:~:text=And%20tragically%2C%20children%20making%20the,child%20pornography%20and%20drug%20trafficking.>

### **if you think this is only happening along the border, think again. In my district alone, a largely rural area in North Central Florida, authorities have encountered several traffickers**

**transporting illegals to various parts of the state.** Two months ago, Florida Highway Patrol troopers in Micanopy stopped a coyote from Mexico who was transporting migrants across state lines, now in jail on human smuggling charges. No matter where you reside, every town in America is a border town. This unprecedented, humanitarian crisis is solely the result of Biden's egregious policies. It's reprehensible and, quite frankly, unimaginable, that an administration charged with defending the Constitution and securing our borders could so unabashedly do just the opposite.

### **It can't be solved with surveillance – even when minors are “caught,” they are released to the traffickers who aren't vetted**

**House Homeland Security Committee, 9-14, 2023, “THE BORDER IS OPEN”: BORDER PATROL WIFE, CHILD TRAFFICKING EXPERT, FENTANYL MOM TESTIFY ON HUMAN COST OF BORDER CRISIS**, <https://homeland.house.gov/2023/09/14/the-border-is-open-border-patrol-wife-child-trafficking-expert-fentanyl-mom-testify-on-human-cost-of-border-crisis/>

“On day one, this administration rescinded a policy that was working. It was called Remain in Mexico. And you know how political asylum works. They couldn't touch base in the U.S. There was no catch and release. 85% don't qualify, 15% do—and it worked. On day one it was rescinded, and guess what happens? The floodgates [open]...**When the kids get here, guess what? They have no legal status, so where do they go?” Mr. Ballard answered: “They have to be released to HHS, where they wait for any sponsor to come and pick them up and take them home. With no [thorough] vetting.”** Chairman McCaul continued: **“A lot of times these sponsors have maybe 15 different children. And guess what they're doing? Sex trafficking.** They are bringing it now inside the United States of America. And guess what? Where do the young boys typically go? They don't have a home, maybe they have a sponsor, but guess what happens to them.” Mr. Ballard answered: “Well, they are exploited for labor [or] sex. Any kind of exploitation is available, and they have no name, no number. They are the perfect victim of exploitation in this country because no one even knows they exist.” Chairman McCaul continued: “And the boys, I would argue, go to MS-13, where they have to pay back their debt to the cartels. This is a racket, and it's sanctioned by this administration...Would you agree with that?”

## Immigrants who are caught become victims of sex trafficking

Zeba Wars Jul 21, 2023 (Foreign affairs producer, Columbia Journalism School graduate with an M.A. in Political journalism. “Hundreds of immigrants have reported sexual abuse at ICE facilities. Most cases aren’t investigated” <https://www.pbs.org/newshour/nation/hundreds-of-immigrants-have-reported-sexual-abuse-at-ice-facilities-most-cases-arent-investigated>)

### **23-year-old Mari walked out of the United States Immigration and Customs Enforcement (ICE) detention in 2022, she felt invisible. It was barely a month after she had entered the United**

**States as an asylum seeker from Venezuela.** The once vivacious bodybuilder now felt like she didn’t matter. “When I looked at myself in the mirror, I felt like I didn’t deserve to wear nice clothes or to put on makeup or look good. I felt so immensely invisible,” Mari said. **Her time inside ICE’s Stewart Detention Center in Lumpkin, Georgia, between December 2021 and January 2022, left a deep mark on her self-worth.** A year and a half later, it continues to wake her up in the middle of the night, shivering and in tears. Mari is not her real name. We’re using it to protect her identity. **She is one of five women who complained of being sexually assaulted by a male nurse who worked at Stewart.**

Escaping from political violence in Venezuela, Mari arrived in the U.S. in late December 2021. She was arrested by Customs and Border Patrol (CBP) after crossing the border and then quickly transferred to Stewart. Shortly after, she went into the infirmary for a routine check-up. There, Mari encountered the nurse for the first time. He was a short, middle-aged white man with a short beard. The nurse asked her to follow him into a small room and closed the door. When Mari was alone with him, she felt uneasy. After a few routine medical questions, he said she was pretty. He asked her if she had had any surgeries in the past. When Mari informed him of her breast surgery, he got excited and began staring at her breasts. And then he asked her to lay down on the examination table. “He pressed my hand against his penis. When I tried to take my hand away, he began masturbating with it. I was devastated,” Mari said. Weeks before, another asylum seeker from Venezuela, who we will call Viviana, said she faced a similar experience. Viviana has accused the male nurse of sexually assaulting her on two occasions. “He asked me to lower my pants and placed the stethoscope down there,” Viviana said. “He would make lewd faces while doing that. I froze and stared into the void. I couldn’t understand why he did that to me.” There are several laws meant to protect immigrants detained at ICE facilities from sexual assault and abuse. The primary law that offers this kind of protection to incarcerated and detained people is the Prison Rape Elimination Act (PREA). After learning about PREA, Viviana, Mari, and two other women filed an administrative complaint with the Department of Homeland Security (DHS) — ICE’s supervisory body — in July 2022. The complaint, first reported by The Intercept, stated that the nurse had “repeatedly taken advantage of his position as a medical professional to isolate women at Stewart in private medical examination rooms, to force or coerce them into giving him access to private parts of their body without medical justification or need and assaulting them during his ‘medical exams.’” Apart from these four women, public records confirm that a fifth woman has also made similar allegations about the same male nurse. **There is a pattern of sexual abuse complaints in ICE detention that goes beyond the Stewart facility and the accused nurse. Official records and testimonies obtained by Futuro Investigates, the investigative unit of the Pulitzer Prize-winning news organization Futuro Media, show disturbing details of 308 sexual assault and sexual abuse complaints filed by immigrants detained in ICE facilities nationwide between 2015 and 2021.**

The data obtained by Futuro Investigates reveals a systemic pattern of abuse by detention officers, contractual guards, and ICE employees, accused of sexually assaulting the individuals they are meant to protect. According to the obtained data, more than half of all abuse allegations made in the past six years were directed against staff. At least five complaints in the records allege that ICE employees threatened them with deportation.

## Surveillance also leads to sexual violence and labor exploitation

**Johnson ’07** (Kevin R., Kevin R. Johnson is Mabie-Apallas Professor of Public Interest Law and Chicano/a Studies at the University of California Davis, “Opening the Floodgates: Why America Needs to Rethink its Immigration Policies”, <http://nyupress.org/books/9780814743096/>) Franzy

For years, many **migrants have depended on smugglers for passage into the United States.** However, since the new border operations went into effect, **heightened immigration restrictions and bolstered immigration enforcement have caused a rapid increase in the fees charged by**

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**smugglers.** Smuggling fees increased from a few hundred to a couple of thousand dollars. It now is much more expensive to come to the United States than before the new border operations went into effect in the 1990s.<sup>103</sup> **Some migrants lack the cash to travel. To pay for the trip, many are forced to become indebted to their smugglers.** Smuggling debts have been paid through forced labor, thus taking the exploitation of undocumented workers to new and frightening levels. **Failure to work off the debts may result in brutal consequences.** But a migrant's ability to pay is not the only problem with human trafficking. The passage itself is replete with hazards. **Among the many risks** faced by migrants **is the possibility of being abandoned.** In May 2003, nineteen migrants, including a five-year-old child, died of **asphyxiation, heat exposure, and dehydration** in the back of a smuggler's truck in South Texas. The smuggler had fled, leaving the migrants to die. One of the dead "had worked five years in the United States before he returned to Mexico to fetch his children, hoping to provide them comforts he could not give them in Mexico."<sup>104</sup> **Today, because of the money to be made in this black market, criminal syndicates thrive in the trafficking of human beings.** A product of ill-considered law enforcement, these syndicates resemble the crime networks that emerged in response to the federal government's efforts during Prohibition's ban on the commerce in alcohol. Criminal elements grew and asserted control over a new lucrative industry. But it gets worse. **Some undocumented immigrants have been enslaved. Reports of slavery have increased dramatically in the past few years.** One 2005 report concluded as follows: Our research identified 57 forced labor operations in almost a dozen cities in California between 1998 and 2003, involving more than 500 individuals from 18 countries. . . . **Victims labored in several economic sectors including prostitution and sex services (47.4%), domestic service (33.3%), mail order brides (5.3%), sweatshops (5.3%), and agriculture (1.8%).** . . . Victims of forced labor often suffer severe hardships and deprivations. **Their captors often subject them to beatings, threats, and other forms of physical and psychological abuse.** They live in conditions of deprivation and despair. Their captors may threaten their families. Perpetrators exert near total control over victims, creating a situation of dependency. Victims come to believe they cannot leave. . . . **They are terrified of their captors but also fear law enforcement, a fear often based on bad experiences with police and other government officials in their countries of origin.**<sup>105</sup> Today, in no small part because of the operation of the immigration laws, cases of involuntary servitude regularly make the news.<sup>106</sup>

## Border surveillance places individuals into hierarchies through racialization and sexualization

**Lulbheld 2** (Elthne, "Entry Denied Controlling sexuality at the Border", book)

Historically, **sexuality, gender, race, and class were explicitly considered when U.S. officials made decisions about whom to admit and exclude.** But contrary to both conservative and liberal critics. I suggest that these were never self-evident attributes that people already "had." Rather, **Foucault's framework suggests that immigration-control practices** down to their most mundane procedural details, **produced and naturalized these identities.** Therefore, **sexuality** and by extension, **race, gender, and class have been central to immigration control since its inception not because these are essential or biological identities that can be discovered within individual bodies. but because sexualization, racialization, and so on are larger social processes whose presence is made evident by the classification of bodies into hierarchical schemes. Such classification schemes, which were rooted in histories of imperialism and modern state formation, ensured that those granted admission were incorporated into relations of surveillance and discipline within the United States.** Although immigration officials no longer explicitly categorize bodies within racial taxonomies or automatically exclude lesbians and gay men. that does not mean that racialization, sexualization, and other similar processes have been abolished. Nor does it mean that there are no longer disparities in immigration access on the basis of sexuality, race, and other categories. On the contrary. David Reimers's

Immigration Surveillance Core File. *Updated 8-3-24*

research compellingly suggests that even when racial criteria were excised from immigration law in 1965, lawmakers nonetheless intended for neutral admission criteria to have distinctly racial effects. By replacing the discriminatory national origins quota system with preferences that were based mainly on family ties, lawmakers expected that "the great bulk of immigrants henceforth will not merely hail from the same parent countries as our present citizens' but will be their closer relatives." In other words, although openly racist provisions were removed, the law was nonetheless intended to uphold the virtual exclusion of immigrants of color. Reimer's argument echoes the decades of research on equal access to education and employment, which shows that seemingly neutral bureaucratic requirements often generate racist, hetero sexist, and classist effects. Various architects of the 1965 Immigration and Nationality Act (INA) apparently understood and tried to manipulate this fact. But even if they had not intended to discriminate, the 1965 INA might still have had discriminatory consequences. As Naomi Zack explains, "much institutional [discrimination] in the United States at this time is not intentional" but is nonetheless evident when one examines the outcomes, rather than intentions, of particular policies." Thus, to suggest that the seemingly neutral provisions of immigration law mark the "end" of immigration discrimination ignores both Reimer's specific research on the 1965 INA and the voluminous general scholarship on institutional discrimination. Foucault's work particularly contributes to our understanding of how immigration inequalities are institutionally reproduced by drawing attention to supposedly neutral, mundane practices of inspection and regimes of knowledge that actually discipline and subject immigrants in racializing, sexualizing, and other ways."

Consequently, rather than proclaiming the demise of discrimination in immigration access, we would be better served by developing more complex and nuanced accounts of how sexualization, racialization, and other processes continue to be imposed and contested at multiple levels in the immigration system today, including through inspection procedures and knowledge regimes. The importance of such analyses inheres not only in the scale and impact of contemporary immigration, but also in the fact that relations of power and inequality at the border cannot be separated from inequitable global relations that structure migration patterns or from social hierarchies within the United States. Finally, Foucault draws attention to the ways that inspection procedures and decision-making at the border are tied to record-keeping and writing practices that comprise "a means of control and a method of domination," As he explains, inspection is accompanied by "a system of intense registration and of documentary accumulation." These writing practices at once constitute each individual as a "describable, analysable object" and as part of a larger corpus of knowledge that involves "the measurement of overall phenomena, the characterization of collective facts, the calculation of gaps between individuals, of their distribution in a given 'populacion'."» This knowledge is used for distinctly disciplinary ends. Foucault's analysis of how official immigration records function as essential elements of a larger disciplinary system has important implications for immigration scholarship. At the very least, it suggests that scholars need to critically evaluate how the written materials on which we draw are part of, and therefore help to reproduce, the disciplinary apparatus that subjectifies immigrants. Equally, methods for reading official documents against the grain, utilized by scholars such as those engaged in subaltern studies, may prove to have great relevance for immigration scholarship too.

### **Structural violence is the largest proximate cause of war- creates priming that psychologically structures escalation**

**Scheper-Hughes and Bourgois '41** (Prof of Anthropology @ Cal-Berkely; Prof of Anthropology @ UPenn) (Nancy and Philippe, Introduction: Making Sense of Violence, in *Violence in War and Peace*, pg. 19-22)

This large and at first sight "messy" Part VII is central to this anthology's thesis. It encompasses everything from the routinized, bureaucratized, and utterly banal violence of children dying of hunger and maternal despair in Northeast Brazil (Scheper-Hughes, Chapter 33) to elderly African

Americans dying of heat stroke in Mayor Daly's version of US apartheid in Chicago's South Side (Klinenberg, Chapter 38) to the racialized class hatred expressed by British Victorians in their olfactory disgust of the "smelly" working classes (Orwell, Chapter 36). In these readings violence is located in the symbolic and social structures that overdetermine and allow the criminalized drug addictions, interpersonal bloodshed, and racially patterned incarcerations that characterize the US "inner city" to be normalized (Bourgeois, Chapter 37 and Wacquant, Chapter 39). Violence also takes the form of class, racial, political self-hatred and adolescent self-destruction (Quesada, Chapter 35), as well as of useless (i.e. preventable), rawly embodied physical suffering, and death (Farmer, Chapter 34). Absolutely central to our approach is a blurring of categories and distinctions between wartime and peacetime violence. Close attention to the "little" violences produced in the structures, habituses, and mentalites of everyday life shifts our attention to pathologies of class, race, and gender inequalities. More important, it interrupts the voyeuristic tendencies of "violence studies" that risk publicly humiliating the powerless who are often forced into complicity with social and individual pathologies of power because suffering is often a solvent of human integrity and dignity. Thus, in this anthology we are positing a violence continuum comprised of a multitude of "small wars and invisible genocides" (see also Scheper-Hughes 1996; 1997; 2000b) conducted in the normative social spaces of public schools, clinics, emergency rooms, hospital wards, nursing homes, courtrooms, public registry offices, prisons, detention centers, and public morgues. The violence continuum also refers to the ease with which humans are capable of reducing the socially vulnerable into expendable nonpersons and assuming the license - even the duty - to kill, maim, or soul-murder. We realize that in referring to a violence and a genocide continuum we are flying in the face of a tradition of genocide studies that argues for the absolute uniqueness of the Jewish Holocaust and for vigilance with respect to restricted purist use of the term genocide itself (see Kuper 1985; Chaulk 1999; Fein 1990; Chorbajian 1999). But we hold an opposing and alternative view that, to the contrary, it is absolutely necessary to make just such existential leaps in purposefully linking violent acts in normal times to those of abnormal times. Hence the title of our volume: Violence in War and in Peace. If (as we concede) there is a moral risk in overextending the concept of "genocide" into spaces and corners of everyday life where we might not ordinarily think to find it (and there is), an even greater risk lies in failing to sensitize ourselves, in misrecognizing protogenocidal practices and sentiments daily enacted as normative behavior by "ordinary" good-enough citizens. Peacetime crimes, such as prison construction sold as economic development to impoverished communities in the mountains and deserts of California, or the evolution of the criminal industrial complex into the latest peculiar institution for managing race relations in the United States (Wacquant, Chapter 39), constitute the "small wars and invisible genocides" to which we refer. This applies to African American and Latino youth mortality statistics in Oakland, California, Baltimore, Washington DC, and New York City. These are "invisible" genocides not because they are secreted away or hidden from view, but quite the opposite. As Wittgenstein observed, the things that are hardest to perceive are those which are right before our eyes and therefore taken for granted. In this regard, Bourdieu's partial and unfinished theory of violence (see Chapters 32 and 42) as well as his concept of misrecognition is crucial to our task. By including the normative everyday forms of violence hidden in the minutiae of "normal" social practices - in the architecture of homes, in gender relations, in communal work, in the exchange of gifts, and so forth - Bourdieu forces us to reconsider the broader meanings and status of



violence, especially the links between the violence of everyday life and explicit political terror and state repression, Similarly, Basaglia's notion of "peacetime crimes" - crimini di pace - imagines a direct relationship between wartime and peacetime violence. Peacetime crimes suggests the possibility that war crimes are merely ordinary, everyday crimes of public consent applied systematically and dramatically in the extreme context of war. Consider the parallel uses of rape during peacetime and wartime, or the family resemblances between the legalized violence of US immigration and naturalization border raids on "illegal aliens" versus the US government- engineered genocide in 1938, known as the Cherokee "Trail of Tears." Peacetime crimes suggests that everyday forms of state violence make a certain kind of domestic peace possible. Internal "stability" is purchased with the currency of peacetime crimes, many of which take the form of professionally applied "strangle-holds." Everyday forms of state violence during peacetime make a certain kind of domestic "peace" possible. It is an easy-to-identify peacetime crime that is usually maintained as a public secret by the government and by a scared or apathetic populace. Most subtly, but no less politically or structurally, the phenomenal growth in the United States of a new military, postindustrial prison industrial complex has taken place in the absence of broad-based opposition, let alone collective acts of civil disobedience. The public consensus is based primarily on a new mobilization of an old fear of the mob, the mugger, the rapist, the Black man, the undeserving poor. How many public executions of mentally deficient prisoners in the United States are needed to make life feel more secure for the affluent? What can it possibly mean when incarceration becomes the "normative" socializing experience for ethnic minority youth in a society, i.e., over 33 percent of young African American men (Prison Watch 2002). In the end it is essential that we recognize the existence of a genocidal capacity among otherwise good-enough humans and that we need to exercise a defensive hypervigilance to the less dramatic, permitted, and even rewarded everyday acts of violence that render participation in genocidal acts and policies possible (under adverse political or economic conditions), perhaps more easily than we would like to recognize. Under the violence continuum we include, therefore, all expressions of radical social exclusion, dehumanization, depersonalization, pseudospeciation, and reification which normalize atrocious behavior and violence toward others. A constant self-mobilization for alarm, a state of constant hyperarousal is, perhaps, a reasonable response to Benjamin's view of late modern history as a chronic "state of emergency" (Tausig, Chapter 31). We are trying to recover here the classic anagogic thinking that enabled Erving Goffman, Jules Henry, C. Wright Mills, and Franco Basaglia among other mid-twentieth-century radically critical thinkers, to perceive the symbolic and structural relations, i.e., between inmates and patients, between concentration camps, prisons, mental hospitals, nursing homes, and other "total institutions." Making that decisive move to recognize the continuum of violence allows us to see the capacity and the willingness - if not enthusiasm - of ordinary people, the practical technicians of the social consensus, to enforce genocidal-like crimes against categories of rubbish people. There is no primary impulse out of which mass violence and genocide are born, it is ingrained in the common sense of everyday social life. The mad, the differently abled, the mentally vulnerable have often fallen into this category of the unworthy living, as have the very old and infirm, the sick-poor, and, of course, the despised racial, religious, sexual, and ethnic groups of the moment. Erik Erikson referred to "pseudospeciation" as the human tendency to classify some individuals or social groups as less than fully human - a prerequisite to genocide and one that is carefully honed during the unremark- able

peacetimes that precede the sudden, “seemingly unintelligible” outbreaks of mass violence. Collective denial and misrecognition are prerequisites for mass violence and genocide. But so are formal bureaucratic structures and professional roles. The practical technicians of everyday violence in the backlands of Northeast Brazil (Scheper-Hughes, Chapter 33), for example, include the clinic doctors who prescribe powerful tranquilizers to fretful and frightfully hungry babies, the Catholic priests who celebrate the death of “angel-babies,” and the municipal bureaucrats who dispense free baby coffins but no food to hungry families. Everyday violence encompasses the implicit, legitimate, and routinized forms of violence inherent in particular social, economic, and political formations. It is close to what Bourdieu (1977, 1996) means by “symbolic violence,” the violence that is often “mis-recognized” for something else, usually something good. Everyday violence is similar to what Taussig (1989) calls “terror as usual.” All these terms are meant to reveal a public secret - the hidden links between violence in war and violence in peace, and between war crimes and “peace-time crimes.” Bourdieu (1977) finds domination and violence in the least likely places - in courtship and marriage, in the exchange of gifts, in systems of classification, in style, art, and culinary taste- the various uses of culture. Violence, Bourdieu insists, is everywhere in social practice. It is misrecognized because its very everydayness and its familiarity render it invisible. Lacan identifies “reconnaissance” as the prerequisite of the social. The exploitation of bachelor sons, robbing them of autonomy, independence, and progeny, within the structures of family farming in the European countryside that Bourdieu escaped is a case in point (Bourdieu, Chapter 42; see also Scheper-Hughes, 2000b; Favret-Saada, 1989). Following Gramsci, Foucault, Sartre, Arendt, and other modern theorists of power-violence, Bourdieu treats direct aggression and physical violence as a crude, uneconomical mode of domination; it is less efficient and, according to Arendt (1969), it is certainly less legitimate. While power and symbolic domination are not to be equated with violence - and Arendt argues persuasively that violence is to be understood as a failure of power - violence, as we are presenting it here, is more than simply the expression of illegitimate physical force against a person or group of persons. Rather, we need to understand violence as encompassing all forms of “controlling processes” (Nader 1997b) that assault basic human freedoms and individual or collective survival. Our task is to recognize these gray zones of violence which are, by definition, not obvious. Once again, the point of bringing into the discourses on genocide everyday, normative experiences of reification, depersonalization, institutional confinement, and acceptable death is to help answer the question: What makes mass violence and genocide possible? In this volume we are suggesting that mass violence is part of a continuum, and that it is socially incremental and often experienced by perpetrators, collaborators, bystanders - and even by victims themselves - as expected, routine, even justified. The preparations for mass killing can be found in social sentiments and institutions from the family, to schools, churches, hospitals, and the military. **They harbor the** early “warning signs” (Charney 1991), the **“priming”** (as Hinton, ed., 2002 calls it), or the “genocidal continuum” (as we call it) **that push social consensus toward devaluing certain forms of human life** and lifeways from the refusal of social support and humane care to vulnerable “social parasites” (the nursing home elderly, “welfare queens,” undocumented immigrants, drug addicts) to the militarization of everyday life (super-maximum-security prisons, capital punishment; the technologies of heightened personal security, including the house gun and gated communities; and reversed feelings of victimization).





## Answers to: Invasive Species

### Shipping is the biggest passageway for invasive species, not land routes

Clear Seas, no date (DOA: 7-27-24), <https://clearseas.org/invasive-species/>, INVASIVE SPECIES & MARINE SHIPPING

**Commercial vessels transiting the world's oceans from port to port can transport as much as 90% of the world's goods and products – and carry more than just cargo.** Without careful measures, ships can unintentionally transport foreign species to new environments – where without natural predators, **these “invasive” species can threaten local ecosystems** and damage the environment, the economy and human health. This site, created by Clear Seas Centre for Responsible Marine Shipping, provides objective information about invasive species in Canadian waters – how they get here, what threats they pose and how they are countered – to encourage informed conversations about these issues. INVASIVE SPECIES IN CANADIAN WATERS Canada is a maritime trading nation. Every day, commercial vessels from all over the world transit our coastal waters, rivers and lakes carrying goods to and from the country. Each of these vessels has the potential to cause harm by unintentionally transferring invasive species. Today, the spread of invasive species is considered one of the key threats to natural biodiversity in aquatic environments – second only to habitat destruction. The costs to repair damage by and manage the impacts of invasive species are significant and increasing. Globally, it is difficult to estimate the financial damage from invasive species but one study concluded that invasive fish have had “pernicious ecological and economic impacts on both aquatic ecosystems and human societies.” A comprehensive database of known costs up to 2017 indicates global costs of US\$1.28 trillion for all reported terrestrial and aquatic invasive species, with ongoing costs to Canada of at least \$580 million per year from only aquatic invasive species. As the volume of vessel traffic in Canadian waters continues to grow – particularly in sensitive areas such as the Arctic – there is an increasing need to understand the devastating impacts of these foreign species and limit their introduction and spread. Learn more: The Government of Canada's approach to managing aquatic invasive species So where do invasive species come from? How do they get to Canada? Why do they cause so much damage once they arrive and what is being done to stop the spread of these invaders and limit their negative impacts? WHAT MAKES A SPECIES “INVASIVE”? Species have long used the world's oceans and waterways to make their way around the planet. These movements used to be relatively slow and infrequent, driven mainly by natural processes like currents and winds or hitching a ride on a whale or a log. The explosion of human activities on the seas – most notably, **commercial marine shipping – has vastly increased the opportunities for species to take refuge on or inside vessels and travel the world.** When a species – whether animal, plant or micro-organism – arrives in a new aquatic habitat, several outcomes are possible. It can: Find its new surroundings uninhabitable and die off; Survive in low numbers with little to no impact; or Thrive and its population can grow and take over – harming its new environment in a variety of ways. Learn more: How to identify an aquatic invasive species When a new species flourishes and begins changing or damaging its new environment, it is referred to as “invasive”. Once established in a new environment, invasive species can cause damage to Canada's ecology, economy, and human well-being in a number of ways. For example, they can: Reduce biodiversity and threaten existing species by introducing diseases, consuming the species or its food sources, or taking over habitat; Degrade water quality and habitats; Damage infrastructure such as piers as well as power, water and navigation systems; Erode shorelines; Reduce waterfront property values; Reduce opportunities for recreation and tourism; Reduce productivity in resource sectors such as fisheries and aquaculture; Harm Indigenous cultures and traditional food sources; Lead to trade restrictions. Impact of Invasive Species Worldwide More than 80% of the world's marine ecoregions have been impacted by at least one harmful invasive species. Some regions have been impacted by many. Number of known harmful invasive species: 0 5 10 15 20 25 30 35 40 45 50 55 HOW DO SPECIES INVADE? Invasive species can be introduced to new aquatic environments in a number of different ways including: Natural dispersal through ocean currents and water movement Human release of live species (bait, pets) into the environment, either accidental or otherwise Building of canals and water diversions Recreational boating activity Commercial marine shipping **Commercial marine shipping is considered to be the largest source of new and significant aquatic species invasions worldwide.** Ships move species from port to port via two main routes: Ballast Water Ballast water is drawn from a vessel's surrounding environment and stored in specialized tanks. Ballast is critical for maintaining weight and providing stability during the voyage and as a ship loads and unloads its cargo. Aquatic species can be swept up in ballast water when it is pumped into ballast tanks and released into a new environment when the vessel takes on cargo in a new port. Sea Chest Bow Thrusters Anchor Bilge Keel Propeller Biofouling Live organisms ranging from algae and microbes to mussels and barnacles can attach to ships' hulls in a process known as “hull fouling” or “biofouling”. Species attached to vessel hulls can be transported long distances where they can then dislodge and reproduce in a new environment. In addition to the flat surfaces of a vessel's hull, there are several underwater niches on a ship where organisms can collect, including bow thrusters,

Immigration Surveillance Core File. *Updated 8-3-24*

rudders, propellers, intakes, and sea chests (protected cavities built into the hull of a vessel, covered with metal grates and exposed to a constant flow of seawater). Many aquatic species have been introduced worldwide through the discharge of ballast water and through biofouling. Both of these routes are important (and are not the only way invasive species can travel), but some species and regions seem to experience more invasions from one route than the other.

## Can't solve great lakes

US Commission on Ocean Policy, 2010,

<https://govinfo.library.unt.edu/oceancommission/documents/prelimreport/chapter17.pdf>,

**The introduction of invasive aquatic species into marine and Great Lakes ecosystems costs the nation millions, or possibly billions of dollars a year in economic and ecological damage.** A

major source of invasive species is the discharge of ballast water from ocean-going ship

## Invasive species threat is overblown

**Dana Joel Gattuso, senior fellow at the National Center for Public Policy Research, "Invasive Species: Animal, Vegetable, or Political," 2006, National Policy Analysis, August #544,**

**<http://www.nationalcenter.org/NPA544InvasiveSpecies.html>**

What do mute swans, kudzu, red clover, pigs, and starlings have in common? Not much, except that they are all non-indigenous species - that is, the species does not originate from within the United States.¶ And that is essentially all they have in common. **Yet many government agencies, lawmakers and environmental special-interest groups would like to clump together the thousands of these species introduced within our borders and stamp out their existence.** More than 50 bills are pending in the U.S. Congress to address so called "invasive species."1 Most bills would expand federal authority to further control land use and authorize billions of tax dollars to eradicate non-native flora and fauna.¶ Some "exotic species" are problematic, overtaking other species and imposing large economic costs in damages. But, **contrary to public perception, these are more the exception than the rule. Most non-native species adapt to their surroundings, and many are even useful.**¶

Invasive species are not a threat to biodiversity

**Dana Joel Gattuso, senior fellow at the National Center for Public Policy Research, "Invasive Species: Animal, Vegetable, or Political," 2006, National Policy Analysis, August #544,**

**<http://www.nationalcenter.org/NPA544InvasiveSpecies.html>**

Threat to Biodiversity?¶ Among the exaggerated claims regarding non-indigenous species is their alleged threat to the variety of species within ecosystems. According to Defenders of Wildlife, "The spread of non-native or 'exotic' species has emerged in recent years as one of the most serious threats to biodiversity, undermining the ecological integrity of many native habitats and pushing some rare species to the edge of extinction." The Nature Conservancy lists invasives second, just after species' habitat loss, as the biggest danger to biodiversity.26¶ To be sure, **there are cases where exotic species have eliminated local flora and fauna**, out-competing them for food, oxygen or sunlight; the same can be said of some resilient native species too. **But there is**

**no scientific evidence of actual global extinction caused by a non-native species. Nor do exotic species threaten species "richness" or "biodiversity."** ¶ In fact, some scientists believe non-natives enhance diversity. According to Michael Rosenzweig, a biologist at the University of Arizona and the editor of Evolutionary Ecology Research, the presence of exotic species can actually lead over time to a greater number of species because the destruction of local species would allow for the introduction of new species.<sup>28</sup> Similarly, evolutionary biologist Gereet Vermeij wrote in Science, **"Invasion usually results in the enrichment of biotas [plant and animal life of a particular region] of continents and oceans. In some biotas... interchange has pushed diversity to levels higher than the pre-extinction number of species."**<sup>29</sup> ¶

## Biodiversity loss won't cause extinction

**Kareiva and Carranza 18** – Peter, Ph.D. in ecology and applied mathematics from Cornell University, director of the Institute of the Environment and Sustainability at UCLA. Valerie, Ph.D. Candidate at “Existential risk due to ecosystem collapse: Nature strikes back”, Futures, Vol. 102, Pg. 39-50, <https://doi.org/10.1016/j.futures.2018.01.001>, 01-05-2018

The interesting question is whether any of the planetary thresholds other than CO2 could also portend existential risks. Here the answer is not clear. **One boundary often mentioned as a concern for the fate of global civilization is biodiversity** (Ehrlich & Ehrlich, 2012), with the proposed safety threshold being a loss of greater than 0.001% per year (Rockström et al., 2009). **There is little evidence that this particular 0.001% annual loss is a threshold—and it is hard to imagine any data that would allow one to identify where the threshold was** (Brook, Ellis, Perring, Mackay, & Blomqvist, 2013; Lenton & Williams, 2013). A better question is whether one can imagine any scenario by which the loss of too many species leads to the collapse of societies and environmental disasters, even though one cannot know the absolute number of extinctions that would be required to create this dystopia.

**While there are data that relate local reductions in species richness to altered ecosystem function, these results do not point to substantial existential risks.** The data are small-scale experiments in which plant productivity, or nutrient retention is reduced as species numbers decline locally (Vellend, 2017), or are local observations of increased variability in fisheries yield when stock diversity is lost (Schindler et al., 2010). **Those are not existential risks.** **To make the link even more tenuous, there is little evidence that biodiversity is even declining at local scales** (Vellend et al., 2013, Vellend et al., 2017). **Total planetary biodiversity may be in decline, but local and regional biodiversity is often staying the same because species from elsewhere replace local losses,** albeit homogenizing the world in the process. Although the majority of conservation scientists are likely to flinch at this conclusion, **there is growing skepticism regarding the strength of evidence linking trends in biodiversity loss to an existential risk for humans** (Maier, 2012; Vellend, 2014). **Obviously if all biodiversity disappeared civilization would end—but no one is forecasting the loss of all species.** It seems plausible that the loss of 90% of the world's species could also be apocalyptic, but not one is predicting that degree of biodiversity loss either. Tragic, but plausible is the possibility of our planet suffering a loss of as many as half of its species. **If global biodiversity were halved, but at the same time locally the number of species stayed relatively stable, what would be the mechanism for an end-of-civilization or even end of human prosperity scenario? Extinctions and biodiversity loss are ethical and spiritual losses, but perhaps not an existential risk.**

No Existential Biodiversity Loss – AFF data might show there is **loss** – it won't **end** humanity because species replace them and is **only** about a loss in plant productivity – that's Kareiva

**--Biodiversity Loss isn't linked to global extinction – the area's having biodiversity loss aren't critical to the overall ecosystem**

**Bruun and Ejrnæs 04-14'** – Hans Henrik, Researches and teaches ecology and biodiversity, with special focus on community assembly, with a preference for plants and their associated biota of insects and fungi, and on evidence-based nature conservation at the University of

Immigration Surveillance Core File. *Updated 8-3-24*

Copenhagen. Rasmus, Senior researcher in biology, Aarhus University. "Evidence against linking the biodiversity crisis to ecosystem collapse", Technical Note, <https://www.authorea.com/users/475874/articles/565074-evidence-against-linking-the-biodiversity-crisis-to-ecosystem-collapse?commit=151bbacd555b1abcfcc18ccf9c1b0426edc06260>, 04-14-2022

Brun et al. (2022) found that a few tall, high-SLA plant species had stronger effects on primary productivity than any measure of functional diversity. **We add data on species rarity to show that ongoing biodiversity loss is unlikely to hamper ecosystem productivity**, a core insight we feel the authors missed.

Main text

Brun et al. (2022) present important new results regarding the controversial relationship between biodiversity and ecosystem function. Studying plant communities from the French and Swiss Alps, they assessed if the presence or abundance of certain plant species were linked to higher levels of pivotal ecosystem functions, here primary productivity. They identified 'key' species, which have a decisive role in overall productivity, and 'keystone' species, which have disproportionately large productivity effects given their abundance, and which are a subset of the key species. Out of 2918 plant species found, they identified 38 key species, of which 11 qualified as keystone species. They found that the five key species with largest effects on productivity jointly explained more deviance in ecosystem productivity than any measure of functional composition. The results provide evidence supporting the Trait Driver Theory (Enquist et al. 2015), which is related to the 'mass-ratio hypothesis' (Grime 1998; Garnier et al. 2004), and against the 'complementary resource use hypothesis' (Naeem et al. 1994). Key and keystone species were found to be taller and have higher than average specific leaf area.

Brun et al. (2022) state in their introduction that understanding the relationships between species richness, functional traits and ecosystem function "is pivotal for assessing the impacts of biodiversity loss". Their study builds on solid empirical data, a strong analytical framework and deals with real-world communities, shaped by abiotic environmental filtering and non-artificial extinction processes, something rarely undertaken (e.g. Vile et al. 2006; Mokany et al. 2008). Therefore, we miss an explicit evaluation of the assumptions underlying the 'rivet-popper hypothesis' (Ehrlich & Ehrlich 1981). In this powerful narrative, the popping rivets leading to the crash of the plane are juxtaposed to species going extinct, leading to ecosystem collapse. The metaphor has inspired and gained some support from the so-called random deletion experiments (e.g. Tilman et al. 1997; Hector et al. 1999), in which all species are assumed to have equal extinction probability.

We plotted a rank-abundance diagram of the species in the data of Brun et al. (2022) based on their regional occupancy (using mean local abundance yielded qualitatively equal results, with a strong positive correlation between regional occupancy and local abundance; Spearman rho = 0.93,  $p \ll 0.001$ ). **We categorized species as either key, keystone, redlisted or other and superimposed species** category on the diagram (Fig. 1). Redlist status was derived from the redlists for vascular plants of Switzerland (Bornand et al. 2016) and the French region Rh<sup>one</sup>-Alpes (Kristo et al. 2015). We found that key and keystone species strongly tended to be regionally widespread and locally abundant species, whereas species threatened with regional extinction were found in the tail of the rank-abundance distribution. **A one-way anova of difference in log-transformed frequencies revealed that key and keystone species did not differ in abundance but were both significantly more abundant than all other categories and that redlisted species were significantly less abundant than all other categories** ( $p \ll 0.001$ , TukeyHSD). **It appears evident that the contribution of rare species to ecosystem productivity is a weak argument for conservation actions in their favour.** In fact, Fig. 2a of the original paper shows that many species leads to reduced ecosystem productivity when present.

A revised version of Ehrlich's aeroplane metaphor could sound: The wings are effectively attached to the body of the plane by a small number of large rivets of key importance, while numerous small rivets, most of which tiny as needles, serve no other function than mere decoration (Gould & Lewontin 1979). **The biodiversity crisis and its derived biotic homogenization implies that already common key species increase in occupancy and abundance, while initially un-common species decrease or vanish completely** (Finderup Nielsen et al. 2019; Kempel et al. 2020).

**There is solid evidence for loss of endangered species disproportionately happening in low-productive natural ecosystems** (Walker et al. 2004; Wassen et al. 2005), **which we show have very low extinction risk.** Moreover, **the plant species critical to human sustenance are all superabundant**



Immigration Surveillance Core File. *Updated 8-3-24*

**crops**, such as wheat, corn and rice. We propose it is time the scientific **community acknowledge** that arguments for **biodiversity** conservation should not be sought in **optimization of productivity**, decomposition rate or – in general – in efficiency of ecosystem **processes**. We are not misanthropic, but rather **confident that disciplines** such as agronomy, forestry, technical sciences, geophysics and medicine **will look after the well-being of our own species**.

### **--Alt causes make biodiversity destruction inevitable – aff can't overcome societal issues**

**Nichols 20** – John, American journalist and author. He is the National Affairs correspondent for The Nation and associate editor of The Capital Times. Books authored or co-authored by Nichols include The Genius of Impeachment and The Death and Life of American Journalism. "John Nichols: Russ Feingold is making an issue of biodiversity", The Capital Times – Madison, [https://madison.com/ct/opinion/column/john\\_nichols/john-nichols-russ-feingold-is-making-an-issue-of-biodiversity/article\\_3ec3da77-db85-5907-872f-b456566d8154.html](https://madison.com/ct/opinion/column/john_nichols/john-nichols-russ-feingold-is-making-an-issue-of-biodiversity/article_3ec3da77-db85-5907-872f-b456566d8154.html), 01-07-2020

When the United Nations welcomed heads of state to the 1992 Earth Summit in Rio de Janeiro, a global consensus was reached to take vital steps to save the planet. To that end, more than 170 nations gave their support to the U.N. Framework Convention on Climate Change. But it was not the only treaty at the summit. There was also a Convention on Biological Diversity.

### **The climate change treaty is well understood internationally – even if the Trump administration and its congressional allies continue to engage in dangerous denialism and obstruction.**

The biological diversity treaty is less well understood, especially in the U.S., which has yet to join the more than 190 parties to the agreement.

In 2020, Russ Feingold wants to change that.

Working as an ambassador for an ambitious international Campaign for Nature, Feingold will in the new year be using his prominence — as a former three-term senator from Wisconsin who later served as the U.S. Special Envoy to the Great Lakes Region of Africa — to get an urgent conversation going in Africa (where he is highly regarded for his long-term commitment to the continent) and in the U.S.

"The first thing is you have to get a baseline awareness of what the problem is," said Feingold, who acknowledges that "there is a huge learning curve."

Huge. But not insurmountable.

So let's start 2020 by putting things in perspective.

This is how Feingold explained things: "**A major report from 150 leading scientists from around the world released on May 6, 2019, shows that the crisis facing wildlife and nature is even worse than previously understood. Up to a million species are threatened with extinction, many within decades. And the threats posed to people from the destruction of nature are just as serious as those posed by climate change.**"

As a senator and a special envoy, Feingold was passionate about addressing climate change, and he remains so now. But he wants people to know that the climate crisis and the extinction threat pose distinct challenges.

"If you say something to people about (the destruction of nature), they look at you and they go, 'Oh. Climate change.' Yet, it's not the same!" he explained.

Of course, the former senator said, **climate and biodiversity concerns are "crucially interrelated."** Of course, he added, "We have to understand both of them and respond to both of them."

But Feingold wants people to recognize that when scientists describe **the five key causes of the loss of biodiversity,** **"Climate change is third! It's enormously important. But first is land use — agriculture, mining — just**

**impinging on forests or natural areas. Second is what's called 'the exploitation of organisms': hunting, overfishing, cutting down trees. That's not climate. That's just harvesting stuff." (Fourth is pollution. Fifth is invasive species.)**

So this is another urgent issue to concern ourselves with at a time when there are already so many urgent issues. Feingold acknowledges that it may be daunting to think about additional threats and additional challenges. But, he explained, we are not starting from scratch.

Real work has been done to address the crisis. Countries have not just signed on to the biological diversity treaty. Many have acted. As the Campaign for Nature noted, "world leaders have committed to protecting 17 percent of land and 10 percent of the ocean by 2020 and governments are on track to meet these global targets."

**The progress toward meeting these goals has been impressive. Today, Feingold noted, roughly "15 percent of land and 7 percent of the ocean are protected globally, but individual countries have helped demonstrate that more ambitious targets are possible to meet. Ninety countries have protected more than 17 percent of their land (the current global target), 27 have already protected more than 30 percent, and a few — including Namibia, Bhutan and Venezuela — are close to or even past protecting half of their land."**

That's the good news.

**Unfortunately, Feingold noted, "The scientists are now saying, 'Guess what? We're not there, and that's not even adequate.' They are saying we need 30-by-30 and 50-by-50."**

**As in: 30 percent protected by 2030 and 50 percent protected by 2050.**

## Can't solve Canadian invasive species

Border Policy Research Institute, 7, Risk Evaluation of Invaluation of Invasive Species T e Species Transport Across the U.S.- oss the U.S.- Canada Border in Washington State, [https://cedar.wvu.edu/cgi/viewcontent.cgi?article=1086&context=bpri\\_publications](https://cedar.wvu.edu/cgi/viewcontent.cgi?article=1086&context=bpri_publications)

**Non-indigenous invasive species (NIS)** create a multitude of undesired economic, social, and ecological effects. Financial costs include reduced revenue and property value, and prevention and control expenditures (Pimentel et al., 2000). Social impacts include reduction in preferred uses including cultural and recreational activities, as well as loss of valued aesthetic qualities and civic pride in the surrounding ecological landscape (Bureau of Land Management, 2006). Ecological impacts include changes in soil and water quality, alteration of habitats, and displacement of native species (Elton, 1958). Despite increased public awareness of these potential impacts, new **invasions are common** as many NIS populations continue to proliferate and expand into new areas via human modes of transportation. NIS may be easily overlooked during inspections due to the small size of the plant fragments, eggs, or other types of propagules. Furthermore, incongruities in policies and procedures used by countries with shared borders can result in inconsistencies in regulating and controlling the trans-boundary transport of NIS. **This is certainly the situation that exists between Canada and the United States.** Differing levels of enforcement for NIS species of concern on either side of the border can therefore result in NIS control on one side, but not on the other. The uncontrolled site can then serve as a source of NIS to the other, controlled side of the border. In this study the Relative Risk Model (RRM) developed by Wiegiers et al (1998) was applied to conduct a landscape-scale risk assessment of human-mediated transport of NIS across the Washington State-British Columbia border. Modes of transportation that were examined included cars, trucks, trains, freight containers, freight and cargo tankers, ferries, and marine and freshwater recreational boats and commercial shipping vessels. These modes coupled with garden escapes from intentional plantings provide mechanisms for invasive plant and animal species introductions into the major habitat types in Washington. The project study area extended along the length of the Washington State and British Columbia (B.C.) Canada border and from the north end of Vancouver Island to the south end of Puget Sound. The Washington portion of the study area, designated as the NIS receiving body, was divided into seven assessment subregions based on county jurisdictions, the level at which terrestrial NIS are controlled. The B.C. portion, designated as the NIS source body was limited to the southern third of the province, including Vancouver Island (Figure 1). The RRM is a modification of the Analysis Phase of the

Immigration Surveillance Core File. *Updated 8-3-24*

USEPA framework for ecological risk assessment (1998). The USEPA framework defines the Analysis phase as the characterization of exposure and effects and the relationship between them. The RRM method uses ranks and filter values to quantify this characterization process using sources of stressors, stressors, and habitats to quantify impacts to valued assessment endpoints. In this study the RRM method used is based on those of Colnar and Landis (2007) except two additional ranks were added: a transportation rank estimating the volume of each transport pathway; and an impact rank estimating magnitude of effects to endpoints by stressors. The eight NIS stressors selected and used in this model, based on stakeholder input were: spotted knapweed (*Centaurea stoebe*), Scotch broom (*Cytisus scoparius*), purple loosestrife (*Lythrum salicaria*), Eurasian watermilfoil (*Myriophyllum spicatum*), zebra mussel (*Dreissena polymorpha*), *Spartina* (*Spartina anglica*), European green crab (*Carcinus meanas*), and the colonial tunicate *Didemnum* sp A. All selected stressors are present in B.C. except for the zebra mussel, which was included as a prospective species based on stakeholder suggestion and its known economic, social, and/or ecological impacts in other areas of the country. Modes of transportation (transport pathways) that were selected as the primary means by which NIS would be transported to the study area from the source (B.C.) were commercial trucks, trains, garden escapes, freight containers, freight, freshwater boats and equipment, and marine boats, ballast, and equipment. iv Habitats that were selected for inclusion in the risk assessment included the major natural habitat types of Washington State: forest, shrub steppe, grassland, lakes, rivers, wetlands, riparian, estuarine, intertidal and marine habitats, as well as agricultural and urban habitats created by human influenced land use practices. The assessment endpoints at risk were that were selected were: Douglas fir (*Pseudotsuga menziesii*), Taylor's Checkerspot butterfly (*Euphydryas editha taylori*), Great Blue Heron (*Ardea herodias*), Dungeness crab (*Cancer magister*), hay crops, cattle, water quality, and urban gardens and parks. The RRM results indicated that the transport pathway with the highest risk was freshwater recreational boats, which had a higher relative risk score than the next three highest scores, freight, trucks, and ships, combined. Pathways with the lowest risk were containers, garden escapes, and trains. The heavy weight of the freshwater pathway was driven by the fact that all three high risk NIS stressors were freshwater species; zebra mussel, purple loosestrife (semi-aquatic) and Eurasian watermilfoil. The fact that all three freshwater NIS were ranked as high risk NIS due to their aggressiveness in out-competing native species heavily influenced the other risk scores (risk to endpoints, habitats, and subregions). For instance, subregions with higher amounts of freshwater habitats tended to have high risk scores also. The subregion of highest risk, the King-Snohomish-Pierce Tri-County region, has many freshwater boating locations; however, the risk score was also heavily influenced by the mere fact that as the urban hub of Washington, this subregion accommodates high volumes of all the various transportation modes, providing direct linkages (pathways) to other regions. Monte Carlo uncertainty analysis revealed high uncertainty regarding mechanisms of NIS transport, as well as regarding the specific effects NIS had on the Great Blue Heron. Additionally, a high degree of model uncertainty came from geographic information systems (GIS) datasets which were used in this analysis. Further research, especially on mechanisms of transport, will aid future risk assessments of this type and improve natural resource manager's abilities on both sides of the border to prevent NIS introductions in the most cost effective manner possible.

## Extensions- -- Shipping

Tim Lydon, 1-22, 24, Cargo, With a Side of Hornets, Flies and Crabs, <https://therevelator.org/cargo-invasive-species/>

**“Commercial shipping is one the biggest ways invasive species are transported globally,”** says Danielle Verna, an environmental monitoring expert who has researched the issue for more than a decade. **Her work has taken her to busy ports in Maryland, Alaska and San Francisco Bay,** which is considered one of the world’s most biologically invaded estuaries. Verna, who primarily studies invasive species in marine waters, explains that commercial shipping enables organisms to effortlessly cross geographic boundaries at speeds that cannot occur naturally, which increases their survival rate. And as the volume of shipping increases, so do opportunities for invaders. “The more shipping we do, and the more connections we make, the more potential we create for the spread of species,” says Verna.

Arlie McCaferty, 2022, Ship traffic connects Antarctica’s fragile coasts to worldwide ecosystems, <https://www.pnas.org/doi/full/10.1073/pnas.2110303118>

**There is growing awareness that ship activity spreads invasive nonnative species, especially through transport in ballast water and hull fouling** (1, 29), including into warming areas of the Arctic (30, 31). Effective mitigation of ship-borne transport of nonnative biota requires quantified and detailed information on ship movements so that appropriate policies, monitoring and biosecurity measures can be implemented. This is especially pressing in Antarctica because no single country or organization controls ship activity, and, with no permanent inhabitants and few visitors compared to temperate or tropical regions, nonnative species may stay undetected without targeted monitoring programs. Moreover, while human disturbance footprints are frequently considered in terrestrial terms (32), they can have major, if less understood, impacts on marine environments (33, 34). **In the ocean, a key driver of disturbance is ship traffic, which, in addition to nonnative species introductions, is associated with physical change to the benthos, operational and accidental discharges of pollutants, wildlife collisions, noise pollution, discharge of garbage and debris such as plastics and abandoned fishing equipment, propeller wash, and vessel wake** (35).

## **Answers to: Terrorism**

## ISIS Answers

### **No evidence of ISIS terrorists entering the US**

Newsweek, 6-27, 24, Newsweek, ISIS Smuggling Reports Create Border Firestorm Before Trump, Biden Debate, <https://www.newsweek.com/isis-smuggling-reports-create-border-firestorm-before-trump-biden-debate-1918015>

On Wednesday, **CNN and NBC reported on the identification of 400 migrants who were purportedly smuggled over the border by a network affiliated with ISIS**, with both networks citing anonymous U.S. officials. NBC reported that 150 of the 400 had been arrested, while the whereabouts of 50 are currently unknown. An official told the network that Immigration and Customs Enforcement hopes to arrest the missing migrants once they are found. **There has been no indication that the smuggled migrants are affiliated with the terror group themselves, with one official telling CNN that the "purpose of the network was to smuggle people, not bring in terrorists."** Department of Homeland Security (DHS) Secretary Alejandro Mayorkas also told reporters during a press conference on Wednesday that claims of there being "400 migrants with ISIS ties" were "incorrect." "We have not identified 400 people with potential ISIS ties," Mayorkas said. "Individuals who are identified to have those ties ... would be priorities for detention and removal."

### **Deportation kills counter-terror cooperation that's key to solve attacks**

**Homeland Security News Wire 5-11-15** [News service specializing in threats to U.S. security, "DHS deportations undermine efforts to get immigrants to provide leads on radical suspects," <http://www.homelandsecuritynewswire.com/dr20150511-dhs-deportations-undermine-efforts-to-get-immigrants-to-provide-leads-on-radical-suspects>]

**DHS counterterrorism teams rely on cooperation from immigrant communities to obtain leads on radical individuals and pending terrorism plots, but many of these communities are becoming more wary of federal law enforcement as the number of deportations increase.** DHS chief Jeh Johnson met last Thursday with immigrant rights groups in Brooklyn, where he encouraged them to work with DHS to fight terrorism. "The global terrorist threat has evolved to a new place," Johnson said. "The global terrorist threat is more decentralized, it's more diffuse, it's more complex. We see now terrorist organizations making effective use of social media, the Internet, films." Camille Meckler, the director of legal initiatives at the New York Immigration Coalition, attended last week's meeting. She said DHS officials wanted immigrant groups and communities to report suspicious activity, but the agency failed to present a program to facilitate the reporting. She added that **immigrants are concerned with reaching out to DHS, much of whose work revolves around tracking and deporting undocumented immigrants.** "We welcome and encourage any opportunity for meaningful dialogue," Meckler told Huffington Post. "But at the same time, I think it needs to be said that the onus is on DHS to make sure that these dialogs are meaningful. ... The trust has been significantly eroded. **Immigrant communities are against terrorism just like any other community. They want to be safe and they want their neighbors to be safe, but it's on the government to restore that trust.**" Following the 9/11 attacks, the federal government stepped up efforts to track undocumented immigrants and secure the southern U.S. border. DHS launched Secure Communities in 2008, which urged local law enforcement to share fingerprint data with DHS's Immigration and Customs Enforcement. Immigrant rights groups complained about the program, saying **it bred distrust of local police by connecting police with deportation officials.** President Barack Obama canceled the program last year and focused deportation efforts on undocumented immigrants who have been convicted of violent crimes. Abraham Paulos, the director of Families for Freedom, a New York human rights group that helps people fight deportation, said about DHS combating terrorism while enforcing immigration laws, that if DHS had focused more on terrorism and less on deportation, immigrant communities might be more willing to work with the agency. "It's ironic that you've got them coming in and trying to get information from our communities even as they're detaining and deporting us at an alarming rate," Paulos told Huffington Post. "That trust is just not going to be there. You can't have it both ways."

**The idea of terror is used to justify the creation of the non-human “illegal” immigrant – The war on terror legitimizes racist and fatal militarization of the border**

Garrett 15

(Terence M. Garrett, Ph.D. Professor and Interim Chair of the Public Affairs and Security Studies Department, May 2015, “The Border Patrol Nation and Governance: (In)Security, Surveillance, and Subjectivity in the American State”, <http://www.pattheory.net/conference2015/papers/patnet-2015-paper-garrett-16-may-2015a.pdf>)

Border politics became a high priority for the United States government following the terrorist attacks of September 11, 2001 and illegal immigration also became the “problem” of the southern border. As a result, a new and aggressive border policy was to be enforced. The Department of Homeland Security (DHS) was created in large part due to the 9-11 attacks and the push by policy makers for more national or “homeland” security, resulting in a consolidation and reorganization of 22 federal government agencies and over 170,000 employees (Kettl, 2007; Garrett, 2010a). The DHS defines homeland security as “a concerted national effort to prevent terrorist attacks within the United States, reduce America's vulnerability to terrorism, and minimize the damage and recover from attacks that do occur” (DHS, 2008; Garrett, 2010b, p. 306). The Customs and Border Patrol is one of the agencies created by congressional statute combining the U.S. Customs Service (formerly of the Treasury Department) and U.S. Border Patrol (formerly of the Department of Justice) for border protection. Concerns over border security, primarily the southern border, dominate the news up to the present day despite the fact that none of the 9-11 terrorist attackers came to the US from across the border with Mexico. Terrorism is combined with illegal immigration by U.S. lawmakers in the aftermath of the 9-11 attacks (Garrett and Storbeck, 2011) as well as the loss of Americans' safety, jobs and healthcare – all tied to the “problem” of illegal immigration (Pope and Garrett, 2012, p. 167) – despite attitudes changing more recently concerning overall immigration. In a May 2014, a New York Times survey “conducted a wide majority (66 percent) said that most recent immigrants contribute to 3 this country, up from 49 percent in 2010” (Cave, 20 June 2014, para. 10). Managing America's southern border after 9-11 became paramount giving rise to the Department of Homeland Security (DHS) and its agencies as chief protectors of US security helping to create the spectacle (Debord, 1967/1994; Garrett, 2012) of the politics and perception of fear (Arendt, 1969 and 1970; Correa-Cabrera, Garrett and Keck, 2014; Correa-Cabrera and Garrett 2014; Foucault, 1980, 2007, and 2008; Merleau-Ponty 1947/1969, 1948/2008, and 1962/2009) – a legacy of the aftermath of 9-11. The expansion of Customs and Border Patrol (CBP), one of the agencies of the DHS and mostly arrayed along the US-Mexico border, is noted by Bacon (27 August 2014)... There are over 20,000 Border Patrol Agents; that number was as low as 9,800 in 2001. We have walls and a system of large, centralized detention centers that didn't exist just 15 years ago. Now more than 350,000 people spend some time in an immigrant detention center every year. The U.S. spends more on immigration enforcement

than all other enforcement activities of the federal government combined, including the FBI, the Drug Enforcement Administration and the Bureau of Alcohol, Tobacco, Firearms and Explosives. (para. 5) In contrast, managing America's northern border remained virtually the same as before September 11, 2001. Strict control of border security is viewed as necessary to slow the invasion of the non-citizen, or homo sacer (Agamben, 1995, Garrett and Storbeck 2011; Pope and Garrett 2013). The new immigration and border policies, conceived under an anti-terrorism agenda, criminalized immigration law that heightened enforcement and policing of southern border areas.

### **Zero risk of nuke terror---acquisition is impossible, terrorists can't make bombs AND no group wants to.**

John **Mueller 23**. Woody Hayes Senior Research Scientist at the Mershon Center for International Security Studies, adjunct professor of political science at The Ohio State University, senior fellow at the Cato Institute. "The Risk of Nuclear Terrorism." Oxford Academic. 6/20/23. <https://academic.oup.com/edited-volume/46401/chapter/408850472>

There are three potential routes a terrorist group might take to obtain a nuclear weapon.

One would be for it to be given or sold a bomb by a generous like-minded nuclear state for delivery abroad—the impelling fear about Iraq in 2003. This is highly improbable, however, because there would be too much risk, even for a country led by extremists, that the ultimate source of the weapon would be discovered. As prominent analyst Matthew Bunn puts it, 'A dictator or oligarch bent on maintaining power is highly unlikely to take the immense risk of transferring such a devastating capability to terrorists they cannot control, given the ever-present possibility that the material would be traced back to its origin'. Important in this last consideration are deterrent safeguards afforded by 'nuclear forensics', the rapidly developing science (and art) of connecting nuclear materials to their sources even after a bomb has been exploded.<sup>15</sup>

Moreover, there is a very considerable danger to the donor that the bomb (and its source) would be discovered even before delivery or that it would be exploded in a manner and on a target the donor would not approve—including on the donor itself. Another concern would be that the terrorist group might be infiltrated by foreign intelligence.<sup>16</sup>

A second route would be for the terrorist group to steal or illicitly purchase a bomb. In the wake of the Cold War, there was great worry about such 'loose nukes' in unstable post-Communist Russia. However, both Russian nuclear officials and experts on the Russian nuclear programme point out that those bombs are difficult to maintain and have a lifespan of one to three years, after which they become 'radioactive scrap metal'.<sup>17</sup> Even some of those most alarmed by the prospect of atomic terrorism have concluded that, 'It is probably true that there are no "loose nukes", transportable nuclear weapons missing from their proper storage locations and available for purchase in some way'.<sup>18</sup>

It might be added that Russia and other nuclear powers have an intense interest in controlling any weapons on their territory. Stephen Younger, former head of nuclear weapons research and development at Los Alamos National Laboratory, notes, 'Regardless of what is reported in the news, all nuclear nations take the security of their weapons very seriously'.<sup>19</sup>

Moreover, as technology has developed, finished bombs have been outfitted with devices that will trigger a non-nuclear explosion that will destroy the bomb if it is tampered with.<sup>20</sup> And there are other security techniques: bombs can be kept disassembled with the component parts stored in separate high-



Immigration Surveillance Core File. *Updated 8-3-24*

security vaults, and procedures can be organized so that two people and multiple codes are required not only to use the bomb, but also to store, to maintain, and to deploy it.<sup>21</sup>

Since terrorists are unlikely to be able to buy or steal a useable bomb, and since they are further unlikely to have one handed to them by an established nuclear state, the most plausible route for terrorists would be to manufacture the device themselves from purloined materials. This is the route identified by a majority of leading experts as the most likely to lead to nuclear terrorism.<sup>22</sup> Because of the dangers and difficulties of transporting and working with plutonium, a dedicated terrorist group, it is generally further agreed, would choose to try to use highly enriched uranium.<sup>23</sup> The idea would be to obtain as much of this stuff as necessary and then to fashion it into an explosive.

The likely product of this effort would not be a bomb that can be dropped or hurled, since this would massively complicate the delivery problem. Rather, the terrorists would seek to come up with an 'improvised nuclear device' (IND) of the simplest design—one that could be set off at the target by a suicidal detonation crew. This would be a 'gun' type of device in which masses of highly enriched uranium are hurled at each other within a tube. At best, such a device would be, as even the deeply concerned Allison acknowledges, 'large, cumbersome, unsafe, unreliable, unpredictable, and inefficient'.<sup>24</sup> The process is a daunting one, even in this minimal case. In particular, the task requires a considerable series of difficult hurdles to be conquered and in sequence.

At the present time and likely for the foreseeable future, stateless groups are simply incapable of manufacturing the required fissile material for a bomb because the process requires an effort on an industrial scale.<sup>25</sup> Moreover, they are unlikely to be supplied with the material by a state for the same reasons a state is unlikely to give them a workable bomb. Thus, they would need to steal or illicitly purchase this crucial material.

The terrorist thieves would also need to know exactly what they want and where it is, and this presumably means trusting bribed, but not necessarily dependable, insiders. And to even begin to pull off such a heist, the terrorists would need to develop a highly nuanced street sense in foreign areas often filled with people who are suspicious of strangers.<sup>26</sup> This approach requires the terrorists to pay off a host of greedy confederates, including brokers and money transmitters, any one of whom could turn on them or, either out of guile or incompetence, furnish them with stuff that is useless. Insiders might also come to ruminate over the fact that, once the heist had been accomplished, the terrorists would (as Jenkins puts it none too delicately) 'have every incentive to cover their trail, beginning with eliminating their confederates'.<sup>27</sup>

In addition, because of improving nuclear safeguards and accounting practices, it is decreasingly likely that the theft would remain undetected.<sup>28</sup> This is an important development because, once it is noticed that some uranium is missing, the authorities would investigate the few people who might have been able to assist the thieves, and one who seems suddenly to have become prosperous is likely to arrest their attention right from the start.

### **Empirics corroborate this claim.**

Sitakanta **Mishra 23**, PhD, Associate Professor at Pandit Deendayal Energy University and former Research Fellow at the Centre for Air Power Studies, *The Global Nuclear Landscape: Energy, Non-proliferation and Disarmament*, "The Threat of N-Terrorism: A Contemporary Assessment", Routledge, June 2023, pg. 195

To the question, is there any precedent of a successful nuclear terror incident, the answer is simply **No**. But to the question, have terrorists pursued nuclear weapons, the answer is definitely 'Yes'. The terrorist cult Aum Shinrikyo released the Sarin nerve gas in Matsumoto and in the Tokyo subway in 1995 and attempted to acquire both nuclear and biological weapons. Al-Qaeda, whose leader declared acquisition of nuclear and chemical weapons to be a "religious duty," had a focused nuclear weapons effort that reported directly to Ayman al-Zawahiri. Al-Qaida, as revealed by documents seized in Afghanistan, actively sought nuclear weapons and clearly expressed the desire to use them if it was able to

Immigration Surveillance Core File. *Updated 8-3-24*

acquire them. This effort included repeated attempts to get nuclear material and recruit nuclear expertise, and progressed as far as carrying out crude but sensible tests of conventional explosives in the Afghan desert. Chechen terrorists planted a stolen radiological source in a Moscow park as a warning, repeatedly threatened to sabotage nuclear reactors, and reportedly carried out reconnaissance on both nuclear weapon storage sites and nuclear weapon transport trains. So far, there is no public evidence of a focused Islamic State (IS) effort to acquire nuclear weapons, despite some hints, including video monitoring of the home of a top official of a Belgian nuclear research centre.

Moreover, there have been many documented cases of misappropriation of plutonium or Highly Enriched Uranium (HEU) during 1992-2019, though these incidents involved quantities not large enough to make a nuclear weapon. But they constitute empirical confirmation of nuclear security failures, resulting in loss of control of fissile material. In a Belfer Centre Report (January 2019), Mathew Bunn and others have listed a number of such attempts in recent times in various parts of the world:

On November 8, 2007, four armed men broke into South Africa's Pelindaba nuclear facility. At the time, Pelindaba housed hundreds of kilograms of weapon-grade uranium, enough to construct an estimated 25 nuclear bombs.

Russia: General-Major Victor Gaidukov, commander of a nuclear weapon storage site, was freed over accusations of accepting \$300,000 in bribes (2010).

Pakistan: Brigadier General Ali Khan was arrested for ties to Islamic extremists (2011).

Belgium: Peace activists broke into nuclear weapon storage base, and spent over one hour there before being detected and stopped (2010).

In 2012, explosives were found under a truck at the Ringhals nuclear power plant, the largest in Sweden. Fortunately, the explosives were not connected to a detonator.

In 2013, two people scaled the fence at Belgium's HEU research reactor, broke into the facility, and stole equipment.

In 2014, a computer in the control room (though not one actually controlling the reactor) at Japan's Monju nuclear reactors was hacked.

In 2016, the Belgian nuclear agency's computer system was hacked and forced to briefly shut down.

In 2017, Greenpeace activists twice penetrated security barriers at French nuclear power plants to protest against nuclear energy and highlight what they asserted were security weaknesses.

The report also identified a number of worrisome incidents involving US tactical nuclear weapons stationed in Europe which suggested, that "tactical nuclear weapons systems present a particular risk of theft, especially when they are out of garrison."<sup>16</sup> The world should be concerned by the increased security challenges that accompany growing stockpiles, particularly of Tactical Nuclear Weapons (TNWs) that are designed for use on the battlefield. And these systems are a source of concern because they're susceptible to theft due to their size and mode of employment. Amidst volatility and upsurge in extremism in the neighbourhood, Pakistan is increasing its TNW stockpile.

During the Cold War, the level of alert was high on several occasions, often owing to human or technical errors. More than three decades after the end of the Cold War, 3,500 nuclear warheads still remain on hair-trigger alert.<sup>17</sup> Additionally, nuclear technology has spread to countries with unstable regimes in conflict zones. Though there is no recent news of nuclear misuse or misappropriation, the threat of a nuclear nightmare remains strong as the entire process—from fabrication till their deployment/stockpile and command and control—involves enormous risks owing to the fallibility of human and mechanical factors. Seventy-five years later and 30 years after the end of the Cold War, the threat of a nuclear nightmare remains strong.

## Feasibility and Pathways

Through certain pathways, the non-state actors can have access to nuclear technology and weapons. Many believe that terrorists may be able to prepare a radiation dispersal device or "dirty bomb" but fabrication of a full-fledged nuclear device by them would not be feasible as it requires state-level resources, knowhow and a huge establishment. At best, they are capable of sabotaging a nuclear facility, or a 9/11-type of attack, to cause damage or take possession of warheads. There have been such attempts in the past. For example, the Al-Qaeda's senior leadership had explored the possibility of sabotaging nuclear facilities; Chechen terrorists had threatened and planned attacks on nuclear facilities. But modern-day nuclear arsenals are highly secured assets, guarded

Immigration Surveillance Core File. *Updated 8-3-24*

by layers of security and managed by well-planned command and control systems; in peace-time, generally, they are kept disassembled and designed with utmost care to explode only when deliberately armed and freed.

### **Don't fear a single nuke --- the limit we can handle is 100 before global cooling**

Brian Kahn 18, journalist covering climate change, senior reporter @ Earther, BA in Anthropology from Hampshire College, MA in Climate and Society from Columbia University, writing has appeared in the Wall Street Journal, Grist, the Daily Kos, Mashable, Quartz, Salon and Yale Climate Connections and been cited in the New York Times, Washington Post and Slate, "This Is What Nuclear War Would Mean for Life on Earth", Earther by Gizmodo, Jan 9 2018, <https://earther.gizmodo.com/this-is-what-nuclear-war-would-mean-for-life-on-earth-1821910459>

Hopefully indeed. Research shows that even a relatively small nuclear war involving 50 nuclear weapons would toss 11 billions lbs. of soot into the stratosphere. That would set off a major chain reaction leading to widespread human suffering. The soot would reflect sunlight back into space, cooling the planet. Commonly referred to as nuclear winter, this global cooling would cause widespread crop failure and attendant famine for years before the soot finally falls out. Up the number of nuclear weapons to around 100 Hiroshima-sized bombs, and society would cease to exist. The survivors of such a catastrophic event would face a horrific-sounding nuclear famine. That's according to a 2013 report, which states that "the primary mechanisms for human fatalities would likely not be from blast effects, not from thermal radiation burns, and not from ionizing radiation, but, rather, from mass starvation." The report shows that 2.3 billion people would face starvation, and ecosystems around the world would wither and die. In other words, that'd be it. No more dick jokes. No more worrying about climate change. No more nothing. That's why what journalist Jonathan Schell wrote about nuclear holocaust in The New Yorker in 1982 still rings as true today as ever: "To employ a mathematical analogy, we can say that although the risk of extinction may be fractional, the stake is, humanly speaking, infinite, and a fraction of infinity is still infinity. In other words, once we learn that a holocaust might lead to extinction we have no right to gamble, because if we lose, the game will be over, and neither we nor anyone else will ever get a another chance."

### **Their impact is insignificant --- Take the risk**

Ayson 10 Professor of Strategic Studies and Director of the Centre for Strategic Studies: New Zealand at the Victoria University of Wellington (Robert, July. "After a Terrorist Nuclear Attack: Envisaging Catalytic Effects." Studies in Conflict & Terrorism, Vol. 33, Issue 7. InformaWorld.)//Babcii

A terrorist nuclear attack, and even the use of nuclear weapons in response by the country attacked in the first place, would not necessarily represent the worst of the nuclear worlds imaginable. Indeed, there are reasons to wonder whether nuclear terrorism should ever be regarded as belonging in the category of truly existential threats. A contrast can be drawn here with the global catastrophe that would come from a massive nuclear exchange between two or more of the sovereign states that possess these weapons in significant numbers. Even the worst terrorism that the twenty-first century might bring would fade into insignificance alongside considerations of what a general nuclear war would have wrought in the Cold War period. And it must be admitted that as long as the major nuclear weapons states have hundreds and

Immigration Surveillance Core File. *Updated 8-3-24*

even thousands of **nuclear weapons** at their disposal, **there is always** the possibility of a truly awful **nuclear exchange** taking place precipitated entirely by state possessors themselves.

### **Turn -- Expanding surveillance will require DOD resource diversion**

US Northern Command, 2019, <https://www.northcom.mil/BorderSecurity/>, Border Security Video, 6-27-24 (DOA)

Brig. Gen. Walter Duzzny, the Deputy Commanding General of United States Army North, speaks about the troops stationed along the southern border during a press conference in Sunland Park, New Mexico on June 6, 2019. **The Department of Defense has deployed units across the Southwest Border at the request of U.S. Customs and Border Protection and is providing surveillance and detection, logistical, engineering, and force protection functions.**

### **DOD resources trade-off; they are finite**

Department of Defense, 2011, [https://dodcio.defense.gov/Portals/0/Documents/Announcement/Signed\\_ITESR\\_6SEP11.pdf](https://dodcio.defense.gov/Portals/0/Documents/Announcement/Signed_ITESR_6SEP11.pdf), Department of Defense (DoD) Information Technology (IT) Enterprise Strategy and Roadma

**Although DoD's IT infrastructure enables warfighters to operate effectively in the twenty-first century, the unnecessary complexity of our networks and IT reduces our ability to secure our information systems, hampers our ability to share information, and needlessly consumes the finite resources available to DoD**

### **DOD fights terrorism in the Middle East**

Department of Defense, 2024, <https://dod.defense.gov/OIR/#:~:text=Combined%20Joint%20Task%20Force%20Operation%20Inherent%20Resolve%20continues%20to%20work,actions%20to%20increase%20regional%20stability.>

**Combined Joint Task Force Operation Inherent Resolve continues to work by, with and through regional partners to militarily defeat** the Islamic State of Iraq and Syria, **or ISIS**, in order to enable whole-of-coalition governmental actions to increase regional **stability**.

## **Biometrics in Counterterrorism Is Bad**

### **1. Turn. Biometric recognition technology used in counter-terrorism results in bias and misuse by oppressive regimes**

**Redins 23** [Larisa Redins, 3-15-2023, "UN cautions against biometrics in counterterrorism campaigns," Biometric Update |, <https://www.biometricupdate.com/202303/un-cautions-against-biometrics-in-counterterrorism-campaigns>]

A United Nations special rapporteur has voiced grave apprehension about a sharp rise in the use of biometrics, artificial intelligence (AI) and spyware to fight global terrorism. Fionnuala Ní Aoláin, a UN human rights advisor on countering terrorism, presented a report to the body's Human Rights Council acknowledging that biometric systems have positive effects but that they are also being used to violate human rights. Ní Aoláin (pronounced nee AYlen) is advocating a moratorium on certain biometric technologies, including lethal autonomous weapons. In the report, she highlights how **counterterrorism and security concerns are often used to justify using biometric identification and surveillance tools**. Ní Aoláin expresses concern over deploying and transferring the tools especially because of their ability to erode rights of privacy, expression, association and political participation. She points specifically to how **several countries use of spyware against journalists and civil society actors**. Further, Ní Aoláin is concerned about bias built into algorithms and the global wholesale collection of biometric data. She says **biometric tools have become indispensable to some law enforcement and administrative agencies. The algorithms are being given civil context through identification, criminal justice and border management roles**. According to the report, the **Covid** pandemic has had a similar role, making the collection of biometric data seem routine. **"While biometric tools have been used successfully for legitimate public interest purposes, they have also been employed in connection with gross human rights violations, atrocity crimes and oppressive and authoritarian regimes,"** writes Ní Aoláin in the report. Ní Aoláin also brought up China's Xinjiang Uyghur Autonomous Region, which has been at the forefront of this trend. Reports indicate that authorities have collected mass biometric data from citizens. Biometric data use in Somalia and by Israel in the occupied Palestinian Territory has raised similar questions for the special rapporteur. The UK Mission to the WTO, UN and Other International Organisations welcomed the recommendations, saying in a statement, **"To be truly effective, our counter-terrorism and violent extremism efforts must respect human rights. The use of biometric information helps us combat terrorism, but it must be used in compliance with human rights law."** UK Mission officials went on to say the UK is ready to engage with member states, building its capacity to fight terrorism while protecting and promoting human rights worldwide.

### **2. Counterterrorism use of biometric recognition technology fails as its limited to terrorists who are already in databases provided by the CIA. That's not always the case resulting in a false sense of security**

**Feder 1** [Barnaby J. Feder, 12-17-2001, "Technology & Media; A Surge in Demand To Use Biometrics (Published 2001)," New York Times, <https://www.nytimes.com/2001/12/17/business/technology-media-a-surge-in-demand-to-use-biometrics.html?searchResultPosition=2>]

**Visionics, which makes facial recognition and fingerprint systems, quadrupled from its Sept. 10 closing price of \$4.27 before falling back to \$16.58 by last Friday**

Viisage Technology, a rival facial recognition vendor, soared from \$1.94 on Sept. 10 to \$15.97 in early October, closing on Friday at \$11.01. Identix, which was trading at about \$4 before the attacks, was able to sell nearly 7.4 million shares last month at \$7, for a total of almost \$52 million, in a private placement. It closed on Friday at \$13.77.

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Further cheering the vendors, **polls show that Americans would be willing to give up some privacy if that was the price of better security.** Although many experts see **the cost of biometric systems and the shortcomings in their performance as the major barrier to their growth, many others cite the privacy issue** – the widespread unease among Americans about whether the information obtained from biometric devices might be abused by government agencies, employers or business. "This could speed up the use of biometrics by three or four years," Mr. McCashin said. Even before Sept. 11, the International Biometric Group L.L.C., the industry's leading market researcher, had been forecasting annual growth rates of more than 70 percent for the next two years for the security-oriented core of the industry. That market, which totaled just under \$400 million last year, is expected to top \$1.9 billion in 2005. "We didn't predict Sept. 11, but we knew some event or series of events was going to happen to make security a bigger issue," said Samir Navavati, a partner at International Biometric. About 70 percent of the market last year went to traditional systems used to compare fingerprints to vast, centralized databases of criminals' fingerprints. Although that older segment of the market will continue to grow, its overall share of revenues will fall to just over 50 percent next year and less than 30 percent by 2005 because of the rapid growth of newer technology, according to International Biometric. Given the surge in demand for new systems, William H. Voltmer, president and chief executive of Iridian Technologies, a privately held company in Moorestown, N.J., said his company might reach profitability next year, ahead of schedule. Editors' Pick: 36 Hours in Johannesburg The Truth About the Internet's Favorite Stress Hormone A 90-Year-Old Tortoise Named Mr. Pickles is a New Dad of Three Continue reading the main story Story continues below advertisement Continue reading the main story Iridian, which helps build systems that recognize individuals by scanning their irises with a beam of light, expects its technology to be adopted at a growing number of airports and border crossings to speed the passage of frequent travelers who agree to have their scans on record. The initial programs are already under way at Heathrow Airport in London and in the Netherlands. The company is one of many that expect to benefit later next year from major changes in federal regulations governing health care records – many hospitals are expected to turn to biometrics to control who has access to records and to track when and where the records are opened or altered. Mr. Voltmer said the first handheld, wireless devices capable of iris scanning would be introduced in 2002. But how quickly the surge in interest will translate into actual spending remains highly uncertain. **Many of the biometric technologies, even when they work flawlessly, are little more than high-technology scarecrows unless they are integrated into much broader systems and databases. Facial-recognition technology, for instance, cannot help identify terrorists moving through airports unless the Central Intelligence Agency and other law enforcement groups develop -- and make available -- libraries of video or film images of suspects.** Many biometrics companies see their future in proving the identities of people carrying credit cards or identity cards. Hypercom, a leading provider of credit card

processing devices, plans to begin testing equipment next year that incorporates finger scanners to combat fraud. **Finger scanning is already being used in national identity cards issued by Malaysia. It is also built into some high-end laptop computers by companies like Compaq and Dell and used by some companies to control access to data networks.** Story continues below advertisement Continue reading the main story Unlike a fingerprint, which consumes roughly 100,000 bytes of data, a scan consists of a mathematical description of about 250 bytes of one or two features, like where ridges branch or end. This means a scan can confirm a person's identity in seconds, whereas comparing fingerprints with those in a centralized database can take days. "We expect customers to be running large-scale pilot tests next year of using finger scans to allow people to trade stocks over mobile devices like P.D.A.'s and for more secure home banking," said Alan Kramer, director of the fast-growing unit of ST Microelectronics that makes silicon chips for such devices. But nearly all of these developments require the cooperation of many players, and some require regulatory changes by government, making any timetable uncertain. Industry executives might spend as much time in 2002 reining in runaway expectations as they do pursuing their expanded opportunities.

### 3. Turn. Biometric surveillance used in human rights abuses with little impact on addressing terrorism.

**Redins 23** [Larisa Redins, 3-15-2023, "UN cautions against biometrics in counterterrorism campaigns," Biometric Update |, <https://www.biometricupdate.com/202303/un-cautions-against-biometrics-in-counterterrorism-campaigns>]

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## **Kritik of the Terrorism Arguments**

**Additionally, increased border surveillance hasn't stopped any terror plots or drug trafficking - The war on terror AND the war on drugs act as a guise for increased militarization and surveillance along the border**

**Gutiérrez 14**

(Daniel Gutiérrez is currently co-constructing an oral history of everyday life in Tijuana for his MA in Latin American Studies at UC San Diego, January 29<sup>th</sup> 2014, "On Trial: Twenty Years of Economic Terrorism and Border Militarization", <http://conjuncturemagazine.org/2014/01/29/on-trial-twenty-years-of-economic-terrorism-and-border-militarization/>)

Defense of the border moved to center stage following the attacks of September 11th, 2001. From 2002 to 2012, the number of Border Patrol agents doubled due to the threat of terrorism. However, the rapid expansion has also led to very questionable findings. Recently, the Center for Investigative Reporting found that the Border Patrol has hired thousands of agents without a polygraph exam that was only recently made mandatory for applicants. This is something that should cause a deal of apprehension (to say the least) as hundreds of new applicants under the new polygraph requirement have admitted to kidnap and ransom, child molestation, and rape. The absurdity is that these same applicants who admitted to such nefarious charges passed all the previous stages. That leaves literally thousands of Border Patrol agents that were hired without the polygraph unaccounted for. The potential of shady personalities further reveals itself in recent events of border killings. The brutal murder of Anastasio Hernandez Rojas by multiple Customs and Border Protection agents is only one sad account. There have even been multiple accounts of Border Patrol agents violating international law by shooting into Mexico, including cases where people picnicking in Mexico have been shot. Despite more "protection", what resulted from the massive growth of border forces was not a reduction of any amount of "illegal" human beings (as there are roughly 11.7 million today) or drugs (as the cost of a single gram of cocaine is 74% cheaper now than it was 30 years ago). In fact, for all the fear of foreigners, four out of five people arrested for narcotics at the border are actually US citizens. Not to mention that despite all the spending in the southwest border, there has yet to be any news of "terrorists" being apprehended. The only tangible result has been a much more violent, much more militarized border. Despite these self-defeating results, in terms of human loss, the border has produced the deaths of thousands of human beings. Regardless of increased efforts by the United States government to scare people from crossing the border, the number of deaths along the border only increases, as migrants are forced into more dangerous scenarios to make it across.

**The idea of terror is used to justify the creation of the non-human "illegal" immigrant – The war on terror legitimizes racist and fatal militarization of the border**

**Garrett 15**



(Terence M. Garrett, Ph.D. Professor and Interim Chair of the Public Affairs and Security Studies Department, May 2015, "The Border Patrol Nation and Governance: (In)Security, Surveillance, and Subjectivity in the American State", <http://www.pattheory.net/conference2015/papers/patnet-2015-paper-garrett-16-may-2015a.pdf>)

Border politics became a high priority for the United States government following the terrorist attacks of September 11, 2001 and illegal immigration also became the "problem" of the southern border. As a result, a new and aggressive border policy was to be enforced. The Department of Homeland Security (DHS) was created in large part due to the 9-11 attacks and the push by policy makers for more national or "homeland" security, resulting in a consolidation and reorganization of 22 federal government agencies and over 170,000 employees (Kettl, 2007; Garrett, 2010a). The DHS defines homeland security as "a concerted national effort to prevent terrorist attacks within the United States, reduce America's vulnerability to terrorism, and minimize the damage and recover from attacks that do occur" (DHS, 2008; Garrett, 2010b, p. 306). The Customs and Border Patrol is one of the agencies created by congressional statute combining the U.S. Customs Service (formerly of the Treasury Department) and U.S. Border Patrol (formerly of the Department of Justice) for border protection. Concerns over border security, primarily the southern border, dominate the news up to the present day despite the fact that none of the 9-11 terrorist attackers came to the US from across the border with Mexico. Terrorism is combined with illegal immigration by U.S. lawmakers in the aftermath of the 9-11 attacks (Garrett and Storbeck, 2011) as well as the loss of Americans' safety, jobs and healthcare – all tied to the "problem" of illegal immigration (Pope and Garrett, 2012, p. 167) – despite attitudes changing more recently concerning overall immigration. In a May 2014, a New York Times survey "conducted a wide majority (66 percent) said that most recent immigrants contribute to 3 this country, up from 49 percent in 2010" (Cave, 20 June 2014, para. 10). Managing America's southern border after 9-11 became paramount giving rise to the Department of Homeland Security (DHS) and its agencies as chief protectors of US security helping to create the spectacle (Debord, 1967/1994; Garrett, 2012) of the politics and perception of fear (Arendt, 1969 and 1970; Correa-Cabrera, Garrett and Keck, 2014; Correa-Cabrera and Garrett 2014; Foucault, 1980, 2007, and 2008; Merleau-Ponty 1947/1969, 1948/2008, and 1962/2009) – a legacy of the aftermath of 9-11. The expansion of Customs and Border Patrol (CBP), one of the agencies of the DHS and mostly arrayed along the US-Mexico border, is noted by Bacon (27 August 2014)... There are over 20,000 Border Patrol Agents; that number was as low as 9,800 in 2001. We have walls and a system of large, centralized detention centers that didn't exist just 15 years ago. Now more than 350,000 people spend some time in an immigrant detention center every year. The U.S. spends more on immigration enforcement than all other enforcement activities of the federal government combined, including the FBI, the Drug Enforcement Administration and the Bureau of Alcohol, Tobacco, Firearms and Explosives. (para. 5) In contrast, managing America's northern border remained virtually the same as before September 11, 2001. Strict control of border security is viewed as necessary to slow the invasion of the non-citizen, or homo sacer (Agamben, 1995, Garrett and Storbeck 2011; Pope and Garrett 2013). The new immigration and border policies, conceived under an anti-terrorism agenda,

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## Answers to: Crime

### Turn – immigrants less likely to commit crimes than US citizens

Stephane Kule, March 12, 2024, Immigrants are significantly less likely to commit crimes than the U.S.-born,

<https://news.northwestern.edu/stories/2024/03/immigrants-are-significantly-less-likely-to-commit-crimes-than-the-us-born/>

**Study finds over a 150-year period, immigrants have never been incarcerated at a greater rate than those born in the United States** March 12, 2024 | By Stephanie Kule immigrants Undocumented immigrants attempt to cross into the U.S. near Del Rio, Texas. Prompted by frequent questions about the impact of immigration on local crime rates, researchers used data from the U.S. Census to find out whether immigrants were more likel...Show More Caption → Economics Expert Viewpoint Global Inequality Institute for Policy Research Weinberg College Some Americans believe that undocumented immigrants are a criminal threat to society. Former President Donald J. Trump has leveraged this assumption to inflame the rhetoric around immigration from the U.S.-

Mexico border. **A study co-led by Northwestern University economist Elisa Jácome provides the first historical comparison of incarceration rates of immigrants to U.S.-born citizens.** Using incarceration rates as a proxy for crime, **a team of economists analyzed 150 years of U.S. Census data and found immigrants were consistently less likely to be incarcerated than people born in the U.S.**

They also found beginning in 1960, the incarceration gap widened such that immigrants today are 60% less likely to be incarcerated than the U.S.-born. “Our study shows that since 1870, it has never been the case that immigrants as a group have been more incarcerated than the U.S.-born,” Jácome said. Jácome is an assistant professor of economics and a faculty fellow with the Institute for Policy Research at Northwestern. A multi-university team of economists had previously studied the upward mobility of immigrants and found that **children of low-income immigrants tended to be more upwardly mobile than U.S.-born children of low-income families.** Prompted by frequent questions about the impact of immigration on local crime rates, the researchers used data from the U.S. Census to find out whether immigrants were more likely to commit crimes than the U.S.-born. Starting with the 1870 U.S. Census — the first to include the full population including those formerly enslaved — through the most recent in 2020, which collects data nationwide including from correctional facilities, the researchers measured the gaps between immigrant and U.S.-born levels of incarceration. Over that 150-year period they found that immigrants’ incarceration rate was only slightly lower than that of U.S.-born men. However, in the more recent time period, immigrants are 60% less likely to be incarcerated than U.S. born citizens, and 30% less likely relative to U.S. born whites. To explain what happened beginning in 1960, Jácome and co-authors point to globalization and skill-based technological changes as coinciding with the gap. “A surprising finding was the extent to which immigrants with lower levels of education today are significantly less likely to commit crimes than their U.S.-born counterparts,” Jácome said. “This may indicate immigrants are more resistant to economic shocks that have affected less-educated men in recent decades.” The researchers say policymakers should consider a variety of factors in addressing immigration issues. “The impact of immigration on the economy is a multifaceted topic and crime is just one of the factors,” Jácome said. “To get a holistic picture, policymakers should also account for research, invention and services that are being provided because of immigrants. “To the extent you want to make a cost-benefit statement about immigration, you must also look at benefits lost if immigration was reduced.” The study co-authors are Ran Abramitzky, professor of economics at Stanford University; Leah Boustan, professor of economics at Princeton University; Santiago Pérez, associate professor of economics at the University of California at Davis; and Juan David Torres, doctoral student in economics at Stanford. “Law-Abiding Immigrants: The Incarceration Gap Between Immigrants and the U.S.-born, 1850–2020” was released as a working paper by the National Bureau of Economic Research in July 2023, and will be published in the American Economic Review: Insights at a later date.

### Surveillance doesn’t solve murder by immigrants, as caught immigrants are released

House Committee on Homeland Security, 6-27, 24,

<https://homeland.house.gov/2024/06/27/startling-stats-bidens-mass-parole-catch-and-release-agenda-continues-to-fuel-historic-border-crisis-endanger-americans/>, STARTLING STATS:

Immigration Surveillance Core File. *Updated 8-3-24*

BIDEN'S MASS-PAROLE, CATCH-AND-RELEASE AGENDA CONTINUES TO FUEL HISTORIC BORDER CRISIS, ENDANGER AMERICANS

President Biden and the now-impeached Department of Homeland Security (DHS) Secretary Alejandro Mayorkas have released millions of inadmissible aliens into the country without adequate vetting or screening, while roughly two million more have entered the country as known gotaways. Notably, this month, **two Venezuelan nationals were charged with the horrific murder of a young girl in Houston, Jocelyn Nungaray, which they committed after they were apprehended by Border Patrol agents and reportedly released on** "Alternatives to Detention" (ATD) after illegally crossing the Southwest border.

## **Answers to: Drugs/Fentanyl**

## **Can't solve drug trafficking because of corruption**

Ali Bradley, 4-7, 23, <https://www.newsnationnow.com/us-news/immigration/border-coverage/as-cartel-power-rises-so-do-concerns-about-cbp-corruption/>, As cartel power rises, so do concerns about CBP corruption

the flow of illegal drugs and guns has become a multibillion-dollar business along the southern border, and **there are growing concerns federal agents could be enticed to help the cartels.** In 2020, The Intercept reported that the former head of U.S. Customs and Border Protection's (CBP) internal affairs believed between 5 and 10 percent of CBP's workforce of roughly 50,000 was either actively or formerly engaged in some form of corruption. As Mexican cartels continue to expand their business dealings — and morale continues to plummet within CBP — **there is concern that the temptation could breed more corruption among officers and agents on the front lines.** Retired Border Patrol Sector Chief Victor Manjarrez says there were cases during his career where U.S. Customs and Border Protection (CBP) officers and Border Patrol agents supported cartels by turning a blind eye. "It was the action of taking no action," **said Manjarrez. Those favors put entire families at risk, he said. J.J. Carrell retired in 2021 after being with Border Patrol for 24 years and saw how agents could get roped into helping the cartels.**

## **Increased US-Mexico border surveillance increases the cartel's power as immigrants turn to human trafficking**

**NOWRASTEH '14** (ALEX NOWRASTEH, immigration policy analyst at the Cato Institute's Center for Global Liberty and Prosperity, 2/30/14, Immigration Enforcement Aids Smugglers – Unaccompanied Children Edition, Cato Institute, <http://www.cato.org/blog/immigration-enforcement-aids-smugglers-unaccompanied-children-edition>)

**The increase of human smugglers transporting unauthorized immigrants to the United States is likely a consequence of more effective border enforcement.** Although **the Obama** administration has de-emphasized internal immigration enforcement after 2011, his **administration has ramped up enforcement along the border – focusing on increasing the legal and economic costs imposed on unlawful immigrants apprehended while trying to enter the United States.** Since border and internal enforcement are substitutes, the shift in **resources and increase in penalties for unlawful crossers does not represent a decrease in total enforcement.** Matt Graham from the Bipartisan Policy Center wrote an excellent breakdown of the reprioritization of immigration enforcement, the increase in penalties, and how it has deterred unauthorized immigration. The price of smuggling is an indication of the effectiveness of immigration enforcement along the border. The first effect of increased enforcement is to decrease the supply of human smugglers. As the supply of human smugglers decreases, the price that remaining human smugglers can charge increases. **Before border enforcement tightened in the early 1990s, migrants typically paid about \$725 (2014 dollars). Currently, unauthorized migrants from Central America are paying around \$7500.** **The economics of industrial organization can shed some light on why smugglers have shifted from mom and pop operations to large, organized, and violent criminal cartels who now seek children clients instead of adults.** Mom and pop smugglers ran small and unsophisticated operations to smuggle immigrants over the border. **As border patrol cracked down on them and put many out of business, more intensive smuggling operations that required more capital, planning, and violence to overcome enforcement were needed to satisfy the demand. As a result of the shrinking mom and pop smuggling operations, serious criminal organizations and drug gangs have become specialized in smuggling migrants because of the higher profits. The shift from mom and pop smugglers to sophisticated criminal smugglers that focus on smuggling those with an inelastic demand for smuggling is the result of larger and more effective border enforcement.** Traffickers can just shift through China; China doesn't care

Vanda Felbab-Brown, March 21, 2024, TESTIMONY, China, Mexico, and America's fight against the fentanyl epidemic, Brown -- senior fellow at the Brookings Institution where I direct the Initiative on Nonstate Armed Actors and the Brookings series the Fentanyl Epidemic in North America and the Global Reach of Synthetic Opioids and codirect the Africa Security Initiative., <https://www.brookings.edu/articles/china-mexico-and-americas-fight-against-the-fentanyl-epidemic/>

U.S. domestic prevention, evidence-based treatment, harm reduction, and law enforcement measures are fundamental and indispensable for countering the devastating fentanyl crisis. However, **given the synthetic opioid epidemic's extent and lethality in North America and its likely eventual spread to other parts of the world, even supply control measures with partial and limited effectiveness can save lives and thus need to be designed smartly and robustly. China and Mexico are key actors whose collaboration is necessary for controlling supply.** Yet unfortunately the United States has found establishing counternarcotics cooperation with both countries deeply challenging. **Between August 2022 and November 2023, China ended**

**cooperation altogether because Beijing instrumentalizes international law enforcement**

**assistance and subordinates it to its geostrategic relationships.** A recent U.S. diplomatic breakthrough with China provides an important promise of strengthened cooperation, the robustness of which is to be seen. Mexico eviscerated cooperation to a bare minimum because President Andrés Manuel López Obrador's administration has been unwilling and uninterested in mounting any serious law enforcement policy toward Mexican criminal groups. Mexico continues to calculate that it can get away with only sporadic, minimal, and inadequate counternarcotics collaboration as long as it leverages its ability to hamper or permit the flow of undocumented migrants to the U.S.-Mexico border and as long as the United States depends on it for migration control. If the United States conducted a comprehensive immigration reform that provided legal work opportunities to those currently seeking protection and opportunities in the United States through unauthorized migration, it would have far better leverage for inducing meaningful and robust counternarcotics and law enforcement cooperation from Mexico. Until 2019, China was the principal source of finished fentanyl for the U.S. illegal market. Since China scheduled the entire class of fentanyl-type drugs in May 2019, it is the principal source of precursor chemicals for fentanyl. And since many precursors are dual use, they have not been placed on control schedules. Chinese brokers knowingly sell these chemicals to Mexican criminal groups for the production of fentanyl. From the precursors, the Sinaloa Cartel and Cartel Jalisco Nueva Generación (CJNG) synthesize fentanyl in Mexico and then smuggle it to the United States. China **After more than two years of China purposefully denying**

**counternarcotics cooperation to the United States and failing to mount adequate internal enforcement against precursor flows, Beijing agreed to restart cooperation in November 2023.**

China's principal motivation was to stabilize the U.S.-China relationship. But adroit and appropriately tough U.S. diplomacy and actions also played an important role in bringing China back to cooperation. The United States was able to raise China's reputational costs by organizing the Global Coalition to Address Synthetic Drug Threats and placing China on its annual list of major drug-producing or transit countries. The U.S. Department of Justice issued a set of innovative and powerful indictments against Chinese networks selling nonscheduled precursors to Mexican cartels, and the Department of Treasury sanctioned various Chinese firms for their complicity. The denial of visas to various Chinese officials and business executives also proved an effective tool.

**Nonetheless, China still subordinates its anti-drug and anti-crime cooperation to its strategic calculus and views counternarcotics and law enforcement cooperation as a strategic tool to leverage for its other objectives. Thus, even while China's current goal is to reduce tensions, China's drug cooperation is vulnerable to new crises in the bilateral relationship. Moreover, Beijing rarely acts against the top echelons of large and powerful Chinese criminal syndicates that provide the Chinese government with various services unless they specifically contradict a narrow set of interests of the Chinese government.**

To demonstrate its commitment, China took several steps in the run-up to and after the November summit between President Xi Jinping and President Joe Biden, such as sending out notices to Chinese pharmaceutical companies that it was stepping up monitoring and shutting down websites selling precursors to Mexican criminal actors. At the first meeting of the resurrected U.S.-China counternarcotics working group, China agreed to further cooperation steps, including those it previously denied to the United States, such as joint anti-money laundering efforts (AML) and cracking down on pill press exports. Strengthening AML cooperation is all the more important since Chinese money launderers have become some of the world's leading ones and the to-go-launderers for Mexican criminal groups. They utilize a wide range of innovative methods that avoid international wire transfers and pose particular obstacles for law enforcement. Worryingly, Mexican cartels are increasingly sourcing an expanding array of protected and unprotected species in Mexico coveted in China to pay for fentanyl and methamphetamine precursor chemicals. Because of the potency-per-weight ratio of synthetic opioids, precursor chemicals for fentanyl and other synthetic opioids are uniquely suited to be paid for by wildlife products. This method of payment generates dangerous threats to public health and biodiversity since it can spread zoonotic diseases. Key indicators of China's seriousness about counternarcotics collaboration include: China's responsiveness to U.S. intelligence provision. Reciprocal sharing of intelligence. Arrests and prosecutions in China. The extent and consistency of China's monitoring and regulating of Chinese pharmaceutical and chemical industries. Its willingness to adopt Know-Your-Customer (KYC) laws. **Yet China already warns that it is unlikely to deliver cooperation on several of these elements. Beijing is still insisting, for example, that it cannot prosecute nonscheduled substances, claiming the lack of material support laws pertaining to organized crime. Because of economic costs, China also remains unmotivated to mandate and promote KYC laws.**



## **The war on drugs cannot be won -- greater enforcement means more violence and more drugs, no solvency at all**

By Christopher J. Coyne and Abigail R. Hall, CATO, 2017, Four Decades and Counting: The Continued Failure of the War on Drugs, <https://www.cato.org/policy-analysis/four-decades-counting-continued-failure-war-drugs>

The Cato Institute has released its 2023 Annual Report documenting a dynamic year of growth and productivity, as well as our exciting plans for future impact. The digital Annual Report takes you on a virtual journey through the stories within this publication and will give you an inside look into how we're amplifying our ideas, influence, and impact. Private individuals and policymakers often utilize prohibition as a means of controlling the sale, manufacture, and consumption of particular goods. While the Eighteenth Amendment, which was passed and subsequently repealed in the early 20th century, is often regarded as the first major prohibition in the United States, it certainly was not the last. The War on Drugs, begun under President Richard Nixon, continues to utilize policies of prohibition to achieve a variety of objectives. **Proponents of drug prohibition claim that such policies reduce drug-related crime, decrease** drug-related disease and overdose, and are an effective means of disrupting and dismantling organized criminal enterprises. We analyze the theoretical underpinnings of these claims, using tools and insights from economics, and explore the economics of prohibition and the veracity of proponent claims by analyzing data on overdose deaths, crime, and cartels. Moreover, we offer additional insights through an analysis of U.S. international drug policy utilizing data from U.S. drug policy in Afghanistan. While others have examined the effect of prohibition on domestic outcomes, few have asked how these programs impact foreign policy outcomes. **We conclude that prohibition is not only ineffective**, but counterproductive, at achieving the goals of policymakers both domestically and abroad. **Given the insights from economics and the available data, we find that the domestic War on Drugs has contributed to an increase in drug overdoses and fostered and sustained the creation of powerful drug cartels. Internationally, we find that prohibition not only fails in its own right, but also actively undermines the goals of the Global War on Terror.** People cannot be incarcerated simply because of their race or ethnic origin. However, they can be incarcerated for possessing or using a substance that other people have associated with that race or ethnic origin. Does the war on drugs provide a cover to exercise social control and containment of minorities and marginalized communities? A panel of experts explore this subject in depth and take questions from participants. Introduction Prohibition has not only failed in its promises but actually created additional serious and disturbing social problems throughout society. There is not less drunkenness in the Republic but more. There is not less crime, but more... The cost of government is not smaller, but vastly greater. Respect for the law has not increased, but diminished.<sup>1</sup> H. L. Mencken, 1925 Writing in 1925, journalist, social critic, and satirist H. L. Mencken wrote of the complete and utter failure of the U.S. government's "noble experiment" with alcohol prohibition. In 1920, the Eighteenth Amendment to the U.S. Constitution banned the manufacture, sale, and transport of "intoxicating liquors" within the United States. Proponents of the amendment hailed the new law as a cure for myriad social ills. Eliminating alcohol consumption would, they argued, reduce crime and corruption and lower the tax burden created by prisons and poorhouses. Moreover, they contended, Prohibition would improve the health of the American public and prevent the disintegration of families. Despite these noble intentions, alcohol prohibition was a failure on all fronts. Although alcohol consumption sharply decreased at the beginning of Prohibition, it quickly rebounded. Within a few years, alcohol consumption was between 60 and 70 percent of its pre-Prohibition level.<sup>2</sup> The alcohol produced under Prohibition varied greatly in potency and quality, leading to disastrous health outcomes including deaths related to alcohol poisoning and overdoses. Barred from buying legal alcohol, many former alcohol users switched to substances such as opium, cocaine, and other dangerous drugs.<sup>3</sup> Criminal syndicates formed to manufacture and distribute illegal liquors, crime increased, and corruption flourished. In light of these failures, the Eighteenth Amendment was eventually repealed in 1933.<sup>4</sup> Few today would argue that alcohol prohibition was a wise policy. Even those who largely oppose alcohol consumption recognize the failure of the Eighteenth Amendment. Most would view Mencken's commentary as obvious. But his words regarding alcohol prohibition are just as relevant today as nearly a century ago. While alcohol prohibition may have been one of the first blanket bans on a substance in the United States, it certainly was not the last. In the early 1970s, President Richard Nixon declared a "war on drugs" in the United States. As a result, state and local authorities, the federal government, and even the U.S. military expanded their efforts to combat illicit drugs. Today, the War on Drugs is sometimes viewed as benign. With some states legalizing medicinal marijuana, others decriminalizing possession, and four states legalizing recreational marijuana, it is easy to forget that the drug war continues to have serious consequences. In 1980, for example, 580,900 people were arrested on drug-related charges in the United States. By 2014, that number had increased to 1,561,231. More than 700,000 of these arrests in 2014 were related to marijuana. In fact, nearly half of the 186,000 people serving time in federal prisons in the United States are incarcerated on drug-related charges.<sup>5</sup> The penalties for violating U.S. drug law extend beyond prison, and the

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specter of past drug crimes can haunt individuals for years. Approximately 50,000–60,000 students are denied financial aid every year due to past drug convictions.<sup>6</sup> In addition, those who violate drug laws are penalized throughout their working careers in terms of limited job opportunities. Many employers, both private and public, will not hire individuals with prior drug offenses. This has particularly strong implications for minorities and other historically disadvantaged groups, who are incarcerated more frequently on drug charges. Blacks and Hispanics, for example, are much more likely than their white counterparts to be arrested for drug crimes and raided by police, even though the groups use and sell drugs at similar rates.<sup>7</sup> The monetary cost of U.S. domestic drug policy is equally remarkable. Since the War on Drugs began more than 40 years ago, **the U.S. government has spent more than \$1 trillion on interdiction policies.** Spending on the war continues to cost U.S. taxpayers more than \$51 billion annually.<sup>8</sup> While the domestic impact of the War on Drugs is profound, its consequences do not stop at the border. **American-backed anti-drug operations in Mexico, for example, have resulted in some of the bloodiest years in Mexican history.**<sup>9</sup> In fact, **since former Mexican president Felipe Calderón began using the military to fight cartels, more than 85,000 people have been killed.**<sup>10</sup> **Efforts by the U.S. government to eradicate opium cultivation in Afghanistan have not only failed to reduce global supply but have also empowered and funded the Taliban.**<sup>11</sup> The U.S. War on Drugs, like the ill-fated war on alcohol of the early 20th century, is a prime example of disastrous policy, naked self-interest, and repeated ignorance on the part of elected officials and other policymakers. From its inception, the drug war has repeatedly led to waste, fraud, corruption, violence, and death. With many states moving toward legalization or decriminalization of some substances, and other nations moving to legalize drugs altogether, rethinking America's drug policy is long overdue. In this analysis we review the economics of drug prohibition, a cornerstone of U.S. policy for more than a century. Domestically, we focus on how prohibition affects health, crime, corruption, and violence. Internationally, we assess how prohibition affects U.S. foreign policy goals in Afghanistan. Our purpose is to demonstrate general insights about the economics of prohibition and to illustrate the devastating consequences of ignoring these insights. The Economics of Prohibition Just as proponents of alcohol prohibition claimed that alcohol causes a variety of social ills, advocates of U.S. drug policy argue that drug use and trafficking harm public health, decrease societal wealth, increase unemployment, promote crime, corrupt law enforcement and other elected officials, and spread disease.<sup>12</sup> Combating these alleged effects is the goal of the Office of National Drug Control Policy, whose "National Drug Control Strategy for 2015" annual report stated the following: Illicit drug use is a public health issue that jeopardizes not only our well-being, but also the progress we have made in strengthening our economy—contributing to addiction, disease, lower student academic performance, crime, unemployment, and lost productivity.<sup>13</sup> In addition, U.S. policymakers view prohibition as a means to reduce drug-related violence and gang activity, as well as to dismantle powerful drug cartels abroad. The "National Drug Control Strategy for 2015" says that U.S. Federal agencies and partner nations [in drug interdiction operations] ... disrupt, pull apart, and exploit the vulnerabilities of criminal organizations and the networks that are responsible for drug trafficking and money laundering... . [These policies] degrade the capacity of the cartels to operate efficiently, destabilize their organizations, and create additional opportunities to disrupt their trafficking organizations.<sup>14</sup> If we take the goals stated by public officials and prohibition proponents as sincere, the question is whether or not current drug policies achieve these goals. To this end, economic thinking offers valuable insight by examining how drug prohibition alters the incentives faced by individuals on both the supply and demand sides of the illicit drug market. In turn, this analysis allows us to trace the chain of consequences associated with drug prohibition. Proponents of drug prohibition argue that by banning certain substances, they can reduce or eliminate both the demand and the supply for drugs, thereby significantly reducing or even eradicating the drug market. What these arguments fail to appreciate, however, is that **making markets illegal fails to reduce, much less eliminate, the market for drugs. Instead, these mandates mainly push the market for drugs into underground black markets.** In addition, prohibition acts as a "tax" on sellers in the drug market. **Would-be and current drug vendors** must now incorporate fines, possible prison time, and the cost of evading capture into their business models.<sup>15</sup> This tax drives higher-cost sellers (i.e., those unwilling or unable to incur these additional costs) out of the market. Such a change in the drug market does align with the goals of prohibition. If sellers are pushed out of the market, this limits the supply of drugs and raises prices.<sup>16</sup> These higher prices, in turn, reduce the quantity of drugs demanded. However, these higher prices and the changes in the market structure caused by prohibition generate unintended consequences, ones that work against prohibition's stated goals. Prohibition, Tainted Drugs, Illness, and Overdose The first consequence of drug prohibition is more overdoses and drug-related illness. This is perhaps best illustrated with an example comparing how information is transferred when a drug is legal versus how it is transferred when a drug is illegal. Consider, for instance, a mislabeled or impure version of a legal, over-the-counter medication. Once a consumer becomes ill or overdoses on this medication, this information is reported, collected, and analyzed by relevant institutions. In addition, information about product quality, or lack thereof, is relayed through other channels, including media outlets, social media, and word of mouth. Consumers can therefore adjust their consumption accordingly. On the supply side, suppliers of a legal medication face the incentive to recall the product and correct the error to retain their customers and prevent legal repercussions. These quality control mechanisms and information regarding purity are weaker or absent in a black market for **drugs. First, underground markets provide less information about products and vendors because transactions occur in secret. Second,**

**consumers in the market avoid reporting defective or impure substances because this might implicate their own law-breaking. Third, consumers of illegal drugs have no legal recourse should they purchase a substance of inferior quality, in contrast to individuals who bought tainted headache medicine or contaminated food in a legal market. On the supply side, producers and sellers of impure or tainted products face weak incentives to** remove these products, knowing that buyers are unlikely to communicate with one another and unlikely to report their problems. Taken together, these factors allow more poor-quality drugs onto the market, which increases the chance of poisoning and overdose. This is not the only way that prohibition can increase overdoses. On the supply side, **prohibition leads sellers to create, transport, and sell more potent materials because prohibition's added costs incentivize higher-potency drugs and their higher value per unit.** For example, under prohibition, suppliers will tend to offer heroin compared to marijuana, since heroin is more valuable per unit (heroin sells for around \$450 per gram, while marijuana sells for between \$10 and \$16 per gram in the United States). Likewise, drug dealers will tend to sell more potent versions of all drugs. For instance, someone selling marijuana will likely provide a product with higher concentrations of tetrahydrocannabinol (THC), the psychoactive component of marijuana, as they can earn more money per unit.<sup>17</sup>

**A similar shift to more potent substances occurs on the demand side. Because prohibition raises drug prices, users seek more bang for their buck.** That is, since the overall cost of obtaining drugs is higher, more potent drugs look relatively cheaper than weak drugs. If we assume that drug users rationally respond to risk and look to maximize their satisfaction or high from every dollar spent, this has three important implications. First, users will likely switch from lower potency to higher potency within a given type of drug (for example, from marijuana with lower to higher concentrations of THC). Second, users may switch from low-potency drugs to harder drugs (such as from marijuana to cocaine). Third, users are likely to employ ingestion methods that increase the effectiveness of drugs (such as injecting rather than smoking a drug). Taken together, these information and potency effects mean that prohibition likely increases drug overdoses.

**Prohibition and Drug-Related Disease** **By raising drug prices, which pushes people toward harder drugs, prohibition increases disease transmission. As mentioned above, higher prices encourage more intense methods of use, such as injection.** Law enforcement's desire to promote prohibition generates restrictions on legal needles and syringes. In many states, it is illegal to buy and sell needles and syringes without a prescription. These two effects combine to encourage the reuse and sharing of dirty needles. (Repeated use of needles even by the same individual is unsafe. Needles dull with each use and may break off under the skin, thus causing infections or other problems.) The sharing of needles drastically increases the risk of transmitting blood-borne diseases such as HIV/AIDS and hepatitis.

**Prohibition and Violence** Proponents of prohibition claim that banning the manufacture, sale, and use of drugs will reduce drug-related violence. This claim rests on the assumption that drug use leads to violence. But violence in drug markets may instead result from the institutional context created by prohibition. When drugs are illegal, users cannot use formal legal channels to resolve disputes or seek legitimate protection for their business transactions. Neither buyers nor sellers in the illicit drug trade will turn to the police or other legal dispute-resolution mechanisms. Instead, individuals must solve their own problems, which often means they use violence to solve issues as opposed to more peaceful means of legal dispute resolution.

**In addition to pushing individuals in the drug trade toward violence, prohibition means that those involved in the drug market are automatically criminals. This lowers the cost of committing a subsequent crime, such as assaulting a rival drug dealer, relative to a scenario in which drugs are legal. Moreover, prohibition may increase the benefits of using violence. By gaining a reputation for using violence, those involved in the drug trade may exert more effective control over the** market. One result is that those with a comparative advantage in violence and criminality will be attracted to the market for drugs since these skills are necessary for long-term success. Taken together, the lack of legal channels combined with automatic criminalization lowers the cost of engaging in criminal activity and increases the benefit of using violence. It follows that the prohibition of drugs may be the primary cause of crime in the drug market, not the physical effects of use.<sup>18</sup> Increased violence in the drug market may generate additional unintended consequences.

**As a result of violent drug interactions, police are more likely to adopt more intense techniques and stronger equipment. As these practices become ingrained in everyday policing, citizens outside the illicit drug market will also be affected.** Furthermore, prohibition means police are granted increased power over the lives of citizens. Absent the appropriate checks, these changes may disproportionately impact particular groups. The disproportionate number of black and Hispanic individuals incarcerated in the criminal justice system, for instance, has led to protests and social movements, such as Black Lives Matter. Prohibition and Cartels Proponents of prohibition argue that these policies disrupt and dismantle drug cartels. In practice, however, prohibition appears to promote cartelization of the drug industry. Recall that drug prohibition keeps some suppliers out of the drug market—those unwilling or unable to take the risks associated with operating in an illicit industry. Those individuals and

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groups that remain are those more comfortable with using violence and engaging in illicit activity. In a legal market for drugs, not only would the costs and benefits of using violence change (violence would be less attractive), but new entrants could more easily penetrate the market. Over time, monopoly power would be eroded as in other competitive markets. As such, cartels would be unlikely to form and would be extremely difficult, if not impossible, to maintain. Under prohibition, however, the cost of maintaining a monopoly is reduced, as government policies effectively drive out would-be competitors, making it easier for cartels to form and maintain their dominant market position. Moreover, these effects are self-perpetuating. **Under a cartelized market, monopoly power leads to an increase in prices, which further increases the benefits to dominant producers using violence to maintain their market position. Indeed, the rise of cartels in the drug industry is remarkably well documented, with researchers arguing that “cartelization in the drug trade appears to exist at every stage of production.”**<sup>19</sup> Examples abound:

Chinese opium gangs dominated the opium trade during early prohibition efforts. Colombian drug cartels controlled the flow of cocaine into the United States throughout the 1980s and 1990s. Today, Mexican drug cartels provide a variety of drugs—including marijuana, cocaine, and methamphetamine—to U.S. markets. In each of these cases, the violence associated with the drug markets has been substantial. Prohibition and Corruption **The cartelization of the drug industry under prohibition helps give rise to yet another unintended consequence: the corruption of public officials and civil servants.** The illegal nature of the market, desire to avoid capture, and potentially high profit margins create a strong incentive for those involved in the drug trade to avoid being captured and punished. As a result, these individuals are more likely to attempt to bribe public officials (including police officers, military personnel, judges, and other elected officials) involved in drug interdiction.<sup>20</sup> While some officials may take these bribes willingly, the violent tendencies of people involved in the drug trade provides additional motivation for public officials to accept bribes. Indeed, we observe that **those who refuse to take bribes are often threatened with violence against their families. Consider Mexico, in which lawyer and Mexican senator Arturo Zamora Jiménez notes that “Enforcing current laws to prosecute criminals is difficult because members of the cartels have infiltrated and corrupted the law enforcement organizations that are supposed to prosecute them, such as the Office of the Attorney General.”**<sup>21</sup> Consequences of the War on Drugs: Evidence from the United States Until the turn of the 20th century, currently outlawed drugs such as marijuana, heroin, and cocaine were legal under federal and virtually all state laws. In 1906, Congress implemented the first restrictions on the sale and use of some substances, including cannabis, morphine, cocaine, and heroin, with the Pure Food and Drug Act, labeling many substances as addictive or dangerous.<sup>22</sup> In 1914, the Harrison Narcotics Act further regulated the market for opiates, cocaine, and other substances, resulting in a surge in drug offense charges. By 1938, more than 25,000 American doctors had been arraigned on narcotics charges; some 3,000 served time in prison.<sup>23</sup> While these early laws are important for understanding current drug restrictions, the strictest and most relevant polices began in the 1970s when Nixon declared drugs “public enemy number one.”<sup>24</sup> In 1970, Congress passed the Comprehensive Drug Abuse Prevention and Control Act (CDAPC), which brought many separate federal mandates under a single law and established a schedule of controlled substances. In 1972, the House voted unanimously to authorize a “\$1 billion, three-year federal attack on drug abuse.”<sup>25</sup> The Drug Enforcement Administration (DEA) began operations the following year, absorbing other agencies, including the Bureau of Narcotics and Dangerous Drugs (BNDD) and the Office of Drug Abuse Law Enforcement (ODALE). The DEA was tasked with enforcing all federal drug laws, as well as coordinating broader drug interdiction activities.<sup>26</sup> Under the direction of the DEA, what is now known as the War on Drugs quickly expanded in scale and scope. Overdose Deaths and Drug-Related Illness in the United States **Under prohibition, poor information quality and flow, combined with potency effects on both sides of the market, would predict an increase in drug-related deaths.** This is precisely what we observe. In 1971, two years before the creation of the DEA, the Centers for Disease Control and Prevention (CDC) reported that slightly more than 1 death per 100,000 people in the United States was related to drug overdose. This figure rose to 3.4 deaths per 100,000 people by 1990 (see Figure 1). By 2008, there were 12 overdose deaths per 100,000 people.<sup>27</sup> Figure 1 Overdose Deaths per 100,000 People, 1980–2008 Media Name: pa-811-figure-1.png Source: Centers for Disease Control and Prevention, “Data Brief 81: Drug Poisoning Deaths in the United States, 1980–2008,” [https://www.cdc.gov/nchs/data/databriefs/db81\\_tables.pdf#4](https://www.cdc.gov/nchs/data/databriefs/db81_tables.pdf#4). **These numbers have continued to climb. According to the CDC, more than 47,000 overdose deaths occurred in the United States in 2014,** representing 14.7 deaths per every 100,000 people in the United States, the most overdose deaths ever recorded in the country. Between 2000 and 2014, more people in the United States died from drug overdoses than from car crashes.<sup>28</sup> As economic reasoning predicts, the majority of these deaths are related to consumption of more potent drugs. In 2014, for instance, 61 percent of all overdose deaths were caused by opioids. The rate of opioid overdoses increased significantly in the first 15 years of the new millennium. Between 2013 and 2014, overdose deaths involving synthetic opioids nearly doubled, and the rate of all opioid overdoses has more than tripled since 2000.<sup>29</sup> **The spread of drug-related disease in the United States has also seen a sharp increase since the launch of the War**

**on Drugs.** In 2000, nearly 60 percent of all new hepatitis C infections and 17 percent of hepatitis B infections occurred in drug users.<sup>30</sup> While the majority of new HIV/AIDS cases result from unprotected sexual encounters, 6 percent of all new infections result from intravenous drug use.<sup>31</sup> As of 2012, an estimated 91,000 Americans live with HIV/AIDS acquired via drug use.<sup>32</sup> Violence in the U.S. Drug Market **Just as overdose deaths and drug-related illnesses increase under drug prohibition, so, too, does violence related to the market for drugs. In one study of New York City homicides, researchers found that while only 7.5 percent of murders committed during the period analyzed were related to the physical effects of drug use, 40 percent were related to the “exigencies of the illicit market system.”**<sup>33</sup> Other studies over the past four decades have reached similar findings. A 1998 study found that **increased drug enforcement was positively and significantly associated with increases in violent crime.**<sup>34</sup> Another study from the same period found that variance in drug enforcement accounted for more than half of the variation in homicide rates between 1900 and 1995, with more drug enforcement correlating with more violence.<sup>35</sup> **The International Centre for Science in Drug Policy conducted an extensive survey of the literature related to violence in the drug market, finding overwhelming evidence that prohibition has led to an increase in crime as opposed to a decrease.**<sup>36</sup> Cartelization of the Drug Industry Just as alcohol prohibition gave rise to the American Mafia, the early prohibition of opium and other drugs in the late 1800s and early 1900s fostered the formation of Chinese drug gangs. From the 1890s to the 1930s, for example, the Tong Wars took place in New York’s Chinatown. These tongs, or fraternal organizations, acted as gangs, and they profited from opium, gambling, and prostitution, using violent tactics ranging from stabbings to bombings.<sup>37</sup> The tendency of prohibition policies to foster organized crime is not limited to these historical cases. **The modern War on Drugs promoted the creation and strengthening of violent cartels.** Colombian economist Eduardo Sarmiento Palacio, for example, argued that the U.S. War on Drugs led directly to the rise of Colombian drug cartels.<sup>38</sup> The best illustration of the cartel problem can be observed in Mexico and along the southern U.S. border.<sup>39</sup> As a result of frequent crackdowns on drug sellers in the United States, Mexican drug cartels have seized the opportunity to export hard drugs such as heroin, cocaine, and methamphetamine.<sup>40</sup> The incentives facing these drug syndicates are clear: consider that a kilo of raw opium produced in Mexico sells for about \$1,500 there, but will sell for between \$40,000 and \$50,000 in the United States.<sup>41</sup> Likewise, a kilo of cocaine costs around \$12,000 in Mexico, but will fetch around \$27,000 in the United States. There is further evidence that cartel-controlled operations are replacing domestic drug producers. According to the DEA, methamphetamine lab busts have fallen from almost 24,000 in 2004 to 11,573 in 2013. At the same time, however, border states have witnessed a marked spike in methamphetamine seizures as Mexican “super labs” ship drugs across the border.<sup>42</sup> These cartels have helped fuel violence within both the United States and Mexico. Since 2006, more than 85,000 people in Mexico have been killed as a result of the drug trade.<sup>43</sup> In the United States, Mexico’s Sinaloa Cartel has effectively taken control of many markets, such as the market for heroin in New York City, and has overtaken traffickers from Colombia and Afghanistan. According to the DEA, about 50 percent of all heroin sold in the United States is produced in Mexico. However, almost all heroin sold in the United States, regardless of its country of origin, is supplied by Mexican cartels. It is estimated that Mexican traffickers operate in more than 1,200 U.S. cities.<sup>44</sup> Drugs and Corruption in the United States Corruption in the United States related to the drug war is well documented. A 2009 report from the Associated Press found that “U.S. law officers who work the border are being charged with criminal corruption in numbers not seen before, as drug and immigrant smugglers use money and sometimes sex to buy protection.”<sup>45</sup> In July 2016, a jail guard in Alabama was charged with trying to smuggle drugs into the jail by concealing them inside a Bible.<sup>46</sup> That same month, a deputy with the Cherokee County Sheriff’s Office in Georgia was charged with stealing narcotics from the station’s evidence locker.<sup>47</sup> Four days before the deputy was charged, a former jail guard in Philadelphia was sentenced to four years in federal prison for selling drugs to inmates.<sup>48</sup> Just a week prior to this sentencing, two Detroit police officers were convicted of conspiring to steal drugs and money seized during police raids instead of reporting them as evidence. One officer was sentenced to 12 years and 11 months in prison, while the other was sentenced to 9 years.<sup>49</sup> One particularly insidious component of the War on Drugs is civil asset forfeiture. This policy allows police, prosecutors, and other law enforcement agencies to seize assets (such as cash, cars, and homes) used or thought to be used in commission of a drug crime. In many cases, a portion of the confiscated assets flows to the budgets of the confiscating agency. In Philadelphia, for example, authorities have seized more than \$64 million in assets over a 10-year period, with \$25 million of these assets funding the salaries of public officials. In Hunt County, Texas, some law enforcement officials received \$26,000 for their efforts in seizing assets related to the War on Drugs.<sup>50</sup> The perverse incentives created by civil forfeiture are obvious. If an agency’s budget or an individual’s pay is directly tied to forfeited assets, then those agencies and individuals will seek out opportunities to seize assets. This makes corruption more profitable and more likely. In many cases, the payoffs can be large. In 2011, for example, Virginia state police kept 80 percent of \$28,000 confiscated from the car of a church secretary.<sup>51</sup> Because he was traveling with such a large amount of cash, he was suspected of being involved in the drug trade. However, the man was transporting cash needed to buy new property for the church. In a similar scenario in Houston, one couple was threatened with jail and the removal of their children by the state if they refused to turn over the cash in their car to the local District Attorney’s Office. They had been planning to use the money to buy a car.<sup>52</sup> In total, the Department of Justice’s Asset Forfeiture Fund confiscated nearly \$94 million in assets during 1986, its second year of operations. By 2011, this number had ballooned to approximately \$1.8 billion. State and local

Immigration Surveillance Core File. *Updated 8-3-24*

seizures have followed similar trends.<sup>53</sup> Police Militarization and the War on Drugs The standard unintended consequences predicted by the economics of prohibition are not the only problems faced by the United States as a result of its drug policy. In addition, the drug war has engendered racial tensions and substantial changes in a variety of political, social, and other institutions, particularly policing. The first drug prohibition laws were enforced by preexisting government agencies, specifically the Bureau of Internal Revenue. Today's drug laws are imposed by a cadre of federal agencies including the DEA, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the Federal Bureau of Prisons (BOP), the Central Intelligence Agency (CIA), the CDC, and the U.S. Coast Guard (USCG). In addition, Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE), the Department of Health and Human Services (HHS), the Department of Homeland Security (DHS), the Federal Bureau of Investigation (FBI), the National Drug Intelligence Center (NDIC), the Office of National Drug Control Policy (ONDCP), the Office of Juvenile Justice and Delinquency (OJJDP), and the Substance Abuse and Mental Health Services Administration (SAMHSA) also work to carry out the War on Drugs. Federal agencies are not the exclusive enforcers of drug policy. In fact, the enhanced weaponry and tactics so frequently seen as hallmarks of modern U.S. drug policy are often carried out not by the ATF or FBI, but by state and local law enforcement. Historically, the United States has attempted, in theory if not in practice, to separate the functions of the police and the military.<sup>54</sup> State and local law enforcement are tasked with upholding domestic laws and protecting the rights of all citizens, both innocent bystanders and those accused of committing a crime. Military personnel, meanwhile, engage with external threats to the United States and its citizens.<sup>55</sup> Although a variety of factors blurred these distinctions and eroded the laws intended to enforce this distinction, U.S. drug policies have been integral in the militarization of U.S. domestic police, in which domestic law enforcement officials have acquired military weapons and training and have used military tactics in their normal operations.<sup>56</sup> The War on Drugs is particularly important from the perspective of police militarization in that this "war" differs from other conflicts throughout U.S. history. In WWI, WWII, and Vietnam, for example, enemy combatants were clearly definable and external to the United States. The "enemies" in the War on Drugs however, consist not only of external threats (such as the Latin American drug cartels), but also American citizens on domestic soil. This addition of a domestic "enemy" links a variety of government agencies, including state and local law enforcement, to the broader missions of the U.S. federal government. Domestic law enforcement, recognizing that linking their missions with the drug war could increase their discretionary budgets and number of personnel, would benefit from joining the operations. Federal authorities would have additional personnel to fulfill their goals. The War on Drugs has created a domestic battle zone where U.S. citizens are viewed as potential enemies to be defeated by an array of government agencies working in conjunction to enforce prohibition. The militarization of U.S. domestic police is readily apparent from the legislation passed since the early 1970s. As noted above, those involved in any aspect of the drug market, interdiction included, are now more likely to encounter individuals with a comparative advantage in violence and face an increased frequency of violent actions. For police, this provides a strong incentive to adopt more forceful tactics. One of the best examples of how the drug war has blurred the line between police and military is the Military Cooperation with Law Enforcement Act (MCLEA) of 1981. The MCLEA allowed the Department of Defense (DOD) to share information with local police departments and to participate in local counter-drug operations. Plus, the Act allowed DOD to transfer excess military equipment and other materials to domestic law enforcement for the purposes of combating illegal drugs.<sup>57</sup> Other programs provided further opportunities for police to adopt military tactics and equipment in the name of combating drugs. For instance, the National Defense Authorization Act of 1990 (NDAA) created the 1208 Program. This program, building on the MCLEA, authorized additional transfers of military equipment to state agencies to combat drugs. In 1997, Program 1033 subsumed and expanded upon Program 1208. This incarnation of the program allowed the DOD to transfer aircraft, armor, riot gear, surveillance equipment, and weapons to state agencies. Armored vehicles were made available for "bona fide law enforcement purposes that assist in their arrest and apprehension mission."<sup>58</sup> The 1122 Program has channeled additional weapons and tactical gear to domestic police by providing state and local law enforcement with new military equipment. Once again, this program started with the goal of using domestic law enforcement to combat illegal drugs. According to the program's manual, it "affords state and local governments the opportunity to maximize their use of taxpayer dollars by taking advantage of the purchasing power of the Federal Government." Any "unit of local government" is eligible, meaning that any "city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State" could apply to receive the weapons.<sup>59</sup> The use of these programs has expanded immensely since their creation. In the first three years following the MCLEA's passage, for example, the DOD granted nearly 10,000 requests from state and local law enforcement.<sup>60</sup> According to the American Civil Liberties Union (ACLU), more than \$4.3 billion in materials has been transferred through Program 1033 alone. The program involves more than 17,000 agencies. The value of the property transferred from the federal government and military to state and local authorities was about \$1 million in 1990. By 1995, this number had climbed to \$324 million. As of 2013, nearly \$450 million in equipment was transferred on an annual basis.<sup>61</sup> The breakdown of the distinction between local and military forces is also evident in the programs offered by federal agencies such as the DEA and FBI. The DEA, for example, was a single bureau in the 1970s. Now the agency works with more than 350 state and local law enforcement agencies, providing specialized training in drug interdiction. The agency also manages more than 380 task forces throughout the country, which coordinate information and resource sharing among state, local, and federal agencies.<sup>62</sup> The impact of these programs and relationships is not trivial. Equipment and tactics once exclusively used by military or federal agencies abroad are now commonly used by state and local law enforcement against civilians. Consider "no-knock raids," which involve law enforcement personnel entering a property without first notifying residents by announcing their presence or intention to enter. This style of raid, once used exclusively by the military, is now common practice by domestic law enforcement. Hundreds of botched no-knock raids have been documented throughout the country.<sup>63</sup> In some cases, police raided the wrong residence or killed or injured innocent civilians or nonviolent offenders. In other cases, police officers have been injured executing the raids. Moreover, these raids are frequently conducted by Special Weapons and Tactics (SWAT) teams or Police Paramilitary Units (PPUs), groups of domestic law enforcement personnel with specialized military equipment (like that obtained through the 1033 and

## Immigration Surveillance Core File. *Updated 8-3-24*

1122 programs) and training. The SWAT teams and PPU are deliberately modeled after specialized military teams.<sup>64</sup> The number of no-knock raids has increased dramatically as a result of the War of Drugs (and the War on Terror). In the mid-1980s, approximately 20 percent of small towns employed a PPU or SWAT team. Eighty percent of small-town police departments now have a SWAT team.<sup>65</sup> By 2000, almost 90 percent of police departments serving populations of 50,000 or more people had some kind of PPU. Approximately 3,000 SWAT deployments occurred in 1980. By the early 2000s, SWAT teams saw about 45,000 deployments a year.<sup>66</sup> Data from 2005 indicates that SWAT teams were deployed 50,000 to 60,000 times that year.<sup>67</sup> Current estimates place the number of deployments as high as 80,000 annually.<sup>68</sup> The War on Drugs and Racial Bias in the United States **The unintended consequences of the War on Drugs do not affect all groups equally. In the United States, it is well documented that these policies disproportionately impact minority communities, particularly blacks and Hispanics.** Attorney and legal scholar Graham Boyd has referred to the drug war as the “new Jim Crow.”<sup>69</sup> Recent reports indicate that this may not be an accident. In early 2016, Harper’s magazine published part of a 1994 interview in which former Nixon domestic policy chief, John Ehrlichman, stated that You want to know what this [the War on Drugs] was really all about? The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar left and black people. You understand what I’m saying? We knew we couldn’t make it illegal to be either against the war or black, but by getting the public to associate hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did.<sup>70</sup> Ehrlichman’s children have doubted the veracity of the quote, but the journalist is adamant that these statements are genuine. Regardless of the original intention, however, the effects of the drug war on minority groups are undeniable. Black individuals, for example, make up only 12 percent of the U.S. population as a whole, but they represent 62 percent of the drug offenders sent to state prisons. Black men are sent to state prisons on drug charges at 13 times the rate of white men.<sup>71</sup> One study of marijuana arrests in Virginia between 2003 and 2013 found that, despite constituting only 20 percent of the state’s population and using marijuana at similar rates to their white counterparts, arrests of blacks more than doubled while arrest rates for whites increased by 44 percent.<sup>72</sup> SWAT raids are also much more likely to be carried out against minority groups. The ACLU found that nearly 50 percent of all SWAT raids between 2011 and 2012 were conducted against black and Hispanic individuals, while only 20 percent of raids involved white suspects (the other 30 percent is unknown or other).<sup>73</sup> In many places throughout the country, minority groups are much more likely than their white counterparts to be impacted by SWAT raids. In Allentown, Pennsylvania, for example, Latinos are 29 times more likely to be targeted by a SWAT raid than whites, while blacks are 23 times more likely to be targeted than whites. Blacks are 37 times more likely to be the victim of a SWAT raid in Huntington, West Virginia, than their white counterparts. Blacks in Ogden, Utah, are 39 times more likely to be subjected to a SWAT raid, and blacks in Burlington, North Carolina, are 47 times more likely to be targeted compared to whites. The overrepresentation of minorities in drug offenses and the criminal justice system has additional implications. A single conviction for drug possession may render some students automatically ineligible for federal student aid, including grants, loans, or work-study. How long a student is ineligible depends on the type of offense, but some individuals may be permanently banned from federal education assistance.<sup>74</sup> An estimated 20,000 students annually lose out on Pell Grants due to drug offenses. Another 30,000 to 40,000 are denied student loans.<sup>75</sup> As minority individuals are more likely to be arrested for drug-related offenses, they are consequently more likely to be denied educational assistance and the opportunity to invest in their human capital. A felony drug charge (which, in some states, requires only three-quarters of an ounce of marijuana) can also cause an individual to lose eligibility to work for the federal government; enlist in the U.S. Armed Forces; obtain an import, customs, or other license; or obtain a passport.<sup>76</sup> Many private-sector job applications require criminal background checks and the disclosure of felony convictions, preventing individuals convicted of drug offenses from obtaining gainful employment. Given the rate at which minorities are arrested for crime, this has immense implications for the long-term prosperity of both individuals and broader communities. The War on Drugs Abroad The adverse consequences of the U.S. government’s War on Drugs do not stop at the borders; the U.S. government has likewise set its sights on the international drug market. **By combating illicit drugs abroad, the U.S. government hopes to curtail the flow and subsequent sale and use of drugs in the United States.** Moreover, by assisting foreign governments with drug interdiction, the U.S. government aims to maintain regional balances, disrupt international criminal syndicates that threaten domestic and international security, and push foreign entities to undertake policies that align with U.S. interests.

## **Increased US-Mexico border surveillance increases the cartel’s power as immigrants turn to human trafficking**

**NOWRASTEH ’14** (ALEX NOWRASTEH, immigration policy analyst at the Cato Institute’s Center for Global Liberty and Prosperity, 2/30/14, Immigration Enforcement Aids Smugglers – Unaccompanied Children Edition, Cato Institute, <http://www.cato.org/blog/immigration-enforcement-aids-smugglers-unaccompanied-children-edition>)

The increase of human smugglers transporting unauthorized immigrants to the United States is likely a consequence of more effective border enforcement. Although the Obama administration has de-emphasized internal immigration enforcement after 2011, his administration has ramped up enforcement along the border – focusing on increasing the legal and economic costs imposed on unlawful immigrants apprehended while trying to enter the United States. Since border and internal enforcement are substitutes, the shift in resources and increase in penalties for unlawful crossers does not represent a decrease in total enforcement. Matt Graham from the Bipartisan Policy Center wrote an excellent breakdown of the reprioritization of immigration enforcement, the increase in penalties, and how it has deterred unauthorized immigration. The price of smuggling is an indication of the effectiveness of immigration enforcement along the border. The first effect of increased enforcement is to decrease the supply of human smugglers. As the supply of human smugglers decreases, the price that remaining human smugglers can charge increases. Before border enforcement tightened in the early 1990s, migrants typically paid about \$725 (2014 dollars). Currently, unauthorized migrants from Central America are paying around \$7500. The economics of industrial organization can shed some light on why smugglers have shifted from mom and pop operations to large, organized, and violent criminal cartels who now seek children clients instead of adults. Mom and pop smugglers ran small and unsophisticated operations to smuggle immigrants over the border. As border patrol cracked down on them and put many out of business, more intensive smuggling operations that required more capital, planning, and violence to overcome enforcement were needed to satisfy the demand. As a result of the shrinking mom and pop smuggling operations, serious criminal organizations and drug gangs have become specialized in smuggling migrants because of the higher profits. The shift from mom and pop smugglers to sophisticated criminal smugglers that focus on smuggling those with an inelastic demand for smuggling is the result of larger and more effective border enforcement.



## **Answers to: Brain Drain**

## **Brain Drain False / Brain Gain/Circulation True**

### **Brain drain thesis incorrect – evidence that says it hurts home countries is cherrypicked**

**Hidalgo 16** (Javier Hidalgo, 1/29/16, Javier Hidalgo is an associate professor in the Jepson School of Leadership Studies at the University of Richmond. His research focuses on political philosophy and practical ethics, “The missing evidence in favour of restricting emigration”, <https://jme-bmj-com.proxy.lib.umich.edu/content/43/8/564>) MKIM

Liberals think that states need strong moral reasons to justify restricting valuable liberties, such as the freedom to emigrate. Brock seems to accept this presumption in favour of liberty (pp.250). But do the reasons in favour of compulsory service overcome this presumption? Unless we are absolutists about liberty, we should concede that restrictions on liberty are justified if these restrictions are necessary to bring about sufficiently good outcomes. However, to justify infringing on valuable liberties, we need compelling evidence that this infringement would actually bring about desirable consequences. And I am skeptical that we have compelling evidence that abridging the freedom to emigrate would have good results. As both Brock and Blake observe, skilled migration can have positive and negative effects. Skilled migration can exacerbate shortage of workers who provide vital services, such as health workers, and can have other negative effects. But the emigration of skilled workers can also facilitate technology transfer, improve institutions, increase flows of remittances and encourage human capital formation. Brock concedes that skilled migration has ‘some positive, some negative, and some quite mixed results’ and that there is ‘much that we have yet to learn’ (pp.267). One reason for this uncertain state of affairs is that it is hard to isolate the direction of causation. Skilled migration sometimes correlates with bad development outcomes, but these bad outcomes may also cause skilled people in low/middle-income countries to emigrate. As a result, we are often unable to determine if skilled migration is the cause or merely the symptom of deprivation.<sup>2</sup> **This problem with causal identification helps explain why social scientists disagree about the effects of skilled immigration and why we can expect this disagreement to persist** in the future. Yet, if social scientists are unable to reliably identify when skilled migration has bad effects on net, it is doubtful that public officials will be able to do so. More importantly, **we have almost no evidence that restricting freedom of movement would reduce deprivation**. The economist Michael Clemens observes: ‘There is no real-world setting in which deterring skilled-worker migration of any kind has been shown sufficient to cause development by any measure’.<sup>2</sup> Even if skilled emigration has negative effects, it does not follow that measures to prevent the emigration of skilled workers would have good effects. Suppose that a state implements Brock’s proposal to compel skilled citizens, including citizens who attended private universities, to complete compulsory service for a year or two. This proposal might lower the returns to education even for citizens who have no intention of emigrating, which could cause fewer

people to pursue higher education. Alternatively, people may decide to pursue higher education in another country in order to avoid these requirements. It is easy to imagine reasons why compulsory service requirements could fail to bring about the desired outcomes. But the more fundamental problem is that we may never know if compulsory service worked or not. Imagine that states enforce compulsory service and development indicators in these states improve. Can we be confident that compulsory service caused these good outcomes?

### **Brain drain theory's wrong – brain circulation is right and uniquely good for countries of origin – also bolsters investment in them**

Robin **Marsh and Ruth Uwaifo Oyelere 17**, Robin is a Senior Fellow with the international non-profit organization Ecoagriculture Partners who received her PhD from the Food Research Institute, Stanford University, Ruth is a Development and Labor Economist with over 10 years of research and teaching experience, “Global Migration of Talent: Drain, Gain, and Transnational Impacts”, pp209-234 in “International Scholarships in Higher Education”, first online Oct 28 2017, accessed through SpringerLink, [https://link-springer-com.proxy.lib.umich.edu/chapter/10.1007/978-3-319-62734-2\\_11 //hb](https://link-springer-com.proxy.lib.umich.edu/chapter/10.1007/978-3-319-62734-2_11//hb)

Another growing pathway through which highly educated emigrants are contributing to home countries has been described as ‘brain circulation’. There are significant benefits to a source country’s capacity for innovation and productivity when the **outflow of talent turns homeward** with state-of- the-art skills, capital, and international connections. One way to look at brain circulation is brain gain to both the source and receiving country. Recent literature suggests that the ‘Asian Tigers’—Hong Kong, Taiwan, South Korea, and Singapore—have [has] profited significantly from brain circu- lation and, after decades of brain drain, brain circulation is increasingly the story of China and India. There is also evidence that an increase in patenting activity by foreign-born inventors leads to an increase in foreign direct investment to immigrant countries of origin (Docquier and Rapoport, cited in Foley and Kerr 2011, p. 710). In the volume, *The International Mobility of Talent: Types, Causes, and Development Impact*, the editor asks, “when can talent mobility serve sending countries?” (Solimano 2008, p. 13), and the **success stories** of the aforementioned countries are presented as case studies. Skilled laborers abroad still influence home countries – solves the da Robin **Marsh and Ruth Uwaifo Oyelere 17**, Robin is a Senior Fellow with the international non-profit organization Ecoagriculture Partners who received her PhD from the Food Research Institute, Stanford University, Ruth is a Development and Labor Economist with over 10 years of research and teaching experience, “Global Migration of Talent: Drain, Gain, and Transnational Impacts”, pp209-234 in “International Scholarships in Higher Education”, first online Oct 28 2017, accessed through SpringerLink, [https://link-springer-com.proxy.lib.umich.edu/chapter/10.1007/978-3-319-62734-2\\_11](https://link-springer-com.proxy.lib.umich.edu/chapter/10.1007/978-3-319-62734-2_11) While it is intuitively clear that high rates of skilled emigration can delay and impede institutional and political development in source countries, especially where return rates are low and there is little evidence of brain circulation, there are some examples that suggest **positive political change arising from skilled emigrant influences**. For instance, studies from Cape Verde, Mexico, and Senegal have demonstrated how households with migrants are more likely to participate in political processes for change such as voting and lobbying (Collier 2013). With radically reduced transaction costs for communication, emigrant communities can be in **constant contact with their home communities** and are poised to play a role in influencing economic decisions,

political alliances, and core values which can lead to institutional change. Precisely because of the potential influence of skilled emigrants, authoritarian governments tend to be suspicious of their diaspora populations and may try to thwart the types of positive externalities that more open societies enjoy. There is considerable evidence of the **strong influence on democratic governance by foreign trained nationals** who return home, bringing with them not only technical knowledge but exposure to the democratic principles and processes of the country of study (Batista and Vicente 2011; Collier 2013; Chauvet and Mercier 2014).

### **High-skilled workers return home – mitigates the internal link**

Paulette **Siekierski et. al 18**, also Manolita Correia Lima and Felipe Mendes Borini, “International Mobility of Academics: Brain Drain and Brain Gain”, *European Management Review*, 2018, accessed through WileyOnline //hb

Over and above the classic resources of labor, capital and land there is growing recognition of the importance of the economic growth of ‘intangibles’, like technology, ideas, creativity and innovation. In its turn, behind these intangibles lies ‘human talent’: the inner capacity individuals have for developing ideas and objects (software, hardware, vaccines, work or fiction, artistic activities, etc.) with high economic worth. Interest in the globalization process has been largely concentrated on the international mobility of goods, capital, unqualified workers and technology, but comparatively little attention has been dedicated to the international movement of highly qualified people, especially the **mobility of academics** (Solimano, 2009). The attraction factors of developed countries relate mainly to their quality of life, economic wealth and scientific research capacity, while the attraction factors of emerging countries are economic growth and job opportunities. **Scientists from the more prosperous emerging economies**, however, **are more likely to return to their country of origin** than scientists from less prosperous emerging economies (Le and Bodman, 2011; Cheung and Xu, 2015). In view of this, international **collaboration** between emerging and developed countries helps institutions by way of **technical training and technology transfer** and can **reduce the effects of ‘brain drain’**. The less developed countries must make efforts to ensure their countries become politically, economically and socially more attractive so that their citizens can transform ‘brain drain’ into ‘brain gain’, or at least minimize the flight of qualified nationals (Dulam and Franses, 2015; Hussain, 2015). Access to knowledge networks and the transfer of knowledge can also be beneficial to the ST&I systems involved in international mobility and may lead to positive results for the local scientific community in terms of greater rates of citation and more publications in journals of scientific prestige (González-Pereira et al., 2010; Veugelers, 2010; Velema, 2012; Kato and Ando, 2013; Niu, 2014).

### **Emigration’s a net long-term gain for origin countries – litany of factors**

Speranta **Dumitru 12**, Associate Professor of Political Science and Chair of Social Ethics at Université Paris Descartes, “Skilled Migration: Who Should Pay for What? A Critique of the Bhagwati Tax”, *Diversities*, vol. 14, n°1, 2012, pp. 9-23, SSRN, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2174447](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2174447) //hb

From the beginning of the debate on the brain drain, several economists have **denied** that a country can show any loss subsequent on emigration, allowing that the loss concerns ‘welfare’ rather than the number of inhabitants<sup>5</sup>. Firstly, according to these

economists there is no loss if welfare is formulated in terms of income. Rather, emigration appears to be Pareto-superior: while the emigrant's income is supposedly augmented, **the income of those left behind isn't diminished**. On the contrary, if the emigrant's work is remunerated at its market value, her departure will augment the country's capital/work ratio and her absence will allow upgrading of the salaries of her fellow-professionals. In the short term, this upgrading will have the negative effect of augmenting inequalities, but the perspective of higher incomes across the profession will stimulate competition and inspire new postulants wishing to acquire the required expertise. Secondly, **there should be no fiscal loss**. One could imagine that, by her departure, the emigrant would deprive the country of origin of her fiscal contribution. Now, the emigrant certainly takes away her potential for fiscal contribution, but **she also withdraws any claim on collective benefits**. When her departure is definitive, **there is no longer any risk that she will occasion further cost to the public purse**. thirdly, the loss can be formulated in terms of positive externalities – that is, of non-remunerated beneficial effects due to the simple presence of the professional in the collectivity. According to some, this loss would be minimal if organisational skills, creativity, or contribution to political life were linked to the individual rather than to a particular profession<sup>6</sup>. Unless we suppose that such qualities lead to emigration, they would seem to be equally well distributed between movers and stayers. the above reasoning suggests that, in a given market, the sole negative effects of emigration are due to temporary imbalances. the greater the substitutability of the qualification and the shorter the period of training, the smaller the imbalance generated by emigration. however, not all countries are organised as markets: they cannot easily adjust the available workforce to evolving needs, and don't always remunerate professionals at their just value. the inequalities between countries can be expressed in terms of their capacity to respond to such imbalances. thus, the more the economy of a country is planned, the less its capacity to replace the workforce. But above all, the more a country lacks resources, and thus the capital to invest in education, the greater the impact of its incapacity to produce and replace skilled workers. It is certainly the case that in poor countries, professionals contribute to collective welfare much more than is shown by their pay-checks. It's this marked difference between the value of their work and the salaries they receive that would be redressed by the Bhagwati tax<sup>7</sup>. Still, however great the difference between the value of a professional's work and her remuneration, it doesn't mean that the country loses through emigration. On the contrary, since the end of the 1990s, numerous studies have shown that poor countries gain from emigration<sup>8</sup>; these studies generally go beyond the short-term effects of the professional's absence from the country. And her sole presence – as Bhagwati admits – doesn't guarantee productivity as, without the appropriate conditions, "the brain (...) can drain away faster sitting in the wrong place than travelling abroad to Cambridge or Paris"<sup>9</sup>. Indeed, emigration represents a net gain for poor countries if we take into account other variables: the diaspora effect (remittances, commercial and technological exchange due to the diaspora); the prospective effect (the influence of the prospect of emigration, and notably on personal and institutional investment in education); and the return effect (returning emigrants have greater human, financial, and organisational capital)<sup>10</sup>. If we refer only to remittances, one can regret that the amounts sent by the skilled migrants are not directly proportional to their income<sup>11</sup>. Nevertheless, the total value of what is received by developing countries from remittances is considerable: it exceeds foreign economic investment in poor countries and represents today more than four times the aid to development<sup>12</sup>. In other words, **what is achieved by migrants on a voluntary basis largely exceeds what is realised by States on an altruistic basis and by entrepreneurs on a commercially-interested basis**.

**Skilled labor migration improves economic growth- brain circulation is more widely believed than brain drain**

**Krasulja et al 16** (Nevena Krasulja, masters student at Union University Nikola Tesla, "BRAIN-DRAIN –THE POSITIVE AND NEGATIVE ASPECTS OF THE

PHENOMENON”, ЕКОНОМІКА, July 2016, Date Accessed: 6/24/18,  
<https://www.cceol.com/search/article-detail?id=585394> )//rsb

The governments of developing countries have a very serious task, and that is to work on gathering new knowledge and, in general, new ways in which things can be done. Only in this way can they become competitive in the global market. Generally, further progress of the developing countries depends on the use of knowledge, learning, new research, creation of innovation, collaboration with other countries (Kuznetsov & Sabel, 2006).

In today’s knowledge society, in which globalization is becoming stronger, the “flow” of the workforce between markets has become normal. The authors cite that both countries, the home which people are leaving and the one they move to, can benefit from the knowledge and experience of high professionals. On the other hand, the trend of a qualified workforce looking for jobs not only in their country but internationally, too, is increasing, and so the authors increasingly began to write and speak about braincirculation instead of the concept and term “brain-drain.” In fact, brain-circulation is a vital process that contributes greatly to the development of a country. Many countries are developing programs and policies which will help them bring their experts “home”, but also to attract a foreign qualified workforce. Of course, thus they will continuously strengthen their economy and competitiveness (Zweig, 2008).

The term “brain-circulation” was first introduced by the author Saxenian, and then numerous authors made their contributions and opinions. The term in this case emphasizes the two-way flow, i.e. the movement of the qualified workforce from country to country. After examining the literature, it can be concluded that most of the authors perceive the brain-circulation as a phenomenon typical of the modern era in which professionals migrate looking for work in different markets. This phenomenon is no longer seen as a loss, as is the case of brain-drain, but quite the opposite –the moving of intellectual resources can serve as a source of benefits for all the countries participating in the exchange (the ones which the experts are leaving and those they are coming to). The transfer of knowledge can be well used, in this case by both sides. Qualified employees are able to turn their knowledge and experience into innovative products/services which cannot be seen as a loss in any case. The developing countries whose employees have left to work in other countries shall profit from the money they send home, as well as from the innovations which promote the economic development of both countries. Brain-circulation as a global phenomenon affects the overall development of societies, nations and the global economy (Daugeliene, 2007).

The author Tung (2008) cites the factors which have a strong influence on the brain-circulation phenomenon as follows:

1. Globalization has made countries around the world interdependent, more than they have ever been in the history of mankind
2. Abolition of migration barriers which allows for the movement of workforce across different international markets (US, Canada, EU)
3. Existence of a large number of people with dual citizenship
4. Emergence and strengthening of the concept of a career without borders.

Entering the 21st century, knowledge and its diffusion are observed as initiators of the economic development of countries, both at the individual and global level. Human resources, with the characteristics of professionalism and possession of different skills have never been more important; they are the crucial factor which determines the competitiveness of a country. Therefore, every country should work on finding ways in which to attract and retain a highly qualified workforce.

Of course, consideration should be given to the fact that a country primarily must have resources, i.e. must be an attractive “destination” for the workforce. This depends on several factors, but the most important one is to provide better conditions for work and life in general (Zweig, Fung & Han, 2008).

When considering the brain-circulation trend, it seems there is no universal recipe. The author Vetrovec emphasizes that it is necessary for all countries to work toward the harmonization of policies so this trend would result in a complete “win-win-win” effect. Thus, the countries the workforce leaves would benefit from the money the migrants send to the home country, the countries in which the workforce arrives would fill the jobs with employees who can perform the work in the best possible way, and finally, the migrants would provide better living and work conditions for themselves (Vetrovec, 2007).

Many authors point out that the existence of a strong Diaspora is one of the main factors which stimulate brain-circulation, and thus economic development. Today’s developed communication technology enables the Diaspora to really contribute to the development of institutions and companies in the home country (Teffera, 2004).

After examining the literature, it can be concluded that brain-circulation can be “profitable” for all parties. For example, during the 1970s and 1980s, India experienced a serious, even worrisome brain-drain. The qualified workforce left the country in large numbers and went to the West, in particular the US. However, this trend has now “reversed” - many Indian experts, trained in the US, have returned to India bringing with them knowledge and practical experience. This particularly applies to cities like Bangalore, Delhi, Hyderabad and Mumbai. These cities have received back a large number of professionals from the IT, finance and management fields (Chacko, 2007).

The situation is similar when it comes to China. However, the government has found a way to include students living and studying abroad in different national programs. Also, in 2001, the country adopted a new policy that has encouraged all Chinese immigrants to be involved in the modernization of their country. Of course, before that, a platform was created which allowed the best ways for their contribution. China is an example of a country that is not afraid of brain-circulation counting on all forms of assistance from the Diaspora.

The use of all the advantages of a strong Diaspora no longer leaves the country “desperate” when the qualified personnel migrate. Through various forms of exchange, they can always provide the necessary assistance to the development of the home country, and so contribute to further economic development. In particular, the measures taken by China relate to the following:

Immigration Surveillance Core File. *Updated 8-3-24*

1. Opening of centres for post-doctoral studies in order to attract Chinese PhD students who have completed this part of their education abroad,
2. Opening of incubators for employees in the field of high technology,
3. Increased allocations in research centres,
4. Creating good working conditions for migrants who return to the home country,
5. Implementation of the program “Serve the Nation Without Returning to the Nation” (Zweig, Fung & Han, 2008).

### **Brain drain thesis wrong and outdated – brain circulation is true and benefits both economies**

**Krasulja et al 16** (Nevena Krasulja, masters student at Union University Nikola Tesla, “BRAIN-DRAIN –THE POSITIVE AND NEGATIVE ASPECTS OF THE PHENOMENON”, ЕКОНОМИКА, July 2016, Date Accessed: 6/24/18, <https://www.ceeol.com/search/article-detail?id=585394> )//rsb

There are a number of push and pull factors which influence the brain-drain phenomenon and that are generated from the general social, economic, family to geographical and natural conditions. Recent research has shown that the home country shall experience a strong democratic influence when a large number of young people are looking to study in foreign democratic countries. On the other hand, those who leave their home countries after graduation continue to send money, usually for different family reasons, which has a great significance in most underdeveloped countries in the overall economic order. In the research of any social phenomena the globalization factor must not be forgotten. It affects the transformation of the brain-drain phenomenon to brain-circulation phenomenon. Many countries are developing programs and policies which shall help in returning their experts “home”, and also attract foreign qualified personnel by simultaneously strengthening its economy and competitiveness. Recent research suggests that **taking advantage of a strong Diaspora no longer leaves the country “desperate” when qualified personnel migrate. Through various forms of exchange, they can always provide the necessary assistance to the development of the home country and thus contribute to its further economic development.**

We can conclude, based on the data we obtained, that the number of people in 2010 who sought “a better life” in a foreign country tripled compared to the 1960s (<http://esa.un.org/migration>). This alarming figure is the motive for authors to continue to work on this phenomenon in the context of their country.



## General Frontline

### Turn -- Professional migration benefits developing countries – 5 reasons

Berhanu **Balaker**, January 2018 MPA, American University in Cairo, 1989 B Ed, Addis Ababa University, 1982 , The Need for Public Policy Initiatives to Retain Medical Doctors in Ethiopia, <https://scholarworks.waldenu.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=5992&context=dissertation>

1. Increasing the demand for education
2. Increasing remittances
3. Connecting the countries to foreign direct investment
4. Educated people to return home
5. Direct investment by migrants

I, however, argued that **migration can have a positive impact on sending countries, for instance by stimulating the pursuit of higher education in anticipation of migration abroad in search of high-paying employment.** In the words of Lowell and Findlay (2001 ), **“As enrollment increases 25 spurred by the chance of emigration, average human capital increases and, therefore, overall source country growth can be stimulated”** (p . 7). **More importantly, the funds that migrants send home may benefit their countries of origin even in the absence of a Western-style financial system** (World Bank, 2011). **According to World Bank, India is a good example in that it has received the greatest amount of remittances, some \$55 billion. The impact of this influx of capital was nowhere more visible than in the southern state of Kerala, where per capita income was 60% above than the national average and from which the volume of emigration was correspondingly higher** (Chishti, 2007). The World Bank’s report (2011) listed the Philippines as the recipient of the fourth largest amount of remittances, totaling some \$21.3 billion, and tied this large volume to the fact that around 8 million Filipinos, roughly one-eighth of the entire population, work abroad. **Africa also greatly benefits from remittances.** By way of comparison, the top 10 remittance-recipient countries in Africa in 2010 listed in the World Bank (2011) report were Nigeria, \$10 billion; Sudan, \$3.2 billion; Kenya, \$1.8 billion; Senegal, \$1.2 billion; South Africa, \$1 billion; Uganda, \$0.8 billion; Lesotho, \$0.5 billion; Ethiopia, \$0.4 billion; Mali, \$0.4 billion; and Togo, \$0.3 billion. In addition, migration can also alleviate unemployment problems in a source country (Srisankarajah, 2005) and may not have any effect **if the country has a surplus of skilled professionals. Individuals who cannot find work in domestic labor markets may find gainful employment when they migrate, thus benefiting themselves,** the destination country, and the source country, the latter through remittance. Further, return migration may increase both skills and investment; perhaps more **importantly, migrants are able to play key roles in linking companies in their adopted countries with investment opportunities in their home countries. In so doing, they create new markets for investors and facilitate the flow of financial resources,** information, and technology to source countries (Lewis, 2011). **Migrants can also assist in the development of**

**their home countries through direct investment.** Looking at migration from the vantage point of remittances, Lewis (2011) and Ghosh (2006) have likewise argued that the migration of skilled people should not be treated as a challenge to development but rather as a potential means to promote it. As noted, migrants who return home with new skills acquired during their time abroad have the potential to contribute significantly to the development of their countries of origin, while those who do not return may boost local economies through remittances, trade, networking, and foreign direct investment (Gibson & McKenzie, 2010)

**Turn – forcing people to stay subjects them to human rights abuses, dangerous medical situations, and it doesn't accomplish anything because the medical infrastructure is too useless to be meaningful**

Berhanu **Balaker, January 2018** MPA, American University in Cairo, 1989 B Ed, Addis Ababa University, 1982 , The Need for Public Policy Initiatives to Retain Medical Doctors in Ethiopia, <https://scholarworks.waldenu.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=5992&context=dissertation>

The central research question focused **on why Ethiopian medical doctors leave their country and what can be done to retain them. Participants** were 10 medical doctors of Ethiopian origin who live and practice medicine in the Washington, DC metropolitan area. Participants were purposively selected, and in-depth interviews and a focus group discussion were used to collect data from them. The study followed Moustakas' recommendations for phenomenological analysis, which represented a modification of the Stevick-Colaizzi-Keen method. The themes that emerged during data analysis have economic, political, professional, and personal dimensions. The findings include **low pay, lack of professional development, poor working conditions, the threat of political persecution, fear of contracting HIV, and inability to participate in health care decision-making**. Recommendations accordingly include offering pay raises and fringe benefits, creating opportunities for professional development, improving working conditions, and limiting political interference in the health care system. Implications for positive social change include the fact that stemming the outflow of medical doctors could help save the lives of thousands of Ethiopians threatened by preventable and curable diseases

**Many countries do not even have hospital beds, doctors are irrelevant**

Berhanu **Balaker, January 2018** MPA, American University in Cairo, 1989 B Ed, Addis Ababa University, 1982 , The Need for Public Policy Initiatives to Retain Medical Doctors in Ethiopia, <https://scholarworks.waldenu.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=5992&context=dissertation>

The steady loss of medical doctors in Ethiopia has multiple causes. Four of five Ethiopian medical students recently surveyed by the BBC, (“Why doctors trained in Ethiopia are leaving in their hundreds to work abroad,” 2011) expressed a desire to leave the country after graduation. These students cited three major reasons for their intention to emigrate: lack of training opportunities, poor pay, and unfavorable working conditions. They were concerned that the salaries they would receive after graduation would not be enough to live on, and they were not exaggerating, since beginning doctors in Ethiopia earn less than \$5,000 a year, compared with as much as \$120,000-\$180,000 earned by their counterparts in the United States (BBC, 2011). Furthermore, **the BBC report indicates that the lack of adequate beds, medicines, and equipment in the government-run hospitals is responsible for the deaths of not a few patients.**

### **Turn – forcing people to stay at home leaves them vulnerable to death from warfare and autocracy**

Berhanu **Balaker, January 2018** MPA, American University in Cairo, 1989 B Ed, Addis Ababa University, 1982, The Need for Public Policy Initiatives to Retain Medical Doctors in Ethiopia, <https://scholarworks.waldenu.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=5992&context=dissertation>

Lack of peace and stability. Many less-developed countries suffer from wars or conflicts of one sort or another; indeed, most armed conflicts today take place in less-developed countries (Brown & Stewart 2015). In Eastern Africa, for instance, there are ongoing conflicts between Ethiopia and Eritrea, Djibouti and Eritrea, Kenya and Somalia, while the genocidal war in Sudan’s Darfur region and a fratricidal conflict in Somalia continue to rage. In addition to these conflicts, religious and ethnic tensions plague most of the countries in the Horn of Africa. By some estimates, Africa accounts for more than half of all conflicts in the world (Tessema, 2010). The absence of peace and stability naturally increases the desirability of migration to a more stable and developed country. Political persecution. Authoritarian regimes rule many less-developed countries, in which there is little freedom because rulers tend to be ruthless when responding to citizen’s demands for rights and more democratic forms of government (Diamond, 2008). Leaders are contemptuous of the rule of law and accountable to only themselves (Diamond, 2008). Autocrats, mistrusting and hating intellectuals as potential threats to their power, dismiss them from government jobs and imprison them (Diamond, 2008). After the Ethiopian People’s Revolutionary Democratic Front (EPRDF) came to power in 1991, the new regime dismissed intellectuals from universities and other government institutions under the pretext of structural adjustment and civil service reform. At the Addis Ababa University alone, the government summarily dismissed 41 professors in April 1993 for criticizing its policies, thereby seriously diminishing the quality of education there (Levin, 2002). Worse, the government quickly moved to replace the dismissed professors with party loyalists without any consideration for academic credentials (Berhe & Atsbeha, 2017). Human Rights Watch (2003) predicted that this action would have a chilling effect on academic freedom in Ethiopia. The same anti-intellectual atmosphere is apparent in several African countries. Under the rule of anti-intellectual regimes, civil servants must either yield to the dictates of the rulers or flee their country (Diamond, 2008). Without significant improvement in governance, medical doctors, like

Immigration Surveillance Core File. *Updated 8-3-24*

other educated individuals who appreciate freedom, will continue to consider leaving their native countries in which their political rights are denied

### **Turn – When workers come to countries like the US other countries benefit from the knowledge they gain and when they share this knowledge with their home countries it increases the rates of invention there**

Kerr 17, William R. William R. Kerr is a professor at Harvard Business School, where he is faculty chair of the Launching New Ventures program for executive education. "The Supply Side of Innovation: H-1B Visa Reforms and US Ethnic Invention" HBS.edu. 26 Oct. 2017. Web. <[http://www.hbs.edu/faculty/Publication%20Files/09-005\\_005359f2-2ee8-4d73-b248-af492e44ecb4.pdf](http://www.hbs.edu/faculty/Publication%20Files/09-005_005359f2-2ee8-4d73-b248-af492e44ecb4.pdf)>

Our first finding is that increases in H-1B admissions substantially increased rates of Indian and Chinese invention in dependent cities relative to their peers. In the base specifications, a 10% growth in the H-1B population increased Indian and Chinese invention by 6%-12% in the most dependent quintile of cities relative to the bottom two quintiles. Just as importantly, the relative rates of Indian and Chinese invention grew by 2%-7% in the second and third quintiles. These differences are economically important and statistically different from responses in the reference category. Responses are also weaker for other non-English inventor groups, which is to be expected given the H-1B program's primary pull from India and China for SE workers.

### **inventions spur local economic growth and greater individual buying power, as Andrew Reamer from George Washington University found in 2014 that**

Reamer, Andrew. "The Impacts of Technological Invention on Economic Growth – A Review of the Literature." The George Washington Institute of Public Policy, 28 Feb. 2014, [gwipp.gwu.edu/sites/g/files/zaxdzs2181/f/downloads/Reamer\\_The\\_Impacts\\_of\\_Invention\\_on\\_Economic\\_Growth\\_02-28-14.pdf](http://gwipp.gwu.edu/sites/g/files/zaxdzs2181/f/downloads/Reamer_The_Impacts_of_Invention_on_Economic_Growth_02-28-14.pdf).

More recently, of course, the developing world has experienced great benefits from technological change. Ezra Klein: In terms of human welfare, the most important changes are happening outside our borders. More people have seen their lives improve more quickly in the past few decades than perhaps at any time in human history. In 1990, more than 40 percent of the world lived in extreme poverty. By 2015, the World Bank predicts, the figure will be just 16 percent. Among people who work in global development, the goal of eradicating extreme poverty by 2030 is now controversial because it's not considered ambitious enough. . . . Rapid development in China, and India is among the best news in the history of the human race. It will also profoundly alter the U.S. role in the world -- and its sense of mission and place -- as the century wears on. The U.S. will not be, and should not be, the world's largest economy for long. . . . I take the optimist's view, which is that global development is good for the world and good for the U.S. . . . The rising power of autocratic governments is a real concern. But we have even greater cause to be thrilled that billions of people will be better able to develop and use their talents as economic demand increases and technology advances.<sup>14</sup> A different type of divergence has been taking place within developed nations. Invention leads to economic growth by increasing labor productivity—new technologies allow each worker to produce a greater amount of goods and services. The following graphs show that between the end of World War II and the mid-1970s, U.S. households fully benefited from steadily increasing productivity. However, while productivity increases have continued apace over the last four decades, median household income has been relatively stagnant and labor's share of income has declined. This suggests that of late the benefits of invention have not been evenly distributed in the U.S.

### **H-1B Workers return home so no drain will occur**

**Mandira Banerjee 09-** News Reporter for News America Media - 2009, "Hanging in Balance"; Khabar; [www.khabar.com/magazine/cover-story/Hanging\\_In\\_Balance.aspx/](http://www.khabar.com/magazine/cover-story/Hanging_In_Balance.aspx/))

Immigration Surveillance Core File. *Updated 8-3-24*

Vivek Wadhwa describes the return of H-1B workers to their home countries as a reverse brain drain. “Most students and skilled temporary workers who come to the United States want to stay—but we’re leaving these potential immigrants little choice but to return home.” In non-technology fields, getting an H-1B is more challenging. Durga, who was searching for a job last year, was told by a recruiter in Chicago that the clients “won’t want to touch her with a bargepole because she needed an H-1-B visa to work for them.” So she moved to New York, where “it has been easier moving on to a better position.” The major issue with H-1B visas is that it is tied to an employer. So, in many ways, H-1B workers are at the mercy of their employer-sponsors. If they are fired or choose to quit, they must return to their native countries. They can't change jobs unless the old and new employers agree. “There was a situation in 2001 where my then-employer gave me two months’ notice to find another job since they were cutting costs and had to let people go. It was a little nerve-wracking until I found my next job,” says Shankar (H-1Bees), who now has a green card. Durga, too, feels restricted by the visa situation. “I feel like I am leashed to a post and always straining at it. If I didn’t need a work permit, I would have been able to move into a field that better suits my temperament and my long-term goals.”

### **There is no empirically no brain drain- foreigners will go back**

Stacy **Nguyen 11**, Editor of Northwestern Asian Weekly, “New Program aimed at slowing U.S.’s brain drain”, The Northwest Asian Weekly, 10/28/2011, <http://www.nwasianweekly.com/2011/10/new-program-aimed-at-slowing-u-s-%E2%80%99s-brain-drain/>

Each year, many American employers, including Microsoft’s Bill Gates, lobby Congress to lift the H1B cap, stating that it is too restrictive and companies cannot hire the workers they need. “We heard from the entrepreneurs in the community and they articulated a concern that there are not adequate avenues for the best and brightest students who come here to the U.S. for education to remain here in the U.S. to use the skills and knowledge they have gained for the good of this country,” said USCIS Director Alejandro Mayorkas in a conference call. “What we see is an exodus instead. We educate and we train, and because the access is not available to them, they leave and they contribute to other countries.”

### **They go back**

MICHELLE **HIRSCH 5/14/2012**, The Fiscal Times’ Economics and tax policy for Washington, D.C. Bureau; “US Educated Immigrants Return to Their Homelands”; The Fiscal Times;

<http://www.thefiscaltimes.com/Articles/2012/05/14/US-Educated-Immigrants-Return-to-Their-Homelands.aspx#page1>

Demographers were stunned last month when new data revealed a trend reversal: immigrants are no longer flocking to the U.S., and some have made a U-turn and returned home. Data from

Immigration Surveillance Core File. *Updated 8-3-24*

the Internal Revenue Service show that 1,800 people, mostly living abroad, either renounced their U.S. citizenship or handed in their green cards—more than the total number of people who did so in 2007, 2008, and 2009 combined. A few made the choice to avoid paying U.S. taxes on income earned abroad, but others are seeking greener pastures in the global economy. ¶¶¶ With the U.S. facing a shortage of skilled workers, the wave of immigrants who are turning their backs on America is foreboding. A growing population of highly-educated Americans and foreign nationals educated in the states are less committed to living and working in the U.S., preferring to return to their homelands, many of which are emerging economies. ¶ “It’s only really come to light in the last year or two, but we’re noticing a pattern of highly-skilled children of foreign-born U.S. immigrants leaving the U.S. for the countries where their parents were born,” said Madeleine Sumption, a policy analyst at the Migration Policy Institute. Sumption says the trend is strong in China, India and Brazil where dramatic economic growth over the last decade has opened up opportunities for entrepreneurship and led U.S. multinationals to hire overseas employees with western educations. “We’re putting together a picture of what’s happening partly from data and partly from anecdotal evidence since it’s a relatively new phenomenon.” ¶ Entrepreneurship experts say a combination of booming developing economies, a still-soft U.S. economy, and difficulty obtaining green cards is driving foreign-born U.S. students who in past years would have remained in the U.S. on temporary visas to move home. ¶ “Some of the sheen has come off the U.S. economy as the place to make your fortune—especially if you’re from another country and have a U.S. education,” said Robert Litan, vice president of research and policy at the Kauffman Foundation. “They know all the hot things that are going in the United States, and see a real opportunity to replicate them or do something similar in their home country that doesn’t have it.” ¶ According to data from the Brazilian government, U.S. applications for permanent work visas in Brazil rose 77 percent between 2008 and 2011, and temporary visas rose 36 percent during that time. ¶ China and India have not released those same statistics, though other data point to growing numbers of American-educated individuals choosing to move to those countries. The Chinese Ministry of Education estimates that the number of Chinese living overseas who returned to China more-than tripled between 2007 and 2010 from 44,000 to 135,000. ¶

## **Not Zero Sum**

### **Immigration isn't zero-sum – remittances and social capital exchange facilitates mutually beneficial brain linkage**

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MKIM

Under the conventional human capital approach, the migration of high skilled professionals is considered a zero-sum game in which the host country receives a net inflow of human capital from the home country, enhancing the competitiveness of the host country at the home country's expense, commonly referred to as "brain drain" for the home country and "brain gain" for the host country. This approach underlies many, if not most, of the policies governing skilled immigration today. Policies that encourage return ethnic migration, or "brain circulation," are also premised on this framework. In the newly emerging approach, however, mutually beneficial ties (or "brain linkages") between home and host countries create a win-win, positive-sum situation for both sides. Unlike ties linking members of homogeneous groups (bonding social capital) or ties linking members of diverse social groups in the same geographic area (local bridging), transnational social capital connects members of different countries (transnational bridging). This concept is illustrated in figure 2. From this transnational social capital perspective, brain drain offers an opportunity for brain linkage, although this requires a country to lose first before it can gain, with a certain level of risk involved. Thus, if brain drain can be converted into brain circulation or brain linkage, it will contribute to the social and economic development of a country in areas that homegrown talent alone may not be able to satisfy. Recently published reports by the Asian Development Bank (ADB) examining labor mobility across ASEAN countries acknowledge that brain drain has benefits, but only insofar as it can be converted into brain circulation.<sup>6</sup> For example, the ADB report states, "In a globally connected world, the departure of skilled nationals is neither necessarily permanent nor a net drain, at least in the long run. Many return with new skills, financial and social capital, and access to valuable business and educational networks." Others also have acknowledged the positive effects of brain circulation, or skill mobility, within the ASEAN community.<sup>7</sup> However, these reports do not

examine in detail how there could still be benefits stemming from the permanent non-return of high-skilled individuals, as we address here. Beyond Monetary Remittances Earlier studies on the positive returns from emigration for source countries emphasized the role of emigrants' monetary remittances. However, cross-national studies examining the relationship between remittances and economic performance are inconclusive, with some studies finding a positive relationship<sup>8</sup> and others finding no relationship or even a negative relationship.<sup>9</sup> For example, a cross-national study of seventy-one developing countries showed that a 10 percent increase in per capita official international remittances produced a 3.5 percent decline in the share of people living in poverty.<sup>10</sup> Other research also finds that migration and remittance receipts are positively correlated with various types of household investments in developing countries, including entrepreneurship and small business investment.<sup>11</sup> Some positive examples include agricultural investment in Pakistan<sup>12</sup> and China<sup>13</sup> and schooling investments in El Salvador and Guatemala.<sup>14</sup> However, other studies also argue that remittances rarely fund productive investments, and instead mainly allow higher consumption.<sup>15</sup> With the increasing importance of high-skilled migration, research has paid growing attention to migrants' contributions to home country development beyond monetary remittances. In particular, knowledge transfer or "knowledge remittances," either directly through brain circulation or indirectly, through networks, has been an important focus of such research. To facilitate such knowledge remittances, it has been noted that countries need to send out educated and talented people abroad even at the risk of losing some of them, i.e. brain drain.



## Political Stability Turn

### **Brain drain's good – skilled workers come to the US, go home again, and then fix their flawed governmental systems**

Catia **Batista** and Pedro **Vicente 11**, respectively: assistant professor at Trinity College Dublin and research affiliate at the Institute for the Study of Labor (IZA); assistant professor at Trinity College Dublin, research associate at the Centre for the Study of African Economies (CSAE), University of Oxford, and research affiliate at the Bureau for Research and Economic Analysis of Development, “Do Migrants Improve Governance at Home? Evidence from a Voting Experiment”, THE WORLD BANK ECONOMIC REVIEW, VOL. 25, NO. 1, pp. 77–104, May 12 2011, [https://openknowledge.worldbank.org/bitstream/handle/10986/13465/wber\\_25\\_1\\_77.pdf;sequence=1//hb](https://openknowledge.worldbank.org/bitstream/handle/10986/13465/wber_25_1_77.pdf;sequence=1//hb)

Empirical evidence on the impact of emigration on the quality of political institutions in origin countries is scarce, but there are a few recent contributions. Docquier and others (2010) present cross-country evidence that unskilled emigration from a large sample of developing countries to Organisation for Economic Co-operation and Development countries over 1975 – 2000 positively affected institutional quality in origin countries (measures of democracy and economic freedom). Though skilled emigration had an ambiguous effect in the short run, simulations found significant institutional gains from “brain drain” over the long run, after considering incentive effects of the brain drain on human capital formation. Li and McHale (2009) describe possible mechanisms through which skilled emigration could affect political and economic institutions at home, presenting cross-country evidence for 1990–2006 consistent with the hypothesis of a positive effect on political institutions (particularly on political accountability) but not on economic institutions. Spilimbergo (2009) uses evidence from 1960 to show that foreign education acquired in democratic countries seems to promote democracy in home countries. These empirical contributions are consistent with the results reported here, but they cannot distinguish between supply and demand forces nor capture the mechanisms underlying the identified effects because they use aggregate data and explore cross-country variation. This article uses tailored household survey data for a single country, which allows focusing more specifically on the impact of emigration on the demand for improved political accountability, while discriminating between the impact of return and current migrants. This approach relies on within country variation, rather than the traditional cross-country source of variation. Reliance on data for a single country may, however, raise external validity concerns, so that contributions by these different lines of work are both important and complementary.

### **Emigration improves domestic political institutions – diaspora effect and enrichment**

Catia **Batista** and Pedro **Vicente 11**, respectively: assistant professor at Trinity College Dublin and research affiliate at the Institute for the Study of Labor (IZA); assistant professor at Trinity College Dublin, research associate at the Centre for the Study of African Economies (CSAE), University of Oxford, and research affiliate at the Bureau for Research and Economic Analysis of Development, “Do Migrants Improve Governance at Home? Evidence from a Voting Experiment”, THE WORLD BANK ECONOMIC REVIEW, VOL. 25, NO. 1, pp. 77–104, May 12 2011,

[https://openknowledge.worldbank.org/bitstream/handle/10986/13465/wber\\_25\\_1\\_77.pdf;sequence=1](https://openknowledge.worldbank.org/bitstream/handle/10986/13465/wber_25_1_77.pdf;sequence=1) //hb

Emigration may also **promote improved political institutions** in several ways: emigrants may create strong **diaspora effects influencing political change** (for example, by influencing local authorities on the supply side or by exposing the domestic population to better institutions abroad on the demand side). If return emigrants benefited from an enriching experience abroad, that could also translate into **improvements in the quality of domestic political institutions** (on the supply side by increasing direct participation in the political system and on the demand side by raising awareness and demand for political accountability).

### **Skilled emigration helps solve political instability in home countries- empirically increases likelihood of Democracy**

**Li et al 17** (Xiaoyang Li, Term Associate Professor and Associate Faculty Director of MBA program at Shanghai Advanced Institute of Finance, “Does Brain Drain Lead to Institutional Gain?”, *The World Economy*, 2017, Date Accessed: 6/25/18, <https://onlinelibrary.wiley.com/doi/full/10.1111/twec.12407> )//rsb

Emigration can also be a ‘safety valve’ for institutional harmful political conflicts. Quoting Hirschman again (1978, p. 102): ‘With exit available as an outlet for the disaffected, they were less likely to resort to voice: the ships carrying the migrants contained many actual or potential anarchists and socialist, reformers and revolutionaries’. While the emigration safety valve might allow a society to blow off steam, it might also relieve pressure for democratic reform. Hirschman raises the intriguing possibility that emigration might create space for a more peaceful democratic transition, pointing as possible beneficiaries, Greece, Portugal and Spain in the 1960s and 1970s. Each country experienced large-scale emigration, which may have made it easier to ‘negotiate the difficult passage to a democratic order than would have been the case otherwise’ (Hirschman, 1978, p. 103).

In sum, due to different requirements of human capital involvement, the absence of skilled labour does more damage to economic institutions than to political institutions. The absence of skilled labour not only undermines the demand for better institutions, but also hurts the capacity to supply better institutions with competent staff.

### **Long distance nationalism due to emigration helps political institutions with new information**

**Li et al 17** (Xiaoyang Li, Term Associate Professor and Associate Faculty Director of MBA program at Shanghai Advanced Institute of Finance, “Does Brain Drain Lead to Institutional Gain?”, *The World Economy*, 2017, Date Accessed: 6/25/18, <https://onlinelibrary.wiley.com/doi/full/10.1111/twec.12407> )//rsb

The diaspora channel captures how absent nationals can influence domestic institutions.

Many emigrants retain connections – not the least of which is citizenship – with their former homes. These enduring connections lead to an increased willingness to trade, invest, remit, share information and participate in domestic politics. With advances in transportation and communications technology, these connections are typically much stronger than in the past. The expanding permissibility of dual nationality has also facilitated enduring connections. Many skilled emigrants are now truly what Huntington (2004) refers to (disapprovingly) as ampersands (e.g. Indian & American). These enduring connections help shape sending country's economic and political landscape.

Rauch and Trindade (2002) show that ethnic business and social networks can have a considerable impact on international trade, especially through promoting bilateral trade by providing market information and by supplying matching and referral services. Saxenian (2006, p. 5) calls the skilled and entrepreneurial immigrants who have strong connections in both home and host regions 'the new Argonauts', after the Greeks who sailed with Jason after the Golden Fleece. She argues that they can be a powerful source of economic advantage. Not all diaspora agitation is beneficial, however. Increasingly, a country's minorities living abroad press their claim to justice not in the country of origin but in the country of settlement. Political turmoil both spurs international migration and activates diasporic nationalism. Global trends can weaken the cover of national sovereignty – and diasporic minorities in particular are playing a more activist role in their country of origin, especially where the community faces the threat of violence. 'Long-distance' nationalism associated with diasporas has often amplified political tensions and conflict in the country of origin.

Recent research on individual-level experiences has documented that migrants' political and institutional remittances can improve the governance of the home countries (Ivlevs and King, 2014). Perez-Armendariz and Crow (2010) use surveys and interviews to show that having migration connections alters the political participation and behaviour of Mexicans living in Mexico. Omar Mahmoud et al. (2014) put forward the argument of political spillovers from migrants' destinations to their home countries. Using community and individual-level data from Moldova, they find that the main channel is through access to unfiltered information from democratic and advanced countries, especially in regions where information acquisition is difficult or costly, which can change political preferences and strengthen the constituency for political change and reforms.

Since information flow plays a more important role in fostering political institutions than economic institutions, we argue that the diasporas are in a better position to help political institutions, especially by providing valuable information from abroad.

### **Returning skilled immigrants increase supply and demand for better institutions in their home countries**

**Li et al 17** (Xiaoyang Li, Term Associate Professor and Associate Faculty Director of MBA program at Shanghai Advanced Institute of Finance, "Does Brain Drain

Lead to Institutional Gain?”, *The World Economy*, 2017, Date Accessed: 6/25/18, <https://onlinelibrary.wiley.com/doi/full/10.1111/twec.12407> )//rsb

Finally, the return channel captures how returning emigrants can be a force for institutional change. Returnees can be both a source of supply and demand for better institutions to the extent that they come back with knowledge of better practices and limited patience for older, less effective ways of doing things. Examples of such sort abound, especially in emerging economies.

Central to the return effect is how time spent abroad affects productivity relative to time spent at home. Where an individual spent their past might matter because: (i) there are more opportunities to acquire general capital (skills, savings and social connections) abroad; (ii) there are fewer opportunities to acquire home country-specific capital while abroad; or (iii) simply spending time in developed economies changes expectations and motivations that affect how individuals behave when they return. There are again many case studies of individuals returning to have transformative effects on their home economies. However, as with the diaspora evidence, systematic evidence is less plentiful.

In Latin America, the quality of top-level economic technocrats has grown significantly over the past generation, as a result of their schooling in North America and Europe. They bring with them professional values regarding transparency and accountability that have spillover effects in their countries. A noted example is the Bolivian President Gonzalo Sanchez de Lozada. He was raised and educated in the United States before returning to Bolivia where he played a key role in stopping hyperinflation in 1985 as the Minister of Finance. In an interview with Public Broadcasting Service (PBS) in 2001, when asked ‘what did your time living abroad teach you’, he commented: ‘It was very positive because I knew I received a number-one grade education. And I knew I was very connected to the rest of the world ... We had a deep devotion and affection towards Bolivia that had been kept alive in my family ... made me a Bolivian patriot, but with a view through a window onto the world’.<sup>4</sup> Other well-known leaders who studied in the United States include Benazir Bhutto (Pakistan), Carlos Salinas de Gortari, Vicente Fox (Mexico), Ehud Barak (Israel), Ma Yingjeou (Taiwan), Corazon Aquino (Philippines), Hamid Karzai (Afghanistan) and Michelle Bachelet (Chile).

Returning emigrants can also be a destabilising force. Even if the returnee was not very different from the natives before the original departure, their time abroad might have increased not just their economic potential but also their potential to be disruptive. This ‘disruptiveness’ will often be a source of creative energy for reform, but sometimes insert a new source of conflict-creating heterogeneity. In his classic study of Irish emigration, Arnold Schrier (1955) describes the phenomenon of the ‘returned yank’ – often someone who has only been away for a few years – but fits uneasily back in their home society. The possibility for conflict between natives and returnees is dramatised in John B Keane’s play *The Field*. In the movie adaptation, which earned an Oscar nomination for Richard Harris’s portrayal of an Irish farmer obsessed by land, a returned Irish American attempts to outbid the native farmer for a field. The returnee has big plans for hydroelectric power and a mine. But this conflict between native and returnee ends in murder and a community turned upside down.

Spilimbergo (2009) offers related evidence on the effect of foreign-educated students in promoting democracy in their home countries. Using a household survey in Cape Verde, Batista and Vicente (2011) examine the determinants of voting behaviour and find the positive effect of international emigration on the demand for political accountability, mainly by returnees who have emigrated to countries with better governance. Return of skilled emigrants (especially from more advanced countries) can spread attitudes, behaviours, norms, ideas and even institutional arrangements absorbed in democratic host countries to their home countries. The returnees can better raise the supply and demand for both economic and political institutions, especially for political institutions.

In sum, we argue that skilled emigrants can affect their home country's institutional development through various channels and each channel can induce different institutional changes. Moreover, these changes vary across different dimensions of institutions. We take these questions to data in the following sections.

### **Increased emigration leads to political destabilization**

**Li et al 17** (Xiaoyang Li, Term Associate Professor and Associate Faculty Director of MBA program at Shanghai Advanced Institute of Finance, "Does Brain Drain Lead to Institutional Gain?", *The World Economy*, 2017, Date Accessed: 6/25/18, <https://onlinelibrary.wiley.com/doi/full/10.1111/twec.12407> )//rsb

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### **Allowing workers to leave the country improves political institutions at the expense of the economy**

**Li et al 17** (Xiaoyang Li, Term Associate Professor and Associate Faculty Director of MBA program at Shanghai Advanced Institute of Finance, "Does Brain Drain Lead to Institutional Gain?", *The World Economy*, 2017, Date Accessed: 6/25/18, <https://onlinelibrary.wiley.com/doi/full/10.1111/twec.12407> )//rsb

Recent work on economic growth and development has highlighted the importance of the determinants of a country's institutions. Going back to the pioneering work of Albert Hirschman, international labour mobility has been hypothesised as a potential determinant of institutions through a range of mechanisms. We outline four major channels through which internationally mobile human capital could influence domestic institutional development. We also lay out how skilled labour emigration can affect home country's political institutions and economic institutions differently.

Our findings consistently show that emigrant human capital has positive effects on home country's political institutions, but negative or nil effects on economic institutions. In net, allowing educated adults staying abroad rather than staying at home improves home country's political institutions but undermines economic institutions. Methodologically, we attribute the association to be causal as we attempt several IVs for emigrant human capital. Finding better instruments and disentangling detailed mechanisms of how emigration interacts with institutions remain fruitful areas for future work.

## Remittances Turn

### Remittances and investments zero out the link & cause brain gain – Africa proves

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The literature is clear that immigrant remittances mitigate the private losses of skilled emigration. However, we can agree that remittances<sup>2</sup> do not take the place of fiscal investments in education or lost tax revenue, nor do they replace the resident talent needed for development.<sup>3</sup> Under what circumstances may remittances contribute to brain gain and other positive social changes in source countries? When skilled emigrants come from low-income households, remittances tend to go toward basic needs, school fees, and farms and other small businesses, improving the livelihoods and future economic prospects of migrant families and their communities through positive externalities. Further, remittances can substitute for missing or ‘thin’ markets for rural credit, health insurance, and social security. Remittances also serve as a form of savings for skilled emigrants aspiring to return home in circumstances that allow them to live well and establish businesses or accept positions in academia or government with less than competitive compensation. These positive externalities will be less impactful when skilled emigrants, including international students, come from upper middle class or high-income households.<sup>4</sup> Evidence indicates their remittances are largely spent on higher end consumption, often in real estate. A study by Gibson and McKenzie (2011) provides evidence of heterogeneity across countries in sending remittances. These authors analyzed remittance data for over 6000 skilled emigrants living in 11 OECD countries and found that for most sending countries, less than half of tertiary educated migrants send remittances. They also found a strong negative correlation between source country per capita income levels and proportion of skilled emigrants who remit; hence, the poorest countries benefit most from remittances. For instance, less than 20 percent of highly educated Mexican and Chilean emigrants remit, compared to over 60 percent for Senegal and the Democratic Republic of Congo. Further evidence of skilled emigrants from Africa sending remittances back to source countries can be found in a recent retrospective mixed methods tracer study of African alumni of international universities. Marsh et al. (2016b) found that 60 percent of alumni who remained abroad contribute remittances to their home countries, often to pay school fees for siblings and other relatives, and to support aging parents. The same study found that beyond consumption remittances, 40 percent of African alumni living in the diaspora are making productive investments in their home countries, in some cases paving the way for an eventual return.

## **Remittances solve – even if they’re individually small they’re huge when combined**

Speranta **Dumitru 12**, Associate Professor of Political Science and Chair of Social Ethics at Université Paris Descartes, “Skilled Migration: Who Should Pay for What? A Critique of the Bhagwati Tax”, *Diversities*, vol. 14, n°1, 2012, pp. 9-23, SSRN, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2174447](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2174447) //hb

Still, however great the difference between the value of a professional’s work and her remuneration, it doesn’t mean that the country loses through emigration. On the contrary, since the end of the 1990s, numerous studies have shown that poor countries gain from emigration<sup>8</sup>; these studies generally go beyond the short-term effects of the professional’s absence from the country. And her sole presence – as Bhagwati admits – doesn’t guarantee productivity as, without the appropriate conditions, “the brain (...) can drain away faster sitting in the wrong place than travelling abroad to Cambridge or Paris”<sup>9</sup>. Indeed, emigration represents a net gain for poor countries if we take into account other variables: the diaspora effect (remittances, commercial and technological exchange due to the diaspora); the prospective effect (the influence of the prospect of emigration, and notably on personal and institutional investment in education); and the return effect (returning emigrants have greater human, financial, and organisational capital)<sup>10</sup>. If we refer only to remittances, one can regret that the amounts sent by the skilled migrants are not directly proportional to their income<sup>11</sup>. Nevertheless, the total value of what is received by developing countries from remittances is considerable: it exceeds foreign economic investment in poor countries and represents today more than four times the aid to development<sup>12</sup>. In other words, what is achieved by migrants on a voluntary basis largely exceeds what is realised by States on an altruistic basis and by entrepreneurs on a commercially-interested basis.

## **National income doesn’t change with migration-remittances solve**

**Frenkel 17** (Michael Frenkel, Chair of Macroeconomics and International Economics an der WHU – Otto Beisheim School of Management, “Is Migration Good for an Economy? A Survey of the Main Economic Effects”, *Journal for Markets and Ethics*, 10/9/17, Date Accessed: 6/28/18, <https://www.degruyter.com/downloadpdf/j/jome.2017.5.issue-1/jome-2018-0002/jome-2018-0002.pdf> )//rsb

A typical phenomenon associated with immigrants is that they transfer part of their income back to their families and friends in their home country (World Bank, 2016). In this case, national income in the home country of the immigrants does not fall as much, and national income in their host country does not expand as much as in the basic analysis. This implies that per capita income in the host country (country A in Figure 1) declines beyond the level shown in the basic scenario. For some home countries that have experienced significant emigration, remittances have indeed developed into a significant balance of payments item. Countries for which such international transfers are of high relevance include the Philippines, India, Mexico, the Caribbean, China, Morocco and Bangladesh. In these cases, such flows account for a significant share in total income for the home country and are, thus, welfare increasing.



Whether such remittances lead to long-term economic growth in the home country of the migrants depends on their use. Studies on this topic show that remittances typically flow into developing countries, and that the recipients mostly use them for consumption and not for investment. Papademetriou and Martin (1991) present early studies with relatively limited effect on economic growth in the home countries of the migrants. More recently, Bodvarsson and Van den Berg (2013) confirm these results and emphasize that the multiplier effects of additional consumption in the recipient countries are also not very high either. In many cases, this is mainly due to the lack of investment opportunities, which limits the secondary effects.

## AT//Remittances Misspent

**Their studies are wrong and remittances are helpful regardless – multiplier effect**

**OECD 6**, The Organisation for Economic Co-operation and Development is an intergovernmental economic organisation with 37 member countries, founded in 1961 to stimulate economic progress and world trade, “International Migrant Remittances and their Role in Development”, International Migration Outlook, SOPEMI 2006 Edition, pp154, <https://www.oecd.org/els/mig/38840502.pdf> //hb

**There are some indisputable welfare effects of migrant remittances.** First, remittances are an important source of income for many low and middle-income households in developing countries. Second, remittances provide the hard currency needed for importing scarce inputs that are not available domestically and also additional savings for economic development (Ratha, 2003; Taylor, 1999; Quibria, 1997). But the magnitude of the development impact of remittances on the receiving countries was assumed by many scholars to depend on how this money was spent. Thus, a significant proportion of the literature studies the use of remittances for consumption, housing, purchasing of land, financial saving and productive investment. There is no doubt that spending on entrepreneurial investment has a positive direct effect on employment and growth.<sup>6</sup> However, other scholars documented that **even the disposition of remittances on consumption and real estate may produce various indirect growth effects on the economy.** These include the release of other resources to investment and the generation of **multiplier effects.** Regarding the use of migrant remittances, a longstanding literature has suggested that remittances are more often spent on basic consumption needs, health care and real estate. But, whether from remittances or other sources, **income is spent in a way which responds to the hierarchy of needs.** Therefore it is reasonable to suppose that until the developing countries reach a certain level of welfare, households will continue to exhibit the same spending pattern (Lowell and de la Garza, 2000).

## **Mexico Specific Answers**

## Mexico Remittances Turn

### Remittances promote entrepreneurship in the sending country

#### Naudé, Siegel and Marchand 2017

[Wim, Maastricht School of Management, Maastricht University, Melissa, Maastricht Graduate School of Governance, Maastricht University and Katrin, Maastricht Graduate School of Governance, Maastricht University, "Migration, entrepreneurship and development: critical questions", Naudé et al. IZA Journal of Migration (2017) 6:5]

In the case of Mexico, on the other hand, remittances have been found to be a significant source of capital for microenterprises (López-Córdova and Olmedo 2006). Investments in businesses are increasingly seen in Mexican households and communities receiving remittances from the USA (Massey and Parado 1998).

Woodruff and Zenteno (2007) also find that small and medium enterprises in Mexico benefit financially from having links to migrant networks in the USA and that in the case of high-tech firms, they grow faster as a result, suggesting that migrant networks can alleviate financial constraints. In the case of Nicaragua, Funkhouser (1992) establishes that remittances have a small positive effect on self-employment in receiving households. In El Salvador, in contrast, remittances did not seem to impact self-employment activities in a household survey conducted in 2000. International remittances were, however, significantly and positively associated with business ownership. These effects were particularly strong in rural areas and amongst females (Acosta 2007).

### Remittances solve the link

#### Rawson 2014

[Ana Rawson I am a Washington, D.C.-based writer who covers global economic trends, with a focus on China and India] <https://www.forbes.com/sites/anaswanson/2014/09/30/remittances-an-economists-remedy-for-organized-crime-in-mexico/#4c58563a6e6c>

Violent drug crime and inadequate enforcement have proven to be unshakeable problems in Mexico. While the country's murder rate declined last year, it remains among the highest in the world. National borders have been unable to contain the negative effects: Mexico's drug war has spurred waves of illegal immigrants, drug addiction, and homicides throughout the US. Can anything be done to improve this situation? A recent paper published by the Inter-American Development Bank offers one interesting solution. The study found a linkage between the percent of Mexican households receiving remittances -- money sent back home from workers abroad -- and a lower homicide rate. In the study, every 1 percent increase in the number of households receiving remittances reduced the homicide rate by 0.05 percent. While the direct causes are unclear -- perhaps higher incomes deter people from committing crimes, or lead to more education and job opportunities -- the findings are nonetheless powerful. Remittances play a vital role in the Mexican economy. Mexican emigrants are among the largest senders of remittances worldwide; in 2010, Mexicans working in the U.S. sent back more than \$22 billion in remittances, accounting for 2.1% of Mexican GDP, according to the paper. Remittances provide more funds to Mexico than either receipts from international tourism or foreign direct investment flows. In Mexico's poorest areas, they can make up 19.5% of local income. Pocket protection Remittances are a powerful force for raising living standards worldwide. According to World Bank estimates, migrants remitted \$550 billion to their home countries last year, \$414 billion of which flowed into developing countries. (Roughly 232 million people, or around 3% of the world's population, lived outside their home countries in 2013.) This makes remittances the second-largest source of financial inflows for developing countries after foreign direct investment -- larger than portfolio equity and private debt, and greatly outstripping official development assistance. Migrant wages sent from abroad tend to act as a stabilizing force for emerging economies. Unlike foreign investment, remittances are anti-cyclical: They rise when developing economies worsen and migrants are incentivized to go abroad, and fall in times of prosperity. Remittances are also likely to be much larger than official figures suggest. According to various estimates, informal flows add up to 35-250% of the official total, crossing borders in disguises

Immigration Surveillance Core File. *Updated 8-3-24*

ranging from jewelry and second-hand cameras to mobile phone minutes and cash stuffed into socks. These flows are not an unmitigated positive for developing countries. They can cause many of the same economic problems as foreign aid or other capital inflows – such as Dutch disease, asset market bubbles, and a lack of government accountability – and economists debate whether their net effect on growth is positive. The lure of higher wages also results in brain drain, the exodus of skilled professionals that many developing countries blame for lower productivity. Even so, remittances remain an underappreciated channel for reducing the level and severity of poverty in developing countries. A data set on 71 developing countries constructed by Richard Adams, Jr. and John Page in 2005 showed that a 10% increase in per capita official remittances led to a 3.5% decline in the share of people living in poverty. Through the wire One of the main impediments to remittances, however, is that the cost of sending them remains high -- especially compared with the incomes of developing-country recipients. A migrant sending \$200 from France to Mali in the first quarter of 2014, for example, paid more than \$12 to make the transfer – a week’s worth of average income in Mali. The lack of financial infrastructure in developing countries, regulatory barriers, and insufficient documentation among migrants all elevate transaction costs. Another reason that the cost remains high is that the world’s largest commercial banks avoid the remittance business, due to the risk of being caught up in money laundering or terrorist financing. Banks that unintentionally become embroiled in these crimes can pay a big price: For example, in mid-2013 a court ordered HSBC to pay a \$1.9 billion settlement for a money laundering case the bank claimed to be unaware of. The average global cost of sending remittances fell to an all-time low of 7.90% of the remitted total in the third quarter, the World Bank said in a September 2014 report. However, the figure still falls short of the G8’s goal to cut the average cost of sending remittances to 5% by the end of 2014. In early 2013, the World Bank said that bringing the cost of sending remittances down to 5% would put \$4 billion more dollars in the pockets of African migrants and their families. The Inter-American Development Bank report on Mexico, meanwhile, concludes that bringing down the high costs of remittances would be an effective way to reduce the organized crime rate. In addition to reducing the surcharge on remittances, the Mexico study is a powerful argument for encouraging immigration in general. By admitting more immigrants, the U.S. could lift Central American economies and reduce harmful effects of drugs and organized crime on its southern border. To economists, these gains are not a mystery: Labor mobility allows for more efficient allocation of resources and greater welfare gains. By one estimate, completely opening borders would add \$39 trillion to the global economy over 25 years, more than 500 times the amount the rich world spends on foreign aid annually. That scenario remains one for economics textbooks, but the lesson is clear: “Pocket-to-pocket foreign aid” can be a useful tool in lifting living standards and promoting stability in poorer countries.

## Wages Turn

### **Immigration helps Mexico – lower labor force increases competition and wages Penny 2016**

[Li penny San Francisco Bay Area Information Technology and Service, <https://policyinterns.com/2016/12/07/how-does-emigration-to-the-us-influence-economic-development-in-mexico/>]

In the United States, most migration researchers tend to focus on the effects of immigration on the domestic economy and labor force. However, it is also important to understand the effects of emigration on economic development in sending countries. That is because policies can be designed to utilize emigration to promote the development of sending countries. Such is the case for Mexico, which has been a major country of origin immigrants to the United States. Pew Research Center revealed that the US-Mexico migration corridor is the world's largest[1]. Between 1965 and 2015, more than 16 million Mexicans migrated to the country[2], and Mexican immigrants by far are still the largest immigrant origin group. Similarly, the United States is also the major destination country for Mexican immigrants.

Demographic and Socioeconomic Characteristics of Mexican Migrants[3] After 50 years of rapidly increasing immigration, the number of Mexican immigrants to the U.S. has stabilized. Surprisingly, however, migratory patterns from Mexico to the U.S. have changed. More Mexicans left than came to the U.S after the Great Recession. Between 2009 and 2014, around 870,000 Mexican nationals left Mexico to come to the U.S, while 1,000,000 Mexican nationals left the U.S. and went back to Mexico[4]. According to the Census Bureau's statistics, in 2003, about 147,000 Chinese immigrants came to the U.S., compared with 129,000 Indian immigrants and 125,000 Mexican immigrants. Apparently, Mexico, overtaken by China and India, is no longer the top source of U.S. immigrants. The decline in Mexican worker inflows is caused by the factors including but not limited to the shrinking demand for low-skill jobs in the United States after the recession, stricter border management, long-term decline in Mexico's birth rates, and the rising Mexican economy[5].

(1) Age The Mexican immigrant population is younger than total immigrants in the U.S. According to the U.S. Census Bureau 2014 ACS data, about 87 percent of Mexican immigrants were of working age (18 to 64), while for all immigrants, this number is about 80 percent. (2) Education and English Proficiency Unlike migration from elsewhere in the world, Mexican migrants to the United States originate from the less-educated and worse-off segment of the population. In 2014, only 6 percent of Mexican immigrants (aged 25 and over) had a bachelor's degree or higher, compared to 29 percent of the total foreign-born population. In terms of English proficiency, 69 percent of Mexican immigrants (aged 5 and over) reported limited English proficiency (LEP), compared to 50 percent of all immigrants. (3) Employment and Income In 2014, about 69 percent of Mexican immigrants aged 16 and over were in the labor force[6]. Most Mexican immigrants work in the service industry (31%); the natural resources, construction, and maintenance industry (26%); and production, transportation, and material-moving industry (22%). Mexican immigrants had much lower income compared to total foreign population. For example, in 2014, median household income among Mexican immigrants was \$37,390 while for the total immigrants, the median household income was much higher: \$49,487.

Emigration Influence on Economic Development in Mexico the emigration of Mexican immigrants into the United States would have influenced the economic development in Mexico in major two ways: 1) its labor market and 2) remittances into the country. (1) Labor Market According to Borja's' negative selection hypothesis[7](2007), if migrants are not positively selected[8] from the general population, the departure leaves the general population better off with higher wages and more employment opportunities. This, intuitively, should be the case for Mexico; from the demographic and socioeconomic information above, it can be expected that on average Mexican immigrants originate from the young, less-educated, and less wealthy segment of population in Mexico. As a result, one may think that low-skilled workers emigration from Mexico would be an important advantage for Mexican labor market. Indeed, there is evidence for this; studies have shown that, between 1990 and 2000, migration has increased wages in Mexican labor market by 8 percent[9]. While some may argue that in recent years, there is a skilled fraction of Mexican workers that has increased and possibly more than that of the less-skilled fraction over the years, Clemens[10] (2014a) posited that the recent increase of inflows of skilled Mexican immigrants are likely temporary and cannot be perceived as future trends. However, the migrant self-selection may not be straightforward. For example, Chiquita and Hanson[11] (2002) found out that Mexican immigrants were actually on average more educated than nonimmigrants of Mexico and suggested that there is intermediate instead of negative selection of immigrants from Mexico. Generally speaking, the emigration effects on a sending country's labor market are still debatable.(2) Remittances

Mexico is the largest recipient of remittances in Latin America, with remittances totaling \$22 billion in 2010<sup>[12]</sup>(about 2 percent of its GDP). This is important because remittances would eventually have a direct impact in the economy.

Campos-Vazquez and Sobarzo<sup>[13]</sup> (2012) show that a percentage point increase in remittances as a share of GDP reduces inequality by around 0.08 percent and reduces poverty by 0.37 percent in Mexico. Additionally, while the impact of remittances on human capital and education is ambiguous, remittances are known to benefit those without health insurance. The fiscal impacts of emigration are not avoidable when it comes to understanding the development in sending countries since emigration causes a reduced tax base in sending countries. Remittances also have impacts on investments and capital formation. According to Campos-Vazquez and Sobarzo<sup>[14]</sup> (2012), when remittances are taken into account, emigration is positive on both GDP growth and tax revenue in Mexico. Yet, studies on the effects of remittances on a sending country's economy have their own set of challenges. Clemens and David<sup>[15]</sup> (2014b) have discussed that between 2005 and 2009, there was actually a change in how remittances are measured at the national level and this might have resulted in an artificial increase in global remittances. Also, at the micro level, issues relating to survey representativeness, timeliness, and misreporting in nationally conducted surveys may have also either overstated or understated the volume of remittances. As a result, the true effects of remittances on economic development may continue to elude researchers and policymakers. Conclusion So, what can we say about the effects of emigration on economic development in the context of Mexico? On one hand, emigration's influence on the Mexican labor market is not straightforward given the different sources of empirical evidence, as discussed above. Similarly, while remittances sent back to Mexico by Mexican emigrants are found to have helped alleviate poverty among nonimmigrants, studies of remittances are vulnerable to various challenges that may have influenced their accuracy. Still, more studies like those described above are important in order for potential policies to be designed to utilize emigration to promote the development of sending countries like Mexico. As Clemens<sup>[16]</sup> (2014c) has pointed out, emigration's influence on economic development should go beyond remittances and development research should broaden to take into account tools including increasing human capital investment, global diaspora networks, and transfer of technology and western cultural habits.

## Immigration Not Key

### Immigration not key – drug violence and lack of educational opportunities

#### Pells 2018

[Rachael, reporter whose work covers research and research policy, including funding, academic publishing, ethics and misconduct. Separately, she covers higher education across Latin America. Rachael completed her MA in journalism at Goldsmiths University, London, and holds a BA in English from Oxford Brookes University, “Mexico’s brain drain leaves universities struggling to fill research posts”, <https://www.timeshighereducation.com/features/mexicos-brain-drain-leaves-universities-struggling-fill-research-posts>]

The message on the college soccer game billboard could not have been clearer: “Narcos, get out of UNAM!”. Had the sign been situated anywhere north of the Mexican border, readers could easily have mistaken it for a quirky advert for a Netflix drama series. But this was no promotion: it was a deadly serious message from Enrique Graue, president of the National Autonomous University of Mexico, in the context of a drugs war whose reality is all too tangible, even to students at one of Latin America’s largest and most prestigious higher education institutions. Indeed, according to some observers, UNAM’s exceptional status is very much part of the problem. The institution was founded in 1910, just as the bloody, 10-year Mexican Revolution was beginning. This prompted a drive within the university to gain autonomy from the government, which was achieved by the mid 1920s. Hence when, in 1943, the institution moved to its present-day University City site in the south of Mexico City, its campus, in effect, became an autonomous state, beyond the jurisdiction not just of politicians but also of national and city police. The university, with its almost 350,000 students, has generally been well served by this status. However, when two students were shot and killed in University City in February – the latest in a string of violent episodes on the campus – many questioned whether current security arrangements remained sustainable. The most recent official government figures reveal that more than 23,000 murder investigations were opened in Mexico during the first 11 months of 2017 – the highest recorded since 2011, despite presidential efforts to reduce crime. It’s also a well-rehearsed story that young people from disadvantaged backgrounds can easily find themselves faced with a stark choice between pursuing their education and joining a gang, the financial rewards of which may be much higher. But although those two paths may be very different, both can sometimes lead to University City. Gang members, particularly those involved in the drug trade, are said to take advantage of the campus’ status as a police no-go area. Student campaigners go so far as to claim that many dealers benefit from support from UNAM security staff, who turn a blind eye to their activities, and they have called on Graue to make urgent improvements to security, including potentially granting campus access to Mexican law enforcement. The university has responded by launching a crackdown on the selling of marijuana and cocaine; press reports indicate that more than 40 people were arrested in a recent collaborative operation by city police and UNAM authorities. UNAM’s security problems are not unique. Many Mexican universities have had problems with regional crime and violence. And while there is evidence to suggest that the situation is improving, campuses in high-crime “red spot” areas, such as the states of Guerrero, Tamaulipas and Veracruz, are plagued by gang violence so common that incidents often don’t even make national news. For Guillermo Hernández, general director of strategic partnerships at Mexico’s National Association of Universities and Higher Education Institutions (ANUIES), which represents 152 public and private institutions, Graue’s message represents “a great opportunity” for change. “Security is one of the main issues we have been discussing...[and, in general] Mexican society is not happy with University City because they do not let police in,” he admits. But while few educators in the country will deny that drugs-related gang crime and violence hold back the success of Mexican universities, those willing to talk about it are also clear that it is by no means the only problem faced by Mexican higher education. “I wouldn’t dismiss the importance of the issue of violence but, to tell you the truth, there are many more important issues,” says Hernández. “In general, universities are not suffering from violence or gangs. Yes, there is a problem with drug dealers sometimes, but I think there is also a tendency for the international [media] to distort, to magnify what is going on in Mexico. Schooling, international collaborations, employment: these are the things we need to talk about.” The best among Mexico’s universities command prestige and rank highly within Latin America. However, they make little impact at a global level. The country’s two top-ranked institutions in Times Higher Education’s World University Rankings, UNAM and the Monterrey Institute of Technology and Higher Education (known as Monterrey Tech), are in the 601-800 range, and the country only has one more representative, Mexico City’s Metropolitan Autonomous University, in the top 1,000. Abject poverty in rural states, alongside long-standing cultural divides, means most children in Mexico still don’t even reach high school. The country’s average annual expenditure per student on education of all levels is the second lowest among members and partner countries of the Organisation for Economic Cooperation and Development. The same data suggest that, for every 100 Mexican children who enrol in primary school, eight will never show up, 50 will not complete middle school, and only two will go on to graduate from university. “The quality of school education in Mexico is terrible. All of it,” says Beatriz Rumbos, dean of the



Immigration Surveillance Core File. *Updated 8-3-24*

Department of Science, Mathematics and Statistics at Mexico City's Mexico Autonomous Institute of Technology (ITAM). "The elementary- and middle-school public education is owned by an extremely powerful teachers' union that cares very little about the educational outcomes of the children." The current government has called for the introduction of teacher evaluations and updates to curricula, but "it hasn't gone well and there have been numerous teachers' protests. Maybe, if the next administration stays committed to the reform and fixes the problems, things will improve." While Mexican law requires children to stay in school until the age of 16, many schools "pass" their students regardless of attendance, turning a blind eye to those who – especially in rural areas – leave formal education sooner to help with family businesses or home care. Even in large urban areas with better attendance rates, the state school system struggles to keep up with Mexico's booming population. "Private schools cover this deficit [but] they are very loosely regulated and, except for a few, the quality is no better than the public system," Rumbos says. "Most of these schools are for-profit businesses where teachers are paid little, so quality teachers are hard to hire: very few have university degrees." Indeed, very few Mexicans in general have university degrees. In 2015, just 16 per cent of adults had completed tertiary education according to the OECD: the lowest share across all economically similar countries. The figures are improving, however: 21 per cent of young people aged 25-34 have a degree compared with just 12 per cent of 55- to 64-year-olds. And in 2014, the nation of 130 million people had more than 3 million students enrolled on post-secondary courses, spread across more than 5,000 public and private higher education institutions. Most of the younger generation of Mexicans aspire to go to university, according to Rumbos. But, of those students who do graduate from high school, around 50 per cent fail the entry test. ITAM, a private university specialising in science and engineering, admits only a "tiny percentage" of applicants. "It may be easier to access public university education but the graduation rate is still very low," Rumbos says.

**Multiple alt causes****Mexico Daily News 18**

Mexico news in English — people, politics, business and economy — news about Mexico: a curation of national and international coverage of news from Mexico: "Mexican scientist one of many in brain drain" 3/19/2018.  
<https://mexiconewsdaily.com/news/mexican-scientist-one-of-many-in-brain-drain/>

A lack of opportunities, low salaries, sexism and disillusionment with the political situation are among the reasons why Mexico has seen a mass exodus of highly qualified, tertiary-educated professionals over the past quarter-century. Around 1.2 million people with postgraduate qualifications left Mexico in pursuit of better opportunities abroad between 1990 and 2015, according to the National Council for Science and Technology (Conacyt). One of them is Raquel Hurtado Ortiz, a chemist with specializations in both bacteriology and parasitology who is now the head of the National Collection of Microorganism Cultures at the Pasteur Institute in Paris, France. he is one of eight Mexicans who work at the internationally renowned non-profit foundation. The institute has been at the forefront of the battle against infectious diseases and has made breakthrough discoveries related to the control of diphtheria, tetanus, tuberculosis and polio. It was also the first organization to isolate HIV. But while Hurtado now has a highly prestigious and esteemed position, the journey she took to get there was punctuated not only with success and satisfaction but also disappointment and disillusionment. The scientist completed three degrees at the National Polytechnic Institute (IPN): a five-year undergraduate degree, a two-year master of science with specialization in immunology and a doctorate, which also focused on immunology. Hurtado was confident that the 10 years of her life that she dedicated to study and personal betterment would stand her in good stead to find a well-paid, professional position in the world of academia. ". . . I thought that with a doctorate, doors would open or I'd have a guaranteed position in a university," she told the news website *Sin Embargo*. However, she soon found out that the reality in Mexico fell well short of her expectations. Despite her extensive education, Hurtado was paid just 90 pesos (US \$4.80 at today's exchange rate) an hour for the classes she taught at the IPN Health Sciences Interdisciplinary Center between 2004 and 2006. Because she was employed on a casual basis, Hurtado explained that she wasn't remunerated for the hours she spent preparing her classes or grading student work. Later she took up a position at a private college where she taught a workshop on the comprehension of scientific texts in English for a slightly better pay rate of 100 pesos per hour. When she tried to negotiate for a better salary, Hurtado was told that there was a lot of competition for the position and that other candidates would be prepared to work for less. Out of necessity, she reluctantly accepted the job but again the working conditions left a lot to be desired. She received no benefits or holiday pay.

## Drug violence alt cause Brown and Velasquez 2017

[Ryan and Andrea, Department of Economics, University of Colorado Denver, "The effect of violent crime on the human capital accumulation of young adults", *Journal of Development Economics* 127 (2017) 1-12]

The consequences of these changes in Mexico's violence environment have generated many potential pathways through which the educational and labor market outcomes of young adults may be negatively impacted. One major change in Mexico as a result of the increase in drug-related violence was a severe and swift decrease in perceived physical safety.<sup>4</sup>This suggests that the fear of bodily harm, kidnapping, extortion, and/or sexual assault is one mechanism that may lead families to avoid sending their children to school. Reports from a government-supported NGO, Youth: Work Mexico (International Youth Foundation), lend support to this type of mechanism. These reports explain that a common reason children in their program are not progressing in school is because, while each local area had a primary school, they did not all have secondary schools and parents were willing to forfeit the child's compulsory, higher education in order to shield them from the increased exposure to potential victimization of public transportation (Jones, 2013).<sup>5</sup>Additionally, the economic consequences of the Mexican drug war may spillover into education investment decisions in the household. Several studies have explored the relationship between increased local violence in Mexico and individual economic outcomes (BenYishay and Pearlman, 2013; Robles et al., 2013; Dell, 2015; and Velásquez, 2015). In each case the analysis found that the recent violence in Mexico significantly and substantially reduced Mexican workers' labor market participation and earnings. Specifically, the self-employed (e.g. shopkeepers, street vendors, personal service providers), who are particularly financially sensitive to people avoiding public thoroughfares and, due to the direct interaction needed with potential clientele, have the least ability to avoid contact with local OCG members and the "protection" or "security" service fees they demand, are the most adversely affected (Miglierini, 2011; Díaz-Cayeros et al., 2012; Velásquez, 2015). This decline in the earnings or labor market opportunities of the main household income earners, not to mention the potential death of a head of household, may induce children and particularly young adults to discontinue their education, and enter the labor market sooner than expected in order to help provide for the family. Moreover, as household budgets are constricting due to local violence, the alternative option to school is becoming more appealing financially for some young men. Since the election of Felipe Calderón, the cartels have been confronted with both increased resistance from government authorities and more vigorous competition for territory and power from newly formed OCGs. As a response anecdotal reports suggest that cartels have increased their effort to recruit children and young adults as "expendable foot soldiers" and that one reason over 30,000 children and young adults are estimated to have joined these organized crime groups is out of economic necessity (Booth and Fainaru, 2009; Montalvo, 2012). A last potential set of pathways by which local violent conflict may impact schooling decisions is through supply side channels. For example, recent work by Monterio and Rocha (2015) have shown that in the context of drug violence in Brazil, schools in violent areas experienced increased teacher absenteeism, less stability in the administration, and were more likely to temporarily close. In the Mexican context though, due to the nature and combatants of the violence, there has minimal reported damage to the infrastructure necessary to provide educational services (i.e. schools, roads, public transportation services) (Márquez-Padilla et al., 2015).<sup>6</sup>Alternatively a supply side pathway that may be present in the Mexican case is a reduction in the quantity or quality of willing instructors.

## Mexico Lacks Opportunities the U.S. Has Davila 2013

Ana Lucia Davila: "Mexico's Brain Drain: A Different Side to the Story of Immigration" 2/11/2013.  
<https://policyinterns.com/2013/02/11/mexicos-brain-drain-a-different-side-to-the-story-of-immigration/>

Ranked as the 4th major brain exporter in the world in 2012, Mexico has demonstrated that its rising middle class has a greater access to tertiary education and a complex set of opportunities to develop skills and become internationally competitive. However, being ranked only behind Great Britain, Philippines and India should not be a flattering commemoration for the country, but a big warning sign calling for the urgent revision

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of a greater question: Why are these Mexicans leaving? In the first place, Mexico is facing a “qualified employment deficit”. While every year the amount of young adults graduating from outstanding universities grows, the country is not generating enough highly qualified, well-paid and satisfactory jobs for this population. College, Masters and PhDs graduates are more often finding themselves overqualified for the few openings they spot. According to the Migration Policy Institute: **“Mexico’s supply of educated people is growing five times faster than the population, but job opportunities for professionals are not expanding as fast”**. The lack of opportunities, the low wages, and the small amount of spaces available for young adults to work in their specialized fields have led to a great frustration among the new generations. Becoming a “Nini” [1] in Mexico is a major issue and one of the greatest concerns for any student about to graduate. Although recently appointed President Enrique Peña Nieto has launched a project to reduce the “Mexican brain drain,” the 15% increase in the federal budget designated to science and technology and the 70,395 million pesos investment for this matter might not be enough to keep an important part of the “highly qualified migration” in the country. Why? Mexicans feel they deserve better. The climate of insecurity and violence that has affected the country in the last years has become one of the greatest incentives for the wealthy and the educated to emigrate. Those adequately prepared are the most informed and sensitive ones to the insecurity issue in Mexico. Young adults feel disappointed, scared, frustrated, and tired. They are losing hope and they feel betrayed by their country. They feel that their country cannot provide them with what they deserve and that they have the right to feel safe. For these Mexicans, the American Dream is just next-door and, unfortunately, the Mexican State is failing to keep them from knocking on that door. Out of the 73,000 Mexicans with a Doctorate in 2010, approximately 20,000 were residing in the U.S., according to the U.S Current Population Survey. The “talent magnet” right across the border has become the greatest destination for Mexico’s brainpower, and promises to be so for the following decades.

## **Mexican immigrants won’t return unless guaranteed improvements in economic growth**

### **CSIS 2011**

[“Dealing with the Causes: Mexico’s Economic Policy and Migration,” No Publication, <https://www.csis.org/programs/americas-program/americas-program-archive/dealing-causes-mexicos-economic-policy-and>]

Mexican emigration into the United States remains a contentious topic, a source of friction, and a lasting negative influence on Mexico’s economic development. The main reason why Mexicans emigrate to the United States is to improve their economic situation. Other motives exist, such as kinship relations in the destination city, but if the disparities in income opportunities were lower between the two countries, this would override kinship relations. This is what happened in the recent past in emigration from Italy and Spain. This leads to the inevitable conclusion that reducing the level of Mexican immigration into the United States requires higher economic growth in Mexico. It would not be necessary to reach full income equality for emigration to diminish—the income level in Spain did not reach that in France when Spanish emigration slowed—but a substantial narrowing of the gap is necessary. In addition, many more Mexicans are likely stay home if convinced that income improvement will continue. Current policy debates suffer, however, from a lack of understanding of the deeper economic equation that drives emigration from Mexico, rooted in the structural weaknesses of the Mexican economy. This project will address this gap and develop recommendations for more effective and harmonious strategies by Mexico and the United States to address these economic dimensions. The project was kicked-off by a full-day conference with panelists from Mexico and the United States. High-level policymakers will continue to comment at CSIS on the issue of economics and migration in Mexico throughout the project.

## **Alt cause – bureaucracy**

### **Johnson No Date**

[Tim, Hartford Courant, “Mexico Faces A Brain Drain”, [http://digitaledition.courant.com/tribune/article\\_popover.aspx?guid=6873c979-d096-4258-98c8-d1565b818146](http://digitaledition.courant.com/tribune/article_popover.aspx?guid=6873c979-d096-4258-98c8-d1565b818146)]

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One of those brains resides in the head of Pablo Meyer, 38, whose academic path led him from Mexico to France and on to Rockefeller University in New York City, where he got a doctorate delving into the mysteries of gene sequencing. His Ph.D. in hand, Meyer arrived back in Mexico to look for a job. He went to the National Institute of Genomic Medicine, the Institute of Cellular Physiology and to the Center for Research and Advanced Studies at the National Polytechnic Institute. “There were no open positions,” Meyer recalled. “Older people were not retiring, and there was no funding for new positions.” Recognizing Meyer's sharp intellect, the Thomas J. Watson Research Center, part of IBM Research, hired him for a research position at its lab in Yorktown, N.Y., where he studies metabolic networks and is part of a team with a patent pending. “I'm bitter because I love Mexico,” Meyer said. “It's just a feeling of a lack of vision in the science field. There's not a clear political will for it.” Enrico Ramirez Ruiz, an astrophysicist who teaches at the University of California at Santa Cruz, said, “We want to generate the next Nobel Prizes, but Nobel Prizes who work in Mexico.” Mexican President Enrique Pena Nieto pledges to boost government spending on science and technology to the equivalent of 1 percent of the gross national product by the end of his term in 2018. It's barely over half a percentage point now. Scientists who have left Mexico and educational experts who study the exodus see Mexico's universities as part of the problem. Bureaucracy, politics and government pressures constrain research at Mexican universities. “You don't have enough money to buy materials and chemicals to do your work. Sometimes, you don't have the time to do your work,” said Jesus Velasco, a political scientist at Tarleton State University in Stephenville, Texas. Jorge Soberon, a theoretical ecologist, abandoned a 30-year academic career in Mexico City a few years ago to take a senior post at the University of Kansas in Lawrence. He said he tired of university bureaucracy in Mexico.

## **Answers to: Surveillance Capitalism**



## Answers to: Arms Trafficking

### **Surveillance won't prevent trafficked firearms – they don't even check**

Zachary Goodwin, 8 Sep 2020, US Hemorrhaging Weapons to Mexico, One at a Time, <https://insightcrime.org/news/analysis/us-mexico-border-hemorrhaging-weapons/#:~:text=A%20recent%20UN%20report%20shows,from%20global%20arms%20trafficking%20trends.>

#### **The steady movement of small shipments of US-bought weapons into Mexico stems from the ease of buying firearms in southern states and the mass movement of cars and trucks across the border.**

According to Eugenio Weigend Vargas, the associate director for Gun Violence Prevention at the Center for American Progress, the US-Mexico border's status as a trade hub makes it easy for traffickers to conceal small quantities of weapons in vehicles headed south. **"You can very easily cross from the United States to Mexico with no**

**questions asked, sometimes not even showing your passport,"** Weigend Vargas told InSight Crime.

Additionally, gun shops are plentiful in the US southwest. There are over 7,000 licensed firearms dealers in Texas alone — while all of Mexico has precisely one. "Armed groups in other parts of the world where such retail sellers don't exist must rely on black markets, where sellers are more likely to sell larger quantities," John Lindsay-Poland, coordinator of the Stop US Arms to Mexico project, told InSight Crime. The laws and culture of the United States make "the ant trade the most feasible method of obtaining these weapons," he said. SEE ALSO: Lack of US Gun Control Provokes Record Bloodshed in Mexico Criminal groups in Mexico often obtain weapons via "straw purchases," when people without criminal records are recruited to buy the firearms. A Houston Chronicle investigation in August 2020 tracked 27 weapons used in a Coahuila cartel shootout to southern Texas, where authorities discovered that one straw purchaser had bought 156 weapons over a six-month period from the same gun shop. In batches, he sold the weapons to traffickers, who smuggled them across the border and resold them to cartels for a three-fold profit. According to the

Center for American Progress, **border states have also seen a rise in firearms stolen from licensed gun**

**stores.** Recently, daily US-Mexico border traffic has slowed due to the coronavirus pandemic, which could have a temporary dampening effect on the cross-border movement of weapons. At the same time, in the first six months of 2020, there has been a spike in gun thefts, gun-related suicides, and other gun crimes. "You do see the problems that are usually associated with higher volumes of gun purchases in the United States," Weigend Vargas told InSight Crime. "So there's reason to believe that gun trafficking will increase." \*Photo: Associated Press

## Answers to: Surveillance Catches Racist Decision-Making

### **We aren't using the tech that way**

Petra Molnar is an anthropologist and attorney focused on human rights and migration, 7-11, 24, Texas Observer, 'TECH DOESN'T JUST STAY AT THE BORDER': PETRA MOLNAR ON SURVEILLANCE'S LONG REACH, <https://www.texasobserver.org/border-surveillance-artificial-intelligence-tech/>

**It's no accident that we're developing robo-dogs, AI lie detectors and surveillance to test out on people crossing borders and not using AI to audit immigration decision making or root out racist border guards. That's a particular set of decisions that a powerful set of actors is making, because there's a bottom line to meet, and money to be made.**

### **No accountability for misuse because of public-private partnerships**

Petra Molnar is an anthropologist and attorney focused on human rights and migration, 7-11, 24, Texas Observer, 'TECH DOESN'T JUST STAY AT THE BORDER': PETRA MOLNAR ON SURVEILLANCE'S LONG REACH, <https://www.texasobserver.org/border-surveillance-artificial-intelligence-tech/>

There's the kind of companies that maybe readers are aware of: Palantir, Cellebrite, and Elbit Systems, an Israeli company that has put up surveillance towers in the [Sonoran Desert] that were first tested out in Palestine. But there's also a whole host of other tiny and medium-sized companies that proliferate in this space as well. From a legal perspective, we're also dealing with a complication where, when you have these public-private partnerships, a public entity and a private entity operate in different legal spheres. A company that develops a product and sells it off to a state agency can say, "It's not our problem that people are being hurt by it because we just developed the product. We're not the ones using it."

On the other hand, the public sector can say, well, "We didn't develop it." This is the private sector problem. Then you end up with this kind of vacuum in the middle where people's rights are being violated, but the responsibility isn't exactly clear. Who's actually responsible for when things go wrong? There's no incentive to regulate this technology if you make a lot of money out of it; that's really the bottom line here.



## Answers to: Crime

### **Most immigrants are not criminals**

Camilo Montoya-Galvez, March 24, 2024, CBS News, U.S. Border Patrol chief calls southern border a "national security threat," citing 140,000 migrants who evaded capture, <https://www.cbsnews.com/news/jason-owens-border-patrol-southern-border-national-security-threat/>

**Customs and Border Protection (CBP) statistics show a tiny fraction of migrants processed by Border Patrol have criminal records in the U.S.** — or other countries that share information with American officials — **and an even smaller percentage have been convicted of serious crimes. Available data and studies also suggest that migrants in the U.S. illegally do not commit crimes at a higher rate than native born Americans.**

## Answers to: Economy

### Immigration increases innovation and economic growth

ANDREW THURSTON JACKIE RICCIARDI, 4-4, 24, Do Immigrants and Immigration Help the Economy?, <https://www.bu.edu/articles/2024/do-immigrants-and-immigration-help-the-economy/>

When Americans mark their presidential election ballots later this year, immigration will be top of mind—it's the nation's number one issue, according to pollster Gallup. And one of the toughest talkers on the topic is former president and presumptive GOP nominee Donald Trump. He's built his political career on calls to secure the border and defend America against what he says are immigration's dangers, warning of shrinking wages and stretched benefits programs. "When you have millions of people coming in," he recently told a crowd in Michigan, "they're going to take your jobs." Immigrants stealing work from existing residents is a well-worn contention—with a history stretching back at least 100 years right up to present-day accusations that Tyson Foods could replace American workers with immigrant labor. But it's also a false one, according to **Boston University economist**

**Tarek Hassan**, whose recent studies have shown immigrants actually help fuel local economies by sparking innovation and driving up wages. The effects of a migrant influx can last for decades, too, enhancing a region's attractiveness to foreign investors and opening long-term export opportunities, even 100 years later. Oftentimes, when immigrants move into an area, so do native workers, drawn by the promise of an invigorated economy. In one recent paper, Hassan, a BU College of Arts & Sciences professor of economics, also showed that living near people from other countries can shift native views on people of foreign descent, decreasing hostility and prejudice, while boosting empathy and knowledge. Residents who live alongside those people may also be less likely to vote for political candidates who demonize them. But there are important details that complicate the picture—at least from an economics perspective. Hassan's research has shown that not everyone benefits the same way from a rush of migration, and that may strike a chord with some of the millions of voters who want to stem the tide. Despite the overall positive effects to a community, the flow of new residents does nothing to boost the wages of existing workers who don't have a high school diploma. And the education and skill level of migrants matters, too: more education equals a more positive economic effect. "The headline finding is that immigrants are good for local economic growth and, in particular, educated migrants are doing a lot of that," says Hassan. "At the same time, the data point to why some people might have problems with this. It's a lopsided story where the immigration we've experienced in the last 40 years has been disproportionately benefiting the more educated local population. We're trying to add some facts to the debate." Immigration's Impact on Economic Growth Hassan's family story is one of migration—of crossing borders and navigating shifting national boundaries. "I come from a family with a rather complex migration history," says Hassan. His father was an immigrant to Germany from Egypt, his mother a refugee from East to West Germany. Hassan was raised in Germany, but moved to the United States for graduate school and has now lived here for nearly 20 years. "You have to go back many generations to find somebody who was actually born in the same country they died in," he says of his family. "But I think that's true for a large chunk of the population." He admits he finds the national debate on immigration frustrating. "There's very little interest in nuanced information—on both sides of the debate. There's this view among some people that all immigration is good and should be encouraged, and there's this other view that all immigration is terrible. There's not much interest in listening to each other." With his research, he hopes to foster a more informed conversation. In a working paper for the National Bureau of Economic Research, Hassan and his colleagues examined decades of US migration data to look at the impact of new arrivals on economic growth, wage levels, and innovation, which they measured through the number of new patents filed in a particular area. **More new ideas, he says, generally means more new businesses and products:**

**"We find that when you have 10,000 extra immigrants arriving in a given US county, the number of patents filed per capita in that county dramatically increases, by something like 25 percent." It was an effect that rippled out as far as 150 miles. The research team also estimated that, since 1965, migration of foreign nationals to the US may have contributed to an additional 5 percent growth in wages. They're** currently preparing the findings for journal publication.

**"More immigrants creates more economic growth,"** says Hassan. **"And because it creates more economic growth locally, it raises the wages of the people who are already there."** More immigrants creates more economic growth. And because it creates more economic growth locally, it raises the wages of the people

## Immigration Surveillance Core File. *Updated 8-3-24*

who are already there. Tarek Hassan In an earlier paper, Hassan had looked at migration's impact over an even longer term: 100 years or more. With an international research team, he studied how the pull of one area for migrants from the same country could help attract foreign investment to that region for years afterward. **"You can still see today that places where Germans settled within the Midwest 100 years ago are much better at attracting foreign investment from Germany than places that didn't see that migration," says Hassan. The same is true for communities that had a concentration of Chinese or Polish migration, for example. "Ethnic diversity in that sense is really good for the ability of local firms to conduct business abroad, to both receive and make foreign investments."**

## Immigrant entrepreneurs thrive in the US

**Arora, 7-2, 24,** In 2007, I co-founded Biz2Credit, an online small business financing platform that uses technology to streamline the funding process. Previously, I worked for Deloitte Consulting and Goldman Sachs, and hold a Master's Degree in International Finance from Columbia University. Biz2Credit has arranged \$3 billion in funding and has over 200,000 small and mid-sized company registrants. Our platform handles more than 7,000 new small business financing requests each month and was named one of Crain's "Fast 50" New York companies in 2014. Our widely reported Biz2Credit Small Business Lending Index provides a monthly pulse on loan approval rates. We also produce a Top 25 Small Business Cities in America ranking, the Biz2Credit Latino Lending Report, and an annual Women in Small Business Study often cited by national media, Forbes, Six Reasons Why Immigrant Entrepreneurs Thrive In The U.S., <https://www.forbes.com/sites/rohitarora/2024/07/02/six-reasons-why-immigrant-entrepreneurs-thrive-in-the-us/>

**In review of the most successful companies in the U.S. last August, the American Immigration Council examined the impact of immigrant entrepreneurs and their children to the U.S. economy.** The report, "New American Fortune 500 in 2023: The Largest American Companies and Their Immigrant Roots," revealed that nearly 45% of Fortune 500 companies in 2023 were founded by immigrants or their children.

Fortune 500 companies started by new Americans collectively generated a staggering \$8.1 trillion in revenue during fiscal year 2022, surpassing the GDP of several developed nations. Their contributions extend beyond revenue, as they employ over 14.8 million people. Indeed, companies founded by immigrants and their children are a crucial driver of job creation and economic prosperity.

**Many of America's top corporations were founded by immigrants and their descendants, including Google (Sergey Brin, Russia), Apple (Steve Jobs, the son of Syrian immigrants), and Estée Lauder (born to Hungarian Jewish parents). Elon Musk, CEO of Tesla, SpaceX and X (formerly Twitter), was born in South Africa.** New Americans and their children play a pivotal role in shaping the nation's economic landscape. **These entrepreneurs have contributed significantly to America's standing as a global economic powerhouse.**

### **1. Diverse cultural perspectives**

As **newcomers to this country, immigrants bring with them diverse cultural perspectives that can lead to innovative ideas and solutions.** This diversity often fosters creativity and unique approaches to business challenges. Further, their global mindset enables them to identify and capitalize on opportunities that others might overlook, both in local and international markets.

### **2. Resilience and Adaptability**

**Immigrants often face significant challenges when they arrive, including language barriers and cultural adaptation. Such experiences tend to build resilience and problem-solving skills that are crucial for entrepreneurship.** In addition, the ability to adapt to new environments and situations is a key trait of successful entrepreneurs. Immigrants, having adapted to new countries, naturally bring flexibility to their business ventures.

### **3. Strong Work Ethic**

**America is a country that has long rewarded self-motivation. Many immigrants are driven by a strong desire to improve their circumstances and achieve better lives for themselves and their families.** This motivation translates into a strong work ethic and determination to succeed and instills commitment to making their entrepreneurial ventures successful.

### **4. Resourcefulness**

**Immigrants typically have limited financial resources when they arrive in the U.S. Thus, they have to be resourceful to overcome their monetary constraints.** Often, they source funding from family members and friends because if they have been in the country for a short period of time, traditional sources of debt financing are hard to obtain. Immigrant networks can be helpful in many ways.

**Early in my career, I analyzed bank loan portfolios and quickly realized that small business lending to immigrant-based businesses was very profitable, and default rates were low.** This is because failure often is not an option for immigrant entrepreneurs. They are typically good at bootstrapping, which fosters a lean and efficient approach to business from the outset. stack of silver coins with trading chart in financial concepts and financial investment business stock growt Immigrant-owned companies typically show a propensity for growth yet often have relatively low rates ... [+]GETTY

### **5. Networking**

**Immigrants often rely on strong community networks for support that can be extremely helpful in the early stages of business development. These networks provide relationships, collaborative spirit, and valuable resources, advice, and connections.**

Biz2Credit initially started when my brother, Ramit, and I began helping members of the South Asian community in New York City to secure funding for their business ventures. Going into a bank and meeting with a loan officer can be intimidating for people who have language barriers and cultural barriers, including a reluctance to borrow money. We were able to help small

business owners to secure capital, and eventually the idea spread beyond the immigrant community to “mainstream” business owners. Technology leveled the playing field not only for newcomers, but also for existing company owners who had a hard time getting money during the “credit crunch” of 2009 and 2010.

#### **6. Risk-taking propensity**

**The decision to leave one’s home country and start life anew in a totally different land and culture is not easy. It is a huge risk. However, countless immigrants have successfully navigated transition and survived and thrived. In fact, they are often more willing to take calculated risks in their entrepreneurial endeavors and, because of their life experience, are able to recognize and seize new business opportunities that others might overlook.**

**Further, immigrants are typically able to identify niche markets and underserved communities, both within their ethnic communities and the broader market.** This ability to spot and cater to specific needs gives them a competitive edge. Additionally, connections in their home countries position immigrant entrepreneurs well to engage in cross-border trade and international business.

By combining these traits and leveraging their unique experiences, immigrants often become successful entrepreneurs who contribute significantly to the economy, create jobs, and drive innovation. Their ability to see opportunities where others might not, coupled with their determination and resilience, makes them well-suited to the entrepreneurial path.



# CON CONTENTIONS

## **Economy**

### **Immigrants Generally Key to the Economy**



## Immigrants key to the economy

### **Sustainable immigration is key to US economic growth**

**Clemons '14** [Scott Clemons is Chief Investment Strategist in Private Banking at Brown Brothers Harriman, America's oldest private partnership bank, "The Unsung Economics Of Immigration," 9-4-14, <http://www.forbes.com/sites/realspin/2014/09/04/the-unsung-economics-of-immigration/>]

Lost amidst the national debate on immigration reform is the critical fact that **we need to attract workers from abroad to maintain the long term growth of our labor force**. U.S. fertility rates are right at population replacement levels, and labor force participation has been in decline since the 1970s. Thus, **without immigration, we are headed toward a stagnant or even declining labor force** in the not too distant future, **with dire implications for economic growth. Getting immigration right is an economic imperative** for the 21st century. Data from the Population Division of the United Nations paints a stark picture of what the future labor force of the United States would look like without immigration. Using projected fertility rates and current immigration trends, the population of the United States continues to grow throughout the 21st century, topping 460 million inhabitants at the turn of the 22nd century. If we subtract immigration from the data, the population of the United States stops growing in about 2042, with seriously negative implications for economic activity. Why is the labor force so important? In the short run, **economic activity is determined by demand: the degree to which people consume, businesses invest and governments tax and spend**. In the long run, however, **economic activity is driven by the supply of resources, and the most critical resource turns out to be human capital**. The capacity of any economy to expand over time is a function of growth in the labor force plus the productivity of that labor force. A few simple dynamics determine growth in the labor force: fertility, mortality, participation, and immigration. We routinely think of these as demographic or social issues, but **the economic implications are meaningful. Our economic capacity is defined by** how many new people are being born, how long they live, the extent to which they participate in the formal economy, and whether or not we can "borrow" **population growth** from other countries through immigration. On several of these measures, the United States is in relatively good demographic shape compared to the rest of the world. Our fertility rate of 2.06 births per woman is right in line with population replacement levels, but better than Germany, Japan, France, Brazil and even China. Our health care system, although beset with well-documented challenges, has nevertheless resulted in longer, healthier and more productive lifespans than ever before. Aging workers pose their own challenges to government policy and corporate protocols, but an information or knowledge based economy ought to benefit from retaining experienced workers, whose human capital does not deteriorate over time, but increases. Yet the demographic front has bad news, too. The labor force participation rate in the United States in May stood at 62.8%, a 36-year low. This decline in participation may reflect the leading edge of baby boomer retirements, or lingering effects of the financial crisis, or even a shift in how we define work. But the absence of 29.2% of the working age population from the labor force is an undeniable drag on economic potential. Net **immigration** helps to offset this drag, and furthermore **provides a boost to population and labor force growth** if fertility rates continue to decline. **A survey of global economies provides plenty of examples of economies that struggle with** stagnant or even **negative** population or labor force growth, and illustrates **how difficult it is to generate sustainable economic growth when human capital is in short supply**. Japan – an economy relatively closed to immigration – stands as the clearest example of these challenges.

### **Crackdowns devastate the economy- undocumented workers are key**

**CAP Immigration Team '14** [Center for American Progress Immigration Team, research group specializing in immigration studies, "The Facts on Immigration Today," <https://www.americanprogress.org/issues/immigration/report/2014/10/23/59040/the-facts-on-immigration-today-3/>]

The record on immigrants and the economy **Undocumented immigrants pay billions of dollars in taxes annually. Households headed by unauthorized immigrants paid \$10.6 billion in state and local taxes in 2010**. This includes \$1.2 billion in personal income taxes, \$1.2 billion in property taxes, and more than \$8 billion in sales and excise taxes. Immigrants—even legal immigrants—are barred from most social services, meaning that they pay to support benefits they cannot even receive. Research shows that immigrants complement, rather than compete with, native-born American workers—even less-skilled workers. Research by renowned economists such as David Card, Gianmarco Ottaviano, Giovanni Peri, and Heidi Shierholz shows that American workers are not harmed by—and may even benefit from—immigration. This is because **immigrants tend to complement the skillsets of American workers, thus helping them be more productive**. Immigration reform will not affect the unemployment rates of native-born Americans. The CBO estimates that during the 10-year period following passage of immigration reform, unemployment will increase by 0.1 percent. This small increase falls entirely upon the undocumented and is the short-term effect of growth in the labor force and of the labor market adjusting to undocumented workers positioning themselves to be productive for decades to come. Taxes paid by legalized immigrants more than offset any use of social programs. The CBO found that increases in costs to social programs are modest and will be more than paid for by the tax contributions of immigrants. The increase in spending in Social Security and Medicare

## Immigration Surveillance Core File. Updated 8-3-24

from 2024 through 2033, for example, will be \$65 billion—just 4.4 percent of the total increase in tax revenue. As Baby Boomers retire en masse over the next 20 years, immigrants will be crucial to fill these job openings and promote growth in the labor market. More than two-thirds of new entrants into the labor market will replace retiring workers. However, while 58.6 million new workers will be needed to fill these retirements, only 51.3 million native-born people are projected to enter the workforce, meaning that immigrants and their children will be crucial to filling the additional 7.3 million job openings while also furthering growth in the labor market. The price of inaction and the cost of mass deportation inaction on immigration reform carries a heavy cost. Each day the House of Representatives fails to pass immigration reform costs the United States \$37 million in missed tax revenue. As of October 2014, the House's inaction has cost more than \$17.7 billion. Maintaining the status quo is not revenue neutral. With only one-third of unauthorized immigrants working in the formal economy and contributing about \$12 billion in payroll taxes each year, the United States loses around \$20 billion in payroll tax revenue annually. This lost revenue would go a long way toward funding the retirement of Americans across the country. The United States spends more on immigration and border enforcement annually than the annual gross domestic product of 80 countries. In fact, the United States now spends \$3.5 billion more on immigration and border enforcement—a total of nearly \$18 billion per year—than it does on all other federal law enforcement combined. A self-deportation regime would cost our economy trillions of dollars. If all undocumented immigrants in the country were deported or “self-deported”—meaning they choose to leave the country because life is too difficult—the United States' cumulative GDP would suffer a hit of \$2.6 trillion over 10 years. Mass deportation of the undocumented immigrant population would cost billions of dollars. Deporting the entire undocumented population would cost \$285 billion over a five-year period, including continued border and interior enforcement efforts. For that price, we could hire more than 1 million new public high school teachers and pay their salaries for five years. It costs taxpayers more than \$20,000 to carry out the deportation of a single individual. Apprehending, detaining, processing, and transporting one individual in the deportation process cost \$23,482 in fiscal year 2008.



## **International Law/Asylum**

## Surveillance Undermines International Law/Asylum

### Surveillance undermines asylum claims

Amnesty International, 2023, The Digital Border: Immigration, Technology, and Inequality, <https://www.amnestyusa.org/wp-content/uploads/2024/06/The-Digital-Border-Migration-Technology-and-Inequality.pdf>

**Various forms of technology implemented at borders threaten the right<sup>43</sup> to seek asylum<sup>44</sup> as well as the rights to non-refoulement,<sup>45</sup> equality, and non-discrimination.<sup>46</sup> Digitized securitization and surveillance measures may have the effect of discouraging people from exercising their right to claim asylum.<sup>47</sup> Information management systems use datasets and algorithms that may exacerbate underlying inequalities in the lives of people on the move by threatening the rights to non-discrimination and equality. These technologies frequently replicate previously existing racial, economic, and social biases,<sup>48</sup> including by replicating historical biases based on an individual's real or perceived ethnicity, race, national origin, descent, religion, and other characteristics.<sup>49</sup> Such security technologies are often implemented on the premise that individuals of certain nationalities or possessing certain characteristics pose a threat with respect to national security concerns.<sup>50</sup> These assumptions are based on and justified by racist and xenophobic ideologies, discourses and structures.<sup>51</sup>**

### Surveillance at the border lays the foundation for surveillance globally and collapses asylum under international law

Petra Molnar is an anthropologist and attorney focused on human rights and migration, 7-11, 24, Texas Observer, 'TECH DOESN'T JUST STAY AT THE BORDER': PETRA MOLNAR ON SURVEILLANCE'S LONG REACH, <https://www.texasobserver.org/border-surveillance-artificial-intelligence-tech/>

**A lot of this technology is first developed and deployed for border purposes, normalized and then repurposed in other spaces.** There's also surveillance that happens inland, of course. There's all sorts of license plate reader technology, different types of facial recognition tools, carceral technologies, that are used both in the criminal justice system and in the immigration detention system. **It is this kind of surveillance dragnet that extends further and further inland and ensnares entire communities.**

Could you talk a little bit about how surveillance tech plays a role in the so-called externalization of borders from the Global North to the Global South? How does that apply at the U.S.-Mexico border?

Externalization is a really important piece to this puzzle, too. **This is the phenomenon where the border stops being a physical location, and then it is extended further, kind of disaggregated from its actual physical location—not only vertically into the skies through drones and surveillance but also horizontally. The U.S. has for years been pushing its border farther and**

**farther south.** The whole logic behind this right is that if a country can prevent people from even reaching its territory, then the job is done, right? If the whole point is to strengthen borders or close the borders, then externalization does that job for you because people can't even arrive in your territory.

**The tension here is a lot of Western states like to present themselves as being very like human rights forward. They are the ones who ratified and signed all the agreements like the Refugee Convention. But in order for that to work, the international refugee protection regime has to allow for people to be able to leave their country and arrive in a country of refuge where they can then claim asylum. If you close the border and then you push the border away to make it even more difficult for people to come, that actually infringes on this fundamentally protected right to asylum. That is illegal under international refugee law.** The U.S. is a signatory to the Refugee Convention, and closing a border and preventing people from seeking asylum is in direct contravention of these principles and laws that supposedly the U.S. holds.

## Answers to: We Still Support Asylum Claims

### **Racism in facial recognition undermines asylum claims**

Melissa del Bosque in Tucson, February 8, 2023, The Guardian, Facial recognition bias frustrates Black asylum applicants to US, advocates say, <https://www.theguardian.com/us-news/2023/feb/08/us-immigration-cbp-one-app-facial-recognition-bias>

**The US government's new mobile app for migrants to apply for asylum at the US-Mexico border is blocking many Black people from being able to file their claims because of facial recognition bias in the tech**, immigration advocates say. Non-profits that assist Black asylum seekers are finding that the app, **CBP One, is failing to register many people with darker skin tones, effectively barring them from their right to request entry into the US. People who have made their way to the south-west border from Haiti and African countries, in particular, are falling victim to apparent algorithm bias in the technology that the app relies on.** Trump v Biden: how different are their policies on the US-Mexico border? Read more Often disparaged within the already-marginalized population of people trying to migrate into the US, Black people within that group are now confronted with yet another hurdle. Advocates are protesting that since the app's rollout by US Customs and Border Protection (CBP) last month, the algorithm problems are sharply reducing the number of Black asylum seekers who can fill out their applications. The app is working for some migrants but blocking others, especially those who are most vulnerable, said Felicia Rangel-Samponaro, co-director of the non-profit Sidewalk School, which provides educational programs for asylum seekers in the Mexican cities of Reynosa and Matamoros, near the eastern end of the Texas border, where many Haitians are living in makeshift camps. It also runs a shelter in Reynosa with the church group Kaleo International. **"There are about 4,000 Black asylum seekers waiting in Reynosa and at least another 1,000 Haitians in Matamoros.** Hardly anyone is getting an asylum appointment. Neither population is being represented as it should," she said. **Venezuelan migrants continue to be expelled back to Mexico**  
**Venezuelan asylum seeking migrants who were expelled back to Mexico from El Paso, Texas, U.S.,** under new migration enforcement rules from the Biden Administration, are pictured in their makeshift encampment by the Paso del Norte International Bridge in Ciudad Juarez, Mexico, October 18, 2022. REUTERS/Paul Ratje Biden's 'carrot and stick' approach to deter migrants met with anger Read more With the public health law Title 42 still in place as a result of the latest court ruling, and expanded last month to add Haitians, Nicaraguans and Cubans alongside Venezuelans as restricted nationalities, in yet another controversial turn in the Biden administration's immigration policy, options for seeking asylum at the border have narrowed further. The government announced in early January that the new CBP One mobile app would be the only way migrants arriving at the border can apply for asylum and exemption from Title 42 restrictions, saying it would "reduce wait times and help ensure safe, orderly and streamlined processing". In the Mexican city of Tijuana, at the opposite end the US-Mexico border, near San Diego, another large community of Haitian asylum seekers is waiting and experiencing the same problems with the app, according to non-profits that are assisting them, as are people from African countries and other Black migrants trying to enter. Migrants seeking asylum in the US use their phones to request an appointment through the CBP One application. View image in fullscreen Migrants seeking asylum in the US use their phones to request an appointment through the CBP One application. Photograph: José Luis González/Reuters **"The facial recognition is not picking up [images] if people have darker skin tones,"** said Erika Pinheiro, executive director at Al Otro Lado, a binational legal and humanitarian aid organization. symbol 00:02 02:24 Read More Pinheiro's organization held a workshop for Haitians in Tijuana on how to use the app a day after it went live on 12 January. But with the app unable to map the features of many darker-skinned asylum seekers, they cannot upload their photos in order to receive an asylum appointment with the US immigration authorities, Pinheiro said. "The Haitians at the workshop were getting error after error message on the app," she said. Rangel-Samponaro noted that others are being blocked, too. "We've also seen it affect Venezuelans who are darker-skinned," she said. Racial bias in face recognition technology has long been a problem. Increasingly used by law enforcement and government agencies to fill databases with biometric information including fingerprints and iris scans, a 2020 report by Harvard University called it the "least accurate" identifier, especially among darker-skinned women with whom the error rate is higher than 30%. Emmanuella Camille, a staff attorney with the Haitian Bridge Alliance, a non-profit that aids Haitian and African asylum seekers, said the CBP One app has helped "lighter-skin toned people from other nations" obtain their asylum appointments "but not Haitians" and other Black applicants. **Besides the face recognition technology not registering them, there**

**are other barriers, too. Many asylum seekers have outdated cellphones – if they have cellphones at all – that don't support the CBP One app and often have limited or no access to the internet.**

All three of the non-profits told the Guardian they have been in daily contact with US CBP about issues with the app. Last week, CBP introduced a Haitian Creole version of the app, Camille said. Before that it was only offered in Spanish and English. Camille said migrants are “being told by CBP that the only way they can cross the border is by using this app ... [It's] the only source of hope for them right now.” Rangel-Samponaro said advocates were experimenting with ways to get the technology to work for darker-skinned asylum seekers. One fix they've come up with is installing bright construction lights at the shelter in Reynosa, which Haitians and others shine on their faces as they take the photo to upload to the app. “So far it seems to be working, so the adults can get past that,” she said. “But it's still not working for children under the age of six.” This prevents families from applying for asylum. “I've yet to speak with a white asylum seeker who has had the same issue,” she said. “And we help everybody in both cities.”

**Another solution is that Black asylum seekers buy brand-new cellphones. “If you can afford to spend \$1,000 on a new cellphone, then you can upload the image no problem. But who can afford that?” Rangel-Samponaro said. “Not anyone living in a migrant camp.”** CBP did not reply with comments before publication, after being approached with questions by the Guardian.



## International Law impacts

### Only robust ilaw prevents extinction

John William **Draper 22**, Reference Librarian (Retired), Biddle Law Library, University of Pennsylvania, Carey Law School, "Why Aim Law Toward Human Survival," SSRN Scholarly Paper, ID 4034781, Social Science Research Network, 02/14/2022, papers.ssrn.com, doi:10.2139/ssrn.4034781

#### I. RISKS TO HUMAN SURVIVAL

Is it reasonable to believe that **humanity is headed toward collapse**? As observed by social and political philosopher, Jean-Pierre Dupuy, "**We are living today in the shadow cast by the prospect of catastrophes that, separately or in combination, threaten to bring about the disappearance of the human race from earth.**"<sup>4</sup> Briefly, the risks humanity faces are a combination of too much consumption, too much pollution, and too large a human population.<sup>5</sup> Any one of these problems can be sufficient to be lethal to a large group of humans, even, ultimately, the largest group.

**This** Part **is** not background material but **a** statement of the scope and depth of humanity's **legal problem**. We face **many risks** in many categories. **Although we may not know all the significant risks or even all the categories, science provides easy windows into several, including insufficient food supply, freshwater scarcity in a rising number of locales, pandemics, massive die-offs of other species upon which we depend, and the exacerbating factor of climate change.** We begin with consumption.

#### A. Consumption

Madison Avenue's marketers have long worked to create demand. <sup>6</sup> As a consequence, we now consume too much.<sup>7</sup> Our impact is measured by an ecological footprint, a calculation of our consumption. <sup>8</sup> The Global Footprint Network's website shows that the U.S. ecological footprint ranks seventh in the world (behind six tiny countries) at 8.1 hectares per person.<sup>9</sup> Per person, we use over 4.7 times the resources generated by the planet.<sup>10</sup> We are good consumers. Madison Avenue has done its job well.

The 2020 Living Planet Report from WWF (formerly the World Wildlife Federation) and the Zoological Society of London tells the resulting story of a human footprint that has long outstripped the Earth's capacity for regeneration.<sup>11</sup> With a rapidly rising global population, humanity is in an increasing bind to produce enough food. We have two connected problems. First, "[b]iodiversity loss threatens food security and urgent action is needed to address the loss of the biodiversity that feeds the world."<sup>12</sup> Secondly, "[W]here and how we produce food is one of the biggest human-caused threats to nature and our ecosystems, making the transformation of our global food system more important than ever."<sup>13</sup>

Our increasing demand for food is merely one of the many problems of humanity's overconsumption.<sup>14</sup> We abuse the land to create more food.<sup>15</sup> We are wasteful.<sup>16</sup> And we have modified our diets to use our supply of available vegetable oils and meat.<sup>17</sup> Unfortunately, these actions cause additional greenhouse gas (GHG) emissions. Meanwhile, "[c]hanges in consumption patterns have contributed to about two billion adults now being overweight or obese."<sup>18</sup> Nevertheless, hunger remains widespread.<sup>19</sup>

At the same time, we must use less water to create food. To adapt, we need to change our food supply. For the unwilling, only failing to adapt could be worse. In a drought, crops can fail. **When crops fail** repeatedly, a **civilization can collapse**.<sup>20</sup> Like it or not, in this globalized world we are all part of one enormous human civilization. **If we destabilize ourselves with extreme droughts, resultant migrations increase humanity's risk of failure.**

Excessive consumption can destroy resources rather than allow regeneration (of e.g., soils or fisheries) needed for the longer term. Our use of lands and waters destroys natural habitats,<sup>21</sup> destroys wild food sources,<sup>22</sup> harms biodiversity,<sup>23</sup> and causes soil damage and erosion.<sup>24</sup>

Unfortunately, through neo-classical economic theory, consumption growth is viewed positively. Satisfaction is all about the money. Maximum profit or income is the goal, even a duty, without regard to externalities.<sup>25</sup> Some externalities then harm people with

Immigration Surveillance Core File. *Updated 8-3-24*

rights.<sup>26</sup> Materialism and immorality are merely symptoms of self-interest<sup>27</sup> built into the system's structures, behavior, and training (i.e., advertising) to support it all by imploring us to use more and by measuring our behavior.

The result is our "throwaway society."<sup>28</sup> Why do we overconsume? John McCollough's empirical study points to convenience and conspicuous consumption,<sup>29</sup> interests that cannot possibly justify the taking of life.<sup>30</sup>

Convenience means that it is often cheaper to replace something than to fix it. Time is money; environmental damage is a mere externality that either has not been factored into our economic decision-making (the problem of social cost) or is merely compensated with money.<sup>31</sup>

Conspicuous consumption includes fashion obsolescence. <sup>32</sup> Selling more is more profitable, and together with planned obsolescence, profit maximization plays a role in our drive to consume. This choice has been encouraged by the short-term profit motive of the next quarterly report.<sup>33</sup>

We consume all kinds of things, even land. Consider agriculture. We have long transformed wild habitats to other uses. As our global population approaches 8 billion<sup>34</sup> and rises rapidly,<sup>35</sup> we have gone too far.

**The resulting extinction crisis<sup>36</sup> affects the entirety of nature. All manner of bees, birds, trees, and other fauna and flora need a safe and healthy place to live and to support human life. But the biosphere of the Earth, within which humanity developed, <sup>37</sup> is dying.** For example, species of amphibians, especially frogs — "nature's canary in the mine"<sup>38</sup> — have long been dying off.<sup>39</sup> Not just a few. Species of mammals, birds, reptiles, fish, invertebrates, and plants are disappearing.<sup>40</sup> A recent UN report compiled by 145 expert authors from 50 countries stresses that natural resources are declining at rates unmatched in human history and that the rate of extinction is increasing.<sup>41</sup> **As extinctions multiply, humanity can foreseeably be caught in an extinction avalanche.**<sup>42</sup> We head toward failure.

The human activities at the root of this crisis are both direct and indirect. Direct activities include the clearing of forest and other wild lands for housing, roads, and food production.

Indirect habitat destruction occurs through climate change. Although we will revisit climate change, here we see its impact on habitats: "Global warming has led to shifts of climate zones in many world regions, including expansion of arid climate zones and contraction of polar climate zones. As a consequence, many plant and animal species have experienced changes in their ranges, abundances, and shifts in their seasonal activities."<sup>43</sup> Changes in ranges and behavior may suffice for some species; others (e.g., trees) are unlikely to be able to migrate successfully.

As climate change increases deserts and non-arable lands,<sup>44</sup> humanity in turn clears forest to replace lost food production. Destruction of forests, especially rainforests, exacerbates climate change by reducing carbon sinks and oxygen production. Land degradation from climate change is part of a vicious circle. <sup>45</sup> Failure to modulate the impacts of climate change with careful land management will cause the impacts to spiral upward through a feedback loop of increasing erosion of our life support system.<sup>46</sup>

**Forests wither** from extreme weather events,<sup>47</sup> **from** infestation of **introduced species**,<sup>48</sup> **from acid rain**,<sup>49</sup> **and** from **land conversion** to agricultural and other uses.<sup>50</sup> In connection with this loss, biodiversity is plunging.<sup>51</sup> As part of a larger statement on climate change, a group of over 11,000 scientists says, "We need to quickly curtail habitat and biodiversity loss ..., protecting the remaining primary and intact forests, especially those with high carbon stores and other forests with the capacity to rapidly sequester carbon (proforestation), while increasing reforestation and afforestation where appropriate at enormous scales."<sup>52</sup>

As we develop or open human access to more lands, including forest lands, humanity is doing the opposite. Wild habitats and the species that live in them are on course to fall. We are destroying our commons.<sup>53</sup> According to Harvard's Edward O. Wilson, "Unless humanity learns a great deal more about global biodiversity and moves quickly to protect it, we will soon lose most of the species composing life on Earth."<sup>54</sup>

Remember the clean water each of us needs to live. We memorialized that need with the Clean Water Act of 1972. <sup>55</sup> Use and efficiency vary by how much we pay.<sup>56</sup> We need clean water for more than drink. Food production uses most of our water.<sup>57</sup> But water shortages over vast areas of land make food production increasingly difficult. <sup>58</sup>

Excessive consumption, encouraged by a variety of systems and incentives, can be proven rational,<sup>59</sup> but consumption itself is not the only problem. The inefficiencies of production, processing, and distribution, some of them inherent, add to our waste.<sup>60</sup> What is thrown away is not "consumed" per se. Excessive consumption generates a lot of waste, all forms of gaseous, solid, and liquid waste.<sup>61</sup> Our problem with too much consumption is tied to our problem with too much pollution, which we will discuss next. Fortunately, if we consume less, we will also pollute less.

## B. Pollution

## Immigration Surveillance Core File. *Updated 8-3-24*

Pollution comes in many forms. **We pollute** our water and air. We will consider each briefly. Pollution sounds bad, but it is merely part of life as each of us generates pollution daily for Earth to absorb and process.<sup>62</sup> Of course, the more of us there are, the more waste our planet must process.

Water pollution, long treated as a local matter;<sup>63</sup> is also a national problem.<sup>64</sup> It has become a global matter.<sup>65</sup> Our oceans are full of plastic which harms sea life and collects in massive garbage patches or gyres.<sup>66</sup>

River **deltas are dead zones** from agricultural runoff.<sup>67</sup> Some dead zones are as large as a US state.<sup>68</sup> They have existed for decades as the EPA has not regulated agricultural pollution.<sup>69</sup> If humanity, through feeding itself or by any other endeavor, ruins its waters and the life that those waters support, how will we live?

The discharge of toxins can come from industrial activity. For example, the burning of coal releases significant amounts of mercury into the air.<sup>70</sup> Much of that mercury condenses into water, either directly into an ocean or by collecting there from freshwater runoff. Sea life absorbs it, and the toxin concentrates as it works its way up the food chain. Thus, Inuit, who live far from industrial pollution sources, suffer serious health effects.<sup>71</sup>

Ocean pollution ranges from barrels of toxic sludge<sup>72</sup> to denim particles from washing machine discharges<sup>73</sup> to tiny plastic beads (nurdles).<sup>74</sup> More insidiously, plastics, blowing into our lungs at the beach, <sup>75</sup> may threaten one of humanity's prime sources of oxygen.<sup>76</sup> All forms of freshwater pollution, from mine tailings<sup>77</sup> to agricultural runoff<sup>78</sup> to condensed mercury (from forest fires and air pollution)<sup>79</sup> to plastic bottles and other debris<sup>80</sup> find that oceans are inevitably downstream.

Entire books are written on aspects of water pollution. The same goes for air pollution. My point here is that it is all deadly, especially as it accumulates over increasing time frames, and the risks combine but also have synergies. Risk is not just a matter of potential. People are dying.<sup>81</sup> We see this in rates of cancer,<sup>82</sup> lung disease,<sup>83</sup> and neurological disorders.<sup>84</sup>

Air pollution is composed of particulates and gasses. Historically, government regulated particulates first,<sup>85</sup> probably because we could see them. Downwind was long the answer to emission problems. Building a taller smokestack moved smoke from the immediate area of the plant.<sup>86</sup>

However, current technology allows us to trace plumes of smoke around the globe.<sup>87</sup> Pollution is now global. There is no escaping it. Even for particulates now, everyone is downwind. There is a clear linkage between pollution and child mortality.<sup>88</sup> Neither adulthood nor distance provide immunity.<sup>89</sup> Thus, we all bear some risk.

Gas pollution can come from toxic chemicals and even from inert gasses in quantities sufficient to overwhelm Earth's absorptive capacities. GHGs represent a global, not just local, challenge. We must stop them globally as well as locally. As we cannot see GHGs, it has been easier to ignore them.

Carbon dioxide and methane are the most pernicious GHGs; they cause climate change. <sup>90</sup> We will return to climate change shortly. Climate change is a damage multiplier, adding periods of increasingly extreme heat, leading to long-term sea-level rise, to enhanced dangerous storm activity, and to hundreds of millions of migrants seeking escape from the effects of those changes. This brings us to the matter of human population.

### C. Population

Both consumption and pollution depend, to some degree, on population. Our global population is approaching 8 billion, but the long-term capacity of the planet has been estimated to be about five billion.<sup>91</sup> As the seas rise and the climate scorches productive lands, one should expect the Earth's carrying capacity to drop by hundreds of millions.

**Feeding eight billion is already damaging** our remaining **ecosystems**.<sup>92</sup> The biodiversity into which our species was born is disappearing.<sup>93</sup> Problematically, our food systems rely on that biodiversity.<sup>94</sup>

With a rising population (fast in some places), we find ourselves in the uncomfortable position of needing to explore fair and equitable longer-term approaches to global population control and even reduction. At the same time, we need to protect the rights to life and health<sup>95</sup> for all. Humanity is in a bind, and the size of our population is a major part of the problem.

Our procreational liberties and incentives, world-over, add to the **risk** of **early collapse and death for all** of us. As biologist Wilson puts it, "we must really slow down. Reproduction is obviously necessary, but it is a bad idea, as Pope Francis I has pointed out, to continue multiplying like rabbits."<sup>96</sup> Wilson adds that demographic projections show the human population rising "to about eleven billion or slightly more before the end of the century, thereafter peak, and begin to subside."<sup>97</sup> The impact of 11 billion humans on planet Earth is a frightening prospect. We lack natural resources to support the current population, let alone another three and a half billion.

Immigration Surveillance Core File. *Updated 8-3-24*

Our population is already a major exacerbating factor in meeting our need to live on a healthy and relatively safe planet.<sup>98</sup> We should quantify our impact. In 2016, Edward O. Wilson reported, “The rate of extinction of species and races is conservatively estimated to be 877 times above that prevailing before the origin of humanity (the latter rate is one extinction every three million years).”<sup>99</sup> Extinctions from the dodo to the Tasmanian tiger to the Pyrean ibex relate to human activity.<sup>100</sup>

Our impact on other species matters: If we kill all the main oxygen makers, what will we breathe? Other species include both plants and animals. Native plants and animals are often displaced by introduced<sup>101</sup> species or as habitat gets put to “productive” use, whether that use be housing, agriculture, or industry. The pressures of an expanding human global population—and its footprint—are eliminating and overusing<sup>102</sup> wild spaces. This increases the risk that we may remove one species too many.

There are many “little” species that have been compared to the rivets holding together an airplane. No single rivet is crucial. One can remove a rivet. And another. But soon the airplane will not hold together.<sup>103</sup> The same goes for the huge collection of species on which we depend, from pollinators to fungi, or the species upon which they depend. We need crops to be pollinated, and we need compost to rot. The trouble here is that we have no idea of the damage we are doing to our very own life support system.<sup>104</sup> Growing extinctions represent an existential threat.<sup>105</sup>

Human-caused habitat destruction is leading to mass extinctions that increase significant risk to humanity. According to Professor Wilson, there are almost countless ways we are unwittingly destroying the millions of species that benefit humanity directly or indirectly, regardless of “whatever might be their present or future beneficent roles. The human impact is largely due to the excess of the many quotidian activities we perform just to get on with our personal lives. Those activities have made us the most destructive species in the history of life.”<sup>106</sup> As a result, he says, “[A]ll available evidence points to the same two conclusions. First, the Sixth Extinction is underway; and second, human activity is its driving force.”<sup>107</sup> We are systematically exterminating the other species on this planet.

This concern for other species leads back to our own. In the process of completing our dominion over the planet, we are putting our own species at significant risk. As Ronald Dworkin put it,

Our concern for the preservation of animal species reaches its most dramatic and intense form, of course, in the case of one particular species: our own. It is an inarticulate, unchallenged, almost unnoticed, but nevertheless absolute premise of our political and economic planning that the human race must survive and prosper.<sup>108</sup>

Our notions of prosperity threaten our survival. This comes into stark view when we consider our own globalization.

A vast and foundational part of global health security is global food security. Without food and the water upon which it depends, we have no way to provide for the hungry billions. Unfortunately, our actions are already placing humanity’s food supply at risk. <sup>109</sup> Our ability to feed five billion, let alone the nearly eight billion already on Earth, is slipping away.

There is more to health security than food. COVID-19 makes that clear. Our global population is high, but it is also interconnected. We currently lack an effective system to control or limit global interconnections and the significant risks that go with them. This has special application with introduced species, whether plants, insects, mollusks, or viruses.

There are likely entire categories of risks which we have not yet identified, let alone studied and solved, both on paper and in the real world. The build-out of a system can enable success. The success of South Korea’s response to COVID-19 in spring 2020 demonstrates the importance of a system of study, preparation, and cooperation.

We have discussed consumption, pollution, and population. Each or a combination bears risks to humanity, both foreseeable and significant. We move to another category of significant global risk, systemic risk.

#### D. Systemic Risks

**Humanity builds systems** ranging **from** systems of **government to electrical** systems **to economic** systems. As humanity has grown, so have our systems. **As they become bigger**, faster, more powerful **and complex, systems are subject to bigger**, faster, more powerful **and complex failures**.<sup>110</sup> These risks are both foreseeable and significant.<sup>111</sup> As law professor J.B. Ruhl points out, “[A]lthough we often **compartmentalize** social, ecological, and technological **systems as distinct, it is becoming difficult to disaggregate them in operation**, as automated online systems increasingly run infrastructure systems, expanding infrastructure systems increasingly degrade ecological systems, and degraded ecological systems diminish the resilience of human social and economic systems.”<sup>112</sup> **Thus, humanity is now subject to global systemic risk**.<sup>113</sup>

Our civilizations and systems all rely on natural systems, including Earth’s biodiversity and its climate. Failure of such enormous and complex ecological systems can trigger cascade failure in human systems.<sup>114</sup> This section examines natural systems at risk of cascade failure from excessive consumption, pollution, and population. They are quickly eroding.

## Immigration Surveillance Core File. *Updated 8-3-24*

Governing the risks of such failures is both a scientific and a policy challenge.<sup>115</sup> Professor Ruhl explains: “The science of cascade failures in social, ecological, and technological systems seeks to understand their causes and behavior and is developing metrics and principles for describing systemic risk, failure propagation, and network resilience.”<sup>116</sup> Governments can then “benefit from the techniques and strategies cascade failure science is exploring for modeling, monitoring, event prediction, and event prevention, response, and recovery.”<sup>117</sup>

Before one can solve a problem, one needs to identify it. The problem of systemic risk lies not in identifying initial triggers so much as locating the overall systemic or structural cause. While the trigger of an initial failure event may seem small and random in isolation,<sup>118</sup> the exact elements vary with operating conditions, meaning that the same event in the same system will not always start a cascade failure.<sup>119</sup> Earth has an interdependent infrastructure,<sup>120</sup> and we need to beware foreseeable failures.

Next, we visit two categories of significant systemic risks, failure of the biodiversity of Earth’s life support system and failure of our climate system.

### 1. Failure of Earth’s Life Support System

The world that we grew up in is dying. Once it is gone, we are entirely on our own, without a life support system or a parachute.<sup>121</sup>

According to philosopher Jean-Pierre Dupuy, the systemic risks we face represent a kind of evil. <sup>122</sup> We seem to be thoughtlessly wed to our own systemic destruction. But we cannot use self-interest as a tool to attack this systemic evil due to the political impotence of goodness.<sup>123</sup>

Many of us want to believe that science and technology will bail us out of this “moral disaster,”<sup>124</sup> but this is a fatal error. <sup>125</sup> We are on a suicidal path that will kill the biodiversity that supports life on this planet. We need to change the aim of our systems to achieve a different result.

If we can make the economic transition to a different worldview according to Professor Wilson, “[t]he biosphere and the ten million species that compose it will no longer be treated as a commodity, but as something vastly more important—a mysterious entity still beyond the boundaries of our imagination yet vital to long-term human existence.”<sup>126</sup>

Wilson says Earth’s life support system remains at risk: “We and the rest of life with us are in the middle of a bottleneck of rising population, shrinking resources, and disappearing species. As its stewards, we need to think of our species as being in a race to save the living environment.”<sup>127</sup> The system can fail. Wilson suggests a way to avoid that risk: “The logical primary goal is to make it through the bottleneck to a better, less perilous existence while carrying through as much of the rest of life as possible.”<sup>128</sup>

The collapse of Earth’s biodiversity is not the only global systemic risk humanity faces. We were already eradicating biodiversity, but now changes in climate systems are enhancing the eradication, risks, and probabilities.

### 2. Systemic Climate Risk

The Earth’s climate is an enormous natural system, a system of systems. The climate system directly affects our weather and our well-being. Our vision of the future seems obscured by the systemic changes we have already wrought. However, as we cannot know the future, we cannot know how much worse it will get. But we can extrapolate from the past, and we can see the trends. Day after day, year after year, Earth is warming. Many snow-capped mountains are now bare. Glaciers are receding or gone.

Climate change discussions are often about the number of degrees Celsius global mean surface (land and ocean) temperature (GMST) relative to pre-industrial levels. <sup>129</sup> David Wallace-Wells notes how easy it is to trivialize the differences between such numbers as two, three, four, or five. We lack a frame of reference for risks with these kinds of thresholds, “but as with world wars or recurrences of cancer, you don’t want to see even one.”<sup>130</sup> We are already rising past 1.2 degrees GMST of warming.<sup>131</sup>

Climate change is another multiplier, beyond population, affecting both risk and damage. GHGs trap the planet’s heat which then affects weather patterns. No single storm can be attributed to global warming; according to Wallace-Wells, they all are.<sup>132</sup> We have unleashed a growing global risk: “Climate change isn’t something happening here or there but everywhere, and all at once. And unless we choose to halt it, it will never stop.”<sup>133</sup>

Such changes in weather patterns bring “climate cascades,” some of which are local, and some of which are global.<sup>134</sup> Climate cascades are especially likely to occur through the operation of “feedback loops,” which reinforce the operation, erosion, and destruction of climate change. <sup>135</sup>

Those cascades have a multiplier effect. When polar icecaps melt, sea level rise will flood Miami, Dhaka, Shanghai, Hong Kong, and a hundred other cities around the world.<sup>136</sup> Many huge risks are well known.

## Immigration Surveillance Core File. *Updated 8-3-24*

What is the holdup? Why is humanity not reducing the risk? Many are caught by our innate self-interest enhanced by a neo-classical economic philosophy that is baked into the global market system. That philosophy espouses profit or wealth maximization as an ideal—on one side.

### a. The Behavioral Challenge

An alternative view, on the other side, calls for system-level actions and changes to entrenched systems. Until systems change, some may have little reason to change behavior. When it comes to acting on climate change, we are controlled by such near-term and normal concerns as jobs and health. Operating outside the system bears significant risks. Thus, while the climate situation deteriorates, many of us wait in hope of a systemic change.

The human system requires modification. <sup>137</sup> We know what to do, but lack the means. We face global problems requiring global changes in behavior. But governmental systems are not set up to deal with these kinds of problems. Nevertheless, we must change global behavior now. We have one last chance to avoid climate disaster.<sup>138</sup> That chance will require “unprecedented global cooperation.”<sup>139</sup> Like a pandemic, if climate change gets out of control, we are in big trouble.

How we treat climate change in the law depends on how we view its probabilistic causation.<sup>140</sup> If we see a probability that warming is a natural and random occurrence, we tend to favor inaction. While those who see the probability that climate change is anthropogenically-caused tend to want to treat that probabilistic causation as an urgent legal problem. By necessity we are using notions of probabilistic causation to call for law. Further, we will likely need to use calculations of probabilistic causation to build the law and the rules of a protective response.

Science has an answer about which view to take. It says that the odds are overwhelming that humanity has caused the warming of the Earth and the ensuing climate changes. We can only operate in this realm based on prediction of future classes of effects that fall more into the areas of social science and medical research.<sup>141</sup> Failing to take the probabilities of causation into account in law- and rule-making is “deeply problematic.”<sup>142</sup>

Carbon is one of the primary causes of climate change. But climate change is caused by humans, and human activity on the ground has long released excessive amounts of carbon.<sup>143</sup>

How we live makes a difference. We cook food. We heat and cool our homes. Most of us live in cities.<sup>144</sup> We travel by car and by airplane. Many of us consume meat and dairy. We see the result on land: “Since the pre-industrial period, the land surface air temperature has risen nearly twice as much as the global average temperature.”<sup>145</sup> Now let us return to food, this time to see how climate change affects what we eat.

### b. Food

“Climate change exacerbates land degradation.”<sup>146</sup> Land degradation adversely affects production. As more land degrades, we get less food.

The carbon and its heat not only reduce food production, higher levels of CO<sub>2</sub> also harm food quality. Plants are bigger now but less nutritious.<sup>147</sup> As Wallace-Wells says, “Everything is becoming more like junk food.” Between 1950 and 2004, protein, calcium, iron, and vitamin C have declined in plants by as much as a third. “Even the protein content of bee pollen has dropped by a third.”<sup>148</sup> Researchers looking at the effect on one crop, rice, found that “carbon emissions could imperil the health of 600 million people.”<sup>149</sup> The bottom line for food: there will be more of us, there will be less food, the food will be less nutritious, and we will be hungrier.

Climate change impacts the land itself. Some areas will be more scorched. <sup>150</sup> Some are already affected; consider the Middle East. <sup>151</sup>

This impact on land harms the inhabitants. Those living in degraded or desertified areas are increasingly impacted by climate change.<sup>152</sup> When impacts worsen, billions will be forced to move in search of a new place to reside. <sup>153</sup> As the acreage of temperate land shrinks and the number of displaced people rises, another emergency looms.

### c. Migration

The migration problem is far greater than several million Americans. In 2018, the World Bank offered a 2050 estimate of 143 million just in subSaharan Africa, South Asia, and Latin America.<sup>154</sup> “For every fraction of a degree that temperatures increase, these problems will worsen. This is not fearmongering; this is science.”<sup>155</sup> The UN’s International Organization for Migration has projected as many as a billion climate migrants by 2050. <sup>156</sup>

What will it be like 50 years from now? What will our children face? By 2070, up to three billion humans will migrate due to extreme temperatures.<sup>157</sup> That does not count migration forced by sea level rise. Are we going to relocate New York City, most of Florida and much of New Jersey? To where? With rising sea levels, there will be fewer and fewer “wheres” to go to and increasing demand for food supplies when there is less land to produce the food. Projections say these concerns will need to be addressed even if we make immediate significant climate progress.

## Immigration Surveillance Core File. *Updated 8-3-24*

Optimists look for better outcomes with fewer people affected. In the analysis of David Wallace-Wells, “the optimists have never, in the halfcentury of climate anxiety we’ve already endured, been right.”<sup>158</sup>

### d. Our Global Health Emergency

However, humanity itself is not the only system at risk. Our bodies are systems. For example, episodes of great rainfall, increasingly common with climate change, harm our health: “Historically, in the United States, more than two-thirds of outbreaks of waterborne disease—illnesses smuggled into humans through algae and bacteria that can produce gastro-intestinal problems—were preceded by unusually intense rainfall, disrupting local water supplies.”<sup>159</sup> Those impacts on our health go beyond the temporary to include lifetime lost earnings. <sup>160</sup> Lost earnings only begin to tell the story.

Even if, as neo-classical economists, we focus on the money, we still have a problem: “Global gross domestic product could plunge by nearly a quarter by the end of the century because of the effects of climate change.”<sup>161</sup> That is mild compared to the physical emergency.

There is a physical emergency: “[O]ver 11,000 climate scientists recently warned, clearly and unequivocally that planet Earth is facing a climate emergency.”<sup>162</sup>

We have known about warming for decades.<sup>163</sup> Yet suddenly we realize that not only is our only home on fire,<sup>164</sup> it is burning faster than we imagined. To save anything, now is the time. Humanity must act on this type and degree of risk now. We must address foreseeable and significant risks of systemic failure, whether concrete, diffuse, <sup>165</sup> or cascading.

We find ourselves frozen, able only to hope. We see the fires. And we know more warming is coming due to protracted global processes. But change is hard: “if the next 30 years of industrial activity trace the same arc upward as the last 30 years have, whole regions will become unlivable by any standard we have today as soon as the end of the century.”<sup>166</sup>

According to Harvard’s Edward O. Wilson, our planet is in a fight for its life.<sup>167</sup> We have made the unthinkable the foreseeable,<sup>168</sup> then the probable. When warming reaches its full reality, we will likely be gone.

We would like to think that the problem will go away if we can only control our carbon emissions. If only climate change were so simple. Unfortunately, there are multiple climate emission gasses.

### e. Methane

Consider another GHG: methane. In 2016, Harvard researchers discovered that methane represents a much greater percentage of warming gas than was previously calculated.<sup>169</sup> Hundred-year emissions were used rather than measuring the accumulation of total warming gases over time in the atmosphere. According to law professor Steven Ferrey, “The impact of short-lived chemicals, particularly methane, the second element altering climate, has been miscalculated as if time and intensity do not matter.”<sup>170</sup> Methane traps three to four times as much heat as previously estimated.<sup>171</sup> Recalculations<sup>172</sup> provide one breathtaking conclusion: We are out of time.

We must act. Natural gas, the recent solution to our energy problems, is largely methane and natural gas leakage is a significant source of climate methane. A 50% global increase in natural gas demand by 2040 is predicted.<sup>173</sup> And even if (unrealistically) none of that methane leaks, a big problem remains: “The [International Energy Agency] forecasts that abundant use of gas could raise atmospheric concentrations of CO<sub>2</sub> to 650 parts per million causing temperature to rise 3.5 degrees Celsius, which is more than many experts believe is tolerable for the health of the Planet.”<sup>174</sup> Thus, even by solving our coal problem through conversion to natural gas, we will not have solved the carbon and methane problems.

Methane is far more dangerous to humanity than carbon.<sup>175</sup> We miscalculated and under-estimated the role of the second-most prevalent GHG in warming. <sup>176</sup> We leak more methane than ever, <sup>177</sup> and we continue to build out methane (and leakage) infrastructure.<sup>178</sup> Continued fracking will make it nearly impossible for the United States to reach its promised 26-28% reduction goal from 2005 levels.<sup>179</sup> We now share our extraction technology (fracking) with other countries.<sup>180</sup> Yet there is no U.S. or global legal structure or regulation to even encourage methane recovery.<sup>181</sup>

### f. Global Problems and Law

Professor Ferrey observes the real global problem of carbon, methane and other GHGs: “Warming molecules released anywhere on the Planet, warm the entire world, not just the immediate space where they are released.”<sup>182</sup> As methane warms the entire planet, we are all at risk from any methane emissions. With global warming, humanity has encountered local causes with lethal global effects. **We need global law to protect us.**

**There have been efforts at international cooperation, but the results are thin.** “The Kyoto Protocol achieved, practically, nothing; in the twenty years since, despite all of our climate advocacy and legislation and progress on green energy, we

Immigration Surveillance Core File. *Updated 8-3-24*

have produced more emissions than in twenty years before.”<sup>183</sup> The Paris Agreement was a wonderful step forward,<sup>184</sup> but there remains no legal or regulatory system to ensure that goals become reality.

A single—use piece of international law, like a climate treaty, works only for one problem and does not adapt well to changing conditions—as would be more likely for regulation. The fact that we were able to leave the Paris Accord<sup>185</sup> demonstrates the ineffectiveness of the limited approach.

We in the United States cannot stand alone,<sup>186</sup> particularly for an issue with this kind of risk to all our rights. The rest of our world has waited for us. We, humanity, must pull together to avoid a collapse of trust.<sup>187</sup>

### **Absent stable and effective international law, global conflict is inevitable**

**Wuerth '17** — Ingrid Wuerth (Helen Strong Curry Professor of International Law, Vanderbilt Law School); “Using International Law to Prevent Interstate War: How Syrian Airstrikes Make the World Less Safe;” April 12<sup>th</sup>, 2017; *Lawfare*; <https://www.lawfareblog.com/using-international-law-prevent-interstate-war-how-syrian-airstrikes-make-world-less-safe>

War is in the air: figuratively and literally. Even before the air strikes in Syria and the Russian veto of U.N. Security Council Resolution condemning Syrian use of chemical weapons, President Trump’s unpredictable and combative approach to foreign policy suggested a variety of paths which could lead to armed conflict with Iran, China, Russia or North Korea as Niall Ferguson, Robert Kagan, and Fareed Zakaria have all argued. In the post-World War II period, international law helped generate conditions which led to interstate peace—the “long peace.” Syrian airstrikes have, however, put unprecedented stress on the U.N. Charter-based international legal system regulating the use of force. Perhaps the result will be a more nuanced and better international legal system, one which is carefully calibrated to permit the use of force in response to humanitarian atrocities, as argued by Harold Koh and Rebecca Ingber. But perhaps degradation of the U.N. Charter-based limitations will weaken the international law prohibitions on the use of force, making regional or global conflict with China, North Korea, and Russia more likely. Those proposing an erosion of the U.N. Charter system need to consider carefully whether the international legal system is strong enough to make nuanced use-of-force distinctions. The answer depends in part on politics.

Viewed through a political lens, the prospects for a nuanced and effective international legal prohibition on the use of force look dim. Relaxing the prohibition on the use of force is likely to embolden the territorial ambitions of Russia and China; it will undermine the strength of the U.N. Security Council; and it is especially difficult to administer in a world of fake news and hair-trigger decision-making. The Syrian atrocities cry out for a response, but now is a dangerous time to tinker with the U.N. Charter’s prohibition on the use of force.

It bears emphasizing that for almost a century, the prevention of interstate conflict has been the core objective of international law. The League of Nations, established in the aftermath of World War I was designed to manage great power politics but failed to prevent World War II. That failure was shared by the 1928 Kellogg-Briand pact which outlawed war for the first time. After World War II, the victorious powers created the U.N. Charter and the Security Council with its permanent veto-wielding members: China, France, Russia, United Kingdom, United States. Note the continuing importance of those five powers. The Charter ushered in a remarkable “Long Peace”—meaning a dramatic reduction in inter-state armed conflict. The cornerstone of the U.N. Charter and of the international legal order since 1945 is a prohibition on use of force except in self-defense or as authorized by the Security Council. The “Long Peace” suggests that it has worked: not to prevent all conflicts, but to prevent many inter-state conflicts, which is the type of conflict building now.

Using the Syrian airstrikes to craft a humanitarian exception to the prohibition on the use of force puts the “Long Peace” under unprecedented stress. To be sure, the 1999 NATO bombing of Kosovo for humanitarian purposes violated Article 2(4) of the U.N.



Immigration Surveillance Core File. *Updated 8-3-24*

Charter. But the Syrian airstrikes, which involved the U.S. acting alone and without exhausting the avenues for peaceful resolution of the issue, represents a significant expansion of the Kosovo precedent, as analyzed by Ashley Deeks here.

There are several reasons to think that a limited and fine-tuned humanitarian exception to the prohibition on the use of force will not work. First, it will embolden the already emboldened territorial aspirations of Russia and China. After the bombing campaign and with the strong support of Western European countries and the United States, Kosovo declared its independence from Serbia in 2008. Serbia and its allies, especially Russia, strongly condemned the declaration of independence and continue today to refuse to recognize Kosovo. Russian officials, then, in turn used the Kosovo precedent to support its use of force in both Georgia and Ukraine. Crimea, which was part of Ukraine, is today Russian. The core threat to peace with Russia is probably—Syria notwithstanding—the increasingly militarized borders between NATO (or NATO-allied) countries and Russia, which includes thousands of NATO troops, the most since the end of the Cold War. The South China Sea is probably the world’s leading conflict-prone area—China’s territorial ambitions there may explain its uncharacteristic reluctance to criticize U.S. airstrikes in Syria. These political facts should give pause to those who seek a carefully-calibrated prohibition on the use of force.

Second, Syrian airstrikes undermine the United Nations Security Council, which did not authorize them, either ex ante or ex post. But the Security Council is a key forum for resolving other threats to interstate peace, such as Iran and North Korea. China, which is widely viewed as the key to containing North Korea, has recently highlighted its participation in developing the U.N. Security Council Resolutions designed to deter North Korean nuclear and missile programs. After all, international law provides the basis for imposing sanctions on North Korea to limit its nuclear ambitions. International law serves core North Korean objectives, too, as it prevents Western military intervention, a fear motivating North Korean policy. The Syrian precedent gives North Korea reason to worry that the U.S. will attack even over a Chinese veto in the Security Council.

As with North Korea, international law strongly supports U.S. policy objectives of preventing a nuclear-armed Iran. Sanctions imposed by the United Nations Security Council led to the 2015 Joint Comprehensive Plan of Action, which relaxed sanctions in return for Iranian concessions on its nuclear program. Undermining the U.N. Security Council makes peace more difficult to achieve in this context, too.

### **International law solves incentives for conflict---realism ignores background norms.**

Annabelle **Timsit** interviewing Oona **Hathaway**, and Scott **Shapiro 17**. Hathaway and Shapiro are Yale law professors. "When the World Outlawed War". Atlantic. 10-19-2017. <https://www.theatlantic.com/international/archive/2017/10/the-internationalists-war-peace-oona-hathaway-scott-shapiro/542550/>

Timsit: Your book’s thesis that law alone has stopped war is controversial. What would you respond to realist critics of your book, who say it’s really just power that matters?

Hathaway: Realists fail to understand how law works ... When it is most effective, the law does not induce states to act contrary to incentives; it changes those incentives themselves. To take one example: After war was outlawed, conquest was no longer legal. As a result, when Japan invaded Manchuria in 1931, the U.S. and the states that were party to the League of Nations refused to recognize the conquest, pointing specifically to Japan’s violation of its legal obligations under the Pact, which Japan had ratified. This change in the rules thus changed the incentives states faced—they could still seize land with force, but they could no longer enjoy the fruits of their conquests.

The realist might respond that, even if the change in the law changes behavior, that doesn’t prove that law matters: The law is simply a tool of the powerful—great nations create law that is in their interests, and when the law changes behavior, power is doing

Immigration Surveillance Core File. *Updated 8-3-24*

the causal work, not the law. But to say that the powerful shape the law to reflect their interests is not to say that law is merely a byproduct of power. Power may lead to rules, but rules take on lives of their own. They change behavior by changing the incentives for action—not just for the weak but for the strong as well.

Scott Shapiro: So much of our book is an attempt to show that the law is playing such a strong role in the way states behave that we don't even notice it. It's hiding in plain sight. so it's kind of a triumph of the outlawry of war that we don't even recognize it at work. But, even though we're lawyers and think law is really useful, we also think that the law has limits, that is, that there's not always a legal answer to all the questions that arise. When that happens, there are arbitral bodies [such as] the International Court of Justice.\

## Morality – Right to Asylum

### **Refugees have a right to asylum if there is no other place for them to live**

Michael **Walzer**, philosopher, 2008, Spheres Of Justice: A Defense Of Pluralism And Equality, Kindle Edition, page number at end of card

The cruelty of this dilemma is mitigated to some degree by the principle of asylum. **Any refugee who has actually made his escape, who is not seeking but has found at least a temporary refuge, can claim asylum**— a right recognized today, for example, in British law; and then he cannot be deported so long as the only available country to which he might be sent “is one to which he is unwilling to go owing to well-founded fear of being persecuted for reasons of race, religion, nationality ... or political opinion.” 20 Though he is a stranger, and newly come, the rule against expulsion applies to him as if he had already made a life where he is: for there is no other place where he can make a life. But **this principle was designed for the sake of individuals**, considered one by one, where their numbers are so small that they cannot have any significant impact upon the character of the political community. **What happens when the numbers are not small? Consider the case of the millions of Russians captured or enslaved by the Nazis in the Second World War and overrun by Allied armies in the final offensives of the war. All these people were returned, many of them forcibly returned, to the Soviet Union, where they were immediately shot or sent on to die in labor camps. 21 Those of them who foresaw their fate pleaded for asylum in the West, but for expedient reasons (having to do with war and diplomacy, not with nationality and the problems of assimilation), asylum was denied them. Surely, they should not have been forcibly returned— not once it was known that they would be murdered; and that means that the Western allies should have been ready to take them in**, negotiating among themselves, I suppose, about appropriate numbers. There was no other choice: at the extreme, the claim of asylum is virtually undeniable.. Walzer, Michael (2008-08-05). Spheres Of Justice: A Defense Of Pluralism And Equality (p. 51). Basic Books. Kindle Edition.

### **Meeting the needs of refugees requires taking them in**

Michael Walzer, philosopher, 2008, Spheres Of Justice: A Defense Of Pluralism And Equality, Kindle Edition, page number at end of card

**There is, however, one group of needy outsiders whose claims cannot be met by yielding territory or exporting wealth; they can be met only by taking people in. This is the group of refugees whose need is for membership itself, a non-exportable good.** Walzer, Michael (2008-08-05). Spheres Of Justice: A Defense Of Pluralism And Equality (p. 48). Basic Books. Kindle Edition.

### **Statelessness is a condition of infinite danger**

Immigration Surveillance Core File. *Updated 8-3-24*

Michael Walzer, philosopher, 2008, Spheres Of Justice: A Defense Of Pluralism And Equality, Kindle Edition, page number at end of card

**Men and women without membership anywhere are stateless persons.** That condition doesn't preclude every sort of distributive relation: markets, for example, are commonly open to all comers. But **non-members are vulnerable and unprotected in the marketplace.** Although they participate freely in the exchange of goods, **they have no part in those goods that are shared.** **They are cut off from the communal provision of security and welfare.** Even those aspects of question: How is that group constituted? I don't mean, How was it constituted? I am concerned here not with the historical origins of the different groups, but with the decisions they make in the present about their present and future populations. **The primary good that we distribute to one another is membership in some human community.** And what we do with regard to membership structures all our other distributive choices: it determines with whom we make those choices, from whom we require obedience and collect taxes, to whom we allocate goods and services. **Men and women without membership anywhere are stateless persons. That condition doesn't preclude every sort of distributive relation:** markets, for example, are commonly open to all comers. **But non-members are vulnerable and unprotected in the marketplace. Although they participate freely in the exchange of goods, they have no part in those goods that are shared. They are cut off from the communal provision of security and welfare. Even those aspects of security and welfare that are, like public health, collectively distributed are not guaranteed to non-members: for they have no guaranteed place in the collectivity and are always liable to expulsion. Statelessness is a condition of infinite danger.** Walzer, Michael (2008-08-05). Spheres Of Justice: A Defense Of Pluralism And Equality (p. 32). Basic Books. Kindle Edition.

## **Human Rights**

## **Border Surveillance Threatens Human Rights**

### **Border surveillance threatens human rights**

Amnesty International, 2023, The Digital Border: Immigration, Technology, and Inequality, <https://www.amnestyusa.org/wp-content/uploads/2024/06/The-Digital-Border-Migration-Technology-and-Inequality.pdf>

Several forms of technology-enabled interventions at and around physical borders are being used in the reception of people on the move.<sup>175</sup> **Many states have deployed digitally-enabled surveillance and policing tools at their borders. This infrastructure often relies on technologies originally built for military or national security purposes, often subjecting migrants and asylum seekers to the presumption of criminality,<sup>176</sup> and further applying a national security lens to an arena that should be fundamentally rights-based. As previously discussed, these digitally-enabled surveillance and policing tools also often include interoperable databases that share fingerprints and biometrics between police agencies and international humanitarian organizations.<sup>177</sup> In many cases, these digitized interventions at the border form what some have termed “immigration surveillance,”<sup>178</sup> wherein expanded capabilities for identifying individuals, controlling mobility, and sharing information, has the effect of weakening human rights protections for migrants and asylum seekers, both while interacting with border authorities and for long after.<sup>17</sup>**

### **Asylum is a human right**

Mari´a-Teresa Gil-Bazo, PhD in International Law; Senior Lecturer in Law (Newcastle Law School, Newcastle University); Research Associate (Refugee Studies Centre, University of Oxford)., 2015, Refugee Protection under International Human Rights Law: From Non-Refoulement to Residence and Citizenship, Refugee Survey Quarterly, 2015, 34, 11–42, p. 13

I have argued elsewhere that **the main contribution of international human rights law to the protection of refugees has been precisely to amend the situation just described, in particular by strengthening the protection against refoulement and by recognizing a right to asylum as a human right.**<sup>6</sup> The 1948 Universal Declaration on Human Rights (UDHR) included asylum among its provisions<sup>7</sup> and while attempts to translate Article 14 of the UDHR into a legally binding rule failed in the universal context, the right to asylum is enshrined in international human rights instruments of regional scope.<sup>8</sup> Indeed, **international human rights law – if only of regional scope – has enshrined the right to be granted asylum, thus resulting in States acquiring an international law obligation in that respect.**

## **A2: No Human Rights Claims When People are Stateless/Refugees**

### **There is still a moral obligation**

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So, I have explained what is meant by human rights as legal rights . But **very often human rights are not institutionalised in a proper system of law**, the necessary avenues for complaint and the forcing of rights are lacking. In these situations human rights are only justified in a moral sense, **so the bearer of rights can only appeal to others to fulfil the corresponding duties**, and if they do not meet their obligations, they can be blamed and shamed, exactly as when a moral duty is not fulfilled (Tugendhat 1993 ). These means of sanctioning people for not meeting their obligations are very weak, so I **call purely moral human rights, as opposed to legal human rights, “weak rights”**. But very often these weak rights have great political meaning, because human beings who are aware of having human rights can develop self-respect as bearers and subjects of rights, they can fight for their rights and fight to make them proper legal rights. Therefore, the claim to justify human rights from a moral point of view is politically and systemically very important. We should not give up this moral justification of human rights the way some theorists have done (see, e.g., Rorty 1993 ; Beitz 2009 ).

## **A2: Human Rights are Only “Negative” – No Duty to Help**

No, human rights require duty and fulfillment

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and Moral Philosophy and Applied Ethics. His main research interests are human rights, ethics and

applied ethics, *Fudan J. Hum. Soc. Sci.* (2015) 8:369–385, *Different Conceptions and a General Concept of Human Rights*, p. 380

Traditionally, it was thought that only negative duties follow from

human rights. If someone has a human right, others then have the duty to not

interfere or hinder that person from claiming their right. We will see that this

traditional understanding of the duties that follow from human rights is no longer

valid. It can be argued that there are related positive duties associated with human

rights as well, particularly those of protection, helping and fulfillment (Shue 1996 ).

Refugees Human Rights Must Be Protected

Refugees have a number of rights



Dieter Kugelmann, lawyer and professor, March 2010, Refugees, Max Planck Encyclopedia of Public International Law, <http://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e866> DOA: 9-25-15

#### D. Rights of Refugees

27 Within the scope of the Refugee Convention, refugees have a status under international law implying State obligations and individual rights. The Refugee Convention accords a variety of treatments and a variety of rights to persons satisfying different criteria. The set of rights granted to a refugee by a State accrues with the level of factual attachment to the State and the level of legal recognition. Some rights apply as soon as a refugee comes under a State's (de facto) authority, a second group of rights applies when the refugee enters the territory and falls under the effective jurisdiction of the State of refuge. A third group of rights applies once the refugee is lawfully in the territory of a State Party and a fourth group when the refugee lawfully stays or durably resides in the State's territory. It has to be carefully examined which refugee is entitled to hold which kind of rights according to the Refugee Convention.

##### 1. Refugee Status

28 The recognition of refugee status by a State is of declaratory character, but it may often be necessary to assure an adequate protection of the refugee. States may grant the rights linked to the refugee status only if there was a formal determination of the status. Before the authorities of the State can take this decision, it has to be examined if the person satisfies the relevant criteria, especially if a ground of persecution provided for by Art. 1 A (2) Refugee Convention is given. During the procedure, the refugee is in most cases physically present in the State and enjoys procedural rights. The State of refuge is obliged to guarantee fairness and a minimum standard of substantial rights. Fair and effective procedures are an essential element in the full application of the Refugee Convention. The right to free access to the courts laid down in Art. 16 Refugee Convention can only be effectively exercised if the procedure for the determination of refugee status is fair. As the Refugee Convention does not explicitly provide for procedural rules, the content and realm of the procedural rights can not be easily identified and State practice is not coherent. In many countries, the UNHCR participates in the procedures or, at least, tries to influence the procedure of determination of refugee status.

##### 2. The Principle of Non-refoulement

###### (a) Legal Basis

29 The principle of non-refoulement is embodied in Art. 33 Refugee Convention stipulating that [n]o Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

For the international protection of refugees, the right not to be returned or expelled to a situation which would threaten one's life or freedom is of crucial importance. The principle of non-refoulement finds further expression in Art. 3 (1) United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ('CAT' [adopted on 10 December 1984, entered into force 26 June 1987] 1465 UNTS 85; Torture, Prohibition of) which stipulates that

[n]o State Party shall expel, return ('refouler') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

Furthermore, Art. 3 (2) CAT lays down that

[f]or the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

30 The principle of non-refoulement affects State sovereignty because Art. 33 Refugee Convention gives rise to duties of the State of protection which may constrain the State to admit the refugee to its territory. Therefore, Art. 33 Refugee Convention is one of the most discussed provisions of the Refugee Convention. Bearing in mind that States are reluctant in acknowledging an individual right to asylum, the State duties resulting from Art. 33 Refugee Convention must nevertheless endorse an effective protection of the refugee. It has been evoked that a prohibition of refoulement has evolved on the level of customary international law. However, a careful examination of *opinio iuris* and State practice does not confirm this view for the time being.

#### (b) Scope of Application

31 The principle of non-refoulement laid down in Art. 33 Refugee Convention applies to refugees within the meaning of Art. 1 Refugee Convention. All refugees physically present give rise to an obligation for the State of refuge, to grant effective protection to persons falling under its *de facto* jurisdiction. The scope of application can be extended to all asylum seekers, although this interpretation of Art. 33 Refugee Convention may not yet be consented to by the majority of States and scholars. However, the development in the interpretation of effective protection, for example by the Member States of the European Union, seems to point in the direction of a wide interpretation of the obligation including asylum seekers.

32 Blunt denials of access or turn-back policies of States are hardly compatible with the principle of non-refoulement. States are entitled to introduce or continue a system of immigration control including the imposition of visa requirements. However, mechanisms of non-entrée like the 'safe country rules' must comply with Art. 33 Refugee Convention. These restrictions on the admission and the stay of aliens are applied, for example, in the European Union as a procedural device (Arts 26–27 and 29–31 Council Directive 2005/85/EC in relation to third States and Council Regulation [EC] 343/2003 between Member States). The 'first country of arrival rule' or 'safe third country rule' may lead to a deportation chain at the end of which the refugees will find themselves back in the country where they first arrived after leaving their

home States out of fear of persecution. If the 'safe country of origin rule' is applied, the refugee is deported to his country of origin, because the State of refuge estimates that there is no persecution in the country of origin. The design of these rules has to take into account that the refugees should enjoy sufficient protection in the State they are deported to. If a State sends back a refugee to a State, where the status determination procedure or the understanding of the refugee definition is deficient, this constitutes a breach of the duty to avoid the refoulement of a refugee 'in any manner whatsoever' (Art. 33 (1) Refugee Convention).

33 States Parties to the Refugee Convention cannot escape their responsibilities by intercepting refugees or by deporting them to areas outside the State borders including the territorial sea or the so-called international zones. Extraterritorial refoulement is subject to the same rules as any other refoulement. The practice of the US of intercepting Haitians in international waters and sending them back to Haiti was approved by the majority of the US Supreme Court (*Sale v Haitian Centers Council* [21 June 1993] 509 US 155), but it was found to breach Art. 33 Refugee Convention by the Inter-American Commission on Human Rights (IACommHR) (*Haitian Interdiction Case 10.675 IACommHR Report No 51/96 OEA/Ser.L/V/II.95 doc.7 Rev [1997] 550 paras 156–58*).

### (c) Exceptions

34 Exceptions to the principle of non-refoulement are laid down in Art. 33 (2) Refugee Convention. If the refugee can be regarded as a danger to the security of the country, they can be expelled or deported. Unlike persons falling under the narrow scope of Art. 1 (F) Refugee Convention and thus being excluded from protection, individuals who are covered by the criminality provision of Art. 33 (2) Refugee Convention fulfil the requirements of the refugee definition. According to Art. 33 (2) Refugee Convention, the danger to national security must lie within the very person of the refugee. Hence, if a refugee arrives as part of a mass influx causing a danger to national security, the application of the principle of non-refoulement cannot be suspended. Scholars assuming an inherent exception for mass influx situations refer to the high costs and propose a more effective international burden-sharing. However, the concept of the principle of non-refoulement only allows exceptions on individual grounds.

### 3. Rights of Refugee Status

35 Refugees lawfully staying in the territory enjoy non-discrimination in relation to the nationals of the State with respect to public relief and assistance (Art. 23 Refugee Convention) or relating to aspects of labour legislation and social security (Art. 24 Refugee Convention). This group of refugees also enjoys the most favourable treatment accorded to nationals of a foreign country concerning the right to association (Art. 15 Refugee Convention; Association, Freedom of, International Protection) and on behalf of wage-earning employment (Art. 17 Refugee Convention). Refugees lawfully staying in the territory enjoy a treatment as favourable as possible and, in any event, not less favourable than that generally accorded to aliens regarding the right to self-employment (Art. 18 Refugee Convention), the right to exercise liberal professions (Art. 19 Refugee Convention) or regarding housing (Art. 21 Refugee Convention; Housing, Right to, International Protection). Refugees having their habitual residence in the State possess a non-discriminatory position concerning artistic rights and intellectual property (Art. 14 Refugee Convention; Intellectual Property, International Protection). If they enter the

territory of the State of protection and fall under the State's effective jurisdiction, refugees are entitled to exercise their freedom of religion (Art. 4 Refugee Convention), the State shall issue them identity papers (Art. 27 Refugee Convention), and they shall not be expelled save on grounds of national security or public order (Art. 32 (1) Refugee Convention). A number of core rights apply to refugees with no further qualification. The State applies the provision of the Refugee Convention without discrimination as to race, religion, or country of origin (Art. 3 Refugee Convention) and it accords to a refugee exercising his property rights a treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances (Art. 13 Refugee Convention; Property, Right to, International Protection). Every refugee has free access to courts (Art. 16 Refugee Convention) and enjoys the same treatment as accorded to nationals with respect to elementary education (Art. 22 Refugee Convention). Finally, the duty of non-refoulement obliges States not to return refugees to a place where they risk being persecuted for a reason laid down in the Refugee Convention (Art. 33 Refugee Convention).

#### 4. Subsidiary Protection

36 Subsidiary protection is granted to persons who do not fulfil the criteria of Art. 1 A (2) Refugee Convention. It can guarantee the right not to be expelled. The relationship between subsidiary protection and refugee protection is not explicitly determined. Persons in a refugee-like situation and asylum seekers who fail to qualify as refugees under the Refugee Convention do nevertheless fall under the scope of international refugee law. As the Refugee Convention does not explicitly govern the granting of subsidiary protection, the safeguards and entitlements provided for by subsidiary protection widely depend on the interpretation of international law by States.

37 A common approach to subsidiary protection by the Member States of the European Union is laid down in Council Directive 2004/83/EC on Minimum Standards for the Qualification and Status of Third Country Nationals and Stateless Persons as Refugees or as Persons who Otherwise Need International Protection. According to its Art. 2 lit. e, a

'person eligible for subsidiary protection' means a third country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his country of origin, or in the case of a stateless person, to his country of former habitual residence, would face a real risk of suffering serious harm as defined in Article 15, and to whom Article 17(1) and (2) do not apply, and is unable, or, owing to such risk, unwilling to avail him or herself of the protection of that country.

Art 2 lit. f Council Directive 2004/83/EC stipulates that "'subsidiary protection status" means the recognition by a Member State of a third country national or a stateless person as a person eligible for subsidiary protection'.

#### Sources of Human Rights for Refugees

38 There are relevant provisions on refugees in human rights instruments. The Universal Declaration of Human Rights stipulates some habeas corpus rights which are applicable without

discrimination (Art. 9 UDHR), the right to seek and to enjoy in other countries asylum from persecution (Art. 14 UDHR), the right to a nationality (Art. 15 UDHR), and the right to freedom of movement and residence within the borders of each State (Art. 13 UDHR; Movement, Freedom of, International Protection). The latter right is also provided for in Art. 12 ICCPR. The two Covenants are based on the non-discriminatory character of human rights. According to Art. 2 (1) ICCPR, each State Party must ensure the rights in the ICCPR to 'all individuals within its territory and subject to its jurisdiction'. Referring to this provision, the Human Rights Committee has adopted General Comment No 15: The Positions of Aliens under the Covenant ([9 April 1986] GAOR 41st Session Supp 40, 117), in which it holds that the ICCPR does not recognize the right of aliens to enter or reside in the territory of a State Party. Yet it also states that in certain circumstances the ICCPR may afford protection to an alien 'even in relation to entry or residence, for example, when considerations of non-discrimination, prohibition of inhuman treatment and respect for family life arise' (No 5 General Comment No 15).

39 The protection of children seeking refuge is guaranteed by Art. 22 Convention on the Rights of the Child ('CROC' [adopted 20 November 1989, entered into force 2 September 1990] 1577 UNTS 3). The duty of States to protect the family unity of refugees is in general affirmed by State practice, and the necessary *opinio iuris* can be derived from legal material. The obligation of States to protect the family is laid down in Art. 23 ICCPR and relating to family unification in Art. 10 CROC. The obligations of States do not necessarily result in an individual right of a family member.

40 The European Court of Human Rights (ECtHR) holds the view that States have the right to control the entry, residence, and expulsion of aliens (*Vilvarajah v the United Kingdom* [ECtHR] Series A No 215 at 34 para. 102). There is no right to political asylum in the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950) ('ECHR') or its Protocols. Nevertheless, the ECtHR holds that the rights safeguarded by the ECHR can provide for a legal position of aliens implying far-reaching State obligations towards refugees.

41 Within the scope of Art. 3 ECHR, the ECtHR has strengthened the protection of aliens from torture or inhuman or degrading treatment or punishment (eg *Chahal v UK* [ECtHR] Reports 1996-V 1831 at 21 para. 74); see also *Human Dignity, International Protection*). It is well established in the case-law of the ECtHR that expulsion or any other kind of removal by a State Party may engage the responsibility of that State. If substantial grounds have been shown for believing that the person in question, if expelled, would face a real risk of being subjected to treatment contrary to Art. 3 ECHR in the receiving country, Art. 3 ECHR implies the obligation not to expel the person in question to that country (see *Soering Case* [ECtHR] Series A No 161 at 35 paras 90–91; *Cruz Varas v Sweden* [ECtHR] Series A No 201 at 28 paras 69–70). In favour of third-country nationals, the right to family life guaranteed in Art. 8 ECHR can—on exceptional conditions—encompass the right to remain in a country (*Dalia v France* [ECtHR] Reports 1998-I 76 at 91 para. 52; *Boultif v Switzerland* [ECtHR] Reports 2001-IX 119 at 130 para. 46). For specific situations, the ECtHR holds that the right to family life provides for the right to legalize the stay by granting a formal residence permit or a similar document (*Sisojeva v Latvia* [ECtHR] App 60654/00 paras 104–107; in this case, the Grand Chamber struck the application in its judgment of 15 January 2007; in *Rodrigues da Silva v Netherlands* [ECtHR] Reports 2006-I 223, the Grand Chamber rejected the application on 3 July 2006).

Immigration Surveillance Core File. *Updated 8-3-24*

42 Interpreting the law of the European Union, the European Court of Justice ruled in its judgment of 27 June 2006 (C-540/03 European Parliament v Council of the European Union [2006] ECR I-05769) on some aspects of Council Directive 2003/86/EC on the Right to Family Reunification but also stressed in its judgment the human rights dimension and the State obligations in international law, especially stemming from the CROC.

International human rights law protects refugees during armed conflict

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The continuing applicability of human rights law in times of armed conflict is beyond any doubt. In fact, 'the question is no longer whether international human rights law applies in armed conflict but how it applies'.<sup>56</sup> Similarly to the Refugee Convention, the answer mainly depends on whether the derogation clause applies or not.

Compared to its refugee law counterpart, derogation clauses under human rights law contain five substantive conditions. First, there must be an emergency threatening the life of the nation.<sup>57</sup> Secondly, the derogation must be limited to, and go no further than that 'strictly required by the exigencies of the situation' in due respect (p. 715) with the principle of proportionality. Third that the derogating measures must not be inconsistent with the state's other obligations under international law, thus including international humanitarian law and refugee law. Lastly, derogating measures must not involve discrimination on the ground of race, colour, sex, language, religion, or social origin.<sup>58</sup>

Further to the substantive conditions, some rights cannot be subject to derogation notwithstanding the existence of a public emergency threatening the life of the nation. While the list of these nonderogable rights varies from one instrument to another,<sup>59</sup> some are common to all, namely: the right to life; the prohibition of torture, inhuman, cruel or degrading treatment; prohibition of slavery and servitude; and the prohibition of criminal conviction or punishment not based on a pre-existing law.<sup>60</sup> As basic as they are, these rights are not mentioned at all in the Refugee Convention. Refugee status is indeed relatively weak with regard to civil and political rights; here human rights law provides a vital source of protection.

Finally, a state seeking to invoke the derogation clause, must fulfil the procedural requirement of immediately informing other states parties and the Secretary General of the relevant organization of the provision from which it wishes to derogate from. Such notice should, at the

very least, explain the reasons for the derogation,<sup>61</sup> although General Comment 29 of the Human Rights Committee, and the Siracusa Principles, call for more detailed information to be provided.<sup>62</sup>

Overall, the conditions required by human rights treaties for a derogation to be valid substantially circumscribe the vast margin of appreciation granted by Article 9 of the Refugee Convention, when the relevant exceptional measures interfere with human rights. From this angle, one could even assert with Davy that 'provisional measures under art. 9 of the 1951 Convention have, over time, become outdated by human rights law'.<sup>63</sup>

The centrality of human rights law in times of armed conflict is even more obvious when the derogation clause under this branch of law does not apply. This may (p. 716) happen for a variety of political and legal reasons, mainly when states abstain from using the derogation clause or when such a possibility is not permitted by the relevant instrument. As far as the first is concerned, states frequently abstain from using the derogation clause in order to avoid any sort of recognition that a rebel group is involved in an internal armed conflict. As notably confirmed by the European Court of Human Rights in the leading case *Issayeva v Russia*, when 'no derogation has been made under Article 15 of the Convention [...], the operation in question therefore has to be judged against a normal legal background'.<sup>64</sup>

The same conclusion must be drawn for the great majority of treaties which do not contain any derogation clause. Such a clause remains a purely conventional mechanism established for the exclusive purpose of the relevant treaty. In fact, it is enclosed in a very limited number of six instruments, whereas the vast majority of human rights treaties contain no derogation clause. As confirmed by international courts and treaty-bodies,<sup>65</sup> these conventions remain applicable in armed conflicts. This notably concerns the ten core UN instruments (with the only exception of the ICCPR) as well as a substantial number of regional treaties (including for example the ACHPR, or the European Convention on Action against Trafficking in Human Beings).

In short, even if a state uses its right to derogate from the Refugee Convention and/or the relevant human rights treaties, a broad range of human rights obligations still applies concurrently with humanitarian law. Nevertheless, most human rights are not absolute, and can be restricted with due regard to the conditions spelled out in the relevant treaties. Against such a normative framework, a contextualized approach to human rights law is required in order to take into account the particular situation of armed conflict. While a comprehensive comparison of all applicable norms under humanitarian law, refugee law, and human rights law is beyond the scope of this Chapter, a typical example may be found in the right to leave which constitutes a common guarantee enshrined in the three branches of international law.

Following our frame of analysis, the legal regime governing the right to leave depends on whether the concerned state derogates from the Refugee Convention and all the relevant human rights treaties. If yes, humanitarian law constitutes an important safeguard. Yet, even in such a case, the parallel obligation under human rights law remains utterly applicable as the right to leave is reinforced in a wide range of universal and regional conventions without any possibility of derogation.<sup>66</sup> The (p. 717) normative prevalence of human rights law is more apparent when the state refrains from using the derogation clause under the few relevant instruments. The personal scope of this basic freedom and the permissible restrictions to it

clearly underline the crucial protection provided by this last branch of international law. Under humanitarian law, freedom to leave is limited to non-nationals in the hands of a party to an international armed conflict,<sup>67</sup> whereas refugee law confines its benefit to 'refugees lawfully staying in [the] territory' of asylum states.<sup>68</sup> In stark contrast to humanitarian law, human rights law does apply to everyone including nationals of belligerent states. Furthermore, contrary to refugee law, the human right to leave any country also applies to all non-nationals without regard to their legal status and documentation in the concerned state.<sup>69</sup>

Besides its broad personal scope, human rights law substantially delineates and conditions the permissible restrictions on the right to leave. Both international humanitarian law and refugee law offer a large discretion for prohibiting departure: under the former, leaving the country can be 'contrary to the national interests of the State',<sup>70</sup> whereas, under the latter, 'compelling reasons of national security or public order [may] otherwise require'.<sup>71</sup> By contrast, under human rights law, restrictions are only permissible when the three following conditions are duly fulfilled: (1) permissible restrictions must have a legal basis; (2) they must be necessary to protect national security, public order, public health, morals, or the rights and freedoms of others; and (3) such restrictions must be consistent with the other rights recognized in the relevant instruments.<sup>72</sup> (p. 718)

One should further add that, contrary to refugee law, both humanitarian law and human rights law provide procedural guarantees governing restrictions to the right to leave. According to Article 35(1) of GC IV, any refusal to leave the country must be reviewed by 'an appropriate court or administrative board designated by the Detaining Power for that purpose'. Human rights law achieves the same result through the right to an effective remedy as applied in connection with the right to leave.

Refugees have protection against refoulement

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When refugees and other victims of armed conflicts have left the belligerent state, the crucial issue is then to find protection in another state. This is primarily governed by the principle of non-refoulement which is a common feature of international humanitarian law, refugee law, and human rights law. Its application to refugees from war nonetheless raises two major questions: first, the access to protection and more specifically entry to the territory of an asylum state in a situation of massive influx (Section A); and secondly, the type of protection granted to these persons (Section B).



A. Access to protection: the principle of non-refoulement and the spectre of massive influx

Although the principle of non-refoulement clearly encompasses rejection at the frontier, its applicability in case of massive influx represents the most vexed controversy of international refugee law.<sup>73</sup> While states' anxiety towards mass influx is (p. 719) palpable, international refugee law does not provide a clear-cut answer in favour of one or another interpretation. In fact, the two opposite views can be equally justified by sensible arguments.

On the one hand, state delegates made clear during the drafting of the Refugee Convention that 'the possibility of mass migrations across frontiers or of attempted mass migrations was not covered by article 33'.<sup>74</sup> This interpretation has then been endorsed as an exception to the principle of non-refoulement in the Declaration on Territorial Asylum adopted by the General Assembly in 1967. According to its Article 3(2), 'exception may be made to the foregoing principle only for overriding reasons of national security or in order to safeguard the population, as in the case of a mass influx of persons'. This resurfaced ten years later, in 1977, at the abortive Conference on Territorial Asylum. Turkey proposed an amendment whereby non-refoulement could not be claimed 'in exceptional cases, by a great number of persons whose massive influx may constitute a serious problem to the security of a Contracting State'.<sup>75</sup>

On the other hand, nothing in the text of Article 33 arguably precludes its application to mass influx. Its wording is particularly inclusive as it prohibits 'in any manner whatsoever' any act of forcible removal or rejection towards a country of persecution.<sup>76</sup> The plain applicability of the principle in situations of mass influx has been further acknowledged by the Executive Committee of the United Nations High Commissioner for Refugees (UNHCR).<sup>77</sup> By contrast, the two exceptions endorsed in Article 33(2) do not envisage massive influx: they are instead limited to an individual refugee who is a danger to the security or to the community of the state. Even assuming that the notion of national security has in fact been enlarged to cover similarly exceptional threats arising from massive influxes, effective refusals of entry based on such a ground are relatively rare,<sup>78</sup> when compared (p. 720) to the longstanding state practice of granting temporary protection in a situation of massive influx.<sup>79</sup>

Whatever the respective merits of the two possible interpretations, human rights law compensates for the uncertainty surrounding Article 33 of the Refugee Convention. Two main arguments may be invoked to justify such a stance. First, the principle of non-refoulement under human rights law is absolute; it does not permit any exceptions or derogations when there is a real risk of torture, inhuman, or degrading treatment.<sup>80</sup> As a result, a danger to national security arising from a massive influx does not exempt states from their human rights duty of non-refoulement. Secondly, the prevalence of human rights law in situations of mass influx finds additional support in its prohibition of collective expulsion. This absolute prohibition is endorsed in all regional human rights treaties.<sup>81</sup> Though not explicitly mentioned in the ICCPR, the Human Rights Committee has also construed Article 13 as implicitly prohibiting collective expulsion.<sup>82</sup> Likewise, the Committee on the Elimination of Racial Discrimination comes to the conclusion that collective expulsions violate the prohibition of racial discrimination.<sup>83</sup>

A parallel prohibition of mass transfers and deportations can be found in international humanitarian law within Article 49(1) of GC IV.<sup>84</sup> Its applicability is nevertheless confined to protected persons in the hands of an Occupying Power. Its content is further qualified by the

possibility of undertaking evacuation of a given area 'if the security of the population or imperative military reasons so demand'.<sup>85</sup> (p. 721) Besides such a margin of appreciation, the exact scope and content of Article 49(1) has also raised some longstanding controversies.<sup>86</sup>

In any event, the continuing applicability of human rights law in times of armed conflict obviates the limits and ambiguities of both refugee law and humanitarian law. The human rights prohibition of collective expulsion suffers from no exception or derogation. It further applies to any non-citizens—whether documented or not—who are within the jurisdiction of the state and without regard to the risk of ill-treatment in the country of destination. One could still contend that the prohibition of collective expulsion does not apply to massive influx, because the term 'expulsion' does not cover 'refusal of entry' or 'rejection at the border'. Such a line of reasoning is, however, not convincing. Although expulsion may have a particular understanding in domestic law, under international law this notion has an autonomous meaning determined by the object and purpose of the relevant treaty and in due accordance with the principle of effectiveness. This has been restated by the European Court of Human Rights in the leading case *Hirsi v Italy*. The Court dismissed the argument of the Italian Government according to which the contested measure (maritime interception) was a 'refusal to authorize entry into national territory rather than "expulsion"'.<sup>87</sup> By doing so, the Grand Chamber unambiguously confirmed that the prohibition of collective expulsion generally applies to any measure 'the effect of which is to prevent migrants from reaching the borders of the State or even to push them back to another State'.<sup>88</sup>

As a result of this general prohibition, expulsion and other related measures of *refoulement* can only take place after an individual examination of each particular case.<sup>89</sup> In sum, under international human rights law, the general prohibition of collective expulsion combined with the principle of non-*refoulement* converges in ensuring that, even in situations of mass influx, asylum-seekers shall have temporary asylum during the examination of their request. The next issue is then to identify on which grounds victims of armed conflict may be protected in asylum states. (p. 722)

#### B. The grounds of protection: between a rock and a hard place?

The grounds of protection for victims of armed conflicts provide for another paradigmatic illustration of the complementarity approach. Indeed, each of the three branches of international law virtually covers war refugees, though their respective scope significantly varies from one to another.

Under international refugee law, the definition spelled out in Article 1A(2) of the Refugee Convention (as amended by its 1967 Protocol) is normally apt to cover most victims of armed conflicts.<sup>90</sup> Eligibility for refugee status depends on three cumulative conditions: (1) a well-founded fear of (2) being persecuted (3) for reasons of race, religion, nationality, membership to particular social group and political opinion. In fact, each of these requirements is plainly relevant when applied to the particular context of armed conflicts. With regard to the first condition, the very notion of 'well-founded fear' requires a prospective assessment grounded on two prognostic factors: the personal circumstances of the applicant as well as the general situation prevailing in the destination country. Clearly, the existence of an armed conflict is a key

consideration for assessing the general situation in the state of origin and thus the risk of ill-treatment in case of return.

Furthermore, even if the fear is individual by nature, such a fear might find its origin in a collective phenomenon affecting a whole group of persons indistinctively. Indeed a distinction must be drawn between the individual nature of the fear and the collective character of the persecution: the former does not exclude the latter. On the contrary, in some circumstances, the collective character of the persecution may even presume the individual nature of the fear. The very notion of collective persecution is further confirmed by the wording of the Refugee Convention. The five grounds of persecution are primarily identified by reference to membership to a group of persons (whether racial, religious, national, social, or political). They further coincide with the typical causes of most contemporary armed conflicts. (p. 723)

Against such a framework, acts of war perpetrated against civilians on account of their race, religion, nationality, political opinion, or membership to a particular social group arguably constitute the archetype of persecution. In this regard, several commentators have further suggested that international humanitarian law should provide guidance for construing the refugee definition under Article 1A(2) of the Geneva Convention.<sup>91</sup> Such a possibility may nevertheless be counterproductive. On the one hand, defining persecution as a violation of humanitarian law may distract the attention of decision-makers in placing too much emphasis on peripheral issues which are not crucial for assessing an asylum request (eg whether the situation in the state of origin corresponds to the legal definition of an armed conflict, whether the applicant is a protected person, or whether the balance between humanitarian considerations and military necessity has been adequately applied by the belligerents ...). On the other hand, the notion of persecution under the Refugee Convention already benefits from a well-established definition as a serious violation of human rights.<sup>92</sup> With the continuing applicability of human rights law in armed conflicts, there is no need to further complicate the assessment of asylum requests by resorting to another branch of law. In any event, any grave violation of humanitarian law already corresponds in substance to a serious violation of human rights for the purpose of the refugee definition.<sup>93</sup>

In practice, however, the potential of the refugee definition for victims of armed conflicts starkly contrasts with the reticence of states parties to the Geneva Convention. Though nothing precludes the application of the refugee definition to persons fleeing armed conflicts, states' interpretations remain highly divergent and frequently restrictive.<sup>94</sup> This is exemplified by the wide disparity in refugee (p. 724) recognition rates concerning persons coming from the same countries plagued by conflicts.<sup>95</sup> The most common ground for refusing protection is to require a so-called 'differentiated risk' over and above that of other civilians caught up in the armed conflict.<sup>96</sup>

The uncertainty surrounding the applicability of the refugee definition and the correlative gap of protection have been partially mitigated by some regional instruments following two different approaches. In the Global North, the European Union has consecrated a specific regime of subsidiary protection based, inter alia, on 'indiscriminate violence in situations of international or internal armed conflict'.<sup>97</sup> Subsidiary protection appears as an additional—and arguably concurrent—device to the Refugee Convention. It indirectly gives a pretext for justifying the

restrictive interpretation of the refugee definition in the context of armed conflicts. Resort to subsidiary protection for victims of armed conflict has proved to be disappointing and its application has raised many controversies regarding its exact scope and content.<sup>98</sup> (p. 725)

Regional endeavours carried out in the Global South have followed a different approach, ultimately less convoluted and more protective: the refugee definition under the Geneva Convention has been explicitly extended to any person fleeing armed conflicts. The pioneer regional instrument in this area was adopted in 1969 by the Organization of African Unity. Article 1(2) of the Convention Governing the Specific Aspects of Refugee Problems in Africa states:

The term refugee shall also apply to every person who, owing to external aggression, occupation, foreign domination, or events seriously disturbing public order in either part or the whole of his country of nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside of his country of origin or nationality.

The African model of refugee protection has been further endorsed in Latin America with the 1984 Declaration of Cartagena.<sup>99</sup>

At the universal level, however, human rights law still remains the most clear-cut avenue for compensating the restrictive interpretation of the refugee definition. Under this branch of law, the principle of non-refoulement unequivocally prohibits states from sending back persons who are exposed to a real risk of torture or inhuman and degrading treatment in the midst of an armed conflict.<sup>100</sup> Compared to the Refugee Convention, its large and objective scope highlights two main characteristics: its absolute character impedes any possible derogation and the notion of inhuman or degrading treatment is not qualified by one of the five limitative grounds of persecution.

Furthermore, the human rights principle of non-refoulement has been construed as establishing a presumption of inhuman or degrading treatment in some cases of generalized violence. As underlined by the European Court of Human Rights, (p. 726) 'a general situation of violence in a country of destination [can] be of a sufficient level of intensity as to entail that any removal to it would necessarily breach Article 3 of the Convention'.<sup>101</sup> Though such a level of intensity remains exceptional by nature,<sup>102</sup> the Court has also made clear that membership of a group systematically exposed to ill-treatment is sufficient on its own to trigger the duty of non-refoulement without any further distinguishing features.<sup>103</sup>

Protection against forced return in times of armed conflict finds an additional support in international humanitarian law. According to Article 45(4) of GC IV, '[i]n no circumstances shall a protected person be transferred to a country where he or she may have reason to fear persecution for his or her political opinions or religious beliefs'. Although this provision has been partially reproduced in the refugee definition endorsed two years later in the 1951 Convention,<sup>104</sup> it has subsequently been overtaken by human rights law for three main reasons.

First, the notion of torture, degrading and inhuman treatment is broader than the one of persecution on account of political opinions or religious beliefs, even if they may overlap in

practice.<sup>105</sup> Secondly, though worded in categorical terms, the prohibition of transfer does not prejudice extradition provided that this is done 'in pursuance of extradition treaties concluded before the outbreak of hostilities' and for 'offences against ordinary criminal law'.<sup>106</sup> By contrast, the human rights principle of non-refoulement applies to all measures of removal (including extradition) and without regard to the criminal record of the person at risk of torture, degrading, or inhuman treatment.<sup>107</sup> Thirdly, the scope of the prohibition contained in international humanitarian law is confined to protected persons on the territory of a state party to an international armed conflict. (p. 727)

International refugee law protects refugees in a time of armed conflict



# **Agriculture (US) Collapse**

## Agriculture Contention

### Surveillance of undocumented workers destroys US agriculture

**Devadoss and Luckstead '11** [Stephen Devadoss, PhD in Economics from Iowa State University, is a professor at the Department of Agricultural Economics and Rural Sociology at the University of Idaho, Jeff Luckstead, PhD in economics from Washington State, is an Assistant Professor of Agricultural Economics and Agribusiness at the University of Arkansas, "Implications of immigration policies for the U.S. farm sector and workforce," 7-1-11, <http://www.freepatentsonline.com/article/Economic-Inquiry/261386342.html>]

Because illegal immigration was not a serious problem in the 1960s and 1970s, legislation addressed only the number of legal immigrants allowed to enter the United States. But in the 1980s, illegal immigration began to emerge as a national problem, and extensive debates entrenched around issues such as preventing the entry of unauthorized workers, providing public services to illegal immigrants, and even legalizing these workers. Consequently, the U.S. Congress attempted to address the immigration problems by enacting the 1986 Immigration Reform and Control Act (IRCA). The goals of IRCA were to eliminate the stock of undocumented workers through amnesty (2) and domestic enforcement of employer sanctions and curb the influx of illegal immigrants by increasing the border surveillance. Amnesty failed to eliminate the stock of illegal immigrants because only about half of the illegal immigrants filed for citizenship, and it created future expectation of amnesty and more illegal unauthorized entry. Furthermore, domestic sanctions on employers of undocumented workers and deportation of these workers were scantily enforced. To stop the influx of immigrants, IRCA focused heavily on tightening border control. The IRCA

also legislated the H-2A program, which allowed agricultural employers to bring in guest workers during seasonal operations (ERS 2007). However, **farmers complained that the cumbersome paperwork of H-2A and bureaucratic delay were not conducive to procure seasonal laborers at the time of peak farm operations** such as vegetable and fruit picking. (3) In spite of IRCA's amnesty provision and strengthened control measures, illegal immigration continued to rise--about 12 million unauthorized immigrants resided in the United States in 2007 (Martin 2007) which is reaffirmed by many popular press reports--leading to an extended congressional debate that began at the start of this decade to solve the illegal immigration problem. Several bills were proposed by the House of Representatives, the Senate, and the White House, addressing issues related to increased domestic and border enforcements, (4) paths to citizenship, and guest-worker programs (Montgomery 2006). These bills were not passed because of major disagreements among lawmakers over providing citizenship and guest-worker programs. As a result of the failed legislations and the September 11 attack, the government primarily focused on border security. Accordingly, funding for border enforcement has steadily increased. (5) and resources were diverted from domestic to border enforcement. However, Boucher and Taylor (2007) documented that increased funding to secure the border did not deter undocumented workers from crossing the border because determined immigrants eventually find a way to enter the country by repeated attempts. Following September 11, 2001, the U.S. Immigration and Customs Enforcement (ICE) further decreased the number of human hours devoted to worksite inspection because monitoring critical infrastructure took priority (GAO 2005). For example, from 1999 to 2003, the number of human hours for domestic enforcement decreased from 480,000 to 18,000. (6,7) But, by late 2005, the U.S. government started to intensify domestic surveillance. For example, only 25 criminal arrests relating to illegal immigration occurred in 2002, but increased to 716 by 2006 and 1,103 by 2008 (U.S. Department of Homeland Security 2008c). **Domestic surveillance has further intensified** under the current administration (Meyer and Gorman 2009). According to Passel (2008), a decreasing trend in the unauthorized immigrant population is recently occurring. (8) This is largely **due to worksite and border enforcements** and the recent U.S. economic recession. **These enforcements have exacerbated U.S. agricultural labor shortages** before the 2008/2009 economic crisis. According to the National Agricultural Worker Survey, **80% of the newly hired farm labor force is from Mexico, of which 96% are unauthorized** (U.S. Department of Labor 2005). Therefore, **as border and domestic enforcements intensified, entry of undocumented immigrants into the U.S. farm labor force was thwarted, which led to an acute labor scarcity**. For example, the Wall Street Journal (2007) reported that in 2006, about 20% of agricultural products were not harvested nationwide. Furthermore, the Rural Migration News (2007) provides a detailed and specific list of these shortages and the adverse effect on crucial cultivational operations which resulted in heavy losses. As a result, farm groups are one of the strongest allies of overhauling the current guest-worker program to bring immigrants to legally work in U.S. agriculture. **For the last several decades, immigrants played a crucial role in the development and competitiveness of U.S. agricultural production** (Torok and Huffman 1986). For example, Devadoss and Luckstead (2008) provide evidence of the importance of immigrant farm workers to vegetable production which is highly labor intensive. The United States has a great land endowment and ideal growing conditions; however, **without immigrant labor who perform the back-breaking labor-intensive operations that U.S. low-skilled workers are unwilling to perform, agricultural productivity and total production would decline**. Consequently, **costs to U.S. consumers of agricultural products would increase and net exports would also decrease**. In recent years, **Mexican immigrant labor contributed significantly to the expansion of U.S. agricultural exports**, particularly between the United States and Mexico. For example, between 1994 and 2008, net U.S. exports to the world and to Mexico increased by 82% and 200%, respectively (U.S. Department of Agriculture 2008f). Devoid of these laborers, this dramatic increase would not have been possible. Although domestic and border enforcements address only the symptoms of illegal immigration, they are an important part of the immigration policy and **the U.S. government devotes vast resources to prevent illegal entry and the employment of illegal aliens**. The specific objectives of this paper are to: (1) analyze theoretically through illegal immigration and trade theory the effects of domestic and border enforcements on the illegal farm wage rate, commodity prices, unauthorized entry, and commodity trade between the United States and Mexico and (2) empirically implement the theoretical model through econometric estimation and simulation analysis and quantify the impacts of immigration policies on farm labor and commodity markets.



## Immigrant workers are key to US agriculture, food security and job growth

**McDaniel 4-1-15** [Paul, PhD in Geography and Urban Regional Analysis from the University of North Carolina at Charlotte, researcher at the American Immigration Council, “How Inaction on Immigration Impacts the Agricultural Economy,” <http://immigrationimpact.com/2015/04/01/how-inaction-on-immigration-impacts-the-agricultural-economy/>]

Due to its geographic diversity and natural resource abundance, the United States is one of the world’s leading agricultural producers and suppliers. Indeed, the \$374 billion **U.S. agriculture sector** is critical to the U.S. economy, but its health **depends on a functioning immigration system**. From migrant workers on farms, to foreign-born scientists at agribusiness and agricultural research centers, immigrant labor is important for U.S. agriculture, and analysts predict that in the absence of immigration reform, **the growth of the entire sector may stall**. At an event Tuesday on immigration, agriculture, and the economy, panelists described how **the status quo is harmful to employers, workers, the broader economy, and food security**. Stephanie Mercier, with the Farm Journal Foundation, and author of *Employing Agriculture: How the Midwest Farm Sector Relies on Immigrant Labor*, observed that between 2000 and 2012, “U.S. consumption of fresh produce rose by 10.5 percent, while U.S. production rose only 1.4 percent. As a result, imports of fresh fruits and vegetables have increased by 38 percent over that period, with imports in several categories spiking well over 100 percent.” And citing a previous study, she notes that labor supply challenges and H-2A visa shortcomings are key factors in a 27 percent decline in market share for U.S. growers, accounting for \$3.3 billion in missed GDP growth and \$1.4 billion in unrealized farm income for 2012. Another panelist, Craig Regelbrugge, with AmericanHort, observed on AgriTalk radio that **immigrants working in the agriculture sector are helping to create jobs for U.S. workers by enabling us to produce in the United States**: “And **when we produce here we are generating thousands upon thousands of jobs that are not on the farm** necessarily. They’re related to inputs that the farmer must buy in order to produce. They’re related to things that must happen after the crop or product leaves the farm. **The multiplier effect for each farmworker is said to be somewhere between 2 and 3 jobs that are created here**. . . If we become reliant on Canada, Mexico, Central America, and . . . China to feed us, most of the jobs that exist here in agriculture will go offshore to support us.” Describing the perspective of farmworkers, Adrienne DerVartanian, with Farmworker Justice, noted that “when you have a majority undocumented workforce, you have a workforce that’s fearful of defending their workplace rights, of seeking improved wages and working conditions.” She explained that farmworkers should be presented with an opportunity to have lawful permanent residency and a path to citizenship, which would stabilize the agricultural labor force and result in higher wages and better working conditions. **Employers would benefit through higher retention rates and improved productivity, subsequently benefitting our nation through greater food security and food safety**. Panelists agreed that **the future of agriculture in this country** and the ability to feed ourselves **is very much connected with immigration**. “Clearly, U.S. agriculture in the Midwest and elsewhere in the country really needs significant reforms to how the current U.S. immigration system works,” Mercier said. “The current stalemate is very frustrating to a lot of farmers because it’s forcing them to rethink how they operate their farms, what kind of crops they plant, in a way that’s very limiting to their ability to run a good business.” Regelbrugge explained the adverse effect of delaying immigration reform: “The do-nothing strategy is a net loser because the reality is new folks aren’t coming in, and there is over time going to be attrition of the existing workforce. . . It doesn’t take a nuclear physicist or rocket scientist to figure out how to solve agriculture’s problem.”

## The US is key to global food security

**DeCapua ’12** [“US Drought Impacts Global Food Security,”

<http://www.voanews.com/content/us-drought-food-security-8aug12/1475641.html>]

**The United States is the leading producer of corn and soybeans – two commodities that developing countries rely on**. However, over the past two months, prices have risen sharply as the U.S. experiences its worst drought since the 1950s. A food policy expert says effectively responding to the drought can help prevent another global food crisis. More than half the United States is experiencing the dual problems of too little rain and temperatures that are too high. Shenggen Fan, head of the International Food Policy Research Institute, said that’s not only driving up prices, but contributing to price volatility as well. “**The U.S. plays a huge role in global food security. The U.S. is the largest food exporter – soybeans, maize and many other food commodities. So anything [that] happens in the U.S. will have global significance**,” he said.

## Food wars go nuclear

**FDI ’12** [Future Directions International, an Australian-based independent, not-for-profit research institute, “International Conflict Triggers and Potential Conflict Points Resulting from

Food and Water Insecurity,” [http://www.futuredirections.org.au/files/Workshop\\_Report\\_-\\_Intl\\_Conflict\\_Triggers\\_-\\_May\\_25.pdf](http://www.futuredirections.org.au/files/Workshop_Report_-_Intl_Conflict_Triggers_-_May_25.pdf)]

There is little dispute that conflict can lead to food and water crises. This paper will consider ¶ parts of the world, however, where **food and water insecurity can be the cause of** conflict ¶ and, at worst, result in **war**. While dealing predominately with food and water issues, the ¶ paper also recognises the nexus that exists between food and water and energy security. ¶ There is a growing appreciation that the conflicts in the next century will most likely be fought over a lack of resources. Yet, in a sense, this is not new. Researchers point to the French and Russian revolutions as conflicts induced by a lack of food. More recently, Germany’s World War Two efforts are said to have been inspired, at least in part, by its perceived need to gain access to more food. Yet the general sense among those that attended FDI’s recent workshops, was that **the scale of the problem in the future could be significantly greater as a result of population pressures, changing weather, urbanisation, migration, loss of arable land and other farm inputs, and increased affluence in the developing world.** In his book, *Small Farmers Secure Food*, Lindsay Falvey, a participant in FDI’s March 2012 ¶ workshop on the issue of food and conflict, clearly expresses the problem and why countries ¶ across the globe are starting to take note. . ¶ He writes (p.36), “. . .if people are hungry, especially in cities, the state is not stable – riots, ¶ violence, breakdown of law and order and migration result.” ¶ “Hunger feeds anarchy.” ¶ This view is also shared by Julian Cribb, who in his book, *The Coming Famine*, writes that if “large regions of the world run short of food, land or water in the decades that lie ahead, then wholesale, bloody wars are liable to follow.” ¶ He continues: “An increasingly credible scenario for World War 3 is not so much a ¶ confrontation of super powers and their allies, as a festering, self-perpetuating chain of ¶ resource conflicts.” He also says: “The wars of the 21st Century are less likely to be global conflicts with sharply defined sides and huge armies, than a scrappy mass of failed states, rebellions, civil strife, insurgencies, terrorism and genocides, sparked by bloody competition over dwindling resources.” ¶ As another workshop participant put it, people do not go to war to kill; they go to war over ¶ resources, either to protect or to gain the resources for themselves. Another observed that hunger results in passivity not conflict. Conflict is over resources, not because people are going hungry. ¶ **A study by the International Peace Research Institute indicates that where food security is an issue, it is more likely to result in some form of conflict. Darfur, Rwanda, Eritrea and the Balkans experienced such wars.** Governments, especially in developed countries, are increasingly aware of this phenomenon. **The UK Ministry of Defence, the CIA,** the US Center for Strategic and International Studies ¶ and the Oslo Peace Research Institute, **all identify famine as a potential trigger for conflicts and** possibly even **nuclear war**.

## **Food crises collapse civilization- causes disease spread, terrorism, and economic collapse**

**Brown ’09** [Lester, environmental analyst, founder of the Worldwatch Institute, and founder and president of the Earth Policy Institute, a nonprofit research organization, recipient of 26 honorary degrees and a MacArthur Fellowship, has won several prizes and awards, including the United Nations Environment Prize, the World Wide Fund for Nature Gold Medal, and the Blue Planet Prize, “Could Food Shortages Bring Down Civilization?”

<http://www.scientificamerican.com/article/civilization-food-shortages/>]

One of the toughest things for people to do is to anticipate sudden change. Typically we project the future by extrapolating from trends in the past. Much of the time this approach works well. But sometimes it fails spectacularly, and people are simply blindsided by events such as today’s economic crisis. For most of us, the idea that civilization itself could disintegrate probably seems preposterous. Who would not find it hard to think seriously about such a complete departure from what we expect of ordinary life? What evidence could make us heed a warning so dire—and how would we go about responding to it? We are so inured to a long list of highly unlikely catastrophes that we are virtually programmed to dismiss them all with a wave of the hand: Sure, our civilization might devolve into chaos—and Earth might collide with an asteroid, too! For many years I have studied global agricultural, population, environmental and economic trends and their interactions. The combined effects of those trends and the political tensions they generate point to the breakdown of governments and societies. Yet I, too, have resisted the idea that **food shortages could**

## Immigration Surveillance Core File. Updated 8-3-24

**bring down** not only individual governments but also our **global civilization**. I can no longer ignore that risk. Our continuing failure to deal with the environmental declines that are undermining the **world food economy**—most important, falling water tables, eroding soils and rising temperatures—forces me to conclude that such a **collapse is possible**. The Problem of Failed States. Even a cursory look at the vital signs of our current world order lends unwelcome support to my conclusion. And those of us in the environmental field are well into our third decade of charting trends of environmental decline without seeing any significant effort to reverse a single one. In six of the past nine years world grain production has fallen short of consumption, forcing a steady drawdown in stocks. When the 2008 harvest began, world carryover stocks of grain (the amount in the bin when the new harvest begins) were at 62 days of consumption, a near record low. In response, world grain prices in the spring and summer of last year climbed to the highest level ever. As demand for food rises faster than supplies are growing, the resulting **food-price inflation puts severe stress on the governments of countries already teetering on the edge of chaos**. **Unable to buy grain or grow their own, hungry people take to the streets**. Indeed, even before the steep climb in grain prices in 2008, the number of failing states was expanding [see sidebar at left]. Many of their problems stem from a failure to slow the growth of their populations. But **if the food situation continues to deteriorate, entire nations will break down at an ever increasing rate. We have entered a new era in geopolitics. In the 20th century the main threat to international security was superpower conflict; today it is failing states**. It is not the concentration of power but its absence that puts us at risk. **States fail when national governments can no longer provide** personal security, **food security** and basic social services such as education and health care. They often lose control of part or all of their territory. When governments lose their monopoly on power, **law and order begin to disintegrate**. After a point, **countries can become so dangerous that food relief workers are no longer safe and their programs are halted**; in Somalia and Afghanistan, deteriorating conditions have already put such programs in jeopardy. **Failing states are of international concern because they are a source of terrorists, drugs, weapons and refugees, threatening political stability everywhere**. Somalia, number one on the 2008 list of failing states, has become a base for piracy. Iraq, number five, is a hotbed for terrorist training. Afghanistan, number seven, is the world's leading supplier of heroin. Following the massive genocide of 1994 in Rwanda, refugees from that troubled state, thousands of armed soldiers among them, helped to destabilize neighboring Democratic Republic of the Congo (number six). **Our global civilization depends on a functioning network of politically healthy nationstates to control the spread of infectious disease, to manage the international monetary system, to control international terrorism and to reach scores of other common goals. If the system for controlling infectious diseases—such as polio, SARS or avian flu—breaks down, humanity will be in trouble. Once states fail, no one assumes responsibility for their debt to outside lenders. If enough states disintegrate, their fall will threaten the stability of global civilization itself**.

## Surveillance Destroys Agriculture

### **Surveillance cuts off ag labor supplies and exports- boosts commodity prices**

**Devadoss and Luckstead '11** [Stephen Devadoss, PhD in Economics from Iowa State University, is a professor at the Department of Agricultural Economics and Rural Sociology at the University of Idaho, Jeff Luckstead, PhD in economics from Washington State, is an Assistant Professor of Agricultural Economics and Agribusiness at the University of Arkansas, "Implications of immigration policies for the U.S. farm sector and workforce," 7-1-11, <http://www.freepatentsonline.com/article/Economic-Inquiry/261386342.html>]

To examine the effect of an increase in the domestic enforcement in the United States on the illegal labor flow,  $d[W.sub.I]$  and  $d[P.sub.U]$  from Equations (11a) and (11b) are substituted into Equation (13a). Holding all other exogenous variables, except for domestic enforcement, constant in Equation (13a), the change in illegal labor flow in response to tighter domestic control is stated as: (14a) [MATHEMATICAL EXPRESSION NOT REPRODUCIBLE IN ASCII] The first set of terms shows the wage effect. Because tighter domestic control is likely to reduce the illegal wage rate, the unauthorized entry will contract. The second set of terms demonstrates the price effect. Increased domestic enforcement will make production more expensive, leading to a higher commodity price and increased demand for labor. The net effect of domestic enforcement is to reduce the cross-border migration because the wage effect is likely to dominate the price effect. To study the effect of an increase in the domestic enforcement on commodity trade,  $d[W.sub.I]$  and  $d[P.sub.U]$  from Equations (11a) and (11b) are substituted into Equation (13b). Holding all other exogenous variables, except for domestic enforcement, constant in Equation (13b), the change in U.S. exports to Mexico is expressed as: (14b) [MATHEMATICAL EXPRESSION NOT REPRODUCIBLE IN ASCII] The first set of terms illustrates the wage effect. Tighter domestic surveillance forces undocumented workers to return to Mexico, which will increase the Mexican workforce and reduce the Mexican wage rate. This lower wage rate will increase Mexican commodity production, leading to lower imports. The second set of terms demonstrates the price effect. Increased domestic enforcement will cause the U.S. wage rate to rise and make production more expensive, leading to a lower U.S. commodity supply. This will result in a higher commodity price and lower imports by Mexico. Thus, both effects reinforce each other in reducing U.S. exports to Mexico. To analyze the effect of heightened U.S. border enforcement on the illegal labor flow,  $d[W.sub.I]$  and  $d[P.sub.U]$  from Equations (12a) and (12b) are substituted into Equation (13a). Holding all other exogenous variables, except for border security, constant in Equation (13a), the change in illegal labor flow in response to a change in border control is written as: (15a) [MATHEMATICAL EXPRESSION NOT REPRODUCIBLE IN ASCII] In Equation (15a), the first set of terms shows the wage effect. Strengthened border surveillance reduces the illegal entry and thus raises the illegal wage rate. Even though immigrants apprehended at the border are sent back to Mexico, the higher illegal wage rate in the United States lures them to cross the border repeatedly. The second set of terms illustrates the price effect. As the United States implements additional measures to secure its borders, fewer illegal workers enter the United States, causing the cost of production and commodity price to rise. This also results in a higher Mexican commodity price. The higher Mexican price draws would be immigrant laborers back into Mexican production, which contracts the illegal labor supply. The third set of terms represents the direct effect of an increase in U.S. border security on the illegal labor supply. As a result of the tightened border control, fewer laborers successfully cross the U.S. border, which reduces the supply of unauthorized labor. The combined effect of the three terms should result in fewer illegal laborers entering the U.S. labor market from Mexico. To examine the effect of heightened U.S. border security on the commodity trade,  $d[W.sub.I]$  and  $d[P.sub.U]$  from Equations (12a) and (12b) are substituted into Equation (13b). Holding all other exogenous variables, except for border surveillance, constant in Equation (13b), the change in commodity trade resulting from tighter border security is expressed as: (15b) [MATHEMATICAL EXPRESSION NOT REPRODUCIBLE IN ASCII] The first set of terms in Equation (15b) demonstrates the wage effect. Increased border surveillance reduces the illegal entry and thus drives up the illegal wage rate in the United States, but augments the Mexican workforce and lowers the Mexican wage rate, which expands Mexican commodity production, leading to lower imports. The second set of terms represents the price effect. An increase in border enforcement curtails the illegal workforce in U.S. agricultural production, leading to an increase in U.S. production cost, reduced supply, and lowers exports to Mexico. The third set of terms conveys the indirect effect of heightened border enforcement on commodity trade through changes in the wage rate. This effect also reduces U.S. exports to Mexico. Thus, the combined effects of all three terms reinforce each other in reducing U.S. exports to Mexico.

## Surveillance devastates agriculture- curbs production, trade and labor

**Kille '12** [Leighton Walter Kille, degree from the Harvard Kennedy School of Government, where he serves as a Research Editor, “Implications of immigration policies for U.S. farm sector and workforce,” June 25,

<http://journalistsresource.org/studies/government/immigration/implications-immigration-policies-u-s-farm-sector-labor>]

In the United States, illegal immigration has long been the subject of public debate as well as political skirmishing. The 1986 Immigration Reform and Control Act (IRCA) attempted to reduce the flow of undocumented immigrants through a mix of amnesty programs, increasing monitoring of employers and tighter border controls; after the 9/11 attacks, policy shifted toward enforcement, even as the collapse of the housing markets in 2007 led to declining rates of immigration. Despite this, immigration is still a key issue in the 2012 presidential contest. A 2011 study published in *Economic Inquiry*, “Implications of Immigration Policies for U.S. Farm Sector and Workforce,” examined the effect of U.S. immigration policy on the flow of unauthorized immigrants from Mexico and the subsequent impact on the nation’s economy. The researchers, based at Washington State University and the University of Idaho, modeled the relationship between restrictive policies and the productivity of the U.S. agricultural sector. The findings include: There is a strong relationship between spending on border security and rates of illegal immigration from Mexico. “As the probability of apprehension of illegal immigrants at the border increases, the flow of undocumented workers into the United States lessens.” A 10% increase in domestic enforcement spending, primarily worksite surveillance, reduces the wage rate for illegal workers more than 11%; curbs illegal labor use by approximately 9,000 workers to U.S. agriculture; and decreases U.S.-Mexico commodity trade by an average of \$180 million. “Heightened border enforcements reduce the employment of undocumented workers and commodity production, which causes U.S. agricultural exports to Mexico to decline by an average of 5%.” Reductions in the immigrant labor force has caused labor shortages in several states and has had “devastating effects on farm production and profitability.” These are being felt by consumers through higher costs for fruits and vegetables. “The results of the study show the distinct tradeoffs between reducing illegal immigration into the United States, and the productivity of the agricultural sector, and subsequently the U.S. economy.” the researchers state. “U.S. government policies aimed at deporting unauthorized workers — without taking adequate measures to supply farm laborers through guest-worker programs — will adversely affect the supply of farm laborers to crop production.”

## US ag key to global food security

### **US is key to food stability- prevents destabilizing food crises**

**Coleman '12** [Isobel Coleman, Senior Fellow and Director of the Civil Society, Markets, and Democracy Initiative; Director of the Women and Foreign Policy Program, "U.S. Drought and Rising Global Food Prices," August 2, <http://www.cfr.org/food-security/us-drought-rising-global-food-prices/p28777>]

The **ongoing drought** in the Midwest **has affected** approximately **80 percent of the U.S. corn crop** **and more than 11 percent of the soybean crop, triggering a rise in global food prices** (RFE/RL) **that** CFR's Isobel Coleman says **may fuel political instability** in developing countries. The United States produces approximately 35 percent of the world's corn and soybean supply, commodities that are "crucial in the food chain, because they are used for feed stock for animals," Coleman says. **Growing demand** for meat and protein from emergent middle classes internationally **has made many countries dependent on** "relatively inexpensive **food stocks**" from the **United States**, she explains. **"When you see a crop failure** of the magnitude you have seen this summer, **it flows through the whole food chain**," says Coleman, who recommends reconsidering the U.S. ethanol mandate and building "more resilience into the global food system." How is the U.S. drought affecting commodity crops, food production, and prices? As recently as May, experts were predicting a record crop in the United States--and of course, what the United States does is so important, because the Midwest is the bread basket for the rest of the world. But with severe drought in the Midwest, you've already seen a failure in the soybean and corn crop in the United States. That increased world commodity prices, and it is going to trickle through the whole food chain. This is the hottest summer on record in the United States since 1895, and people are beginning to wonder whether this type of drought that we're experiencing could become a new normal. **The United States is a pivotal player in world food production and has the most sophisticated agricultural sector in** terms of **seeds, technology, irrigation, deep commodity markets, and future markets**. If the United States crop is so devastated by drought, what is going to happen to the rest of the world? How do rising U.S. food prices affect global food prices down the world's food supply chain? Which areas of the globe are most at risk? There are many large food producers in the world. China is the largest wheat producer, but it is also the largest wheat consumer. What makes the United States unique is that we are the largest exporter, so we produce about 35 percent of the world's corn and soybean supply. Those two commodities are crucial in the food chain, because they are used for feed stock for animals. Around the world you have rising middle classes, a growing demand for meat and protein in the diet, and countries around the world are becoming increasingly dependent on relatively inexpensive food stocks from the United States. When you see a crop failure of the magnitude you have seen this summer, it flows through the whole food chain. Right now **you have American livestock producers taking their pigs and cattle to the slaughter house because they simply don't have the food** to be feeding them. So you're going to see meat prices in the short term in the United States go down, but over the longer term **you're going to see rising meat prices; [experts] are predicting already 4 to 5 percent price increases in meat for the next year. That flows through the whole food chain**, [to] big-population countries that import a lot of food, such as the Philippines, Afghanistan, Egypt. And when you see **rapidly rising food prices**, of course it **leads to instability**. We've seen [this] in the last five years across many of those countries, and you see rising food prices translate almost directly into street protests. You're going to see the continuation of [political] instability driven in part by rapidly rising food prices. In 2008, we had food protests across much of the Middle East, so **governments are going to be** very much on the alert for unrest and **very sensitive to it**. Egypt is already spending about one-third of its subsidies on food, and it is draining the Egyptian foreign exchange reserve to continue those subsidies. This combination of an already mobilized population out on the streets demanding lots of different changes [in Egypt], and rising food prices is going to create a very unstable atmosphere. What are some policy responses for alleviating the pressures being felt in the United States and other countries because of rising food prices? In the United States, we have to look at our own policies that are part of the problem, [including] our mandated use of ethanol in gasoline. This is something that is a mandated [10] percent that is not flexible, and when you have rising food prices and a problem with the failing crop, you would think that maybe we could lighten up on the ethanol mandate. Because right now so much of our food production is going into ethanol. So you've already seen governors across the United States in some of the hard-hit states saying, "Shouldn't we review our ethanol policies?" That's not a short-term fix, but it is potentially longer-term and something we should be looking at carefully. In terms of policy, we have a rising global population. **We have more mouths to feed every year, and food security for the world is a critical issue**. We should be looking at how to build in more resilience into the global food system. Africa, which has the highest population growth rates of any continent in the world, used to feed itself and used to export food, but [its] agriculture has suffered tremendously over the last half century. Only 4 percent of the land in Africa is even irrigated, and you've seen a green revolution occur in many parts of the world that has really passed Africa by. And so building in greater resilience and improving the agricultural capacity of Africa is a critical part of this equation, so that Africa has more of an ability to feed itself and become more a part of the global supply chain and not be so dependent on it. Unfortunately, governments have not made the investments in the agricultural sector that they needed to over the past half century, which is why you have this situation in Africa today.

### **Specifically, slowdowns in US food production pushes us over the brink**

**Kennedy '12** [Robert, Al Jazeera, "Food riots predicted over US crop failure," 8-21-12, <http://www.aljazeera.com/indepth/features/2012/08/20128218556871733.html>]

**The world is on the brink of a food "catastrophe"** caused by the worst US drought in 50 years, and misguided government biofuel policy will exacerbate the perilous situation, scientists and activists warn.¶ **When food prices spike and people go hungry, violence soon follows, they say. Riots caused by food shortages** - similar to those of 2007-08 in countries like Bangladesh, Haiti, the Philippines and Burkina Faso among others - **may be on the horizon, threatening social stability in impoverished nations that rely on US corn imports.**¶ This summer's devastating drought has scorched much of the mid-western United States - the world's bread basket.¶ Crops such as corn, wheat, and soy have been decimated by high temperatures and little rain. Grain prices have skyrocketed and **concerns** about the resulting higher food prices **will hit the world's poor the hardest - sparking violent demonstrations.**¶ Early dryness in Russia's wheat growing season, light monsoon rains in India, and drought in Africa's Sahel region, combined with America's lost crop, mean a perfect storm is on the horizon.¶ Surging food prices could kick off food riots similar to those in 2008 and 2010, Professor Yaneer Bar-Yam, president of the New England Complex Systems Institute, told Al Jazeera.¶ "Recent droughts in the mid-western United States threaten to cause global catastrophe," said Bar-Yam, whose institute uses computer models to identify global trends.¶ Hopes were high in May of a bumper corn crop this year, but sizzling temperatures in June and July scuttled those predictions. US corn yields are now expected to be the lowest in 17 years.¶ **The United States accounted for 39 per cent of global trade in corn in 2011-12.** Stockpiles are now down 48 per cent, according to the US Department of Agriculture. Corn prices have shot up 60 per cent since June 15.¶ Corn is a primary staple in Sub-Saharan Africa, and in much of Central and South America. In South Africa, the cost of maize has increased about 40 per cent in the last year, even before the US drought struck. ¶ Bar-Yam highlighted the food riots of 2007-08 and 2010-11 that were fuelled by sudden and dramatic spikes in food prices. He said his institute recently entered data from the US drought into its computer model, which predicted the outbreak of food-related unrest "in a short period of time".¶ **"When people are unable to feed themselves and their families, widespread social disruption occurs,"** Bar-Yam said. **"We are on the verge of another crisis, the third in five years, and likely to be the worst yet, capable of causing new food riots and turmoil on a par with the Arab Spring."**¶ Fighting for food¶ While Americans and other Westerners will largely escape the financial pain spawned by the drought, impoverished people around the globe won't be so fortunate.¶ People in wealthy industrialised countries spend between 10 to 20 per cent of their income on food. Those in the developing world pay up to 80 per cent. According to Oxfam, **a one per cent jump in the price of food results in 16 million more people crashing into poverty.** ¶ More than 60 food riots occurred worldwide between 2007 and 2009, when rapidly rising commodity prices wreaked havoc on family budgets.¶ **The world is not yet in a food crisis, said** David Hallam, the UN Food and Agriculture Organisation's director of trade and markets.¶ "We're a long way from that ... Some of the elements that we saw in 2007-08 are very much missing at the moment", Hallam told Reuters. He said **wheat stocks were currently stable, and a bumper rice crop was still expected** later this year. ¶ But he added: **"We are in a very vulnerable situation in markets, and any further supply-side shocks or any disruptive policy actions that individual countries might take could add further to the problems we have and create turmoil in markets."**





## Death

### **Even new systems do not reduce border crossings, just drive people to more dangerous routes**

Del Valle, 3-12, 24, aby Del Valle, a policy reporter. Her past work has focused on immigration politics, border surveillance technologies, and the rise of the New Right, The Verge, DHS wants \$101 million to upgrade its border surveillance towers,  
<https://www.theverge.com/2024/3/12/24098881/dhs-border-ai-surveillance-towers-ist>

**DHS has been working on the surveillance towers in fits and starts since 2005.** Its initial attempt, billion-dollar Secure Border Initiative Network — SBInet for short — was such a failure it was scrapped in 2011. **Customs and Border Protection awarded Elbit a \$145 million contract in 2014 to build a new tower system, which is far more effective from a technological standpoint but has nonetheless failed to reduce border crossings. As we reported in 2022, however, the system has had one concrete result: increased surveillance along the US-Mexico border has pushed migrants onto more remote, dangerous routes.**

### **Surveillance forces migrants to deadlier routes, causing death**

Hilary Beaumont, 4-3, 23, The Guardian, Virtual wall: how the US plans to boost surveillance at the southern border, <https://www.theguardian.com/us-news/2023/apr/03/us-mexico-border-surveillance-towers-customs-border-protection>

Critics say, however, that the **“prevention through deterrence” strategy pursued by several administrations has driven migration through deserts and mountains, leading thousands of migrants to die or go missing. The remains of nearly 10,000 migrants have been found by the border patrol in the last 25 years. A University of Arizona study found that surveillance towers in Arizona were significantly correlated with increased deaths of migrants because they took longer routes through the desert to avoid detection.**

### **Surveillance increases migrant death**

Gaby Del Valle, 3-20, 24, Surveillance has a body count, The Verge,  
<https://www.theverge.com/2024/3/20/24106098/cbp-migrant-deaths-border-surveillance>

Customs and Border Protection (CBP) **just released updated data on migrant deaths at the US-Mexico border, and the results are staggering. At least 895 people died at the border during the 2022 fiscal** year — a 57 percent increase from the previous fiscal year. This grim statistic makes 2022 the deadliest year on record for migrants attempting to come to the US, and it’s possible that the figure is an undercount. For years, CBP has blamed the persistent rise in deaths on three factors: the summer heat, the ruggedness of the desert terrain, and the cruelty of smugglers who leave

Immigration Surveillance Core File. *Updated 8-3-24*

migrants to die there. Climate change has indeed made summers hotter and drier, which means migrants who spend days or weeks trekking through remote stretches of the desert are more likely to become dehydrated and, if out in the sun for long enough, to succumb to exposure. But rising temperatures don't explain why migrants are crossing through such perilous parts of the borderlands in the first place, often dying in the process. The real culprit is the vast surveillance apparatus that funnels migrants — including people seeking asylum — into what CBP itself calls “hostile terrain.” In November 2021, a month into the 2022 fiscal year, CBP gave me a tour of its surveillance infrastructure in the Tucson Border Patrol sector, which encompasses more than 90,000 square miles, and where, over the next 11 months, at least 142 migrants would lose their lives. I watched as CBP tracked a group of 11 migrants with a Predator drone and got a look at the remote camera feeds that agents allow agents to monitor human movement through the desert from an air-conditioned office building. Later, while I walked around Organ Pipe Cactus National Monument with a local environmental activist, a Border Patrol agent drove up to us and said he had seen us on one of the cameras.

**CBP’s network of surveillance towers, hidden cameras, aerial drones, and overhead sensors is the result of an enforcement strategy called “prevention through deterrence.”** The policy, which was implemented in the mid-1990s, was initially to build up manpower in highly trafficked areas of the border. At the time, most migrants entered the US through cities — they’d scale the fence that divided Tijuana and Ciudad Juárez, for example. In response, Border Patrol flooded cities along the border with agents to dissuade migrants from crossing. Those who attempted would be pushed onto “more hostile terrain, less suited for crossing and more suited for enforcement,” Border Patrol’s 1994 strategic plan read. “A significant correlation between the location of border surveillance technology, the routes taken by migrants, and the locations of recovered human remains in the southern Arizona desert” **Thirty years later, the plan has borne out, though it hasn’t actually reduced** migration. Instead, as the 1994 plan predicted, it just shifted the location of crossings. Surveillance tools allow Border Patrol to track migrants through vast expanses of the border without actually having to be there — the agency considers them a “force multiplier.” **But the expansion of CBP’s surveillance apparatus has come at a significant human cost. A 2019 study by researchers at the University of Arizona found a “significant correlation between the location of border surveillance technology, the routes taken by migrants, and the locations of recovered human remains in the southern Arizona desert.” Migrants don’t always know about the tools CBP uses to track them through the desert, but smugglers certainly do — and so they encourage migrants to enter the US via remote, dangerous routes where they’re less likely to be intercepted by Border Patrol agents but far more likely to die.** Title 42, a pandemic-era policy that let CBP expel migrants back to Mexico without a hearing, may have also had a compounding effect that exacerbated the massive 2022 death toll. The policy was ostensibly introduced to limit the spread of covid-19 but was, for both the Trump and Biden administrations, a de facto anti-immigration deterrence strategy. As a result of the Title 42 expulsions, some asylum seekers who would have otherwise turned themselves in to Border Patrol at the first possible opportunity instead attempted to evade detection — sometimes because they had already been expelled to Mexico, where they faced significant danger. CBP’s Southwest Border enforcement report for the 2021 fiscal year notes that the high number of encounters that year “was partly driven by high recidivism rates among individuals processed under Title 42 public health authorities.” In other words, some migrants who were expelled under Title 42 tried to cross the border over and over again until they were successful — or until the harsh desert terrain forced them to give up. In 2022, Border Patrol conducted more than 938,000 expulsions of single adult migrants and 116,000 expulsions of family groups, according to the agency’s data. **Of the 895 fatalities listed for 2022, 131 were listed as partial “skeletal remains,” meaning that the death could have occurred at any time. If we leave those out of the 2022 count, that’s still 764 confirmed deaths during a 12-month period, the majority of which resulted from exposure or drowning. The confluence of Title 42, record heat, and the steady expansion of CBP’s surveillance capabilities provided a perfect storm for migrant deaths in 2022.** Title 42 was rescinded last year, but the bipartisan border bill that Congress spent months debating included a provision that would effectively shut down the border, Title 42-style, whenever encounter numbers surpassed a certain threshold. Border surveillance, meanwhile, isn’t going away any time soon. In fact, CBP’s next goal is a “unified vision of unauthorized movement” across the US-Mexico border. **If the recent past is any indication, more surveillance won’t reduce migration. Its body count, however, will keep growing.**

**Surveillance technologies cause migrant death**

Immigration Surveillance Core File. *Updated 8-3-24*

Amnesty International, February 5, 2024,

<https://www.amnesty.org/en/documents/pol40/7654/2024/en/>, Primer: Defending the rights of refugees and migrants in the digital age

States around the world are increasingly enacting highly militarized security infrastructure at their borders,<sup>144</sup> in ways which are often designed to deter<sup>145</sup> or discourage potential entry by migrants and asylum seekers even before travel begins.<sup>146</sup> These infrastructures also impact communities living in territories near borders in destination countries, increasing police and surveillance infrastructure in regions where populations may already be subject to high levels of poverty as well as racialized or unequal policing.<sup>147</sup> **Many of these border security and surveillance measures are enabled by technology, and may threaten the right to seek asylum by threatening people on the move with violence, detention, or other inhumane treatment.**<sup>148</sup> States often justify the legitimacy of border securitization<sup>149</sup> measures as essential to national security, in ways which may frame migration and seeking asylum itself as a criminal activity.<sup>150</sup> Technology-enabled early detection tools are increasingly used in monitoring and securitizing border zones, including in the form of military-grade drones and “unmanned mobile robots” in the European Union (EU) context.<sup>151</sup> Other such detection technologies include radar, high-tech cameras, satellite data, and electro-optical sensors,<sup>152</sup> all of which may constitute forms of migration deterrence. **The U.S. border, for example, has been similarly reinforced with military grade technologies of surveillance and deterrence, including a network of 55 security towers equipped with cameras, heat sensors, motion sensors, and other so-called “smart” border technologies.**<sup>153</sup> Other border security technologies appear to serve very little practical purpose other than as methods of deterrence and intimidation, such as the case of the “robotic patrol dogs,” equipped with attached sniper rifles, tested at the border by the US in 2022.<sup>154</sup> **By pushing back potential migrants or forcing them to take alternative routes to the border, these militarized border technologies may contribute to an increase in migrant deaths by pushing people on the move to take more dangerous routes to avoid detection or interception.**<sup>155</sup> **Many of these technologies are untested and experimental by nature, operating outside regulation and having been put into operation without human rights impact assessments having been conducted,**<sup>157</sup> thus forcing migrants and asylum seekers to serve as test subjects. Other forms of technology that impact the lives and rights of people on the move before their journey starts include information and intelligence sharing programs between countries.<sup>158</sup> These information sharing tools, which often take the form of interoperable databases,<sup>159</sup> are a form of technological infrastructure that allows predominantly global minority countries to collect and share enormous quantities of private data about people on the move.<sup>160</sup> This information may reflect underlying biases and inaccuracies that are common to biometric data<sup>161</sup> such as the misrecognition of Black people by facial recognition technologies or the de facto exclusions based on national origin.<sup>162</sup> This information can also be used to form the basis of algorithmic risk assessments<sup>163</sup> for migrants in the processing of their migration or asylum status determination.<sup>164</sup> Limited or inaccurate data can lead to profiling of high risk groups, including refugees and asylum seekers from racialized groups or countries in the Global Majority,<sup>165</sup> as in the case of unreliable “gang-member affiliation databases” whose information is shared between the U.S. and other countries, as well as between U.S. domestic police departments and federal agencies.<sup>166</sup> Increased data sharing and interoperability of data between countries can serve as an accelerator of inequality in access to the global migration and asylum system, exacerbating preexisting marginalization of groups who already have a heightened risk of discriminatory outcomes.<sup>167</sup> **This is exemplified by, for example, the biometric identity databases developed jointly between destination and origin countries to aid in the facilitation of tracking and deporting refugees.**<sup>168</sup> **In a variety of instances around the world, data sharing without firewalls or regulation opens the door to unequal and discriminatory policing of people moving across borders.**

## Surveillance leads to migrant deaths, the targeting is racist

Amnesty International, February 5, 2024,

<https://www.amnesty.org/en/documents/pol40/7654/2024/en/>, Primer: Defending the rights of refugees and migrants in the digital age

**There are growing allegations that the use of technology to monitor, track and intercept refugees and migrants on their journeys may contribute to migrant deaths as migrants take more perilous routes to avoid surveillance. For example, a recent study using geospatial analysis showed a positive correlation between “hardship and suffering” – and by extension, migrant mortality, along the US-Mexico border between Arizona and Sonora state – and the expansion of “smart” surveillance infrastructure in the area. This includes sophisticated AI-driven watchtowers.<sup>31</sup> This case is also an example of how the use of technology has racially disparate impacts against Black, Latin American, and other racialised people and communities, increasing the risk of racial profiling along the border**

## Death

Asher-Schapiro, November 23, 2022, Context, Surveillance tech makes U.S.-Mexico border even deadlier, <https://www.context.news/surveillance/surveillance-tech-makes-us-mexico-border-even-deadlier>

**Hi-tech surveillance on the U.S.-Mexico border is pushing migrants onto deadly routes,** humanitarian groups and researchers say Biden administration turns to 'smart border' tech Surveillance pushes migrants to deadly routes, experts say Migrant deaths along border reaching record levels TUCSON, Arizona - Deep in the Arizona desert on the southern U.S. border, a surveillance tower rises more than 150 feet (46 m) into the air, its swiveling cameras taking in the surrounding valley. With a viewing range of up to 7.5 miles (12 km), it can watch over three nearby communities and into the foothills of the Baboquivari mountains, one of the most treacherous paths for migrants crossing from Mexico into the United States. The newly-installed tower is among the latest additions to the so-called digital border wall that U.S. border enforcement agents say they rely on to safeguard the nearly 2,000 mile frontier. **Humanitarians and academics worry though that the ballooning surveillance apparatus is creating a deathtrap for migrants. "Out here, surveillance equals death,"** said Sam Chambers, a geographer at the University of Arizona who studies surveillance infrastructure and migration. **"The more cameras you put up, the more migrants are forced to take longer, riskier routes to avoid them - putting their bodies under stress and their lives in danger,"** he told Context. **The growing assemblage of cameras, sensors, drones, and aerial surveillance is especially visible along the Arizona border zone known as the Tucson Sector, one of the busiest and deadliest crossing points for migrants from Mexico.** Since the 1990s, U.S. border forces have attempted to block migrants from crossing into urban areas, Chambers said, with traditional checkpoints gradually superseded by technology that monitors huge tracts of land. Chambers builds intricate models that show how camera towers push migrants away from safer, more direct routes to circuitous paths through hard-to-monitor mountainous zones and deserts where scores die from thirst and exposure to extreme weather. He has calculated that the routes which migrants take to avoid detection often require more water than they can carry and more exertion than the traditional ones - with deadly results. Using data from the coroner's office, Chambers has mapped how the locations of corpses found in the desert have changed in response to the surveillance push, with more bodies now being uncovered in remote areas outside the towers' range. "There's simply no humanitarian way to surveil the border," he said. 'Humane' border policy As the numbers of people fleeing war, poverty, and environmental disaster reach record highs worldwide, states are increasingly turning to digital technologies to monitor migrant flows and enforce border controls. According to a Government Accountability Office report, \$743 million was allocated for border surveillance tech from 2017-20 under former President Donald Trump. While Trump planned to construct a physical border wall, President Joe Biden froze the project on his first day in office and pledged a more "humane" policy. The Biden administration is voicing support for tech-enabled smart borders that use data analysis and AI to monitor and respond to events, and is directing money into digital surveillance tools. In July, Biden inked a deal with the Mexican government to funnel more than \$1.5 billion into border infrastructure, with much of the funds going to smart technologies. Biden's 2022 budget proposal includes \$1 billion for both "border infrastructure" and "investments in modern border security technology and assets." At the border patrol's Tucson station operations room, agents pull in a staggering amount of intelligence. There are real-time feeds from hundreds of motion sensors placed on suspected migrant routes, short-range cameras hidden in trees, and images from high-powered camera towers. Cameras even monitor the underground drainage system of the U.S. border town of Nogales for migrants scrambling through the tunnels. All of this data streaming into the operations room will soon be accessible on agents' smartphones in the field, through an app that is currently being piloted in Arizona. "This is the proving ground for all sorts of tech," said Jose Robert Ortiz, a border agent who was recently trained to fly a drone. "We help them" Border

Immigration Surveillance Core File. *Updated 8-3-24*

authorities say that people smugglers are to blame for migrants' deaths, and hi-tech surveillance is necessary to find - and save - people in an increasingly difficult job. **Arrests of undocumented migrants hit a record of over 2 million this year.** Known deaths on the United States-Mexico border reached a high of 727 last year, according to data compiled by the U.N.'s International Organization for Migration. "(People smugglers) take them up to the mountains and say, 'Go, this is your best chance'. They don't care about human life," said John Mennell, a spokesperson for Arizona's border patrol force. "When people get in trouble, we go help them - and the surveillance helps us know where they are," he said, noting that agents respond to over a dozen calls for help a day. Paige Corich-Kleim, a spokesperson with humanitarian group No Más Muertes, which means No More Deaths, said that the involvement of people smugglers was largely reaction to U.S. border policy. "By making it harder to cross, migrants had to turn to these groups for help - it used to be a simple journey," she said. Agents say it is hard to draw a direct connection between the surveillance tech and an uptick in arrests at the border, but the tools provide "situational awareness" in an environment where law enforcement is outnumbered by migrants seeking to cross. On one day in September, agents remotely redirected a camera to home in on a group of migrants crossing a mountain ridge after they tripped a motion sensor. The group was just outside the camera's range, about eight miles away, making the figures slightly blurry on the computer screen. But agents knew the path they were likely to take, and planned to intercept them when they descended the mountain. Agents estimate they have approximately three days to catch a migrant after they cross into a town on foot or get picked up by a vehicle before they melt into the broader population, what agents call the vanishing line. "The mission here is to detect, identify, and classify," said Steven Adkison, deputy chief of border patrol in the Tucson Sector. "Our aim is area dominance." 'Weaponized the desert' In 2021, 225 bodies were found near the Arizona border - the highest number since humanitarian groups started keeping count in the 1990s, and likely a severe undercount, as bodies often languish for years in the desert before they are found. "Border patrol weaponized the desert," said Raymond Daukei, an immigrant rights activist and member of the Tohono O'odham Native American people, whose reservation spans the border. When Daukei was growing up in the 1980s, migrants rarely crossed in the remote reaches of the reservation, but stepped up enforcement in urban areas is funneling more migrants on to the tribe's land, he said. Tohono O'odham leaders have grudgingly welcomed the new surveillance towers, saying they are necessary to help protect tribal members from the smuggling cartels that increasingly come on to their land. "There are now people walking around with guns, homes have been broken into ... we are desperate for security," said Kendall Jose, vice chairperson of the reservation's Chukut Kuk District, where surveillance towers were recently erected. The aid groups that have sprung to provide migrants with food, water and medical help doubt that the more surveillance technology will result in a safer border region. **"There's this idea that building a wall is violent and xenophobic but smart tech is not,"** said Corich-Kleim of No Más Muertes. **"But really, it has the same effect."** This story is part of a series on the impact of surveillance tech on migrants and refugees around the world. Read the series.

## Dehumanization

### **Border surveillance is dehumanizing**

Electronic Privacy Information Center, no date, (DOA 7-27-24),  
<http://epic.org/issues/surveillance-oversight/border-surveillance/>  
Border Surveillance Dehumanizes Migrants

Border authorities subject travelers and especially immigrants to surveillance that would be considered unacceptable in any other context. Long wait times, invasive screening, and detention centers all serve to distinguish migrants from citizens, who are subjected to less intense border crossing procedures. Surveillance plays a key role in managing the immigration process. While all travelers are subjected to excessive surveillance, those with the lowest status experience the most invasive procedures.

### **Surveillance along the US-Mexico border has historically been used to promote the domination and subjugation of people of color – producing discursive regimes hostile to migrants originally displaced by state terrorism**

**Miller '06**, Lisa L. Miller is a doctoral student in Early Childhood Education in the College of Education at Arizona State University-Tempe, Tempe, Arizona, USA, “Dismantling the Imperialist Discourse Shadowing Mexican Immigrant Children”,  
<http://files.eric.ed.gov/fulltext/EJ795107.pdf>

Migration prior to the 1990s was largely through the border crossings whether it was legal or illegal. **Drastic changes in immigration policy and technology have led to changes in border** paperwork to the Sonoran Desert region. In **an effort to ‘control’ the situation of illegal immigration in Arizona the following measures** both human and technological **have been implemented at the state’s border** crossings: 1,517 permanent Border Patrol agents (an increase of almost 50%), close to 50% more anti-smuggling unit agents, both **night vision and infrared scopes, portable and permanent lighting units (for surveying areas at night), underground sensors, mobile sky watch towers, television cameras, ATV’s, fixed wing aircraft, additional helicopters, and unmanned Aerial Vehicles (UAVs).** **These increased ‘control’ methods are being implemented to ‘break the cycle of death’ but, the actions bring to mind hunter’s accouterments and behaviors. The U.S. government and related agencies seem to be gathering for a hunt of humans.** The language alrededor la frontera is more than demeaning. **The negative discourse causes the public to view illegal immigrants as animals, lesser, needing to be controlled, dangerous, and unequal. Western culture shames migrants into feelings of inadequacy and inferiority. We shift our feelings of discomfort and place the burden onto the immigrant in order to attempt to elevate our own status as well as dominance** (Anzaldúa, 1999). Just as we have seen throughout history, **people of color become ‘savage’ and they are pushed into a subaltern culture before ever entering** LOS estados unidos. **Policymakers feel that workers neglect to consider the dangers of crossing the border illegally. They then place blame on the individual rather than the institutions that have forced them to cross without the appropriate documentation in the first place.** This discourse of blame is perpetuated by the media and the general population. Migrant workers leaving Mexico are not ignorant individuals. Contrary to popular opinion they have weighed the costs and after considering the risks still feel that the potential dangers of being taken advantage of by a smuggling operation or facing peril in the desert are worth the

gamble. Many take extreme risks to find a way to make a better life for their families whom they often leave behind until they are able to afford to bring them across.

## Current border surveillance methods dehumanize Latin American populations

**Camacho '14** (Alicia Schmidt Camacho, Alicia Schmidt Camacho is Professor of American Studies and Ethnicity, Race at Migration and the Associate Master for Ezra Stiles College, 9/14/14, U.S. Border Surveillance Technology and the Dehumanization of Migrants, John F. Kennedy Institute for North American Studies, [http://www.jfki.fu-berlin.de/en/v/media\\_transformations/panels/panel\\_IV/Schmidt\\_Camacho\\_abstract.html](http://www.jfki.fu-berlin.de/en/v/media_transformations/panels/panel_IV/Schmidt_Camacho_abstract.html))

This paper examines the visual technologies of surveillance deployed at the U.S.-Mexico border for the purposes of national security and immigration enforcement to discuss its dehumanizing effects on the migrant population. U.S. Customs and Border Patrol agents use a series of visual profiles as guidelines for interdiction at border checkpoints – with the stated aim of “facilitating the flow of legal immigration and goods while preventing the illegal trafficking of people and contraband.” My paper scrutinizes the state’s optics in producing these categories, in order to examine their broader social and political effects in the North American migratory circuit. As agents use invasive visual technologies like X-rays to uncover unauthorized people and goods, they expand police power over migrant bodies in ways that have mostly gone unremarked and unchallenged, but are propitious for multiple forms of abuse. In December 2013, a fifty-four year old Mexican woman brought federal charges against U.S. Customs and Border Enforcement agents for subjecting her to a six-hour full-body cavity search for narcotics, which included a body x-ray, vaginal and anal probes, and an induced bowel movement at a local medical center. This extensive search followed the more routine bodily search at the Ciudad Juárez crossing, which had turned up no sign of illegal substances concealed on her person. The woman was seeking re-entry into the U.S. after a visit with family members in Mexico – and thus part of the most common, and “legal,” aspect of border traffic. In protesting that she was “treated like an animal,” her lawsuit indicts the violence inherent in the practices of visual and bodily searches that have become routine instruments of border regulation since the mid-1990s. This paper will look at the ways agents’ capacity for “seeing” is legitimated through a discourse of rational and objective interests – the discovery and seizure of threatening persons and substances – that has served as a cover for an illegitimate and illegal expansion of police power. Looking, in this instance, is co-extensive with a power to seize and control migrant bodies. I argue that the use of apparently neutral technology like the x-ray is a critical site for producing a category of migrant who can be rendered non-persons before the law and within civil society. Just as the search violates bodily integrity and privacy, its use at the border crossing is a form of pre-emptive punishment, one that presumes guilt by its application to an already criminalized population. The woman was not offered any redress after her ordeal, but rather served a 5,000-dollar hospital bill after her release from custody. My reading of the incident looks at the relationship between this kind of physical capture of the border crosser and the use of other visual scans of cars, lorries, and the border space. I argue that together, this system of surveillance and invasive seeing constitutes a peculiar regime of state violence that takes on the characteristics of what is often called “social cleansing” when practiced overtly by authoritarian governments.

## The growth of border surveillance and security serves to justify violence against the other – the “illegal” – by antagonizing the global South

**Garrett 15**

(Terence M. Garrett, Ph.D. Professor and Interim Chair of the Public Affairs and Security Studies Department, May 2015, “The Border Patrol Nation and Governance: (In)Security, Surveillance, and Subjectivity in the American State”, pp. 5-7, <http://www.pattheory.net/conference2015/papers/patnet-2015-paper-garrett-16-may-2015a.pdf>)

The project of Border Patrol Nation is to gate people into a world of clear and enforceable divisions. These are not only divisions between citizens and foreigners, insiders and outsiders, but also between the haves (and all the “interests” they protect) and the have-nots. It is a division between the global North and the global South. In this

brightly divided world, the more apparent crime is that of the individual straggling street walker, not the profit-obsessed system that abandons entire communities of children, youth, men, and women to grow up and live their lives in collapsing, contaminated, foreclosed ruins. The criminal is the person looking for a job without papers, not the “free trade agreements.” (Miller, 2014, p.316) [N]othing looks more like a terrorist than the ordinary man. —Giorgio Agamben, *What Is An Apparatus?* (2009, p. 23; Garrett and Storbeck, 2011, p. 530) Moving beyond the US-Mexico border and into the USA, Miller (2014) captures the extension of the presence of the agency as stated by Customs and Border Patrol (CBP) agent Jason Harrell who was flying a Blackhawk helicopter around a thirty mile perimeter of Miami’s Sun Life Stadium during a recent Super Bowl... Our mission statement says that we will defend the American public against terrorism...The Super Bowl is a high priority target...The U.S. government has come to us because we are a law enforcement entity. And we have assets that other folks don’t have. (p. 13) The Super Bowl CBP mission was explained by a Border Patrol supervisor, Mr. Guzman, as Amtrak and Greyhound buses brought fans to the stadium ... “After 9/11, everyone at the airports are [sic] being looked at, so they tend to use the Amtrak...or the Greyhound as a tool.” This makes Amtrak and Greyhound an “all-threats environment... We don’t know what’s going to happen.” (Miller 2014, p. 15) This is one example of how the mission of CBP has pushed inland into the USA. The borders, particularly with Mexico, have seen the growth of the state security apparatus increase. On the border in South Texas, Maril (2011) interviewed Customs and Border Patrol (CBP) Weslaco (Texas) Field Operations Supervisor, Omar Sanchez, who stated “We’re [CBP] becoming ... a paramilitary organization modeled after the military. It’s taking time. We’re becoming more professional” (p. 222). Another CBP agent, identified as Agent Sparrow, noted that ... ..Our job is to provide security. That’s what CBP and DHS are supposed to do. We want Americans to feel more secure. Make people feel better. That’s what security is about. So people can live their lives and not have to worry about the terrorists here (p.224). In effect, the CBP is a fully operational paramilitary organization with national security the central mission of the DHS agency. The search for the “other,” the undocumented border crosser or terrorist, has other policy consequences – citizens’ daily lives are disrupted all in the name of security. Borders continue to be militarized with fences, 7 CBP agent escalation, Texas DPS trooper surges (see more below), and increased electronic surveillance. Miller (2014) documents repeated intrusions upon the civil liberties of citizens within the US as CBP agents demand documents, search personal possessions, and detain people who have to say and many times prove they are American citizens.

**Border surveillance operates from a paradigm of racial discrimination that uniquely targets people of color**

**Gaynor 12**



(Tim, "Rights group accuses U.S. of abuses on Mexican border," Reuters, March 28, 2012, <http://www.reuters.com/article/2012/03/28/us-usa-border-rights-idUSBRE82ROTJ20120328>)

U.S. policing along the Mexican border discriminates against Hispanics and Native Americans and contributes to the deaths of illegal immigrants, according to a study by the human rights group Amnesty International USA. The report, titled "In Hostile Terrain: Human Rights Violations in Immigration Enforcement in the U.S. Southwest," identifies what it says are systemic failures of federal, state and local authorities to enforce immigration laws without discrimination. "Communities living along the U.S.-Mexico border, particularly Latinos, individuals perceived to be of Latino origin and indigenous communities, are disproportionately affected by a range of immigration-control measures, resulting in a pattern of human rights violations," the study said. The U.S. government has tightened security along the nearly 2,000-mile (3,220-km) border with Mexico in recent years, adding additional fencing, surveillance technologies and Border Patrol agents. The federal government also has partnered with some state and local police forces to give officers immigration-enforcement powers. A spokesman for the Department of Homeland Security, the parent agency of federal immigration authorities, disputed Amnesty International's findings as based on flawed information. But the U.S. Justice Department recently accused the Maricopa County Sheriff's Office in Arizona of engaging in systematic racial profiling against Latinos in its efforts to crack down on illegal immigration. The Amnesty study said federal immigration programs that operated in conjunction with state and local police put "Latino communities, indigenous communities and communities of color along the border at risk of discriminatory profiling." It also found that indigenous peoples whose lands and communities straddle the border are "often intimidated and harassed by border officials for speaking little English or Spanish and holding only tribal identification documents." Tightened policing efforts, meanwhile, "increasingly jeopardize individuals' right to life" by re-routing migrants "to the most hostile terrain ... including crossings over vast deserts, rivers and high mountains in searing heat." The report said that from 1998 to 2008, as many as 5,287 migrants perished while trying to cross the border. Reuters could not verify the figure independently. Amnesty urged the U.S. government to suspend all immigration enforcement programs pending a review and ensure that its border policies and practices do not have the "effect of leading to the deaths of migrants."

## **DOD Tradeoff Links**

### **Expanding surveillance will require DOD resources**

US Northern Command, 2019, <https://www.northcom.mil/BorderSecurity/>, Border Security Video, 6-27-24 (DOA)

Brig. Gen. Walter Duzzny, the Deputy Commanding General of United States Army North, speaks about the troops stationed along the southern border during a press conference in Sunland Park, New Mexico on June 6, 2019. **The Department of Defense has deployed units across the Southwest Border at the request of U.S. Customs and Border Protection and is providing surveillance and detection, logistical, engineering, and force protection functions.**

## “Human-In the Loop”

### **New surveillance methods that use surveillance are designed to be autonomous and eliminate the Human in the Loop**

Monique Maden, March 22, 2024, The future of Border Patrol: AI is always watching, <https://www.govexec.com/technology/2024/03/future-border-patrol-ai-always-watching/395167/>

U.S. Customs and Border Protection is trying to build AI-powered border surveillance systems that automate the process of scanning people trying to cross into the U.S., an effort that experts say could push migrants to take more perilous routes and clog the U.S. immigration court and detention pipeline. To achieve full autonomy across the borderlands, CBP held a virtual “Industry Day” in late January, where officials annually brief contractors on the department’s security programs and technology “capability gaps.” One of the main shortcomings: Too many missed border crossing detections because border agents spend long work shifts in front of computers. Presentations and other materials shared at Industry Day are public record, but they are geared toward third-party contractors—and often go unnoticed. The Markup is the first to report on the details of CBP’s plans. If all goes as hoped, then U.S. Border Patrol “operators would need only to periodically monitor the system for accountability and compliance,” officials wrote, according to meeting documents. Currently deployed surveillance technology relies on human staff to observe and relay information received from those technologies. Investing in tech that’s not AI-driven would increase the number of people required to monitor them around the clock, officials wrote in a 2022 document that was shared at the event, adding, “New autonomous solutions and enhancements to existing systems are therefore preferable and are expected to reduce the number of personnel required to monitor surveillance systems.” Some of CBP’s goals include: Creating one unified central operating system for all land, air, and subterranean surveillance technology Upgrading fleets of mobile surveillance trucks Integrating persistent, real-time surveillance in remote locations Reducing costs and human operator dependence Minimizing margin of error and missed detections Maximizing use of AI to flag illegal border crossings in real-time Investing in technology that would navigate terrain and surveil moving “items” or people Fully autonomizing surveillance so that more agents can be placed in the field to apprehend, transport and detain border crossers **Currently, only one out of 12 components of CBP’s Command, Control, and Communications Engineering Center—the technological hub for everything the agency does along the border—is autonomous,** records show. Once the department reaches its goal, nine out of 12 would be automated, according to an analysis by The Markup. **The main goal is to hand off surveillance decision-making to AI, largely eliminating the human element from the point a person crosses the border until they’re intercepted and incarcerated.** Since at least 2019, DHS has been gradually and increasingly integrating AI and other advanced machine learning into its operations, including border security, cybersecurity, threat detection, and disaster response, according to the department’s AI Inventory. Some specific uses include image generation and detection, geospatial imagery, identity verification, border trade tracking, biometrics, asylum fraud detection, mobile device data extractions, development of risk assessments, in addition to more than four dozen other tools. “For 20-plus years, there was this idea that unattended ground sensors were going to trigger an RVSS camera to point in that direction, but the technology never seemed to work,” Dave Maass, Director of Investigations at the Electronic Frontier Foundation, an international nonprofit digital rights and research group, told The Markup. “More recently, Anduril [a mega technology company] came in with ‘autonomous surveillance towers’ that were controlled by an AI system that would not only point the camera but also use computer vision to detect, identify, and track objects. All the other vendors have been trying to catch up with similar capabilities,” Maass added, referencing how the slide shows an unattended ground sensor going off and alerting a tower, then the tower AI does all the work of identifying, classifying and tracking the system, before handing it off to humans. “To realize this increased level of autonomy throughout all surveillance and intelligence systems, USBP must leverage advances in AI, machine learning, and commercial sensors designed for an ever-evolving, autonomous world.” . CBP said in a presentation, led by Julie Koo, CBP’s industry partnership and outreach program director. **But using AI and machine learning may come with ethical, legal, privacy, and human rights implications, experts say. Among the main concerns: the perpetuation of biases that may lead to discriminatory outcomes. Eliza Aspen, researcher on technology and inequality with Amnesty International,**

**said advocates are “gravely concerned” about the proliferation of AI-enabled police and surveillance technologies at borders around the world, and the potential impact on borderland communities and asylum seekers. “These technologies are vulnerable to bias and errors, and may lead to the storage, collection, and use of information that threatens the right to privacy, non-discrimination, and other human rights.”** Aspen said. “We’ve called on states to conduct

human rights impact assessments and data impact assessments in the deployment of digital technologies at the border, including AI-enabled tools, as well as for states to address the risk that these tools may facilitate discrimination and other human rights violations against racial minorities, people living in poverty, and other marginalized populations.” Mizue Aizeki, Executive Director of The Surveillance Resistance Lab, said it’s “One of the things that we’re very concerned about is how ... the nature of the ability to give consent to give all this data is ... almost meaningless because your ability to be seen as a person or to access any level of rights requires that you give up so much of your information,” Aizeki said. “One of the things that becomes extremely difficult when you have these systems that are so obscured is how we can challenge them legally, especially in the context when people’s rights, the rights of people on the move, and people migrating become increasingly limited.” USBP had nearly 250,000 encounters with migrants crossing into the United States from Mexico in December 2023, the most recent month for which data is available. That was the highest monthly total on record, easily eclipsing the previous peak of about 224,000 encounters in May 2022. Colleen Putzel-Kavanaugh, an associate policy analyst at the Migration Policy Institute, a research organization, called the growing tech arena “a double-edged sword.” “On the one hand, advances in automation are really helpful for certain aspects of what happens at the southern border. I think it’s been extremely helpful, especially when migrants are stuck in perilous situations, if they’ve been hurt, if a member of their group is dehydrated or ill or something like that, there are different ways that, whether it’s via a cell phone or via some sort of remote tower or via something, Border Patrol has been able to do search and rescue missions,” she said. “But there are still similar problems that Border Patrol has been facing for the last several years, like what happens after someone is apprehended and processed. That requires resources. It’s unclear if automation will provide that piece,” she said. Though migration patterns have historically shifted as technology has advanced, Putzel-Kavanaugh said it’s too soon to tell if fully-automated surveillance would scare migrants into taking on more-dangerous journeys. “I think that people have continued to migrate regardless of increased surveillance. **AI could push people to take more perilous routes, or it could**

**encourage people to just show up to one of the towers and say, ‘Hey, I’m here, come get me.’”**

Samuel Chambers, a longtime border researcher who’s been analyzing surveillance infrastructure and migration for years, said surveillance tech increases harm and has not made anything safer. **“My research has shown that the more**

**surveillance there is, the riskier that the situation is to migrants,” Chambers said. “It is shown that it increases the amount of time, energy, and water used for a person to traverse the borderlands, so it increases the chances of things like hyperthermia, dehydration, exhaustion, kidney injuries, and ultimately death.”** During his State of the Union address this month, President Biden touched on

his administration’s plan to solve the border crisis: 5,800 new border and immigration security officers, a new \$4.7 billion “Southwest Border Contingency Fund,” and more authority for the president’s office to shut down the border. Maass, of the EFF, told The Markup he’s reviewed Industry Day documents going back decades. “It’s the same problems over and over and over again,” he said. “History repeats every five to ten years. You look at the newest version of Industry Day, and they’ve got fancier graphics in their presentation. But [the issues they describe are] the same issues they’ve been talking about for, gosh, like 30 years now,” Maass said. “For 30 years, they’ve been complaining about problems at the border, and for 30 years, surveillance has been touted as the answer. It’s been 30 years of nobody saying that it’s had any impact. Do they think that now these wonders could become a reality because of the rise of AI?” In his 2025 budget, unveiled earlier this month, Biden reiterated the unmet needs from an October request: the need to hire an additional 1,300 border patrol agents, 1,000 CBP officers, 1,600 asylum officers and support staff, and 375 immigration judge teams. Buried in that same budget was a \$101.1 million surveillance upgrade request. In the brief, DHS told Congress the money would help maintain and repair its network of surveillance towers scattered throughout the borderlands. That’s in addition to the agency’s \$6 billion “Integrated Surveillance Towers” initiative, which aims to increase the number of towers along the U.S.-Mexico border from an estimated 459 today to 1,000 by 2034. The budget also includes \$127 million for investments in border security “technology and assets between ports of entry,” and \$86 million for air and marine operational support.

## Colonialism + Surveillance Beyond the Border

### **Surveillance tech tested at the border and part of Western data and surveillance colonialism and the testing of surveillance tech**

That's one of the underpinnings behind this whole story—the fact that **our world is built on data now**. An amazing colleague of mine, Mariam Jamal, a digital rights activist in Kenya, had this great phrase—“Data is the new oil.” That is precisely what we've been seeing. The fact that **Western nations like the United States, Canada, Europe, need a lot of data subjects to power the way that technology is developed and deployed, it kind of replicates colonial power**. So countries on the African continent or in the Middle East end up being subjects on whom technologies are tested or data is extracted from. What does that testing of technology look like on the U.S.-Mexico border? **The U.S.-Mexico border is an interesting case study because it is one of the crucial sites where smart border tech is being tested out**. The border itself is already a really interesting and an important place to look at, because legally speaking, it's very opaque, very discretionary. **Officers can make all sorts of decisions. This is the kind of zone where new technologies of surveillance are being tested without public scrutiny, accountability, or even knowledge. We're talking about traditional surveillance, like drones, cameras, sensors in the ground, but also draconian projects like the robot dogs** that were announced in 2022 by the Department of Homeland Security that are now kind of joining the global arsenal of migration management tech. What happens at the border is this kind of laboratory where things are tested out and then it proliferates into other spaces—even with these robot dogs. **A year after they were announced, the New York City Police Department proudly unveiled that they're going to be using robo-dogs on the streets of New York. One even had black spots on it, like a Dalmatian.**

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That's such an important piece to the puzzle here—the proliferation of what people have called a very lucrative global border-industrial complex. **We're talking billions of dollars being spent on border technologies and also military grade technologies that are then repurposed for the border, like the robot dogs. The private sector is a major player in this whole story, because they're the ones who set the agenda on what we innovate on, and why—especially if there's money to be made in this kind of securitization of the border. ...**

**This tech doesn't just stay at the border. Not only does it then become normalized and used in other areas of public life, like the robot dogs now patrolling streets of New York City, but also there are things like facial recognition in public spaces—including in sports stadiums and surveillance of protesters.**

**A lot of this technology is first developed and deployed for border purposes, normalized and then repurposed in other spaces. There's also surveillance that happens inland, of course. There's all sorts of license plate reader technology, different types of facial recognition tools, carceral technologies, that are used both in the criminal justice system and in the immigration**

**detention system. It is this kind of surveillance dragnet that extends further and further inland and ensnares entire communities.**

## Border Biopolitics

**These same border policies reflect Foucault's conception of sovereignty and biopolitics- the domination and criminalization of the migrant at the border to produce docile obedient people reveal the state's desire to control their bare life, as a form to protect their own citizens.**

**Nail 13**(Thomas Nail, Assistant Professor in Philosophy at the University of Denver, PhD from the University of Oregon, "The Crossroads of Power: Michel Foucault and the US/Mexico Border Wall," *Foucault Studies* No.15 p.119-122, February 2013)

Several common features can also characterize the second group of political strategies I want to distinguish: detention, surveillance, and the training of migratory life. The common features of these strategies are the features Foucault uses to define the concept of disciplinary power. Let us thus continue examining this next set of strategies in action. The border wall is not merely a physical barrier on a territory that kills migrants, although it does do this. The border wall is also part of a series of behavioral technologies with-in a wall-prison-workplace system designed to create an obedient, docile, permanently surveilled, and "criminalized" body. Despite the fact that being in the US without authorization is a civil infraction and not a criminal one, migrants are surveilled, arrested, processed, and detained for long periods of time "as if" they were criminals and through this are actually criminalized.<sup>36</sup> Legally unauthorized migrants are not criminals, but become so as an effect of disciplinary strategies. This is one of the differences between sovereign strategies and disciplinary ones. The multiple attempts made by migrants to cross the wall are also part of a process of disciplinary training. The success rate of illegal migration, on the second or third try, is upwards of 95 percent, according to immigration scholar Wayne Cornelius.<sup>37</sup> The wall thus continues to exist precisely because it is a vital part of the production of the model migrant: persistent, obedient, quiet, and able to endure hardship and danger. As George W. Bush put it "family values do not stop at the Rio Grande. Latinos enrich our country with faith in God, a strong ethic of work, community, and responsibility... Immigration is not a problem to be solved, it is the sign of a successful nation."<sup>38</sup> Immigration is not a problem for disciplinary strategies it is an opportunity for disciplinary strategies! It is an opportunity to train a nation of docile and obedient bodies. The wall with its steel and concrete, its miles of barbed wire, check points, border patrol, array of flood lights to maximize visibility, cameras, and sensors for permanent and constant supervision, mirror many of the techniques of the prison and migration detention center, which again mirror the increased security, supervision, and prison-like workplace conditions that often employ undocumented workers. It is thus no coincidence that the Secure Fence Act, Operation Catch and Detain, and Immigration Workplace Enforcement were all proposed to Congress at the same time. They are three prongs of the border wall itself: sovereignty, discipline, and biopower.<sup>39</sup> Build a wall, discipline the bodies of those who cross, and make a profit from deporting the rest. Crossing the physical border wall marks an incorporeal criminal transformation of the migrant. It marks the migrant's exit from one set of institutions (the system of poverty, violence, exploitative labor conditions, and other results of N.A.F.T.A in Mexico) into a network of other institutions (the detention

camps, work place and school raids, and the racism of the US).<sup>40</sup> The wall, the prison, and the workplace thus function as part of a single carceral series intensifying the criminality of that one brief misdemeanor, “unlawful entry,” that now re-quires their infinite retraining through detention, surveillance, and disciplined behavior in the precarious shadows of US institutions. Migrants cross the wall one or more times. This has two effects: it creates a “criminalization” in both material and discursive senses<sup>41</sup> and it produces subjects who are persistent and can endure hardship. As criminalized, migrants enter a work-place system where their daily movements and actions are surveilled and orchestrated by their bosses, but they also endure the additional disciplinary condition of institutionalized precarity: their perpetual deportability.<sup>42</sup> **The constant threat of deportation creates a fear, docility, and psychic instability that aids in the effective management of bodily labor.** Every minor labor infraction or deviant behavior could result in detention and deportation. Consequently, migrants also fill detention centers, prisons, and deportation facilities. In these facilities their daily movements are controlled (meals, commissary, exercise, lights out, etc.); they are under constant surveillance; they often wait months or years in jail without conviction, and they often have difficulty communicating with legal representatives or with immigration officials due to both language differences and access. **This whole group of technologies creates a distinct kind of subjectification. The border wall has also turned desert wilderness areas on the border into ecological prisons.** By fortifying the walls around urban areas and leaving less fencing in wilderness area migrants, smugglers, and border enforcement are funneled into these precarious areas. Cabeza Prieta, in southern Arizona, is the third largest national wildlife refuge outside Alaska. It is now a grid of about 400 miles of illegal roads, 800 miles of unauthorized foot trails, hundreds of miles of security cameras, motion sensors, construction workers, garbage, and border patrol agents in SUVs. Border issues now take up to 75 percent of all park operations.<sup>43</sup> Biologists working in the desert at night have to be accompanied by law enforcement officers and Border Patrol has built a one-acre officers barracks within Cabeza Prieta that includes roads, fuel tanks, space for 10 officers, and a helicopter pad. “It’s a war zone here,” one ranger says. “We’re into triage in deciding what to sacrifice in the environment to achieve border security.”<sup>44</sup> The park is transformed into a high security prison and ecological migrant life must be detained, apprehended, tagged, counted, constantly monitored, and trained to obey this new infrastructure: its pollution, noise, 24hr flood lights, cameras, and unpredictable night traffic. **In all of these strategies we can see the characteristics Foucault attributes to disciplinary power.** Since the nineteenth century, Foucault says, “‘legal detention’ [was] entrusted with an additional corrective task... an enterprise for reforming individuals [une entreprise de modification des individus].”<sup>45</sup> The penal system, he continues, “merely reproduces, with a little more emphasis, all the mechanisms that are to be found in the social body.”<sup>46</sup> Similarly, the goal of the wall–prison–work system is not merely deterrence or detention, but correction, supervision, and training for the next enclosed institution. **The task of this discipline** Foucault says is to impose “a partitioning grid [de quadriller littéralement]”<sup>47</sup> within the interior of the territory established by the sovereign and **produce bodies that are both “docile and capable... of having their bodily movements directed.”**<sup>48</sup> Although the initial journey to the wall itself does not in every way follow the close temporal articulation of bodily movements that Foucault discusses in nineteenth century pris-ons, the actual process of crossing the wall does to some degree. The way one must dress, look, speak, etc. when presenting a false I.D. is extremely precise, one must



become “normal” and “legal.” Even when one crosses the wall outside of town or in the desert there is a very carefully orchestrated activity of waiting in silence for the time in the middle of the night between when the coyotes have dug a new hole in the wall and when the border guards have patched it.<sup>49</sup> Disciplinary power in the case of the border wall-prison-work system enforces a conformity to the following normalized model of subjectivity: you will be prepared to be de-ported at any time, you will be potentially watched under lights and cameras 24hrs a day, you will be hardworking enough to cross the wall multiple times, endure detention and abuse, and be silent in your endurance. These are the “signs of a successful nation of migrants” conducted by the wall-prison-work system. After the US government had waived environmental laws and built the border wall, they went back in 2009 with \$50 million to “assesses, restore, and mitigate” the environmental damages of the wall. The Army Corps of Engineers detained, tagged, replanted, and monitored, various species of life. The presence alone of Army Corps, border patrol, and migrants, prepares the ecology of the desert and the behaviors of the animals to be continually damaged, monitored, and then restored to a new normal. The most notable physical behavior is restricted movement, decreased food and water sources, but the wildlife is also being trained to adjust to humans that bring food as well as food that is dead human bodies. Where there is “virtual fence” the animals, and even rain, often set off the motion detectors that bring border patrol from miles away to verify the “unlawful entry.” Without actually being arrested animals are performatively criminalized in their daily movements across the border. While “criminalized” animals at the border are not arrested and put before a court of law, they are captured, detained, transported, relocated, surveyed, and perhaps even shot at. Thus, strategically there are many similarities between human and animal migrants in relation to disciplinary power. Criminalization is not merely a legal determination made by a judge or human court of law, criminalization also includes a set of disciplinary and carceral strategies. Insofar as many of these strategies also affect animals and other ecological entities, they are criminalized migrants.<sup>50</sup> Every motion in the desert is now being trained to deal with border patrol, constant surveillance, and intervention: the body of the desert is being disciplined.

### **Border Biopolitics has two major implications**

**First, this further exhibits itself in the specific surveillance of immigration- the technology is used to track and control the immigrants in a form of biopolitics meant to distinguish the legitimate and illegitimate people of a community-this causes the otherization of immigrants as the lesser**

**Zylinska, 2004** (Joanna Zylinska, Professor of New Media and Communications at Goldsmiths, University of London, “The Universal Acts: Judith Butler and the biopolitics of immigration,” *Cultural Studies* Vol.18 No.4, July 2004, pg. 526)

The ‘issue’ of asylum seekers lies at the very heart of the broader issue concerning the constitution of the public sphere. For Butler democratic participation in the public sphere is enabled by the preservation of its boundaries, and by the simultaneous establishment of its ‘constitutive outside’. She argues that in contemporary Western democracies numerous singular lives are being barred from the life of the legitimate community, in which standards of

recognition allow one access to the category of 'the human'. In order to develop a set of norms intended to regulate the state organism, biopolitics needs to establish a certain exclusion from these norms, to protect the constitution of the polis and distinguish it from what does not 'properly' belong to it. The biopolitics of immigration looks after the bodies of the host community and protects it against parasites that might want to invade it, but it needs to equip itself with tools that will allow it to trace, detect and eliminate these parasites. Technology is mobilized to probe and scan the bare life of those wanting to penetrate the healthy body politic: through the use of fingerprinting, iris recognition and scanners in lorries travelling, for example, across the English Channel, the presence and legitimacy of 'asylum seekers' can be determined and fixed.<sup>4</sup> The bio-politics of immigration is thus performative in the sense of the term used by Butler; through the probing of human bodies, a boundary between legitimate and illegitimate members of the community is established. This process depends on a truth regime already in place, a regime that classifies some bodies as 'genuine' and others (be it emaciated bodies of refugees squashed in lorries in which they have been smuggled to the 'West', or confined to the leaky Tampa ship hopelessly hovering off the shores of Australia) as 'bogus'. The bare life of the host community thus needs to be properly managed and regulated, with its unmanageable aspects placed in what Agamben (1998) calls a relation of exception. But the question that remains occluded in these processes of 'life management' is '[w]hich bodies come to matter / and why?' (Butler 1993, p. xii). Butler demonstrates the regulatory mechanisms involved in the production and simultaneous exclusion of 'bare life' in a number of her works, referring to such excluded groups as transsexuals and transgender people (1990, 1993), non-traditional family units (1990, 1993), racial minorities (1997) or even cyborgs (1993). But it is the literary heroine Antigone, analysed in *Antigone's Claim: Kinship Between Life and Death*, that I want to turn to for my discussion of the issue of asylum seekers in Western democracies. Butler's reading of Antigone, who, '[p]rohibited from action, . . . nevertheless acts', and whose 'act is hardly a simple assimilation to an existing norm' (2002, p. 82), will allow me to think about the working of the performative in different political discourses, and about the possibility of their resignification.

**This positioning of the immigrant as the other justifies dehumanization and poses them as the "homo sacer", or essentially one who has been reduced to bare life, vindicating genocide of populations.**

**Vazquez 14**(Manuel A. Vazquez, Professor and Chair in the Department of Religion at the University of Florida, specializes in the intersection of religion, immigration, and globalization in the Americas, *Journal for Cultural and Religious Theory* vol. 13 no. 1 Fall 2014, "From Colonialism to Neo-Liberal Capitalism: Latino/a Immigrants in the U.S. and the New Biopolitics," p.87-89

We do not endorse the gendered language in this card

In particular, this regime attempts to regulate mobile populations under a rigid illegal-legal binary logic and according to a dialectic of visibility and invisibility: unauthorized immigrants must become simultaneously visible to the gaze of local, state, and federal authorities and

invisible through exclusion from public and civic spaces, from schools, hospitals, and roads. Since 9-11, nation-states, particularly those at the core of neo-liberal capitalism, have redoubled their efforts to render the mobile and potentially unruly Other hyper-visible as part and parcel of a new global politics of alterity. The target of the new multi-scalar regimes of governmentality is the traveling stranger who, in the midst of widespread processes of de-territorialization and re-territorialization brought about by globalization in its multiple dimensions, is no longer containable within the spaces of Western modernity, more specifically, the spaces of secularity (in the case of Muslims) and the spaces of the nation as a bound and culturally homogenous container. Because many immigrants sustain transnational livelihoods in order to navigate economic uncertainty and political turmoil, because many of them are simultaneously embedded in their societies of origin and settlement, building relations, commitments, and loyalties across borders, the nation-state has intensified its attempts to mark clear borders and to narrow the parameters of citizenship.<sup>18</sup> Castles and Miller recognize that there have been larger migration movements in history – for example, at the turn of the 20th century. However, a “defining feature of the [present] age of migration is the challenge posed by international migration to the sovereignty of states, specifically to their ability to regulate the movements of peoples across their borders. The extensiveness of irregular (also called undocumented or illegal) migration around the world has probably never been greater than it is today.”<sup>19</sup> As a result of this challenge to the modern principle of sovereignty, Zembylas (2010) argues that immigrants, refugees, and asylum seekers have become key figures in a new “fearism” that enables their complete de-humanization as a way to deny them any right to dwell among juridical citizens. In response to fearism, we observe pervasive processes of “rebordering,” especially in the U.S. and Europe.<sup>21</sup> Whereas borders “have long been associated with the military defense of the national territory from opposing, often neighbouring armies . . . [and] have a history as privileged sites of commercial regulation . . . today . . . borders are becoming more and more important . . . as spaces and instruments for the policing of a variety of actors, objects and processes whose common denominator is ‘mobility’ . . . or more specifically, the forms of social and political insecurity that have come to be discursively attached to these mobilities.”<sup>22</sup> Accompanying this rebordering, there has been an explosive “growth of detention structures along transnational routes traveled by migrants in their journeys through northern Africa, Eastern Europe, Indonesia, and Central America to countries where they hope to make asylum claims.”<sup>23</sup> What makes possible the emergence of a new panopticon largely invisible search for hyper-visibility is the application of a “paradigm of suspicion that conflates the perceived threats of crime, immigration, and terrorism ([as] . . . ‘integrated risk management’)” through advanced, virtual technologies of biosocial profiling.<sup>24</sup> The neo-liberal state’s new technologies of power to regulate mobility and belonging are no longer just the militarization and securitization of borders and the development and application of new biometric technologies (like Secure Communities), which allow “data mining” and the deployment of a new “nano-physics” power that penetrates to the deepest capillaries of everyday life, with far finer granulation and more pervasive reach than the micro-physics of power that Foucault described.<sup>25</sup> This is precisely what Alabama State Representative has in mind when he affirms that HB 56 was designed to “attack every aspect of an illegal alien’s life.” Building on Foucault and pointing to Abu Ghraib and the on-going war on terror, which had been characterized by practices such as extraordinary rendition, Giorgio Agamben contends that

concentration camp cannot be considered just as “a historical fact and an anomaly belonging to the past . . . but in some way as the hidden matrix and nomos of the political space in which we are still living.”<sup>26</sup> **The sovereign** is no longer he who can call forth particular subjects through disciplinary techniques or who can manage the productive and reproductive corporeal capacities of a population, but he “who decides on the state of exception,” **that is, it he who can legally strip off all the rights of individuals, reducing them to “bare life,”** as it is done in the concentration camp. **To characterize these individuals, Agamben summons from ancient Roman law the figure of “homo sacer,” the (accursed) non-person who “has been excluded from the religious community and from all political life: they he cannot participate in the rites of their his gens, nor . . . can they he perform any juridically valid act.”**<sup>27</sup> Homo sacer is “pure zoē,”<sup>28</sup> **“Their his entire existence is reduced to a bare life stripped of every right by virtue of the fact that anyone can kill them him without committing homicide.”**<sup>29</sup>

**Second, Biopolitics results in a plethora of impacts- the more extreme form of racism, sorting, political death, and exclusion. Advanced technology worsens this issue.**

**Ajana 05**(Btihaj Ajana, Lecturer in Culture, Digital Humanities & Creative Industries, PhD in Sociology from London School of Economics and Political Science, “Surveillance and Biopolitics,” p.10-13, 2005)

**The juxtaposition of death and life at the borders is** by no means an ad hoc occurrence but **an affirmation of the inadequate immigration policies and the ‘immanentist’ (Nancy, 1991: 3) politics of absolute enclosure. From this emerges the issue of ‘sorting’ that may override the term ‘racism’** as long as it is not designated to a specific race or insofar as it is ‘racism without race’ as Balibar prefers to put it. Racism for Foucault (2003 [1976]: 255) (and here racism has a figurative function just as the metaphors of leprosy and plague do) is that which creates fragmentation within the biological continuum and caesuras within species-bodies so that biopolitical sorting and (sub)divisions could take place between those who are deemed to be ‘superior’ and those who are made to be perceived as the ‘inferior’ type all with the aim to preserve the ‘well-being’, ‘safety’, ‘security’ and ‘purity’ of the ‘healthy’ (powerful) population (‘virtues’ which are undoubtedly contributing to the naturalisation and taken-for-grantedness of institutional racism, and the inscription of modes of exclusionary differentiations in many subtle ways so that the need of accountability is made redundant.) **Embedded within this biopolitical overdetermination is a murderous enterprise. Murderous** not insofar as it involves **extermination** (although this might still be the case) **but inasmuch as it exerts a biopower that exposes ‘someone to death, increasing the risk of death for some people, or, quite simply, political death, expulsion, rejection,** and so on’ (Foucault 2003 [1976]: 256), and inasmuch as it is ‘based on a certain occluded but inevitable and thus constitutive violence’ (Zylinska, 2004: 530); a symbolic violence (manifested, for instance, in the act of ‘naming’ as Butler (in Zylinska, 2004) and Derrida argue ‘asylum seekers’, ‘detainees’, ‘deportees’, ‘illegal immigrants’, etc) as well as a material one (for example, placing ‘asylum seekers’ and ‘illegal immigrants’ in detention

centres), attesting to that epistemic impulse to resuscitate the leftover of late modernity and the residual of disciplinary powers that seek to eliminate and ostracise the unwanted-other through the insidious refashioning of the 'final solution' for the asylum and immigration 'question'. Such an image has been captured by Braidotti (1994: 20): Once, landing at Paris International Airport, I saw all of these in between areas occupied by immigrants from various parts of the former French empire; they had arrived, but were not allowed entry, so they camped in these luxurious transit zones, waiting. **The dead, panoptical heart of the new European Community will scrutinize them and not allow them in easily: it is crowded at the margins and non-belonging can be hell. The biopolitics of borders stands as the quintessential domain for this kind of 11 sorting, this kind of racism pervading Western socio-political imaginary and permeating the rhetoric of national and territorial sovereignty** despite its monolithic use of euphemism. It is precisely this task of sorting and this act of fragmenting that contemporary modes of border security and surveillance are designed making 'the management of misery and misfortune ... a potentially profitable activity' (Rose, 1999: 260) and evaporating the political into a perpetual state of technicism (Coward, 1999: 18) where **'control' and 'security' are resting upon vast investments in new information and communications technologies in order to filter access and minimise, if not eradicate**, the infiltration and 'riskiness' of the 'unwanted'. For instance, in chapter six of the White Paper, 'Secure Borders, Safe Haven' (2002), the UK government outlines a host of techniques and strategies aimed at controlling borders and tightening security including the use of Gamma X-ray scanners, heartbeat sensors, and millimetric wave imaging to detect humans smuggled in vehicles Other surveillance techniques involve the use of biometrics which consists of an 'enrolment phase' (European Commission, 2005: 46) where physical attributes such as fingerprints, DNA patterns, retina, iris, face, voice, etc are used to collect, process, and store biometric samples onto a database for subsequent usage during the 'recognition phase' in which these data are matched against the real-time data input in order to verify identity. Authorities have been keen on integrating biometric identifiers into ID cards and passports as a means of strengthening security, enhancing modes of identification and facilitating the exchange of data between different countries. Further application of biometrics in information sharing can be seen in the EU-wide database EURODAC (Koslowski, 2003: 11), used to store the fingerprints of asylum applicants in order to prevent multiple applications in several member states or what is referred to as the so-called 'asylum shopping'. **Added to that, the employment of a broad array of private actors** (employers, banks, hospitals, educational institutions, marriage register offices, etc) **to perform the role of 'gatekeepers'** (Lahav, in Koslowski, 2003: 5) (or more accurately, 'borderkeepers') and **reinforce immigration controls** from within the internal and ubiquitous borders, **constituting 'a multiplicity of points for the collection, inscription, accumulation and distribution of information relevant to the management of risk'** (Rose, 1999: 12 260), **and the administration of life and death.**

**Only by abandoning the technologies of surveillance is it possible to eliminate the biopolitics of control that has been established**

**Ajana 05**(Btihaj Ajana, Lecturer in Culture, Digital Humanities & Creative Industries, PhD in Sociology from London School of Economics and Political Science, "Surveillance and Biopolitics," p.13, 2005)

From this inventory of the kind of surveillance technologies deployed at the border and in relation to asylum and immigration, and from what has been discussed hitherto, we might be able to see how discipline and control are being merged together within the realm of biopolitics through the hybridisation of management techniques and the dispersion of networks of control. In fact, the biopolitics of borders is precisely where the metaphoric transition from disciplinary society to control society is complicated insofar as it is intrinsically entrenched within a domain of complex contestation and dialectical constellations in which the two modalities of power coexist through the juxtaposition of top-down and bottom-up mechanisms of discipline and control. This, being manifested in the existence of detention centres where panoptical practices are inflicted upon those who are 'imagined' as 'potential' (rather than 'actual') risk (or, in fact, as being both) as well as in the technologies of securitisation which function by means of instilling a sense of self-surveillance and self-control, constructed as the basis for freedom, legitimacy, right and citizenship (in the case of ID cards and passports for example). Not for a moment should we suggest that the era of discipline and confinement has completely ceased to exist, nor should we avoid attending to the myriad of changes taking place at the heart of contemporary societies. Instead, it is imperative to distil some fresh understanding from the actualities (and virtualities) of everyday life by abandoning teleological, dualistic and progressive discourses and venturing into what might be discovered in the vicinity of 'strange couplings, chance relations, cogs and levers that aren't connected, that don't work, and yet somehow produce judgements, prisoners, sanctions' (Foucault, in Rose, 1999: 276). To this I would add, refugees, detainees, deportees, the exiled and so on, for such is the system of biopolitics; a system of peculiar assemblages and violent ramifications to which there can be no neat analysis or simple theorisation.

**In a world of biopolitics, our aff is a radical ethical act. The only ethical question in the context of politics dominated by the Camp is how we can acknowledge and reconfigure our relationship to the Other.**

**Zylinska 04** (Joanna Zylinska, Professor of New Media and Communications at Goldsmiths, University of London, "The Universal Acts: Judith Butler and the biopolitics of immigration," *Cultural Studies* Vol.18 No.4, July 2004, pg. 526)

The problem of openness which is to be extended to our current and prospective guests - even, or perhaps especially, unwanted ones - is, according to Derrida, coextensive with the ethical problem. **'It is always about answering for a dwelling place, for one's identity, one's space, one's limits, for the ethos as abode, habitation, house, hearth, family, home'** (Derrida 2000, pp. 149/151, emphasis added). Of course, **this absolute and unlimited hospitality can be seen as crazy, self-harming or even impossible. But ethics** in fact **spans two different realms: it is always suspended between** this **unconditional hyperbolic order of the demand to answer for my place under the sun and open to the alterity of the other that precedes me,** and the conditional order of ethnos, of singular customs, norms, rules, places and political acts. **If we see ethics as situated between these two different poles, it becomes clearer why we always remain in a relationship to ethics,** why we must respond to it, or, in fact, why we will be responding to it no matter what. Even if we respond 'nonethically' to our guest by imposing on him a norm or political legislation

as if it came from us ; even if we decide to close the door in the face of the other, make him wait outside for an extended period of time, send him back, cut off his benefits or place him in a detention centre, we must already respond to an ethical call. In this sense, our politics is preceded by an ethical injunction, which does not of course mean that we will 'respond ethically' to it (by offering him unlimited hospitality or welcome). However, and here lies the paradox, we will respond ethically to it (in the sense that the injunction coming from the other will make us take a stand, even if we choose to do nothing whatsoever and pretend that we may carry on as if nothing has happened). **The ethics of bodies that matter also entails the possibility of changing the laws and acts of the polis and delineating some new forms of political identification and belonging.** Indeed, in their respective readings of Antigone, Butler and Derrida show us not only that the paternal law towards the foreigner that regulates the idea of kinship in Western democracies can be altered but also that we can think community and kinship otherwise. If traditional hospitality is based on what Derrida calls 'a conjugal model, paternal and phallogocentric', in which '[i]t's the familial despot, the father, the spouse, and the boss, the master of the house who lays down the laws of hospitality' (2000, p. 149), openness towards the alien and the foreign changes the very nature of the polis , with its Oedipal kinship structures and gender laws. Since, as Butler shows us, due to new family affiliations developed by queer communities but also as a result of developments in genomics it is no longer clear who my brother is, the logic of national identity and kinship that protects state boundaries against the 'influx' of asylum seekers is to be left wanting. This is not necessarily to advise a carnivalesque political strategy of abandoning all laws, burning all passports and opening all borders (although such actions should at least be considered ), but to point to the possibility of resignifying these laws through their (improper) reiteration. Enacted by political subjects whose own embodiment remains in the state of tension with the normative assumptions regarding propriety, gender and kinship that underlie these laws, the laws of hospitality are never carried out according to the idea/l they are supposed to entail (cf. Butler 1993, p. 231). It is precisely Butler's account of corporeality and matter, of political subjectivity and kinship, which makes Levinas' ethics (and Derrida's reworking of it) particularly relevant to this project. Although the concepts of the body and materiality are not absent from Levinas' writings - indeed, he was one of the first thinkers to identify embodiment as a philosophical blindspot - Butler allows us to redraw the boundaries of the bodies that matter and question the mechanisms of their constitution. Her 'others' are not limited to 'the stranger', 'the orphan' and the 'widow' of the Judeo-Christian tradition, the more acceptable others who evoke sympathy and generate pity.<sup>10</sup> It is also the AIDS sufferer, the transsexual and the drag queen / people whose bodies and relationships violate traditional gender and kinship structures - that matter to her. By investigating the contingent limits of universalization, Butler mobilizes us against naturalizing exclusion from the democratic polis and thus creates an opportunity for its radicalization (1997, p. 90). The ethics of bodies that matter does not thus amount to waiting at the door for a needy and humble asylum seeker to knock, and extending a helping hand to him or her. It also involves realizing that the s/he may intrude, invade and change my life to the extent that it will never be the same again, and that I may even become a stranger in the skin of my own home.

## Biometrics Bad

### **Biometric surveillance means dehumanization**

Amnesty International, 2023, The Digital Border: Immigration, Technology, and Inequality, <https://www.amnestyusa.org/wp-content/uploads/2024/06/The-Digital-Border-Migration-Technology-and-Inequality.pdf>

**The U.S., for its part, is currently developing the Homeland Advanced Recognition Technology System (HART), which will enable the Department of Homeland Security (DHS) and other users to access the biographic information of more than 260 million people, including DNA.**<sup>200</sup> This tool, which will reportedly also include data such as officer comments, relationship patterns, and more, will reportedly enable widespread dissemination of private information about citizens and noncitizens alike, both domestically and internationally.<sup>201</sup> International agencies such as the UNHCR<sup>202</sup> and the UN World Food Programme<sup>203</sup> have also partnered with state agencies and private actors to build and use biometric identity management tools. **This use case may pose a direct threat to the rights of people in need of humanitarian protection.**<sup>204</sup> **The collection of biometric data at and around borders, including DNA analysis,**<sup>205</sup> **seems poised to expand alongside accompanying human rights violations. Surveillance made possible by biometric data is a form of technology that can multiply the impacts of structural inequality.** Marginalized, oppressed, or groups otherwise facing structural barriers are often among the first on whom new forms of biometric-enabled surveillance technology are tested, and for whom there are the fewest safeguards when these tools cause undeniable and serious harm.<sup>206</sup> Other highly marginalized groups, including people who rely upon humanitarian aid,<sup>207</sup> people experiencing homelessness,<sup>208</sup> as well as populations with highly restricted movement, such as Palestinians living in the Occupied Territories,<sup>209</sup> are much more likely to be subject to biometric data collection, and are much less likely to have the right to opt out.<sup>210</sup> Refugees and migrants, who often experience multiple forms of marginalization and inequality, including racial, social, and economic inequalities, are often among the groups for whom new uses of biometric data capture are tested.<sup>211</sup> **Widespread use of biometric data capture for people on the move also opens the door to its use in racially-biased interior policing**<sup>212</sup> **and in other settings.**<sup>213</sup> **Biometric technology therefore acts as a multiplier of inequality for multiple groups, threatening the rights to privacy, non-discrimination, and equality**



## **Border Securitization Bad**



## **Securitization of the Border is Bad**

### **Securitization of the border bad**

Johannes von Rosen, 2019, The Securitization of Migration as a Threat to Liberal, Democratic Societies, <https://www.jstor.org/stable/26679776>

Besides the ever-present topic of economics, arguably no concern has facilitated recent electoral victories of populist politicians in Europe and North America as much as the subject of migration. Common to all populist engagements with 'migration' is the securitization of the phenomenon, i.e. its discursive framing as a threat to nation, society or culture. By securitizing immigration, the basic way of understanding, evaluating, and handling the phenomenon is subjected to a specific 'logic of survival,' which prioritizes and justifies policy measures aimed at neutralizing the perceived security threat. This article examines consequences and implications of the securitization of migration for liberal-democratic states. Making use of concepts from the field of Peace Studies, the article argues that the securitization of migration has de-liberalizing and de-democratizing effects on societies that elevate it to be the dominant paradigm of government.

### **Security rhetoric at the border creates an us-them mentality**

Jef Huysmans, Lecturer in Politics, Department of Government, Open University, ALTERNATIVES: GLOBAL, LOCAL, POLITICAL, January 2002, p. S41 (UNDRG/F41)

The tactic does not necessarily work the way one wants since security language is not a transparent instrument one can manipulate simply by wanting it strong enough to change. It is an opaque and structured given that considerably governs both what can be uttered and how security language integrates or disintegrates social relations. In that sense, I would argue that **it is difficult to employ security in an emancipatory way** in the context of internal and societal questions in contemporary West Europe. **The way in which asylum and immigration questions are presently structured in the political debate** in West Europe, and the **way security enunciations have penetrated it, suggest that the security formation that governs the field is a conservative one with strong roots in a "vulgarized" Hobbesian understanding of the human condition.** **It tends to intensify the conflictual relationship between an indigenous and so-called alien population.** If one accepts this interpretation within a social constructivist framework, the mobilization of security institutions and expectations is problematic from a critical perspective.

### **Securitized immigration controls grounded in surveillance [of third country nationals (and citizens)]**

Valsamis **Mitsilegas, 2012**, Professor of European Criminal Law and Director of the Criminal Justice Centre at Queen Mary University of London., *Indiana Journal of Global Legal Studies*, *Immigration Control in an Era of Globalization: Deflecting Foreigners, Weakening Citizens, Strengthening the State*, <http://connection.ebscohost.com/c/articles/77633854/immigration-control-era-globalization-deflecting-foreigners-weakening-citizens-strengthening-state> (gated) DOA: 3-10-15, p. 4-5

[t]he impression that the problem of illegal migration is a global one, and the fact that those who seek to migrate outside the law have access to a geographically broader range of options than in earlier eras, contribute to the construction of an identity category of people named by the new noun "illegal." This link between globalization and the perceived facilitation of unwanted movement it entails has justified the enhancement of immigration control in the West. Going a step further and looking beyond the debate over illegality in immigration law, this part will demonstrate how immigration control has been transformed by shaping state responses to counter perceived global security threats. **Rather than focusing only on countering "illegal" movement** (or, as Dauvergne puts it, "migration outside the law"), **immigration control here focuses more generally on countering movement which is considered "dangerous" or a security threat. This securitized approach, which links migration and movement to evils such as transnational organized crime and terrorism, has enabled the development of a global enforcement consensus. The translation of this consensus into legislation has signified a considerable extension of state power at the expense of rights not only of foreigners but also of citizens**; as will be demonstrated below, in particular in the case of counterterrorism, **securitized immigration controls have shifted the focus from immigration control of third-country nationals at the physical border to the generalized surveillance of third-country nationals and citizens alike.**

### **Border control is protected by extensive and securitized surveillance that strengthens the power of the state**

Valsamis **Mitsilegas, 2012**, Professor of European Criminal Law and Director of the Criminal Justice Centre at Queen Mary University of London., *Indiana Journal of Global Legal Studies*, *Immigration Control in an Era of Globalization: Deflecting Foreigners, Weakening Citizens, Strengthening the State*, <http://connection.ebscohost.com/c/articles/77633854/immigration-control-era-globalization-deflecting-foreigners-weakening-citizens-strengthening-state> (gated) DOA: 3-10-15, p. 11-12

September 11, 2001 has been a watershed moment for the securitization of immigration control. The immediate U.S. response- which was heavily influenced by the manner in which the 9/11 attacks occurred-has led to the development of a remarkable transatlantic convergence regarding border security. The main elements of this securitized model of immigration control are as follows: **immigration checks and controls do not serve only immigration but also security purposes-"it is all about security"; there is an emphasis on preventing movement, and thus a shift from controls at the physical border to extraterritorial immigration controls aiming to screen those planning to travel in advance of traveling anywhere in the globe; and this preventative approach is based on risk assessment and aims to identify "dangerous" individuals in advance. In this light, there is a shift from immigration control in a narrow sense to the control of mobility more broadly**; it is not only third-country nationals wishing to

enter the territory who are monitored, but all travelers and passengers. **In this process, there is a widening of surveillance, with a wide range of personal data being collected for the purposes of securitized immigration control and a wide range of government agencies (and not only immigration agencies) having access to such data, as well as a deepening of surveillance (via the collection of extremely sensitive categories of personal data, including biometrics). The securitization of immigration control in this manner has served to strengthen the state by leading to a proliferation of state power. At the same time, it poses significant challenges to fundamental rights, in particular nondiscrimination, privacy, and data protection.** By focusing on the United States and the European Union, the following Sections will cast light on the emergence of a transatlantic convergence on border security in a globalized world.

### **Immigration enforcement targeted at security**

Amnil **Kalhan**, 2014, law professor, Drexel Maryland Law Review, Immigration Surveillance, <http://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=3646&context=mlr>, DOA: 3-12-15, p. 10-11

Before assessing the shifts currently taking place in the nature of immigration governance with the implementation of new technologies, it is necessary to first understand the development and proliferation of the immigration enforcement activities into which these new systems are being deployed. While regularized enforcement programs were limited for much of U.S. history and have tended to emphasize control of the territorial border with Mexico, **in recent decades immigration monitoring and control initiatives have grown explosively across a much broader range of domains.** In this Part, to establish the context for the technology-enabled shifts that I examine in this Article, I recount this transformation, which spans every stage of the migration process: before individuals travel to the United States, during their travel and when they seek to enter, while they are present, and when they depart. I identify and discuss major shifts in the modalities and priorities of enforcement across five categories: (1) initiatives that monitor and regulate entry into the United States, (2) post-entry initiatives that directly monitor and regulate noncitizens, (3) post-entry initiatives that indirectly monitor and regulate noncitizens, (4) criminal prosecutions, and (5) initiatives that monitor and regulate departures from the United States. Importantly, while these programs have been initiated and implemented as immigration control measures, many of these measures necessarily operate upon and are experienced by both noncitizens and U.S. citizens alike. Increasingly, **many of these initiatives also are being deployed to serve a range of other, non-immigration-related purposes. For example,** especially in the aftermath of the 2001 terrorist attacks and the creation of the Department of Homeland Security ("**DHS**"), **immigration enforcement activities have increasingly been cast with security-related significance.** In 2003, the immigration-related functions formerly performed by the Immigration and Naturalization Service ("**INS**"), within the

Department of Justice, were transferred to three new agencies with DHS: U.S. Customs and Border Protection ("**CBP**"), U.S. Citizenship and Immigration Services ("**USCIS**"), and U.S. Immigration and Customs Enforcement ("**ICE**") - **all of which are charged to approach immigration governance first and foremost through the lens of security.** Paradoxically, even as it has significantly intensified immigration enforcement activities, the United States has continued to encourage expanded migration flows while simultaneously seeking to control the nature and patterns of those flows. As a result, the expansion of immigration enforcement measures discussed in this Part has operated not only to facilitate the expulsion of potentially removable noncitizens, as discussions of immigration enforcement usually emphasize, but also to enable additional forms of regulation, control, and exclusion that are experienced by both noncitizens and citizens.

## General Securitization Impacts

### **Securitization means endless war**

Charlotte **Heath-Kelly 18**, Associate Professor in Politics and International Studies at the University of Warwick, Ph.D. in International Politics from Aberystwyth University, 2018, "Forgetting ISIS: enmity, drive and repetition in security discourse," *Critical Studies on Security*, Vol. 6, No.1, p. 85-86//saginator

Security never seems to make any progress. Despite military investments, security reviews and ever more powerful technological surveillance, European and North American populations are continually represented as unsafe. The most powerful states in the world, enjoying historically unprecedented levels of health, prosperity and stability, are simultaneously the most hysterically possessed by security-related fears. The compulsion to experience the self as insecure, despite evidence to the contrary, is the starting point for this paper. ¶ Much has been written about political anxiety in the fields of political theory and sociology. Corey Robin has explored the developing permutations of fear in Western philosophical thought as an operational concept (Robin 2004); Frank Furedi has explored how the **social alienation and declining community ties** associated with contemporary **neoliberalism** have led to cultures of insecurity (Furedi 2002), and Anthony Giddens and Ulrich Beck have both written about the transformation of risk and anxiety in an age where technology produces its own, sometimes existential, dangers (Beck 1992; Giddens 1990). Fear and risk are prominent topics on sociological and philosophical landscapes.¶ Not wanting to be left behind, international relations has also produced substantial literatures on the risk discourses and anxieties which dominate contemporary political life. Much of this research was initially located within the Copenhagen School of securitisation theory, which analysed the construction of threat by political elites and the centrality of speech acts to processes of securitisation (Buzan, Wæver, and De Wilde 1998; Hansen 2012a; McDonald 2008). The functionality of securitisation is here understood in terms of identity: identifying and invoking an external threat serves to performatively constitute the nation (Jackson 2005; McCrisken 2003).¶ In the wake of securitisation theory, European international relations developed a poststructuralist critique of Beck's 'Risk Society' thesis. In their rethinking of risk, Claudia Aradau and Rens Van Munster critiqued Beck's macro-sociological assumptions that risks exist independently in the world from the governmental technologies which invoke them (Aradau and Van Munster 2007). The incalculability of contemporary risks does not make them ungovernable, as Beck suggests; rather governance structures have shifted to incorporate the unpredictability of certain dangers into precautionary risk management. Incalculability becomes the modality of security.<sup>1</sup> Poststructuralist International Relations has found fertile terrain in the idea of risks and their governance. Pushing this research beyond its focus on the security sector, Emmy Eklundh, Andreja Zevnik and Emmanuel Pierre-Guittet have explored the logics of anxiety at play in austerity politics and security governance, and the anxious and resistant subjectivities produced therein (Eklundh, Zevnik, and Pierre-Guittet 2017).¶ But what does it mean to centralise anxiety, fear and risk in Western political and sociological thought at a time of relative geopolitical stability and wealth? In his own take on the politics of anxiety, Mark Neocleous (2000) tackled the proliferation of

Immigration Surveillance Core File. *Updated 8-3-24*

(in)security and risk discourse in sociology and international relations, arguing that the acceleration of (in) securitisation reflects the policing of civil society to protect bourgeois property and status. The articulation of pollution, terrorism and migration as security threats depoliticises them; it silences the social and political creation of these issues, **enabling governing structures to pursue technocratic solutions** which efface the real genesis of threats: **capital accumulation**. It is important to note that the arguments made by Neocleous, poststructuralist scholars of risk and securitisation theorists share more in common than their focus on political anxiety. They all also describe ambivalence within security practices towards the threat object. While politicians promise that **destroying the enemy** will bring about resolution and **ontological stability**, IR literatures show that frames of enmity enable the pursuit of other goals: **biopolitical governance, identity consolidation** and the furtherance of **capital accumulation**. There is a gap between security and its threat object. The threat object is made hypersignificant in political discourse, but it is simultaneously **treated ambivalently** and can be **replaced at will**. New objects wait in the wings as **potential vessels for enmity**.



## **Racism/Bias**

## Surveillance Means Racism

### Surveillance systems support discrimination

Promise Institute @ UCLA, 2022, Executive Summary: Race, Tech & Borders FINAL (ucla.edu), <https://promiseinstitute.law.ucla.edu/wp-content/uploads/2022/06/Fact-Sheet-Race-Tech-Borders-FINAL.pdf>

In some cases, EDTs facilitate intentional discriminations. Social media platforms are being used to spread xenophobic or racist messages, in some cases targeting migrant populations (A/HRC/48/76, paras. 22-23). Immigration officials in some States collect migrants' biometric data and use it to prevent certain racial or ethnic migrant groups from crossing borders. Some **States are even implementing mandatory biometric data collection, and using this data in discriminatory ways such as the targeted detention and deportation of certain racial or ethnic migrant** groups (paras. 26-27). In other cases, the racially discriminatory impacts of EDTs are indirect: Even **when there is no discriminatory intent, biometric technologies can lead to differential outcomes on the basis of race, ethnicity, or gender. For example, evidence shows that algorithms misrecognize Black women 20 times more often than white men.** When this technology is used to serve a "gate-keeping function" at borders, this can lead to the discriminatory exclusion of racially marginalized or gendered migrants (para. 11). Similarly, **as States expand the use of digital ID systems, which rely on biometric data, this can exclude stateless persons (who are predominantly racial or ethnic minorities) from accessing basic services** (para. 27). **When national immigration officials use automatic registration systems to increase efficiency in the review of immigration claims, this can produce discriminatory outcomes. For** example, German immigration officials "uses a software to analyse the applicant's spoken language sample to determine the plausibility of the stated national origin" (para. 28). This technology is less accurate when used to evaluate Arabic dialects, which means that those migrants might be disproportionately excluded from legal and other protections on faulty grounds. Increasingly, national immigration officials are using data extracted from migrants' electronic devices and their social media accounts in order to verify their immigration claims. In some cases, when data privacy and security protections exist for nationals, States are failing to apply those same protections to migrants (paras. 29-34). THE USE OF EDTS IN BORDER AND IMMIGRATION ENFORCEMENT IS PRODUCING RACIALLY DISCRIMINATORY STRUCTURES The rise of surveillance humanitarianism, which refers to how humanitarian organizations are increasingly using technologies like biometric data collection and surveillance tools. For example, in its work with migrants fleeing conflict or seeking humanitarian assistance, the United Nations has collected biometric data of upwards of 8 million people as part of its service provision processes. **In migration contexts, it may be difficult to obtain informed consent, and there are often minimal data protections or accountability mechanisms, so the collection of biometrics raises serious concerns about migrants' privacy and security and the potential for data leaks that lead to more human rights violations** (paras. 11, 36-41). **There are concerns around technological experimentation, where State or non-State actors use new or untested technologies on migrants, often without their consent or any recourse.** For example, some States are using automatic or algorithmic decision-making to determine outcomes in immigration claims, despite concerns that this violates principles at the core of administrative decision-making. These practices are racially discriminatory as their use targets migrants, who are often racial or ethnic minorities (paras.42-48). **Many States are adopting measures of border externalization, or "the extraterritorialization of national and regional borders to other geographic regions in order to prevent migrant and refugee arrivals," including by using EDTs like surveillance drones or unpiloted mobile robots to patrol borders and prevent migrants from crossing them (paras. 49-53). States are relying on immigration surveillance. This includes "smart border" technologies, which describes the integration of forms of technology into national borders to autonomously surveil**

**unauthorized crossings. These technologies do not stop migrants, but instead force them to make more dangerous border crossings to avoid detection. (paras. 54-60)**

## **Using autonomous AI at the border increases racism**

**Morley, 6-28, 24**, S. Priya Morley is the Director of the International Human Rights Clinic at UCLA School of Law and the Racial Justice Policy Counsel at the Promise Institute for Human Rights, where she leads academic, advocacy, and policy initiatives at the intersection of racial justice and critical approaches to human rights. Priya joined UCLA from NYU School of Law, where she was an Arthur Helton Global Human Rights Fellow, researching the experiences of Black African and Haitian migrant women in Mexico (including gender-based and racial discrimination), and advised NYU Law's Global Justice Clinic. Priya is a Canadian lawyer, with an LLM in International Legal Studies from NYU Law and law degrees from McGill University Faculty of Law., AI at the Border: Racialized Impacts and Implications, <https://www.justsecurity.org/97172/ai-at-the-border/>

There is growing acknowledgment of the risks that AI technologies — those that can “differentiate, rank, and categorize” data, behaving intelligently to think, predict, and act with some degree of autonomy — pose, especially for already marginalized people. Yet the proliferation of AI technology continues largely unchecked, including in the context of border and immigration enforcement. This undermines migrants’ human rights including, as described by the former UN Special Rapporteur on Racism, through its “xenophobic and racially discriminatory impacts...on migrants, stateless persons, refugees and other non-citizens.”

In a recent landmark thematic hearing on human mobility and structural racism at the Inter-American Commission on Human Rights (IACHR), civil society organizations — including my own, the Promise Institute for Human Rights at UCLA School of Law, jointly with the Black Alliance for Just Immigration (BAJI) — made submissions arguing that the use of border technologies by the United States in immigration enforcement exacerbates the racial discrimination and abuse that Black migrants already face in their migration journeys, including through deterrence and border externalization policies. As we argued before the Commission, it is essential that a racial justice lens shape the development of U.S. laws, policies, and practices related to border technology, to avoid intensifying the racial discrimination already at the heart of the U.S. immigration system and its harmful impacts on Black migrants.

### **Racism in U.S. Immigration Laws, Policies, Practices, and Enforcement**

Structural racism shapes migrants’ journeys and experiences of immigration enforcement in the Americas, with particularly harmful impacts on Black migrants. As Black African migration (as well as Haitian migration) to/through South America has increased in recent years, successive states have enacted policies that impede their movement and ability to reach and seek asylum in the United States. The United States has adopted various border externalization policies that prevent migrants from crossing the U.S.-Mexico border, such as “Remain in Mexico” and Title 42, which have been found to violate the international right to asylum and the principle of non-

refoulement found in the 1951 Refugee Convention; more recently, the Biden administration enacted another “asylum ban” that restricts access to the asylum process. Black migrants are often disproportionately affected by these policies. For example, in May 2022, Haitians were just 6% of the migrant population crossing the U.S.-Mexico border but represented 60% of those ordered on expulsion flights under Title 42; conversely, predominantly white Ukrainian refugees were largely given exception from Title 42 measures.

Starting in 2019, the U.S. and Mexican governments took coordinated steps that effectively externalized U.S. immigration enforcement into southern Mexico. Mexican immigration officials in the southern Mexican state of Chiapas stopped issuing the “exit permits” that had allowed them to transit north and leave Mexico through the U.S.-Mexico border. Mexico also deployed its militarized National Guard to Southern Mexico for immigration enforcement, which led to an increase in apprehending and detaining migrants without documentation. This resulted in thousands of African, Haitian, and other migrants being stranded in Tapachula, Chiapas, near the Mexico-Guatemala border. Black migrants are, due to their skin color and language, particularly visible and targeted by the National Guard and other immigration enforcement. While stuck in Mexico – as elsewhere on their journey – Black migrants face racial discrimination, violence, and other rights violations. This includes overt acts of racism and hostility by Mexican immigration officials, challenges navigating the Mexican immigration system due to bias, national origin, and language differences, and barriers in employment, housing, and education.

Black migrants continue to face racial discrimination within the U.S. immigration system upon arrival. U.S. immigration laws and policies have historical roots in white supremacy and anti-Black racism, and these logics persist today. For instance, Black migrants “face disparate treatment in immigration court removal proceedings, including denials of adequate interpretation, lack of access to counsel, intentionally rushed proceedings, and adjudicator bias, which result in wrongful denials of asylum and, in some cases, deportation to persecution and torture.” Because the U.S. immigration and anti-Black criminal legal systems are so intertwined, Black migrants are often criminalized, racially profiled, surveilled, detained, and deported disproportionately. Black migrants contend with racism, abuse, and neglect while in immigration detention, and are often detained for longer periods, forced to pay higher bonds, and are more likely to be refused parole.

#### Border Technology Exacerbates Racial Discrimination and Abuse Against Black Migrants

The United States has increasingly relied on digital technology to enforce its border externalization policies. The Biden administration has allocated substantial funds toward border security technology. “Smart borders” include “remote video surveillance, drones, automated license plate readers, motion sensors, [and] integrated fixed towers [IFTs].” At the U.S.-Mexico border IFTs are tall long-range structures that use cameras and radar to detect moving people and collect data about them for immigration enforcement. The United States also employs small unmanned aerial systems (sUAS), a form of remote-operated drone originally designed for military operations, to identify and surveil migrants, facilitating their apprehension at the border. Such border surveillance technologies impinge on migrants’ privacy rights and can lead

to increased violence and detention, and are a tool to externalize borders and impede migrants from entering the United States

Upon arrival to the U.S.-Mexico border, some migrants are required to use CBP One, a mobile AI application implemented by U.S. Customs and Border Protection (CBP) to submit their personal and biometric information to apply for asylum (or, previously, exceptions to Title 42). This app has come under scrutiny, including because it is less able to recognize the photos of Black and dark-skinned people, creating a barrier for them to access this portal to move their asylum applications forward. While the algorithms CBP One relies on are not publicly available, such facial recognition technology has been rejected as racially discriminatory in other contexts such as policing. For example, these algorithms have been found to inaccurately identify Black faces at a rate 10 to 100 times more than white faces.

Immigration officials continue to use technology to monitor migrants after they enter U.S. territory. This includes the Investigative Case Management System used by Immigration and Customs Enforcement (ICE), software that gives ICE access to migrants' personal and biometric information; as well as the use of mobile applications like SmartLink or electronic ankle monitors as alternatives to (immigration) detention. The Department of Homeland Security (DHS) is developing a Homeland Advanced Recognition Technology System (HART) to "aggregate and compare biometrics data including facial recognition, DNA, iris scans, fingerprints, and voice prints—most often gathered without obtaining a warrant...[in order] to target immigrants for surveillance, raids, arrests, detention, and deportation." Just as anti-Black racism operates in the criminal legal system, Black migrants face racial profiling, criminalization, and detention at disproportionate rates, and these technologies are another tool that perpetuates these differential outcomes in the U.S. immigration system.

#### Human Rights and Border Technology Policy-Making

As BAI and the Promise Institute argued before the IACHR, the use of border technology exacerbates racial discrimination in U.S. immigration enforcement, particularly against Black migrants, as well as the racialized harms caused by U.S. border externalization. Border technology, as with technology in general, is often framed as "neutral," "objective," and "fair" — yet it has the "capacity to reproduce, reinforce and even exacerbate racial inequality within and across societies." It is used for controlling, surveilling, and policing migrants. Despite claims that it makes immigration enforcement "safer," smart borders are a form of deterrence that perpetuate the racial inequity at the heart of immigration laws, policies, practices, and enforcement.

Policymakers must act now to stop the racialized impacts of AI at the border. Necessary policy reforms include: the collection and publication of data about AI-enabled border technologies, their use, and the differential impacts on Black and other racialized groups; the development of effective measures for oversight and accountability; and the establishment of a global governance framework on the use of digital surveillance technologies. Ultimately, policymakers must acknowledge and address how AI-enabled technologies are perpetrating and exacerbating human rights abuses at the border.

## **Border surveillance grounded in racism**

Promise Law Institute @ UCLA, June 2023, <https://promiseinstitute.law.ucla.edu/wp-content/uploads/2023/07/2023-Situation-of-human-mobility-from-an-ethnic-racial-approach.pdf>

### **Border surveillance technologies currently being used at the U.S. southern border expose**

**Black migrants to increased violence, detention, and privacy invasions.** For example, the U.S. uses Integrated Fixed Towers (IFTs), which are tall, long-range structures with cameras and a radar, to detect movement and identify people from up to six miles away.<sup>124</sup> IFTs send data to a remote command center system to identify, surveil, and apprehend migrants at the U.S-Mexico border.<sup>125</sup> Additionally, **drones, including small unmanned aerial systems (sUAS), are widely deployed at the U.S. border to prevent migrants from crossing.**<sup>126</sup> sUAS are remotely operated aircrafts which collect images and video and detect human movement. <sup>127</sup> sUAS were initially developed for military operations in Iraq and Afghanistan but have become a core component of border surveillance, particularly for tracking migrants in mountainous, hard-to-access terrain.<sup>128</sup> In a sixmonth period, sUAS devices resulted in the apprehension of 474 individuals at the U.S border, and CBP expects significantly increased apprehensions as it deploys more sUAS.<sup>129</sup> Even within U.S. borders, technologies are being used to surveil migrants. **These technologies extensively collect and use data from migrants, often without consent, and further discriminatory surveillance, profiling, and detention.** For example, ICE uses Investigative Case Management (ICM) to collect vast personal data from law enforcement agencies and private third parties to identify and target migrants.<sup>130</sup> **This software allows ICE to access intrusive information, including family details, immigration history, phone records, criminal records, biometric traits, and home addresses, increasing the agency's ability to racially profile, surveil, and detain.**<sup>131</sup> This same technology was used to conduct massive workplace raids, detention, and deportation of undocumented migrants, resulting in the separation of families.<sup>132</sup> ICE also uses the mobile application SmartLink for conditional release from detention as <sup>121</sup> UNGA, supra note 11, p. 13-14. <sup>122</sup> Id.; Gill & Molnar, supra note 53, p.58; UN Human Rights Office of the High Commissioner, Guiding Principles on Businesses and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework (2011) p. 13-16. <sup>123</sup> UNGA, supra note 11 at 14. <sup>124</sup> Mijente et al., supra note 40. <sup>125</sup> Id. <sup>126</sup> David J. Bier & Matthew Feeney, Drones on the Border: Efficacy and Privacy Implications, Cato Institute (May 1, 2018). <sup>127</sup> Mijente et al., supra note 40; DHS, CBP Has Improved Border Technology, But Significant Challenges Remain, OIG-21-21 (February 23, 2021). <sup>128</sup> Shirin Ghaffary, The "smarter" wall: How drones, sensors, and AI are patrolling the border, Vox (Feb 7, 2020). <sup>129</sup> Id. <sup>130</sup> Mijente, The War Against Immigrants: The Trump Tech Tools Powered by Palantir (August 2019). <sup>131</sup> Id. <sup>132</sup> Spencer Woodman, Palantir Provides the Engine for Donald Trump's Deportation Machine, The Intercept (March 2, 2017); Sam Biddle & Ryan Devereaux, Peter Thiel's Palantir Was Used to Bust Relatives of Migrant Children, New Documents Show, The Intercept (May 2, 2019). <sup>18</sup> part of its Alternative to Detention (ATD) program. While the ATD program is depicted as a 'humane' alternative, it presents serious privacy violations, as it demands released non-citizens either wear electronic ankle monitors or install the SmartLink app, which uses invasive technology with little transparency on data use or protection.<sup>133</sup> Further, DHS is currently building \$6.15 billion dollars worth of biometric technology possessing vast surveillance capability to facilitate the deportation of migrants. <sup>134</sup> The proposed Homeland Advanced Recognition Technology System (HART) will collect invasive data including iris scans, DNA, facial recognition, fingerprints, and voice prints from migrants in the U.S. and share it with various federal and state agencies.<sup>135</sup> **The growing use of surveillance technologies presents troubling violations of the right to equality and non-discrimination, as U.S. immigration enforcement agencies already police and surveil Black migrants at disproportionate rates.**<sup>136</sup> **ICE in particular has frequently been found to profile and disproportionately target Black migrants for detention and deportation.**<sup>137</sup> **Additionally, border technology like IFTs push migrants to take dangerous routes, resulting in more death and violence, which violates the right to life, security, and human dignity.**<sup>138</sup> Further, technologies such as ICM or SmartLink may violate privacy rights due to their unqualified collection of data from Black migrants.<sup>139</sup> Finally, as the core purpose of these technologies is to deter migrants from reaching the border, this could violate non-refoulement obligations.<sup>1</sup>

## **Border surveillance and industrial complex spreads globally**

Pressing concerns about the use of border technology are not limited to the U.S. Mexicoborder. The global border and surveillance industry is anticipated to reach a value of \$68 billion by 2025.<sup>149</sup> Border, military, detention, technology, and finance industries all contribute to this global border and surveillance industrial complex, which is hugely profitable and growing rapidly.

Increasingly, countries around the world are using fleets of drones, centralized biometric databases, and other technology to track and surveil migrants.<sup>150</sup> As the U.S. pushes border externalization policies and digital technology, it transfers discriminatory technology to countries throughout the Americas and beyond, and Black migrants suffer the consequences. This is particularly concerning for countries with insufficient human rights protections, as technology may be implemented and experimented with using even less regulation and oversight. Thus, it is imperative that a regional and global framework be established for the regulation of technology at the border to combat racial discrimination in border technology

## **Algorithmic bias means racism**

Amnesty International, 2023, *The Digital Border: Immigration, Technology, and Inequality*, <https://www.amnestyusa.org/wp-content/uploads/2024/06/The-Digital-Border-Migration-Technology-and-Inequality.pdf>

**An algorithmic system is a set of instructions that is used in support of various steps of decision-making processes.**<sup>214</sup> Algorithms have repeatedly been shown to perpetuate, amplify and entrench historic discrimination or other biases.<sup>215</sup> Biases generally stem from data imbued with historical biases or through the (deliberately or unconsciously) biased choices of the individuals who design, develop, and deploy algorithmic decision-making systems. One of the most frequently reported impacts of algorithms on human rights is the impact on the right to equality and non-discrimination. Although algorithmic decision-making (ADM) systems are often cited as a method by which States can streamline social services and prevent fraud, a more consistent outcome is the penalization of society's most marginalized groups for attempting to access their rights and/or essential services.<sup>216</sup> These systems have been shown to disproportionately associate people who already experience one or multiple forms of marginalization with higher criminal, financial, or social risk.<sup>217</sup> **Algorithmic decision-making in**

**asylum and migration management systems can result in arbitrary decisions which may be impossible to challenge in the absence of procedural safeguards. It can also lead to racial and ethnic profiling and discriminatory denial of visas to people, based on their real or perceived ethnicity, race, national origin, descent, religion, and other characteristics.**<sup>2</sup>

## **Bias means detention without bond**

Amnesty International, 2023, The Digital Border: Immigration, Technology, and Inequality, <https://www.amnestyusa.org/wp-content/uploads/2024/06/The-Digital-Border-Migration-Technology-and-Inequality.pdf>

**The use of algorithmic decision-making (ADM) by government entities that manage movement of persons across borders is increasingly common**, as part of a larger expansion of ADM into governance more broadly.<sup>219</sup> Although ADM in the public sector is often presented as objective and unbiased, it is virtually impossible to create a value-neutral technology or database that is free from bias.<sup>220</sup> Algorithmic systems have been repeatedly shown to replicate or exacerbate underlying racial, economic, and social inequalities,<sup>221</sup> including for migrants and asylum seekers, who are often subject to experimental uses of new forms of ADM<sup>222</sup> without sufficient safeguards or protections.<sup>223</sup> ALGORITHMIC DECISION-MAKING Some States, including Canada, and various countries in the European Union, have begun rolling out or experimenting with the use of algorithmic risk assessment tools for the approval or rejection of asylum applications,<sup>224</sup> or for the screening of visas for employment sponsorship,<sup>225</sup> and even systems that purport to screen a person’s risk in an application for marriage.<sup>226</sup> Other States, including the UK, Sweden, and Norway,<sup>227</sup> have experimented with the use of ADM in the process of undertaking and issuing decisions on a person’s asylum petition.<sup>228</sup> **Uses of algorithmic risk assessment have also been reported in the processing of citizenship and visa applications**, as in the example of a now defunct “triaging” system used by the UK Home Office between 2015 and 2020,<sup>229</sup> which was revealed to use a color coding system that flagged certain applicants from “suspect nationalities” with higher risk.<sup>230</sup> **Some uses of risk assessment algorithmics in the migration process provide the pretext on which countries make decisions about detention and release. The Risk Classification Assessment (RCA) employed by U.S. Immigration and Customs Enforcement (ICE) in coordination with the Department of Homeland Security (DHS),<sup>231</sup> is one such automated risk tool. Researchers have shown that this system, in particular, leads to a drastic increase in the number of migrants detained without bond by ICE,<sup>232</sup> particularly among those designated as low risk.<sup>233</sup> Such risk assessment tools, which are also used in the criminal justice sector,<sup>234</sup> are often open to manipulation<sup>235</sup> and highly prone to perpetuate racial discrimination and other forms bias.**<sup>2</sup>

## **The technologies promote racial bias and racism**



Immigration Surveillance Core File. *Updated 8-3-24*

Amnesty International, February 5, 2024,

<https://www.amnesty.org/en/documents/pol40/7654/2024/en/>, Primer: Defending the rights of refugees and migrants in the digital age

**Digital technology interventions are increasingly shaping and delivering the migration management and asylum policies of states. While Amnesty International and other civil society organizations have long documented grave human rights violations by governments in deterring, preventing, pushing back and punishing people on the move, including refugees and asylum seekers,3 more recently these policies and practices have become overlaid with rapidly expanding digital technology capabilities developed by private tech companies.4 The proliferation of digital technologies and so called “smart border” technology has created new forms of private-public partnerships, and with them a gamut of human rights threats.** From electronic monitoring, satellites, and drones to facial recognition, “lie detectors” and iris scanning, **there is a growing and urgent need to investigate and understand these technologies and their impact. Digital technologies are reinforcing border regimes that discriminate based on race, ethnicity, national origin, and citizenship status. Inherent racism is deeply ingrained within migration management and asylum systems.** These technologies risk perpetuating and concealing racial biases and discrimination under the guise of neutrality and objectivity rooted in historical and colonial practices of racialised exclusion.5 Their use disproportionately impacts racialised people and creates different forms of discrimination. Much more robust safeguards against these technologies are needed, as the human rights risks to migrants, refugees and asylum seekers

### **Algorithmic bias results in arbitrary detention**

Amnesty International, February 5, 2024,

<https://www.amnesty.org/en/documents/pol40/7654/2024/en/>, Primer: Defending the rights of refugees and migrants in the digital age

**Algorithmic decision making in asylum and migration management systems can result in arbitrary decisions which may be impossible to challenge in the absence of procedural safeguards. Vulnerable to bias, system failure and other errors, the use of these tools could have a devastating impact on refugees and migrants including family separation, deportation and denial of asylum. It can also lead to racial and ethnic profiling and discriminatory denial of visas to people, based on their real or perceived ethnicity, race, national origin, descent, religion, and other characteristics, often on the false assumption that individuals of certain nationalities or with certain characteristics pose a “migration risk” for the compliance with immigration policies or “security threats” for national security concerns.65 These assumptions are based and justified in racist and xenophobic ideologies, discourses and structures.** Similar automated and risk-prediction methods have been deployed by the UK’s Home Office.66 In 2020, Foxglove, a non-profit organisation that fights to make tech fair for everyone, and the Joint Council for the Welfare of Immigrants (JCWI) successfully pressured the Home Office to drop its visastreaming algorithms, which they claimed “entrenched racism and bias into the visa system”,67 through assigning certain nationalities risk scores that reinforce discrimination,

combined with feedback loop problems, that use past biases and discrimination as baselines for the assessment of future cases.

### **Surveillance along the US-Mexico border has historically been used to promote the domination and subjugation of people of color – producing discursive regimes hostile to migrants originally displaced by state terrorism**

**Miller '06**, Lisa L. Miller is a doctoral student in Early Childhood Education in the College of Education at Arizona State University-Tempe, Tempe, Arizona, USA, "Dismantling the Imperialist Discourse Shadowing Mexican Immigrant Children", <http://files.eric.ed.gov/fulltext/EJ795107.pdf>

Migration prior to the 1990s was largely through the border crossings whether it was legal or illegal. **Drastic changes in immigration policy and technology have led to changes in border** paperwork to the Sonoran Desert region. **In an effort to 'control' the situation of illegal immigration in Arizona the following measures** both human and technological **have been implemented at the state's border** crossings: 1,517 permanent Border Patrol agents (an increase of almost 50%), close to 50% more anti-smuggling unit agents, both **night vision and infrared scopes**, portable and permanent lighting units (for surveying areas at night), **underground sensors**, mobile sky watch towers, television cameras, **ATV's**, fixed wing aircraft, additional helicopters, and unmanned Aerial Vehicles (**UAVs**). **These increased 'control' methods are being implemented to 'break the cycle of death' but the actions bring to mind hunter's accouterments and behaviors. The U.S. government and related agencies seem to be gathering for a hunt of humans.** The language alrededor la frontera is more than demeaning. **The negative discourse causes the public to view illegal immigrants as animals, lesser, needing to be controlled, dangerous, and unequal. Western culture shames migrants into feelings of inadequacy and inferiority. We shift our feelings of discomfort and place the burden onto the immigrant in order to attempt to elevate our own status as well as dominance** (Anzaldúa, 1999). Just as we have seen throughout history, **people of color become 'savage' and they are pushed into a subaltern culture before ever entering LOS estados unidos. Policymakers feel that workers neglect to consider the dangers of crossing the border illegally. They then place blame on the individual rather than the institutions that have forced them to cross without the appropriate documentation in the first place.** This discourse of blame is perpetuated by the media and the general population. Migrant workers leaving Mexico are not ignorant individuals. Contrary to popular opinion they have weighed the costs and after considering the risks still feel that the potential dangers of being taken advantage of by a smuggling operation or facing peril in the desert are worth the gamble. Many take extreme risks to find a way to make a better life for their families whom they often leave behind until they are able to afford to bring them across.

### **Border surveillance operates from a paradigm of racial discrimination that uniquely targets people of color**

#### **Gaynor 12**

(Tim, "Rights group accuses U.S. of abuses on Mexican border," Reuters, March 28, 2012, <http://www.reuters.com/article/2012/03/28/us-usa-border-rights-idUSBRE82ROTJ20120328>)

U.S. policing along the Mexican border discriminates against Hispanics and Native Americans and contributes to the deaths of illegal immigrants, according to a study by the human rights group Amnesty International USA. The report, titled "In Hostile Terrain: Human Rights Violations in Immigration Enforcement in the U.S. Southwest," identifies what it says are systemic failures of federal, state and local authorities to enforce immigration laws without discrimination.

"Communities living along the U.S.-Mexico border, particularly Latinos, individuals perceived to

Immigration Surveillance Core File. *Updated 8-3-24*

be of Latino origin and indigenous communities, are disproportionately affected by a range of immigration-control measures, resulting in a pattern of human rights violations," the study said. The U.S. **government has tightened** security along the nearly 2,000-mile (3,220-km) border with Mexico in recent years, **adding** additional fencing, **surveillance** technologies and Border Patrol agents. The federal government also has partnered with some state and local police forces to give officers immigration-enforcement powers. A spokesman for the Department of Homeland Security, the parent agency of federal immigration authorities, disputed Amnesty International's findings as based on flawed information. But the U.S. Justice Department recently accused the Maricopa County Sheriff's Office in Arizona of engaging in systematic racial profiling against Latinos in its efforts to crack down on illegal immigration. The Amnesty study said **federal** immigration **programs** that operated in conjunction with state and local police **put "Latino** communities, **indigenous** communities and **communities of color** along the border **at risk of discriminatory profiling.**" It also found that **indigenous peoples** whose lands and communities straddle the border **are "often intimidated** and harassed by border officials for speaking little English or Spanish and holding only tribal identification documents." **Tightened** policing **efforts**, meanwhile, "increasingly jeopardize individuals' right to life" by **re-routing migrants "to the most hostile terrain** ... including crossings over vast deserts, rivers and high mountains in searing heat." The report said that from 1998 to 2008, as many as 5,287 migrants perished while trying to cross the border. Reuters could not verify the figure independently. Amnesty urged the U.S. government to suspend all immigration enforcement programs pending a review and ensure that its border policies and practices do not have the "effect of leading to the deaths of migrants."

### **This Paradigm of Modern Immigration Surveillance state and the manipulation of the foreigner strikes to the very heart of the sustenance in the White American order- It must be destroyed to confront racism writ large**

**Hernandez '97** [1997, Tanya Kateri Hernandez "Construction of Race and Class Buffers in the Structure of Immigration Controls and Laws, The Symposium: Citizenship and Its Discontents: Centering the Immigrant in the Inter/National Imagination: Part II: Section Three: Rethinking Agency: Global Economic Restructuring and the Immigrant" 76 Or. L. Rev. 731]

In the midst of current anti-immigration sentiment,<sup>1</sup> which is motivating dramatic changes in the United States' immigration laws, there exists the myth that prior immigration laws were more equitable and humanitarian. Yet historical analysis reveals that immigration law has been put to uses far from idyllic, and has always been concerned with the racial makeup of the nation. Specifically, national preoccupation with the maintenance of a "White country"<sup>4</sup> is reflected in immigration law.<sup>5</sup> The continued national preference for White immigrants is explicitly featured in the visa profiling codes of U.S. embassies and consulates. <sup>6</sup> This Essay employs a race-conscious <sup>7</sup> lens to analyze the way in which immigration law has been structured to perpetuate a racial hierarchy which privileges Whiteness, primarily by preferring White immigrants to immigrants of color, and secondarily by drafting immigrants of color to form a middle-tier buffer<sup>8</sup> and, alternatively, to provide a bottom-tier surplus labor supply. My thesis is that the structure of immigration laws<sup>9</sup> in the United States has often facilitated the formation and maintenance of a middle-tier buffer class of residents to preserve racial hierarchy.<sup>1</sup> I utilize the model of the middle-tier buffer to reveal the use of race in immigration policy and the need for recognition of its strategic deployment in hindering movements for solidarity in opposition to racial hierarchy. This Essay will first present the origins and purpose of middle-tier buffer classes, and then review the United States history of race-based nativism in its preference for White immigrants. This will be followed by an analysis of historical and present constructions of middle-tier buffer communities during cyclical national concerns with

the number of White residents. I conclude by observing that this nation's racial hierarchy cannot be dismantled until immigrants of color take note of the divisive function of middle-tier buffer formation. [Sociologists have developed the concept of "middleman minorities" to describe the structural positioning of various ethnic minorities into an intermediate status level between a privileged class and the lowest socioeconomic class of residents.<sup>11</sup> Such structural positioning allows the privileged class to use the intermediate class as a buffer to deflect hostility and as a scapegoat during times of crisis.<sup>12</sup> Middle-tier communities are accorded greater access to economic opportunity than the masses of the lower class, but at the same time are prevented from entering the privileged class.<sup>13</sup> Yet middle-tier buffers are inherently fluid in that demographic and socio-economic changes in a society will motivate either a shift in the groups that comprise the middle-tier or, in the alternative, motivate an interest in temporarily deactivating the use of a middle-tier buffer. Thus, who is treated as a middle-tier buffer, and when, is not static but varies with the perceived status stability of the privileged class. Groups of persons are treated as a middle-tier buffer when a marked status gap exists between elites and the lower class.<sup>14</sup> Immigration often serves to fill status gaps.<sup>15</sup> Yet not all immigrants are positioned as middle-tier buffers, which indicates that there is a factor at work separate from the need to fill a status gap. Although sociologists have analyzed the ways in which the culture of being an immigrant has contributed to the dynamic of a middle-tier buffer, <sup>16</sup> the degree to which immigration laws themselves have facilitated the construction of middle-tier communities and the ways in which racial thinking underlies such formations has been an open question. The structure of immigration laws is one of many pull factors<sup>17</sup> for immigrants, but a very forceful one. <sup>18</sup> For instance, although labor demands influence the flow of immigration, not all countries with similar economic instabilities are subject to the same U.S. urging for emigration to the United States.<sup>19</sup> Instead, the U.S. bias in favor of White immigrants and the consequent invisibility of persons of color as recognized citizens of the United States<sup>20</sup> influences the structure of immigration laws. This Essay will explore the manner in which a privileged White class' fear of becoming overwhelmed by the demographic increase of ethnic minority populations in a pluralistically diverse society informs the use of immigration laws for the two-fold purpose of increasing the number of White residents and constructing a middle-tier buffer to preserve the privileges of White supremacy. Although this Essay focuses on the construction of middle-tier buffers in the United States, I note that the power of this model is borne out by its use in other ethnically diverse countries with a small White privileged class. The impetus for utilizing a middle-tier buffer model of immigration at various points in U.S. history and presently has been rooted in the White privileged class' concern with maintaining its status. In fact, the shift in what groups constitute a middle-tier buffer is triggered by fluctuating concerns with the continued predominance of White persons as a numerical majority of the U.S. population. Thus, before examining the operation of middle-tier buffers, this Essay shall set forth the tangible U.S. preference for White immigrants as a mechanism for maintaining a system of White privilege. Although a comprehensive federal immigration legal structure was not instituted until 1875,<sup>22</sup> the United States quickly became concerned about the growing racial makeup of the nation. <sup>3</sup> Such preoccupation is evident in congressional debates from 1900 to 1916 surrounding the legal status of residents of two newly acquired U.S. possessions-Puerto Rico and the Philippines. Although not immigration laws per se, the debates about status and citizenship were rooted in concerns about the entry of "others" into the contiguous United States which would be

facilitated by granting U.S. citizenship to residents of the two possessions. Such citizenship proposals were often met with skepticism and concern, and were treated as if they were proposals for direct immigration of persons from the U.S. possessions. For instance, during the debates one congressman cautioned Congress against "open[ing] wide the door by which these negroes and Asiatics can pour like the locusts of Egypt into this country."<sup>24</sup> Therefore, decisions regarding citizenship for residents of U.S. territories effect a type of immigration control. In the congressional debates regarding the citizenship status of Filipino and Puerto Rican residents, which extended from the 56th Congress through the 64th Congress, the racial makeup of such populations figured prominently.<sup>25</sup> Congress preferred Puerto Rican immigration to the contiguous United States due to the mistaken perception that Puerto Ricans were primarily White.<sup>26</sup> Furthermore, Congress articulated the sentiment that "[t]he people of Porto Rico are of our race, they are people who inherit an old civilization-a civilization which may be fairly compared to our own."<sup>27</sup> In contrast, the perceived African attributes of Filipinos rendered them a less desirable supply of immigrants. Filipinos were denigrated by Congress because they were perceived by Whites as "physically [sic] weaklings of low stature, with black skin, closely curling hair, flat noses, thick lips, and large, clumsy feet" who would not be as beneficial to the nation as the Europeans who were incorporated as citizens when Louisiana was made a state.<sup>28</sup> "How different the case of the Philippine Islands .... The inhabitants are of wholly different races of people from ours-Asiatics, Malays, negroes and mixed blood. They have nothing in common with us and centuries can not assimilate them .... They can never be clothed with the rights of American citizenship "2....<sup>9</sup> When assessing the distinctions between the Philippine and U.S. populations, it is clear that Congress did not consider the presence of African-American U.S. citizens, from whom Filipinos would not be a "wholly different race." Nor did Congress appreciate the irony of admitting many more persons of African ancestry into the contiguous United States when Puerto Rico was extended U.S. citizenship.<sup>30</sup> "The preference for White immigrants regardless of skill level is not exclusive to the United States. Comparison to a Latin American context demonstrates the general role maintenance of racial boundaries plays in the development and implementation of immigration law. When Argentina sought to industrialize, it constitutionally mandated an increase in the number of European immigrants to improve the country by "whitening" it.<sup>31</sup> The decision to recruit European immigrants was not based primarily upon any considerations of skill level or wealth, but upon a belief that the White race was superior to that of the Afro-Argentines and native peoples who inhabited Argentina up until the twentieth century.<sup>32</sup> The European immigrants who arrived in Argentina displaced Afro-Argentines from most forms of employment and social status.<sup>33</sup> Similarly, the United States recruited European immigrant labor before and after the Civil War to fill a presumed need for labor, despite the surplus of labor available from newly freed slaves.<sup>34</sup> European immigrants recruited to the United States displaced free Black persons from employment.<sup>35</sup> The historical preference for a White workforce in the United States continues today.<sup>36</sup> It is the consistent preference of White employers for White employees which, in part, accounts for the opposition some persons of color currently have towards increased immigration,<sup>37</sup> despite the common struggles which immigrant and nonimmigrant persons of color face. As the section that follows reveals, this preference for Whites became the rule of law with the enactment of the Immigration Act of 1924.<sup>38</sup> [REDACTED FOR LENGTH] With the enactment of the 1965 amendments to the Immigration and Nationality Act,<sup>39</sup> the United States abolished the

Immigration Surveillance Core File. *Updated 8-3-24*

national origins quota immigration selection system. In its stead, Congress created a family preference system which reserved 74% of admissions for family members of resident U.S. immigrants regardless of their geographic origin.<sup>7 8</sup> Yet this was not as racially neutral as it appeared on the surface. The family preference system most immediately benefited southern and eastern Europeans who already had a broad base of family members in the United States who could petition the government for family unification.<sup>79</sup> In addition, the family preference system as drafted adversely affected immigrants from Africa and Asia who had low rates of emigration to the United States before the legislation was enacted, and thus had a smaller proportion of persons in the United States who could petition for family reunification. <sup>0</sup> Just as the formal barrier of the national origins quota system was abolished, the 1965 Act developed other mechanisms to exclude persons of color as immigrants to the United States. Because of congressional concerns about the rapid population growth of immigrants of color from the Western hemisphere, the 1965 Act established a limit<sup>81</sup> on immigration from Mexico, Cuba, Haiti, the Dominican Republic, and the Canal Zone. Western-hemisphere immigrants were also required to meet qualitative requirements and obtain labor certification.<sup>82</sup> This dichotomy in requirements between Western-hemisphere immigrants and most other immigrants suggests that the family preference system as intended was far from the great race equality measure commentators have characterized it to be.<sup>83</sup> In fact, the Act's proponents did not envision a radical welcoming of diverse cultures as a result of the legislation. Policy-makers predicted that the most significant increase in immigration resulting from the Act would be from Greece, Italy and Portugal, whereas they did "not expect that there would be any great influx" from the Asia-Pacific triangle. <sup>84</sup> Yet the number of immigrants of color did increase for reasons not anticipated by the 1965 Act legislators." Following the enactment of the law, Congress established a transition period of three years. For the first time, this provision permitted unused visas from countries with undersubscribed quotas to be entered into a visa pool which could be tapped on a first-come firstserved basis by countries with oversubscribed visa quotas. This flow of additional visas into a visa pool for countries with oversubscribed quotas unintentionally benefitted immigrants of color.<sup>8 6</sup> After enactment of the legislation, Western Europe be- came more economically and politically stable, thereby reducing the incentive for White immigrants to enter the United States. <sup>87</sup> Furthermore, an unintended consequence of the United States' foreign policy of communist containment was the increase in immigrants of color, in that many immigrants of color sought refuge in the United States from communist countries of origin.<sup>8"</sup> For example, Cambodians, Laotians, Vietnamese, Cuban, and Nicaraguan immigrants were admitted as political refugees; immigrants from the Dominican Republic entered the United States in large numbers following the U.S. military intervention of the Dominican Republic in 1965 to avoid "another Cuba;" and Korean immigrants were admitted in large numbers after the United States stationed a military presence in South Korea after the Korean War. In short, the United States' foreign policy of communist containment provided a large base of racial minorities in the United States who could petition for reunification with family members. Furthermore, the United States' own racialized perspective of the nation as one consisting only of White persons skewed its predictions about the effects of the family preference system. The two countries with the largest source of immigrants to the United States after the enactment of the 1965 Act were Mexico and the Philippines. "In both countries, decades of active agricultural labor recruitment by the United States-of Mexicans to the Southwest, and Filipinos to

plantations in Hawaii and California-preceded the establishment of chain migrations of family members and eventually of large and self-sustaining migratory social networks."89 Nor was the United States ever a country of purely White residents, given the existence of Native Americans before the arrival of the Europeans, the coerced importation of Africans as slaves, the preexisting residence of Mexicans on Mexican land later forcibly claimed as U.S. territories, and the continual migration of diverse peoples throughout time. Thus the privileged class' image of the United States as peopled almost solely by White Nordics was defective,90 and left the nation unprepared for the cumulative effect of the family preference system-mass arrival of the brown-skinned residents who were considered invisible to the conception of what the nation was. The settlement of the 1965 Act's new arrivals raised the same cyclical concern regarding the diminished status of Whites in the face of a growing number of racial minorities that had influenced the passage of the 1924 National Origins Act.91 Rather than welcoming the newest arrivals for full integration into North American society, the membership of middle-tier buffer communities shifted to constrain these immigrants with stratified access to social, political, and economic opportunities.92 One example 93 of the ways in which new arrivals had their place in society structured into the middle-tier is the post-1965 treatment of Asian Americans in the United States. 94 The discussion which follows demonstrates that the pervasive "model minority" 95 discourse regarding the many nationalities of persons encompassed by the umbrella term Asian Americans is itself a mechanism for limiting the opportunities afforded to Asian Americans as a racial minority, while at the same time structurally positioning them as a community presumably dissociated from other persons of color.96 This is because the model minority label accords prestige to some groups of persons of color but not to others, which alienates the groups and prevents them from forming coalitions against racial bias. Simultaneously, racial bias operates to limit the opportunities of the labeled model minorities. Thus, to view Asian Americans as a model minority traps them as a middle-tier buffer regardless of the actual status of individual members of the buffer class.9 7 In order to maintain a hierarchy of privilege, while defusing the potential for coalition building among people of color, Asian Americans have been positioned as a middle-tier buffer. The middle-tier positioning was accomplished by providing Asian Americans with a nominal number of enhanced opportunities for advancement.98 For instance, in the much discussed dominant positioning of Koreans vis-a-vis African Americans,99 Koreans have been provided with enhanced access to rental properties, business licenses, and supply of goods-yet have been subject to discrimination when attempting to move into White dominated areas. 1° Such intermediate positioning of Koreans within Black communities permits Whites to use Koreans as a scapegoat for discontent because of their enhanced status in and physical proximity to the Black community. 10 1 During the Los Angeles riots which followed the Rodney King verdict in 1992, businesses of Korean merchants were subject to arson and looting. Koreans noted that the White media "intentionally focused on Korean- Black conflicts during the riots in order to divert Blacks' economic frustrations onto Korean merchants."1 °2 This is the same pattern of hierarchical "buffering" which occurred during the Durban, South Africa, riots against Indians in 1949,1°3 and during the Watts riots in Los Angeles against Jewish merchants in 1965, where subordinated class members channeled their frustrations about their oppressed status in the form of urban violence against middle-tier class members. 10 4 The ways in which the 1965 Act's inadvertent increase in immigrants of color motivated the transformation of Asian Americans from being a subjugated class into a

middle-tier buffer demonstrate the fluidity of the middle-tier construct. The parameters of middle-tier buffers are inherently fluid, to serve the purpose of being easily modified to respond to cyclical White fears of becoming a numerical minority with diminished privilege. The cyclical pattern of White fear is characterized by: 1) preferencing White immigrants to maintain or create a numerical majority of Whites; 2) positioning non-White immigrants as a middle-tier to buffer privileged Whites from the discontent of subordinated classes when White immigrants are not available; and 3) decreasing middle-tier advantages and seeking non-White immigrants as a bottom-tier supply of surplus labor, while making renewed appeals for White immigrants when the number of middle-tier class members becomes so large or prosperous that the privileged class begins to view the middle-tier as a threat to its status rather than a shield to protect it. This cyclical pattern is evident in the post-1965 movement to "reform" immigration laws. The enactment process of the Immigration Reform and Control Act of 1986 ("IRCA") 10 5 reflected undercurrents of the White fear of becoming a numerical minority, 10 6 as demonstrated by the following IRCA debate remarks: The problem western European immigrants face today is rooted in the most recent immigration reform effort, undertaken in 1965.... Events of the last 20 years, however, have exacerbated the problem of discrimination, not eliminated it. No one predicted, in 1965, the massive wave of immigration from Asia.... As a result of this policy, in effect since 1965, Europeans are being squeezed out of the immigration mix[,] ... immigrants from countries that have historically contributed to our immigrant stock.... 7 These remarks regarding the "problem" with European immigration were made during the IRCA debates, despite the fact that a large proportion of nonpreference visas had already been reserved for Western Europe.' 8 In addition, IRCA's formal method for containing illegal immigration also functioned to maintain the hierarchy of a dominant/middle-tier/subordinate socio-political structure for legal immigrants. IRCA chose to address the matter of illegal immigration by imposing sanctions on employers who illegally hired, recruited, or employed undocumented workers.'0 9 Given the concern for the potential exacerbation of discrimination against documented persons who "looked foreign," IRCA also included an anti-discrimination provision which placed civil penalties on employers using discriminatory employment practices based on national origin or citizenship. 110 Yet this saving measure was faulty by design. When the U.S. General Accounting Office ("GAO") conducted a legally mandated evaluation of the employer sanctions provision, it found implementation of IRCA directly resulted in a pattern of widespread discrimination against persons perceived as alien because of their subordinated ethnicity.111 IRCA also discourages redress for such discrimination by requiring a plaintiff to show a discriminatory intent on the part of the employer, in addition to providing evidence of the actual discrimination. 12 This legal standard dilutes the effectiveness of the anti-discrimination provision in that it "provides less protection to victims of discrimination because it places a heavier burden on the plaintiff, thus reducing the likelihood of successful litigation."1'13 The effectiveness of IRCA's anti-discrimination principle was further diminished by the congressional delegation of enforcement of the anti-discrimination provision to the INS - an agency which "[h]istorically... had little or no experience in regulating businesses or employer hiring or firing practices.'" 14 Consequently, the GAO study found a causal link between employers' fear of receiving sanctions for employing undocumented workers and their consequent discrimination against employees and job applicants whose race, ethnicity, or English language skills were deemed to be foreign by employers.1 5 Although IRCA provided for



a possible repeal of the employer sanctions provision if GAO found a pattern of widespread discrimination,<sup>116</sup> Congress took no action after GAO issued its indictment against the discriminatory effect of the employer sanctions provision. The benefit of maintaining an ineffective anti-discrimination immigration policy is the marginalization of the surplus labor supply.<sup>117</sup> IRCA essentially authorizes employers to use the possible denial of employment because of employer concerns with violating the law as a mechanism for keeping all wages down and discouraging employees from making demands for appropriate working conditions. Specifically, IRCA places undocumented persons of color (more likely to be considered foreign than White immigrants who "look American") and documented workers of color (who are also considered to "look foreign") in the precarious position of having to feel thankful for employment at lower wages and sometimes unsafe conditions-thankful because they easily could be turned down for employment because they look foreign and have no effective recourse for such discrimination. <sup>18</sup> In addition, low income Whites are provided with a scapegoat for their economic and social discontent.<sup>119</sup> In short, IRCA uses an ineffective anti-discrimination provision to maintain the existence of a large marginalized population as a bottom-tier supply of surplus labor. At the same time, IRCA allows recruitment of more Whites by reserving for them large numbers of nonpreference visas, and leaves fixed the status of an Asian-American middle-tier buffer. Therefore, IRCA functions to shield the privileged from challenge to their systemic entitlements.<sup>120</sup> This works because the tripartite racial hierarchy fosters dissension among subordinated group members concerned with their status vis-a-vis one another. The imposed economic competition among subordinated groups deflects their attention from the system of privilege and thereby hinders the formation of coalitions to combat privilege. A survey of the most recent immigration reform efforts demonstrates the desire for increased marginalization of people of color as a bottom-tier surplus labor supply to preserve this tripartite racial hierarchy. The following overview of the 1996 immigration legislation is necessarily concise given its recent enactment. Each of the racialized aspects of the 1996 legislation noted herein is worthy of its own scholarly investigation. The scope of this Essay only permits me to briefly note the racial implications of the legislation. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996<sup>121</sup> has been touted as being part of welfare reform in general with respect to its limitations on participation in any means-tested public benefits program. <sup>122</sup> Yet one of the Act's more pernicious aspects is its prohibition on adjustment of immigration status for those undocumented persons who were employed while unauthorized. <sup>123</sup> Thus, even though the Act purports to concern itself with the self-proclaimed problem of nondocumented persons accessing welfare benefits, it also sanctions employed undocumented persons. The bar against ever altering the immigration status of the very same persons employers seek to hire effectively treats such residents as guest workers permanently excluded from political participation, thereby positioning them as a perpetual bottom-tier class. <sup>124</sup> The Act also makes it a criminal penalty for undocumented persons to vote in a federal election. <sup>125</sup> Extending the sanction of criminal law to undocumented persons who feel vested enough in this country to want to vote is more than symbolic of the sentiment that immigrants perceived as problematic should in no way consider themselves part of the United States. The recurring theme of subordinated status as fixed is also made clear by the Act's provisions which allow for state prohibition of drivers licenses for undocumented persons, <sup>126</sup> and which deny eligibility for post-secondary educational benefits on the basis of residence within a state<sup>127</sup> -both of which

announce that unwanted un- documented persons should not try to improve their station beyond that of bottom-tier surplus labor by increasing their mobility or educational level. The Act's denial of benefits from unemployment 128 and social security 129 programs (to which undocumented persons have often contributed while working in the United States) also sends a message of marginalization. 130 The 1996 Act also includes provisions that reflect White immigrant bias in their divergent treatment of White versus nonWhite immigrants. For example, Cubans who arrive in the United States by airborne transport (and are primarily White<sup>131</sup>) are not subject to summary exclusion, <sup>132</sup> unlike Afro-Cuban immigrants who arrive by boat, raft, and other non-airborne transport. Yet another example of racially varied treatment of immigrants is observed in the fact that unlike similarly situated immigrants of color, Polish immigrants who were not successful in having their immigration status adjusted in 1995 after being selected to receive a visa are again eligible for the 1997 Diversity Visa Lottery. <sup>133</sup> A more subtle, though no less racially charged provision of the Act makes female circumcision ("FC") a crime punishable by five years in prison.<sup>134</sup> The criminalization of FC selectively targets immigrants from certain African countries <sup>135</sup> where FC is practiced for culturally-based reasons. <sup>36</sup> In addition to the severity of criminalizing a cultural custom for which greater public debate is needed, the criminalization also adversely affects both male and female African immigrants given its intersection with the Antiterrorism and Effective Death Penalty Act of 1996.<sup>137</sup> The Antiterrorism Act expands the criteria for deportation from the grave category of crimes of moral turpitude to the more expansive category of crimes for which a sentence of one year or longer may be imposed, thereby encompassing the custom of FC.<sup>138</sup> Finally, the 1996 Act's limitation on class action litigation<sup>139</sup> can also be viewed as a provision rooted in White immigrant bias, in that the provision seeks to avoid the kinds of lawsuits which disempowered immigrants from subordinated groups have successfully used to attack discriminatory immigration policies in the past.<sup>140</sup>

CONCLUSION This examination of the construction of middle-tier buffers demonstrates that immigration law functions not only as a mechanism for defining our nation's borders, but also to set and reset fluid racial boundaries <sup>141</sup> for the purpose of preserving racial hierarchy. The members of the middle-tier may shift, but the buffer structure remains to preserve White privilege. Through the model of the cyclical middle-tier buffer, the current restrictions on immigration can be recognized as a reaction to the "browning"<sup>142</sup> of North America as opposed to uniform limitations on all immigration. The current resurgence of nativism <sup>143</sup> is not an objection to all foreigners, just foreigners of color.<sup>144</sup> The primary lesson to be learned from the long history of middle-tier formations is that middle-tier formations are artificial obstacles that pit the oppressed against one another <sup>145</sup> and prevent successful coordination of solidarity movements.<sup>146</sup> Immigrants are useful tools in the construction of middle-tier buffers in that their status as strangers to the United States diminishes any fixed expectation about their place in the new society.' <sup>47</sup> Yet it is the recognition of such positioning by immigrants and citizens of color which is vital to dismantling racial hierarchy in the United States.<sup>148</sup> An example of effective coalition building which transcended the middle-tier buffer structure is the unification of Coloureds with Blacks in South Africa in order to overturn apartheid. <sup>149</sup> Once Coloureds rejected the hierarchy which had used them as a middle-tier buffer, and Blacks surmounted their alienation from Coloureds who had been positioned as dominant to them, <sup>150</sup> the two communities were able to work together towards the dismantling of apartheid. Only when the disaffected members<sup>151</sup> of this

country acknowledge the existence of middle-tier structures and work towards transcending them will they start to confront White privilege in immigration law and elsewhere.

## **Facial recognition technology supports racism**

Amnesty International, February 5, 2024,  
<https://www.amnesty.org/en/documents/pol40/7654/2024/en/>, Primer: Defending the rights of refugees and migrants in the digital age

**Facial recognition technology for identification violates the right to privacy because it cannot satisfy the requirements of necessity and proportionality under international human rights law. It entails widespread bulk monitoring, collection, storage, analysis or other use of material and collection of sensitive personal data (biometric data). Moreover, facial recognition systems are trained with image recognition algorithms that rely on vast amounts of individuals' faces as input data to improve the system's "success rate", without the individuals' knowledge or consent.** Even where input data or training data is deleted, the algorithm underpinning the system has already benefitted from, and is in effect acting on the bases of, faces previously fed to the system, without the individual's knowledge or control. **Additionally, the human rights harms of facial recognition technology are not experienced equally and raise well-known discrimination risks. For instance, certain groups may be disproportionately represented in facial image datasets due to discriminatory policing or other practices. Moreover, it is well-established that facial recognition technology systems perform unequally depending on key characteristics including skin colour, ethnicity and gender. These discrimination risks have been highlighted by various UN experts.**<sup>56</sup> In January 2021, Amnesty launched "Ban the Scan", a global campaign to ban the use of facial recognition systems, a form of mass surveillance that amplifies racist policing and threatens the right to protest. The Ban the Scan campaign has exposed how facial recognition has violated human rights from New York City, to Hyderabad, and Hebron and East Jerusalem in the occupied Palestinian territories. In particular, **Amnesty International continues to expose the ways in which the technology is deployed in discriminatory manners against historically marginalised communities.**

## **Discrimination against migrants violates international law**

Amnesty International, 2023, The Digital Border: Immigration, Technology, and Inequality,  
<https://www.amnestyusa.org/wp-content/uploads/2024/06/The-Digital-Border-Migration-Technology-and-Inequality.pdf>

NON-DISCRIMINATION AND EQUALITY **The principles of equality and non-discrimination are among the key concepts of international human rights protection, protected in various human rights instruments,** including the International Covenant on Civil and Political Rights (ICCPR),<sup>68</sup> the International Covenant on Economic, Social and Cultural Rights (ICESCR), and others.<sup>69</sup> **Under these instruments, all persons are guaranteed equal protection of the law, and**

**discrimination “on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” is prohibited, as well as discrimination against persons with disabilities.**<sup>70</sup> Some people, including migrants, refugees, and asylum seekers, experience additional or unique forms of discrimination because of multiple characteristics that are part of their identity, or perceived in that context, such as race and social origin.<sup>71</sup> This is referred to as intersectional discrimination.<sup>72</sup> SUCH DISCRIMINATION AND OTHER FORMS OF XENOPHOBIA DISPROPORTIONATELY IMPACT PEOPLE ON THE MOVE, INCLUDING REFUGEES, ASYLUM SEEKERS, AND MIGRANTS,<sup>73</sup> AND IS OF PARTICULAR CONCERN AMIDST RISING XENOPHOBIC RHETORIC BY GOVERNMENTS AROUND THE WORLD. INTERNATIONAL LAW OBLIGES STATES TO TAKE MEASURES

### **Surveillance supports racial profiling**

Amnesty International, February 5, 2024,  
<https://www.amnesty.org/en/documents/pol40/7654/2024/en/>, Primer: Defending the rights of refugees and migrants in the digital age

**Another significant human rights concern is how the use of these technologies also exacerbate racial profiling and policing.** Systemic racism also prompts human rights violations occurring in migration management and asylum systems, including in the use of e-ATD technologies. Inherent racism within law enforcement and immigration systems often lead to targeting of racialised people and communities, contributing to the criminalization of racialised people on the move



## Answers to: Surveillance Tech More Humane

### Surveillance tech is not more humane; it's grounded in racism

Promise Law Institute @ UCLA, June 2023, <https://promiseinstitute.law.ucla.edu/wp-content/uploads/2023/07/2023-Situation-of-human-mobility-from-an-ethnic-racial-approach.pdf>

**Technology**—the latest **tool for immigration enforcement—exacerbates discrimination** In recent years, approaches to immigration regulation have focused on border technology, as seen in the Biden administration's policies prioritizing "smart border controls."<sup>105</sup> Biden's budget plan for 2024 includes \$535 million dollars specifically for border security technology.<sup>106</sup> Smart border policies emphasize a reliance on high-tech measures including biometrics, surveillance, detection technologies, and information technology to enforce migration. Among the growing list of smart border measures in the Americas are technologies such as remote video surveillance, drones, automated license plate readers, motion sensors, integrated fixed towers, ankle monitors, and migrant data analysis and tracking.<sup>107</sup> **The global arsenal of border technologies also includes alarming experimental technology such as robo-dogs and artificial intelligence lie detectors.**<sup>108</sup> Concerningly, border technologies are often depicted by U.S. politicians as a "humane alternative" to Trump-era immigration policy and are touted as "fair," "orderly," and "safe."<sup>109</sup> However, **border technology is not a safe or smart alternative to violent border policies—rather, it functions as an expansion of the mass violence, detention, deportation, and policing already embedded in the U.S. immigration system.** The goal of border technology is to more effectively control, surveil, and police migrants to prevent them from reaching the U.S. **110 Like past approaches to immigration, smart borders are founded in the logic of deterrence, as they aim to deter migrants from entering the U.S. by making migration increasingly difficult and violent.**<sup>111</sup> The Commission has previously criticized deterrence policies for being ineffective and only increasing danger and human rights violations for migrants.<sup>112</sup> Similarly, **border technology will only increase violence for migrants, and given the racially discriminatory ways in which immigration is enforced, this violence will disproportionately harm Black migrants.** Technology in general is often characterized as "neutral" or "objective" and States use this narrative to present the guise of increasing fairness in the immigration system with technology. On the contrary, technology is far from neutral—rather, it reproduces, reinforces, and exacerbates existing racial inequalities in society.<sup>113</sup> **Studies have repeatedly found that digital technologies reflect and compound racial discrimination; for example, facial recognition algorithms are often 10 to 100 times more likely to inaccurately identify Black faces compared to white faces.**<sup>114</sup> Technology sectors face diversity and discrimination issues along racial lines and are likely to develop technologies which reproduce these inequalities.<sup>115</sup> Additionally, it has been shown that tools like predictive policing in law enforcement use data sets reflecting racial bias, and departments deploy these technologies disproportionately in communities of predominantly racial minorities.<sup>116</sup> **These compounding factors have dire implications for rights violations in immigration, as technology is used by immigration enforcement agents who already exhibit racial discrimination in profiling, abusing, and criminalizing Black migrants.**<sup>117</sup> **Additionally, border technology is often developed within problematic private and public relationships which are largely unregulated.**<sup>118</sup> From 2008-2020, CBP and ICE issued 105,997 contracts worth \$55.1 billion to private corporations.<sup>119</sup> **The profitable border and surveillance industry has created a booming market for tech companies, military contractors, and start-ups to create expensive, invasive technology to prevent, control, and deter migration. These relationships create transparency and accountability issues, as private sector vendors may shield algorithms and data used in their technology as proprietary information.**<sup>120</sup> **The lack of governance and regulation in these spaces is deliberate—it allows States to freely experiment with technology in fringe space like borders, where vulnerable individuals already lack protection, resources, and oversight mechanisms.**

Immigration Surveillance Core File. *Updated 8-3-24*

121 Private sector companies have an independent responsibility to ensure the technologies they create do not violate human rights but face few if any legal requirements to enforce this.<sup>122</sup> Additionally, even if there were remedies available, the racially discriminatory codes, data, and systems are difficult to explain due to the “black box” effect, which creates challenges for evidentiary burdens in court proceedings.<sup>123</sup>

**It's slow-motion genocide**

Molnar, 2024, Petra Molnar is a lawyer and anthropologist specializing in migration and human rights. She co-runs the Refugee Law Lab at York University and is a faculty associate at Harvard’s Berkman Klein Center for Internet and Society, Jacobin, The Grim High-Tech Dystopia on the US-Mexico Border, <https://jacobin.com/2024/05/high-tech-ai-mexico-border>

Various **US governments**, including the Obama and Biden administrations, **have presented so-called smart-border technologies as a more humane alternative to other border-enforcement methods**, such as building walls or putting children in cages, yet scholars have documented that such technologies along the US-Mexico border have increased people’s deaths. Using geospatial analysis, Samuel Chambers, Geoffrey Boyce, and their colleagues Sarah Launius and Alicia **Dinsmore have found that deaths have more than doubled with the increasing use of new surveillance technologies over the past two decades, creating what anthropologist Jason De León calls a “land of open graves.”**

**In fact, deaths at the US-Mexico border in 2021 were estimated to be the highest ever recorded, with the International Organization for Migration finding that at least 650 people died in the Sonora. Actual numbers may be much higher.**

Chambers and colleagues have shown **that all this surveillance has failed to prevent undocumented border crossings, but instead shifted people’s routes through more inhabited terrain around urban centers toward more dangerous terrain in the Arizona desert, in places like Altar Valley, “increasing [their] vulnerability to injury, isolation, dehydration, hyperthermia and exhaustion,” leading to deaths of people like Elias Alvarado. According to James, “it is a slow-motion genocide.”**

**Structural violence is the largest proximate cause of war- creates priming that psychologically structures escalation**

**Scheper-Hughes and Bourgois ‘41** (Prof of Anthropology @ Cal-Berkely; Prof of Anthropology @ UPenn)<sup>¶</sup> (Nancy and Philippe, Introduction: Making Sense of Violence, in *Violence in War and Peace*, pg. 19-22)

This large and at first sight “messy” Part VII is central to this anthology’s thesis. It encompasses everything from the routinized, bureaucratized, and utterly banal violence of children dying of hunger and maternal despair in Northeast Brazil (Scheper-Hughes, Chapter 33) to elderly African Americans dying of heat stroke in Mayor Daly’s version of US apartheid in Chicago’s South Side (Klinenberg, Chapter 38) to the racialized class hatred expressed by British Victorians in their olfactory disgust of the “smelly” working classes (Orwell, Chapter 36). In these readings violence is located in the symbolic and social structures that overdetermine and allow the criminalized drug addictions, interpersonal bloodshed, and racially patterned incarcerations that characterize the US “inner city” to be normalized (Bourgois, Chapter 37 and Wacquant, Chapter 39). Violence

also takes the form of class, racial, political self-hatred and adolescent self-destruction (Quesada, Chapter 35), as well as of useless (i.e. preventable), rawly embodied physical suffering, and death (Farmer, Chapter 34). Absolutely central to our approach is a blurring of categories and distinctions between wartime and peacetime violence. Close attention to the “little” violences produced in the structures, habituses, and mentalites of everyday life shifts our attention to pathologies of class, race, and gender inequalities. More important, it interrupts the voyeuristic tendencies of “violence studies” that risk publicly humiliating the powerless who are often forced into complicity with social and individual pathologies of power because suffering is often a solvent of human integrity and dignity. Thus, in this anthology we are positing a violence continuum comprised of a multitude of “small wars and invisible genocides” (see also Scheper-Hughes 1996; 1997; 2000b) conducted in the normative social spaces of public schools, clinics, emergency rooms, hospital wards, nursing homes, courtrooms, public registry offices, prisons, detention centers, and public morgues. The violence continuum also refers to the ease with which humans are capable of reducing the socially vulnerable into expendable nonpersons and assuming the license - even the duty - to kill, maim, or soul-murder. We realize that in referring to a violence and a genocide continuum we are flying in the face of a tradition of genocide studies that argues for the absolute uniqueness of the Jewish Holocaust and for vigilance with respect to restricted purist use of the term genocide itself (see Kuper 1985; Chaulk 1999; Fein 1990; Chorbajian 1999). But we hold an opposing and alternative view that, to the contrary, it is absolutely necessary to make just such existential leaps in purposefully linking violent acts in normal times to those of abnormal times. Hence the title of our volume: Violence in War and in Peace. If (as we concede) there is a moral risk in overextending the concept of “genocide” into spaces and corners of everyday life where we might not ordinarily think to find it (and there is), an even greater risk lies in failing to sensitize ourselves, in misrecognizing protogenocidal practices and sentiments daily enacted as normative behavior by “ordinary” good-enough citizens. Peacetime crimes, such as prison construction sold as economic development to impoverished communities in the mountains and deserts of California, or the evolution of the criminal industrial complex into the latest peculiar institution for managing race relations in the United States (Waquant, Chapter 39), constitute the “small wars and invisible genocides” to which we refer. This applies to African American and Latino youth mortality statistics in Oakland, California, Baltimore, Washington DC, and New York City. These are “invisible” genocides not because they are secreted away or hidden from view, but quite the opposite. As Wittgenstein observed, the things that are hardest to perceive are those which are right before our eyes and therefore taken for granted. In this regard, Bourdieu’s partial and unfinished theory of violence (see Chapters 32 and 42) as well as his concept of misrecognition is crucial to our task. By including the normative everyday forms of violence hidden in the minutiae of “normal” social practices - in the architecture of homes, in gender relations, in communal work, in the exchange of gifts, and so forth - Bourdieu forces us to reconsider the broader meanings and status of violence, especially the links between the violence of everyday life and explicit political terror and state repression, Similarly, Basaglia’s notion of “peacetime crimes” - *crimini di pace* - imagines a direct relationship between wartime and peacetime violence. Peacetime crimes suggests the possibility that war crimes are merely ordinary, everyday crimes of public consent applied systematically and dramatically in the extreme context of war. Consider the parallel uses of rape during peacetime and wartime, or the family resemblances between the legalized



violence of US immigration and naturalization border raids on “illegal aliens” versus the US government- engineered genocide in 1938, known as the Cherokee “Trail of Tears.” Peacetime crimes suggests that everyday forms of state violence make a certain kind of domestic peace possible. Internal “stability” is purchased with the currency of peacetime crimes, many of which take the form of professionally applied “strangle-holds.” Everyday forms of state violence during peacetime make a certain kind of domestic “peace” possible. It is an easy-to-identify peacetime crime that is usually maintained as a public secret by the government and by a scared or apathetic populace. Most subtly, but no less politically or structurally, the phenomenal growth in the United States of a new military, postindustrial prison industrial complex has taken place in the absence of broad-based opposition, let alone collective acts of civil disobedience. The public consensus is based primarily on a new mobilization of an old fear of the mob, the mugger, the rapist, the Black man, the undeserving poor. How many public executions of mentally deficient prisoners in the United States are needed to make life feel more secure for the affluent? What can it possibly mean when incarceration becomes the “normative” socializing experience for ethnic minority youth in a society, i.e., over 33 percent of young African American men (Prison Watch 2002). In the end **it is essential that we** recognize the existence of a genocidal capacity among otherwise good-enough humans and that we need to **exercise** a defensive **hypervigilance to the less dramatic, permitted, and even rewarded everyday acts of violence that render participation in genocidal acts** and policies **possible** (under adverse political or economic conditions), perhaps more easily than we would like to recognize. Under the violence continuum we include, therefore, all expressions of radical social exclusion, dehumanization, depersonalization, pseudospeciation, and reification which normalize atrocious behavior and violence toward others. A constant self-mobilization for alarm, a state of constant hyperarousal is, perhaps, a reasonable response to Benjamin’s view of late modern history as a chronic “state of emergency” (Taussig, Chapter 31). We are trying to recover here the classic anagogic thinking that enabled Erving Goffman, Jules Henry, C. Wright Mills, and Franco Basaglia among other mid-twentieth-century radically critical thinkers, to perceive the symbolic and structural relations, i.e., between inmates and patients, between concentration camps, prisons, mental hospitals, nursing homes, and other “total institutions.” Making that decisive move to recognize the continuum of violence allows us to see the capacity and the willingness - if not enthusiasm - of ordinary people, the practical technicians of the social consensus, to enforce genocidal-like crimes against categories of rubbish people. **There is no primary impulse out of which mass violence and genocide are born, it is ingrained in the common sense of everyday social life.** The mad, the differently abled, the mentally vulnerable have often fallen into this category of the unworthy living, as have the very old and infirm, the sick-poor, and, of course, the despised racial, religious, sexual, and ethnic groups of the moment. Erik Erikson referred to “pseudo-speciation” as the human tendency to classify some individuals or social groups as less than fully human - a prerequisite to genocide and one that is carefully honed during the unremarkable peacetimes that precede the sudden, “seemingly unintelligible” outbreaks of mass violence. Collective denial and misrecognition are prerequisites for mass violence and genocide. But so are formal bureaucratic structures and professional roles. The practical technicians of everyday violence in the backlands of Northeast Brazil (Scheper-Hughes, Chapter 33), for example, include the clinic doctors who prescribe powerful tranquilizers to fretful and frightfully hungry babies, the Catholic priests who celebrate the death of “angel-babies,” and the municipal bureaucrats

who dispense free baby coffins but no food to hungry families. Everyday violence encompasses the implicit, legitimate, and routinized forms of violence inherent in particular social, economic, and political formations. It is close to what Bourdieu (1977, 1996) means by “symbolic violence,” the violence that is often “mis-recognized” for something else, usually something good. Everyday violence is similar to what Taussig (1989) calls “terror as usual.” All these terms are meant to reveal a public secret - the hidden links between violence in war and violence in peace, and between war crimes and “peace-time crimes.” Bourdieu (1977) finds domination and violence in the least likely places - in courtship and marriage, in the exchange of gifts, in systems of classification, in style, art, and culinary taste- the various uses of culture. Violence, Bourdieu insists, is everywhere in social practice. It is misrecognized because its very everydayness and its familiarity render it invisible. Lacan identifies “*reconnaissance*” as the prerequisite of the social. The exploitation of bachelor sons, robbing them of autonomy, independence, and progeny, within the structures of family farming in the European countryside that Bourdieu escaped is a case in point (Bourdieu, Chapter 42; see also Scheper-Hughes, 2000b; Favret-Saada, 1989). Following Gramsci, Foucault, Sartre, Arendt, and other modern theorists of power-violence, Bourdieu treats direct aggression and physical violence as a crude, uneconomical mode of domination; it is less efficient and, according to Arendt (1969), it is certainly less legitimate. While power and symbolic domination are not to be equated with violence - and Arendt argues persuasively that violence is to be understood as a failure of power - violence, as we are presenting it here, is more than simply the expression of illegitimate physical force against a person or group of persons. Rather, we need to understand violence as encompassing all forms of “controlling processes” (Nader 1997b) that assault basic human freedoms and individual or collective survival. Our task is to recognize these gray zones of violence which are, by definition, not obvious. Once again, the point of bringing into the discourses on genocide everyday, normative experiences of reification, depersonalization, institutional confinement, and acceptable death is to help answer the question: What makes mass violence and genocide possible? In this volume we are suggesting that mass violence is part of a continuum, and that it is socially incremental and often experienced by perpetrators, collaborators, bystanders - and even by victims themselves - as expected, routine, even justified. The preparations for mass killing can be found in social sentiments and institutions from the family, to schools, churches, hospitals, and the military. They harbor the early “warning signs” (Charney 1991), the “priming” (as Hinton, ed., 2002 calls it), or the “genocidal continuum” (as we call it) that push social consensus toward devaluing certain forms of human life and lifeways from the refusal of social support and humane care to vulnerable “social parasites” (the nursing home elderly, “welfare queens,” undocumented immigrants, drug addicts) to the militarization of everyday life (super-maximum-security prisons, capital punishment; the technologies of heightened personal security, including the house gun and gated communities; and reversed feelings of victimization).

**You should privilege everyday violence for two reasons- A) social bias underrepresents its effects B) its effects are exponential, not linear which means even if the only causes a small amount of structural violence, its terminal impacts are huge**

**Nixon '11**, (Rob, Rachel Carson Professor of English, University of Wisconsin-Madison, *Slow Violence and the Environmentalism of the Poor*, pgs. 2-3)

Three primary concerns animate this book, chief among them my conviction that we urgently need to rethink-politically, imaginatively, and theoretically-what I call "slow violence." By slow violence I mean a violence that occurs gradually and out of sight, a violence of delayed destruction that is dispersed across time and space, an attritional violence that is typically not viewed as violence at all. Violence is customarily conceived as an event or action that is immediate in time, explosive and spectacular in space, and as erupting into instant sensational visibility. We need, I believe, to engage a different kind of violence, a violence that is neither spectacular nor instantaneous, but rather incremental and accretive, its calamitous repercussions playing out across a range of temporal scales. In so doing, we also need to engage the representational, narrative, and strategic challenges posed by the relative invisibility of slow violence. Climate change, the thawing cryosphere, toxic drift, biomagnification, deforestation, the radioactive aftermaths of wars, acidifying oceans, and a host of other slowly unfolding environmental catastrophes present formidable representational obstacles that can hinder our efforts to mobilize and act decisively. The long dyings-the staggered and staggeringly discounted casualties, both human and ecological that result from war's toxic aftermaths or climate change-are underrepresented in strategic planning as well as in human memory. Had Summers advocated invading Africa with weapons of mass destruction, his proposal would have fallen under conventional definitions of violence and been perceived as a military or even an imperial invasion. Advocating invading countries with mass forms of slow-motion toxicity, however, requires rethinking our accepted assumptions of violence to include slow violence. Such a rethinking requires that we complicate conventional assumptions about violence as a highly visible act that is newsworthy because it is event focused, time bound, and body bound. We need to account for how the temporal dispersion of slow violence affects the way we perceive and respond to a variety of social afflictions-from domestic abuse to posttraumatic stress and, in particular, environmental calamities. A major challenge is representational: how to devise arresting stories, images, and symbols adequate to the pervasive but elusive violence of delayed effects. Crucially, slow violence is often not just attritional but also exponential, operating as a major threat multiplier; it can fuel long-term, proliferating conflicts in situations where the conditions for sustaining life become increasingly but gradually degraded.

### **Surveillance technologies militarizing the border**

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Immigration Surveillance Core File. *Updated 8-3-24*

DHS took a very different approach, proudly announcing the planned rollout of the robo-dogs across social media with its start-up partner, Ghost Robotics, a company well known for its viral videos of robots jumping up on boxes, standing up after being violently kicked, and, more recently, for being outfitted with guns. It is also a darling of the US military, with various contracts for robo-dogs and other tools.

It was surreal to be in the middle of the hauntingly beautiful yet deadly Sonoran Desert as the rollout of these “robo-dogs” was announced. I messaged James when we heard the news, and he was alarmed but not surprised: “As former military, the idea that these machines are going to be running around the desert hunting people is so dark.”

The border is already a war zone for CBP, a frontier to be managed and controlled, with prizes to be won. While driving to the Mexico border, we passed one of the CBP trucks that rounds people up when they are apprehended, stuffing up to eight people into the back, windows obscured by black mesh as it speeds away from Tucson toward the border.

The complicity of the military and national defense in normalizing the use of these types of tools in border enforcement is not lost on us, especially a former marine like James. “We are using military-grade technology against the most vulnerable,” James had told me earlier, “and this is a failure of the state that’s forced humanitarians to make up for it.” Standing in the rolling sands of the Sonora, I already feel overwhelmed by the vastness and hostility of the environment — it’s terrifying to imagine a not-so-distant future in which people like Elias Alvarado will be pursued by high-speed, military-grade technology designed to kill.

These robo-dogs are not yet widely used. But they are part of a growing arsenal of other, more seemingly mundane, and perhaps less shocking technology that is becoming more and more normal at the border. The use of military, or quasi-military, autonomous technology like robo-dogs and AI-powered surveillance towers legitimizes the connection between immigration and national security, and the growing push toward the criminalization of migration through increasingly hard-line tools. People on the move are presupposed to be criminals unless proven otherwise.



## **A2: Automated Surveillance Reduces Discrimination**

### **Inaccurate information in immigration data systems**

Amnil **Kalhan**, 2014, law professor, Drexel Maryland Law Review, Immigration Surveillance, <http://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=3646&context=mlr>, DOA: 3-12-15, p. 65

In this context, inadequacies in the quality, accuracy, and relevance of information contained in the database systems used for immigration surveillance raise several distinct types of concerns. First, large database systems invariably contain inaccurate, outdated, or irrelevant records, particularly as they grow larger and contain greater quantities of information. Fair information principles emphasize that personal data in government databases should be accurate, complete, and current. For decades, however, "immigration authorities have been criticized for maintaining unreliable and inaccurate records and inadequately managing their information systems." While some improvements have been made, these concerns have persisted.

For example, E-Verify regularly issues tentative non-confirmation notices for a significant number of individuals, including both noncitizens and U.S. citizens, who in fact are lawfully eligible to work. Similarly, a GAO analysis of Secure Communities found that ICE had no record of the criminal arrest charges for more than half of all individuals removed under the program during 2011 and the first half of 2012; other evidence indicates that a significant number of individuals are detained and placed into removal proceedings as a result of the program who ultimately prove not to be deportable. More recently, over one million immigrant families have experienced difficulties applying for health care coverage and insurance subsidies under the Affordable Care Act due to problems with verification of their immigration or citizenship status.

Second, when database systems are made interoperable and accessible to large numbers of actors, erroneous information can propagate widely and quickly and can become even more difficult to correct. Outside of immigration agencies, other databases that are relied upon for immigration surveillance purposes suffer from similar data quality problems. For example, despite some recent improvements, criminal history records databases often remain inaccurate, inconsistent across states, and incomplete. Improper deprivations of liberty based on inaccurate information in these database records remain common. Observers also have documented large numbers of concededly innocent individuals whose names have been added to watchlists generated by the TSDB, such as the No Fly List and Selectee List, and inadequate mechanisms exist to remove names of innocent individuals from those lists.

Third, contrary to the connotations suggested by the term "database," the use of these systems does not simply involve the retrieval and reliance of "factual" information, whether accurate or otherwise. To the contrary, as discussed above, much of the information generated by these systems and relied upon by enforcement actors necessarily incorporates analysis, risk assessment, and the exercise of subjective and evaluative human judgments at some stage. Those judgments may have been made directly, such as when individuals are identified for inclusion in the No Fly List, Selectee List, or other watchlists, or indirectly, as with the automated risk assessments made by systems like the ATS and CAPPs, whose evaluations and predictions are generated using algorithms that invariably embed human judgments, assumptions, fallibilities, and potential

biases. However, in either case, the nature of the data generated and distributed by government database systems - coupled with the opaque nature of the criteria for inclusion - can mask the subjective and evaluative judgments that underlie that information, making it seem more objectively factual to enforcement actors relying upon it than may be warranted.

Finally, the biometric identification technologies upon which immigration surveillance relies are not foolproof. For example, although automated fingerprint identification systems can be extremely accurate in determining identity, they nevertheless can yield inaccurate results, owing to technological limitations, the quality of fingerprint recording processes, and even the particular demographic groups in which the subjects are members. Advanced multimodal biometric identification systems that are currently under development have limitations and fallibilities of their own.

### **Immigration surveillance mechanisms increase discrimination**

Amnil **Kalhan**, 2014, law professor, Drexel Maryland Law Review, Immigration Surveillance, <http://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=3646&context=mlr>, DOA: 3-12-15, p. 68

The nature of immigration surveillance, however, limits the space for these human and institutional layers to function carefully and effectively - and given the enormous scale of immigration surveillance activities, even small error rates can result in very large numbers of individuals facing improper deprivations that are often left unremedied. **While intended to eliminate improper discrimination, immigration surveillance mechanisms sometimes merely shift the point at which such discrimination takes place. With E-Verify, for example, employers often decline to hire individuals who receive tentative non-confirmations without properly notifying them - depriving these workers of employment without any opportunity to resolve errors in database records.** Similarly, **even as Secure Communities seeks to preclude police from any direct immigration policing role after individuals have been arrested, it empowers police to arrest individuals for the very purpose of booking them and having their immigration status screened - without regard to whether that arrest leads to any criminal prosecution. Evidence to date suggests that in some jurisdictions, this is precisely what has happened.** With both of these systems, evidence suggests that these types of errors and deprivations fall disproportionately upon particular communities.

## Racism Impacts

### **No moral order is possible while racism is tolerated—ethics are meaningless without a prior rejection of it**

**Memmi 2K** (Albert, Professor Emeritus of Sociology @ U of Paris, Naiteire, Racism, Translated by Steve Martinot, p. 163-165)

**The struggle against racism** will be long, difficult, without intermission, without remission, probably never achieved. Yet, for this very reason, it **is a struggle to be undertaken without surcease and without concessions**. One cannot be indulgent toward racism; one **must not** even **let the monster in the house, especially not in a mask**. To give it merely a foothold means to augment the bestial part in us and in other people, which is to diminish what is human. **To accept the racist universe to the slightest degree is to endorse fear, injustice, and violence**. It is to accept the persistence of the dark history in which we still largely live. It is to agree that the outsider will always be a possible victim (and which man is not himself an outsider relative to someone else?). Racism illustrates, in sum, the inevitable negativity of the condition of the dominated that is, it illuminates in a certain sense the entire human condition. The anti-racist struggle, difficult though it is, and always in question, is nevertheless one of the prologues to the ultimate passage from animosity to humanity. In that sense, we cannot fail to rise to the racist challenge. However, it remains true that one's moral conduit only emerges from a choice: one has to want it. **It is a choice** among other choices, and always debatable in its foundations and its consequences. Let us say, broadly speaking, that the choice to conduct oneself morally is the condition for the establishment of a human order, for which racism is the very negation. This is almost a redundancy. **One cannot found a moral order, let alone a legislative order, on racism, because racism signifies the exclusion of the other**, and his or her subjection to violence and domination. From an ethical point of view, if one can deploy a little religious language, racism is 'the truly capital sin. It is not an accident that almost all of humanity's spiritual traditions counsels respect for the weak, for orphans, widows, or strangers. It is not just a question of theoretical morality and disinterested commandments. Such unanimity in the safeguarding of the other suggests the real utility of such sentiments. All things considered, we have an interest in banishing injustice, because injustice engenders violence and death. Of course, this is debatable. There are those who think that if one is strong enough, the assault on and oppression of others is permissible. But no one is ever sure of remaining the strongest. One day, perhaps, the roles will be reversed. All unjust society contains within itself the seeds of its own death. It is probably smarter to treat others with respect so that they treat you with respect. "Recall," says the Bible, "that you were once a stranger in Egypt," which means both that you ought to respect the stranger because you were a stranger yourself and that you risk becoming one again someday. It is an ethical and a practical appeal—indeed, it is a contract, however implicit it might be. **In short, the refusal of racism is the condition for all theoretical and practical morality because, in the end, the ethical choice commands the political choice, a just society must be a society accepted by all**. If this contractual principle is not accepted, then only conflict, violence, and destruction will be our lot. If it is accepted, we can hope someday **to live in peace**. True, it is a wager, but the stakes are irresistible.

**There is no value to life in a racist society.**

**Mohan '93** - (Brij, Professor at LSU, Eclipse of Freedom: The World of Oppression, Praeger Publishers p. 3-4)



Metaphors of existence symbolize variegated aspects of the human reality. However, words can be apocalyptic. "There are words," de Beauvoir writes, "as murderous as gas chambers" (1968: 30). Expressions can be unifying and explosive; they portray explicit messages and implicit agendas in human affairs and social configurations. Manifestly the Cold War is over. But the world is not without nuclear terror. Ethnic strife and political instabilities in the New World Order -- following the dissolution of the Soviet Union -- have generated fears of nuclear terrorism and blackmail in view of the widening circle of nuclear powers. Despite encouraging trends in nuclear disarmament, unsettling questions, power, and fear of terrorism continue to characterize the crisis of the new age which is stumbling at the threshold of the twenty-first century. The ordeal of existence transcends the thermonuclear fever because the latter does not directly impact the day-to-day operations of the common people. **The fear of crime, accidents, loss of job, and health care on one hand; and the sources of racism, sexism, and ageism on the other hand have created a counterculture of denial and disbelief that has shattered the façade of civility. Civilization loses its significance when its social institutions become counterproductive.** It is this aspect of the mega-crisis that we are concerned about

# **Tyranny**



## Slippery Slope

### Surveillance technologies support a slippery slope erosion of rights

Amnesty International, February 5, 2024,  
<https://www.amnesty.org/en/documents/pol40/7654/2024/en/>, Primer: Defending the rights of refugees and migrants in the digital age

Amnesty International recognises that **digital technology could support the respect, protection and promotion of refugee and migrants' rights in certain situations, for example through connecting people on the move with vital services and reliable information.**<sup>6</sup> Yet, it still entails **risks including to the rights to privacy and non-discrimination. People on the move are increasingly perceived as "security threats", and "national security" measures are continuously implemented to exclude people based on their perceived race, ethnicity and religion, among other grounds. For example, disproportionate and unlawful surveillance and other measures increasingly used for racial profiling and policing create and sustain human rights violations, and are also increasingly adopted for use against asylum seekers, refugees and migrants, broadly. These measures and uses of digital technologies are a slippery slope towards the erosion of crucial protections for communities on the move. The combination of corporate interests, a general lack of respect for the rights of people on the move, and systemic racism and discrimination can allow technology to develop faster than the sufficient safeguards and oversight required to hold an ever-growing tech sector to account.**

### Immigration surveillance data will be used far beyond that which it was intended

Amnil **Kalhan**, 2014, law professor, Drexel Maryland Law Review, Immigration Surveillance, <http://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=3646&context=mlr>, DOA: 3-12-15, p. 69-70

#### C. Data Collection, Retention, and Secondary Use

Quite apart from the accuracy and integrity of data in these systems, **immigration surveillance raises the problem of "function creep": the gradual and sometimes imperceptible expansion of surveillance mechanisms, once in place, for secondary uses beyond those originally intended or contemplated. Fair information principles urge limits on the secondary use of information for purposes not specified when collected. However, a lengthy list of examples demonstrates that such constraints are often lacking in the first place or difficult to maintain: the proliferation of surveillance camera systems to police a widening array of low level offenses, the expanding use of online tracking, the use of census data and voter lists to facilitate targeting of disfavored individuals or groups,**<sup>n293</sup> **the expansion of DNA databases maintained by law enforcement to encompass rapidly widening categories of individuals and purposes, and the repurposing of various categories of identity documents**

**and identification systems. Surveillance practices undertaken in the aftermath of the 2001 terrorist attacks have routinely morphed beyond the scope of their original antiterrorism purposes. For example, the "fusion centers" established during the past decade to collect, analyze, and exchange terrorism-related intelligence information among law enforcement agencies almost immediately, and unapologetically, expanded the scope of their activities to encompass ordinary crimes.**

By virtue of the enormous quantities of information that they collect, store, and disseminate - and the rapidly increasing ability to access and share that information among different public and private entities - **the systems that comprise the surveillance infrastructure of immigration surveillance are particularly susceptible to secondary uses and function creep.** The deployment of immigration surveillance systems and processes has taken place with very few constraints or limitations. **Data retention periods for the biometric, biographic, and other personal information in identification systems, travel and mobility control systems, and other databases used for immigration enforcement purposes are exceptionally long, and few limits constrain routine sharing of information among different agencies.**

**Moreover, as the cost of storing information continues to decrease and the technological capabilities of these systems continue to improve, the number of possible secondary uses for these systems will increase even further - particularly given the premium placed on unconstrained information sharing.** For example, the most recent enhancements to the FBI's identification systems enable collection and storage of unparalleled quantities of biometric and biographic information from a variety of different sources, including multimodal biometric records of fingerprints, multiple photographs, iris scans, palm prints, voice data, and potentially other biometric identifiers along with detailed biographical information. Those **systems also will be made fully interoperable with the other identification systems maintained by DHS and the Defense Department that comprise the "biometrics triad,"** as discussed above. In connection with these enhancements, **immigration authorities have begun to deploy systems in pilot programs that permit the identification of individuals without any need to review identification documents, using facial recognition and iris recognition technologies that compare biometrics captured in the field with information stored in multiple federal and state government databases.** Some of these systems also may enable remote identification of individuals without the need to be in their immediate physical proximity. Officials also have piloted programs to collect other kinds of biometrics, including DNA from refugees in Africa seeking admission to the United States and noncitizens in immigration detention.

**With database systems becoming increasingly sophisticated and interoperable, the pressures for expanded use of the information stored in these systems will continue to mount. At the same time, with few limitations inhibiting them from doing so, immigration authorities might well seek even greater access to database systems maintained and held by federal, state, local, and even private entities for immigration control purposes.** However, even as the prospect of ever-widening uses of these systems highlights the importance of addressing those possibilities before particular surveillance mechanisms are widely implemented, the ability to do so can be elusive - particularly when those mechanisms have been deployed rapidly, with minimal transparency, under vague legal authority, and subject to limited external constraints.



## Democracy/Tyranny

### Surveillance is tyrannical

John & Nisha W. Whitehead, Constitutional lawyer, April 10, 2024, Washington Times, 2024 is the new 1984: Big Brother and the rise of the security industrial complex, <https://www.washingtontimes.com/news/2024/apr/10/surveillance-powers-are-new-face-of-tyranny-oppres/>

**2024 is the new 1984.** Forty years past the time that George Orwell envisioned the stomping boot of Big Brother, **the police state is about to pass off the baton to the surveillance state. Fueled by a melding of government and corporate power — the rise of the security industrial complex — this watershed moment sounds a death knell for our privacy rights. An unofficial fourth branch of government, the Surveillance State came into being without any electoral mandate or constitutional referendum, and yet it possesses superpowers, above and beyond those of any other government agency save the military. It operates beyond the reach of the president, Congress and the courts, and it marches in lockstep with the corporate elite** who really call the shots in Washington, D.C. **Empowered by advances in surveillance technology and emboldened by rapidly expanding public-private partnerships between law enforcement, the Intelligence Community, and the private sector,** the Surveillance State is making the fictional world of “1984,” Mr. Orwell’s dystopian nightmare, our looming reality. **What we are witnessing,** in the so-called name of security and efficiency, **is the creation of a new class system comprised of the watched** (average Americans such as you and me) **and the watchers** (government bureaucrats, technicians and private corporations). **We now find ourselves in the unenviable position of being monitored, managed and controlled by our technology,** which answers not to us but to our government and corporate rulers. This is the fact-is-stranger-than-fiction lesson that is being pounded into us on a daily basis. In this way, “1984,” which depicted the ominous rise of ubiquitous technology, fascism and totalitarianism, has become an operation manual for the omnipresent, modern-day surveillance state. There are roughly 1 billion surveillance cameras worldwide and that number continues to grow, thanks to their wholehearted adoption by governments (especially law enforcement and military agencies), businesses, and individual consumers. Surveillance cameras are mounted on utility poles, traffic lights, businesses, and homes. Ring doorbells. GPS devices. Dash cameras. Drones. Store security cameras. Geofencing and geotracking. FitBits. Alexa. Internet-connected devices. Stingray devices, facial recognition technology, body cameras, automated license plate readers, gunshot detection, predictive policing software, AI-enhanced video analytics, real-time crime centers, fusion centers: all of these technologies and surveillance programs rely on public-private partnerships that together create a sticky spiderweb from which there is no escape. **With every new surveillance device we welcome into our lives, the government gains yet another toehold into our private worlds.** What this adds up to for government agencies (that is, FBI, NSA, DHS agents, etc., as well as local police) is a surveillance map that allows them to track someone’s movements over time and space, hopscotching from doorbell camera feeds and business security cameras to public cameras on utility poles, license plate readers, traffic cameras, drones, etc. **It has all but eliminated the notion of privacy** enshrined in the Fourth Amendment and radically re-drawn the line of demarcation between our public and private selves. The police state has become particularly adept at sidestepping the Fourth Amendment, empowered by advances in surveillance technology and emboldened by rapidly expanding public-private partnerships between law enforcement, the Intelligence Community, and the private sector. Over the past 50-plus years, surveillance has brought about a series of revolutions in how governments govern and populations are policed to the detriment of us all. While the guarantee of safety afforded by surveillance nerve centers remains dubious, at best, there is no disguising their contribution in effecting a sea change towards outright authoritarianism. **These cameras** — and the public-private eyes peering at us through them — **are re-engineering a society structured around the aesthetic of fear and, in the process, empowering “people to not just watch their neighborhood, but to**

Immigration Surveillance Core File. *Updated 8-3-24*

**organize as watchers,” creating not just digital neighborhood watches but digital gated**

**communities. Finally, there is a repressive, suppressive effect to surveillance** that not only acts as a potentially small deterrent on crime but serves to monitor and chill lawful First Amendment activity. As Matthew Feeney warns in the New York Times, “In the past, Communists, civil rights leaders, feminists, Quakers, folk singers, war protesters and others have been on the receiving end of law enforcement surveillance. No one knows who the next target will be.” **No one knows, but**

**it’s a pretty good bet that the surveillance state will be keeping a close watch on anyone seen as a threat to the government’s chokehold on power.**

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## **Answers to: Regulations**

### **Regulations not used/enforced**

Petra Molnar is an anthropologist and attorney focused on human rights and migration, 7-11, 24, Texas Observer, 'TECH DOESN'T JUST STAY AT THE BORDER': PETRA MOLNAR ON SURVEILLANCE'S LONG REACH, <https://www.texasobserver.org/border-surveillance-artificial-intelligence-tech/>

I'll give you the pessimistic answer first, and then the optimistic one. I think the trend is more surveillance, sharper technology, insufficient regulation. This past time period was a really crucial one. For example, the European Union put out its big AI Act to regulate artificial intelligence. There's talks about regulation at the U.S. level, Canada, other countries—but a lot of these instruments are very weak. When it comes to border surveillance, some of us were hoping that there would be some really strict guidelines and maybe even bans or moratoria on some of the really draconian technology. But unfortunately, that's not the case. There's a lot of money to be made. The likelihood is that there's no incentive to regulate. The incentive is to create more technology, more algorithms, more AI.

The optimist in me, though, has seen that there are more and more conversations being had that are also led by affected communities about what this is really doing on the ground—and finding ways to kind of break through these silos that we all work in and find common ground and say, "No, this is not the society we want to live in." We want to actually have a world that is not led by technocrats or the private sector, but [we want to] actually maybe use technologies to empower communities for psychosocial support, social support, support for information sharing, and really push governments to think about the human impact of this. I do see that trend as well.

## **Detention**

## Surveillance Supports Detention

### Massive human rights violations

Amnesty International, February 5, 2024,  
<https://www.amnesty.org/en/documents/pol40/7654/2024/en/>, Primer: Defending the rights of refugees and migrants in the digital age

**While these products proliferate, academics and human rights defenders have linked these programmes to actual and potential human rights violation**<sup>S.16</sup> **One significant concern is the lack of transparency or oversight when it comes to the privacy or security measures taken by companies in designing and developing e-ATD tools.** This is not only a matter of weak cybersecurity measures or concerns over data breaches. **The privacy of migrants and asylum seekers – and in some cases their family members – is at risk of being violated through the constant surveillance of their movements, which can be unnecessary and/or disproportionate.** In addition, **opaque data-sharing practices between private companies, third-party partners, and government agencies (including law enforcement agencies and border control offices) are also cause for alarm.** For example, **corporate partnerships between ICE and tech companies such as Palantir have also been directly linked to the ability of the agency to use broad data surveillance practices to hone in on, detect and detain undocumented migrant workers.** Nearly 700 workers were detained by ICE during a 2019 raid of a Mississippi chicken processing factory, with multiple media sources alleging the use of the Palantir-supplied **Falcon – a relationship mapping and predictive tool in use by ICE Homeland Security Investigations (HSI) – to power the operation.**<sup>17</sup> **Palantir has denied any wrongdoing to Amnesty International, stating that it “does not own or control data but enables its customers to analyze their own data”.**<sup>18</sup> **Additionally, e-ATDs – either as electronic ankle monitors or voice monitoring devices – are prone to false positives and technical glitches that might result in penalizing migrants arbitrarily, including for their manner of speaking or accent, which disproportionately affects racialized people.**<sup>19</sup> In 2016, the United Kingdom (UK) brought in mandatory electronic ankle “tagging” of all foreigners facing deportation.<sup>20</sup> In August 2021, this was extended to include those on immigration bail. By September 2022, nearly 15,000 people were enrolled in electronic monitoring in the UK, expanding a system that puts at risk human rights, including the rights to dignity and respect, privacy and bodily autonomy. In May 2022, plans to deploy more advanced forms of these already invasive surveillance practices were rolled out; a data protection impact assessment (DPIA) shared by the UK’s Home Office in a Freedom of Information request by Privacy International revealed plans to roll out a smartwatch tracking system for periodic daily monitoring of UK-based asylum seekers.<sup>21</sup> While the interference with an individual’s right to privacy is only permissible under international human rights law if it is neither arbitrary nor unlawful, people on the move – with precarious immigration status; migrants, refugees, and asylum seekers alike – are increasingly having to compromise on their human rights, in exchange for possible passage. **International human rights law and standards set out a three-part test to determine whether an interference with the right to privacy is legitimate or amounts to a violation: firstly, any interference must be prescribed by and in accordance with the law**

**(legality); secondly, it must be pursuant to a legitimate aim; thirdly, it must be strictly necessary to meet a legitimate aim, such as protecting national security or public order (necessity) and be conducted in a manner that is proportionate to that aim and non-discriminatory, which means balancing the nature and the extent of the interference against the reason for interfering (proportionality).**



## ICE Bad

### **ICE raids are devastating to immigrant communities - they rip out important members with traumatizing deportations**

**Mathis 2019 – freelance writer** [Joel, 07-23-19, The Week, “Immigration raids are traumatizing American communities”, <https://theweek.com/articles/854331/immigration-raids-are-traumatizing-american-communities>, ACC 07-10-20]

The people of Hermitage, Tennessee are heroes. On Monday, agents from U.S. Immigration and Customs Enforcement tried to arrest a Hermitage man — an undocumented migrant — as he left his home. They failed to make the arrest, however, because the man's neighbors formed a human chain to protect him. After four hours, the ICE agents gave up. "I could see if these people were bad criminals, but they're not, they're just trying to provide for their kids," Stacey Farley, a neighbor, told reporters. "The family don't bother nobody, they work every day, they come home, the kids jump on their trampoline, it's just a community." The people of Hermitage did what you hope Americans will do when an outsider threatens their community: They joined together and resisted. That's what heroes do. While that was happening, though, a bigger immigration crackdown seemed to be in the offing. The federal government announced Monday that it is dispensing with due process — "streamlining" immigration enforcement — to allow ICE agents to confront suspected migrants anywhere they can find them and ship them out of the country without so much as a court hearing. If ICE catches you on the street and you can't prove immediately that you're a citizen, or that you've lived in the U.S. more than two years, the agency will be able to ship you out of country in a matter of days. This new, tougher policy promises to be a disaster. To understand why, all you have to do is look at what happened in Hermitage on Monday. ICE raids are intended to remove unwanted outsiders from American communities, but they often end up disrupting those communities instead. In many cases, hawkish immigration enforcement does more harm than good: Research suggests the effects of ICE raids on local communities can be, quite literally, traumatic and disastrous. President Trump and the immigration hawks justify these policies by presenting illegal immigration as a disaster for America. Don't forget that when announcing his run for president, Trump said that "when Mexico sends its people, they're not sending their best. They're sending people that have lots of problems, and they're bringing those problems with us. They're bringing drugs. They're bringing crime. They're rapists. And some, I assume, are good people." This narrative simply isn't supported by the data: Studies show that undocumented migrants have a lower crime rate than native-born Americans. But forget the dry statistics for a second. It's true that a sudden influx of immigrants can sometimes cause a backlash among longtime residents. Just as often, however, the lived experience of cities and towns across the country is that migrants, documented or not, stitch themselves into the fabric of the community. They go to church, they send their kids to school, they own local businesses. When these people are suddenly snatched away, the communities they leave behind are wounded. That's why neighbors fight back. It's not just Hermitage. In Lawrence, Kansas, where I live, hundreds of residents mobilized last year when immigration officials grabbed a longtime local resident off his front lawn. Thankfully, that man was eventually returned to his family and the community. In Granger, Indiana, an uproar ensued when a longtime resident — the owner of a popular local cafe — was deported. The town of Mount Pleasant, Iowa, meanwhile, has a plan to protect children caught up in deportation efforts. These are just a few examples — not of political correctness run amok, but of communities protecting themselves and their people. Immigration hawks will, no doubt, be angered by what happened in Hermitage. The man who evaded arrest is in the United States illegally, they will say. If he wants to live here, he should have tried to come to the country through approved means. That argument isn't entirely wrong. The law matters. But it's not entirely right, either. It assumes that U.S. immigration law, as currently constructed, is correctly constituted, that the process is reasonable, and that it reflects the democratic will of the American people. In fact, polls show American voters generally think that immigration strengthens the country. Meanwhile, efforts to reform immigration laws have been consistently blocked by a small minority in Congress since the administration of former President George W. Bush. So, in the absence of wise and just lawmaking, residents of towns and cities across the country are right to use legal means of resisting ICE's enforcement efforts. They probably have a better sense than Trump about who really belongs in their community. Just ask them. "We don't want to see anything happen to them," Hermitage resident Angela Glass said of the family ICE agents tried to disrupt. "They're good people. They've been here 14 years, leave them alone. To me, they're considered Americans."

### **ICE brutally terrorizes immigrant communities with detention and family separation**

**McElwee, 2018 – Co-Founder of Data for Progress** [Sean, March 9, The Nation “It's Time to Abolish ICE A mass-deportation strike force is incompatible with democracy and human rights” <https://www.thenation.com/article/archive/its-time-to-abolish-ice/> Acc 7/4/20 TA]

Dan Canon is running for Congress in Indiana's ninth district this year. A career civil-rights lawyer, Canon filed one of the cases against gay-marriage bans that eventually became the landmark *Obergefell v. Hodges*, and he proudly wore a Notorious RBG shirt under his suit to the Supreme Court. He is currently representing individuals suing Donald Trump for inciting violence at his rallies. Canon has also defended clients swept up by Immigration and Customs Enforcement raids, and fought a Kafkaesque deportation system that, at one point, wouldn't even disclose the location of his client. Now Canon believes ICE should be

Immigration Surveillance Core File. *Updated 8-3-24*

abolished entirely. "I don't think a lot of people have any kind of direct experience with ICE, so they don't really know what they do or what they're about. If they did, they'd be appalled," Canon told me. "ICE as it presently exists is an agency devoted almost solely to cruelly and wantonly breaking up families. The agency talks about, and treats, human beings like they're animals. They scoop up people in their apartments or their workplaces and take them miles away from their spouses and children." The idea of defunding ICE has gained traction among immigrant-rights groups horrified by the speed at which, under President Donald Trump, the agency has ramped up an already brutal deportation process. Mary Small, policy director at Detention Watch Network, said, "Responsible policymakers need to be honest about the fact that the core of the agency is broken." Her group led the charge to defund ICE with its #DefundHate campaign last year. Groups like Indivisible Project and the Center for Popular Democracy have also called for defunding ICE. Brand New Congress, a progressive PAC, has the proposal in its immigration platform. "ICE is terrorizing American communities right now," said Angel Padilla, policy director of the Indivisible Project. "They're going into schools, entering hospitals, conducting massive raids, and separating children from parents every day. We are funding those activities, and we need to use all the leverage we have to stop it."

**ICE relies on the Fear of Immigrants – their rhetoric labels All immigrants as Criminals. Our deportation culture scapegoats and dehumanizes All immigrants Loffman 2018 – PBS politics producer** [Matt, 07-6-18, PBS, "What's driving the movement to Abolish ICE?", <https://www.pbs.org/newshour/politics/whats-driving-the-movement-to-abolish-ice>, ACC 07-13-20, AR]

To understand the current fight over ICE, here's what we know about the agency's history, its role under Trump and what's next. How was ICE created? Immigration became a federal responsibility and priority in the late 1800s and was formalized as a division of the Treasury Department in 1891. In the more than 100 years since, immigration has been shuffled among several federal agencies, including the Commerce, Labor and Justice Departments, before landing in the newly-created department of Homeland Security in the years after the Sept. 11 terror attacks. "Whatever federal government agency handles immigration is a great window into how we think about immigration and its role in the United States," said Erika Lee, the director of the Immigration History Research Center at University of Minnesota. ICE's recent home inside DHS signals a decades-long "shift in America as nation of immigrants and thinking about immigration as a good to immigration as a national security threat." The most recent home inside DHS signals a decades-long "shift in America as nation of immigrants and thinking about immigration as a good to immigration as a national security threat," she added. While Lee says it may seem like there's a newfound outsized fear of immigrants, she sees echoes of the nation's complicated history and response to outsiders, one that stretches back more than a century to the Chinese Exclusion Act of 1882 and the backlash against Irish Catholics in the mid-1800s. The current Immigration and Customs Enforcement was one of three agencies established in 2003 from what used to be the Immigration and Naturalization Service (INS). ICE's mandate is to enforce approximately 400 federal immigration and labor-related statutes, primarily in the nation's interior, and work to remove people for immigration violations. One duty includes monitoring businesses for undocumented workers, but patrolling the border itself is left to Customs and Border Protection, another agency formed in the 2003 shakeup. ICE and immigration under Trump Since Trump took office, historians like Deborah Kang, a professor at California State University San Marco and author of "The INS on the Line: Making Immigration Law on the US-Mexico Border," have seen a wholesale shift in ICE's priorities. "They're focused on removing green card holders — legal permanent residents," Kang said. The current ICE policy stems from the Illegal Immigration Reform and Immigrant Responsibility Act, a 1996 law signed by then-President Bill Clinton. It says immigrants can be deported for committing any crime, including misdemeanors. The country's network of 200 ICE detention centers began to pop up in the years after Sept. 11, when there was a surge of funding for immigration enforcement. That funding has more than doubled since 2005, according to the Center for Migration Studies. The average daily population of immigrant detainees has also surged since the 1996 law was enacted, from around 9,000 a day in 1996 to more than 38,000 a day in 2017, according to CMS. In addition to new enforcement priorities, Amy Gottlieb, an immigration lawyer and activist currently working for American Friends Service Committee, sees a new trend in language, too. "There's been a lot of rhetoric and a lot of anger and a lot of suspicion and a lot of scapegoating around immigrants," Gottlieb said. She points to Trump's election as something that "really opened up language that people were sitting on, holding onto, not willing to put out there publicly," Gottlieb said. "Trump made it okay to suddenly talk about an invasion and talk about immigrants as criminals."

## **ICE's Purpose is dehumanization, which is the first step in genocidal cleansing. Abolition allows us to reform immigration to support humane treatment**

**Hong 19 - professor of law at Boston College Law School** [Kari E., 10 Reasons Why Congress Should Defund ICE's Deportation Force (March 11, 2019). 43 NYU Review of Law & Social Change Harbinger 2019, Available at SSRN: <https://ssrn.com/abstract=3350664>]

Ninth, the ERO deportation force's overly-aggressive deportation strategy dehumanizes immigrants, which undermines public support for needed immigration reform. As a candidate and president, Donald Trump has called immigrants, "rapists," "criminals," "thieves," "MS-13" gang members, "murderers," "terrorists," and "animals."<sup>86</sup> President Trump's claims that immigrants have bad character and have committed criminal acts are more akin to propaganda than terms within reasonable parameters of a policy debate.<sup>87</sup> It is critical to recognize that President Trump's repeated defense of—and call for the expansion of—ICE's powers is premised on the same falsehoods that immigrants are criminals and undocumented immigration threatens our nation's safety. President Trump is defining his presidency with this rhetoric, but he did not start it. In 1996, Congress enacted the Illegal Immigration Reform and Immigration Responsibility Act ("IIRIRA"), which eliminated numerous avenues that people previously had to legalize their status. This law also codified the wrongful conflation of immigration and crime by using the term "Illegal Immigration" in its title. IIRIRA's irrational end to providing legal status to immigrants created the size and permanence of the undocumented population,<sup>90</sup> and its false reification of "illegal immigration" as a matter needing the intervention of criminal law enforcement laid the foundation for ICE to come into being. When ICE was created in 2002, its mandate was to deport all people who were deportable. If the government suddenly made it very difficult to obtain driver's licenses and then described anyone who drove without a license as "illegal drivers," the public might be more inclined to spend billions of dollars each year to arrest and jail the drivers—which has been our country's immigration policy for the past 20 years. The term "illegal" would distract the public from realizing that it is not the drivers who are lacking good character, but it is the government that suddenly and irrationally stopped issuing driver's licenses. The ERO deportation force brings into full view the impact of this false rhetoric that dehumanizes all immigrants as criminals. Hannah Arendt observed that Nazi Germany achieved its goals in part because it had convinced the public that if a group of people were criminal, they deserved whatever punishment the government meted out. She wrote, "[T]he inclusion of criminals [among the targeted groups of undesirables] is necessary in order to make plausible the propagandist claim of the movement that the institution exists of asocial elements."<sup>93</sup> Stated another way, if our government is spending billions of dollars each year on a hammer that is the ERO deportation force, few will question why every single immigrant is treated as a nail, a criminal and dangerous element for which removal is warranted. Most Americans support immigration reform. This fact is not surprising when people understand who in fact is immigrating, regardless of whether their entry is by plane or swimming the Rio Grande. In one of his last formal speeches, President Ronald Reagan eloquently paid tribute to how immigration shapes and renews our country's values. In his words, We lead the world because unique among nations, we draw our people, our strength, from every country and every corner of the world. . . . Thanks to each wave of new arrivals to this land of opportunity, we're a nation forever young, forever bursting with energy and new ideas, and always on the cutting edge; always leading the world to the next frontier. But ICE's tactics of force perpetuates myths of dangerousness and obscures the reality that immigration, and policies that welcome immigrants, are among our nation's critical underpinnings. The ERO deportation force's theatrics of force and the dehumanization of immigrants give the ERO a false legitimacy. Moreover, the excessive and relentless arrests of immigrants distract Americans from the truth, which is that it is irrational of our government to refuse to offer legal status to those who contribute to our country. This distraction further keeps our politicians from pursuing the needed, common sense immigration reform that will legalize status of the undocumented. The sooner the ERO deportation force is defunded, the sooner we can achieve real immigration reform. As demonstrated by President Reagan's words, a president lionized by the contemporary Republican party, embracing immigrants is not a new or trendy liberal idea. It is an American one, deeply rooted in our past and critical to our country's future.

**The criminalization of immigration is a strategy of "attrition through enforcement." It is nothing less than an intentional policy of Nativism and Ethnic Cleansing. Dehumanizing and terrorizing communities leaves them vulnerable to elimination.**

**Michalowski, 2013 -prof of Criminology, Northern Arizona University** [Raymond Journal of Crime and Justice Volume 36, "Ethnic cleansing American style: SB 1070, nativism and the contradictions of neo-liberal globalization" <https://www-tandfonline-com.proxy.lib.umich.edu/doi/full/10.1080/0735648X.2012.752253>]



## US history shows that whenever high levels of immigration have collided with economic recession, the results have been a rise in Nativist sentiments, populist backlash against both

immigrants and the government for letting them in, and major reformulation of immigration controls. This dynamic has occurred four times since the late nineteenth century. These were the Asian

exclusion movement in the 1880s, deportations and the creation of ethnic quotas favoring Northern Europeans in the 1920s, Operation Wetback in the 1950s to deport braceros back to Mexico, and the

## current wave of anti-immigration politics targeting Latinos that began in the late 1990s, reached fever pitch after

September 11, 2001, and remains high as at the time of writing in the summer of 2012. The current moment provides an ideal window into the contradictions between capital accumulation and state legitimacy. Between the early 1970s and 1994 the US federal government followed a relatively 'open' immigration policy. Formal immigration policies favored family reunification, while IRCA had significantly increased the number of legal immigrants who could sponsor residency applications by close relatives outside the country. At the informal level, the US border with Mexico remained relatively porous, with migrant farm labor easily crossing into the United States for harvest seasons, and others finding their way into the country for more permanent jobs and residences with the help of a coyote at the cost of a few hundred dollars. Anyone involved with the labor pool, particularly in the Southwest, during the latter decades of the twentieth century knew that the employment of undocumented workers operated according to a wink-and-a-nod system. Under IRCA, employers were required to obtain documentation of citizenship or legal residency from workers. In response, undocumented workers would buy relatively inexpensive false documents, often of poor quality. Employers dutifully copied the numbers from these fake papers, and deducted Social Security, Medicare and income taxes that workers would never be able to collect. In 1996, I interviewed a document dealer operating out of the back of a 1970s era Pontiac station wagon parked in an empty corner lot adjacent to a restaurant on Venice Boulevard in Los Angeles. He offered me a Xeroxed Social Security card for 75 dollars. For an additional 50 dollars I could purchase power company bills, a library card, and rent receipts sent to a common address and matching the name on the Social Security card. For a mere 125 dollars I could have everything I needed to get a job under a new identity. The system worked. Immigrants had jobs. Employers had workers. Capital accumulation grew. As the millennium drew closer, the system began to unravel. In 1994, after a heated political campaign, California voters passed Prop 187, which would deny unauthorized immigrants a suite of public services, from primary education to health care. After a four-year battle, the American Civil Liberties Union succeeded in having Prop 187 ruled unconstitutional (ACLU 1999). Nevertheless, politicians took an important lesson about the political benefits of promoting anti-immigration sentiment. Recognizing the volatility of the immigration issue in California and the Southwest more generally, in 1994 President Bill Clinton implemented Operation Gatekeeper, a strategy to close off easy transit points from the Tijuana region into the westernmost portions of San Diego county by dramatically increasing the level of border surveillance, interdiction of border-crossers and stepped up internal enforcement, that is, enforcement beyond the border region (Nevins 2001). At the very moment Clinton moved to harden the Mexico-San Diego border, however, the passage of the North American Free Trade Agreement sparked a steep devaluation of the Mexican peso and a subsequent sharp rise in Mexicans seeking entry into the United States (Blecker 1999). From 1994 forward the federal government pursued a strategy of incremental growth in border and interior immigration enforcement in an effort to keep growing anti-immigration sentiment from turning into a hot-button election issue. Many others have detailed the legal and human consequences of immigration restriction policies, so I will not go into detail here (see for instance: Massy et al. 2003, Michalowski 2008, Nevins 2008, Dunn 2009,

Rodriguez 2012). Suffice it to say that by the turn of the millennium the political Right had molded the populist and Nativist backlash

## fuelled by economic concerns and cultural fears into politically effective demands for hyper-militarization of the US-Mexico border

and removal of illegalized immigrants from US soil. At the level of cultural fear, native-born, non-Hispanic whites of European heritage living in Arizona, California, New Mexico, Nevada, Texas and Utah found themselves becoming an ethnic minority, while Whites as a whole were on track to lose their role as a majority of the national population (Tavernise 2012). This led, among other things, to a widely held belief within the anti-immigration community that continued immigration would eventually lead to a Mexican 'reconquista' of the territories taken from Mexico after the US-Mexico war. As more and more Mexicans become US citizens and voters, so the theory goes, they will constitute electoral majorities in Arizona, California, New Mexico and Texas. They will then use their electoral power to take over State governments. From that position they will then lead their states to secede from the United States and rejoin Mexico (Hansen 2003). As bizarre as this scenario may sound to anyone who understands national and State politics, many anti-immigration activists in Arizona that I interviewed believe deeply that reconquista is a real threat to the integrity of the United States. At the same time that anti-immigration activists in the Southwest feared a Mexican reconquista, residents of once nearly all-white midwestern towns found the ethnic composition of their communities changing as Latino

immigrants increasingly took jobs in meatpacking and construction no longer attractive to native-born residents (Kandel and Parado 2004). The sense that the 'face of

## America' was changing became an important breeding ground for fear, anxiety, hostility toward

immigrants and increasing vocal calls to 'close the border' as exemplified by the extremist views of Congressmen such as Hayworth (2006) of Arizona and Tancredo (2006) of Colorado. These

sentiments had already taken hold in many parts of the country by the time 11 Al Qaeda militants destroyed the World Trade Center in New York. The 9/11 attacks threw a

## seemingly never-ending supply of gasoline on the fires of anti-immigration sentiment. From that time until

now, the claimed 'terrorist' threat has served as an effective moral shield behind which many restrictionists have been able to promote racially motivated anti-immigrant policies directed not at Muslims, but at Latinos (Alden 2009). As a whole, American workers saw little economic benefit from globalization. From 1980 until 2008, wages of American workers remained stagnant, and then dropped with the onset of the Great Recession. Middle-class life styles could only be sustained by two incomes, with subsequent loss of at-home caretakers for children and the aged (Drum 2010). Meanwhile, American households began taking on increasing debt in order to afford the perceived components of a middle-class life for themselves and their children (Livingston 2011). As personal debt grew and economic security shrank, the sense of personal vulnerability increased (Sheirholz and Mishel 2011). These negative economic forces were not felt equally throughout the society. Instead, the wage gap between those with college educations and those without higher education grew substantially (Jones and Weinberg 2000). Equally important was the rise of a small sector of super-well-paid workers in finance, high-tech, and corporate management, while well-paying industrial jobs that had once been the core of a blue-collar, middle class were being destroyed at a fierce rate (Krugman 2011). As those who once had a 'fear of falling' actually began to fall, they provided a fertile arena for anti-immigrant sentiments and calls for restrictionist laws (Ehrenreich 1990). Not all White workers outside the most privileged occupations shared these anti-immigration sentiments. Many continued to believe and behave in solidarity with workers in general, whatever their ethnicity or citizenship status. A number of unions argued that the solution lay not in immigration restrictions and deportations, but in a new labor law regime that would enforce fair labor standards for all workers, regardless of citizenship status (Bacon 2008). These proposals fell on deaf political ears. The Conservative turn in US politics had

already set an American revitalization movement in motion. Like the Ghost Dance, Conservative believers held that if the country would only

## return to the ways of the forefathers, in this case an imagined era of nativism, racism, White

## hegemony and closely guarded borders, the problems of the present would be resolved. It was in this

climate that SB 1070 and the wider policy of attrition through enforcement seemed poised to spread throughout the country. SB 1070: the basics The Support Our Law Enforcement and Safe Neighborhoods Act, commonly known as SB 1070, was passed into law by the Arizona State Legislature and signed into law by Governor Jan Brewer in April, 2010. SB1070 was more than a case of eccentric law-making by right-wing

Arizonans. It was part of a national movement to establish 'attrition through enforcement' as a centerpiece of

## US immigration policy. According to Mark Kirkorian, head of the anti-immigration Center for Integration Studies, and one of the policy's architects, attrition through

## enforcement is designed to make ordinary life so unlivable that illegalized immigrants and their

## families will 'self-deport' (Kirkorian 2005). The central strategy of attrition through enforcement, I contend, is a form of

## ethnic cleansing based on using local police to enforce immigration laws, thereby creating

## sufficiently widespread fear of detection among illegalized immigrants that they wil, as is most commonly

claimed, be driven out' of the state, and hopefully the country. In June 2011, Republican presidential candidate Mitt Romney endorsed SB 1070, saying he favored enforcement strategies that would promote 'self-deportation,' thereby declaring clearly (if perhaps, unknowingly) his support for ethnic cleansing (Boroff and Planas 2012). In order to compel irregular immigrants to self deport, SB 1070: 1. Defined the federal civil violation of failing to possess appropriate immigration documents as a criminal act under Arizona state law. 2. Authorized local police to question and arrest without a warrant anyone they suspected of being an illegal immigrant. 3. Made it a crime to 'harbor' or 'transport' unauthorized immigrants, thus criminalizing many of the everyday social relations between immigrants and citizens or legal residents. 4. Authorized the state to impound any vehicle driven by or used to transport an irregular migrant. 5. Made it a state crime for irregular migrants to seek employment. 6. Prohibited cities from passing laws that would limit their police departments from enforcing SB 1070. This provision targeted so-called 'sanctuary cities' (e.g. Flagstaff, Tucson) that directed local law enforcers to refrain from inquiring about immigration status as a routine practice unless it was directly relevant to the immediate situation such as the discovery of a 'drop house' filled with presumptively undocumented immigrants or determining if someone held in jail custody was eligible for counselor services from their native country as provided by international law (Columbia Human Rights Law Review 2011). 7. Intensified measures to exclude illegalized immigrants from seeking social services, even when they were doing so on behalf of their US citizen children (FAIR 2010b). Just before and immediately after the passage of SB 1070, some illegalized immigrants

Immigration Surveillance Core File. *Updated 8-3-24*

and their families left Arizona because of the fear created by SB 1070 (Zeiger 2010). However, rather than leaving the country, some moved to US states perceived as less hostile to Latinos (Faherty 2010, Gomez 2010, Gonzales 2011). A majority of illegalized immigrants in Arizona, however, were unable to leave, and instead receded into the shadows of Arizona's social landscape (Amster 2010, Gonzales 2011). Key reasons for staying in Arizona were lack of money to move, feeling too old or too established to restart life elsewhere, fear of leaving parents, children or siblings who could not or would not leave the state, and lack of opportunity elsewhere. Some also stayed in the hope that the law would eventually be overturned and/or the US government would eventually pass a comprehensive immigration reform law that would

legalize their status (Michalowski 2011). Rather than criminalizing specific harmful behaviors, attrition through enforcement drives undocumented immigrants into social spaces where work, education, social services, legal protections and many of the public interactions of ordinary daily life are increasingly unobtainable. The theory is that increased fear of detection coupled with narrow or no access to normal life activities such as work, mobility, recreation, health care, police protection and social services will lead irregular migrants to self deport, taking their US citizen children with them (Kirkorian 2005). This legislative strategy both rests on and reproduces a hyper-criminalization of illegalized immigrants that transforms the act of having entered the country 'without inspection' or overstaying a visa into a master status, a quality that renders everything the person is and does as criminal (Downes 2007).

**Prioritize Dehumanization – denying the humanity of a community makes genocide and war inevitable to cleanse the world of threats.**

**Johnson 18 - professor of justice, law and criminology at American University**

(Robert, *Condemned to Die: Life Under Sentence of Death*, ebook from University of Michigan, pg.123-125, JMP)

\*\*\*start of footnote #102\*\*\* 102 In making these assertions, I am drawing on a large body of research and theory. For a general review of these materials, see Johnson (1986) and Haritos-Fatouros (2003). There are lively debates in the area of institutional violence. Broadly speaking, one school of thought focuses on how one's conscience must be neutralized in order to carry out violence against a person who poses no immediate threat to one's welfare. Moral disengagement and objectification of others are key considerations. This view, perhaps best exemplified in the work of Milgram (1963); Bandura, Ross, and Ross (1961); and Haney and Zimbardo (1998), separates objectification from dehumanization. See Bandura (1999) for a comprehensive review. Other scholars, like Haslam (2006), Bastian and Haslam (2010), and Haslam and Loughnan (2014), think of objectification as a species of dehumanization, which includes seeing the person as an object, or animal, or morally degraded creature outside the normal moral discourse or social community. Rafter (2016: 2215), in her seminal research on genocide, exemplifies the view that one's conscience must be neutralized to allow for the atrocities that are part and parcel of genocide. My answer to the "How could they do it?" question runs as follows: psychological mechanisms involved in moral disengagement lead to a temporary and selective shutdown in empathy and identification with others; and that shutdown leads to the objectification that enables individuals to commit genocide. This is the splitting process. First comes moral disengagement, then neutralization of empathy, and finally the objectification that makes victims seem like objects, things we can get rid of rather than individuals like ourselves. Other scholars, like Fiske and Rai (2015) focus on institutional violence as an example of virtuous violence, which it to say, violence of which one should be proud, not ashamed. The challenge here is to neutralize repugnance to the often gory physical act of violence; the motivation to engage in violence is a largely settled matter. In the case of virtuous violence, persons believe they are doing good and feel obligated to carry out acts of violence. The agents of virtuous violence are committed followers of beliefs that justify the violence in which they engage. This does not mean that virtuous violence is easy. It isn't. Agents who inflict virtuous violence will likely be repelled by the acts of violence themselves, which often involve victims who beg, plead, collapse, or react with eerie stolidity or unseemly emotion when brutal pain is inflicted upon them. These reactions can be construed to validate the degraded status of the victims, but reactions to violence among victims are tangibly visible human reactions. It is one thing to embrace and, in one's work, validate an abstract belief and another to carry out a concrete act in violation of a flesh-and-blood individual. We are socialized to abhor violence and most of us do. Paradoxically, rising to the occasion to inflict virtuous violence can be one measure of commitment of the person carrying out such violence. Fiske and Rai (2015: 515) write: "Now, for the most part, people hate hurting others. It is extremely distressing to directly kill or injure another person face-to-face, no matter how socioculturally justified or legally obligatory it is . . . Like many other moral acts, killing or hurting others can be difficult, requiring training, social support and modeling, effort, practice, and experience before it becomes second nature. Few people become unambivalently dedicated to moral violence or do it easily, but that is true of many difficult moral practices

Immigration Surveillance Core File. *Updated 8-3-24*

other than violence—people often resist or fail to do what is morally required of them, even when they have no doubt about whether they should do it.” There is overlap in these perspectives. Whether one is a passively or reluctantly obedient participant or an actively engaged agent of violence, support for one’s violence is helpful. This support may come from peers or authority figures or organizational structures. Authorizations from organizations to engage in violence, especially when embraced by one’s peers, give permission and hence a degree of reassurance that one is in the right when one is called upon to use violence. Training and institutional routines can make violence more palatable, whether one thinks of the violence as virtuous or as a repugnant but necessary evil. Dehumanization—socialization or training that allows actors to see the target of violence as an object, animal, or morally degraded creature—can create a motive for violence (protection from dangerous, animal-like others) or can smooth the way to work in service of what one takes to be virtuous beliefs (cleansing the world of others who would contaminate it or make others unsafe). Persons who are ridding the world of dangerous and unregenerate criminals in service of legal and other institutions they trust presumably need less to mute their conscience than they would under other circumstances. None of the execution team officers I interviewed expressed guilt, remorse, or regret, at least before, during, or after the executions they conducted and that I studied firsthand (Johnson, 1998). Socialization and training of persons engaged in institutional violence is meant to indoctrinate them in the value of what they do. To the degree persons have doubts about the virtue of the enterprise, some degree of neutralization of conscience may be sought by the individual or promoted by the organization.



## Social Movement Prosecution

### **Mass surveillance used to target opposition groups and is grounded in racism, as immigrant communities are police**

Neta Crawford, September 2023, Post-9/11 US Mass Surveillance,  
<https://watson.brown.edu/costsofwar/costs/social/rights/surveillance>

While “mass surveillance” is often used to refer to government spying, today it involves a complex grouping of federal agencies, local police, private companies, and even members of the public. **Mass surveillance programs allow the U.S. government to warrantlessly and "incidentally" vacuum up Americans' communications, metadata and content, and store their information in data centers and repositories** such as the database authorized by Section 702 - a provision up for reauthorization in 2023. Federal agencies also increasingly obtain data from private companies and track Americans using facial recognition, social media geomapping, and other technologies. **Mass surveillance has intensified the criminalization of marginalized and racialized groups, from Muslims and Arabs to Latinx immigrant communities to Black and Indigenous organizers, and has increasingly targeted protest movements such as Black Lives Matter and the movement to stop the Dakota Access Pipeline.** With the rise of what the U.S. government portrays as competition with China, Asian Americans have also been increasingly targeted. Mass surveillance has also facilitated the tracking, incarceration, and deportation of thousands of migrants, most of whom were guilty only of the civil offense of crossing a border without government permission. The post-9/11 state's focus on racialized groups may have ill-prepared it to address rising white supremacist violence. Building a set of institutions and technologies capable of overseeing both mass movement and minute details of individuals' lives has broadened the powers of law enforcement and corporations, in ways that have often proved difficult to reverse or even oversee. **Mass surveillance lacks government transparency,** which makes accounting for the true budgetary costs nearly impossible. However, available data on government intelligence institutions offer some sense of the mushrooming scale of surveillance: The annual U.S. intelligence budget has doubled from approximately \$40 billion per year in the late 1990s to \$80 billion per year in 2020. Public money has also been spent in profiteering, waste, fraud, and abuse on top of licit expenditures. For instance, five years after its creation, DHS was found to have overseen \$15 billion in over-budget, delayed, or canceled contracts.

## Securitization/Discrimination

### **Border tech securitizes the border and triggers discrimination**

Amnesty International, 2023, The Digital Border: Immigration, Technology, and Inequality, <https://www.amnestyusa.org/wp-content/uploads/2024/06/The-Digital-Border-Migration-Technology-and-Inequality.pdf>

**Human rights organizations around the world have documented grave and escalating<sup>12</sup> rights violations against refugees,<sup>13</sup> asylum seekers,<sup>14</sup> internally displaced people,<sup>15</sup> and migrants.<sup>16</sup> At the same time, the role of new forms of digital technology in and around international borders has continued to grow. Many states and international organizations have increasingly integrated new technologies into the systems that process and manage movement of persons.<sup>17</sup> Some forms of digitization at and around borders may be considered a form of pushback against refugee and migrant rights.<sup>18</sup> Such technology-enabled security practices also justify and undergird the expansion of discriminatory tools in policing,<sup>19</sup> social services,<sup>20</sup> and beyond, which impact not just migrants and refugees, but a range of racialized and marginalized groups.**

### **Refugee displacement increasing**

Amnesty International, 2023, The Digital Border: Immigration, Technology, and Inequality, <https://www.amnestyusa.org/wp-content/uploads/2024/06/The-Digital-Border-Migration-Technology-and-Inequality.pdf>

The United Nations High Commissioner for Refugees (**UNHCR**) **recorded a 21 percent increase in 2022 alone in the number of displaced persons,** which accounts for the single largest yearly increase recorded since the UNHCR began keeping such records.<sup>21</sup> **Because of escalating threats from insecurity and conflict, the scale of displacement round the world shows no sign of slowing. M**

### **Securitized immigration controls grounded in surveillance [of third country nationals (and citizens)]**

Valsamis Mitsilegas, 2012, Professor of European Criminal Law and Director of the Criminal Justice Centre at Queen Mary University of London., Indiana Journal of Global Legal Studies, Immigration Control in an Era of Globalization: Deflecting Foreigners, Weakening Citizens, Strengthening the State, <http://connection.ebscohost.com/c/articles/77633854/immigration-control-era-globalization-deflecting-foreigners-weakening-citizens-strengthening-state> (gated) DOA: 3-10-15, p. 4-5

[t]he impression that the problem of illegal migration is a global one, and the fact that those who seek to migrate outside the law have access to a geographically broader range of options than in earlier eras, contribute to the construction of an identity category of people named by the new noun "illegal." This link between globalization and the perceived facilitation of unwanted movement it entails has justified the enhancement of immigration control in the West. Going a step further and looking beyond the debate over illegality in immigration law, this part will demonstrate how immigration control has been transformed by shaping state responses to counter perceived global security threats. **Rather than focusing only on countering "illegal" movement** (or, as Dauvergne puts it, "migration outside the law"), **immigration control here focuses more generally on countering movement which is considered "dangerous" or a security threat. This securitized approach, which links migration and movement to evils such as transnational organized crime and terrorism, has enabled the development of a global enforcement consensus. The translation of this consensus into legislation has signified a considerable extension of state power at the expense of rights not only of foreigners but also of citizens:** as will be demonstrated below, in particular in the case of counterterrorism, **securitized immigration controls have shifted the focus from immigration control of third-country nationals at the physical border to the generalized surveillance of third-country nationals and citizens alike.**

### **Border control is protected by extensive and securitized surveillance that strengthens the power of the state**

Valsamis Mitsilegas, 2012, Professor of European Criminal Law and Director of the Criminal Justice Centre at Queen Mary University of London., *Indiana Journal of Global Legal Studies*, Immigration Control in an Era of Globalization: Deflecting Foreigners, Weakening Citizens, Strengthening the State, <http://connection.ebscohost.com/c/articles/77633854/immigration-control-era-globalization-deflecting-foreigners-weakening-citizens-strengthening-state> (gated) DOA: 3-10-15, p. 11-12

September 11, 2001 has been a watershed moment for the securitization of immigration control. The immediate U.S. response- which was heavily influenced by the manner in which the 9/11 attacks occurred-has led to the development of a remarkable transatlantic convergence regarding border security. The main elements of this securitized model of immigration control are as follows: **immigration checks and controls do not serve only immigration but also security purposes-"it is all about security"; there is an emphasis on preventing movement, and thus a shift from controls at the physical border to extraterritorial immigration controls aiming to screen those planning to travel in advance of traveling anywhere in the globe; and this preventative approach is based on risk assessment and aims to identify "dangerous" individuals in advance. In this light, there is a shift from immigration control in a narrow sense to the control of mobility more broadly:** it is not only third-country nationals wishing to enter the territory who are monitored, but all travelers and passengers. **In this process, there is a widening of surveillance, with a wide range of personal data being collected for the purposes of securitized immigration control and a wide range of government agencies (and not only immigration agencies) having access to such data, as well as a deepening of surveillance (via the collection of extremely sensitive categories of personal data, including biometrics).** **The securitization of immigration control in this manner has served to strengthen the state by leading to a proliferation of state power. At the same time, it poses**

**significant challenges to fundamental rights, in particular nondiscrimination, privacy, and data protection.** By focusing on the United States and the European Union, the following Sections will cast light on the emergence of a transatlantic convergence on border security in a globalized world.

## **Immigration enforcement targeted at security**

Amnil **Kalhan, 2014**, law professor, Drexel Maryland Law Review, Immigration Surveillance, <http://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=3646&context=mlr>, DOA: 3-12-15, p. 10-11

Before assessing the shifts currently taking place in the nature of immigration governance with the implementation of new technologies, it is necessary to first understand the development and proliferation of the immigration enforcement activities into which these new systems are being deployed. While regularized enforcement programs were limited for much of U.S. history and have tended to emphasize control of the territorial border with Mexico, **in recent decades immigration monitoring and control initiatives have grown explosively across a much broader range of domains.** In this Part, to establish the context for the technology-enabled shifts that I examine in this Article, I recount this transformation, which spans every stage of the migration process: before individuals travel to the United States, during their travel and when they seek to enter, while they are present, and when they depart. I identify and discuss major shifts in the modalities and priorities of enforcement across five categories: (1) initiatives that monitor and regulate entry into the United States, (2) post-entry initiatives that directly monitor and regulate noncitizens, (3) post-entry initiatives that indirectly monitor and regulate noncitizens, (4) criminal prosecutions, and (5) initiatives that monitor and regulate departures from the United States. Importantly, while these programs have been initiated and implemented as immigration control measures, many of these measures necessarily operate upon and are experienced by both noncitizens and U.S. citizens alike. Increasingly, **many of these initiatives also are being deployed to serve a range of other, non-immigration-related purposes. For example,** especially in the aftermath of the 2001 terrorist attacks and the creation of the Department of Homeland Security ("**DHS**"), **immigration enforcement activities have increasingly been cast with security-related significance.** In 2003, the immigration-related functions formerly performed by the Immigration and Naturalization Service ("**INS**"), within the Department of Justice, were transferred to three new agencies with DHS: U.S. Customs and Border Protection ("**CBP**"), U.S. Citizenship and Immigration Services ("**USCIS**"), and U.S. Immigration and Customs Enforcement ("**ICE**") - **all of which are charged to approach immigration governance first and foremost through the lens of security.** Paradoxically, even as it has significantly intensified immigration enforcement activities, the United States has continued to encourage expanded migration flows while simultaneously seeking to control the nature and patterns of those flows. As a result, the expansion of immigration enforcement



measures discussed in this Part has operated not only to facilitate the expulsion of potentially removable noncitizens, as discussions of immigration enforcement usually emphasize, but also to enable additional forms of regulation, control, and exclusion that are experienced by both noncitizens and citizens.

## Capitalism/Surveillance Industrial Complex

### **Border surveillance supports the surveillance industrial complex**

Promise Institute @ UCLA, 2022, Executive Summary: Race, Tech & Borders FINAL (ucla.edu), <https://promiseinstitute.law.ucla.edu/wp-content/uploads/2022/06/Fact-Sheet-Race-Tech-Borders-FINAL.pdf>

The report outlines the rise **of the border industrial complex**, which **describes the convergence of the militarization of the border, criminalization of migration, and profit motives of private companies**. **States are increasingly turning to private companies to manage migration with the use of technologies, which results in governments “[abdicating] responsibility for violations that may result from the use of these technologies” (A/HRC/48/76, para 18)**. One facet of the border industrial complex is the use of **autonomous technologies that collect data and make decisions using AI, sensors, and analytical capabilities, which are “increasingly [being] used in monitoring and securing border spaces” (para. 14)**. In many cases, States are using military or quasi-military technologies to intercept and block migrants from crossing borders. Increasingly, **governments are situating migrants as criminals and threats to national security, rather than people seeking safety and security**. This perceived threat provides justification for “increasingly hard-line and intrusive technologies such as drones and various border enforcement mechanisms like remote sensors and integrated fixed-towers with infra-red cameras (so-called autonomous surveillance towers)” (para. 15). For example, the European Border and Coast Guard Agency (Frontex) uses military-grade drones to monitor and intercept vessels carrying migrants, often from Africa or the Middle East, on the Mediterranean and Aegean Seas. **There is evidence that Frontex has been involved in pushbacks, which means the forcible return of migrants across a border without considering their individual circumstances or allowing them to claim asylum or appeal, in violation of international law**

### **The Pro doesn't solve the underlying drivers of immigration, they reinforce them**

Amnesty International, 2023, The Digital Border: Immigration, Technology, and Inequality, <https://www.amnestyusa.org/wp-content/uploads/2024/06/The-Digital-Border-Migration-Technology-and-Inequality.pdf>

Meanwhile, many states around the world have long experimented with increasingly punitive border management and asylum policies that effectively criminalize those seeking asylum or moving across borders.<sup>22</sup> In addition, many political actors and parties around the world have continued to weaponize xenophobic and racist rhetoric about immigrants and asylum seekers.<sup>23</sup> Asylum seekers themselves often do not receive adequate protection while they are in the process of seeking a status determination, including in the form of dangerous or

unhealthy living conditions at borders, or within camp settings.<sup>24</sup> Forcibly displaced people are often forced to seek asylum in part because of underlying structures of inequality they experience in their home context that lead to discrimination and persecution, including ethnic and religious minorities,<sup>25</sup> and LGBTQI+ people.<sup>26</sup> **Many people who experience forced displacement are from countries or populations who have experienced the impacts of historical colonialism and ongoing economic extraction.**<sup>27</sup> **Forced displacement itself is often a modern manifestation of the aftermath of violent and extractive systems of colonialism, both past and present.**<sup>28</sup> **States often experiment with new technologies in the asylum or immigration process on those who, for a variety of underlying reasons, have the least ability to protect their rights, or seek redress when harmed.**<sup>29</sup> **The use of new technologies is increasing in the migration and asylum fields across the world, particularly in the arenas of policing and security, personal identification, and communication and movement of information. Many of these systems pose threats to the rights of people seeking to move across borders, in ways that exacerbate underlying racial, economic, and social inequalities.**<sup>30</sup> **Further, many of the digital tools being used in the processing of movement of persons are developed, sold, and deployed by private companies, whose very business model is often rooted in and structured by the extraction and accumulation of data for profit.**<sup>31</sup> As the right to seek asylum is under increasing threat by states and governments,<sup>32</sup> the adoption of undertested and experimental technologies at the border must be examined carefully alongside other technology-enabled human rights concerns.<sup>33</sup>

### **Border surveillance means techno colonialism**

Amnesty International, 2023, The Digital Border: Immigration, Technology, and Inequality, <https://www.amnestyusa.org/wp-content/uploads/2024/06/The-Digital-Border-Migration-Technology-and-Inequality.pdf>

**Across all stages of movement, including in countries of origin, transit, and destination, all migrants have the right to equality and non-discrimination,**<sup>38</sup> privacy,<sup>39</sup> and access to social protection.<sup>40</sup> **Technologies that contribute to discouraging people on the move from exercising these rights can be considered part of a broader system of what some researchers have termed “technocolonialism,” entrenching inequalities of already marginalized groups.**<sup>41</sup> **The use of such technologies often helps to facilitate both the externalization and internalization of borders, in which various forms of technology provide the pretext by which states and regions justify the undermining or weakening of human rights by extending systems of criminalization and surveillance into more areas of daily life for more types of people.** Borders increasingly operate both internally and externally, and an approach which analyzes the growing influence of technology on migration helps shed light on how affected populations are subject to rights violations across different stages of their movement.<sup>4</sup>

## Value to Life

**Surveillance of immigrants and forthcoming DAs rely on a flawed risk-management model that collapses identity and classifies individuals – Koulisch 15 (Robert, Joel J. Feller Research Professor of Government and Politics at the University of Maryland, “Spiderman’s Web and the Governmentality of Electronic Immigrant Detention,” 2/1/2015, Law, Culture and the Humanities, ProQuest)//JL**

Soon after 9/11, a new postmodern governmentality began to emerge alongside this burgeoning closed detention industry. In this section I introduce the postmodern technology of electronic detention, referred to in policy papers and case law as an alternative to detention (ATD). When discussing how ATD strategies gained power, I consider sov-er-eighty and plenary powers on the one hand and administrative (civil) law on the other. The outcome is an uneasy relationship that enhances plenary powers over the individual in an administrative law setting. Generally, the difference between modern and postmodern governmentality comes down to the technologies of control. The panopticon confines the individual within a bricks and mortar institution and imposes discipline. The postmodern scenario is less confining: it focuses on efforts to fragment individual identities with a multi-directional (post bureaucratic) set of techniques. This scenario occurs in the “control society” that Gilles Deleuze examines in Postscript on a Control Society.<sup>73</sup> Deleuze extends Foucault’s approach to domination in the absence of confining spatial arrangements, and attributes this expansion of power to the use of digital technology. He talks about controlling persons through digital technologies that control access to digital space (access space). Management techniques are relied upon to digitalize data collected from surveillance and inspection. Such techniques disaggregate the individual into both fragments and aggregates of identity data, which introduces a new approach to human subjectivity. Such management techniques are designed to: dissolve the notion of a subject or a concrete individual, and put in its place a combination of factors, the factors of risk. Such a transformation, if this is indeed what is taking place, carries important practical implications. The essential component of intervention no longer takes the form of the direct face-to-face relationship between the carer and the cared, the helper and the helped, the professional and the client. It comes instead to reside in the establishing of flows of population based on the collation of a range of abstract factors deemed liable to produce risk.<sup>74</sup> In this scenario, human interaction between guard and inmate is replaced by the push of a button on a database, and guided by risk management principles. Risk-management consists of transparent calculative regimes of accounting and management.<sup>75</sup> It places special and sometimes **insidious constraints on the liberty of “high risk” immigrants**. Ankle bracelets and databases, hair samples and radio frequency identification (rfid) tags **replace the watchtower as the dominant tools for surveillance**, and passwords and databases replace the signature and case file number (paper trail).<sup>76</sup> Instead of having to carry documents on one’s person certifying lawful presence as Chinese laborers did during the 1890s, under these new initiatives data is contained within databases and

recognizes rfids, ankle bracelets, one's retina, fingerprint or DNA. The technologies include electronic monitoring, biometrics, digital databases and DNA databases, all of which deepen the state's capacity to gain information and knowledge about populations distinguishing members and nonmembers within its territorial borders. The question arises that if such alternatives to detention were categorized as a form of custody, then nonviolent immigrants subjected to mandatory detention would be eligible for electronic bracelets and other less confining ATDs. The criminal law categorizes electronic monitoring as a form of custody. Were it a form of custody in the immigration context it would be available for nonviolent immigrants in mandatory detention. Custody would also trigger due process and make it possible for immigrants under electronic monitoring to file habeas corpus petitions. The problem with immigration is that electronic monitoring is not considered to be custody or detention in the immigration context. In the criminal field instructions to wear electronic bracelets are accompanied by procedures where the state lays charges, provides counsel and must meet the standard of proof beyond a reasonable doubt or "demonstrate by clear and convincing evidence that an individual post a danger if released pretrial."<sup>77</sup> Similar instructions in the immigration context come void of such procedural safeguards because electronic monitoring in the immigration context is perceived as regulatory rather than criminal.<sup>78</sup> In other words, as the American Immigration Lawyer's Association (AILA) suggests, "All of DHS's alternatives to detention programs rely heavily on electronic (tagging) devices which seriously restrict an individual's freedom of movement – thereby converting the program into an alternative form of custody rather than an alternative to detention."<sup>79</sup> In sum, criminalizing civil penalties reveals a punishment laundering process that opens the door for civil authorities to unleash unaccountable and unchecked techniques that, as a result, must also be perceived as plenary. This laundering process cleans up everything but the black ooze.

## **Surveillance securitization of immigration is dehumanizing**

Valsamis Mitsilegas, 2012, Professor of European Criminal Law and Director of the Criminal Justice Centre at Queen Mary University of London., *Indiana Journal of Global Legal Studies, Immigration Control in an Era of Globalization: Deflecting Foreigners, Weakening Citizens, Strengthening the State*, <http://connection.ebscohost.com/c/articles/77633854/immigration-control-era-globalization-deflecting-foreigners-weakening-citizens-strengthening-state> (gated) DOA: 3-10-15, p. 37-9

The growing recourse to technology for border controls has been discussed in this Article in the section on the securitization of immigration control. The latter is based largely on the establishment and development of databases, the collection and checking of biometrics, and the use of automated gates in entry and exit points. **The state has relied on technology in developing further layers of control and surveillance of individuals on the move**. However, **this recourse to technology has significant consequences for the affected individuals. It leads to the dehumanization of individuals via the instrumentalization of the human body, with sensitive pieces of personal data being provided to the state and checked on a regular basis at various instances of travel. It is based on the continuous risk assessment of passengers at various entry and exit points, as well as in advance of travel, and such risk assessment is**

**based on automaticity, with a negative assessment potentially leading to failure to be accepted for travel or to pass an automated gate. Along with its contribution to the extension of state surveillance, the use of technology may thus lead to the prevention of entry and challenge the rule of law by restricting the avenues for a legal remedy in cases of denial of entry. The growing emphasis on the use of technology for immigration control and the need for related issues to be addressed as technical, rather than legal issues, further constitute another level of depoliticization.** In addition to the aspects of immigration control discussed in the securitization section of this Article, this section will highlight the above challenges by discussing two further examples of technological immigration control: one in the United States and one in the European Union. As Rey Koslowski has noted, **technology has been used by the DHS as a "force multiplier" to increase border control capacity.** In this context, in 2005 the DHS launched a new technology project designed to monitor the border: the Secure Border Initiative (SBI). SBI is a comprehensive, multiyear plan that, among other things, involves a "systemic upgrading of the technology used in controlling the border, including increased manned aerial assets, expanded use of unmanned aerial vehicles (UAVs), and next-generation detection technology." SBI had a bumpy ride, facing continued and repeated technical problems, cost overruns and schedule delays, and was eventually cancelled in January 2011. "In cancelling the program, [DHS Secretary, Janet] Napolitano made clear that **border enforcement would continue, with continued 'boots on the ground' and more intensive 'point defense'-deploying existing technology, such as surveillance drones, radar, and sensors, in strategic locations.**" **Notwithstanding the challenges the use of technology for immigration control presented in the implementation of the program, the emphasis on the use of technology for surveillance purposes remains.**



## Biopolitics

**The technology is used to track and control the immigrants in a form of biopolitics meant to distinguish the legitimate and illegitimate people of a community-this causes the otherization of immigrants as the lesser**

**Zylinska, 2004** (Joanna Zylinska, Professor of New Media and Communications at Goldsmiths, University of London, "The Universal Acts: Judith Butler and the biopolitics of immigration," *Cultural Studies* Vol.18 No.4, July 2004, pg. 526)

The 'issue' of asylum seekers lies at the very heart of the broader issue concerning the constitution of the public sphere. For Butler democratic participation in the public sphere is enabled by the preservation of its boundaries, and by the simultaneous establishment of its 'constitutive outside'. She argues that in contemporary Western democracies numerous singular lives are being barred from the life of the legitimate community, in which standards of recognition allow one access to the category of 'the human'. In order to develop a set of norms intended to regulate the state organism, biopolitics needs to establish a certain exclusion from these norms, to protect the constitution of the polis and distinguish it from what does not 'properly' belong to it. The biopolitics of immigration looks after the bodies of the host community and protects it against parasites that might want to invade it, but it needs to equip itself with tools that will allow it to trace, detect and eliminate these parasites. Technology is mobilized to probe and scan the bare life of those wanting to penetrate the healthy body politic: through the use of fingerprinting, iris recognition and scanners in lorries travelling, for example, across the English Channel, the presence and legitimacy of 'asylum seekers' can be determined and fixed.<sup>4</sup> The bio-politics of immigration is thus performative in the sense of the term used by Butler; through the probing of human bodies, a boundary between legitimate and illegitimate members of the community is established. This process depends on a truth regime already in place, a regime that classifies some bodies as 'genuine' and others (be it emaciated bodies of refugees squashed in lorries in which they have been smuggled to the 'West', or confined to the leaky Tampa ship hopelessly hovering off the shores of Australia) as 'bogus'. The bare life of the host community thus needs to be properly managed and regulated, with its unmanageable aspects placed in what Agamben (1998) calls a relation of exception. But the question that remains occluded in these processes of 'life management' is '[w]hich bodies come to matter / and why?' (Butler 1993, p. xii). Butler demonstrates the regulatory mechanisms involved in the production and simultaneous exclusion of 'bare life' in a number of her works, referring to such excluded groups as transsexuals and transgender people (1990, 1993), non-traditional family units (1990, 1993), racial minorities (1997) or even cyborgs (1993). But it is the literary heroine Antigone, analysed in *Antigone's Claim: Kinship Between Life and Death*, that I want to turn to for my discussion of the issue of asylum seekers in Western democracies. Butler's reading of Antigone, who, '[p]rohibited from action, . . . nevertheless acts', and whose 'act is hardly a simple assimilation to an existing norm' (2002, p. 82), will allow me to think about the working of the performative in different political discourses, and about the possibility of their resignification.



**This positioning of the immigrant as the other justifies dehumanization and poses them as the “homo sacer”, or essentially one who has been reduced to bare life, vindicating genocide of populations.**

**Vazquez 14**(Manuel A. Vazquez, Professor and Chair in the Department of Religion at the University of Florida, specializes in the intersection of religion, immigration, and globalization in the Americas, *Journal for Cultural and Religious Theory* vol. 13 no. 1 Fall 2014, “From Colonialism to Neo-Liberal Capitalism: Latino/a Immigrants in the U.S. and the New Biopolitics,” p.87-89

We do not endorse the gendered language in this card

In particular, this regime attempts to regulate mobile populations under a rigid illegal-legal binary logic and according to a dialectic of visibility and invisibility: unauthorized immigrants must become simultaneously visible to the gaze of local, state, and federal authorities and invisible through exclusion from public and civic spaces, from schools, hospitals, and roads. Since 9-11, nation-states, particularly those at the core of neo-liberal capitalism, have redoubled their efforts to render the mobile and potentially unruly Other hyper-visible as part and parcel of a new global politics of alterity. The target of the new multi-scalar regimes of governmentality is the traveling stranger who, in the midst of widespread processes of de-territorialization and re-territorialization brought about by globalization in its multiple dimensions, is no longer containable within the spaces of Western modernity, more specifically, the spaces of secularity (in the case of Muslims) and the spaces of the nation as a bound and culturally homogenous container. Because many immigrants sustain transnational livelihoods in order to navigate economic uncertainty and political turmoil, because many of them are simultaneously embedded in their societies of origin and settlement, building relations, commitments, and loyalties across borders, the nation-state has intensified its attempts to mark clear borders and to narrow the parameters of citizenship.<sup>18</sup> Castles and Miller recognize that there have been larger migration movements in history – for example, at the turn of the 20th century. However, a “defining feature of the [present] age of migration is the challenge posed by international migration to the sovereignty of states, specifically to their ability to regulate the movements of peoples across their borders. The extensiveness of irregular (also called undocumented or illegal) migration around the world has probably never been greater than it is today.”<sup>19</sup> As a result of this challenge to the modern principle of sovereignty, Zembylas (2010) argues that immigrants, refugees, and asylum seekers have become key figures in a new “fearism” that enables their complete de-humanization as a way to deny them any right to dwell among juridical citizens. In response to fearism, we observe pervasive processes of “rebordering,” especially in the U.S. and Europe.<sup>21</sup> Whereas borders “have long been associated with the military defense of the national territory from opposing, often neighbouring armies . . . [and] have a history as privileged sites of commercial regulation . . . today . . . borders are becoming more and more important . . . as spaces and instruments for the policing of a variety of actors, objects and processes whose common denominator is ‘mobility’ . . . or more specifically, the forms of social and political insecurity that have come to be discursively

attached to these mobilities.”<sup>22</sup> Accompanying this rebordering, there has been an explosive “growth of detention structures along transnational routes traveled by migrants in their journeys through northern Africa, Eastern Europe, Indonesia, and Central America to countries where they hope to make asylum claims.”<sup>23</sup> What makes possible the emergence of a new panopticon largely invisible search for hyper-visibility is the application of a “paradigm of suspicion that conflates the perceived threats of crime, immigration, and terrorism ([as] . . . ‘integrated risk management’)” through advanced, virtual technologies of biosocial profiling.<sup>24</sup> The neo-liberal state’s new technologies of power to regulate mobility and belonging are no longer just the militarization and securitization of borders and the development and application of new biometric technologies (like Secure Communities), which allow “data mining” and the deployment of a new “nano-physics” power that penetrates to the deepest capillaries of everyday life, with far finer granulation and more pervasive reach than the micro-physics of power that Foucault described.<sup>25</sup> This is precisely what Alabama State Representative has in mind when he affirms that HB 56 was designed to “attack every aspect of an illegal alien’s life.” Building on Foucault and pointing to Abu Ghraib and the on-going war on terror, which had been characterized by practices such as extraordinary rendition, Giorgio Agamben contends that concentration camp cannot be considered just as “a historical fact and an anomaly belonging to the past . . . but in some way as the hidden matrix and nomos of the political space in which we are still living.”<sup>26</sup> The sovereign is no longer he who can call forth particular subjects through disciplinary techniques or who can manage the productive and reproductive corporeal capacities of a population, but he “who decides on the state of exception,” that is, it he who can legally strip off all the rights of individuals, reducing them to “bare life,” as it is done in the concentration camp. To characterize these individuals, Agamben summons from ancient Roman law the figure of “homo sacer,” the (accused) non-person who “has been excluded from the religious community and from all political life: they he cannot participate in the rites of their his gens, nor . . . can they he perform any juridically valid act.”<sup>27</sup> Homo sacer is “pure zoē,”<sup>28</sup> “Their his entire existence is reduced to a bare life stripped of every right by virtue of the fact that anyone can kill them him without committing homicide.”<sup>29</sup>

### **Immigration surveillance is the manifestation of sovereign control and violent governmentality – this focus on self-preservation justifies xenophobic exclusion**

**Koulish 15** (Robert, Joel J. Feller Research Professor of Government and Politics at the University of Maryland, “Spiderman’s Web and the Governmentality of Electronic Immigrant Detention,” 2/1/2015, Law, Culture and the Humanities, ProQuest)//JL

I examine the governmentality of the exception in the immigration context. My purpose is to describe how technologies of sovereign power have been deployed on immigrants in the enforcement context. Michel Foucault coined the term governmentality during a series of lectures in the late 1970s, to connote a form of productive power that constitutes people as

a particular sort of subject. For Foucault, power relations are central to any analysis of society. Unlike liberal conceptions of power, which are mostly negative, Foucault imagines that power can be liberating or productive as well as being repressive. Foucault's project is not to condemn power but to examine its genealogy in specific fields. He has famously written about panoptic power as it pertains to sexuality, the asylum, or prison. Thus it is also with immigration and the notion of plenary power. Following Foucault, I discuss immigration plenary powers in its panoptic and post-panoptic guise. Further, while I agree with the juridical inclination to condemn the government's use of unchecked power on immigrants, it is more important to my project to examine how such power is utilized. Thus, as Foucault says, governmentality should also be understood as the "conduct of conduct," or, a purposeful calculated attempt to regulate human behavior.<sup>45</sup> Three important aspects of governmentality are worth mentioning. First, according to Judith Butler, "governmentality operates through policies and departments, through managerial and bureaucratic institutions, through the law, when the law is understood as 'a set of tactics,' and through forms of state power, although not exclusively."<sup>46</sup> Following Butler, therefore, I refer to governmentality in terms of how control tactics operate through policy, i.e., how technologies regulate the liberty of immigrants into and within society, punish immigrants within a civil law context. Second, it includes the role private actors play in directing human behavior, which suggests examining the privatization of immigration control technologies. Third, it includes how individuals shape their own subjectivities. Thus, following Cruikshank who examines the technologies, or ethical obligations, of citizenship,<sup>47</sup> and Rose who examines self-governance as extending government into the soul,<sup>48</sup> I examine technologies of membership and exclusion that pertain to immigrants **who find themselves outside custody but still surveilled and their liberty constrained**. In this way it covers how these control strategies get immigrants to internalize features of control that enhance the likelihood of the immigrants' own incarceration and subsequent removal from the country. I examine immigration control technologies that combine two approaches to sovereignty, which the courts perceive as the basis for immigration law. By Foucault's account, early sovereignty has to do with the sovereign's self-preservation as demonstrated during the ancien régime.<sup>49</sup> The sovereign's preoccupation with self-preservation provides the logic for a pre-constitutional approach to sovereignty. The sovereign can act with impunity to ensure its own self-preservation. Any other conceivable task pales in importance. I analogize Foucault's early sovereign's concern for self-preservation to the pre-constitutional conception of sovereignty that the Supreme Court has used to justify the basis for federal immigration power since 1889. In terms of deploying mechanisms of control, the logic of self-preservation lends itself to draconian enforcement measures and broad exclusion. Next is the modern account of sovereignty, which is rooted in constitutionalism and a normative concern for the wellbeing of the population, a concept Foucault defines in terms of it being docile and productive.<sup>50</sup> As federal immigration law developed in 1882 and 1891 upon the infrastructure of the new administrative state,<sup>52</sup> mechanisms of control were introduced, including immigrant inspections and quarantines that focused on matters of exclusion, and public health and wellbeing. This contested terrain of sovereignty (between self preservation and well being) provides a useful interpretation of immigration law's more anomalous nature. Immigration rests upon a structure of sovereignty that predates the constitution and thus can legitimize any exclusion

that is justified on the basis of self-preservation. It develops within the modern administrative state, which enhances state capacity for inspecting and surveilling the immigrant population for the sake of public health.

**This inscription within biopolitics is at the heart of violence allowing every 'citizen' to be devalued and eliminated in the name of sovereign management.**

**Agamben 98** (Giorgio – Univ. Verona Philosophy professor, *Homo Sacer: Sovereign Power and Bare Life*, Stanford UP, p. 139-140)

\*\*we don't not agree with the author's use of gendered language

<3.3. It is not our intention here to take a position on the difficult ethical problem of euthanasia, which still today, in certain countries, occupies a substantial position in medical debates and provokes disagreement. Nor are we concerned with the radicality with which Binding declares himself in favor of the general admissibility of euthanasia. More interesting for our inquiry is the fact that the sovereignty of the living man (person) over his (their) own life has its immediate counterpart in the determination of a threshold beyond which life ceases to have any juridical value and can, therefore, be killed without the commission of a homicide. The new juridical category of "life devoid of value" (or "life unworthy of being lived") corresponds exactly—even if in an apparently different direction—to the bare life of homo sacer and can easily be extended beyond the limits imagined by Binding. It is as if every valorization and every "politicization" of life (which, after all, is implicit in the sovereignty of the individual over his own existence) necessarily implies a new decision concerning the threshold beyond which life ceases to be politically relevant, becomes only "sacred life," and can as such be eliminated without punishment. Every society sets this limit; every society—even the most modern—decides who its "sacred men" (people) will be. It is even possible that this limit, on which the politicization and the exceptio of natural life in the juridical order of the state depends, has done nothing but extend itself in the history of the West and has now—in the new biopolitical horizon of states with national sovereignty—moved inside every human life and every citizen. Bare life is no longer confined to a particular place or a definite category. It now dwells in the biological body of every living being.> <139-140>

**Individualizing and identity forming methods of governance are the new predominant forms of power. The production and administration of life lead to the maneuvering of subjects in ways that culminate in violence, war, and genocide.**

**Foucault '78** (Michel – late philosopher, *History of Sexuality An Introduction Vol. 1*, Vintage Books, p. 135-137) \*\*We do not agree with this authors use of gendered language

For a long time, one of the characteristic privileges of sovereign power was the right to decide life and death. In a formal sense, it derived no doubt from the ancient patria potestas that granted the father of the Roman family the right to "dispose" of the life of his children and his slaves; just as he had given them life, so he could take it away. By the time the right of life and death was framed by the classical theoreticians, it was in a considerably diminished form. It was no longer considered that this power of the sovereign over his

(their) subjects could be exercised in an absolute and unconditional way, but only in cases where the sovereign's very existence was in jeopardy: a sort of right of rejoinder. If he were threatened by external enemies who sought to over-throw him or contest his rights, he could then legitimately wage war, and require his subjects to take part in the defense of the state; without "directly proposing their death," he was empowered to "expose their life": in this sense, he wielded an "indirect" power over them of life and death.' But if someone dared to rise up against him and transgress his laws, then he could exercise a direct power over the offender's life: as punishment, the latter would be put to death. Viewed in this way, the power of life and death was not an absolute privilege: it was conditioned by the defense of the sovereign, and his own survival. Must we follow Hobbes in seeing it as the transfer to the prince of the natural right possessed by every individual to defend his life even if this meant the death of others? Or should it be regarded as a specific right that was manifested with the formation of that new juridical being, the sovereign?' In any case, in its modern form—relative and limited—as in its ancient and absolute form, the right of life and death is a dissymmetrical one. The sovereign exercised his (their) right of life only by exercising his right to kill, or by refraining from killing; he (they) evidenced his power over life only through the death he was capable of requiring. The right which was formulated as the "power of life and death" was in reality the right to take life or let live. Its symbol, after all, was the sword. Perhaps this juridical form must be referred to a historical type of society in which power was exercised mainly as a means of deduction (prelevement), a subtraction mechanism, a right to appropriate a portion of the wealth, a tax of products, goods and services, labor and blood, levied on the subjects. Power in this instance was essentially a right of seizure: of things, time, bodies, and ultimately life itself; it culminated, in the privilege to seize hold of life in order to suppress it. Since the classical age the West has undergone a very profound transformation of these mechanisms of power. "Deduction" has tended to be no longer the major form of power but merely one element among others, working to incite, reinforce, control, monitor, optimize, and organize the forces under it: a power bent on generating forces, making them grow, and ordering them, rather than one dedicated to impeding them, making them submit, or destroying them. There has been a parallel shift in the right of death, or at least a tendency to align itself with the exigencies of a life-administering power and to define itself accordingly. This death that was based on the right of the sovereign is now manifested as simply the reverse of the right of the social body to ensure, maintain, or develop its life. Yet wars were never as bloody as they have been since the nineteenth century, and all things being equal, never before did regimes visit such holocausts on their own populations. But this formidable power of death—and this is perhaps what accounts for part of its force and the cynicism with which it has so greatly expanded its limits—now presents itself as the counterpart of a power that exerts a positive influence on life, that endeavors to administer, optimize, and multiply it, subjecting it to precise controls and comprehensive regulations. Wars are no longer waged in the name of a sovereign who must be defended; they are waged on behalf of the existence of everyone; entire populations are mobilized for the purpose of wholesale slaughter in the name of life necessity: massacres have become vital. It is as managers of life and survival, of bodies and the race, that so many regimes have been able to wage so many wars, causing so many men to be killed. And through a turn that closes the circle, as the technology of wars has caused them to tend increasingly toward all-out destruction, the decision that initiates them and the one that terminates them are in fact increasingly informed by the naked question of

survival. The atomic situation is now at the end point of this process: the power to expose a whole population to death is the underside of the power to guarantee an individual's continued existence. The principle underlying the tactics of battle-that one has to be capable of killing in order to go on living-has become the principle that defines the strategy of states. But the existence in question is no longer the juridical existence of sovereignty; at stake is the biological existence of a population. If genocide is indeed the dream of modern powers, this is not because of a recent return of the ancient right to kill; it is because power is situated and exercised at the level of life, the species, the race, and the large-scale phenomena of population.

### **Biopolitics generates violence on a previously unseen scale, authorizing extermination at will**

**Agamben 98** (Giorgio – Univ. Verona Philosophy professor, *Homo Sacer: Sovereign Power and Bare Life*, Stanford UP, p. 113-115)

<It is Jean-Luc Nancy's achievement to have shown the ambiguity of Bataille's theory of sacrifice, and to have strongly affirmed the concept of an "unsacrificeable existence" against every sacrificial temptation. Yet if our analysis of homo sacer is correct, and the Bataillan definition of sovereignty with reference to transgression is inadequate with respect to the life in the sovereign ban that may be killed, then the concept of the "unsacrificeable" too must be seen as insufficient to grasp the violence at issue in modern biopolitics. Homo sacer is unsacrificeable, yet he may nevertheless be killed by anyone. The dimension of bare life that constitutes the immediate referent of sovereign violence is more original than the opposition of the sacrificeable and the unsacrificeable, and gestures toward an idea of sacredness that is no longer absolutely definable through the conceptual pair (which is perfectly clear in societies familiar with sacrifice) of fitness for sacrifice and immolation according to ritual forms. In modernity, the principle of the sacredness of life is thus completely emancipated from sacrificial ideology, and in our culture the meaning of the term "sacred" continues the semantic history of homo sacer and not that of sacrifice (and this is why the demystification of sacrificial ideology so common today remain insufficient, even though they are correct). What confronts us today is a life that as such is exposed to a violence without precedent precisely in the most profane and banal ways. Our age is the one in which a holiday weekend produces more victims on Europe's highways than a war campaign, but to speak of a "sacredness of the highway railing" is obviously only an antiphrastic definition (La Cecla, *Mente locale*, p. 115). The wish to lend a sacrificial aura to the extermination of the Jews by means of the term "Holocaust" was, from this perspective, an irresponsible historiographical blindness. The Jew living under Nazism is the privileged negative referent of the new biopolitical sovereignty and is, as such, a flagrant case of a homo sacer in the sense of a life that may be killed but not sacrificed. His killing therefore constitutes, as we will see, neither capital punishment nor a sacrifice, but simply the actualization of a mere "capacity to be killed" inherent in the condition of the Jew as such. The truth-which is difficult for the victims to face, but which we must have the courage not to cover with sacrificial veils-is that the Jews were exterminated not in a mad and giant holocaust but exactly as Hitler had announced, "as lice," which is to say, as bare life. The dimension in which the extermination took place is neither religion nor law, but biopolitics. If it is true that the figure proposed by our age is that of an unsacrificeable life that has nevertheless become capable of being killed to an

unprecedented degree, then the bare life of homo sacer concerns us in a special way. Sacredness is a line of flight still present in contemporary politics, a line that is as such moving into zones increasingly vast and dark, to the point of ultimately coinciding with the biological life itself of citizens. If today there is no longer any one clear figure of the sacred man, it is perhaps because we are all virtually *homines sacri*.> < 113-115 >

**Second, Biopolitics results in a plethora of impacts- the more extreme form of racism, sorting, political death, and exclusion. Advanced technology worsens this issue.**

**Ajana 05**(Btihaj Ajana, Lecturer in Culture, Digital Humanities & Creative Industries, PhD in Sociology from London School of Economics and Political Science, "Surveillance and Biopolitics," p.10-13, 2005)

The juxtaposition of death and life at the borders is by no means an ad hoc occurrence but an affirmation of the inadequate immigration policies and the 'immanentist' (Nancy, 1991: 3) politics of absolute enclosure. From this emerges the issue of 'sorting' that may override the term 'racism' as long as it is not designated to a specific race or insofar as it is 'racism without race' as Balibar prefers to put it. Racism for Foucault (2003 [1976]: 255) (and here racism has a figurative function just as the metaphors of leprosy and plague do) is that which creates fragmentation within the biological continuum and caesuras within species-bodies so that biopolitical sorting and (sub)divisions could take place between those who are deemed to be 'superior' and those who are made to be perceived as the 'inferior' type all with the aim to preserve the 'well-being', 'safety', 'security' and 'purity' of the 'healthy' (powerful) population ('virtues' which are undoubtedly contributing to the naturalisation and taken-for-grantedness of institutional racism, and the inscription of modes of exclusionary differentiations in many subtle ways so that the need of accountability is made redundant.) Embedded within this biopolitical overdetermination is a murderous enterprise. Murderous not insofar as it involves extermination (although this might still be the case) but inasmuch as it exerts a biopower that exposes 'someone to death, increasing the risk of death for some people, or, quite simply, political death, expulsion, rejection, and so on' (Foucault 2003 [1976]: 256), and inasmuch as it is 'based on a certain occluded but inevitable and thus constitutive violence' (Zylinska, 2004: 530); a symbolic violence (manifested, for instance, in the act of 'naming' as Butler (in Zylinska, 2004) and Derrida argue 'asylum seekers', 'detainees', 'deportees', 'illegal immigrants', etc) as well as a material one (for example, placing 'asylum seekers' and 'illegal immigrants' in detention centres), attesting to that epistemic impulse to resuscitate the leftover of late modernity and the residual of disciplinary powers that seek to eliminate and ostracise the unwanted-other through the insidious refashioning of the 'final solution' for the asylum and immigration 'question'. Such an image has been captured by Braidotti (1994: 20): Once, landing at Paris International Airport, I saw all of these in between areas occupied by immigrants from various parts of the former French empire; they had arrived, but were not allowed entry, so they camped in these luxurious transit zones, waiting. The dead, panoptical heart of the new European Community will scrutinize them and not allow them in easily: it is crowded at the margins and non-belonging can be hell. The biopolitics of borders stands as the quintessential domain for this kind of 11 sorting, this kind of racism pervading Western socio-political

imaginary and permeating the rhetoric of national and territorial sovereignty despite its monolithic use of euphemism. It is precisely this task of sorting and this act of fragmenting that contemporary modes of border security and surveillance are designed making 'the management of misery and misfortune ... a potentially profitable activity' (Rose, 1999: 260) and evaporating the political into a perpetual state of technicism (Coward, 1999: 18) where 'control' and 'security' are resting upon vast investments in new information and communications technologies in order to filter access and minimise, if not eradicate, the infiltration and 'riskiness' of the 'unwanted'. For instance, in chapter six of the White Paper, 'Secure Borders, Safe Haven' (2002), the UK government outlines a host of techniques and strategies aimed at controlling borders and tightening security including the use of Gamma X-ray scanners, heartbeat sensors, and millimetric wave imaging to detect humans smuggled in vehicles. Other surveillance techniques involve the use of biometrics which consists of an 'enrolment phase' (European Commission, 2005: 46) where physical attributes such as fingerprints, DNA patterns, retina, iris, face, voice, etc are used to collect, process, and store biometric samples onto a database for subsequent usage during the 'recognition phase' in which these data are matched against the real-time data input in order to verify identity. Authorities have been keen on integrating biometric identifiers into ID cards and passports as a means of strengthening security, enhancing modes of identification and facilitating the exchange of data between different countries. Further application of biometrics in information sharing can be seen in the EU-wide database EURODAC (Koslowski, 2003: 11), used to store the fingerprints of asylum applicants in order to prevent multiple applications in several member states or what is referred to as the so-called 'asylum shopping'. Added to that, the employment of a broad array of private actors (employers, banks, hospitals, educational institutions, marriage register offices, etc) to perform the role of 'gatekeepers' (Lahav, in Koslowski, 2003: 5) (or more accurately, 'borderkeepers') and reinforce immigration controls from within the internal and ubiquitous borders, constituting 'a multiplicity of points for the collection, inscription, accumulation and distribution of information relevant to the management of risk' (Rose, 1999: 12 260), and the administration of life and death.

### **Racism makes war and genocide the permanent conditions of society while simultaneously making it invisible- society internalizes it**

**Mendieta 02** (Eduardo Mendieta, PhD and Associate professor of Stonybrook School of Philosophy, " 'To make live and to let die' –Foucault on Racism Meeting of the Foucault Circle, 4/25/02 APA Central Division Meeting")

This is where racism intervenes, not from without, exogenously, but from within, constitutively. For the emergence of biopower as the form of a new form of political rationality, entails the inscription within the very logic of the modern state the logic of racism. For racism grants, and here I am quoting: "the conditions for the acceptability of putting to death in a society of normalization. Where there is a society of normalization, where there is a power that is, in all of its surface and in first instance, and first line, a bio-power, racism is indispensable as a condition to be able to put to death someone, in order to be able to put to death others. The homicidal



Immigration Surveillance Core File. *Updated 8-3-24*

[meurtrière] function of the state, to the degree that the state functions on the modality of biopower, can only be assured by racism "(Foucault 1997, 227) To use the formulations from his 1982 lecture "The Political Technology of Individuals" –which incidentally, echo his 1979 Tanner Lectures –the power of the state after the 18th century, a power which is enacted through the police, and is enacted over the population, is a power over living beings, and as such it is a biopolitics. And, to quote more directly, "since the population is nothing more than what the state takes care of for its own sake, of course, the state is entitled to slaughter it, if necessary. So the reverse of biopolitics is thanatopolitics." (Foucault 2000, 416). Racism, is the thanatopolitics of the biopolitics of the total state. They are two sides of one same political technology, one same political rationality: the management of life, the life of a population, the tending to the continuum of life of a people. And with the inscription of racism within the state of biopower, the long history of war that Foucault has been telling in these dazzling lectures has made a new turn: the war of peoples, a war against invaders, imperials colonizers, which turned into a war of races, to then turn into a war of classes, has now turned into the war of a race, a biological unit, against its polluters and threats. Racism is the means by which bourgeois political power, biopower, re-kindles the fires of war within civil society. Racism normalizes and medicalizes war. Racism makes war the permanent condition of society, while at the same time masking its weapons of death and torture. As I wrote somewhere else, racism banalizes genocide by making quotidian the lynching of suspect threats to the health of the social body. Racism makes the killing of the other, of others, an everyday occurrence by internalizing and normalizing the war of society against its enemies. To protect society entails we be ready to kill its threats, its foes, and if we understand society as a unity of life, as a continuum of the living, then these threat and foes are biological in nature.

### **Only by abandoning the technologies of surveillance is it possible to eliminate the biopolitics of control that has been established**

**Ajana 05**(Btihaj Ajana, Lecturer in Culture, Digital Humanities & Creative Industries, PhD in Sociology from London School of Economics and Political Science, "Surveillance and Biopolitics," p.13, 2005)

From this inventory of the kind of surveillance technologies deployed at the border and in relation to asylum and immigration, and from what has been discussed hitherto, we might be able to see how discipline and control are being merged together within the realm of biopolitics through the hybridisation of management techniques and the dispersion of networks of control. In fact, the biopolitics of borders is precisely where the metaphoric transition from disciplinary society to control society is complicated insofar as it is intrinsically entrenched within a domain of complex contestation and dialectical constellations in which the two modalities of power coexist through the juxtaposition of top-down and bottom-up mechanisms of discipline and control. This, being manifested in the existence of detention centres where panoptical practices are inflicted upon those who are 'imagined' as 'potential' (rather than 'actual') risk (or, in fact, as being both) as well as in the technologies of securitisation which function by means of instilling a sense of self-surveillance and self-control, constructed as the basis for freedom, legitimacy, right and citizenship (in the case of ID cards and passports for example). Not for a moment

should we suggest that the era of discipline and confinement has completely ceased to exist, nor should we avoid attending to the myriad of changes taking place at the heart of contemporary societies. Instead, it is imperative to distil some fresh understanding from the actualities (and virtualities) of everyday life by abandoning teleological, dualistic and progressive discourses and venturing into what might be discovered in the vicinity of 'strange couplings, chance relations, cogs and levers that aren't connected, that don't work, and yet somehow produce judgements, prisoners, sanctions' (Foucault, in Rose, 1999: 276). To this I would add, refugees, detainees, deportees, the exiled and so on, for such is the system of biopolitics; a system of peculiar assemblages and violent ramifications to which there can be no neat analysis or simple theorisation.

**In a world of biopolitics, our aff is a radical ethical act. The only ethical question in the context of politics dominated by the Camp is how we can acknowledge and reconfigure our relationship to the Other.**

**Zylinska 04** (Joanna Zylinska, Professor of New Media and Communications at Goldsmiths, University of London, "The Universal Acts: Judith Butler and the biopolitics of immigration," *Cultural Studies* Vol.18 No.4, July 2004, pg. 526)

The problem of openness which is to be extended to our current and prospective guests - even, or perhaps especially, unwanted ones - is, according to Derrida, coextensive with the ethical problem. 'It is always about answering for a dwelling place, for one's identity, one's space, one's limits, for the ethos as abode, habitation, house, hearth, family, home' (Derrida 2000, pp. 149/151, emphasis added). Of course, this absolute and unlimited hospitality can be seen as crazy, self-harming or even impossible. But ethics in fact spans two different realms: it is always suspended between this unconditional hyperbolic order of the demand to answer for my place under the sun and open to the alterity of the other that precedes me, and the conditional order of ethnos, of singular customs, norms, rules, places and political acts. If we see ethics as situated between these two different poles, it becomes clearer why we always remain in a relationship to ethics, why we must respond to it, or, in fact, why we will be responding to it no matter what. Even if we respond 'nonethically' to our guest by imposing on him a norm or political legislation as if it came from us; even if we decide to close the door in the face of the other, make him wait outside for an extended period of time, send him back, cut off his benefits or place him in a detention centre, we must already respond to an ethical call. In this sense, our politics is preceded by an ethical injunction, which does not of course mean that we will 'respond ethically' to it (by offering him unlimited hospitality or welcome). However, and here lies the paradox, we will respond ethically to it (in the sense that the injunction coming from the other will make us take a stand, even if we choose to do nothing whatsoever and pretend that we may carry on as if nothing has happened). The ethics of bodies that matter also entails the possibility of changing the laws and acts of the polis and delineating some new forms of political identification and belonging. Indeed, in their respective readings of Antigone, Butler and Derrida show us not only that the paternal law towards the foreigner that regulates the idea of kinship in Western democracies can be altered but also that we can think community and kinship otherwise. If traditional hospitality is based on what Derrida calls 'a conjugal model,

paternal and phallogocentric', in which '[i]t's the familial despot, the father, the spouse, and the boss, the master of the house who lays down the laws of hospitality' (2000, p. 149), openness towards the alien and the foreign changes the very nature of the polis, with its Oedipal kinship structures and gender laws. Since, as Butler shows us, due to new family affiliations developed by queer communities but also as a result of developments in genomics it is no longer clear who my brother is, the logic of national identity and kinship that protects state boundaries against the 'influx' of asylum seekers is to be left wanting. **This is not necessarily to advise a carnivalesque political strategy of abandoning all laws, burning all passports and opening all borders** (although such actions should at least be considered), but to point to the possibility of **resignifying these laws through their (improper) reiteration**. Enacted by political subjects whose own embodiment remains in the state of tension with the normative assumptions regarding propriety, gender and kinship that underlie these laws, the laws of hospitality are never carried out according to the idea/I they are supposed to entail (cf. Butler 1993, p. 231). It is precisely Butler's account of corporeality and matter, of political subjectivity and kinship, which makes Levinas' ethics (and Derrida's reworking of it) particularly relevant to this project. Although the concepts of the body and materiality are not absent from Levinas' writings - indeed, he was one of the first thinkers to identify embodiment as a philosophical blindspot - Butler allows us to redraw the boundaries of the bodies that matter and question the mechanisms of their constitution. Her 'others' are not limited to 'the stranger', 'the orphan' and the 'widow' of the Judeo-Christian tradition, the more acceptable others who evoke sympathy and generate pity.<sup>10</sup> It is also the AIDS sufferer, the transsexual and the drag queen / people whose bodies and relationships violate traditional gender and kinship structures - that matter to her. **By investigating the contingent limits of universalization, Butler mobilizes us against naturalizing exclusion from the democratic polis and thus creates an opportunity for its radicalization** (1997, p. 90). **The ethics of bodies that matter does not thus amount to waiting at the door for a needy and humble asylum seeker to knock**, and extending a helping hand to him or her. It also involves realizing that the s/he may intrude, invade and change my life to the extent that it will never be the same again, and **that I may even become a stranger in the skin of my own home**.

**Status Quo surveillance reduces immigrants to "bare life" by isolating them, discriminating against them, and targeting them. These states of exception justify genocide. Vote Aff to resist total exclusion and advocate zones of indistinction**

**Gonzales and Chavez 12** (Roberto G. Gonzales - Assistant Professor, Harvard University Immigration, race and ethnicity, migration, unauthorized migration, Latina/o Studies and Leo R. Chavez - Professor

Ph.D., Stanford University. "Awakening to a Nightmare" *Abjectivity and Illegality in the Lives of Undocumented 1.5-Generation Latino Immigrants in the United States* - June 2012. *Current Anthropology* Volume 53, Number 3, P. 257. Accessed 7/13/15.

<http://www.socsci.uci.edu/~lchavez/Chavez1.pdf> dortiz

We are also interested in the intersection of Foucault's two research directives, that is, how the practices targeting undocumented or unauthorized immigrants shape the lived experience of undocumented 1.5-generation Latinos

and how they respond to such constraints. Agamben speaks of “bare life,” the natural life that is distinct from the “good life,” the political life in classic Western thought. In modern politics, bare life, once kept at the margins, is now increasingly included in the political order (Agamben 1998:9). But what happens to those objects of state regulation whose bare life is kept at the margins of the political order? They become states of exception, their lives bracketed as in the nation but not part of the nation, which allows them to become the object of laws and other techniques of regulation (Agamben 2005). These can include everyday experiences of ill treatment by the larger society, discrimination, and targeted police actions. When taken to its extreme, the state can target such exceptions, physically separate them from society, isolate them into “zones of social abandonment,” and even engage in practices of genocide, extermination, or ethnic cleansing (Biehl 2005).<sup>5</sup> But before such endpoints are reached, if ever, a set of practices can emerge that mark off or bracket a group as different, less than, unworthy, illegitimate, undeserving (Sargent and Larchanche'-Kim 2006; Tormey 2007; Willen 2007; Zhang 2001). What marks the group as “Other” derives from particular histories and can coalesce around any number of traits: race, religion, sex, physical or mental disability, stigmatized disease, migration history, or citizenship status, among others. Importantly, it is not something inherent to the particular bracketed group that is important here, but the practices that make their lives miserable, constrained, limited, invisible or differently visible, stigmatized, feared, and even dangerous. And yet, despite these practices of exclusion, it is sometimes possible that a sense of inclusion emerges through everyday lived experiences such as working, forming families, making friends, paying taxes, playing sports, engaging in community affairs, and interacting with social institutions, particularly schools (Agamben 1998; Chavez 1998; Yuval-Davis 2006). These “zones of indistinction,” as Agamben called them, are paradoxes in which the law and social practices legitimize that which law has prohibited (Agamben 1998; Coutin 2007). Importantly, as Nicholas De Genova (2010:37) has noted, zones of indistinction, and bare life, are produced by sovereign (state) power. But we must note that, as we will show, undocumented 1.5 generation can, and do, resist total exclusion. The ultimate exclusionary act here is deportation, which De Genova (2010:34–35) has observed, is where “the whole totalizing regime of citizenship and alienage, belonging and deportability, entitlement and rightlessness, is deployed against particular persons in a manner that is, in the immediate practical application, irreducibly if not irreversibly individualizing.”

### **Border Surveillance is a form of biopower that reduces migrants to bare life**

**Doty PhD 10** (Roxanne Lynn Doty - Ph.D. Political Science, University of Minnesota AND Assoc Professor at Arizona State. “Bare life: border-crossing deaths and spaces of moral alibi” – 2/10/10. Society and Space. Accessed 7/19/15.  
<http://www.envplan.com/abstract.cgi?id=d3110>) dortiz

On Friday, 6 July 2007, volunteers with two local humanitarian groups in Tucson, Arizona, Humane Borders and Samaritans, went in search of Prudencia Martin Gomez, age 18 from Guatemala. She was headed to Oakland, California, to join her boyfriend/fiancee” and had been missing since 11 June in the Ironwood National Forest, a 129 000-acre expanse of land, in the Sonoran Desert 25 miles northwest of Tucson. There are no facilities in the Ironwood National Forest, and visitors are warned of the hazards of the extreme heat. Human beings simply cannot survive in this part of the southwestern deserts for as long as Prudencia had been missing, so there was no pretense that they would find her alive, and they did not. The official location of her body was recorded as GPS: N 32 0 25.455/W 1110 307.80 (Arizona Daily Star 2010). Prudencia had fallen ill and had been unable to continue. Her fellow

travelers left her with water, but it was not enough. She was only a mile south of a Humane Borders' water station, but a mile can be a very long way in the desert, in the month of June, when one has already walked a long distance. Authorities determined that Prudencia had died on 15 June. The recorded high temperature on that day was 115°F. Prudencia was a contemporary version of what Agamben (1998) refers to as bare life, life that can be taken without apology, classified as neither homicide nor sacrifice. **She was US border policy stripped to its essence.** And hers, tragically, is not an isolated example. In 2004 Mario Alberto Diaz, 6 feet tall with a black belt in karate and working on a masters degree in biology crossed the border near Sasabe, Arizona. His body was discovered twenty days later in a creek in the foothills of the Sierrita Mountains (Bourdeaux, 2004). In the summer of 2005 the Pima County medical examiner in Tucson, Arizona, had to rent a refrigerated tractor-trailer to store the bodies of migrants due to the record number of deaths that year (Arizona Republic 2005). The deadly trend continues. Even as apprehensions have steadily declined, deaths continue to rise (McCombs, 2009).<sup>(6)</sup> The migrant death count for fiscal year 2009 is the third highest since 1998. In the fifteen-year period since "prevention through deterrence" was first introduced approximately 5000 migrants have died, though near (6) Associated Press 2009, "Border deaths up despite apparent dip in crossings", 8 April, reported by No More Deaths e-mail to author, 9 April 2009. Bare life: border-crossing deaths and spaces of moral alibi 601 universal agreement exists that estimates of migrant deaths are undercounts and the actual number is likely much higher (Coalicion de Derechos Humanos, 2007). When they debated, formulated, and put into effect the various border control operations collectively known as prevention through deterrence, policy makers likely had never heard of GPS: N 32 0 25.455/W 110 307.80 or the Ironwood National Forest or the Sierrita mountains or the many other locations at which migrant bodies have been, and continue to be, found. However, it is arguably inconceivable that they did not know of the harsh conditions to which migrants would be subjected under this border strategy. The Border Patrol's own blueprint for one of the early and well-known manifestations of the new operations, Operation Gatekeeper, noted that it would channel migrants to locations where "the days are blazing hot and nights freezing cold".<sup>(7)</sup> In this section I argue that the prevention through deterrence border control strategies exemplify Foucault's theoretical writings on how biopower, sovereign power, and racism can be articulated with one another thus to function in concert. While biopolitics, as formulated by Foucault, is generally understood as being concerned with the governance and regulation of a population in matters such as health and sexuality, it is also consistent with what Agamben refers to as bare life. For Foucault the emergence of the "problem of the population" coincided with the development of an art of government wherein the main concerns of government were on the wealth, longevity, health, and sexuality of the population, giving rise to the notion of biopower as "making life live" (Foucault, 1991). Through regulations in these matters, subjects become entangled in the practices of statecraft. Agamben has critiqued what he calls Foucault's "progressive disqualification of death" (ie the circumscription of the issue of death to discussions of classical sovereign power), offering a conceptualization of biopower which focuses on the ways in which sovereign power produces a radical exposure abandoning subjects, stripping their identities to that of bare life, and thereby creating spaces of exception or a "juridical void" which permits abuses and killings without punishment.<sup>(8)</sup> While Agamben's theorizations of biopower and its relation to bare life are invaluable for understanding how

modern power works, he arguably draws a bit of a strawman when it comes to Foucault. In *Society Must be Defended*, Foucault poses the following question. How can biopower, whose function is to improve life and prolong its duration, kill? "How can the power of death, the function of death, be exercised in a political system centered upon biopower?" (2003, page 254). His definition of 'killing' is not "simply murder as such, but also every form of indirect murder: the fact of exposing someone to death, increasing the risk of death for some people, or, quite simply, political death, expulsion, rejections, and so on" (page 256). Clearly Foucault recognizes that biopower does not preclude the taking of life. He responds to his own question by turning to race, suggesting that race performs two functions: (1) it introduces a break in the domain of life under power's control between what must live and what must die thus fragmenting the field of the biological that power controls, and (2) it establishes a relationship between life and death. "If you want to live, you must take lives, you must be able to kill"

## Privacy

### Border surveillance destroys privacy and civil rights

Hannah Tyler, 2-2, 2022, The Increasing Use of Artificial Intelligence in Border Zones Prompts Privacy Questions, <https://www.migrationpolicy.org/article/artificial-intelligence-border-zones-privacy>

The rise of artificial intelligence (AI) promises to streamline operations in sectors such as health care, human resources, and commerce by compiling huge amounts of data to better evaluate risks, improve predictions, and perform operations much faster than would be possible by humans. The same is true for border management, where **governments and technology advocates point to the potential of AI to help secure international borders** more efficiently and in some cases more safely. In recent years, authorities particularly in the United States and the European Union have moved quickly to integrate “smart border” AI capabilities into their operations, heralding a potential game-changing moment for the ability of governments to patrol their borders. Border-focused AI technologies come in multiple forms and can include algorithms designed to evaluate travelers’ nuanced and almost imperceptible emotional expressions, biometric analysis of fingerprints and facial recognition, and scanner software that can differentiate humans from wildlife in remote border sections. **Many of the systems derive from surveillance tools that have existed in some form for decades but have become increasingly** automated so that computers—not human beings—make preliminary determinations about possible threats and how authorities should respond. Artificial intelligence promises to supercharge this surveillance, making tools more powerful and capable of processing and interpreting more data than in the past. Yet the rapid deployment of these technologies, which has often moved faster than legislative and other frameworks to regulate their usage, has also raised concerns about privacy and growing government surveillance of not just migrants and travelers but, at a larger scale, entire populations. For instance, facial recognition technology has been rolled out globally in airports and other border zones. The Dubai International Airport in 2018 began piloting a “smart tunnel” that uses a system of 80 cameras to scan travelers’ faces and irises, allowing preregistered passengers to verify their identity in a matter of seconds without having to present passports or other documents. The system has since been expanded to more than 120 “smart gates” across the airport. Similar technologies have been unveiled at many airports in the United States and elsewhere, offering travelers a respite from the long security procedures that have come to define modern international travel. But **these types of systems** have **also raised concerns, most notably about individuals’ privacy**. Critics have warned of the possibility of technology creep, in which systems pioneered for border zones slowly make their ways into mainstream society, where they could be used to surveil the public at large. For instance, China, which has deployed artificial intelligence tools as part of its “zero-COVID” policy against the coronavirus, has faced increasing scrutiny over its surveillance and monitoring practices that are likely to outlast the pandemic. Generally speaking, it has been unclear at times whether travelers have consented to giving biometric and other information to government authorities, or what rights individuals have in their still-evolving relationships with AI technologies. In current practice, AI systems tend to be used as complements for border officials, allowing fewer individuals to monitor more territory and scan more migrants and other travelers in less time and for less money than might be otherwise possible. But technologies have grown more advanced and are designed for new functions, including recent efforts to algorithmically identify asymptomatic travelers infected with the novel coronavirus that causes COVID-19. As these developments progress, understanding how AI is used at international borders will be increasingly crucial, as its application affects not only travelers but also residents. This article reviews the use of AI systems to monitor borders in the United States and the European Union, focusing on detection technologies that make up the so-called smart border. AI at U.S. Borders: A Digital Wall in the Making The U.S. government has invested significant amounts of money into technical surveillance upgrades, some including the use of AI, along both its northern and southern borders. In fiscal year (FY) 2021, the Department of Homeland Security (DHS) received more than \$780 million for technology and surveillance at the border, according to analysis by advocacy groups Just Futures Law and Mijente. Homeland security interests have long pitched a vision of a “virtual wall”: an ocean-to-ocean network of drones, sensors, and other technologies that could detect illegal border crossers. Proponents contend such a system would be particularly helpful in stretches of remote and un surveilled land between ports of entry. The idea has had bipartisan support and gained steam under presidents of both parties, largely because of the notion it would be more effective, less expensive, and less disruptive than physical barriers. The George W. Bush administration launched an early and mostly unsuccessful automated surveillance program along the U.S.-Mexico border, with its vision for a Secure Border Initiative Network (SBInet) that would integrate personnel, technology, and infrastructure to secure the border. About \$1 billion had been spent on SBInet by the time the troubled project was canceled in 2011. But efforts have ramped up anew in recent years as technology has evolved. U.S. Customs and Border Protection (CBP) has deployed a system of autonomous surveillance towers that are expected to number 200 by the end of FY 2022, and which use a combination of radar, cameras, and algorithms to scan remote border areas and identify the source of movement. The solar-powered, 33-foot towers can communicate with each other to track objects that move out of range and can be

Immigration Surveillance Core File. *Updated 8-3-24*

easily packed up and moved to new locations as needed. Data from these towers as well as other sources such as cameras, drones, Light Detection and Ranging (LIDAR) laser systems, and infrared sensors are fed into a system called Lattice, which provides instantaneous interpretation. The AI system has been trained to analyze an object's movement to detect the difference between a tumbleweed, a car, and a person, and ignore animals and other false positives. When the system detects movement by people or vehicles, it alerts Border Patrol agents to follow up. CBP has also used AI technology at the U.S.-Canada border. For instance, the agency has touted the Northern Border Remote Video Surveillance System (NBRVSS), a system of 22 sites with high-resolution cameras and radar systems outfitted with AI capabilities. CBP describes the system as being able to detect and monitor vessels leaving the Canadian shoreline from miles away and send a warning when a vessel enters certain areas by being able to distinguish "unusual vessel movements from ordinary traffic." If a suspicious vessel is identified, a camera can reveal what it looks like and how many people are onboard, as well as obtain its registration number for background checks. Supporters claim the NBRVSS system enables agents to perform at a significantly higher capacity, overcoming possible manpower deficits while also increasing agents' safety. This would be significant, especially since border security guards quit at twice the rate of other law enforcement positions, often citing low morale and unpleasant work conditions. Allowing fewer agents to do more work would seem to better prepare the agency for a fluctuating workforce. Civil Liberties Proponents Fear a Dragnet Civil liberties and **privacy groups have raised concerns that the use of AI technologies at U.S. borders, especially systems incorporating facial recognition and the use of drones, could infringe on the human rights of foreign and U.S. nationals. The border is essentially exempted from the U.S. Constitution's Fourth Amendment protections against unreasonable stops and searches. CBP is also allowed to operate immigration checkpoints anywhere within 100 miles of the United States' international border, an expanded border zone that includes areas in which approximately two-thirds of the U.S. population live.** Critics warn that **the use of this technology could lead to endless surveillance and a vast, ever-growing dragnet,** as technology that is deployed to patrol the border is also used by local police miles in the U.S. interior. **Local police in border communities—and those far from the border—have been revealed to use facial recognition technology, cellphone tracking "stingray" systems, license-plate cameras, drones, and spy planes, with immigration authorities sometimes sharing information with law enforcement for non-immigration purpose.** CBP flew nearly 700 surveillance missions between 2010 and 2012 on behalf of other law enforcement agencies according to flight logs, some of which were not directly related to border protection. **During Black Lives Matter protests in Minneapolis in 2020 following the murder of George Floyd, a CBP Predator drone flew over the city and provided live video to authorities on the ground.** Similar operations involving helicopters, airplanes, and drones also took place in 14 other cities, broadcasting about 270 hours of footage live to CBP control rooms. Critics' concerns about the creep of these kinds of technologies from the border into the interior of the country have escalated in recent years, as their use has become more widespread. There is also evidence that the expansion of surveillance infrastructure, much of it bolstered by AI, leads to an increase in deaths by pushing migrants trying to cross illegally towards more remote and dangerous routes. Researchers have found evidence that surveillance systems can have a "funnel effect," leading migrants to avoid areas where they might be detected and instead are more likely to head to areas where they face increased risk of dehydration, hyperthermia, injury, and exhaustion. In some areas these efforts have also received pushback from lawmakers and privacy advocates, including Canadian and Mexican groups that have raised issues with surveillance at their respective borders. The organizations have been especially worried about aerial surveillance conducted by balloons and drones, which they argue would catch Mexican and Canadian citizens. They have also raised concerns that such surveillance, conducted by the United States, could constitute a violation of their countries' sovereignty. AI at EU Borders: Patrolling the Seas and Evaluating Expressions Sea borders tend to be more difficult to patrol than land borders, so the European Union is particularly interested in technologies to monitor the Mediterranean. The area has been an issue of prime concern following the refugee and migration crisis of 2015-16, and leaders have since repeatedly rallied around Member States' efforts to halt irregular crossings. A RAND Europe study commissioned by Frontex, the EU border agency, and released in 2021 underscored this interest and found that AI could potentially be used in five different areas: situational awareness and assessment; information management; communication; detection, identification, and authentication; and training and exercise. The study also identified multiple potential barriers, including technological weaknesses; perception of high costs and commercial barriers; insufficient understanding and awareness of AI; lack of skills and expertise; constrained access to relevant technologies; and potential ethical, human-rights, and regulatory issues. The study struck an optimistic tone, framing these barriers as challenges that could be overcome, though still acknowledging that they are challenges. Research into the area has been going on for years. The four-year Roborder project was one such project, until its completion in August 2021. The nearly 8-million-euro effort was a part of the EU Horizon 2020 initiative, which dedicated 80 million euros to boosting Europe's research and innovation efforts. Key details about the project's outcome remain classified, but it aimed to develop an AI-powered autonomous border surveillance system with unmanned mobile robots in the air, water, and ground, capable of operating independently and in swarms. Robots were outfitted with optical, infrared, and thermal cameras, as well as radar and radio frequency sensors to find signs of criminal activity along the sea and



## Immigration Surveillance Core File. *Updated 8-3-24*

coasts. Cellphone frequencies were used to triangulate the location of suspected criminals, with cameras used to identify humans, guns, vehicles, and other objects. Notably, Roborder was conceived to detect environmental threats in addition to irregular migration and smuggling. In its first real-world demonstration, the AI technology successfully detected a simulated oil spill off the coast of Portugal by using flying and submarine drones that combined imaging with fluorimeter technology. However, it is clear that unauthorized migration was the main target. In its two other pilot use cases, the system was tested on detecting illegal border crossings both at sea, around the Greek islands, and on land, in remote areas of Bulgaria's borderlands. The uses were based on recent historical events of unauthorized migration in the Aegean Sea and an incident in which border patrols were overwhelmed at the Hungarian-Serbian border in 2016, where developers suggested the presence of Roborder might have helped. For human-rights advocates, the potential future uses of Roborder and other AI systems could raise concerns, especially when considering the muscular approach to migrants taken by the European Union and Member States, including alleged pushbacks at sea and on land. In the Mediterranean, EU aerial assets have been deployed to detect migrant boats from the skies and guide the Libyan Coast Guard to these boats, leading to the return of tens of thousands of people to Libya in moves that have been widely condemned. These kinds of activities have raised alarms that AI surveillance would allow for such activities on a grander scale. Can AI Detect a Lie? The Story of iBorderCtrl iBorderCtrl, or iCROSS, was another Horizon 2020 project, running from September 2016 to August 2019 with an EU contribution of 4.5 million euros. The project was meant to speed and smooth border control for non-EU nationals arriving in the Schengen Area. It envisioned a two-stage procedure: pretravel registration involving a short interview with a digital avatar, and a second stage during travel to be performed by a portable unit that checked travel documents and employed facial recognition technology. Both phases would include AI lie detection tests. Like the Roborder project, iBorderCtrl was meant to complement the existing capacity of border control officers and speed processes. Trials of the project ran for six months in 2018 but iBorderCtrl was never deployed for actual border checks. Questions asked by the AI lie detector included "What's in your suitcase?" and "If you open the suitcase and show me what is inside, will it confirm that your answers were true?" Travelers answered facing a webcam and the system analyzed and rated "microgestures" such as minor eyelid movements to determine if they were lying. Those determined to be truthful were given a QR code to pass the border, while those flagged as suspicious had to provide biometric data such as fingerprints, palm veins, and face matches before being passed to a human agent. The project ignited a firestorm of criticism. European Parliament Member Patrick Breyer filed a lawsuit seeking the release of documents related to the project in March 2019; last December, the court ruled that some documents not specifically related to iBorderCtrl must be published, although those related to its commercial prospects can remain classified. Opponents also described the system as inaccurate, producing flawed and incorrect results, with some experts suggesting that building a lie detector based on microgestures was fundamentally impossible. iBorderCtrl leaders acknowledged the criticism, but argued that new technologies can improve the efficacy, accuracy, cost, and speed of border control, so long as fundamental rights are protected. AI projects such as iBorderCtrl and Roborder have been criticized by groups arguing that the European Union has for decades been working towards securitizing and militarizing its borders as part of a growing "Fortress Europe." They contend that these technologies are part of a wider trend that could be supercharged by AI and big data to create tragic costs for migrants and asylum seekers. **Technology Outpaces Regulation [Despite the rapid expansion into border zones and fast uptake by border control agencies, regulations and guidelines for the deployment of AI have been slower to evolve.](#)** Last April, the European Union released the first ever legal framework for AI in an attempt to regulate the technology before it becomes even more mainstream. Crucially, the proposal for harmonized rules specifically mentions AI systems in migration, asylum, and border control, claiming these processes can affect particularly vulnerable people. It notes that ensuring the accuracy, nondiscriminatory nature, and transparency of AI systems is especially important to ensuring that the rights of vulnerable populations are protected. The draft regulation therefore classifies the use of AI systems in migration management as "high risk," especially regarding technologies such as polygraphs, risk assessments, document verification, and applications for immigrant status. This approach could mark a turn from previous EU projects such as Roborder and iBorderCtrl. However, experts have pointed out oversights, including a lack of rules that would impact major technology companies and insufficient focus on people affected by AI systems. Human Rights Watch has called attention to significant exemptions for law enforcement and migration control authorities in requirements to disclose how technologies work. Although the legal framework was viewed by many as path-breaking, the European Union excludes migrants from protections afforded to EU citizens. Still, the proposed regulation was broadly lauded in many spheres as a welcome and necessary step that could become a model globally. **The United States has yet to release a similar comprehensive framework,** though there are signals from the Biden administration that AI regulation is taking shape. In October, key White House staffers published an op-ed in Wired calling for a tech "bill of rights" to guard against faulty and harmful uses of AI, and revealed that the White House Office of Science and Technology Policy was developing principles to guard against misuse of powerful technologies. The op-ed pointed out that the failings of AI may be unintentional but can disproportionately affect marginalized individuals and communities. The following month, Lynne Parker, the director of the National Artificial Intelligence Initiative Office, said the United States should model its approach to regulation on Europe's. **If border zones serve as a testing ground for AI technologies, there is reason for even native-born publics to be mindful of how these tools develop for border control. Migrants, refugees, and other people on the move are often thought of as the "other," but evaluating how they are impacted by AI systems has ramifications not only for their own wellbeing, but also societies**

Immigration Surveillance Core File. *Updated 8-3-24*

**more broadly.** Although, legally speaking, travelers and migrants are often afforded very different rights than residents or citizens, civil liberties and privacy advocates have raised legitimate worries about possible creep of technologies from the border.

**Ambiguity about the limits of border zones and the expanding use of AI are matters of serious concern.** As promising as advanced technologies may be in speeding travel, halting smuggling, and identifying environmental disasters, they may also have serious unforeseen ramifications that cannot be ignored.

## Surveillance violates privacy rights

Amnesty International, February 5, 2024,

<https://www.amnesty.org/en/documents/pol40/7654/2024/en/>, Primer: Defending the rights of refugees and migrants in the digital age

**Facial recognition technology for identification violates the right to privacy because it cannot satisfy the requirements of necessity and proportionality under international human rights law. It entails widespread bulk monitoring, collection, storage, analysis or other use of material and collection of sensitive personal data (biometric data). Moreover, facial recognition systems are trained with image recognition algorithms that rely on vast amounts of individuals' faces as input data to improve the system's "success rate", without the individuals' knowledge or consent.** Even where input data or training data is deleted, the algorithm underpinning the system has already benefitted from, and is in effect acting on the bases of, faces previously fed to the system, without the individual's knowledge or control. **Additionally, the human rights harms of facial recognition technology are not experienced equally and raise well-known discrimination risks. For instance, certain groups may be disproportionately represented in facial image datasets due to discriminatory policing or other practices. Moreover, it is well-established that facial recognition technology systems perform unequally depending on key characteristics including skin colour, ethnicity and gender. These discrimination risks have been highlighted by various UN experts.**<sup>56</sup> In January 2021, Amnesty launched "Ban the Scan", a global campaign to ban the use of facial recognition systems, a form of mass surveillance that amplifies racist policing and threatens the right to protest. The Ban the Scan campaign has exposed how facial recognition has violated human rights from New York City, to Hyderabad, and Hebron and East Jerusalem in the occupied Palestinian territories. In particular, **Amnesty International continues to expose the ways in which the technology is deployed in discriminatory manners against historically marginalised communities.**

## Migrants have a right to have their biometric data protected

Amnesty International, 2023, The Digital Border: Immigration, Technology, and Inequality, <https://www.amnestyusa.org/wp-content/uploads/2024/06/The-Digital-Border-Migration-Technology-and-Inequality.pdf>

Finally, **people crossing borders for reasons other than seeking asylum, also have the right to privacy, which is often threatened by forms of technology including increased biometric data collection, surveillance technology, and the collection and sharing of personal data at and**

**around borders, as well as further surveillance by means of social media.** While interference with an individual's right to privacy is only permissible under international human rights law if it is neither arbitrary nor unlawful, people on the move— with precarious immigration status; refugees, asylum seekers, and undocumented communities alike—are often obligated to compromise on their human rights, in exchange for possible passage.<sup>54</sup> International human rights law and standards set out a three-part test to determine whether an interference with the right to privacy is legitimate or amounts to a violation: firstly, any interference must be prescribed by and in accordance with the law (legality); secondly, it must be pursuant to a legitimate aim; thirdly, it must be strictly necessary to meet a legitimate aim, such as protecting national security or public order (necessity) and be conducted in a manner that is proportionate to that aim and non-discriminatory, which means balancing the nature and the extent of the interference against the reason for interfering (proportionality).

### **Private communication is monitored**

Amnesty International, 2023, *The Digital Border: Immigration, Technology, and Inequality*, <https://www.amnestyusa.org/wp-content/uploads/2024/06/The-Digital-Border-Migration-Technology-and-Inequality.pdf>

**Other forms of surveillance prior to interaction with a physical border may include social media monitoring of people on the move,** as in the case of a Texas National Guard operation that infiltrated a private communication channel for migrants on WhatsApp.<sup>170</sup> The International Organization for Migration (IOM) has also developed the Displacement Tracking Matrix,<sup>171</sup> which monitors people on the move, including their social media activity and mobile phone records.<sup>172</sup> In some cases, such social media monitoring may extend outward to others, including human rights defenders and journalists who may be working with or adjacent to migrant or refugee communities.<sup>173</sup> **Monitoring of private communications and social media threatens the right to privacy for people on the move, particularly when this monitoring is used in the process of issuing asylum or immigration status decisions.**<sup>1</sup>

### **AI technologies result in privacy violations**

Amnesty International, February 5, 2024, <https://www.amnesty.org/en/documents/pol40/7654/2024/en/>, *Primer: Defending the rights of refugees and migrants in the digital age*

**AI technologies rely on mass data collection and processing. Their growing adoption incentivizes an expansion in data harvesting infrastructures, which in turn requires expanding surveillance capabilities.** Under international law, States must demonstrate that an interference with the right to privacy is a legal, necessary and proportionate means of addressing a legitimate aim, which means balancing the nature and the extent of the interference against the reason for interfering with the right to privacy and ensuring that the technology used is the least intrusive means available. **Widespread bulk monitoring, collection, storage, analysis or other use of material and collection of sensitive personal and biometric data without individualised reasonable suspicion of criminal wrongdoing, amounts to indiscriminate mass surveillance.**

**Amnesty International believes that indiscriminate mass surveillance is never a proportionate interference with the rights to privacy, freedom of expression, freedom of association and of peaceful assembly. Moreover, facial recognition systems are trained with image recognition algorithms that rely on vast amounts of input data from individuals' faces to improve their "success rate", without their knowledge or consent. Because such systems cannot operate without this biometric reference database, they are – as discussed earlier in this document – incompatible with the right to privacy by design**

### **Data extraction violates privacy**

Amnesty International, February 5, 2024,

<https://www.amnesty.org/en/documents/pol40/7654/2024/en/>, Primer: Defending the rights of refugees and migrants in the digital age

**Involuntary data extraction for processing asylum claims poses a range of risks to human rights, including the right to privacy and the right to seek asylum, and puts individuals in danger of being forcibly returned to a country where there is a risk of persecution or other serious human rights violations.** Data extraction may represent a disproportionate and unnecessary interference on refugees' and migrants' right to privacy on the basis of their status and it is often based on discrimination around race, ethnicity, national origin and citizenship status.<sup>41</sup> **Even where such data extraction systems – due to the technical specifications of the tools in use or practice – take in all available data, they would constitute a disproportionate interference with the right to privacy per se. There are also concerns about the reliability of the data obtained by such intrusive methods, and, potentially, data extraction can be used to undermine the right to a fair asylum procedure where it enables authorities to make dubious and sweeping conclusions about an asylum seeker's application.**<sup>42</sup> Furthermore, it also reinforces existing stigmatization and discrimination against racialised people and communities.

## Surveillance/AI Bad Links

### **Border surveillance bolsters the global market for surveillance tech**

Hilary Beaumont, 4-3, 23, The Guardian, Virtual wall: how the US plans to boost surveillance at the southern border, <https://www.theguardian.com/us-news/2023/apr/03/us-mexico-border-surveillance-towers-customs-border-protection>

Meanwhile, **the push for so-called “smart security” is helping to fuel a global security market that is now worth \$45bn**, according to a recent report by the Imarc Group, a market research company. Anduril spent \$930,000 in 2021 and \$940,000 in 2022 lobbying the US Senate, the House of Representatives and the Department of Homeland Security (DHS) on budget decisions including for autonomous surveillance tower funding, according to lobbying disclosures viewed by the Guardian.

## Mental Health

### Surveillance destroying the mental health of those under it

Tate Ryan-Mosley, MIT Technology Review, 4-17, 23,  
<https://www.technologyreview.com/2023/04/17/1071682/us-pouring-money-surveillance-towers-southern-border/>, The US is pouring money into surveillance tech at the southern border,

**All the surveillance is disrupting the daily lives of those communities, and a recent report by the ACLU of Texas showed that the mental health of residents was significantly affected by surveillance, whether assumed or real. David Donatti, a staff attorney with the group, says the research showed that “a majority of people avoided going to essential locations like grocery stores, hospitals, polling places, and community centers because they were afraid of encountering border patrol.”**

**Electronic surveillance is devastating for immigrants – facilitates physical and psychological violence while stigmatizing their existence Koulisch 15 (Robert, Joel J. Feller Research Professor of Government and Politics at the University of Maryland, “Spiderman’s Web and the Governmentality of Electronic Immigrant Detention,” 2/1/2015, Law, Culture and the Humanities, ProQuest)//JL**

### \*edited for language

According to the courts, the electronic monitoring bracelet turns house arrest into an efficient and humane punishment. Like Judge Love the courts perceive little harm in adapting Spiderman to the real world. Like Judge Love they forget that the ankle bracelet would undoubtedly serve part of some larger nefarious agenda. As Deleuze argued, **this sort of agenda moves the locus of control from closed institutions to open spaces.** In terms of detention policy, this suggests a shift from an ATD initiative to an alternative to release. Again, few would prefer sitting in a prison cell to wearing an ankle bracelet. But as central as this claim is for the courts – at least electronic monitoring isn’t as bad as prison – this observation is beside the point. At issue is how the privately managed ATD/ISAP program helps ICE to constrain the liberty of immigrants. It is not whether you or I would prefer home arrest to a prison cell; the issue has to do with how the state unaccountably impedes liberty interests of individuals who have committed no crime and for whom ICE has given no justification to hold under its “custodial” authority. The monitoring device itself is about five inches square making it too big to conceal beneath normal street clothes. As the Detention Watch network has documented, “the bracelet can be uncomfortable, particularly for pregnant women, and participants describe the experience as one of shame and humiliation.”<sup>89</sup> ISAP190 guidelines place restrictions on the movement of immigrants as well as on how they spend time and plan a schedule. As the immigration judge (IJ) in Aguilar-Aquino said, it “does cause the loss of a great deal of Respondent’s liberty, and requires confinement in a specific space, i.e., the Respondent’s home between 7pm and 7am every day.” It also requires immigrants to spend up to 3 hours each day physically attached to a cord and electrical socket in order to recharge the electronic ankle bracelet. In brief, ...participants agree to a set of strict rules, including ... three face-to-face meetings per week with a case worker, and

## Immigration Surveillance Core File. Updated 8-3-24

unannounced telephone calls and home visits from the authorities. Each immigrant is also fitted with a GPS monitoring ankle bracelet and must install voice recognition technology on his home telephone line, which allows caseworkers to confirm they are speaking to the ISAP participant during routine phone calls.<sup>91</sup> ISAP constrains and regiments activities within the home. It limits mobility and the ability to work and creates social stigma for immigrants forced to wear the device. Even small-bore violations like answering the phone after too many rings or failing to pick it up can beget penalties. It is a matter of discretion for the individual BI agent to recommend that a particular violation took place and deserves some penalty. Inattention to the unexpected knock on the door, as per the guidelines, or an impolite response and a poor attitude could lead to physical punishments like returning the immigrant to secure detention, deprivations and petty humiliations in front of family, neighbors and employers. Although procedural due process issues arise when changes in punishment follow such kinds of violations, immigrants have no rights here to seek redress, except for a brief seven-day period of administrative review before an IJ. Perhaps most crippling (devastating) for some immigrants are the psychological effects of electronic monitoring, the fear and anxiety that continuous monitoring causes. Hofer and Meierhoefer report that home confinement can take a psychological toll.<sup>92</sup> Further, by adding an ankle bracelet to home confinement, “the offender is constantly reminded of his status and that “someone is watching.”<sup>93</sup> It has been documented that some offenders choose jail over house arrest and electronic monitoring because of the “high level of surveillance and supervision associated with electronic monitoring”<sup>94</sup> One study reports findings from women in Canada that claims electronic monitoring and home arrest was more difficult than imprisonment due to increased stress.<sup>95</sup> The fear and anxiety is accentuated when the immigrant goes out in public. For immigrants who already fear the state either because of their status in their home countries or as a refugee or undocumented immigrant in the U.S., being tethered to the state is a constant reminder of their extreme powerlessness and can have acute consequences. Human rights advocates suggest the ankle bracelet is particularly humiliating for women. As Salvadoran immigrant Maria Bolanos, a domestic violence victim, recently said of her ISAP experience “I’m really ashamed to show it in public. People see it and think I am a murderer. I try to keep it covered at all times.”<sup>96</sup>