FAIR FEDERATION FOR AMERICAN IMMIGRATION REFORM

Immigration REPORT

JULY/AUGUST 2018

Inside. . .

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Sessions Moves to Curb Asylum Abuse

America has a proud tradition of providing asylum to people who face a "well-founded fear of persecution" in their homelands. However, our humanitarian policies have been widely abused in order to gain entry to the United States.

In recent years, the number of people showing up at our borders claiming they have a "credible fear" of returning to their home countries has grown exponentially. As recently as 2009, 5,000 such claims were entered. By 2016 that number had grown to 94,000. As of January 2018, the asylum backlog had ballooned to 311,000. There is no evidence to suggest that human rights conditions in the countries from which asylum seekers are arriving have deteriorated to account for a 19-fold increase in asylum claims.

Moreover, over the past several decades, immigration advocacy groups have fought to expand the definition of asylum to include people in dysfunctional personal relationships or who are subject to dysfunctional social practices. These same advocacy groups openly coach people

ASYLUM *continued on page 2*

IRLI Scores Big Win for American Workers

To borrow (or, outright steal) a good tag line from the environmental group Earth Justice, the Immigration Reform Law Institute (IRLI), FAIR's public interest legal affiliate, was established because "the American public needs a good lawyer" when it comes to immigration matters.

On June 8, IRLI demonstrated that American workers do have a good lawyer, when it scored an important legal victory on behalf of American tech workers before the U.S. Court of Appeals for the District of Columbia Circuit. Representing the Washington Alliance of Technology

U.S. Court of Appeals for the DC Circuit

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about what they should say in order to make a credible fear claim when they arrive at the border, leaving border agents no choice but to enter them into asylum proceedings.

On June 11, Attorney General Jeff Sessions took steps to curb these abuses of our asylum laws and to protect those with legitimate claims in a 31-page legal opinion. Speaking to immigration judges in Washington, D.C., the attorney general noted that, "The asylum system is being abused to the detriment of the rule of law, sound public policy and public safety — and to the detriment of people with just claims."

The spike in asylum claims has been generated by people seeking protection in the United States from domestic violence and from gang-related criminal activity in their home countries. Sessions did not discount the seriousness of these situations, but noted that "Asylum was never meant to alleviate all problems, even all serious problems, that people face every day all over the world."

The FAIR *Immigration Report*
(ISSN 1067-3337)

Published 10 times a year by the Federation for American Immigration Reform, a non profit membership organization.

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"Asylum was never meant to alleviate all problems, even all serious problems, that people face every day all over the world."

–Attorney General Sessions, June 11, 2018

Sessions exercised his authority to overrule a decision by the Board of Immigration Appeals (BIA) that granted asylum to a woman from El Salvador claiming abuse at the hands of her ex-husband. The BIA found that the El Salvadoran government either wouldn't or couldn't protect her. While abhorrent, the attorney general determined that the United States cannot reasonably be expected to provide asylum to every person who is the victim of crimes committed against them by non-governmental entities, or whose governments cannot or will not protect its citizens.

Under this precedent-setting ruling, people claiming fear of domestic abuse or general lawlessness in their homelands will no longer be eligible for asylum. "Generally, claims by aliens pertaining to domestic violence or gang violence perpetrated by non-governmental actors will not qualify for asylum," Sessions stated in his ruling. "The mere fact that a country may have problems effectively policing certain crimes — such as domestic violence or gang violence — or that certain populations are more likely to be victims of crime, cannot itself establish an asylum claim."

U.S. law will continue to permit people who face a well-founded fear of persecution on the basis of race, religion, nationality or membership in a particular social group or political opinion to seek asylum in this country. Under the Obama administration, mass immigration advocates successfully argued that victims of domestic violence should be considered a "social group," and therefore eligible for asylum. A 2014 BIA ruling to that effect opened the floodgates to a point where a large and growing percentage of the asylum backlog consists of people making these claims.

Sessions' ruling narrows the definition of a "social group." In order to qualify for asylum, claimants will now have to demonstrate that being part of an identifiable social group was the reason for their persecution (as the law intended), rather than acquiring social group status as a result of the acts committed against them.

■

LAWSUIT *continued from page 1*

Workers (Washtech) , a union representing workers throughout the country in the Science, Technology, Engineering and Math (STEM) labor market, IRLI challenged a 2016 decision by the Obama-era Department of Homeland Security (DHS) to allow foreign student visa holders in certain STEM fields to remain in the country under the Optional Professional Training (OPT) program and work for up to three years after graduation.

In addition to allowing these foreign workers to legally compete with American STEM graduates seeking a foothold in the labor market, DHS's unilateral extension of the OPT program was a thinly disguised effort to allow these "students" to buy time while they sought other avenues to remain in the United States.

In its ruling in favor of Washtech, the U.S. Court of Appeals for the D.C. Circuit reversed a lower court's ruling that the plaintiffs did not have standing to sue DHS, even though they were the people most likely to suffer harm as a result of DHS's unilateral decision to classify workers, as much as three years removed from earning their degrees, as students. IRLI had argued that DHS did not have the statutory authority to extend the eligibility for participation in the OPT program.

As a result of the Appeals Court's ruling, the lower court must now consider IRLI's claim that DHS's policy of allowing aliens to remain in the U.S. after completion of a course of study to work or be unemployed is beyond the agency's authority, which is restricted to admitting academic students under 8 U.S.C. § 1101(a)(15)(F)(i).

The case now returns to the federal district court where it will be decided based on the merits of Washtech's claim. ■

Did Health and Human Services Lose 1,475 Unaccompanied Minors? Not Exactly

Some 2,500 years ago, the Greek dramatist Aeschylus observed that truth is the first casualty of war. The massively-funded network of groups pressing for unrestricted immigration is waging war on American sovereignty and our ability to enforce our immigration laws. And, as has been true in every war – waged with arms or words – truth has become a recurrent casualty.

In one of the latest assaults on the truth, the mass immigration lobby charged the Department of Health and Human Services (HHS) with losing 1,475 minors who were in its care. These charges were dutifully reported by their stenographers in the media.

It was a great story, except for the fact that it didn't contain a shred of truth. HHS didn't lose 1,475 minors. The young illegal aliens who were apprehended at the border were placed in the care of relatives or other guardians around the country – many of whom are illegal aliens themselves – who, for understandable reasons, do not want to be located. Being hidden is not the same as being lost.

The situation is a creation of the open borders lobby, which successfully sued to prevent the Department of

Image: istock | Oleksii Spesyvtsev

Homeland Security (DHS) from detaining minors for more than 20 days – far less time than is required to determine if they have a valid claim to remain in the United States. Thus, DHS is mandated to turn these minors over to HHS which, in turn, places them with relatives and guardians.

In testimony before Congress in May, Steven Wagner, an HHS official, reported that his department voluntarily conducts a safety and well-being follow up call with each child and his or her sponsor 30 days after being released. According to Wagner, 19 percent of those follow-up calls

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MINORS *continued from page 3*

went unanswered, accounting for 1,475 children.

The primary reason many sponsors ignore calls from HHS is because they are also in the country illegally. Unsurprisingly, in these cases, sponsors do not want to be reached by federal authorities and probably have no intention of having the kids in their care show up for any hearings.

None of that prevented members of Congress from grandstanding. Rep. Joaquim Castro (D-Texas) vowed in a tweet, "I will help organize a rally in San Antonio," which included the hashtag #WhereAreTheChildren. Neither Castro, nor anyone else in Congress feigning outrage over "lost kids" who aren't really lost, vowed to close the gaping legal loopholes that force DHS and HHS to release minors who enter the country illegally.

As for those minors who cannot be placed with relatives or guardians? Some 10,000 of them remain in the care of HHS, where they have far better housing and amenities than many homeless and impoverished American kids, at a reported cost to taxpayers of $670 per day, per child. ■

Disastrous Discharge Effort in the House Likely to Yield Little in the Way of Real Immigration Reform

Immigration is more than the hottest domestic issue in the country right now. It was also the subject of a rarely used parliamentary maneuver, known as a Discharge Petition, aimed at forcing Speaker Paul Ryan to bring pro-amnesty immigration legislation to the floor. Even more unusual, the Discharge Petition was the product of an alliance between a small sect of House Republicans and a unified Democratic caucus.

The Discharge effort failed because at the last minute the speaker promised the rogue members of his party a vote on two bills. The first bill, the Securing America's Future Act, failed because 41 Republicans joined all House Democrats in opposing it.

The second was the Border Security and Immigration Reform Act, a hastily-cobbled-together "compromise" bill, which proved even less popular – so much so that the House leadership postponed a vote on it in order to avoid embarrassment.

How We Got To The Discharge Petition

Republicans were handed control of both houses of Congress by voters in 2016, but by the Spring of 2018 little in the way of substantive legislation had made it through either body. Early in 2018, the Senate attempted what was essentially a legislative free-for-all, where a bill would be constructed amendment-by-amendment on the fly. The aim was to provide unspecified protections for DACA beneficiaries in exchange for measures to control illegal immigration and possibly end our failed family


Image: istock | Pgiam

chain migration system. Predictably, that process ended in abject failure.

The House managed to pass some good bills in June 2017 aimed at cracking down on criminal aliens and sanctuary policies, but those bills have yet to be taken up in the Senate. Earlier this year, a small group of pro-amnesty House Republicans mounted a serious push for a vote on a sweeping DREAM Act amnesty. These rogue Republicans teamed with House Democrats to collect signatures on a Discharge Petition that would force Speaker Ryan to bring a bill to the floor that most Republicans would oppose. With the rogue Republicans just three signatures shy of their goal, a deal was struck under which two bills would be put to a vote.

The Securing America's Future Act offered border security, interior enforcement, mandatory E-Verify, an end to sanctuary policies, and a leaner merit-based legal immigration system. It would also have continued protec-

DISCHARGE EFFORT *continued on page 6*

NEWS FROM OUR

State & Local Operations

Vermont

Vermont is a small state and has a relatively small illegal alien population. As a result, illegal immigration costs taxpayers in Vermont a modest (but still unnecessary) $44.4 million a year – which is a problem for lawmakers in the state. Apparently, they believe $44.4 million is not enough and took steps to "remedy" that situation by approving legislation making Vermont the first state in the nation to authorize, and in some cases actually require, that its taxpayer-funded public defenders appear in immigration proceedings in addition to state criminal court. In May, Republican Governor Phil Scott signed Senate Bill 237 into law. Under SB 237, Vermont public defenders "shall" meet professional obligations to their clients "through representation that may extend to federal immigration court." It also authorizes these state paid attorneys to appear in federal court "in or with respect to a matter arising out of or relating to immigration status." The Vermont Legislative Joint Fiscal Office estimated that this law will cost Vermont taxpayers between $300,000 and $400,000 a year – at least for now, until word spreads that Vermont will foot the legal bill for illegal aliens fighting deportation.

California

California may have $1 trillion in unfunded liabilities to reckon with, but the Legislature is not letting a little thing like that deter it from devising an expensive new program to provide benefits to illegal aliens. State Senator Ricardo Lara introduced Senate Bill (SB) 974 to pay for illegal aliens' health care costs through the state's Medi-Cal program. In its original form, SB 974 would have provided health care coverage to every illegal alien in the state, but the $3 billion a year price tag was too large even for Gov. Jerry Brown. An amended version limits coverage to illegal aliens under the age of 19 or older than 65, for a more "modest" cost of $250 million a year to taxpayers. A companion Assembly bill by Joaquim Arambula would cover illegal aliens up to the age of 26, but not over the age of 65. It may take a while for the Legislature to iron out the differences, but Californians should expect that paying a lot more for health coverage for illegal aliens is in their not-too-distant future.

New York

Gov. Andrew Cuomo has already issued an Executive Order barring Immigration and Customs Enforcement (ICE) from making arrests at state buildings without a judicial warrant or other court order. But apparently that is not enough. A bill in the New York Legislature would statutorily limit (or attempt to limit) the ability of ICE to enforce federal immigration laws in the state. Among other restrictions, Assembly Bill 11013 would make anyone attending a court proceeding as a party or witness, and their family members, immune from civil arrest — and not only within a courthouse but also while going to or returning from court — except if the arrest is based on a judicial warrant or other court order. It also threatens ICE officials carrying out a civil arrest in New York with contempt of court and false imprisonment. In early June AB 11013 cleared its initial legislative hurdle, passing the Assembly's Committee on Codes by a 16-6 vote.

DISCHARGE EFFORT *continued from page 4*

tions for current DACA beneficiaries. That bill was defeated.

The "compromise" bill hoped to appease all sides by offering amnesty to an estimated 1.8 million illegal aliens, while paring down the list of immigration reforms Republicans had promised voters. No sooner was it introduced, that the bill dropped off of Ryan's radar screen as the majority of Republicans rejected it as a betrayal of their campaign promises and Democrats opposed even the minimal enforcement provisions.

In pulling the bill, Ryan avoided the embarrassment endured by his counterpart, Senate Majority Leader Mitch McConnell, earlier this year during a very similar and disastrous legislative free-for-all

After sending mixed signals – first threatening to veto the "compromise" bill, and then indicating he would sign it – President Trump responded to the House debacle. In a Tweet he told Congress to stop "wasting time" on immigration and urged voters to elect lawmakers who would support immigration reforms that protect the public interest. Although he has not tweeted it, the president may also be expecting that he will have more leverage in the coming months if the Supreme Court rules that the DACA program itself is unconstitutional. ■

New Report Indicates Immigrants Are Accessing Public Assistance at an Alarming Rate

According to an analysis of recent government data, 42 percent of foreign born residents of the United States rely on means-tested public benefits to meet their basic needs. Ironically, this latest analysis comes not from organizations like FAIR, or the Center for Immigration Studies, which have been arguing that our flawed immigration policies are imposing enormous burdens on American taxpayers. Rather, it is the work of the Migration Policy Institute (MPI) that is generally supportive of large-scale family chain migration.

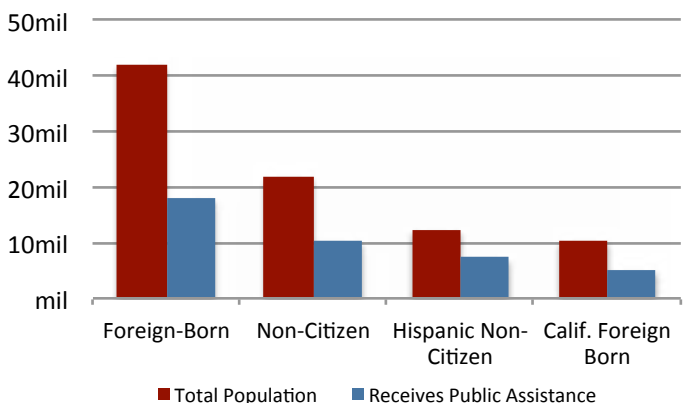
Using the Census Bureau's American Community Survey (ACS) data, MPI estimates that of the more than 42 million foreign-born U.S. residents – citizens and noncitizens – nearly 18 million are accessing one or more means-tested government benefit programs. Among the 22 million foreign born residents who are not U.S. citizens, an alarming 47.2 percent rely on benefit programs. Among Hispanic noncitizens, 58.4 percent makes ends meet with the assistance of public benefits.

The benefit programs identified in the MPI study are: Temporary Assistance to Needy Families (cash welfare benefits); Supplemental Security Income; Supplemental Nutrition Assistance Program (food stamps); and Medicaid. The programs identified in the MPI study are largely funded by the federal government and the beneficiaries are, for the most part, legal immigrants to the United States. Other analyses, such as FAIR's 2017 report, *The Fiscal Burden of Illegal Immigration on United States Taxpayers*, examine the costs of illegal immigration, including the costs absorbed by state and local taxpayers.

In California, home to 10.5 million foreign born residents, some 5.1 million – or nearly half – are accessing the public benefit programs analyzed in the MPI study.

These new data, which cover the post-recession period of 2014-2016, strongly reinforce FAIR's calls for a merit-based immigration policy. When large percentages of the immigrant population, including those who have become naturalized citizens, are dependent on public welfare programs, it is clear that our current family chain migration system is resulting in the admission of large numbers of people who lack the wherewithal to be self-sufficient. ■

Immigrant Public Assistance Dependence



Washington Post Excoriates Trump for Calling MS-13 Members "Animals," and Then Proves that He Was Right

During a May White House meeting with California law enforcement officials, President Trump, in direct response to a complaint from Fresno County Sheriff Margaret Mims that California's sanctuary laws were forcing her department to return MS-13 and other gang members to the streets, President Trump made it clear just how dangerous these policies are. "You wouldn't believe how bad these people are. These aren't people. These are animals," the president responded.

Predictably, Trump's assertion set off a firestorm of protest from the mass immigration lobby which falsely asserted that he had compared all illegal aliens to animals – assertions that were dutifully echoed by many media outlets. Ultimately, these news outlets were forced to acknowledge that the president's remarks were directed solely at gang members, not illegal aliens generally.

But that did not stop many media outlets from continuing their criticism. *The Washington Post*'s leading columnist, E.J. Dionne, editorialized, "It's never right to call other human beings 'animals.' It's not something we should even have to debate. No matter how debased the behavior of a given individual or group, no matter how much legitimate anger that genuinely evil actions might inspire, dehumanizing others always leads us down a dangerous path."

Dionne's colleague, Eugene Scott, opened his own column in the *Post* with the blatant falsehood, "President Trump on Thursday pointedly referred to undocumented immigrants as 'animals.'"

Ironically, a scant three weeks later, the *Post* ran a news story proving that the only ones who should have taken offense from the president's remarks are actual animals who would have every right to object to being compared to MS-13 members. In a story titled, "'A ticking time bomb': MS-13 threatens a middle school, warn teachers, parents, students," the *Post* detailed how gang members in Prince George's County, Maryland, a neighbor of Washington, D.C., are terrorizing a local middle school. Not even a high school, but a middle school comprised of 6th, 7th and 8th graders.

Students and faculty at the largely Hispanic William Wirt Middle School are being subjected to intimidation, assaults with deadly weapons, and even rapes at


Image: Federal Bureau of Investigations

the hands of MS-13 members who have infiltrated their school. It is a problem, the *Post* notes, that "has been fueled by a wave of 200,000 teens who traveled to the United States alone to escape poverty and gang violence in Central America."

What the *Post* did not report is that it is a problem being fueled by Congress's refusal to amend the Trafficking Victims Protection Reauthorization Act, which forces border personnel to admit all non-Mexican and non-Canadian minors who show up at our borders. It is also a problem exacerbated by state and county sanctuary policies in Maryland that protect criminal aliens.

And, it is a problem that is enabled by school administrators who willingly endanger the safety of students and teachers (let alone their ability to learn and teach) to protect deportable gang members. "Although administrators deny Wirt has a gang problem, the situation inside the aging, overcrowded building has left some teachers so afraid that they refuse to be alone with their students. Many said they had repeatedly reported incidents involving suspected gang members to administrators, only to be ignored — claims supported by documents obtained by *The Washington Post*," reports the paper.

Situations like the one at William Wirt Middle School is also the product of media outlets, like the *Post*, that malign those who dare to identify MS-13 members for who they are and demand that their infiltration into the country be halted before they can terrorize middle schoolers. ■

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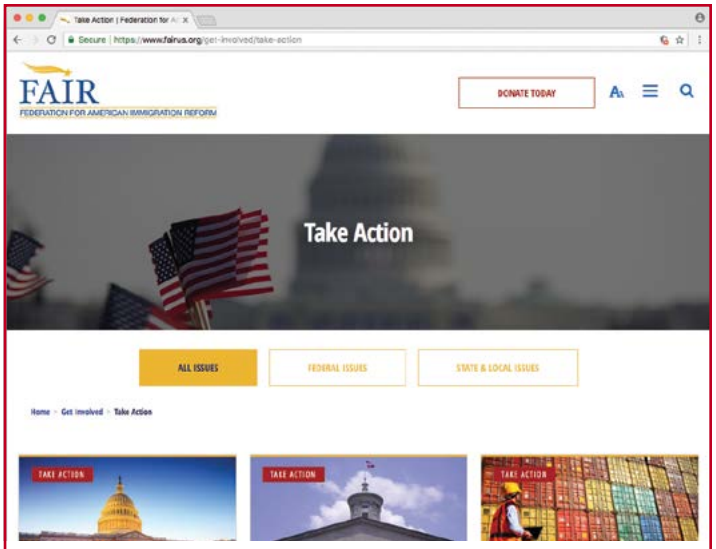

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The FAIR Action Center empowers you to play an active part in the battle for true immigration reform by communicating your opinion with your representative and senators.

It only takes a few clicks on our web site:

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From the Take Action page you can decide to email, call, or contact Congress via social media. We write email templates and social media postings for you to use. Our Action Center will automatically send the information to your elected official without you having to use any other platform. It is that easy!

So whether you want to combat Sanctuary Cities or benefits for illegal aliens, you can do it all with FAIR's Action Center. Go to www.fairus.org and support the FAIR fight today.