



Democratic Wall of Opposition to Immigration Reform in the Trump Era

2017-Present

**FAIR**

A Report by RJ Hauman and Preston Huennekens

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INTRODUCTION

A Populist President is Elected and Hopes are High

The 2016 election was a landmark event in modern political history. The Republican Party’s nominee – Donald Trump – was a businessman and celebrity personality with no professional background in the military or politics. Candidate Trump defeated many Republican candidates, including popular former governors and sitting U.S. senators. The immigration issue dominated his campaign, and its focal point was a call for the construction of a border wall between the U.S. and Mexico, as well as a range of other proposals. Trump’s populist themes and commitment to protect American jobs resonated with voters as they watched him berate the political establishment for ignoring the consequences of both illegal and legal immigrants flowing into the country.

Donald Trump defeated former first lady, New York senator, and Secretary of State, Hillary Clinton in a shocking Electoral College victory, carrying 30 states and garnering 304 electoral votes to Hillary Clinton’s 227 votes. Further, the House of Representatives and the Senate remained in Republican control, giving the GOP control of both the White House and both chambers of Congress for the first time since the 109th Congress (2005-2007).

Immediately after he was sworn in, President Trump began delivering on his immigration-related campaign promises by issuing a series of executive orders. But while his actions were swift and convictions unwavering, his efforts were delayed and obstructed by unified, open-borders Democrats and activist groups determined to stop each reform. Notably in Trump’s first year, some establishment Republicans – led by House Speaker Paul Ryan (R-WI) – focused their political energy and capital, not on Trump’s immigration agenda, but on passing tax cuts and attempting to repeal the Affordable Care Act.

In this report, FAIR’s government relations team summarizes unprecedented Democratic obstruction, judicial opposition, and the evolution of extreme policy stances that have slowed and at times stopped President Trump’s landmark efforts to reform our immigration system in the national interest.

115TH CONGRESS

Democrats Scuttle Needed Reforms in House and Senate

JUNE 2018

True Immigration Reform Bill Fails in House, Democrats Unified in Opposition

The closest that the 115th Congress came to passing true immigration reform was through the Securing America's Future Act (H.R. 4760) sponsored by Rep. Bob Goodlatte (R-Va.). This bill was a good faith compromise between various interests. At its core, the bill ensured mandatory E-Verify and border security funding in exchange for a complete makeover of the agricultural guestworker program, as well as a legislative solution to the Obama-era Deferred Action for Childhood Arrivals (DACA) program. If it became law, DACA recipients essentially would have had a renewable nonimmigrant visa without the opportunity to become citizens. The bill also included crucial changes to our legal immigration system, slowly transitioning it to a merit-based system, and reducing immigration overall, which remains top priorities of FAIR.

It died on the House floor, despite being a GOP-sponsored bill, because House Democrats united in opposition and partly because Speaker Ryan decided to craft his own package.

FEBRUARY 2018

Democrats Torpedo Efforts to Pass Reform in Senate

The House of Representatives was not the only chamber that failed to pass any consequential immigration legislation in the 115th Congress. The Senate did not consider the RAISE Act, sponsored by Senators Tom Cotton (R-Ark.) and David Perdue (R-Ga.), which sought to reduce overall immigration by cutting categories of chain migration and instituting a merit-based immigration system. This was due to unified Democratic opposition, along with several Republicans aligned with the business lobby who quietly voiced opposition.¹

Instead, the Senate could only vote on legislation to address DACA recipients in exchange for some desperately needed reforms. In February 2018, Majority Leader Mitch McConnell (R-Ky.) announced that the Senate would consider immigration DACA legislation through a convoluted amendment process requiring 60 votes to overcome the Senate's filibuster rule.²

The Senate never reached this threshold. Doomed from the beginning, the process yielded no immigration bill, and the Senate moved on. Republicans are hardly to blame for this outcome, however. Democrats rejected President Trump's proposed compromise, even though it included an amnesty for nearly two million illegal aliens. Instead, they supported a larger amnesty bill for over three million illegal aliens, far more than the original population of DACA recipients. Even worse, Minority Leader Chuck Schumer (D-N.Y.) drafted a proposal that would have granted amnesty to 1.8 million illegal aliens and blocked the removal of 12 million illegal aliens.³ Sadly, it became apparent that the Democrats torpedoed the opportunity to legalize any of the DACA recipients over their desire to deny President Trump a single win on the issue.

116TH CONGRESS

A Divided Congress as Open Borders Radicals Seize Control of the House

After just two years in power, Republicans lost 42 seats, and control of the House returned to the Democrats. Rep. Nancy Pelosi (D-Calif.) returned as speaker.

The 116th Congress began with parts of the federal government shut down because the Democrats refused to allocate funds for a border barrier, precipitating the longest shutdown in the history of the U.S. government. President Trump was ultimately forced to sign a watered-down funding bill that did not include money for the border wall. Shortly after signing the spending bill that ended the funding crisis, President Trump declared a national emergency at the southern border that permitted him to alternatively allocate funds from the military to build sections of the wall.

Throughout the 116th Congress, Democrats introduced and passed a number of bills designed to dismantle existing enforcement and otherwise stifle the Trump administration's ability to reform our immigration system. Fortunately, every single one rightfully died in the Senate.

JANUARY 2019

Presidential Candidates Kirsten Gillibrand and Elizabeth Warren Call for the Abolition of ICE

During the heat of the Democratic presidential primary, the radicalism of figures such as Rep. Alexandria Ocasio-Cortez (D-N.Y.) pushed otherwise moderate candidates such as Gillibrand, who once supported sensible anti-illegal immigration measures, to adopt wildly open-border positions. In this case, Senator Gillibrand (D-N.Y.) called for the abolition of ICE.⁴ This would become a constant theme throughout the course of the race. Radical Democrats like Kamala Harris, Cory Booker, and Julian Castro pushed otherwise moderate or center-left candidates such as Gillibrand, Biden, and Klobuchar to the far left of the immigration debate. Senator Gillibrand formerly opposed amnesty for illegal aliens and voted to increase funding for ICE. In today's Democratic Party, those views are unacceptable.⁵

MARCH 2019

House Dems Introduce Bill Incorporating Illegal Aliens into their "Medicare-for-All" Scheme

Rep. Pramila Jayapal (D-Wash.) introduced H.R. 1384, the Medicare for All bill, which specifically included illegal aliens in the coverage.⁶ This would require the federal government to cover the cost of healthcare for every illegal alien in the country. The Center for Immigration Studies found that giving healthcare to illegal aliens would cost American taxpayers \$23 billion collectively and that each illegal alien would receive roughly \$4,600 in benefits.⁷ American taxpayers can barely afford these programs as they run currently. Medicare is running out of money. Adding millions of illegal aliens to the recipient rolls will cripple the program, leaving millions of American citizens without healthcare that they depend on.⁸

APRIL 2019

Kamala Harris Introduces Bill Allowing Illegal Aliens to Work in Congress

Senator Kamala Harris (D-Calif.) announced her intention to introduce legislation in the Senate that would allow illegal aliens to work in Congress if they have active or expired DACA status. For purposes of national security, non-citizens rarely work in Congress, and especially not illegal aliens such as DACA recipients.⁹ Only U.S. citizens or legal permanent residents - green-card holders with plans to naturalize - can legally work and earn a salary working for Congress. The radical open borders group United We Dream released a statement at the time praising Harris' decision, noting that "this bill and similar proactive policies would open the door for immigrant youth to access opportunities within the halls of Congress."¹⁰

Senator Booker Introduces Bill Overturning Immigration Detention

Senator Cory Booker (D-N.J.) introduced S. 1243, the Dignity for Detained Immigrants Act, alongside 11 co-sponsors including other presidential primary hopefuls Elizabeth Warren (D-Mass.) and Kristen Gillibrand (D-N.Y.). This bill called for the complete evisceration of most forms of immigration detention and eliminated all aspects of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act having to do with detention. These measures added up to de facto amnesties for millions of illegal aliens, leaving ICE with no way to detain and hold illegal aliens before deporting them.¹¹ Immigration detention has since become a favorite target of both radical and moderate Democrats looking to score political points against the Trump administration.

JUNE 2019

House Democrats Pass Massive Amnesty Bill

The American Dream and Promise Act (H.R. 6) was the largest amnesty passed by the Democrat-controlled House. This bill would have granted amnesty to millions of illegal aliens under the guise of "protecting Dreamers," a catch-all term that went well beyond the 700,000 or so active DACA recipients. This bill passed the House of Representatives by a vote of 237-187. All 230 Democrats voted for the legislation, joined by seven Republicans. All 187 "no" votes came from the minority Republicans, with no Democrats joining them. The Senate under Majority Leader Mitch McConnell never considered this bill.

JULY 2019

House Democrats Pass Bill to Expand TPS

The Venezuela TPS Act (H.R. 549) added Venezuelans into the Temporary Protected Status (TPS) program, which FAIR opposed. The TPS program has grown too large, complicated by that fact that once a country receives TPS status it becomes politically difficult to end it. Consider President Trump's early moves to remove TPS status for Haiti, El Salvador, and Honduras, citing that conditions in the three respective countries had clearly improved. Democrats attacked him as a xenophobic bigot for suggesting that Hondurans, Salvadorans, and Haitians could safely return home from the United States. This bill passed by a vote of 272 - 158. The Senate refused to consider this legislation.

House Democrats Pass Bill Further Burdening Border Officials

The Humanitarian Standards for Individuals in Customs and Border Protect Custody Act (H.R. 3239) called for additional health screenings and complex procedures when Customs and Border Protection (CBP) apprehend and book illegal aliens into detention. Supporters of the bill pointed to a number of high-profile detainee deaths in CBP custody. Opponents of the bill, such as Rep. Doug Collins (R-Ga.) argued that the bill imposed unreasonable requirements on CBP and would reduce their capacity to respond to future surges of illegal aliens. FAIR opposed this legislation, noting that it placed undue burdens on CBP and on the Border Patrol while doing nothing to stop the flow of illegal immigration in the first place. The bill passed by a vote of 233 – 195. The Senate refused to consider this bill.

House Democrats Pass Bill Removing Long-Standing Per Country Caps

The Fairness for High-Skilled Immigrants Act (H.R.1044) altered how employment-based immigration works in America by removing per-country caps. Currently, no country's nationals can comprise more than 7 percent of any visa category. The existing caps are designed to increase diversity in employment-based immigration, which reflects the long-standing American priority of welcoming talented immigrants from across the globe. This bill removed these caps entirely for employment-based immigrant visas, while also raising the cap on family-preference visas from 7 percent to 15 percent.

This bill would profoundly change legal immigration to the United States for generations to come; and few, if any, individuals from countries other than India or China would be able to immigrate to the United States on an employment-based visa. America's immigration system is not designed to benefit only one or two countries. This bill passed by a vote of 365 – 65. So far, the Senate companion to the bill (S.386) has not received a committee vote or floor vote. However, the bill's primary sponsor Senator Mike Lee (R-Utah) continues trying to pass the bill by "unanimous consent." Essentially, this means that Lee can propose the bill and if no one objects to it then it passes. It normally is used for very trivial matters, such as entering statements into the record, and almost never to pass serious legislation. Senators across the ideological spectrum continue to block his attempt to pass S. 386 by unanimous consent.¹²

SEPTEMBER 2019

House Democrats Pass Bill to Create Nuisance Oversight Panel to Hamper Efforts of Border Officials

The Homeland Security Improvement Act (H.R. 2203) called for the creation of an ombudsman of border and immigration issues at the DHS. The ombudsman would create a 30-person panel including experts in immigration, civil rights, international trade, and border residents. The panel would, ostensibly, focus on reducing deaths of aliens in DHS custody and investigate the safety of CBP and ICE agents at the border. The ombudsman would also review the training of CBP and ICE agents and make recommendations to improve or change that process. Further, the bill required the use of electronic tracking of all alien children and required all CBP and ICE agents to wear body cameras. FAIR opposed this legislation due to the wide-ranging restrictions that it placed on DHS, and specifically CBP and ICE. The bill passed by a vote of 230 – 194. The Senate never considered this legislation.

House Democrats Pass Bill to Reduce Border Enforcement under Guise of Enhancing Illegal Alien Health Records

The U.S. Border Patrol Medical Screening Standards Act (H.R. 3525) called for the DHS to move to an electronic system for keeping health records of illegal aliens in detention. The bill also called for a comprehensive review of Border Patrol policies at the border pertaining to the health of apprehended illegal aliens. FAIR opposed this legislation because it placed new burdensome restrictions on CBP. Further, the bill allocated no new funding for this proposal but instead, required DHS and CBP to draw funding from immigration enforcement and other programs to pay for it. This bill passed by a vote of 230 – 184. The Senate never considered this legislation.

OCTOBER 2019

Senate Democrats' Introduce Bill Doubling Legal Immigration Levels

Senate Democrats introduced the RELIEF Act, which immigration analysts said would cause our legal immigration to soar to over two million annually within 10 years. Senators Dick Durbin (D-Ill.) and Patrick Leahy (D-Vt.) introduced the bill as an alternative to the Fairness for High-Skilled Immigrants Act (S. 386) introduced by Senator Mike Lee (R-Utah). The bills are largely similar, except that the RELIEF Act increases the number of total green cards available, something that Lee refuses to consider.¹³

DECEMBER 2019

House Democrats Pass Massive Agricultural Worker Amnesty

The Farm Workforce Modernization Act (H.R. 5038) was one of the largest amnesty proposals passed by the House of Representatives in this term, dwarfed only by the American Dream and Promise Act. Unfortunately, this bill attracted widespread support from Republican lawmakers who support the agriculture industry's reliance on illegal farm labor. The bill consisted of four main provisions – a massive farmworker amnesty, minor changes to the H-2A agricultural guestworker program, the expansion of EB-3 green cards, and the limited implementation of the E-Verify program. This bill passed by a vote of 260-165. The Senate never considered this legislation.

FEBRUARY 2020

House Democrats Try to Expand Labor Lawsuits for Illegal Aliens

The National Labor Relations Act (NLRA) currently allows illegal aliens to allege employer violation of their collective bargaining rights before the National Labor Relations Board (NLRB). However, unlike legal workers and American citizens, illegal aliens cannot receive back pay from the NLRB as a remedy – something that was affirmed by the Supreme Court in *Hoffman Plastics Compounds, Inc. v. NLRB*. The Democrat-supported PRO Act (H.R. 2474) allowed illegal alien workers to receive back pay, further entrenching illegal labor and displacing more American workers. Worse, illegal aliens would be allowed to sue their employers in court if the NLRB did not act fast enough. This bill passed by a vote of 224-194. The Senate did not consider this legislation.

MAY 2020

House Dems Exploit COVID Crisis to Grant Amnesty and Stimulus Money to Illegal Aliens

The HEROES Act (H.R. 6800) is the title of the House Democrats' Phase IV coronavirus stimulus plan. This FAIR-opposed bill would grant a de facto amnesty to illegal aliens working in "essential" industries, give them stimulus checks, release nearly everyone detained by ICE, and expand some forms of legal immigration. Supporters of the HEROES Act made it clear that they support giving billions of dollars in stimulus money to illegal aliens, rather than spending it on other needed reforms or priorities of the American people. This bill passed by a vote of 208 – 199. The Senate did not consider the HEROES Act, instead focusing on their own tailored legislative package.

JUNE 2020

Senator Markey Introduces Immigration Enforcement Moratorium Act

Senator Ed Markey (D-Mass.) introduced S. 4011, the Immigration Enforcement Moratorium Act. Seizing on the hysteria surrounding the COVID-19 pandemic, Senator Markey proposed ending all immigration enforcement throughout the duration of the COVID-19 national emergency. It specifically asks the Department of Justice to stop all immigration removal proceedings through the Executive Office for Immigration Review (EOIR), which is our country's immigration court system.¹⁴ Not surprisingly, four of the Senate's most far-left members joined him as a co-sponsor: Senators Kamala Harris (D-Calif.), Elizabeth Warren (D-Mass.), Richard Blumenthal (D-Conn.), and independent socialist Bernie Sanders (I-Vt.).

JULY 2020

House Democrats Pass Bill to Strip National Interest Authority from the President

The NO BAN Act (H.R. 2486) weakened the President's 212(f) authority. This includes stripping the President's ability to determine if classes of aliens represent a threat to the United States. The bill instead transferred this authority to the State Department, which must consult with Congress before taking any action. Had the NO BAN Act been in effect in early 2020, President Trump would have been unable to quickly restrict high-risk travel from China and Europe at the onset of the COVID-19 pandemic. The act would similarly restrict future presidents from acting quickly in the public interest. The House passed the NO BAN Act as an amendment to a larger bill by a vote of 233-182. The Senate did not consider this legislation.

House Democrats Pass Bill Expanding Public-Funded Right to Counsel for Aliens

Under the Immigration and Nationality Act (INA) that governs immigration law, illegal aliens cannot receive taxpayer-funded legal counsel. The Democrat-supported Access to Counsel Act does not overturn that provision, but it creeps up to the precipice and would drastically increase wait times at ports of entry by guaranteeing those selected for additional screening access to counsel. The House passed the Access to Counsel Act as an amendment to a larger bill by a vote of 231-184. The Senate did not consider this legislation.

MAJOR COURT RESISTANCE TO EXECUTIVE ACTION

Travel Restrictions

Quickly after entering office, President Trump issued travel restrictions on a number of countries known to U.S. intelligence and law enforcement agencies as state sponsors of terrorism, lacking functioning central government, and/or generally hostile to the United States and American citizens.

The Supreme Court affirmed that the President had the authority to restrict immigration admissions in the pursuit of national security objectives in the landmark case *Trump v. Hawaii* (2017). However, before *Trump v. Hawaii*, activist courts issued injunctions blocking the administration from implementing two earlier travel restriction orders on a number of countries. The final travel restrictions applied to certain classes of aliens from Iran, Libya, North Korea, Somalia, Syria, Venezuela, and Yemen.

In total, it took 17 months of litigation in lower courts before the Supreme Court finally approved the administration's bold steps to exclude classes of aliens from countries hostile to the United States – all because of activist judges and circuit courts (particularly the 9th Circuit) focused on political outcomes, rather than examining the legal merits of the individual case.

Zero Tolerance at the Border

A defining moment of the Trump administration was the decision to prosecute every illicit border crosser with charges defined under 8 USC §1325. Section 1325 designates between first-time border-crossers (improper entry) and repeat offenders (unlawful entry). Improper entry is a misdemeanor offense, whereas unlawful and repeat entry is a felony.

Then-attorney general Jeff Sessions announced on April 6, 2018 that the federal government would prosecute every apprehended illegal alien under 8 USC §1325.¹⁵ Theoretically, ICE would detain every adult apprehended by Border Patrol, and the Department of Health and Human Services (HHS) would house apprehended minors. This became known as “family separation,” and Democrats and the media seized on the images of separated families and “kids in cages.”¹⁶

Under overwhelming pressure from immigrant activist groups, the national media, congressional Democrats, and even some Republicans, the Trump administration abandoned the policy of zero tolerance on June 18, 2018. Although the policy existed only between April and June, the political effects were profound and the Trump administration lost significant momentum to halt illegal entries through executive action.

Executive Order to Construct Border Wall

President Trump promised to build a wall on the US-Mexico border as a candidate. He even famously suggested that he would force Mexico to pay for it. Of course, this never happened. What did happen is that the president and House Democrats engaged in a standoff resulting in the longest government shutdown in American history.¹⁷ The President refused to sign one of the omnibus spending bills that did not include funding for his desired border wall. Democrats decided that they could hurt

the president politically by shutting down the government.

Ultimately, President Trump declared a national emergency to address the security and humanitarian crisis at the southwest border. Proclamation 9844 planned to redirect billions of dollars in military funding to construct the border wall. Almost immediately, 17 states sued the federal government in an attempt to prevent this from occurring. Further, the American Civil Liberties Union (ACLU) and the Sierra Club filed separate lawsuits. A U.S. district court issued an injunction blocking any construction in the Sierra Club case, but the Supreme Court subsequently ruled 5-4 in *Sierra Club v. Trump* that the President has the authority to use military funds to build the wall.¹⁸

Census Citizenship Question

The Trump administration sought to include a citizenship question in the 2020 census. Although this was entirely for informational purposes, the left, the media, and open-borders activist groups immediately decried this decision. Quickly, various courts stepped in to do what the open-borders groups could not: stop the Census Bureau from including a citizenship question. Judges in Maryland, New York, and California all ruled that the citizenship question was illegal.¹⁹ Ultimately, the Supreme Court blocked the Trump administration from including the citizenship question, ruling that commerce secretary Wilbur Ross did not adequately defend why adding the question was necessary.²⁰ This represented another high-profile loss on an immigration matter for the Trump administration.

Public Charge Rule

The Trump administration used the federal rulemaking process to propose a regulation ensuring that green card holders on the path to naturalization do not rely on federal welfare programs such as Medicaid and food stamps. Opponents of this rule argued that the government was imposing a “wealth test” on immigrants, when in fact public charge rules existed throughout American immigration history.²¹ According to USCIS, “the final rule enables the federal government to better carry out provisions of U.S. immigration law related to the public charge ground of inadmissibility.”²²

A number of states sued the federal government once the public charge rule went into effect. A judge blocked the nationwide application of the public charge rule on the grounds that it might prevent immigrants from accessing medical care during the coronavirus crisis.²³ But another federal judge quickly ruled that this was an overreach, and that the federal government could enforce the public charge rules in all states other than New York, Connecticut and Vermont, who initially sued.²⁴

Migrant Protection Protocols (MPP) and Asylum Agreements

The summer of 2019 saw a pronounced humanitarian and security crisis at the southern border with Mexico. Weak and easily exploitable asylum laws drove a massive surge in apprehensions at the border, and even the *New York Times* declared that the border was at a breaking point.²⁵ Congress – controlled by Democrats in the House and Republicans in the Senate – sat on their hands and did nothing as the crisis spiraled out of control.

The Trump administration responded to this by negotiating with Mexico and the Northern Triangle countries from where most of the apprehended aliens originated. With Mexico, they signed the Migrant Protection Protocols, commonly referred to as the “Remain-in-Mexico” program because it allowed Central American migrants to apply for asylum in the United States on the condition that they live in Mexico during the duration of their immigration proceedings.²⁶ This prevented them from living in the U.S. and simply disappearing into the interior of the country, knowing that immigration judges denied 70 percent of all asylum applications nationwide.²⁷

The Trump administration eventually signed asylum agreements with the governments of El Salvador, Honduras, and Guatemala that functioned as de facto “safe third country” policies. Under these agreements, nationals of each country could not apply for asylum in the United States without first applying for asylum in the first foreign country they reached after fleeing their home. This prevented Central American asylum-seekers from having a legal case in the United States, since all of them had to travel through other countries to reach the United States-Mexico border.²⁸

Almost immediately, opponents of President Trump sued to prevent these agreements from taking place. Even immigration officers charged with instituting the policy claimed it was unlawful.²⁹ In January 2020, the American Civil Liberties Union sued the federal government on behalf of six asylum seeking illegal aliens sent to Guatemala. The ACLU lawsuit argues that the agreements are illegal and asked a D.C. federal court to issue an injunction against them. The case, *U.T. v. Barr*, remains in litigation.³⁰

Deferred Action for Childhood Arrivals (DACA)

The saga of DACA actually began in 2014, two years after President Obama conjured the program out of thin air. In 2014, the attorney general of Texas sued the Obama administration alleging that DACA is illegal and represents an unnecessary burden on the border states. In June 2017, ten Republican states wrote to the newly elected President Donald Trump threatening to sue the administration over the continuation of DACA. In September, attorney general Jeff Sessions announced that the administration was planning to end DACA.

Then, the court injunctions began. A federal judge in California issued a nationwide injunction against the DACA ban in January 2018, causing widespread confusion. In February 2018, a second federal judge issued a secondary injunction keeping DACA in place.³¹ Meanwhile, two cases moved through the federal court system, with many commentators noting the strong possibility that one or both would reach the Supreme Court. The first is *Texas v. Nielsen*, which argued that DACA was unconstitutional from its 2012 premise. Unfortunately, *Texas v. Nielsen* remains stuck in the lower courts. This case would have forced the Supreme Court to rule on the foundational constitutionality of the DACA program itself.³²

Instead, the case that made it to argument before the Supreme Court was *Regents of the University of California v. the Department of Homeland Security*, commonly abbreviated to “*Regents v. DHS*.” This case argued that the Trump administration acted arbitrarily and capriciously to end the DACA program, and did so without abiding by the Administrative Procedure Act. Leading up to the release of the court’s findings, many observers thought that the court would rule 5-4 in favor of the Trump administration. Instead, the court incredibly ruled 5-4 against the administration, keeping DACA in place and forcing the administration to renew DACA applications without accepting new ones.³³ This was one of the administration’s most significant losses in the immigration policy arena.

Temporary Protected Status

Citing improved conditions and outdated justifications, President Trump stripped nationals of El Salvador, Haiti, Nicaragua, and Sudan from the Temporary Protected Status (TPS) program. A federal judge immediately issued a nationwide injunction against the president’s move, arguing that the president violated the law by winding down the TPS program.³⁴ The Trump Administration scored a stunning victory when the 9th Circuit Court of Appeals ruled in *Ramos v. Nielsen* that the President can end TPS protections, citing the authority of the executive in existing law and admonishing the lower court for issuing the injunction in the first place.³⁵

CHANGING ATTITUDES WITHIN THE DEMOCRATIC PARTY

Not long ago, the Democratic Party championed strong immigration enforcement as a tool to protect blue-collar Americans from unfair competition in the labor market. Powerful labor unions – a staple of Democratic support – attacked politicians for being soft on the issue of worksite enforcement and border security.

In his 1995 State of the Union address, President Bill Clinton promised the American people that his administration would crack down on the flow of illegal aliens crossing the southern border. In 1997, a blue-ribbon commission led by civil rights icon Rep. Barbara Jordan (D-Texas) recommended moving the United States to a merit-based system while reducing overall levels of legal immigration.

Now, 25 years later, such a view is toxic in the modern Democratic Party, and wide swaths of its membership believe in dismantling immigration enforcement agencies, decriminalizing illegal border crossings, and increasing legal immigrant admissions across the board – from refugees to guest workers. The change within the Democratic Party membership on the issue of immigration is profound. Few, if any, of their elected officials openly profess a desire to reduce immigration in any capacity.

Donald Trump inadvertently accelerated the radicalization of some segments of the Democratic Party. Responding to President Trump's number-one issue, Democrats uniformly opposed the President's initial travel ban based on Obama administration determinations, efforts to construct the border wall, his decision to rescind DACA, and even his efforts to ban travel and immigration from countries with high rates of COVID-19. Countering Trump's immigration actions, Democratic nominee Joe Biden pledged to provide a pathway to citizenship for over 13.5 million illegal aliens – the largest amnesty promise ever made by a presidential candidate. Even President Barack Obama never promised to provide a pathway to citizenship for every illegal alien present in the United States.

The Democratic turn on immigration is as much an organic change in general opinion as it is a knee-jerk reaction to Donald Trump. And, given the new generation of Democratic leaders like Rep. Alexandria Ocasio-Cortez (D-N.Y.), it is unlikely that the Democrats will suddenly re-embrace border security and endorse sensible limits on immigration after President Trump leaves the White House, whether that be in January 2021 or in January 2025.

MARCH 2019

AOC Threatens Action Against Banks Involved in Immigration Enforcement

Disagreeing with a private corporation's use of their resources, Rep. Alexandria Ocasio-Cortez (D-N.Y.) threatened banks that invested in or otherwise supported other companies involved in private immigration detention. Ominously declaring that “there's more than one way to skin a cat,” AOC threatened the banks with non-legislative action and even hinted at social media pressure campaigns to force them to conform to her wishes.³⁶ This follows a greater pattern of bypassing legislative action to accomplish Democratic policy priorities, beginning with former President Barack

Obama's famous "pen and a phone" declaration. This kind of disregard for the U.S. Constitution produced programs such as DACA and Deferred Action for Parents of Americans (DAPA), a grotesque action that the courts struck down. But AOC's willingness to threaten American companies with her social media reach and national platform show that Democrats understand that not all policy victories require Congress.

JUNE 2019

Bernie Sanders Uses his Massive Email List to Warn Illegal Aliens about ICE Raids

Bernie Sanders sent email blasts to supporters in 10 major cities, warning them of ICE raids and likely protecting wanted criminal aliens from arrest.³⁷ This was a common response from Democratic politicians both nationally, in the case of Sanders, and of local politicians as well. Libby Schaff, the mayor of Oakland, California, sent out multiple tweets warning illegal aliens in Oakland that ICE prepared to conduct raids against criminal illegal aliens in the city.³⁸ Schaff was only effective locally, but Sanders' massive email list allowed him to derail ICE enforcement actions in multiple localities, preventing the agency from fulfilling its Congressionally-mandated mission.

JULY 2019

Cory Booker Unveils Immigration Plan Eliminating All Immigration Detention

Not to be outdone by his fellow primary candidates, Senator Cory Booker (D-N.J.) unveiled his presidential immigration plan. Its foundational promise is a plan to eliminate all immigration detention, a de facto amnesty for every current and future illegal alien.³⁹ This plan actually largely mirrors his earlier bill in the 116th Congress, discussed in an earlier section. Senator Booker's preferred immigration policy resonated with other Democrats, including those who would eventually lead the party's ticket against President Trump.

AOC Calls for the End of the Department of Homeland Security

Rep. Ocasio-Cortez (D-N.Y.) told the New Yorker Radio Hour that dissolving ICE is not enough, and that Democrats must act to scuttle the entire Department of Homeland Security (DHS).⁴⁰ This was a step even further than most Democrats had been willing to take. Yet soon enough, many of her colleagues jumped on board. Anthony Romero, the executive director of the American Civil Liberties Union (ACLU), penned an op-ed in USA Today arguing that Congress should break up DHS.⁴¹ Senator Bernie Sanders (I-Vt.) made dismantling DHS a part of his official campaign platform for president, exhibiting the entrenchment of far-left influence on the broader Democratic party primary.⁴²

JUNE 2019

Kamala Harris Unveils Immigration Plan

On June 12, 2019 then-candidate Kamala Harris unveiled her immigration plan to the nation. As CNN reported at the time, the plan was overwhelmingly partisan and completely ignored Congress' role in altering immigration policy. CNN's report noted that:

The plan, which the California Democrat is rolling out ahead of a trip to Nevada on Friday, would work within the current confines of immigration law and assumes Congress would be unable to pass immigration reform, something the body has failed to do for years. Her plan, should she be elected in 2020, would instead expand the use of deferred action immigration programs and use executive actions.

Harris would look to remove barriers that prevent many so-called Dreamers -- undocumented immigrants who were brought to the United States as children -- from receiving legal status by applying for a green card. The plan would also expand the use of deferred action programs to cover parents of US citizens and legal permanent residents, veterans and undocumented immigrants who have been in the United States for years.⁴³

The plan itself was radical mainly because of its focus on the abuse of executive action rather than congressional compromise to create change in the immigration system. Following the example of President Barack Obama, candidate Harris promised to bypass Congress and Republican opposition in order to accomplish her policy goals, regardless of their constitutionality or popular support.

AUGUST 2019

Joe Biden Says Illegal Alien Children are More American than American Children

During remarks in which he called on Congress to legalize every illegal alien in the country, former vice president Joe Biden confusingly asserted that illegal alien children are “more American” than children actually born and raised in the United States.⁴⁴ This is an outrageous assertion. He specifically referred to the recipients of DACA, most of whom are already over the age of 21. In fact, 35 percent of them are over the age of 26 in 2017, according to Pew Research.⁴⁵ DACA recipients are certainly a sympathetic population of illegal aliens, particularly those who truly came as very young children and grew up in the United States. But this fact by no means supports that they are somehow more American than actual citizens of the country.

SEPTEMBER 2019

Bernie Sanders Calls for the Decriminalization of Illegal Immigration

Despite his role in torpedoing prior amnesty legislation, candidate Bernie Sanders promised to halt all deportations, decriminalize border crossings, and end Immigration and Customs Enforcement raids.⁴⁶ This is in stark contrast to the Bernie Sanders of 2007 who led the left-wing charge against the 2007 Gang of Eight amnesty on the grounds that it would destroy the lives of working-class Americans. In 2007, Senator Sanders hit the nail on the head. He told news anchor Lou Dobbs that “if poverty is increasing and if wages are going down, I don’t know why we need millions of people to be coming into this country as guest workers who will work for lower wages than American workers and drive wages down even lower than they are now.”⁴⁷ In 2007, Senator Sanders was clearly correct. Research across the ideological divide agrees that unskilled foreign labor depresses the wages of blue-collar workers in this country. Worse, blue-collar Americans lose out on opportunities that they would otherwise have when unscrupulous employers hire illegal aliens at a lower wage. The turnaround of Senator Sanders is both remarkable and sad, and demonstrates the dramatic shift within the immigration debate that took place within the left and the Democratic party.

OCTOBER 2019

AOC Calls for All Illegal Aliens to Qualify for Welfare

Rep. Ocasio-Cortez (D-N.Y.) proposed giving full welfare benefits – paid for by American taxpayers – to illegal aliens as part of her “Just Society” proposal.⁴⁸ Once again, there is simply no way that the tax base could afford this. Illegal aliens are a massive net drain on the American economy, creating an astonishing \$116 billion deficit in benefit payments every year.⁴⁹ Proposals such as those from Rep. Ocasio-Cortez do not take into account how many benefits illegal aliens already receive from programs earned through their American-born children.

DECEMBER 2019

Joe Biden Goes All-In on Amnesty for Every Illegal Alien

Former vice president Joe Biden waited longer than the other candidates to release his immigration plan. Taking cues from the far-left of the Democratic Party whose support he desperately needed, Biden promised to amnesty each and every illegal alien in the United States. CNBC released a succinct description of the plan at the time of the announcement:

Biden wants to stop the Trump administration’s separation of migrant children from parents, end extended detention and reverse restrictions on travel from several predominantly Muslim countries, according to his campaign. At the same time, Biden wants to create a pathway to citizenship for about 11 million undocumented immigrants in the U.S., expand access to work visas in areas of economic need and boost the annual U.S. refugee admissions cap to 125,000 from the current 18,000, among other provisions in the plan.⁵⁰

It represents a “Greatest Hits” of the plans offered by his Democratic primary opponents. The most shocking inclusion was the promise to offer a pathway to citizenship to every illegal alien in America. It also specifically targets the executive action taken by the Trump administration, further painting the difference between the two candidates.

JANUARY-MARCH 2020

Joe Biden and Democrats Attack Coronavirus Travel Bans as “Xenophobic”

In January 2020, President Trump stopped all travel with China citing the COVID-19 crisis raging in that country, and the communist government’s failure to stop its spread. The President further restricted travel from Europe in March when COVID-19 gripped the continent. Instead of supporting these common sense solutions, Joe Biden blasted Trump’s decisive action as “xenophobic” and confusingly stated that “a wall won’t stop the virus. Banning all travel from Europe — or any other part of the world — will not stop it.”⁵¹ In fact, these bans almost certainly slowed the spread of the virus. Dr. Anthony Fauci said that the China ban “almost certainly saved lives.”⁵²

His running mate, Kamala Harris, stayed largely silent when the President issued these travel bans, neither accusing him of xenophobia nor applauding him for decisive action. Instead, when President Trump correctly referred to the origin of the virus as China, Harris accused him of “racist dog-whistling.”⁵³ The Speaker of the House Nancy Pelosi (D-Calif.) called the travel restrictions “outrageous and un-American,” even though they likely saved countless lives.⁵⁴ House and Senate Democrats

blasted the President as the “xenophobe-in-chief” without addressing Dr. Fauci’s assertion that the travel restrictions protected Americans from further infection by the Coronavirus.⁵⁵

MARCH 2020

Democrats Ask ICE to Release Illegal Aliens at Risk of Coronavirus

Despite low levels of coronavirus infection in ICE detention, House Democrats demanded that ICE release all illegal aliens in detention.⁵⁶ The panic surrounding the COVID-19 global pandemic hit its zenith in March, when most cities nationwide began issuing lockdown orders and businesses shuttered. Democrats immediately seized this opportunity to call on DHS to release all illegal aliens in immigration detention, despite there being no outbreak or risk of widespread infection among the detained population. In fact, while the United States plunged into a medical and economic depression after late February, the first ICE detainee did not die until May and there have been no catastrophic outbreaks in ICE facilities at the time of this writing.

MAY 2020

Speaker Nancy Pelosi Endorses Coronavirus Health Benefits for Illegal Aliens

The Speaker of the House announced that she too believed illegal aliens deserved American taxpayer benefits during the worst economic and unemployment crisis since the Great Depression.⁵⁷ In subsequent legislation, the Democratic-controlled House passed stimulus funding that included personal checks made out to illegal aliens and the inclusion of a variety of welfare and housing assistance programs. The Senate shot down these open-borders proposals in favor of more balanced legislation.

JULY 2020

Joe Biden and Bernie Sanders Release the “Unity Plan”

Presumptive nominee Joe Biden and defeated two-time candidate Bernie Sanders selected surrogates to mesh together Biden’s traditional platform with Sanders’ radical notions. The result is the “unity platform” – a compromise of sorts between the traditional establishment wing of the party and the far-left progressives.⁵⁸ The immigration section of the document revealed just how radical Joe Biden had truly become when it came to immigration policy. In essence, the policy promised to restore the DACA program and provide an amnesty to every illegal alien in the United States while avoiding the eradication of immigration enforcement agencies such as CBP and ICE. That such a trade-off was even necessary is a stunning reversal for Joe Biden, who once voted for the Secure Fence Act⁵⁹ and who until very recently gave at least nominal support for stopping the influx of illegal immigration.⁶⁰

AUGUST 2020

Joe Biden Releases “Agenda for the Indian American Community”

Curiously, candidate Joe Biden released a new agenda item on his official campaign website touting his plan to connect with members of the Indian-American community, one of our country’s fastest-growing demographic groups due to immigration.⁶¹ The plan increases the number of work-based immigration visas, exempts PhD graduates in STEM fields from any visa caps, and eliminates limits

on employment-based green cards by country. The final point is an endorsement of the Fairness for High-Skilled Immigrants Act, discussed earlier in this document under the 116th Congress legislative section. This bill would prioritize only potential immigrants from India and China and eliminate whatever diversity was left in our legal immigration system.

Democratic Party Releases Official 2020 Platform

The Democratic Party held its virtual convention between August 17–20. At the convention, delegates voted on the official party platform that Joe Biden and Kamala Harris plan to sell to voters between then and November 3. In prepared remarks during the convention, Senate Minority Leader Chuck Schumer (D-N.Y.) promised “bold and dramatic” change if Democrats won the Senate. Part of that promised included passing all of Joe Biden’s immigration proposals, including those to amnesty millions of illegal aliens.⁶²

The platform itself is 92 pages and covers all matters of policy from the domestic economy to foreign affairs. From pages 61-64, the Democrats lay out their plan to “Build a 21st Century Immigration System.”⁶³ First, Democrats promise to rescind all of President Trump’s executive actions pertaining to immigration. This includes:

- Rescinding the president’s national emergency declaration at the southern border
- Scuttling the travel restrictions issued early in his administration, and promising to pass legislation to strip this necessary power from the executive branch entirely
- Eliminate asylum changes that protected the program from fraud
- Withdraw from the asylum agreements with Mexico, El Salvador, Honduras, and Guatemala that stopped the summer 2019 border crisis

The Democrats then move onto their legislative goals unrelated to the Trump administration’s actions since 2017, all of which they claim will propel America’s immigration system into the 21st century. These proposals include:

- Amnesty for “the millions of undocumented workers, caregivers, students, and children who are an essential part of our economy and of the fabric of our nation
- Prioritizing chain migration as the cornerstone of American immigration policy
- Shorten the naturalization process and tear down “barriers” to citizenship
- Expand the number of humanitarian visas
- End all agreements with non-government detention centers, thereby significantly reducing ICE and CBP’s ability to hold aliens in detention
- Promising to make the immigration courts Article III courts, thereby taking them out of the Justice Department’s jurisdiction and costing taxpayers billions.

The Democratic Party platform may not call for more extreme measures such as eliminating immigration detention or decriminalizing border crossings, but they certainly creep up to that precipice. Further, nothing about this plan resembles anything close to a 21st century solution. Most developed countries, including many members of the G12, have merit-based immigration system that prioritizes skills over family relations. The Democrats’ plan, instead, doubles-down on chain migration and further widens the divide between modern immigration systems and our own.

Conclusion

This report details the extraordinary efforts of a Democrat-controlled House and federal courts packed with activist judges to derail immigration priorities of the American people and President Donald Trump. In 2016, President Trump defeated the establishment in both parties by running on an immigration platform that mirrored what FAIR has championed for decades.

In response, opponents of the president and FAIR developed a strategy to use the federal court system, legislative stalemates, and pliable mainstream media outlets to block many desperately needed changes to the immigration system. While Democrats on Capitol Hill became more radical and aggressive on immigration every day, Republicans failed to agree on any kind of immigration agenda in the 115th or 116th Congress. The Democratic-led House then used every tool at its disposal to try and decrease border security and enforcement, increase legal immigration, and provide amnesty to millions.

In the contentious 2020 Democratic primary, border anarchy advocates within the party pushed every candidate to the extreme fringe of the immigration debate. Formerly moderate figures found themselves defending positions such as abolishing ICE, decriminalizing illegal entry, and amnestying every illegal alien in the United States. This drift occurred in both the House and the Senate following the 2018 midterm elections which propelled open borders figures to the height of government power.

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