Globalization and Migration

written by David Bacon | July 7, 2013

We need an immigration policy based on human, civil, and labor rights, which looks at the reasons why people come to the United States and how we can end the criminalization of their status and work. While proposals from Congress and the administration have started the debate over the need for change in our immigration policy, they are not only too limited and ignore the global nature of migration, but they will actually make the problem of criminalization much worse. We need a better alternative.

This alternative should start by looking at the roots of migration — the reasons why people come to the United States in the first place. Movement and migration is a human right. But we live in a world in which a lot of migration isn't voluntary, but is forced by poverty and so-called economic reforms.

Our trade policy, and the economic measures we impose on countries like Mexico, El Salvador, or the Philippines make poverty worse. When people get poorer and their wages go down, it creates opportunities for U.S. corporate investment. This is what drives our trade policy. But the human cost is very high.

In El Salvador today, the U.S. Embassy is telling the government to sell off its water, hospitals, schools, and highways to give U.S. investors a chance to make money. This policy is enabled by the Central American Free Trade Agreement (CAFTA), whose purpose was increasing opportunities in El Salvador for U.S. investors. It was imposed on the people of that country in the face of fierce popular opposition.

Alex Gomez, a leader of Salvadoran public sector unions, came to San Francisco in February to explain what the consequences of this latest free trade initiative will be. He says if these public resources are privatized, tens of thousands of workers will lose their jobs, and their unions will be destroyed. They will then have to leave the country to survive. According to Gomez, four million have already left El Salvador. Two million have come to the United States not because they love it here, but because they can't survive any longer at home. These migrants come without papers, because there are no visas for two million people from this small country.

The North American Free Trade Agreement did even more damage than CAFTA. It let U.S. corporations dump corn in Mexico, to take over the market there with exports from the United States. Today one company, Smithfield Foods, sells almost a third of all the pork consumed by Mexicans. Because of this dumping and the market takeover, prices dropped so low that millions of Mexican farmers couldn't survive. They too had to leave home.

Mexico used to be self-sufficient in corn and meat production. Corn cultivation started there in Oaxaca many centuries ago. Now Mexico is a net corn and meat importer from the United States.

During the years NAFTA has been in effect, the number of people in the United States born in Mexico went from 4.5 million to 12.67 million. Today about 11 percent of all Mexicans live in this country. About 5.7 million of those who came were able to get some kind of visa, but another 7 million couldn't. There just aren't that many visas. But they came anyway because they had very little choice, if they wanted to survive or their families to prosper.

Our immigration laws turn these people into criminals. They say that if migrants without papers work here it's a crime. But how can people survive here if they don't work? We need a different kind

of immigration policy – that stops putting such pressure on people to leave, and that doesn't treat them as criminals if they do.

What Would It Look Like?

First, we should tell the truth, as the labor-supported TRADE Act would have us do, which was introduced into Congress by Mike Michaud from Maine. We should hold hearings as the bill says, about the effects of NAFTA and CAFTA, and collect evidence about the way those agreements have displaced people in the United States and other countries as well.

Then we need to renegotiate those existing agreements to eliminate the causes of displacement. If we provide compensation to communities that have suffered the effects of free trade and corporate economic reforms, intended to benefit U.S. investors, it would be more than simple justice. It might give people more resources and more of a future at home.

It makes no sense to negotiate new trade agreements that displace even more people or lower living standards. The Obama administration has negotiated three so far with Peru, Panama and South Korea. It is now negotiating a new one — the Trans Pacific Partnership. These are all pro-corporate, people-displacing agreements. We should prohibit these and any new ones like them. Instead, we need to make sure all future trade treaties require adequate farm prices and income in farming communities, promote unions and high wages, and don't require the privatization of public services.

Increasingly these international agreements, like Mode 4 of the World Trade Organization, treat displaced migrants as a cheap and vulnerable labor force. Our trade negotiators call for regulating their flow with guest worker programs. This is exactly the wrong direction. We should ban the inclusion of guest workers in any future trade agreement or treaty instead.

When diplomacy doesn't work, U.S. military intervention and aid programs are to support trade agreements, structural adjustment policies or market economic reforms. This has been the U.S. policy in Honduras and Haiti, for instance. This also must stop. If the U.S. Embassy is putting pressure on countries like El Salvador to adopt measures that benefit corporate investors at the expense of workers and farmers, the Ambassador should be recalled and the interference halted..

Finally, we should ratify the UN Convention on the Rights of Migrant Workers and Their Families. This international agreement would give us an alternative framework for recognizing the rights of displaced migrants, and the responsibility of both sending and receiving countries for their protection. The failure of successive U.S. administrations to even present this agreement to Congress for ratification highlights the unpleasant truth about the real effect of our immigration policy. When millions of migrants arrive here, they are criminalized because they lack immigration status, especially when they go to work.

Labor and civil rights advocates often fondly remember the 1986 Immigration Reform and Control Act because it included an amnesty, signed by President Ronald Reagan, which gave legal status relatively quickly to almost four million people. But the law also contained employer sanctions for the first time, which we often forget. That provision says that employers will be fined and punished if they hire undocumented workers. This provision was promoted by those who said that if work became illegal, then undocumented migration would end. This clearly failed, since the number increased many-fold in the years that followed. Compared to the pressure to leave home, criminalizing work was not a deterrent to those who sought employment here so that their families at home could survive. This provision sounded like a law against employers, but it was not. It became an anti-worker law. No boss ever went to jail for violating it. The fines were not great. When the government agents seek to enforce it, employers who cooperate with them are forgiven. But over

the last four years alone, tens of thousands of workers have been fired for not having papers. The true objects of punishment under this law have always been workers, not employers.

Now Congress is talking about a new reform, and we have to use this opportunity to push to repeal this law. Some think that since a new legalization will hopefully give many undocumented workers legal status, sanction won't really affect anyone anymore. But even the most positive predictions about a new legalization still assume that millions of people will not qualify because of stringent qualifications, high fees, and decades-long waiting periods. Those people will still be subject to the sanctions law. And the day after a new reform passes millions more people will come to the United States because of the same pressures that caused past waves of migration. This is especially true if a new immigration reform ignores the need to renegotiate trade agreements and eliminate the huge displacement of people.

These future migrants are not strangers. They are the husbands and wives, parents, and cousins of people already here — people who are already part of our communities. They come from the same towns, and are linked to neighborhoods here in the United States by the ties that have been created by migration, work and family. They will work in our workplaces, participate in our organizing drives, and belong to our unions. We need to keep the sanctions law from being applied to them, making it a crime for them to work. Unfortunately, however, Congress members aren't talking about getting rid of sanctions. In fact, they and the administration want to make the current application even worse.

So let's do a reality check. Let's tell the truth about how this law has been used.

One method for enforcing sanctions happens when an employer uses it to screen people it is going to hire, using an error-filled government database called E-Verify. Congress and the administration are calling to make it mandatory for all employers to use this database, and refuse to hire anyone who it flags as undocumented. For people who are currently working now and have no papers, what it means is that if they lose their jobs, it will be harder to find others. That will make people fear taking any action that offends their boss, like joining a union or complaining about illegal conditions. That's good for the boss, but bad for the workers.

Employers today not only use this database to screen new hires — they also use it to re-verify the immigration status of people who are already working. This is a violation of the law. Once it accepts the form filled out by a job seeker (called the I-9), along with their ID, the employer can't reverify it all over again at some point in the future. But they do. Sometimes it's convenient to get rid of workers who have accumulated benefits and raises over years of service, and replace them with new hires at lower wages.

Re-verification just happened, for instance, to three workers who belong to the International Longshore and Warehouse Union at Waste Management, Inc. in San Leandro, California. The union has gone to the Oakland City Council to protest these illegal firings, because WMI operates under a city garbage contract.

Employers sometimes announce they intend to begin using the E-Verify database when their workers start to organize. That's what managers announced at the Mi Pueblo supermarkets in northern California. There E-Verify checks are being used to terrorize workers to keep them from supporting a union, Local 5 of the United Food and Commercial Workers.

Another method for enforcing sanctions against workers is even more widespread. Immigration agents, working for U.S. Immigration and Customs Enforcement (ICE), go into the personnel records of an employer. They then compare the information given by workers on the I-9 form to the E-Verify

database, looking for workers who don't have legal immigration status. ICE then makes a list of those workers and sends it to the company, telling the employer to fire them. This is what happened at Pacific Steel Castings in Berkeley, California, last year. Two hundred and fourteen workers were fired as a result. Some had worked in the foundry for over 20 years. Many lost their homes, and their children's dreams of going to college were destroyed.

Over the last four years, hundreds of thousands of workers have lost their jobs in these enforcement actions, called I-9 audits. Almost five hundred janitors in San Francisco, and over a thousand in Minneapolis. Thousands of workers doing some of the hardest work imaginable in meatpacking plants around the country. Farm workers. Construction workers. But the employers were all given reduced fines, and many immunity from punishment entirely, if they cooperated in firing their own workers.

If unions and communities mount a fight that exposes the terrible human cost of these firings, it is possible to stop them. The young Dreamers showed that this is possible. These courageous young people convinced the administration to stop deporting students brought to the United States without papers as children. They forced the administration to change the way it enforces immigration law. It can be done for workers too, if there's a fight.

But we must also change the sanctions law. Otherwise, our experience over the 25 years since it passed shows that immigration authorities will simply find another method for making working a crime for people who don't have papers.

The other unpleasant truth about sanctions is that they are linked to the growth of guest worker programs. One of the main purposes of making it a crime to work without papers is to force people to come to the United States with visas that tie them to their employers and recruiters. These workers are often more vulnerable than the undocumented, since they get deported if they lose their jobs or get fired. Guest worker programs have been called Close to Slavery by the Southern Poverty Law Center and others who have documented their extreme exploitation. The sanctions law functions as a way to pressure people into choosing that path to come here to work.

When employer sanctions are used to make workers vulnerable to pressure, to break unions or to force people into guest worker programs, their real effect is to force people into low wage jobs with no rights. This is a subsidy for employers, and brings down wages for everyone. The sanctions law makes it harder for all workers to organize to improve conditions. This doesn't just affect the workers who have no papers themselves. When it becomes harder for one group to organize, other workers have a harder time organizing too.

Some Washington lobbyists accept as a fact of life that the sanctions law will continue, or even worse, that E-Verify will become a mandatory national program for all employers. But for unions and workers who have had to deal with its effects, it would be much better to immediately repeal it, and dismantle the E-Verify database.

The use of the sanctions law against workers and unions is what led the California Labor Federation to call for its repeal as early as 1994, a position it continued to adopt in successive conventions. Other unions joined it including the garment unions and service employees. Finally labor councils in California and then around the country passed resolutions making the same call, and sent them to the historic AFL-CIO convention in Los Angeles in 1999. This led to an historic debate and the adoption of a new, pro-immigrant policy. Delegates at that convention believed that enforcing immigration law in the workplace has to end, because its real effect is to make workers vulnerable to employers, and to make it harder for all workers to organize to improve conditions.

In addition to repealing the national sanctions law, we should also prohibit states from enacting copycat measures. These laws have passed not just in Arizona or Alabama or Mississippi. California passed a state employer sanctions law before the federal law took effect in 1986.

What would really help workers to raise wages and improve conditions is much stricter enforcement of worker protection and anti-discrimination laws, for everyone. Funding used for immigration enforcement on the job should be given instead to the Department of Labor, the Occupational Safety and Health Administration, the National Labor Relations Board, and other labor law enforcement agencies. It will be a good day for all workers when ICE agents become wage and hour inspectors.

Threats by employers who use immigration status to keep workers from organizing unions or protesting illegal conditions should be a crime. That makes it necessary to overturn two Supreme Court decisions, Hoffman and Sure-Tan. In these cases the court said that if workers are fired for union activity and have no papers, the boss doesn't have to rehire them or pay them lost wages, because the sanctions law makes it illegal to employ them to begin with. But when there's no punishment for violating labor rights, workers have no rights. This also hurts other workers in the same workplace who want to organize a union, since it makes the undocumented so vulnerable. Instead, we should increase workplace rights by prohibiting immigration enforcement during labor disputes or against workers who complain about illegal conditions.

To ensure that in the workplace all have the same rights we also have to eliminate the way undocumented people get ripped off by funds like Social Security and unemployment. All workers contribute to the Social Security fund, but because undocumented people are working under bad numbers, they pay in but can never collect the benefits. This will come back to haunt us when those workers need disability payments or get too old to work — something that happens to us all. This is the reason we set up the Social Security system to begin with — because we don't want old people eating dog food, regardless of where they were born.

Instead today the Social Security number has become much more a means to check immigration status, harming workers instead of providing them the benefits that were its original and true purpose. There is a simple solution to this problem as well. Social Security numbers should be made available for everyone, regardless of immigration status. Everyone should pay into the system and everyone should have a right to the benefits those payments create. By the same token all workers should be able to receive unemployment benefits regardless of status, since they and their employers pay into the funds.

In the end, we need an immigration policy that brings people together, instead of pitting workers against each other, as our current system does. During a time of economic crisis especially we need to reduce job competition, rather than stoking fears. In 2005 Congresswoman Sheila Jackson Lee of Houston made an innovative proposal that would have set up job creation and training programs for unemployed workers at the same time that it would have given legal status to workers without papers. This proposal put unemployed workers and immigrants on the same side, giving them both something to fight for whether they were out of work, or working without immigration status.

This proposal, and the others made here, are part of the Dignity Campaign, a plan for immigration reform based on human, civil and labor rights. In the last three years, local unions and labor councils in San Francisco, Silicon Valley and Alameda County adopted resolutions supporting the Dignity Campaign, arguing that trade policy is linked to the increasing vulnerability of immigrant workers because of the sanctions law and guest worker programs. The Labor Council for Latin American Advancement adopted a similar resolution.

An immigration policy that benefits migrants, their home communities, and working people here in

the United States has to have a long-term perspective. Instead of just trying to please interest groups well represented in Congress, we need to ask, where are we going? What will actually solve the problems that we experience on our jobs and in our homes with current laws and policies?

We need a system that produces security, not insecurity. We need a commitment to equality and equal status — getting rid of color and national lines instead of making them deeper. We need to make it easier for workers to organize, by getting rid of what makes people vulnerable — to end job competition we need full employment, and to gain organizing rights we need labor law enforcement together with eliminating sanctions and firings. It’s not likely that many corporations will support such a program, so the politicians who represent us have to choose whose side they’re on.

Working people in Mexico, El Salvador, the Philippines, the United States and other countries need the same things. Secure jobs at a living wage. Rights in our workplaces and communities. The freedom to travel and seek a future for our families, and the ability to stay home and have a decent future there too. The borders between our countries, then, should be common grounds that unite us, not lines that divide us.