

MELISSA BURT-MILLER | SHOULD UNDOCUMENTED IMMIGRANTS HAVE THE SAME CIVIL RIGHTS AND EMPLOYMENT RIGHTS AS ANYONE ELSE IN THE UNITED STATES?

Should Undocumented Immigrants Have the Same Civil Rights and Employment Rights as
Anyone Else in The United States?

Melissa Burt-Miller

Alliance University

SWK555/SWK355: Social Welfare Policy and Services: NZ

MARCIA B HERRERA

February 13th, 2023

Introduction

Undocumented immigrant or “illegal aliens” have been a topic of debate in the United States for many decades. From numerous headlines in the news, newspaper articles, journals and other media outlets, there have been a stir of mixed emotions from government officials, first generation Americans and institutions, about undocumented immigrants increasing presence in the United States. Washington State Department of Social and Health Services (DSHS) defines undocumented immigrants as; “foreign-born people who do not possess a valid visa or other immigration documentation, because they entered the U.S. without inspection, stayed longer than their temporary visa permitted, or otherwise violated the terms under which they were admitted” (DSHS).

As of January 2022, the Center for Immigration Studies (CIS), monthly Current Population Survey (CPS), found that there are 11.35 million undocumented immigrants in the United States (McHugh, 2022). This findings side by side with the January 2023, Pew Research Center report, which highlights the increasing numbers of encounter the U.S.- Mexico border have with migrants in November 2022, (Gramlich, 2023), have added heat to the ongoing brewing controversy on whether or not undocumented immigrants should have the same civil rights and employment rights as anyone else in the United States.

In this policy position paper, I will examine both arguments from the opponents and the proponent’s perspective as to why undocumented immigrants should or should not have the same civil rights and employment rights as anyone else in the United States. In closing, I will argue from my point of view why undocumented immigrants should have the same civil rights and employment rights as anyone else in the United States.

MELISSA BURT-MILLER | SHOULD UNDOCUMENTED IMMIGRANTS HAVE THE SAME CIVIL RIGHTS AND EMPLOYMENT RIGHTS AS ANYONE ELSE IN THE UNITED STATES?

Opponent's Perspective

On Monday December 26, 2022, CNN reported that several bus loads of migrants were dropped off in front of Vice President Kamala Harris's residence in Washington, DC, in an 18-degree weather on Christmas Eve (Gray, 2022). This "cruel, dangerous, and shameful stunt" according to The White House was orchestrated by Texas Governor; Greg Abbott (Gray, 2022). Gov. Abbott much like other republicans have been addressing President Joe Biden's new immigration policies that retracted Former President Donald Trump's immigration laws. President Biden's immigration policies enforced policies such as; the termination of construction of the southern border wall (The White House, 2021) and the removal of barriers to legal immigration, (Bateman, 2021), which gives undocumented immigrants more access to the United States, and further access to beneficial resources, which republicans argue is at the cost of legal tax paying citizens. In addition, the republican party in general strongly believe that a system needed to be in place to ensure that immigrants who enter the U.S illegally were not provided with the same benefits that legal citizens have (Republican Views).

Similar to the republican's stance, John Tanton who is the founder and chairman of the Federation for American Immigration Reform (FAIR) in Washington, D.C., in his 1982 article, "Illegal aliens should not have the rights of citizens", boldly admits that illegal immigrants do not have the same rights to America's benefits as its citizens (Tanton, 1982). He also voiced that illegal immigrant "certainly do not have the right to vote in US elections, and to say that they do is not constitutional exegesis; it is constitutional mockery" (Tanton, 1982).

Joining the list of opponents is Lakeisha Porter who in a journal, entitled "Illegal Immigrants Should Not Receive Social Services", argues that Americans should not have to continue to suffer the impact of illegal immigrants "extended vacations" in the United States

MELISSA BURT-MILLER | SHOULD UNDOCUMENTED IMMIGRANTS HAVE THE SAME CIVIL RIGHTS AND EMPLOYMENT RIGHTS AS ANYONE ELSE IN THE UNITED STATES?

(Porter, 2006). Porter, (2006) further went on to state that, there should also be a ban on hiring illegal aliens, and that undocumented immigrants who work at undesirable jobs for low wages, drives down wages causing employers in industries such as; construction, and domestic service jobs to become unwilling to pay American's the appropriate wages to do these same jobs (Porter, 2006). This correlates with Congressman Doug Lamborn's statement that illegal immigrants are unfairly depressing the wages and working conditions offered to legal residents (Lamborn, 2020). In closing her position concerning illegal immigrants and employment in the U.S, Porter, (2006) posed the question; "Is cheap labor really worth the disrespect shown toward U.S. laws by illegal immigrants? Is it worth the aggravation it causes legal residents who have to work for lower wages and reduced benefits while illegal immigrants enjoy full social benefits?" (Porter, 2006).

Proponents

While many may still question whether or not immigrants have civil and employment rights as regular U.S citizens, the Office of Attorney General; Michelle Henry, the Acting Attorney General, made it clear that immigrants have constitutional rights and legal protections in the areas of civil rights and hate crime, fair labor standards, consumer protection, and more (Office of Attorney General). Additionally, the NYC Mayor's Office of Immigrant Affairs acknowledged that it is contrary to city and state law that employer of immigrants pays them less than the minimum wage, or pay them less than other workers, or treat them differently due to their immigration status, particularly if they are undocumented (NYC Mayor's Office of Immigrant Affairs).

In the State of California, undocumented immigrants are seen to have given the same civil and employment rights has anyone else in the state. This is evident in the noteworthy steps

MELISSA BURT-MILLER | SHOULD UNDOCUMENTED IMMIGRANTS HAVE THE SAME CIVIL RIGHTS AND EMPLOYMENT RIGHTS AS ANYONE ELSE IN THE UNITED STATES?

that have been taken to not only protect immigrants, but also broaden and expand laws to sustain their civil and labor rights (Bonta, 2017). For example, the Employment Acceleration Act that has been effective since 2012 which prohibits the state and local jurisdictions from requiring an employer to verify if the worker is eligible for employment (Villareal, n.d). The “California Blueprint: Two Decades of Pro-Immigrant Transformation”, also outlined Acts that enforced and ensured that the 53% of California’s immigrants had civil rights and equality. One such Act is the Preventing Extortion Based on Immigration Status (AB 524), signed in 2013 and was effective in 2014, which clarifies that “using threats to expose an individual’s perceived immigration status to gain something of value is extortion” (Villareal, n.d).

As a once undocumented immigrant woman from Jamaica who migrated to the United States in search of a better life, I was faced with numerous challenges such as; unemployment, lack of access to healthcare services, and the overwhelming fear of deportation. As I am now considered a Lawful Permanent Resident (LPR) of the United States, I am afforded the opportunity to legally obtain employment, access to healthcare services, relief of deportation, and automatically become protected by all laws of the United States (U.S. Citizenship and Immigration Services). However, when I reflect on those who remain undocumented, I believe that they too should be protected by all laws of the United States, and be given the same civil rights and employment rights as anyone else in the U.S, without having to become citizens, or LPR’s first, but because they are human beings, and are now apart of the American population because of their jurisdiction.

The 1964 Civil Rights Act signed by President Lyndon was passed to eradicate racial discrimination and segregation in public accommodations, public education, and federally assisted programs (United States Senate). With this Act in place, it means that discrimination on

MELISSA BURT-MILLER | SHOULD UNDOCUMENTED IMMIGRANTS HAVE THE SAME CIVIL RIGHTS AND EMPLOYMENT RIGHTS AS ANYONE ELSE IN THE UNITED STATES?

the basis of national origin, race, setting wages, etc., are strictly prohibited, as well as everyone, including undocumented immigrants, has the right to a fair trial, the right to government services, the right to public education, and the right to gainful employment, etc. (National Archives and Records Administration, n.d.). Today, it is evident that the civil right act is being ignored as the American society has cultivated a norm of discrimination and the ignoring of the rights that people of color, immigrants and other marginalized groups are entitled to, which clearly goes against Section 202 and 203 of the Civil Rights Act. Section 202 of the Act clearly states that; “All persons shall be entitled to be free, at any establishment or place, from discrimination or segregation of any kind on the ground of race, color, religion, or national origin. And, Section 203 acknowledges “No person shall (a) withhold, deny, or attempt to withhold or deny, or deprive or attempt to deprive, any person of any right or privilege” (National Archives and Records Administration. n.d.).

Therefore, if this is so, why should undocumented immigrants not be entitled to civil and employment rights? In my humble opinion, it is unfair and an act of injustice when we deny human beings their basic rights. Additionally, as part of the civil right act, the Equal Employment Opportunity Commission (EEOC) was created to ensure that there was fairness and equity in the area of employment. This I believe also constitutes the basis for which undocumented immigrants should have the same employment rights as citizens. While some may argue that civil rights and employment rights should be reserve for U.S. citizens and legal residence only, I beg to defer and state that regardless of status, undocumented immigrants have the rights to have rights too. In fact, Article 7 of the Universal Declaration of Human Rights 1948, declares that “all are equal before the law and are entitled without any discrimination to

MELISSA BURT-MILLER | SHOULD UNDOCUMENTED IMMIGRANTS HAVE THE SAME CIVIL RIGHTS AND EMPLOYMENT RIGHTS AS ANYONE ELSE IN THE UNITED STATES?

equal protection of the law”. And, additionally, all human beings are born free and equal in dignity and rights (Universal Declaration of Human rights).

Immigrants are some of the most hardworking individuals, a portion of the American economy was built on the backs of immigrants. Statistics in a Pew Research showed that 77 percent or three quarter of Americans say that undocumented immigrants “mostly fill the jobs U.S. citizens do not want” (Krogstad et al., 2020). This I believe is very telling about the nature and ambitions of this people group. Simultaneously, while undocumented immigrants are working in these neglected jobs by most Americans, according to Institute on Taxation and Economic Policy (ITEP) estimates, which do not count federal taxes, undocumented immigrants paid \$11.6 billion in state and local taxes in 2013 (American Immigration Council, Factsheet). Interestingly, according to American Community Service (ACS), in 2019 alone, immigrant households paid \$492.4 billion in total taxes (Wu, 2022).

Since undocumented immigrants have proven themselves to be lawful in their ways by paying their taxes, seeking a job and contributing to the American economy in the same way regular citizens do, I strongly believe that it is only right that they too are given the same civil rights and employment rights as everyone in the U.S, after all, they have earned it.

In closing, Cecilia Munoz in her a journal entitled: “Should Citizens, Legal Immigrants, And Illegal Aliens Receive Different Benefits?”, said that, “our common sense of morality and decency have prevented us, at least for now, from denying the most basic services, like emergency food and shelter, to undocumented immigrants in need. We are, on occasion, tempted to undermine our basic national values in our quest to rid ourselves of the less than 2 percent of the population that is undocumented, but we do ourselves a great injustice in the process.” (Munoz. 1995). I find this statement to be very powerful and true, and is still relevant today,

MELISSA BURT-MILLER | SHOULD UNDOCUMENTED IMMIGRANTS HAVE THE SAME CIVIL RIGHTS AND EMPLOYMENT RIGHTS AS ANYONE ELSE IN THE UNITED STATES?

especially if we deny undocumented immigrants the same civil rights and employment rights as anyone else in the United States.

References

Adding up the billions in tax dollars paid by undocumented immigrants. American Immigration Council. (2017, August 12). Retrieved February 11, 2023, from <https://www.americanimmigrationcouncil.org/research/adding-billions-tax-dollars-paid-undocumented-immigrants>

Bateman, T. (2021, June 3). *Biden's changes to the Immigration System explained.* American Friends Service Committee. Retrieved February 11, 2023, from <https://afsc.org/news/bidens-changes-immigration-system-explained>

California laws protecting immigrants' civil rights. State of California - Department of Justice - Office of the Attorney General. (2017, July 31). Retrieved February 11, 2023, from <https://oag.ca.gov/immigrant/ca-law>

Gramlich, J. (2023, January 13). *Monthly encounters with migrants at u.s.-mexico border remain near record highs.* Pew Research Center. Retrieved February 11, 2023, from <https://www.pewresearch.org/fact-tank/2023/01/13/monthly-encounters-with-migrants-at-u-s-mexico-border-remain-near-record-highs/>

Gray, N. (2022, December 26). *More migrants dropped off outside vice president's home in freezing weather on Christmas Eve | CNN politics.* CNN. Retrieved February 11, 2023, from <https://www.cnn.com/2022/12/24/politics/migrants-dropped-off-vice-president-christmas-eve/index.html>

Immigrant workers. Immigrant Workers - MOIA. (n.d.). Retrieved February 11, 2023, from <https://www.nyc.gov/site/immigrants/programs/social-economic/immigrant-workers.page#:~:text=It%20is%20illegal%20for%20an,what%20to%20pay%20you%3B%20or>

Immigrants' rights. Pennsylvania Office of Attorney General. (n.d.). Retrieved February 11, 2023, from <https://www.attorneygeneral.gov/protect-yourself/civil-rights/immigrants-rights/>

Krogstad, J. M., Lopez, M. H., & Passel, J. S. (2020, August 26). *A majority of Americans say immigrants mostly fill jobs U.S. citizens do not want.* Pew Research Center. Retrieved February 11, 2023, from <https://www.pewresearch.org/fact-tank/2020/06/10/a-majority-of-americans-say-immigrants-mostly-fill-jobs-u-s-citizens-do-not-want/>

Lamborn, D. (2020). *Illegal immigration.* Congressman Doug Lamborn. Retrieved February 11, 2023, from <https://lamborn.house.gov/issues/illegal-immigration>

Landmark legislation: The Civil Rights Act of 1964. U.S. Senate: Landmark Legislation: The Civil Rights Act of 1964. (2017, January 12). Retrieved February 11, 2023, from <https://www.senate.gov/artandhistory/history/common/generic/CivilRightsAct1964.htm>

MELISSA BURT-MILLER | SHOULD UNDOCUMENTED IMMIGRANTS HAVE THE SAME CIVIL RIGHTS AND EMPLOYMENT RIGHTS AS ANYONE ELSE IN THE UNITED STATES?

McHugh, P. (2022, March 29). *Estimating the illegal immigrant population*. CIS.org. Retrieved February 11, 2023, from

<https://cis.org/Report/Estimating-Illegal-Immigrant-Population-Using-Current-Population-Survey>

Munoz, C. (1995). Should citizens, legal immigrants, and illegal aliens receive different benefits? *American Enterprise*, 6(2), 21.

National Archives and Records Administration. (n.d.). *Civil Rights Act (1964)*. National Archives and Records Administration. Retrieved

February 11, 2023, from <https://www.archives.gov/milestone-documents/civil-rights-act>

Porter, L. (2006). Illegal Immigrants Should Not Receive Social Services. *International Social Science Review*, 81(1/2), 66–72.

RepublicanViews.org. (2018, February 3). *Republican views on immigration: Republican views*. |. Retrieved February 11, 2023, from

<https://www.republicanviews.org/republican-views-on-immigration/>

Rights and responsibilities of a Green Card Holder (permanent resident). USCIS. (2015, July 15). Retrieved February 11, 2023, from

<https://www.uscis.gov/green-card/after-we-grant-your-green-card/rights-and-responsibilities-of-a-green-card-holder-permanent-resident>

Tanton, J. (1982, January 27). *Illegal aliens should not have the rights of citizens*. The Christian Science Monitor. Retrieved February 11,

2023, from <https://www.csmonitor.com/1982/0127/012728.html>

The United States Government. (2021, January 21). *Proclamation on the termination of emergency with respect to the southern border of*

the United States and redirection of funds diverted to border wall construction. The White House. Retrieved February 11, 2023, from

<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/proclamation-termination-of-emergency-with-respect-to-southern-border-of-united-states-and-redirection-of-funds-diverted-to-border-wall-construction/>

Universal Declaration of Human Rights, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948). Universal declaration of human rights, G.A.

Res. 217A (III), U.N. Doc A/810 at 71 (1948). (n.d.). Retrieved February 11, 2023, from <http://hrlibrary.umn.edu/instree/b1udhr.htm>

Villareal, G. (n.d.). *The california blueprint - Two Decades of Pro-Immigrant Transformation*. Retrieved February 12, 2023, from

<https://ncg.org/sites/default/files/resources/The-California-Blueprint-1.pdf>

What's the difference between legal and undocumented immigrants? DSHS. (n.d.). Retrieved February 11, 2023, from

<https://www.dshs.wa.gov/faq/what%E2%80%99s-difference-between-legal-and-undocumented-immigrants>

Wu, N. (2022, April 18). *Immigrants punch above their weight as taxpayers*. Immigration Impact. Retrieved February 11, 2023, from

<https://immigrationimpact.com/2022/04/14/immigrants-as-taxpayers-2022/>