

# The Problem with “Illegal”

Have you been duped into believing that a person can be an “illegal”? Why is a person who speeds not called an illegal? Is it not obvious that there are some unfair standards put towards undocumented immigrants, their offense often simply a civil misdemeanor?

The argument goes something like this: undocumented immigrants have entered or stayed in the U.S. in a manner that is against the law, and therefore they are subject to consequences and less rights. This argument is made to appear simple and reasonable, yet there are various problems with it. We must question why breakers of immigration laws (particularly specific breakers of these laws) are targeted more than breakers of other laws. The existence of these laws must be questioned in the first place.

Some out there are saying that people, including kids who die crossing the desert to come into the U.S. deserve it because they are “illegal”. The same is said about the people who are dying in custody after raids. The same is said about the mothers who don’t know where their children are because they were separated in a raid. The same is said about women who get assaulted by ICE agents.

## Different Laws, Different Standards

Laws are broken everyday, but somehow the immigration laws are regarded to be more important. It is widely assumed, because of the way it is discussed, that entering and/or over-staying in the U.S. illegally is a criminal offense. However, technically speaking it is a civil misdemeanor, unless the person has re-entered after being deported, in which case it is a more serious offense. Opponents of “illegal” immigration state that immigrants should migrate legally. In reality this is quite impossible for most people. And you can bet that if it was possible for all the people who need to enter to do so, the laws would change to make it nearly impossible. Despite these points, “illegal” immigration is treated as worse than most other crimes and is often intentionally associated with terrorism, murder, and rape. This, despite that fact that studies have shown that the crime rate among undocumented immigrants are lower than that of citizens. Terms such as “illegal alien” are used to demonize a certain group of people while other crimes go overlooked.

Although employers of undocumented immigrants are now being targeted for providing jobs to those who have crossed the border, they are targeted only on the basis that they are providing jobs and livelihood (as limited as it is) to undocumented immigrants. Employers have not significantly been persecuted for crimes such as human rights violations. In the months since the immigration employment issue came to the forefront, many things have been exposed such as sweat-shop conditions, child labor, people often not getting paid, people held as slaves, people provided with horrible housing conditions, etc. These crimes are not seen as important as the crime of stepping across a man-made boundary. As elaborated on below, various abuses have been committed by law enforcement officials and border security including poor treatment of detainees, sexual assault against women, and the dividing of families. Imagine if all people who dumped toxic chemicals on the land and water were treated like undocumented immigrants are now. What kind of world would have to exist for that to happen?

The same day news came out about the large number of illegal music and movie downloads by college students, news also broke about a game played by NYU republican students called “Find the Illegal Immigrant”. Would college republicans or any students for that matter ever start hunting illegal downloaders? Why aren’t illegal downloaders called “illegals”? This is just one example of the many crimes committed by citizens or companies that are not seen as serious as people crossing a border to seek a better life.

## Laws Can be Racist

The law has historically been racist. Genocide, slavery, internment camps- most people today can agree that these things were wrong. But they were completely legal. It was *illegal* for slaves to escape. Even after slavery, we know that many racist laws were left on the books and new ones were made. Many people today have a concept of the law as something infallible that everyone has agreed is best for the well-being of all (well, every citizen maybe), yet it certainly was not during the time of slavery, nor during the times treaties with native people were broken, nor when thousands of Japanese and Japanese-Americans were put in internment camps. It is not as though Euro-Americans all just had to learn a lesson and there was no opposition to those laws back then. Why is the law not to be questioned now?

Immigration and deportation policies have historically been shaped around prejudices against people of certain origins. The attitudes that brought on the Chinese Exclusion Act of 1882, that the Chinese were taking jobs and lowering wages, mirror a lot of those towards Mexican migrants and others today (these attitudes were held about black people for decades after slavery ended as well). This illustrates that laws are created to protect white/European people- who are descendants of immigrants themselves. Back then blatant racism was more acceptable and therefore the first “illegal” immigrants were a group from a specific country: China. Although certain newer European immigrants and those from various other countries faced prejudice and discrimination, Chinese immigrants saw this, as well as much violence.

For the next forty years, many groups and individual non-citizens were deported because they were seen as political threats to the country. Then in 1924, the National Origins Quota passed, which was due to World War I-related fears of foreign people. It strictly limited immigration from eastern and southern Europe. Later in 1952, quotas for immigration from Asian countries were severely limited. Much of the organizing later in the civil rights era led to the abolishment of the National Origins Quota. Shortly after 9/11, the federal government broke its own laws holding various immigrants from mostly Middle-Eastern countries in custody for too long without deporting them or charging them with any crime. And today we have people trying to make English the official language while at the same time making it harder for undocumented people to learn English, among other examples targeting people seen as different and unwanted.

## Criminalizing People is a Political Act

People of color, especially poor people from other countries are often seen as outsiders and of lesser value. Therefore action is taken to keep certain privileges and

even rights from those people. The primary way this is done is to designate certain people as criminals by making acts that are associated by a certain group of people illegal, or worsening the consequences if it is already illegal. The use of the law to criminalize people, to disempower them, and disenfranchise them, is a tool of racism. Today "racism" is taboo and therefore most efforts are made to avoid seeming racist. People are "justified" in having certain attitudes about certain groups of people, or the state is "justified" in imprisoning and exploiting certain groups of people because they've been made criminals. So now it's not called racism, it's called the rule of law.

An example of current racist laws besides those relating to immigration may be useful here. The drug war is an interesting one. There are interesting statistics on the disproportionate rate at which people of color are stopped by law enforcement, searched, arrested, imprisoned, their sentences often made longer. Despite crack and cocaine being very similar, crack tends to be associated with people of color, while cocaine, being more expensive, tends to be more associated with white non-poor people. Not surprisingly, the consequences of possessing crack are far worse than for possessing cocaine. Drugs in general are more associated with people of color, and so therefore we have a very high rate of prisoners imprisoned for non-violent drug offenses, while richer (white) people can exploit people and the earth everyday and get away with it. (International aspects of the drug war are relevant here as well, but let us move on.)

### **New Laws Created to Discourage Immigration and Disempower**

Immigration policy is constructed to make it difficult and slow, and mostly impossible, especially for poor people, to become legal residents or citizens. It is commonly known that it is not possible to deport everyone who is undocumented and therefore new laws are popping up that further criminalize people and keep even more opportunities from them. For instance, there are efforts to make "illegal" immigration a felony. There are also efforts to keep babies born of undocumented parents from being considered citizens, thereby changing the constitution. People who say "They're illegal, that's why they should leave" are also trying to make it illegal for undocumented immigrants to rent, to work, to get educated, and to get health care. In essence, their very livelihood is at risk. Despite the fact that many anti-immigrant folks don't agree with the business community and those who legislate for them, both become winners. Token amounts of people are deported, jailed, separated from their families, and discouraged to live in various towns, while they can be further criminalized and made more desperate and therefore more easy to exploit by businesses.

### **The Government Breaks the Law**

This is not a country that holds everyone to the same standards. After all, the U. S. government has not been held to its own standards for having broken plenty of laws and continuing to do so. They've broken many treaties, they've stolen land, they've lied, they've cheated, they've murdered. There are various international laws that have been broken by the U.S.

Crimes are committed probably everyday by law enforcement officials and armed services members such

as rape and sexual assault, police brutality, murder, racial profiling, and even drug running. Not only do they do those things, but they have more ability to do them with the power of their badges and guns. And the punishment for their crimes if/when caught are nearly always much less severe than those who have committed similar crimes but are not police, prison guards, border patrol, or military.

A border patrol agent served under 3 years in prison of his 24 year sentence for sexually assaulting an undocumented woman in 1992. ICE has deported several legal residents of the US without consequence. Border patrol often harasses and points their guns at native O'dham people whose land straddles the border. Many military and border patrol officials have been caught running drugs across the border on several occasions yet undocumented immigrants get the sole blame for, and stereotypes due to, the cross-border drug trade. Does that sound fair?

### **The Bigger Picture Matters**

The question isn't asked why people have little or no choice but to use illegal means to work in this country. The combination of capitalism, NAFTA, and corrupt government has created a situation where it is nearly impossible for the large population of poor Mexican and Central and South American people to survive without entering the U.S. for work. Many have had to abandon their land. U.S. citizens' hands are not clean of this situation. Yet the solutions promoted are *band aid* approaches that involve building more walls, deporting more people, creating more situations where people can be exploited (like a guest worker program). These methods cost billions of dollars, though undocumented immigrants are accused of being drains on the economy (and of course we can't blame the warmongers). Many of these methods, such as building the border walls and shipping out immigrants by airplane are also costly for the environment. Also, U.S. companies are taking jobs out of the country, yet the people coming in are blamed for the lack of jobs. Plain and simple: people choose to ignore the larger picture, and instead scapegoat the people who have no control over the situation. This works in the favor of those with power and money to maintain the economic and color divisions between people.

There is no other way to see this situation other than the value of certain people's lives are treated as lower than others'. In other words, people who were born on one side of a man-made line are by default less important than those who were born on the other side (although race, class, and gender all factor into that equation, making it a bit more complicated). These attitudes regarding people's value is the reason behind the criminalization of undocumented immigration, not because undocumented immigration is wrong. The government breaks laws, not all laws and law breakers are held to the same standards, the law has historically been racist, and even the existing laws don't seem to be enough for some people. Why do these facts not tend to factor into the discussion on immigration? We should instead shift the focus onto real solutions to problems that fact the Americas, starting with corrupt government and economic policies, and the value placed on people based on where they're from.