

УДК 32.327
DOI 10.37493/2409-1030.2021.2.8

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АМЕРИКАНСКАЯ ПОЛИТИКА ДЕПОРТАЦИИ НЕЛЕГАЛЬНЫХ МЕКСИКАНСКИХ ИММИГРАНТОВ В НАЧАЛЕ ХХІ ВЕКА: ЧЕЛОВЕЧЕСКОЕ ИЗМЕРЕНИЕ

В статье освещается политика депортаций, осуществляемых властями США с целью обуздания нелегальной иммиграции мексиканцев, что не являлось предметом исследования в отечественной историографии. Иммиграционные законы, принятые конгрессом в 1986–2001 гг., обеспечили законодательную базу для ареста, задержания и высылки из страны. Был расширен список правонарушений и преступлений, являющихся основанием для депортации, что повлекло резкое увеличение числа депортируемых. Миллионы мексиканских нелегалов проживают в стране в течение долгого времени, образовав семьи «смешанного статуса» (супруг с американским гражданством и родившиеся в США дети). В статье освещаются социальные, правовые и экономические последствия депортаций для семей «смешанного статуса». К таковым относятся насильственное разделение семей, ухудшение финансового положения остающихся в США

родственников, нарушения эмоционального, физического и психического характера у детей депортированных родителей. В то же время американскими властями были предприняты некоторые меры в поддержку наиболее уязвимого сегмента иммигрантского населения – молодежи. Правительственная программа DACA, действующая с 2012 г., предоставляет иммигрантам, которые нелегально прибыли в США в детском возрасте, временную отсрочку от депортации, подключение к программам социального страхования и разрешение на работу. Другая программа – DREAM Act – предусматривает трехступенчатый процесс получения американского гражданства для той же категории молодых людей. DREAM Act находится на рассмотрении американского конгресса с 2001 г., однако он до сих пор не принят.

Ключевые слова: депортация, нелегальная иммиграция, мексиканцы, США, миграционная политика.

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THE US POLICIES OF DEPORTATION OF ILLEGAL MEXICAN IMMIGRANTS IN THE EARLY XXI CENTURY: HUMAN CONSEQUENCES

The paper features the US deportation practices aimed to curb illegal Mexican immigration, which has not been a subject of research in Russian historiography. The Acts of 1986–2001 addressing illegal immigration empowered the executive branch in terms of arrest, detention and deportation. The main target of deportation policy is illegal immigrants of Mexican origin who make up the largest segment of unauthorized population in the USA. Millions of them are long-term US residents with mixed-citizenship families (a spouse and children with US citizenship). The paper highlights social, legal, and economic consequences for deportees' families posed by deportations. These include family separation, substantial economic disadvantages for remaining family members, damaging impact on children's mental and physical

health. At the same time, some measures have been taken to protect undocumented immigrant youth, the most vulnerable segment of illegal immigrant population. The Deferred Action for Childhood Arrivals (DACA) program of 2012 provides temporary relief from deportation, Social Security numbers and two-year work authorization to immigrants who were brought to the USA as children. Another program – Development, Relief, and Education for Alien Minors (DREAM) Act – has been discussed in the Congress since 2001. It has been designed to provide undocumented young people who came to the USA as children with a pathway to US citizenship. Up to now, the bill has not become a law.

Key words: deportation, illegal immigration, Mexicans, the USA, immigration policy.

Illegal immigration has been in the focus of heated political and public debates in the USA for a long time. The reason for that is a rapid growth of numbers of unauthorized immigrants, which started in the 1990-s and reached its peak of 12,2 mln. in 2007. By now the figure has dropped to 10,5 mln. The significant proportion of illegals is of Mexican origin. At present there are 4,9 mln. illegal Mexicans in the USA, which is 2 mln. lower than in 2007, when there were 6,9 mln. illegal Mexicans [7].

A massive influx of immigrants to the USA from the neighboring country is caused by a number of reasons, the main of which is unsustainable economic development and inadequate social programs for economically disadvantaged population in Mexico.

The other main reason is high demand for unskilled labour force in the USA which cannot be met in the American labour market.

The US leadership first addressed the issue of illegal immigration in mid-80-s, and a major turn in immigration policy was made. Illegal immigration was framed as a threat to national security and was called "invasion" by then president R. Reagan [13]. In 1986 the congress passed "Immigration Reform and Control Act" (IRCA). It was the first act in the US history which addressed illegal immigration [11].

Since mid-90-s the congress has passed a number of laws that empower the executive branch in terms of arrest, detention and deportation of unauthorized persons. During the Clinton administration, the

issue of immigration reform became framed within the politics of the War on Crime. In 1996 president Clinton initiated two laws: “Illegal Immigration Reform and Immigrant Responsibility Act” (IIRIRA) and “Anti-Terrorism and Effective Death Penalty Act” (AEDPA) [10; 3]. In 2001 president J. Bush signed the “USA PATRIOT” Act [1]. The three Acts collectively heralded the end of the immigration policy traditionally favorable for immigrants and their families.

The IIRIRA of 1996 enlarged the grounds for deportations, which were now politically correctly referred to as “removals”. The Act increased the number of categories of undocumented population subject to detention and deportation. As well as that, the list of offenses for which a noncitizen had to be removed was expanded. Although murder or drug trafficking have always been grounds for deportation, IIRIRA expanded the definition of aggravated felonies and included 28 more offenses such as crimes of “moral turpitude,” a crime punishable by more than one year in prison. In 1998 another offence – driving while intoxicated – was added to the list of aggravated felonies. Under the IIRIRA an immigrant can be prohibited from reentry into the USA from 5 years to life, depending on the grounds for deportation [10].

The IIRIRA и AEDPA virtually deprived the deportees of the right to protection by the law. Prior to the Acts an order of deportation usually underwent a judicial review and a judge was authorized to waive the deportation provided a person was a lawful permanent resident. Moreover, an immigration judge could take into consideration the fact that many of them established families ties with US citizens while staying in the USA. As a rule, a judge could forgo the deportation of such a person provided that it posed hardship for a deportee’s US spouse or children born in the USA. The IIRIRA и AEDPA virtually did away with judicial procedure for deportees, triggered fast-track removals and eliminated the legal barriers that previously protected them [10; 3].

The new immigration policy led to an unprecedented increase in numbers of deportations, although it is difficult to collect exact figures as Department of Homeland Security does not use the term “deportation”. Enforcement actions are classified as either removals or returns. “Removal” refers to deportations based on a formal court order and can include additional criminal penalties and prohibitions from re-entering the USA. “Returns” do not involve a formal court order nor carry additional penalties [23].

Before the mid-90-s deportation figures had been stable for a long period of time. On average, 20 000 people had been deported annually during the period from the early XX-th century until the 1990-s. The figure rose up to 40 000 people a year in the first half of the 1990-s. After the IIRIRA was enacted

the numbers of deportations soared. From 1996 until 2005, 180 000 people per year were deported. During J. Bush presidency (2001-2008) 2 mln. people were deported. President Barack Obama’s administration (2009-2016) sent out of the country another 3 mln., a record number of deportations when compared with previous presidents. Those figures led critics of Obama’s policy to nickname him as “a deporter-in-chief” [21]. The removals reached its peak in 2012–2014, when over 400 000 people were deported annually [2; 17].

During the election campaign of 2016 D. Trump announced his plan “to deport “millions and millions of undocumented immigrants.” He referred to them as “removable criminal aliens” [21]. D. Trump’s main removal target was illegal Mexicans. “When Mexico sends its people, they’re not sending their best,” Trump said. “They’re sending people that have lots of problems, and they’re bringing those problems with us. They’re bringing drugs. They’re bringing crime. They’re rapists.” He admitted that some of them were good people though [21]. In fact, for three years of his presidency the total number of deportees was under 1 mln.: 287 093 people in 2017, 328 716 people in 2018 and 359 885 people in 2019 [2]. Although the statistics of 2020 has not been released by the time the paper is being completed, it seems highly unlikely that the figure will differ considerably from the previous ones.

Under D. Trump the majority of deportees were people without criminal records or nonviolent offenders, including for traffic and immigration offenses. For instance, for the first five months of 2020, 52 % of those removed from the country had no criminal record. The figure is up from about 40 % in each of the previous three years of Trump presidency [15].

While implementing the harsh immigration policy American officials justify it as a mechanism of fighting crime. Some researchers find this approach futile and point out that deportations are ineffective in the fight against crime. Innumerable studies into relation between immigration and crime based on the statistics for a period over a century have confirmed that high rates of immigration have nothing to do with high rates of violent crime and property crime [6]. Studies suggest that native-born Americans are more likely to commit serious crimes or be incarcerated than immigrants. This refers to both legal and illegal immigrants irrespective of their country of origin. Therefore, most immigrants are not “criminal aliens”.

Unfortunately, as the authors of special report released by American Immigration Council in 2015 point out, immigration policy is not based on empirical evidence. It is often shaped by fear and stereotype. For this reason, immigrants bear the stigma of “criminals” attributed to them by immigration laws and administrative mechanisms. New categories of “felonies” have been made which apply to immigrants

alone. All in all, the policies aimed to put an end to illegal immigration have been made punitive rather than rational and practical [6].

The immigration policies have a detrimental effect on illegal immigrants with strong family ties and long tenure in the USA. This conclusion is made by a number of recent studies [5; 9; 12; 16]. As well as border apprehensions, the immigration law enforcement agencies conduct interior removals. Not only are those who illegally cross the border apprehended and sent back, but also long-term residents nationwide are arrested and removed.

Most illegal immigrants have made their lives in the new destination. Before mid-1980-s, Mexican migrant workers followed a pattern of circular migration: they left their families in Mexico, found work in the USA, sent remittances back home, built savings, returned to their families in Mexico, and eventually returned to the United States. However, the IRCA of 1986 disrupted circular migration flows by intensified border security measures. As many migrants could no longer reliably return to the United States, they relocated their families to the USA. Moreover, the IRCA granted legal amnesty to millions of undocumented migrants. As a result, many of those who formerly had circulated legalized and settled in the USA.

The share of undocumented population who resides in the country for long periods has increased. Of the nearly 11 mln. US unauthorized immigrants, 1.9 mln. have lived in the country for at least 20 years, 1.6 mln. for 15 to 19 years, and 3.1 mln. for 10 to 14 years [12, p.232]. As a rule, having settled in a new place an immigrant starts the second family although continues to send remittances back home in order to support their Mexican families. These long-term residents are likely to have a spouse with a US citizenship as well as children who are American citizens by birth. An analysis of official Mexican data (2012) found that 61,4 % of deportees who had spent at least a year in the USA had a child in the United States. An equal percent had a US resident wife or husband [12, p.234]. To put it another way, they have deep connections to the USA.

Immigration enforcement practices has huge impact on the American family of a deportee as he/she can be barred from reentry into the USA from 5 years to life under the IIRIRA. Deportations unsettle families, separate husbands and wives, parents and children, create single-parent households leaving children without a parent or an adult without a spouse. What is more, the deportations, and even the immigration-related arrest or detention of a family member have significant short- and long-term financial implications. After a primary provider is removed, remaining family members could face substantial economic disadvantages as their median household income goes down, financial resources available to support the US-born children until

maturity diminish. The family income drops by 45 %, according to the recent report released by the Center for Migration Studies, New York [18]. For 908,891 "mixed-citizenship" families with at least one native born child the prospect of breadwinner's removal means a risk of falling below poverty level. The families which once were self-sufficient would have to rely on social welfare programs in order to survive [18]. Many households experience food insecurity, which is exacerbated by federal restrictions limiting immigrants' access to Supplemental Nutrition Assistance Program (SNAP) benefits [16]. In many cases a deportee has to leave dependents with special needs in the American family. These include pregnant wives, children with autism, cancer, or mothers and fathers with serious diseases.

After income-earner's deportation family members have to take on new roles to earn their living. As an overwhelming majority (90%) of deportees are men, it leads to burden and strain on mothers remaining with their children in the USA after a spouse is deported. They face challenges finding a job to support their families, have to work long hours, having little time for communication with children. Mothers remaining in the USA are at an elevated risk of depression and social isolation after a spouse's deportation, which may impair the well-being of children in their care. Older children often have to become primary caregivers of younger siblings and must work to support the family. A survey of Latinas in Los Angeles whose spouses were deported found that many lost a vehicle or homes or were forced to move, and older children often fell behind or dropped out of school in order to earn money for family [16].

Latino Ministry for the Catholic Church in the United States highlighted the social, legal, and economic consequences for mixed-status families posed by US immigration policies. These include the constant fear of deportation, family separation, interference with life plans like marriage and children, detention, lack of access to social benefits and to effective protections in the workplace, fear of reporting crime, and denigration by the press and public officials, including the president. These realities cause isolation and prevent immigrant families from fully participating in the life community [12, pp.238-9].

Immigration enforcement actions have significant repercussions for millions of children. There were 6,1 mln. children in mixed-status families in 2018. Multiple studies have documented devastating emotional, physical, and behavioral consequences that affect small children and adolescents. After their parent's detention and deportation, many of them suffer "depression, anxiety, fears of separation, social isolation, self-stigma, aggression, withdrawal and negative academic consequences" [12, p.231]. They lose interest at school and their academic performance declines. Some shut themselves off

from friends and lose interest in normal activities. Moreover, children experience fear and shame regarding deportation, which impacts their sense of self and well-being.

Research into the medical aspects of the issue suggest damaging impact of deportations on children's mental and physical health. When suddenly separated from their parents, they experience toxic stress which negatively influences brain development. Such children are also at greater risk of developing chronic mental illnesses like depression and post-traumatic stress disorder, as well as serious physical diseases like cancer, stroke, diabetes, and heart disease [22, p.2]. Even before birth, detention and deportation of a family member can put a child's health at risk. A study of immigration enforcement actions found a link between immigration-related arrests and premature and underweight births, complications that put babies at risk for infant death or long-term health problems [22, p.3].

In addition, the broader community suffers negative consequences of immigration-related arrests and removals. Community members often become more fearful and mistrustful of public institutions, they seem less likely to get involved in religious, educational or cultural activities. They are more reluctant to report crime to the police.

Among a wide range of immigration-related issues one of the most urgent is the one concerning undocumented immigrant youth. Due to immigrant-rights campaigns some measures have been taken to protect the most vulnerable segment of illegal immigrant population. In 2012 the Obama administration introduced the Deferred Action for Childhood Arrivals (DACA) program – an enforcement policy that temporarily defers deportations to immigrants who were brought to the USA as children [4]. "Deferred action" provided for an estimated 1.9 mln. eligible undocumented youth and young adults temporary relief from deportation, temporary Social Security numbers and two-year work authorization. However, DACA does not provide either a permanent legal status or a path to a green card and citizenship. It must be renewed every two years. To qualify for DACA status, young people have to meet certain requirements. They are supposed to have come to the United States at the age under 16, be under age 31, have continuously resided in the United States between 2007 and 2012; is currently enrolled in secondary school or have high school diploma, have no criminal records, etc. [4].

DACA has broadened the educational and work opportunities for almost 800,000 undocumented young people. The program has enabled them to work legally, attend school, and plan their lives without the constant threat of deportation. DACA improved their access to public universities, trade schools, and scholarship opportunities. With work

permit, they could get more stable jobs with higher pay, better benefits, and less stressful working conditions.

In 2017 the Trump administration attempted to terminate DACA. Homeland Security announced a "wind down" of the program. However, in 2020 the US Supreme Court ruled that the termination of the program was unlawful. Following the Supreme Court's decision, the DACA program was technically restored [20]. Six weeks after the Supreme Court's decision, Homeland Security announced several major changes to the operation of DACA. The program recipients can continue to apply to renew their status but the validity period for the DACA status has been reduced to one year. US Citizenship and Immigration Services (USCIS) will reject all pending and future initial DACA requests from people who are eligible for DACA but have not previously participated in the program [20].

Another program designed to protect undocumented young people – Development, Relief, and Education for Alien Minors (DREAM) Act – has been discussed in the congress for two decades. That is why young undocumented immigrants have since been called "Dreamers." The Dream Act was introduced in the congress in 2001 for the first time. Over the last 20 years, at least ten versions of the Dream Act have been introduced in congress. Up to now, none bill has become law [20].

With some key differences in various versions of the Dream Act, they all would have provided undocumented youth who came to the USA as children with a pathway to US citizenship. The Act outlines a three-step process. Firstly, a person could get conditional permanent resident (CPR) status for up to 10 years as well as work permit. Then a person could obtain lawful permanent residence (LPR status or a "green card") provided they completed at least 2 years of higher education, or 2 years of military service or have been employed for a period of 3 years. After maintaining LPR status for 5 years, an individual can apply for US citizenship through the naturalization process [19]. According to the Migration Policy Institute, 2.31 mln. young people would qualify for conditional permanent resident status under the 2019 version of the Dream Act, which could put them on a path to citizenship [8].

States cannot grant legal status to persons but they address some illegal immigration-related issues. All 50 states permit people with DACA status to obtain driver's licenses. A number of states enacted legislation to help Dreamers overcome barriers to higher education and employment. Many Dreamer students may be able to attend state universities and qualify for in-state tuition or financial aid.

Colleges and universities have their own policies about admission. Some deny admission to undocumented students, while others allow them to attend. Even when Dreamers are allowed to attend college, however, they face financial challenges as

the tuition is often expensive. Students without legal residency status in a state must pay the much higher out-of-state or international-student tuition fees. Furthermore, undocumented students do not qualify for federal student loans or other financial assistance. As a result, undocumented students could hardly afford to attend public universities.

As for job possibilities, many professional areas such as medicine, education, or cosmetology – require license to practice. Under federal law, undocumented immigrants are barred from receiving a professional license, unless state legislation within individual states permits their issuance. Thirteen states allow receiving certain professional licenses by undocumented immigrants.

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