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USA

# The Roots of Trump's Immigration Barbarity

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### **The outrage over Trump's heartless family separation policy provides an opportunity to reverse the bipartisan consensus that has long victimized immigrants.**

The photos seemed to speak for themselves, perfectly capturing the heartbreaking brutality of the Trump administration's immigration crackdown. In one, two girls, likely Central American, detained at a US Customs and Border Protection center in Nogales, Arizona, sleep face down on the floor of a cage.

Jon Favreau, a former Obama speechwriter and host of the liberal "Pod Save America" podcast, tweeted: "Look at these pictures. This is happening right now, and the only debate that matters is how we force our government to get these kids back to their families as fast as humanly possible."

It turned out, however, that the photos were from 2014. Favreau's boss, President Barack Obama, was engaged in his own harsh crackdown on Central American asylum seekers — an error Trump was unsurprisingly quick to point out on Twitter: "Democrats mistakenly tweet 2014 pictures from Obama's term showing children from the Border in steel cages. They thought it was recent pictures in order to make us look bad, but backfires. Dems must agree to Wall and new Border Protection for good of country...Bipartisan Bill!"

What neither Favreau nor Trump likely grasped was how perfectly the imbroglio encapsulated the confusion and amnesia that pervade mainstream debate over Trump's immigration policies.

On the one hand, Favreau's error is a hopeful one: liberals, politicians and ordinary Americans alike, are outraged at Trump's unbridled racism and cruelty, rallying to the cause of DREAMers threatened with losing their legal authorization to remain in the United States, mobilizing at airports in defense of those targeted by the Muslim ban, and pushing their elected officials to resist deportations through state and local sanctuary measures.

But most every horrific measure taken by Trump has a policy precedent in similar, if less breathtakingly inhumane, actions taken by his establishment predecessors — predecessors who, alongside the nativist right and their mouthpieces on Fox News and talk radio, helped move the conservative Overton Window on immigration so far to the right that by November 2016 it perfectly framed Donald Trump.

The images and stories that have captured headlines in recent days depict a barbarically cruel anti-immigrant agenda from Trump, rightfully moving many to grief and anger and perhaps to action. But if we want to stop Trump's deportation machine, we have to confront the key role Democrats played alongside establishment Republicans in creating it. It's the only way to halt the spiral of anti-immigrant cruelty that brought us to the horrific images of family separation we see today.

Obama's Deterrent

Favreau did tweet an admission of his error. But in doing so he made another, more substantial one. "These awful pictures are from 2014, when the government's challenge was reconnecting unaccompanied minors who showed up at the border with family or a safe sponsor," wrote Favreau. "Today, in 2018, the government is CREATING unaccompanied minors by tearing them away from family at the border."

That's a partial and highly misleading description of Obama immigration policy circa 2014. The photo in question was likely of unaccompanied minors apprehended at the border who would later be released to relatives. But as the

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Arizona Republic noted, "they are still children in cages."

Favreau's biggest mistake, however, was obscuring the bigger picture of what Obama was doing at the time: an influx of Central American asylum-seekers fleeing brutal gang violence (which is itself rooted firmly in US government policy) sought asylum in the United States, so he put these families into detention en masse to send a tough message to would-be migrants down south and anti-immigrant voters at home.

The Obama administration opened a facility to incarcerate asylum-seekers fleeing for their lives in southeastern New Mexico, far from where most lawyers who could represent them in asylum proceedings live, as Wil S. Hylton described in a February 2015 New York Times Magazine story. And so volunteer lawyers rushed to the small town of Artesia. What they found when they arrived were "young women and children huddled together. Many were gaunt and malnourished, with dark circles under their eyes." "Kids vomiting all over the place." "A big outbreak of fevers." "Pneumonia, scabies, lice." A school that often did not seem to be open.

Such detentions would serve, the Obama administration hoped, as a deterrent.

"It will now be more likely that you will be detained and sent back," Department of Homeland Security secretary Jeh Johnson forebodingly warned. Johnson was "standing on a dirt road lined with cabins in a barren compound enclosed by fencing," celebrating the opening of a massive detention facility for women and their children in Dilley, Texas. It was run by the for-profit Corrections Corporation of America. (The company has since changed its name to the more antiseptic CoreCivic, which pledges to "Better the Public Good.")

Johnson didn't call Mexicans "rapists" or suggest that what the United States really needed was more Norwegians. But the message was clear: regardless of your right to asylum under US and international law, the US government will lock you up in degrading and harmful conditions and then send you back home to your possible death if you dare request their protection.

The same day Johnson visited the detention center in Artesia, according to one of Hylton's sources, ICE deported seventy-nine people back to the US-tilled killing fields of El Salvador. Ten youth were later reported to have been killed.

Today, it was reported that Trump would soon sign an executive order ending family separation. His method? Resurrecting Obama's policy of detaining families together, which was ultimately blocked in federal court.

Journalists still have trouble making sense of Obama's actions. On Saturday, the New York Times took pains to explain that officials like Johnson and domestic policy advisor Cecilia Muñoz had "struggles with illegal immigration," which is what led them to incarcerate asylum-seeking families. "The steps led to just the kind of brutal images that Mr. Obama's advisers feared: hundreds of young children, many dirty and some in tears, who were being held with their families in makeshift detention facilities." The images were bad, which made Obama look bad. But there was lots of heart-wrenching, liberal soul-searching, and so Obama wasn't so bad.

It's a strong contrast to the palpable sense of liberal outrage at Trump's policies. But that outrage is a very good thing, even if it muddies the historical record of Obama and others' misdeeds. Trump has hastened a welcome polarization over immigration that has been underway since the Bush administration: liberals who once shared conservatives' antipathy toward undocumented immigrants have become increasingly sympathetic and solidaristic as immigration becomes a partisan issue. Polarization and partisanship around immigration is good â€" the old consensus was horrific.

But liberal rhetoric too often elides the uncomfortably mainstream roots of Trump's crackdowns and thus obscures the concrete solutions that we should demand.

# The Nativist Cycle

Many liberals appear to think that we had a relatively humane immigration enforcement system before Trump took office. In fact, Presidents Clinton, Bush, and Obama thoroughly militarized the border (including constructing hundreds of miles of a wall), nearly quintupled the size of the Border Patrol, and constructed a mercilessly smooth system linking the mass incarceration to a terrifyingly gargantuan deportation pipeline.

Perhaps the most bizarre thing about the debate over Trump's immigration policies, which has centered on the Dreamers and the insistence on funding for his "big, fat, beautiful wall," is how it has recapitulated the basic immigration policy framework under his two most recent predecessors. Trump's demand has been this: legal status for DREAMers must be accompanied by the elimination of the diversity visa lottery, sharp limitations on the priority given to reunifying families in awarding visas for legal immigration, and, of course, \$25 billion for his wall, since Mexico apparently doesn't want to pay for it.

Many Democrats have rejected this, which is good. But it all obscures an important historical irony: combining legalization measures with deportation and border enforcement crackdowns (along with a larger supply of second-class guest workers for profiteering businesses) is precisely the mainstream, bipartisan establishment framework for immigration "reform" that guided a) repeated and failed legislation under Bush and Obama and b) executive enforcement actions under Bush and Obama.

After Trump took office, apprehensions of unauthorized border crossers sharply declined, leading the president to eagerly take credit: his tough talk had accomplished what his soft-spoken predecessors could or would not. But the celebration was premature. The number of crossings, as measured by apprehensions, soon began to rise again, despite Trump's best efforts. It's part of a longstanding pattern: immigration crackdowns mollify nativists in the short term but ultimately fail to accomplish their stated objective, leading to further calls for even harsher crackdowns.

And so Trump was confronted with the same reality that met prior presidents since before President Clinton asserted, in 1995, "We won't tolerate immigration by people whose first act is to break the law as they enter our country."

Border militarization and deportation crackdowns are a performance aimed at satisfying anti-immigrant voters and can have only a limited impact on changing migration patterns on the ground. Many politicians assume that tougher policies along the border deter immigration, but they mostly don't. And so new, tougher scripts are written up and acted out, to the same effect, again and again. This is what led Trump to the family separation campaign.

Immigration continues, immigrants continue to suffer expulsion and death in the Sonoran Desert, and a hardcore nativist voting bloc is conditioned to expect and demand even more draconian policies. One shudders to think what kind of savagery Trump's administration will come up with next.

Crackdowns Past and Present

But this historical dynamic eludes most journalists, and so much reporting on the family separation policy has been confused.

In reality, what Trump is doing is directing federal prosecutors to charge every possible migrant who crosses between

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official ports of entry with illegally entering the country. And people charged with illegal entry or reentry would have always been separated from their children, because they are transferred to federal criminal custody.

The plan was family separation by way of maximally applying existing tools: all immigrants caught crossing without authorization between ports of entry “and not just some or many, as under past administrations” would be prosecuted for the federal misdemeanor of illegal entry.

In federal courts, prosecutions of immigrants charged with illegally reentering the country rose steadily under Presidents Clinton and Bush, then skyrocketed under Obama. Prosecutions for illegally entering the country rose as well. By 2016, people convicted of immigration-related offenses made up roughly 9 percent of the federal prison population, or 15,702 inmates.

Trump's, then, is not the first crackdown. In 2005, the Bush administration launched Operation Streamline as part of its “enforcement with consequences” approach to target a much broader swath of migrants. Since then, federal law enforcement have used magistrate judges to oversee “cattle calls”: mass guilty pleas from groups as large as dozens of defendants at once, at times prosecuted not by assistant US attorneys but by immigration officials who may not even be licensed to practice law.

Just as immigration law became increasingly indistinguishable from criminal law, the former has suffered from similarly weak due-process protections as the latter, as harsh potential sentences were used to coerce defendants into guilty pleas. The court system was converted into a massive, prosecutor-directed assembly line to prison and deportation. As of 2016, according to the Transactional Records Access Clearinghouse, more than half of all federal prosecutions were for these two migration crimes of entry and re-entry.

It's still too early to measure the full scope of Trump's policies, because data for illegal entry and reentry charges is not yet available for May or June. But prosecutions have been on the rise over Trump's time in office, according to data from the Transactional Records Access Clearinghouse. In April, the number of prosecutions for illegal entry stood at 4,521, up from 2,080 in January 2017.

Yet in December 2012, under Obama, the number prosecuted reached a high of 6,701. Under Bush, they reached an even higher point, of 7,137, in September 2008. The number of prosecutions frequently topped 5,000 during Bush's final year of office, and vacillated throughout Obama's two terms.

Prosecutions for illegal reentry have been relatively stable under Trump, reaching 2,916 in April of this year, just somewhat higher than the 2,198 in January 2017. Those numbers were considerably below the highpoint of 3,671 reached under Obama in April 2013, and somewhat above the highpoint of 2,206 reached in October 2008 during Bush's final months in office.

How many children are being separated? 2,342 children were separated from 2,206 parents or guardians at the Mexican border between May 5 and June 9 “but CBP claims that they could not provide me with data going back to prior months and years. For now, precisely how Trump's cruel policy compares to his predecessors' is difficult to determine, though people working on the ground report a major increase in separations.

At least on a policy level, family separation is incidental to the policy of prosecuting every unauthorized crosser for committing a federal crime: if you're charged with a federal crime, you're remanded from the immigration officials to a federal lockup. In part, as Roque Planas writes at HuffPost, that's because a strategy that was explicitly aimed at using detention as a means to deter migration might not pass legal muster. This is partly why Obama's detention program was ultimately shut down by federal judges.

Trump's solution is to launder their deterrence policy through a criminal justice system that can normalize most any horror.

Indeed, when Attorney General Jeff Sessions defends family separation by saying, "every time somebody...gets prosecuted in America for a crime, American citizens, and they go to jail, they're separated from their children," he's not wrong. Though he's right, of course, for the wrong reasons: Sessions believes that the system of mass incarceration is good.

A Bureau of Justice Statistics study estimated that in 2004, 1,596,100 minor children had a parent incarcerated in state prison at the time that parent was admitted; 282,600 children had parents locked up in federal prisons. Family separation, including the widespread separation of poor mothers (particularly poor mothers of color) by child protection services, is a core feature of what the American carceral system does. Indeed, incarcerated women are often shackled while giving birth, and then have their babies taken from them by child protective services twenty-four hours later.

The systems of mass incarceration and mass immigrant enforcement have for decades become increasingly intertwined and normalized — including, critically, through Obama's rollout of the Secure Communities program, which made local police the front door to the federal deportation pipeline. With Trump's latest policies, many are discovering that our norms are reprehensible.

## Inhumane, Brutal, and Far Too Normal

So what precisely has changed at the border? According to Dara Lind, Vox's immigration reporter, the most consequential change is the widespread prosecution of asylum-seekers crossing between ports of entry for illegal entry. That is notably and newly cruel. Meanwhile, asylum-seekers who present themselves at ports of entry are sometimes being stopped from setting foot on US soil, and even, in some cases, being separated from their children.

These are inhumane policies. But they are being carried out by way of longstanding political and legal norms of anti-immigrant cruelty.

The point here is not to wag a finger at liberal hypocrisy or ignorance. Rather, we need to understand this history to make concrete proposals that can help solve the problem. We should repeal laws criminalizing illegal entry and reentry. Short of that, we should insist that Congress pass a law that bars the prosecution of asylum-seekers for illegal entry. And we can and should demand that the law recognize, contrary to Attorney General Sessions's recent decision, that people can claim asylum when they are running from violence perpetrated by non-state actors like gangs or domestic partners.

Correctly analyzing Trump's child separation campaign is emblematic of a larger analytical and rhetorical needle that the Left struggles to thread: emphasizing that Trump's awful policies are often far too normal and rooted in longstanding bipartisan establishment norms, while also recognizing and condemning the fact that he is taking those norms to dangerous, new extremes. Normal policies look worse when a brazenly racist monster like Trump does them.

But Trump is also blazing new trails in cruelty, and the spotlight on that cruelty offers a unique chance to stop it. The Left and immigrant rights movement should welcome the fact that border walls, deportation raids, and jailed children that might have been ignored or welcomed if put in place under Clinton, Bush, or Obama are finally being exposed

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for the monstrosities that they are. But we can't let establishment Democrats pretend like they're leading the resistance. They helped create the problem.

Source [Jacobin](#).

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