



# The Crimmigratory Agenda: Historical, Economic, and Political Dimensions of the Criminalization of Immigration in the United States

Cherra Mathis<sup>1</sup> · David Androff<sup>1</sup>

Accepted: 9 March 2021 / Published online: 20 March 2021

© The Author(s), under exclusive licence to Springer Nature Switzerland AG 2021

## Abstract

The convergence of criminal and immigration law, called “crimmigration,” is reshaping the experiences of immigrants across the spectrum of documentation status, punishing immigrants with criminal consequences for infractions of changing immigration law. Crimmigration is the product of increasingly punitive policies that have been emerging in the USA for more than a century. This paper assesses the role of economic fears spur increasingly harsh immigration laws, as well as the economic toll of the crimmigration nexus. It also considers the contribution of right-wing ideologues whose increased influence in government policy contributes to draconian changes to immigration policy, inaugurating the crimmigratory state.

**Keywords** Crimmigration · Law · Economics · Immigration · Asylum · Policy · History

## Introduction

Today in the USA, you can be detained, then deported, away from your children, spouse, and community for a victimless crime—as small as a burnt-out headlight. How can such a simple, minor infraction pull someone into the juggernaut of the US’ immigration and criminal justice systems? The answer, a complex coupling of these two sets of laws and policies, illuminates how the US went from lifting a lamp beside the golden door to separating infants and children from their parents, negation of asylum, and international censure.

While the USA has not always welcomed immigrants, this xenophobic approach has left millions of asylum-seekers, licensed permanent residents, and citizens who do not “look American” vulnerable to the machinery of crimmigration. This portmanteau

---

✉ Cherra Mathis  
cmmathi1@asu.edu

<sup>1</sup> School of Social Work, Arizona State University, Phoenix, AZ, USA

captures the merging of two fields where immigrants are vulnerable to rapidly changing laws that redefine their legal status, impose increasingly harsh response towards newly criminalized documentation offenses, and heighten punishment for low-level crimes based on immigration status. The convergence of migration law and criminal law in immigration-destination countries such as the USA evidences undercurrents of nationalism, fear of economic threat, and renegotiation of human rights and human worth.

This paper considers the economic impact of this trend in immigration policy and explores crimmigration as a result and reinforcer of right-wing populist ideologies that bi-directionally shape the narratives and support for xenophobic platforms. This paper begins by tracing the historical evolution towards crimmigration, considers the economic contributions towards that confluence and the economic cost of crimmigration. This analysis assesses how right-wing populism is bolstered by economic fears and uses anti-immigrant rhetoric to boost crimmigratory agendas. Scholars must understand the historical, economic, and political momentum that animates this turn in immigration policy.

## Concept of Crimmigration

Crimmigration is “the increasing overlap between criminal and immigration law” (Stumpf, 2006, p. 381). The term is used by legal scholars to discuss how the substance, enforcement tactics, and legal procedures of each discipline of law have fused. The new system conceives of immigrants as criminals and deploys immigration laws in a punitive fashion modeled on the processes of criminal law to contain, punish, and remove this criminalized person (García Hernández, 2018). The convergence of the criminal and immigration branches of law leads to a Frankenstein of cherry-picked enforcement tactics that are neither adequately governed by nor held accountable to the due processes of either branch of law (García Hernández, 2018; Stumpf, 2013). Using a criminal lens to view immigrants creates draconian outcomes for migrants entering the country as well as legal permanent residents, precariously documented migrants, visa applicants, or anyone whose citizenship is in question within the USA (Stumpf, 2013; García Hernández, 2018).

Despite statistically being less likely to commit crimes, immigrants are targeted more for their identity than any behavior (Ewing et al., 2015). Starting from police arrests for minor infractions all the way to detention, crimmigration creates a pipeline for immigrants across a spectrum of documentation status. Immigrants can be detained indefinitely from traffic stops or comparable low-level law enforcement interactions, and eventually deported. Due process is threatened by chaotic, negligibly legal hearings where detainees are processed *en masse*, sometimes without adequate representation or accommodation for language barriers, trial fitness, or access to counsel and resources (ACLU, 2020; Stumpf, 2013; Beckett & Evans, 2015).

The restriction of criteria for legal immigration and the erosion of civil rights for migrants’ recasts immigrants as fodder for the crimmigration enterprise. Grounds for inadmissibility into the country change, as do the types of minor crimes eligible for detention and removal (Ewing et al., 2015; Stumpf, 2013). Changing laws leave immigrants locked out of previously established immigration processes and suddenly

vulnerable to harsh consequences for mistakes recast as criminal. For instance, asylum-seekers petitioning on the criteria of fleeing domestic violence or gang warfare, in 2018, were suddenly retracted from viable legal immigration status pursuit into the liminal zone of undocumented illegality when US Attorney General Jeff Sessions removed domestic violence and gang violence from U-Visa eligibility and mandated the initiation of removal proceedings for denied asylum claims (Matter of A-B-, 2018). What would have been a minor setback for an already vulnerable survivor, the cue to restart the visa application process again, now turns into a potential removal sentence where the victim lives in fear both of their perpetrators and interactions with law enforcement.

Many of those swept up in the last two decades of crimmigration proceedings were targeted exclusively for generally small immigration law violations (Ewing et al., 2015; Hagan et al., 2009). About three quarters of those newly arrested in this crimmigratory sweep had no criminal record, and under this new face of immigration enforcement, can be cited, detained, and deported for a minor traffic violation such as driving without a license (Ewing et al., 2015; Hagan et al., 2009). These aspirant Americans are now caught in the undertow of crimmigration. They may find themselves detained indefinitely in overcrowded private prisons where they are frequently abused, with their physical and legal needs neglected, and finally deported in accordance with the criminal procedures that immigration law has embraced (Saadi et al., 2020; Terp et al., 2021).

Further, the relationship between economics and crimmigration's development, implementation, and fallout illustrate a system that may not only fail deliver on its purpose to protect Americans' safety and livelihood, but negatively affect the economic well-being and community stability. The US' policy response to immigration has historically been rooted in perceived economic threat (Jackson & Esses, 2000; Landau-Wells, 2017; Cosby et al., 2013; Esses et al., 2017), despite the economic benefit of human migration (Evans & Fitzgerald, 2017). Many key crimmigratory steps have occurred in times of national economic flux, and so, it is essential to consider how immigration law absorbed criminal practices in the context of historical US immigration policy.

## Historical Development of Crimmigration

### Early Exclusions, Quotas, and Border Enforcement

Economic downturns are fertile times for scapegoating, and immigrants have often been targeted by violence and legal restrictions identifying them as labor market competitors (Kunovich, 2013; Perry, 2016). The USA at times recast immigrants as detrimental, degenerate, and progressively more criminal for over 200 years, formally codifying immigrant limitation with the 1819 Steerage Act, which restricted unskilled workers in an attempt to stem the influx from "undesirable" European countries and limit competition with the US labor market (Garcia Hernández, 2018; Perry, 2016). The late nineteenth century produced additional legislation that attempted to control and limit immigrants as a proxy target for national sentiments

of economic fear and racial furor. The 1875 Page Act highlighted the potential criminality of immigrants and was swiftly followed by the 1882 Chinese Exclusion Act and 1882 Immigration Act, which subverted ideas of immigrants seeking succor on US shores to a narrative, boosted by xenophobic rhetoric, of immigrants who were simultaneously both a threat to US jobs and “likely to become a public charge” (Hu, 2017; Perry 2016).

However, while these acts sought to limit immigration and incited local communities to enact violent, extra-legal penalties on immigrants (Perry, 2016), they did not yet invite the punishments of criminal law. In 1924, the Johnson-Reed Act made undocumented immigration a federal crime at the same time as it established nation-based quotas (Garcia Hernández, 2018). The 1929 Johnson Reed Act Amendment on the eve of the Great Depression founded the Border Patrol, and added unauthorized entry and unauthorized re-entry to the list of immigration-connected federal crimes (Garcia Hernández, 2018). These acts were fueled by nativist sentiment that saw immigrants as a threat culturally, socially, politically, and economically (Garcia Hernández, 2018). The 1929 Undesirable Aliens Act criminalized the entry of specifically Mexican immigrants and levied fines on immigrants who were found to be crossing the border without certain papers, a precursor to the emphasis on documentation of legal status today (Congressional Record 70 H.R. 16567, 1929).

## Post WWII and the Cold War

The next 30 years of immigration law focused on volume regulation, as the national quotas managed international influx in the duration and aftermath of the World Wars and catered to the US agricultural industry. The Immigration Act of 1965 ended the quota-oriented policy, and created caps for each country. This undercuts pre-existing migration patterns that had evolved to work with the previous policy, and left thousands of immigrants who had embarked on a law-approved journey to the USA now in a position of unlawful entry. This reframed responsibility for violation of immigration laws, putting the onus on immigrants, rather than on the administration who had changed the rules of entry (Garcia Hernández, 2014).

In the post-war decades and the advent of the Cold War, the profile of immigration underwent a massive, and racially significant split. On the one hand, immigrants coming to the USA were disaffected Soviets and Europeans, emblems of the triumph of US ideology, and their welcome to this promised land was a celebration of capitalist, democratic ideals in the face of Communism (Mayblin, 2017). On the other hand, immigrants were also coming from South and Latin America, fleeing armed conflict stirred by neoliberal politics abroad or seeking the same promise of economics and freedom of the political Cold War defectors. This shifting immigration profile and the accompanying increase of immigrants who were people of color facilitated the rise of legislation harking back to the purist, white supremacist world view that created the Naturalization Act of 1795, which only permitted citizenship to free white people “of good moral character” (U.S., 1795).

Under the Reagan presidency in the 1980s, immigration law trended towards narratives of racially charged, national security policies. The “War on Drugs,” immigration policies criminalized immigrants, particularly those from the Southern US

border, who were held responsible for the alleged influx of illegal substances to urban centers (Beckett & Evans, 2015). Building on the national furor and moral panic over cocaine, the Reagan administration enacted legislation which in practice meant that “being of color and connected to a certain space makes one a criminal regardless of whether or not one has committed a criminal act” (Perry, 2016, p. 138). This, fused with the emergence of detention as a viable legal response to immigration violations in 1986, and the reduction of due process rights for detained migrants, created the foundation for the current state of crimmigration (Abrego et al., 2017).

Expanding the list of crimes that led to detention and deportation, the 1988 Anti-Drug Abuse Act created “aggravated felony” as a charge applicable to immigrants for misdemeanors and minor crimes, which resulted in increasing use of the detention endorsed by President Clinton through the 1996 Mandatory Confinement legislation (Cook, 2003; Garcia Hernández, 2018; Johnson, 2001; Perry, 2016; Stumpf, 2006). That same year, the Democratic administration continued the momentum toward criminal legal responses for immigration violations by authorizing the Illegal Immigration Reform and Immigrant Responsibilities Act, deputizing police whose previous authority centered around criminal acts to now “investigate, apprehend and detain” immigrants who *might* have violated immigration law (Hernández, 2019).

### **Crimmigration Post-9/11**

Although national security threats from hostile infiltration was a rising concern for immigration legislation at the turn of the century, September 11, 2001 recast the national approach to immigration in a crucible of terror. In 2002, the Department of Homeland Security focused its newly minted attention on immigration along the Southern US border, and served as an institution that formally tied together previously implied threats of terrorism and immigration in its creation and purpose (Hu, 2017). Strengthened by the 2001 PATRIOT Act, detention of immigrants in violation of both criminal and immigration charges could be indefinite. Entering the country without documentation was cast both in the public imagination and law as a threat to security as great as drug trafficking had been to previous legislators (Garcia Hernández, 2014). Criminal law’s “innocent” and “guilty” was reframed in immigration’s scope as “legal” and “illegal” (Stumpf, 2006). However, the increase in “criminal” criteria naturally engendered an increase in detained individuals, now possibly held indefinitely without rights to services or counsel. This dismantling of accountability for the institutions of justice and the expectation of rights afforded to criminals was accompanied by a massive increase in funding for law enforcement and imprisonment, making the criminalization of immigrants profitable to the facilitating systems but infinitely costly to families, businesses, and the government that funds the immigration crack-down (Garcia Hernández, 2018; Ortega & Lasch, 2014).

## Economic Consequences of Crimmigration

### Costs to Children and Families

Crimmigration today impacts families and individuals living in the liminal space of precarious documentation. Rising costs for green cards, petitions, and applications strain the finances of families who already struggle to afford these fees (Anderson, 2020). As well, the cost of being caught up in immigration proceedings can be substantial. Detained parents and disrupted families may be unable to pay rent or mortgages (Zayas, 2015). Families caught up in immigration proceedings may be less able to pay taxes, and families fearful of deportation reported less willingness to invest in their neighborhoods through businesses or work (Hagan et al., 2009; Hagan & Phillips, 2008; Langhout et al., 2018). Their children may need therapeutic interventions and services to accommodate the trauma of experiencing racial profiling, incarceration, deportation, and abuse of family members (Ayón, 2015; Hagan & Phillips, 2008; Hagan et al., 2009; Zayas, 2015). With breadwinners absent and children relocated to the deported caregiver, the family suffers, and the states and communities that would benefit from economic contributions of second and third generation immigrants loses out on that potential future revenue (Blau & Mackie, 2017). Additionally, the 2019 “Public Charge” rule applies an economic factor to immigration law that harks back to the roots of crimmigration itself, with the 1882 Immigration Act limiting immigrants based on fear of them benefitting from welfare funds. This new Public Charge law prohibits immigrants from accessing medical and other essential resources (TRAC, 2020), leaving individuals and families more vulnerable to deportation due to widened exclusionary criteria, as well as less willing to access vital services like food stamps or medical care for ailing family members out of fear for how it will reflect on their citizenship eligibility.

### Costs to Businesses

The acceleration of crimmigration convergence in the first two decades of the century under Presidents Bush, Obama and currently Trump have dramatically accelerated the costs of navigating crimmigration for businesses as well as for the migrants that they employ (Anderson, 2020). Audits put in place by the government to determine whether businesses were hiring precariously documented immigrants “can lead to deep losses in productivity, in addition to civil and criminal fines” (Jordan, 2012, p.1). The *Wall Street Journal* reported businesses were fined \$100 million in the first four months of 2009 alone (Jordan, 2012). The rising costs of visas may also impact skilled labor immigrants in the tech or medical fields whose sponsoring organizations are no longer willing to meet the increasing costs and governmental scrutiny, creating a dearth of trained professionals in the national economic infrastructure (Anderson, 2020).

As well as financial risks for hiring undocumented workers, businesses are also economically hit when crimmigration’s harsh deterrence methods work, and migrant workers stay away (Ayón, 2015; Ewing et al., 2015; Hagan et al., 2009; Preston, 2007). Crops are unpicked and unpacked, and seasonal produce rots in the fields

without the expected workforce (Esses et al., 2017; Preston, 2007; Shahani & Greene, 2009). This is catastrophic, particularly for smaller farms that cannot easily absorb the losses of a bad season (Preston, 2007). Due to the combination of ICE raids, audits and the enforcing of deportation for undocumented workforces, agricultural businesses reported loss of up to 70% or 80% of their seasonal employees (Jordan, 2012; Martin & Calvin, 2010). The need for cheap labor pushed some businesses to consider moving to Mexico to access the labor stream that has been disrupted by crimmigration (LADB, University of New Mexico, 2008).

### Costs to Government

While immigrants and the communities where they live and work have been impacted by the increasingly harsh financial consequences of crimmigration, the US government has watched its own spending for crimmigration skyrocket. In fiscal year 2019, \$1.6 billion were committed for 65 miles of border wall, and \$223 million to enhance border security technology to facilitate detection of migrants crossing the border, up substantially from \$20.0 million for border surveillance in 2010 (DHS, 2009, 2019). Additionally, the Department of Homeland Security budget allocated \$210.5 million for training and development of border patrol agents, and \$382.1 million for Federal Law Enforcement Training Centers where ICE agents are trained (DHS, 2019). To accommodate detained migrants, the budget allowed \$2.8 billion for 52,000 detention beds nationwide, with about 5% of those beds intended for family groups (DHS, 2019).

The 2019 budget also included \$570.9 million to hire an additional 2000 agents and 1312 additional personnel to facilitate detention, court procedures, and deportation of detained migrants, significantly increased from \$39.1 million in 2010 (DHS, 2009, 2019). Finally, the budget provided \$511.1 million for transfer and removal of immigrants after they had been processed by the courts, a massive increase from 2010's \$25 million budget for detention, transfer, and removal (DHS, 2009, 2019).

While it is difficult to fully quantify the costs and possible security benefits of crimmigratory policies, Johnson (2015) weighed the wider financial impact of increasingly severe response to immigration infractions. The primary beneficial effect was deterrence (Hagan & Phillips, 2008; Johnson, 2015), which led to reduced future immigrant re-entry, which in turn led to lower detention and removal and of those who attempted re-entry and so, reduced cost for the government. There is also an advantage to providing employment and training for current immigration agents enforcing crimmigratory policies, if those agents could be used in other parts of the government's work without the expense of extensive re-training. However, the costs of detention, incarceration and deportation with the mandatory (since 2005) prosecution as a felony or misdemeanor have been found to outweigh the economic benefits of reducing re-entry, despite its symbolic resonance (Johnson, 2015).

The largest cost of crimmigration is detention. In 12 years, from 1998 to 2010, 17% of the 77% increase in federal prisoners were those held for immigration crimes (Johnson, 2015). In 2015, Johnson noted that 25% of federal inmates were non-citizens, and in 2018, this number had increased to 26% (Johnson, 2015; Huennekens, 2018). The Federal



Bureau of Prisons (FBP), who is responsible for tracking the incarcerations, showed that 5.9% of incarcerated individuals in the US were held for immigration-related crimes (Federal Bureau of Prisons, 2020). The FBP estimated for 2015 a cost of \$30,619.85 per inmate per year (Johnson, 2015), bringing a total cost for the current 9534 inmates for immigration crimes to around \$291,929,650 a year. Expenses of detention go beyond maintaining beds and facilities; prisons need paid staff, medical support, and social workers. There are court costs associated with detainees' due process, and court maintenance (Johnson, 2015, p. 872). Shifts under recent administrations to *en masse* hearings may cut some costs, but also increases the risk of violating the defendants' due process (Johnson, 2015).

Costs for the implementation of crimmigration start before detentions and courts. Immigration and Customs Enforcement (ICE) has a significant budget that has nearly doubled since its creation in 2003 (ICE Fiscal Year Enacted Budget, 2020). President Trump focused funding towards the Department of Defense, the Department of Justice, and the Department of Homeland Security in a proposed \$32.6 billion program that focused on detainment strategies, border monitoring and technology, increased border patrol personnel, additional facilities for detainment and legal processes and shelter for detained and separated migrant children (Executive Office of the President Proposed Budget, 2019). This massive additional cost, compounded with the economic deficit from limiting businesses and farm production adds up to a significant financial investment into punishing immigrants, their families, and employers.

## Other Costs

Although it can be difficult to precisely chart the financial costs of crimmigration policy, a sense of the economic impact can be extrapolated from each area that it touches for individuals, families, communities, businesses, and even the government that authorizes and sanctions the crimmigration laws using taxpayers' dollars. Some more explicit economic aspects have been codified in research; many tangential areas have not, and the longer-term impacts of these harsher policies may have economic fallout still to come, through the unmet needs of detained immigrants, disrupted communities, devastated industries, and state-level boycotts and sanctions against crimmigration collusion (Esses et al, 2017).

## Politics of Populism, Economic Anxiety, and Crimmigration

Immigrants are an easy scapegoat during times of economic downturn, and far right parties seeking power have historically agitated furor against perceived threats to the American worker and the American way of life (Cochrane & Nevitte, 2014). Populist ideologues build the legitimate fear of unemployment into a contrived sense of victimhood and indignation, that hardworking citizens are being left behind in the financial race, superseded by foreigners in an economic invasion (Cochrane & Nevitte, 2014; Mols & Jetten, 2016). Rather than focusing the ire of workers on larger systems that imperil their jobs, ideologues orient the livelihood-insecure toward migrants, the easy



target. There is evidence that actual economic deprivation is not the catalyst for anti-immigrant sentiment, but the perceived threat of economic downturn, accompanied by other local factors, is enough to spark a restrictionist approach to immigration (Citrin et al., 1997; Mangum, 2019). Increased right wing votes behind an anti-immigrant platform during the Great Depression supports the connection between real or imagined economic insecurity and the desire for constituents to circle the wagons against immigrants, and punish them for what ideologues claim they have taken from hard working Americans (Bromhead et al., 2012). Populist leaders tap into this economic insecurity and blame social outgroups to restore a sense of control for citizens during times of real or threatened economic crisis, welding themselves a fearful, nationalistic voter block that sees immigrants as a criminal threat to be averted or punished (Bukowski et al., 2017).

The shift towards crimmigration (Stumpf, 2006) occurs in the context of a wider popular groundswell. The US is pacesetter for crimmigration, where political rhetoric and legislation prepares for, promotes, and protects crimmigration policy by stoking nativism, economic fears, and security threats that live larger in constituents' imagination than in actuality. The pattern of populist ideologues "loud panicking" about an immigrant threat, partnered with the "quiet maneuvering" of government factions which used anti-immigrant fearmongering as a cause and a cover for behind-the-scene policies and legislation (Van Berlo, 2015). This dance of popular support ensuring elected representatives and policies that limited immigrants' options work in tandem, re-forging national criminal and immigration laws to restricted immigration while not necessarily remedying the economic or security threats which fueled popular momentum.

The language adopted by leaders to maintain power casts immigrants as a threat to a nation's sovereignty and internal integrity. The use of this anti-immigrant rhetoric by leaders reinforces the in-group vs. out-group dynamic by contrasting "members" who are citizens, with migrants who are described in words that conjure threat and peril, made illegitimate and forced outside the shifting lines of "appropriate" immigration (Van Berlo, 2015). Influential voices within the US government have claimed the populist narrative and use it to reinforce their power and stir up their base to support crimmigratory policies which have not been found to promote the increased economic or border security promised in rallies and campaigns. Beyond feeding into racist nationalist ideas of who a rights-holding citizen is or should be, the state-sanctioned language shifts responsibility for the detention, mistreatment, and abuse onto migrants in detention, despite government policy creating the circumstances in which migrant suffering occurs (Van Berlo, 2015).

## Right-Wing Populism and Crimmigration

Due to the US's identity as a nation of immigrants and its continued dependence on migrant labor across industry, shifts toward crimmigration were accompanied by national security concerns and policies fueled by anti-immigrant sentiment (Stumpf, 2006). Returning to the explicit xenophobia that produced the Chinese Exclusion Act of 1882, or the anti-Communist jargon that painted immigrants from

socialist-aligned countries as a Trojan horse of democratic destruction, the 1980s framed immigrants as not just a security threat, but a detriment to the American way of life (Bender, 2006; Ewing et al., 2015). They implemented English-only restrictions and employment limitations that received popular support from voters. Increasing rates of displacement since the 1990s and burgeoning numbers of forced migrants making their way to the US brought this focus into the next century (UNHCR et al., 2018).

Crimmigration politics were boosted after September 11, 2001, when terrorist attacks welded popular sentiment into nationalist patriotism spawning the creation of the Department of Homeland Security and fueling support for crimmigrant policies cast as national security (Esses et al., 2002). “Foreigner” and “terrorist” became almost interchangeable in public discourse, and calls for tightening immigration laws co-mingled with the desire for punitive action as retribution and deterrence essentially present in crimmigration (Dovidio & Hodson, 2002). The US Congress responded swiftly and continuously in the wake of 2001. Newly empowered customs and immigration agents focused on the borders, and all ports of entry, criminalizing violations of immigration law and boosting detention (DHS, 2019). Immigrants were cast negatively in media, policies, and politics (Stumpf, 2006), and a member-focused, America-first, nationalist, and nativist rhetoric made questioning or objecting to this broad brushstroke undesirable for individuals, cultural figures and politicians riding the wave of populist patriotism (Cooper, 2004).

Membership within the nation’s citizenry entitles individuals to rights and opportunities that are denied to non-citizens and precariously documented migrants (Stumpf, 2006; García Hernández, 2018). The political rhetoric of this era oriented to strengthening the in-group out-group approach, elevating Americans and casting immigrants as “other,” which enabled the weakening constitutional and procedural protections for those popularly placed outside the white American identity. Reducing civic opportunities and limiting survival benefits fit the nation’s mood toward immigrants, and fed into the crimmigration mindset. These restrictions were punishment and deterrent for the scape-goated immigrant but also an implicit message to US constituents and citizenry, affirming their membership while disparaging and undermining non-members. Within this exclusionary momentum, white supremacist and nativist dialogues moved back into the mainstream, grandfathered in by the “loud panicking” (Van Berlo, 2015). Reframing xenophobia and racism toward migrants as concern for national security and economic well-being enabled these views to find a place in the national discussion, as their purveyors found sanction and support in political circles (Kurz & Berry, 2015).

The Trump administration exemplifies the ties between populist sentiment and policies furthering immigrant criminalization. Whether as a backlash to a prior president who pushed for progressive change (Inglehart & Norris, 2016) or a product of anti-immigrant sentiment with the continued increase of displaced persons forced into migration navigating the US borders, the popular movement to elect and support the Trump administration is linked with extreme crimmigration. In his campaign, candidate Trump cast immigrants as a threat to the safety and purity of (white) American culture (Hooghe & Dassonneville, 2018). Trump’s public endorsement of these sentiments brought fringe ideologies into

the forefront of a national party, making peripheral voices front and center. A rising tide of racially exclusionary and economically fearful nationalists were part of what swept him into office, thrilling both to his promises to prioritize American economics and exclude non-American competition (BBC News, 2018; Hooghe & Dassonneville, 2018; Knowles & Tropp, 2018).

Trump's crimmigratory policies pandered to the popular fear of immigrants stealing benefits, imperiling jobs, and flouting national laws. One example of xenophobic populist rhetoric becoming crimmigratory policy is President Trump's fixation on the southern border between the USA and Mexico. During his campaign, he drew upon outrage at the presumed criminality of incoming migrants, people of color from South and Central America, feeding a "politics of fear" (Demata, 2017; García Hernández, 2018). Once elected, the administration focused extensively on a largely symbolic border wall that minimally addresses the stated concerns about migrant, but appears as a grand gesture to ideological supporters. Personnel, funding, and massive federal resources have been poured into the border wall and accompanying border patrol (Johnson, 2015). In addition to the administration's continued description of immigrants as degenerates and "filth" (Sessions, 2017), racist vigilante violence at the border underscores the role of anti-immigrant, member-focused ideologies as a factor in the populist approach to protecting a "racial geography" (Kurz & Berry, 2015) that, when launched to political power, takes the form of harsh legislation against immigrants. The dehumanization needed as a foundation for severe crimmigration policies was seeded and seated within far-right popular politics.

## Conclusion

Populist anti-immigrant sentiment fueled by perceptions of economic precarity propels crimmigration policy. Creating an anti-immigrant electoral base who sees migrants as a threat to American workers and a drain on American resources provides support for crimmigration policies and right-wing populists in positions of political power. As the US rides the wave of rising populist anti-immigrant sentiment and shapes it into law, fringe violent rhetoric and xenophobia is writ large in national policy. Increasingly, right-wing governments are influenced by global economic and migration trends, and react by moving marginal politics into mainstream discourse, reinforced with crimmigration legislation shaped to address xenophobic fears. Despite being economically dependent on immigrants, and a nation whose very fabric of identity is made from the many cloths of immigrant heritage, the ascendant anti-immigrant ideology and government capitulation to it enacts crimmigration that neither solves perceived security threats nor allays economic ones, leaving a nation divided and immigrants' human rights diminished.

## References

- Abrego, L. J., Coleman, M., Martinez, D., Menjivar, C., & Slack, J. (2017). Making immigrants into criminals: legal processes of criminalization in the post-IIRIRA era. *Journal on Migration and Human Security*, 5(3), 694–715. <https://doi.org/10.1177/233150241700500308>
- American Civil Liberties Union. (2020). Analysis of Immigration Detention Policies. American Civil Liberties Union. Retrieved March 19, 2021, from <https://www.aclu.org/other/analysis-immigration-detention-policies>
- Anderson, S. (2020). New immigration fees to hit businesses hard. *Forbes.Com*. <https://www.forbes.com/sites/stuartanderson/2020/01/08/new-immigration-fees-to-hit-businesses-hard/>
- Ayón, C. (2015). Economic, social, and health effects of discrimination on Latino immigrant families. Migration Policy Institute.
- BBC News. (2018). Has Trump delivered on his promises? <https://www.bbc.com/news/world-us-canada-37982000>
- Beckett, K., & Evans, H. (2015). Crimmigration at the local level: criminal justice processes in the shadow of deportation. *Law & Society Review*, 49(1), 241–277. <https://doi.org/10.1111/lasr.12120>
- Bender, S. W. (2006). Old hate in new bottles: privatizing, localizing, and bundling anti-Spanish and anti-immigrant sentiment in the 21st century LatCrit XI Symposium: working and living in the global playground: frontstage and backstage: Language: Introduction. *Nevada Law Journal*, 7(3), 883–894.
- Blau, F. D., & Mackie, C. (2017). The economic and fiscal consequences of immigration. National Academies of Sciences, Engineering, and Medicine. *National Academies Press*. <https://doi.org/10.17226/23550>
- Bukowski, M., de Lemus, S., Rodriguez-Bailón, R., & Willis, G. B. (2017). Who's to blame? Causal attributions of the economic crisis and personal control. *Group Processes & Intergroup Relations*, 20(6), 909–923. <https://doi.org/10.1177/1368430216638529>
- Citrin, J., Green, D. P., Muste, C., & Wong, C. (1997). Public opinion toward immigration reform: the role of economic motivations. *Journal of Politics*, 59(3), 858–881. <https://doi.org/10.2307/2998640>
- Cochrane, C., & Nevitte, N. (2014). Scapegoating: unemployment, far-right parties and anti-immigrant sentiment. *Comparative European Politics*, 12(1), 1–32. <https://doi.org/10.1057/cep.2012.2>
- Cook, M. (2003). Banished for minor crimes: the aggravated felony provision of the immigration and nationality act as human rights violation note. *Boston College Third World Law Journal*, 23(2), 293–330. <https://lawdigitalcommons.bc.edu/twlj/vol23/iss2/3>
- Congressional Record. (1929). 70 H.R. 16567
- Cooper, G. (2004). The censors: new patterns in opinion control. *Columbia Journalism Review*, 43(2), 58–58.
- Cosby, A., Aanstoos, K., Matta, M., Porter, J., & James, W. (2013). Public support for Hispanic deportation in the United States: the effects of ethnic prejudice and perceptions of economic competition in a period of economic distress. *Journal of Population Research*, 30(1), 87–96. <https://doi.org/10.1007/s12546-012-9102-9>
- de Bromhead, A., Eichengreen, B., & O'Rourke, K. H. (2012). Right-wing political extremism in the great depression (Working Paper No. 17871; Working Paper Series). National Bureau of Economic Research. <https://doi.org/10.3386/w17871>
- Demata, M. (2017). “A great and beautiful wall”: Donald Trump’s populist discourse on immigration. *Journal of Language Aggression and Conflict*, 5(2), 274–294. <https://doi.org/10.1075/jlac.5.2.06dem>
- Department of Homeland Security. (2009). Budget in brief, FY 2010. U.S. Department of Homeland Security. [https://www.dhs.gov/xlibrary/assets/budget\\_bib\\_fy2010.pdf](https://www.dhs.gov/xlibrary/assets/budget_bib_fy2010.pdf)
- Department of Homeland Security (2019), Budget in brief, FY 2020. U.S. Department of Homeland Security. <https://www.dhs.gov/sites/default/files/publications/DHS%20BIB%202019.pdf>
- Department of Homeland Security. (2019). History of ICE. <https://www.ice.gov/features/history>
- Esses, V. M., Dovidio, J. F., & Hodson, G. (2002). Public and attitudes toward immigration in the United States and Canada in Response to the September 11. (2001). Attack on America. *Analyses of social issues public policy*, 2(1), 69–85. <https://doi.org/10.1111/j.1530-2415.2002.00028.x>
- Esses, V. M., Brochu, P. M., & Dickson, K. R. (2017). Economic costs, economic benefits, and attitudes toward immigrants and immigration. *Analyses of Social Issues and Public Policy*, 2(1), 133–137. <https://doi.org/10.1111/j.1530-2415.2011.01269.x>

- Ewing, W. A., Martinez, D., & Rumbaut, R. G. (2015). The criminalization of immigration in the United States (SSRN Scholarly Paper ID 2631704). Social Science Research Network. <https://papers.ssrn.com/abstract=2631704>
- Evans, W. N., & Fitzgerald, D. (2017). the economic and social outcomes of refugees in the united states: evidence from the ACS (No. w23498). *National Bureau of Economic Research*. <https://doi.org/10.3386/w23498>
- Executive Office of the President. (2019). Executive Office of the President Proposed Budget 2020. <https://home.treasury.gov/system/files/266/01-Executive-Summary-FY-2020-CJ.pdf>
- Federal Bureau of Prison. (2020). BOP statistics: inmate citizenship. [https://www.bop.gov/about/statistics/statistics\\_inmate\\_citizenship.jsp](https://www.bop.gov/about/statistics/statistics_inmate_citizenship.jsp)
- García Hernández, C. C. (2014). Immigration detention as punishment part III: removal and detention. *Immigration and Nationality Law Review*, 35, 385–454.
- García Hernández, C. C. (2018). Deconstructing crimmigration. *U.C. Davis Law Review*, 52(1), 197–254. [https://lawreview.law.ucdavis.edu/issues/52/1/Symposium/52-1\\_Garcia\\_Hernandez.pdf](https://lawreview.law.ucdavis.edu/issues/52/1/Symposium/52-1_Garcia_Hernandez.pdf)
- Hagan, J., Castro, B., & Rodriguez, N. (2009). The effects of U.S. deportation policies on immigrant families and communities: cross-border perspectives. Panel 3: Families and global migration. *North Carolina Law Review*, 88(5), 1799–1824. <http://scholarship.law.unc.edu/nclr/vol88/iss5/12>
- Hagan, J., & Phillips, S. (2008). Border blunders: the unanticipated human and economic costs of the U.S. approach to immigration control, 1986–2007 immigration, crime, and recidivism: Policy essay. *Criminology and Public Policy*, 7(1), 83–94. <https://doi.org/10.1111/j.1745-9133.2008.00492.x>
- Hooghe, M., & Dassonneville, R. (2018). Explaining the Trump vote: the effect of racist resentment and anti-immigrant sentiments. *Political Science & Politics*, 51(3), 528–534. <https://doi.org/10.1017/S1049096518000367>
- Hu, M. (2017). Crimmigration-counterterrorism. *Wisconsin Law Review*, 17, 955. <https://scholarlycommons.law.wlu.edu/wlufac/551/>
- Huennekens, P. (2018). DOJ: 26% of federal prisoners are aliens. *Center for Immigration Studies*. <https://cis.org/Huennekens/DOJ-26-Federal-Prisoners-Are-Aliens>
- Inglehart, R. F., & Norris, P. (2016). Trump, Brexit, and the rise of populism: economic have-nots and cultural backlash (SSRN Scholarly Paper ID 2818659). *Social Science Research Network*. <https://doi.org/10.2139/ssrn.2818659>
- Jackson, L. M., & Esses, V. M. (2000). Effects of perceived economic competition on people's willingness to help empower immigrants. *Group Processes & Intergroup Relations*, 3(4), 419–435. <https://doi.org/10.1177/1368430200003004006>
- Johnson, D. M. (2001). The AEDPA and the IIRIRA: treating misdemeanors as felonies for immigration purposes legislative reform. *Journal of Legislation*, 27(2), 477–492.
- Johnson, K. (2015). A cost-benefit analysis of the federal prosecution of immigration crimes. *Denver University Law Review*, 92(4), 863–878. <https://ssrn.com/abstract=2656568>
- Jordan, M. (2012). Fresh raids target illegal hiring. *Wall Street Journal*, <https://www.wsj.com/articles/SB10001424052702304868004577378042369495780>
- Kunovich, R. M. (2013). Labor market competition and anti-immigrant sentiment: occupations as contexts. *International Migration Review*, 47(3), 643–685. <https://doi.org/10.1111/imre.12046>
- Kurz, J. J., & Berry, D. T. (2015). Normalizing racism: vigilantism, border security and neo-racist assemblages. *Security Journal*, 28(2), 150–164. <https://doi.org/10.17613/M61W4X>
- Knowles, E. D., & Tropp, L. R. (2018). The racial and economic context of trump support: evidence for threat, identity, and contact effects in the 2016 presidential election. *Social Psychological and Personality Science*, 9(3), 275–284. <https://doi.org/10.1177/1948550618759326>
- LADB Staff (2008). U.S. farmers transfer some operations to Mexico to find cheap labor. University of New Mexico. <https://digitalrepository.unm.edu/sourcemex/5188>
- Landau-Wells, M. (2017). Threat perception and immigration reform in the United States. MIT Center for International Studies Spring 2017 Newsletter
- Langhout, R., Buckingham, S., Oberoi, A., Chavez, N., Rusch, D., Esposito, F., & Suarez-Balcazar, Y. (2018). Statement on the effects of deportation and forced separation on immigrants, their families, and communities. *American Journal of Community Psychology*, 62(1–2), 3–12. <https://doi.org/10.1002/ajcp.12256>
- Mangum, M. (2019). Revisiting economic threat and cultural concerns: public opinion toward immigration and non-citizens by race. *Social Science Research*, 83, 102309. <https://doi.org/10.1016/j.ssresearch.2019.05.002>
- Martin, P., & Calvin, L. (2010). Immigration reform: what does it mean for agriculture and rural America? *Applied Economic Perspectives and Policy*, 32(2), 232–253. <https://doi.org/10.1093/aep/ppq006>

- Matter of A-B-, 27 I&N Dec. 316 (A.G. 2018). (2018). 31.
- Mayblin, L. (2017). Asylum after empire: colonial legacies in the politics of asylum seeking. Rowman and Littlefield International.
- Mols, F., & Jetten, J. (2016). Explaining the appeal of populist right-wing parties in times of economic prosperity. *Political Psychology*, 37(2), 275–292. <https://doi.org/10.1111/pops.12258>
- Ortega, D. M., & Lasch, C. N. (2014). Crimmigration and detainees: an opportunity for feminist praxis. *Affilia*, 29(3), 257–260. <https://doi.org/10.1177/0886109914541120>
- Perry, L. (2016). Inaugurating neoliberal crimmigration. NYU Press.
- Preston, J. (2007). Farmers call crackdown on illegal workers unfair. *New York Times*, 3.
- Sessions, J. (2017). Attorney General Jeff Sessions delivers remarks announcing the department of justice's renewed commitment to criminal immigration enforcement. United States Department of Justice. <https://www.justice.gov/opa/speech/attorney-general-jeff-sessions-delivers-remarks-announcing-department-justice-s-renewed>
- Saadi, A., De Trinidad Young, M.-E., Patler, C., Estrada, J. L., & Venters, H. (2020). Understanding US immigration detention: reaffirming rights and addressing social-structural determinants of health. *Health and Human Rights*, 22(1), 187–197. <https://pubmed.ncbi.nlm.nih.gov/32669800/>
- Shahani, A., & Greene, J. (2009). Local democracy on ICE: why state and local governments have no business in federal immigration law enforcement. Report. Justice Strategies, Brooklyn, N.Y. <http://www.justicestrategies.org/sites/default/files/JS-Democracy-On-Ice.pdf>.
- Stumpf, J. (2006). The crimmigration crisis: immigrants, crime, and sovereign power. *American University Law Review*, 56(2), 367–420.
- Stumpf, J. (2013). The process is the punishment in crimmigration law. In Aas, K. F., & Bosworth, M. (Editors). *The Borders of Punishment: Migration, Citizenship, and Social Exclusion*. Oxford University Press, Incorporated.
- Terp, S., Ahmed, S., Burner, E., Ross, M., Grassini, M., Fischer, B., & Parmar, P. (2021). Deaths in immigration and customs enforcement (ICE) detention: FY2018–2020. *AIMS Public Health*, 8(1), 81–89. <https://doi.org/10.3934/publichealth.2021006>
- TRAC (2020) News from TRAC: Public charge law is rarely used to deport immigrants—is that about to change? <https://trac.syr.edu/whatsnew/email.200228.html>
- United States. (1795) Naturalization Act of 1795. <https://govtrackus.s3.amazonaws.com/legislink/pdf/stat/1/STATUTE-1-Pg414a.pdf>
- U.S. Immigration and Customs Enforcement. (2020). U.S. Immigration and Customs Enforcement Fiscal Year 2019 Enforcement and Removal Operations Report. U.S. Immigration and Customs Enforcement. <https://www.ice.gov/sites/default/files/documents/Document/2019/eroReportFY2019.pdf>
- UNHCR Statistics team, FICCS, & Scott, P. (2018). Refugees statistics—are refugee numbers the highest ever? UNHCR Blog. <https://www.unhcr.org/blogs/statistics-refugee-numbers-highest-ever/>
- van Berlo, P. (2015). Australia's operation sovereign borders: discourse, power, and policy from a crimmigration perspective: *Refugee Survey Quarterly*, 34(4), 75–104. <https://doi.org/10.1093/rsq/hdv0>
- Zayas, L. (2015). *Forgotten citizens: deportation, children, and the making of American exiles and orphans*. Oxford University Press.

**Publisher's Note** Springer Nature remains neutral with regard to jurisdictional claims in published maps and institutional affiliations.