

# Center for American Progress



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Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International  
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Vibrant Economy Act of 2007 (STRIVE Act)”  
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When marchers took to the streets this past year in support of immigrant rights and the passage of comprehensive immigration reform in cities and towns across the U.S., the images hearkened back to the Civil Rights Movement and the struggle more than a half century ago against prejudice and discrimination. Those protests, of course, culminated in the civil rights laws of today, which is why the current struggle against intolerance among opponents of comprehensive immigration reform is very much an outgrowth of the Civil Rights Movement.

In fact, the struggle for immigrant rights and civil rights are as intertwined today as they have been at any time in the history of the United States. We stand tall as a nation by welcoming to our shore more immigrants seeking a better way of life than any other country in the world. The welcoming torch of the Statute of Liberty, which beckoned more than a century ago to “huddled masses yearning to be free,” or the U.S. government motto *E Pluribus Unum*. “Out of Many, One,” are more than symbols of our nation. They embody the fundamental principles of our democracy.

When we have honored these principles in the past our immigration laws have reflected the best America has to offer. But too often that generosity was in conflict with our domestic struggle with race—and our immigration policies were tainted with the same stains of discrimination and intolerance that divided the nation. For almost a century beginning in the 1880s, U.S. immigration laws excluded or significantly limited groups of ethnic and racial minorities from entering the U.S.

The Chinese Exclusion Act of 1882 marked the start of rising racial intolerance in our immigration laws by prohibiting the entry of Chinese immigrants. The 1921 Emergency Quota Act significantly restricted immigration from Southern and Eastern Europe and developing countries based on population quotas, and excluded the immigration of East Asian and Asian Indians. The Immigration Act of 1924 further limited immigration based on population quotas and further prohibited the immigration of Asians to the U.S. The Acts of 1921 and 1924 combined also placed significant limitations on immigration of Africans to the U.S.

These increasingly restrictive immigration laws projected to the world increasingly intolerable conditions for ethnic and racial minorities in the U.S. who shared a common

heritage with the disfavored immigrant groups. Hostility towards Chinese workers was rampant from the late 19<sup>th</sup> century through the early 20<sup>th</sup> century. And in the 1923 case of *U.S. v. Bhagat Singh Thind*, the Supreme Court prohibited Asian Indians from becoming naturalized citizens because U.S. law limited naturalized citizenship to free whites.

Almost twenty years later, Executive Order 9066 in 1942 authorized the removal of over 100,000 persons of Japanese descent to internment camps from 1942 to 1945, two thirds of whom were U.S. citizens. Discrimination against Mexican Americans in the 1930s and 1940s was defined by repatriation campaigns that forced numerous immigrants back to Mexico. Added to this litany were the lingering indignities of slavery that left African Americans segregated and subjected to brutal Jim Crow laws and the harsh, historic mistreatment of indigenous Americans.

The 1960s represented a historic turning point that forever linked the fates of ethnic and racial minorities in the U.S. regardless of immigration status. Heavily influenced by the fight for racial justice and equal opportunity represented by the Civil Rights Movement, Congress passed the Immigration and Nationality Act Amendments of 1965, which eliminated the national origins quota system and racial exclusions that previously had barred many ethnic minorities from immigrating to the U.S. This new law became the third great pillar of civil rights laws of that era, joining the Civil Rights Act of 1964 and the Voting Rights Act of 1965 as beacons of freedom to the world and realizing America's founding principles.

The Immigration Act of 1965 would have a profound impact in shaping a more racially and ethnically diverse future for the United States. With the elimination of race-based categories for admission into the U.S., people of color now make up the majority of the approximately 24 million legal immigrants in the U.S. today. The growing diversity has reached every state and metropolitan area in the nation, and the Census projects the United States will become a "majority minority" country by 2060 largely based on this growth.

But as our immigration patterns have shifted to reflect the elimination of racial and ethnic barriers and the demands of a globalized economy, U.S. immigration laws have not been modernized to address these trends. One result has been the growth of a significant undocumented immigrant population estimated at 12 million. As a result, we have witnessed the resurfacing of historic hostilities towards immigrants and efforts to once again legislate intolerance and discrimination into our immigration laws.

If this effort prevails and Congress fails to pass comprehensive immigration reform such as the STRIVE Act, the implications could be far reaching. The choice before us is one that would either define our society as clinging to the past in fear of changing demographics or as one prepared to take a progressive step forward towards a society rooted in the principles of racial equality and justice that has marked our progress since the 1960s.

We are once again at a historic crossroads and the path we choose to take could have as profound an impact on our future as the Civil Rights Movement. Congressional inaction

has already led to a patchwork of state and local anti-immigrant actions. Recent examples of such efforts—estimated to number at more than one hundred—provide few answers to the problems posed by undocumented immigration and our broken immigration system and raise more questions and concerns about the safety and security of immigrant communities amid the specter of civil rights violations.

The first case in point is Hazelton, Pa., which was in the forefront in enacting a local ordinance in 2006 that broadly defined “illegal aliens” to include lawful residents and naturalized citizens. The ordinance imposed a \$1,000 fine on landlord's who rented to illegal immigrants, leveled a five-year ban on businesses that hired undocumented workers, and designated Hazelton as an “English-only” city. The measure divided the city and created a hostile environment that threatened immigrant residents and Latino citizens alike.

In a legal challenge by local immigrants and business owners represented by civil rights advocates, a federal district court recently ruled the Hazelton ordinance unconstitutional. In ruling that the ordinance violated the U.S. Constitution's Supremacy Clause by overriding exclusive federal power over immigration, the due process rights of business owners and the First Amendment rights of Hazelton residents to free speech, Judge James M. Munley wrote:

*We cannot say clearly enough that persons who enter this country without legal authorization are not stripped immediately of all their rights because of this single act ... The United States Supreme Court has consistently interpreted [the 14<sup>th</sup> Amendment] to apply to all people present in the United States, whether they were born here, immigrated here through legal means, or violated federal law to enter the country.*

But the court's strong decision in the Hazelton case has not deterred other localities, such as Prince William County, Virginia, which recently passed an ordinance that would deny undocumented immigrants access to a broad range of public benefits that extend beyond existing federal prohibitions. In a similar vein, state and local law enforcement have sought to fill the breach left by federal inaction by enforcing federal civil immigration laws in an uncoordinated and consequently haphazard manner.

Since the terrorist attacks of 9/11, there have been efforts by Department of Justice and the Department of Homeland Security to extend the reach of state and local police to play a more active role in enforcing U.S. immigration laws—a role that some states and localities have embraced, but others have rejected. These efforts contradict a history of enforcement of U.S. immigration laws that has been the exclusive province of federal law enforcement, with assistance by state and local law enforcement on criminal matters.

Essentially deputizing state and local police officers as immigration agents creates an inherent conflict with the public safety responsibilities of state and local law enforcement by fostering hostilities within immigrant communities—both legal and illegal—and by wrongly identifying ethnic minority citizens as immigrants. Anyone who views state and local police as hostile agents of deportation is far less likely to report abuse and other

criminal activities in their communities. In addition, much like the state and local anti-immigrant ordinances, enlisting state and local police as immigration officers encourages racial profiling and other civil rights violations.

Today, the link between immigrant rights and civil rights could not be more apparent. Supporters of comprehensive immigration reform, including supporters of the STRIVE Act, seek to restore a basic sense of justice and fairness to our immigration policy and recognize the common humanity of all the residents of the United States regardless of their immigration status.

Public opinion polls and the most recent congressional elections show that Americans overwhelmingly support tough but fair immigration reform. We as a people still believe in the principles that defined our fight for civil rights and the principles that have defined our American democracy. Congress should honor those principles by passing comprehensive immigration reform.