

WOMEN'S MARCH ON THE PENTAGON

Militant Stand Against U.S. Wars and for Rights

The Women's March on the Pentagon brought together more than 1,000 women from across the country to demand an end to U.S. wars and to defend rights abroad and at home. The two-day event included workshops

on Saturday, October 20 and a march on the pentagon on Sunday, October 21. The workshops included organizing independent media and what is necessary for that; songs of resistance present

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REMOVE ALL TROOPS FROM THE BORDER NOW

Security Lies in Our Fight for the Rights of All

President Trump has ordered at least 5,200 active duty troops to the southern border with Mexico. These are in addition to the 2,092 National Guards already there. According to the Pentagon the

deployment includes 2,800 active-duty troops in Texas, 1,500 in Arizona, and 1,300 in California with fewer numbers to be sent to New Mexico. The Pentagon said the number of

Security Lies in Fight for Rights • 8



2018 MID-TERM ELECTIONS

Advance Discussion on the Struggle for Empowerment

The mid-term elections are over and everyone is being inundated with data and monopoly media materials focused on the vote — how various sectors voted, “red” and “blue” waves, and so forth. This starting point is not useful to the majority,

and their anti-war, pro-social concerns. Indeed, it is used to divert from these concerns and more generally from the ongoing struggle for empowerment of the people and a democracy where we decide. This is done in part by efforts

Reject Police State • 4

November edition of **Voice of Revolution**

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and past and working together to further develop the cultural front; and on women's self-defense and organizing in communities to defend rights. The U.S. war against Yemen, using Saudi Arabia as its agent, was also addressed. Discussion brought out that the main reasons for attacking a small country like Yemen are its determined history of resistance, organizing to chart its own path alongside its firm support for Palestine. Dozens of people participated, including some veterans of the 1967 March on the Pentagon.

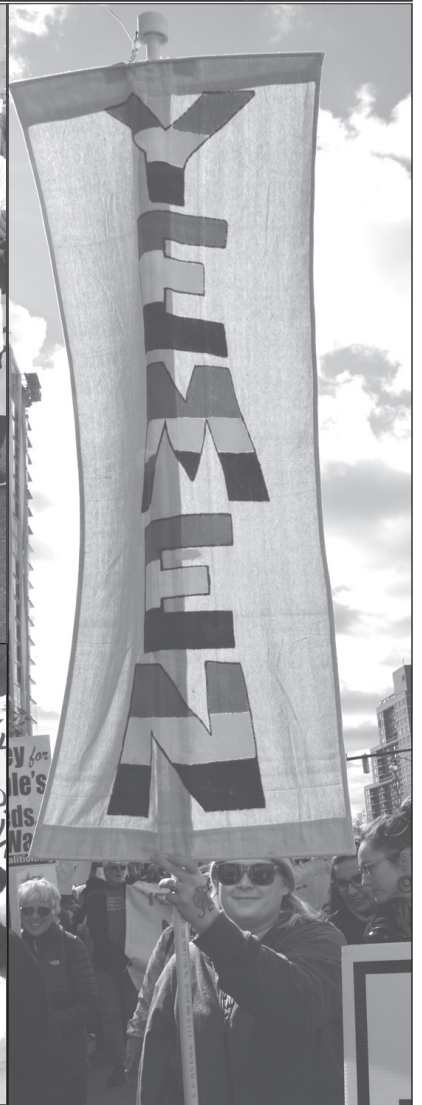
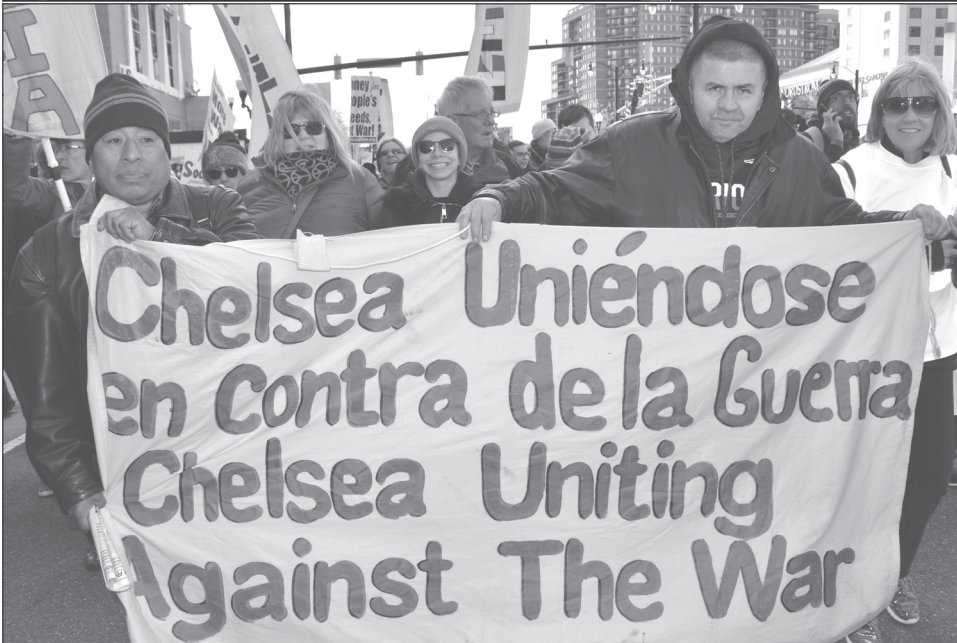
On Sunday, October 21 a diverse crowd of mainly women, with many youth, gathered to march and rally. The march started from a nearby metro (train) stop and continued for more than an hour in cold weather to the Pentagon. The action included many veterans and organizations active on various fronts. The spirit was militant, with chants and songs demanding *Troops Home Now! Not Tomorrow!* Participants were united in making their demands to end U.S. wars and to not rely on the politicians of the rich, who sustain a war government and fund a war economy. The action served to put the issue of war and peace on the election agenda while also bringing to the fore that the broad majority have an interest in standing against the war machine and in developing a democracy where their anti-war stand is implemented.

Voice of Revolution was widely distributed at the march and

its call was welcomed by many: *For an Anti-war Government, a Peace Economy and a Democracy Where We Decide!* This content was also raised at the open Mic night on Saturday, as an aim for all to consider, as a means to unite and strengthen the movements of the people against war and for rights. One of the difficulties all are contending with now is the pressure to be reactive to the government, to Trump, to the monopoly media. What is needed is to be pro-active, working together for definite aims of what we are for. Organizing efforts need to include discussion together on common aims, so we can forge a new direction and not remain stuck in the old, the old tactics, the old way of looking at the situation — which starts from the perspective of the rich and the perspective that we the people have the role to pressure the rich and their politicians — but not to be the decision makers ourselves. Starting from the perspective of the people means recognizing that political power is required and organizing today to be decision makers, to advance our fight for empowerment is crucial. It is not enough to speak truth to power, or to confront the power — it is necessary to be the power, to be the decision makers in all the affairs that impact our lives. The call to organize *For an Anti-war Government, a Peace Economy and a Democracy Where We Decide!* embraces this direction. *Voice of Revolution* urges all to take it up for discussion as a common aim to unite and advance the movements against war and for rights.

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WOMEN'S MARCH ON THE PENTAGON



ORGANIZE FOR AN ANTI-WAR GOVERNMENT



Press Communiqué of the First International Conference Against US/NATO Foreign Military Bases

The first International Conference against U.S./NATO Military Bases was held on November 16-18, at the Liberty Hall in Dublin, Ireland. The conference was attended by close to 300 participants from over thirty-five countries from around the world. Speakers representing countries from all continents, including Cuba, Argentina, Brazil, Colombia, United States, Italy, Germany, Portugal, Greece, Britain, Ireland, Cyprus, Turkey, Poland, Czech Republic, Israel, Palestine, Kenya, Democratic Republic of the Congo, Japan and Australia, made presentations at the conference.

This conference was the first organized effort by the newly formed Global Campaign Against U.S./NATO Military Bases, created by over 35 peace, justice and environmental organizations and endorsed by over 700 other organizations and activists from around the world. What brought all of us together in this International Conference was our agreement with the principles outlined in the Global Campaign's Unity Statement, which was endorsed by the Conference participants (see below).

The participants in the Conference heard from and shared with representatives of organizations and movements struggling for the abolition of foreign military bases from around the world about the aggressions, interventions, death, destruction, and the health and environmental damages that the military bases have been causing for all of humanity, along with the threats and violation to the sovereignty of the "host" countries.

The participants and organizers of the conference agreed as a matter of principle that while they oppose all foreign military bases, they consider the close to 1,000 U.S./NATO military bases established throughout the world, which constitute the main pillars of global imperialist domination by the U.S., NATO and European Union (EU) states, as the main threat to peace and humanity, and must all be closed. The NATO states' military bases are the military expression of imperialist intervention in the lives of sovereign countries on behalf of the dominant, financial, political, and military interests, for the control of energy resources, transport roads, markets and spheres of influence, in clear violation of international law and the United Nations Charter.

The participants in the Conference call upon the organizations and movements who agree on the above to work closely with each other in a coordinated manner as a part of the Global Campaign to organize and mobilize the public around



the world against US/NATO military bases.

While we call for the closure of all US/NATO military bases, we consider the closure of bases and military installations in certain countries and areas as needing special attention by the international movement. These, for example, include the U.S. Guantánamo base in Cuba, the U.S. bases in Okinawa and South Korea, the U.S. Base in Rammstein/Germany, Serbia, the old and new US/NATO bases in Greece and Cyprus, the establishment of the new U.S. African Command (AFRICOM) with its affiliated military bases in Africa, the numerous NATO bases in Italy and Scandinavia, the Shannon airport in Ireland, which is being used as a military base by the U.S. and NATO, and the newly established bases by the United States, France and their allies on and around Syrian soil.

In order to continue our joint Global Campaign in solidarity with the just causes of the peoples in their struggle against foreign military aggression, occupation and interference in their internal affairs, and the devastating environmental and health impacts of these bases, the participants agreed to recommend and to support coordinated actions and initiatives in the coming year (2019) that shall strengthen the global movement and expand the actions and cooperation as it moves forward.

As a step toward this goal, the conference supports the global mass mobilizations against NATO's 70th anniversary Summit in Washington DC, on April 4, 2019 and respective protests in the NATO member states and worldwide.

We declare our solidarity with the Cuban people's decades-long efforts to take back their Guantánamo territory, illegally occupied by the United States, and declare our support for the Sixth International Seminar for Peace and the Abolition of Foreign Military Bases, organized by MOVPAZ for May 4-6, 2019, in Guantánamo, Cuba.

The participants express their most sincere thanks and gratitude to the Peace and Neutrality Alliance (PANA) Ireland, for their generous hospitality and support in hosting this historic Conference.

Adopted by the participants at the
First International Conference Against U.S./NATO Military Bases
November 18, 2018
Dublin, Ireland

Unity Statement of the Global Campaign to Close All U.S./NATO Bases

We, the undersigned peace, justice and environmental organizations and individuals from around the world, endorse the following Statement of Unity and commit ourselves to working together in a broad-based international campaign to organize an International Conference Against all US/NATO Military Bases, with the goal of raising public awareness and organizing non-violent mass resistance throughout the world against all U.S., North Atlantic Treaty Organization (NATO) and European Union (EU) military bases, and their military missions around the world.

While we may have our differences on other issues, we all agree that US/NATO military bases are the principal instruments of imperial global domination and primary causes of devastating environmental and health impacts through wars of aggression and occupation, and that the closure of the US/NATO military bases is one of the first necessary steps toward a just, peaceful and sustainable world. Our belief in the urgency of this necessary step is based on the following facts:

While we are opposed to all foreign military bases, we do recognize that the United States maintains the highest number of military bases outside its territory, estimated at almost 1000 (95% of all foreign military bases in the world). Presently, there are US military bases in every Persian Gulf country except Iran.

In addition, the United States alone has 19 Naval air carriers (and 15 more planned), each as part of a Carrier Strike Group, composed of roughly 7,500 personnel, and a carrier air wing of 65 to 70 aircraft — each of which can be considered a floating military base.

These bases are centers of aggressive military actions, threats of political and economic expansion, sabotage and espionage, and crimes against local populations. In addition, these military bases are the largest users of fossil fuel in the world, heavily contributing to environmental degradation.

The annual cost of these bases to US taxpayers alone is approximately \$156 billion. The cost of these military bases drains funds that can be used to fund human needs and enable our countries to provide necessary services for the people.

NATO, as the armed wing of the United States and the European Union, is expanding further to the east to safeguard its control of energy resources and pipelines, spheres of influence and markets for the sake of big capital and the transnational corporations. The European Union, in particular, is advancing alone and/or with NATO to further its militarization with the Permanent Structural Cooperation (PESCO) and its powerful EU army.

All governments of the member states of NATO bear direct individual responsibility for NATO's aggressive policies, and the increase of their military budgets to 2% of their Gross Domestic Product (GDP) while their people are suffering under severe austerity measures and the economic crisis caused by their militaristic policies.

All of this has pushed the world toward ever-increasing increasing militarization, and to ever-deepening antagonism between



the U.S. and its NATO allies, on the one hand, and the rest of the world, on the other. Stationed throughout the world, almost 1000 in number, US/NATO military bases are symbols of the ability of the United States to intrude in the lives of sovereign nations and peoples.

Many individual national movements — for example, in Okinawa, Italy, Jeju Island Korea, Diego Garcia, Cyprus, Greece, Serbia, Spain, Ghana, Czech Republic and Germany — are demanding closure of the US/NATO bases on their territory. The base that the U.S. has illegally occupied the longest, for over a century, is Guantánamo Bay, whose existence constitutes a violation of International Law and the Cuban people's right to sovereignty. Since 1959 the government and people of Cuba have demanded that the government of the United States return the Guantánamo territory to Cuba.

The NATO states' military bases in other countries are NOT in defense of their national, or global security. They are the military expression of imperialist intrusion in the lives of sovereign countries on behalf of the dominant financial, political, and military interests of the ruling elite. Whether invited in or not by domestic interests that have agreed to be junior partners, no country, no peoples, no government, can claim to be able to make decisions totally in the interest of their people, with foreign troops on their soil representing interests antagonistic to those of their peoples.

We express our solidarity with the just causes of the peoples in their struggle against foreign military aggression, occupation and interference in their internal affairs, and their devastating environmental and health impacts, and for a world of real peace and social and environmental justice.

We must all unite to actively oppose the existence of all U.S./NATO military bases on foreign soil and call for their immediate closure. We invite all forces of peace, social and environmental justice to join us in our renewed global effort to achieve this shared goal.

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additional troops could reach 7,000, meaning more than 9,000 will be on the border including the National Guard. Though troops will be working all along the border, most are stationed on bases near population centers like El Paso, Texas and San Diego, California. Already, port of entry areas and small border towns have large numbers of military vehicles, barbed-wire fences topped with razor wire and armed military patrolling.

The armed troops will engage in what the military calls “large-scale mass trainings on use of force.” The military is providing Customs and Border Protection (CBP) with reconnaissance, intelligence and helicopters with night-vision capabilities and sensors. They will also provide CBP agents with more military equipment like riot shields, tactical shin guards, three-foot extendable batons, and an assortment of “less-lethal” ammunition. The operation is under the command of General Terrence O’Shaughnessy, the head of Northern Command, which is responsible for the U.S., Canada and Mexico.

It is significant that these are active duty troops and not more National Guard. Use of the National Guard commonly requires the consent of the governor from the state involved. Active-duty military does not and is completely under the command of the Pentagon, including numbers, length of deployment and rules for use of force.

Such a large deployment is hardly necessary for the few thousand women, children (at least one third of the caravan) and men arriving unarmed, traveling thousands of miles mostly on foot, seeking asylum in the U.S. Rather, the military occupation and live military exercise inside the country is aimed largely at the peoples of the U.S. and Mexico, getting them used to and making it acceptable for the military to be present and active in large numbers. It also brings CBP, state, county and local law enforcement officials under military command. Such unified command is required in conditions where conflicts among these contending authorities with the federal government is increasing, especially in sanctuary states like California. It is also needed if the president uses what he has termed an “invasion,” to justify not only troops but martial law.

The military is not supposed to be used for policing and detention of any non-military person inside the U.S. This stems from the Civil War and Reconstruction era Posse Comitatus law (1878), which prohibits U.S. military forces from performing the tasks of civilian law enforcement such as arrest, apprehension, interrogation, and detention unless explicitly authorized by Congress.

The Pentagon insists the role of the troops is only in “support” and not enforcement. The peoples of Mexico, Colombia, Honduras, El Salvador and Guatemala, to name a few, are well-familiar with the U.S. military acting in a “support” capacity. It means the U.S. military takes command, is commonly involved in detentions, interrogations and armed confrontations, with little regard for the laws and authority of the given country. It is likely this deployment will be no different, with military and CBP together acting with impunity

against the peoples both sides of the border and with little regard for state and local authorities.

Troops and Concentration Camps

At the same time that Trump is deploying the military, he has also ordered the Pentagon to develop detention camps to hold 200,000 people to start — again a number far larger than the unarmed refugees arriving at the border and seeking asylum. These concentration camps are planned for Fort Bliss and Goodfellow and Dyess Air Force bases in Texas and no doubt all the equipment being provided now will remain for such purposes, both by the military and CBP. They are also planned for locations in California and Arizona, where troops are deployed, as well as Alabama and Arkansas. While, like the troops, Trump claims the camps are for immigrants and refugees, just the numbers alone indicate that the future plan is for anyone the executive deems a “threat to national security.” If poor, unarmed families arriving mainly on foot can be called an “invasion” and a threat “to the national interest” as Trump proclaimed, certainly striking workers, anti-war protesters, water protectors and other environmental organizers, and others defending rights can be branded as such.

Broadening Police Powers

Use of the military inside the country, concentration camps, barring asylum seekers, arbitrary detentions and separating families are examples of the broadening use of police powers by the executive. The actions are openly illegal and taken with impunity. Plans to use executive orders to eliminate birthright citizenship would be one more example — while clearly illegal, the executive can use police powers to implement it, just as is occurring with the illegal detentions and family separations. These actions carry on despite court rulings.

The Office of the President is using police powers at home and abroad to further usurp and concentrate power in the hands of the executive so as to deprive the people of power and rights. It is this government of police powers that is the danger. The current use of the military, CBP, Immigration and Customs Enforcement (ICE) are evidence of this — and all their actions have only increased the insecurity of the peoples, here and abroad.

The solution lies in stepping up the fight for the rights of all, abroad and at home. The organizing by military veterans to encourage current troops to refuse the orders to man concentration camps and attack refugees, the many immigrant and refugee rights organizations both sides of the border defending rights, the anti-war organizing that stands as one with the peoples fighting for peace and justice, are contributing to a more secure world. Let all join in stepping up the fight for empowerment and rights!

*Remove All Troops from the Border NOW!
Our Security Lies in Our Fight for the Rights of All!*

Refuse Illegal Orders to Build and Man Concentration Camps

Courage to Resist

This summer, what might have been the defining low point of previous administrations, was simply the outrage of the moment: A plan to have the military host massive concentration camps of upward of 200,000 immigrant detainees across the United States.

These camps do not appear to be going up as quickly nor on such a massive scale as first announced (quite possibly due to the resistance on many levels), but they do appear to be moving forward. On the Texas border at Tornillo Port of Entry, a tent city that first detained a couple hundred children a few months ago will hold nearly 4,000 kids by the end of the year.

Few people actually join the military to travel to distant lands to kill people. Fewer still join to help run concentration camps. Under both U.S. and international law, military personnel have a moral and legal obligation to refuse to comply with any order that involves collaboration with these camps, but unfortunately few are aware of this fact.

That is why we need your help. Together, we are going to launch a strategically targeted communications project to reach service members across the country with this message:

- These camps are illegal and immoral.
- You have a responsibility to refuse and expose these orders.
- Direct military resistance is powerful.

Our initial goal is to raise \$20,000 to spend approximately one penny per member of the U.S. military with this challenge. Of course, we believe that service members deserve two cents worth of encouragement if we can raise \$40,000!

Just the idea of these massive military-hosted immigrant detention camps brings back memories of the forced relocation and incarceration of 120,000 Japanese Americans during World War II. Many of us thought something like that could never happen again, and yet, here we are. Along with everything else you can do to resist this affront to humanity, please support our challenge to military personnel to refuse these illegal orders.

Potential Pentagon Plans for Concentration Camps

Actual concentration camps are in the process of development at military bases across the Southern United States. [The numbers planned, close to 200,000, are far beyond the numbers of refugees and immigrants entering the country. It is an indication that the camps are designed for all deemed a “threat to national security” by the government — VOR Ed.]



Note] Potential locations have been identified by military or Pentagon personnel as:

- Tornillo Port of Entry, Texas – capacity 4,000 teenagers (Already in use and being expanded to 4,000 capacity by the end of the year)
- Goodfellow Air Force Base, Texas – capacity 45,000
- Fort Bliss, Texas
- Dyess Air Force Base, Texas
- Little Rock Air Force Base, Arkansas – capacity 20,000
- Camp Pendleton Marine Corps Air Station, California – capacity 47,000
- Navy Outlying Field Wolf and Silverhill, Alabama – capacity 25,000
- Yuma Marine Corps Air Station, Arizona
- Concord Naval Weapons Station, California – capacity 47,000 (Opposition by local community and officials brought a cancellation for this camp, at least for now)

This is not the first time in U.S. history that facilities are being constructed and used to imprison large numbers of a persecuted minority in a relatively small area with inadequate facilities (the definition of a concentration camp). Previous examples of this are now infamous, such as the internment camps of Japanese Americans.

Military officials, in response to pressured deadlines from the White House, have stated that these camps can begin to be operational by mid-August. Estimates are that capacity for another 10,000 people can be added each month. The White House’s stated timeline of 45 days out from June 27 has local base commanders scrambling and caught unaware. [The camps are being built at a slower rate but expansion plans remain — VOR Ed. Note]

In addition to providing the land, military personnel will construct the camps while private agencies will manage the operations. While this simplified explanation of operations seeks

to minimize the military's role, it omits the endless capacities in which the armed forces will surely be facilitating the functioning of these camps such as with water, electricity, sewage, trash, and all of the other services that go with sustaining tens of thousands of immigrant detainees.

Additional operational problems include the difficulty of housing persons in restricted access bases who legally need access to immigration and civil-liberties lawyers, secure areas to discuss their cases, as well as access for advocates, relatives, news media and political activists. Another issue is the lack of state licensing requirements, such as health and building codes, which military locations enable the government to avoid.

The Pentagon confirmed that it was indeed working with the Department of Homeland Security (DHS) to construct these camps, [but it remains unclear if there is a] Memorandum of Understanding with either DHS or Health and Human Services (HHS). A memorandum would clearly delineate the roles and responsibilities of all parties. To move forward with construction plans without one, nor any clear legal guidance, certainly leads military personnel into dangerous waters for themselves.

The military is strictly prohibited from domestic policing yet military personnel are being drafted into doing just that with this rising domestic enforcement of immigration policy. Just because Trump/Sessions Co. declares a war on immigrants, does not make it an actual war. Being quite clearly an illegal order, the question is who will refuse to aid and abet?



Concord residents rally to oppose detention camp

The Trump administration's reckless leadership is currently putting military personnel in danger of running afoul of the law. While military personnel at all levels have a responsibility to refuse to participate in facilitating these camps, commanders in particular are at a particularly high risk in complying with these orders due to the precedent of the Nuremberg prosecution of those who aided and abetted Nazi leadership.

Already the construction of one camp has been abandoned due to people's refusal to look the other way. The proposed use of the Concord Naval Weapons Station experienced significant resistance and outcry from the community and local officials who opposed the plan

once it was exposed in July via a leaked Navy memo. DHS soon thereafter announced they would no longer build a concentration camp at this location. To follow that up the Contra Costa Sheriff's Department announced it is canceling its contract with ICE which facilitated the local county jails holding ICE-detained persons for a lucrative fee. These human rights victories have been happening in other communities as well including Sacramento County. [...]

There are discussions and calls right now for counties to cease partnering with ICE, for communities surrounding military bases to refuse to work on the bases which will hold tens of thousands of people for the "crime" of seeking refuge.

Courage to Resist believes that all military personnel have a moral and legal obligation to refuse to comply with any order that involves collaboration with these immigrant concentration camps.

Veterans For Peace Say: No Troops on the Border!

Veterans For Peace strongly condemns the recent announcement that up to 15,000 active duty military personnel may be sent to the U.S. southern border. These troops will join the additional National Guard units that were sent last year, increasing the militarization of our borders at an alarming rate. Our immigration laws and enforcement tactics have long been at a crisis point and we are now witnessing an even more draconian surge in the use of force to prop up failed policies.

Veterans For Peace calls on all our members and all veterans who see the inhumanity and injustice of the current policies to call their Congressional Representative and Senators to demand the military be pulled back from the border and that the members of the approaching caravan be treated with dignity and processed according to international humanitarian standards as refugees. We call on all service members participating in the border deployment to follow the long American tradition of

listening to their conscience and remember that they have no obligation to follow illegal orders. (For questions on military rights, contact the GI Rights Hotline (1-877-447-4487) or Courage to Resist.)

The U.S. government, instead of welcoming the approaching refugees, the majority of whom will seek asylum under completely legal processes, is treating individuals and families fleeing to the U.S. as if they are "terrorists" (even when "counterterrorism" officials within the administration are stating that no such people exist within the caravan). The majority of these refugees are fleeing from violence in Honduras and a political situation U.S. actions have made worse.

The U.S. government's claims that active duty troops are providing only innocuous support services are misleading. This is the introduction of U.S. military force as a deterrent to those who are pursuing their rights as asylum seekers fleeing from

extreme poverty and violence in their homelands, much of it due to U.S. policies. The U.S. is required under international humanitarian standards to welcome those seeking refuge.

Veterans For Peace recognizes that these orders did not happen in a vacuum, but represent a long history over several administrations of racist and violent policies that has perpetuated U.S. wars across the world and horrific domestic policies that created Immigration and Customs Enforcement (ICE), massive immigration detention centers and a wall that already splits towns and separates friends and families. However, the Trump administration has escalated, at an alarming pace, the implementation of new dangerous measures. [...]

Veterans For Peace is not only concerned about the safety of individuals and families fleeing violence and the increased militarization of the border but we are extremely concerned about the continued disregard of federal law. Federal law, namely the *Posse Comitatus Act*, prohibits the deployment of active duty troops on domestic soil and the U.S. Government continues to ignore laws in favor of increasing militarization of U.S. domestic policy.

As military veterans from WWII to the current era of conflicts, who have trained for, and in many cases, fought in U.S. wars, we know that current U.S. policies have not only failed to bring peace but are morally bankrupt and we do not believe that more



military at the border is rooted in justice or compassion.

It is more important than ever that veterans stand up, speak out and organize to disrupt the dangerous escalation of racist and unjust policies, both at home and abroad. We, as veterans, know that peace is possible, but only if resources are directed towards caring for one another, not perpetuating militarization across the globe. [Veterans for Peace members are currently spreading out along the border to urge troops to refuse the orders and to assist those that do — VOR Ed Note]

Military Plans Large Scale Mass Trainings on Use of Force

Weekly Reveal, Center for Investigative Reporting

With President Donald Trump deploying 7,000 troops this month to help the U.S. Border Patrol confront a migrant caravan from Central America, one important question stands out: How well are government forces trained to deal with a large group of civilians?

The migrants are unarmed, though several of them reportedly threw rocks at Mexican officers as they crossed that country's border a few weeks ago. Trump recently said any rocks thrown at troops would be considered a rifle after a reporter asked if the military would fire at the migrants.

"We're not going to put up with that. They want to throw rocks at our military, our military fights back," Trump said. He later backtracked on his comments, saying that migrants would be arrested instead.

Reveal asked Customs and Border Protection about the kind of training officers would complete in anticipation of the migrants' arrival. The agency provided a statement saying officers will be "participating in operational readiness exercises." It did not respond to a reporter's follow-up questions.

Reveal posed the same questions to the Department of Defense. General Terrence John O'Shaughnessy, the commander leading the border operation, told reporters last week that troops would receive use-of-force training.

"We are, in fact, as an example, setting up training programs

that'll be all the way from a large-scale mass training that will then go down to unit training," he said.

Pentagon spokesman Jamie Davis told Reveal that training will depend on each troop's assignment. He said he did not immediately have details about what the training would entail.

In general, soldiers, like police, are instructed to use force to defend themselves from "imminent threat of physical injury or death," as well as to overcome resistance during an arrest, prevent destruction of military property, or to control or restrain animals, according to a Department of Defense directive obtained by the Federation of American Scientists. They are also trained in "scaled use of force," which includes a variety of non-lethal tactics such as voice commands, pepper spray and batons.

Besides the thousands of troops, the military will be providing helicopters "to support the movement of CBP tactical personnel," as well as medical teams, temporary housing, light towers and fencing materials like barbed wire, according to the Department of Defense.

Then there are the so-called militia groups who say they are headed to the border to confront the caravan. The militias are governed by another set of rules: Forty-one states have laws restricting private military activity, including Arizona, Texas and California.

Trump's Military Deployment to U.S.-Mexico Border Is Illegal

Marjorie Cohn

Donald Trump's decision to send thousands of troops to the U.S.-Mexican border to intercept migrants who intend to apply for asylum is not just a bald-faced political stunt — it is also illegal.

Passed in 1878 to end the use of federal troops in overseeing elections in the post-Civil War South, the *Posse Comitatus Act* forbids the use of the military to enforce domestic US laws, including immigration laws. For this reason, Trump's decision to deploy the military to the border to enforce U.S. immigration law against thousands of desperate migrants from Central America — who have undertaken the perilous journey over 1,000 miles through Mexico to the U.S. border in order to apply for asylum — is an unlawful order. [...]

The illegality of Trump's order to the military opens the door to the possibility that service members will resist it: Under the Uniform Code of Military Justice, Nuremberg Principles and Army Field Manuals, service members have a duty to obey lawful orders and a duty to disobey unlawful orders. [...]

On October 29, describing the impending arrival of migrants seeking asylum as an "invasion," Trump tweeted, "This is an invasion of our Country and our Military is waiting for you!"

The Military Is Legally Forbidden From Enforcing Immigration Law

The *Posse Comitatus Act* forbids the willful use of "any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws." It has been applied as well to the Navy and Marine Corps. The only exception to the *Posse Comitatus Act's* prohibition is "in cases and under circumstances expressly authorized by the Constitution or Act of Congress."

Defense Department officials told *The New York Times* that troops deployed to the border would help construct tents and fencing and some would "potentially" operate drones on the border. Whether the drones are armed or used for surveillance, they would be assisting in the enforcement of the immigration laws.

Moreover, the *Los Angeles Times* reported, "Black Hawk helicopters equipped with night sensors will be available to ferry Border Patrol personnel 'exactly where they need to be' to 'spot groups' and 'to fast-rope down' to intercept migrants trying to cross the border. Military aircraft will conduct surveillance." Troops who carry out these functions would also be participating in the enforcement of the immigration laws.

Only in the event of an invasion or insurrection on U.S. soil does the president have the power to order the use of the military within the United States. There is no invasion or insurrection occasioned by the migrant caravan. In an interview with *The New York Times*, Admiral James G. Stavridis, former commander of the

U.S. military's Southern Command, called out Trump's "fictitious caravan invasion." [...]

The Duty to Disobey Unlawful Orders

The Uniform Code of Military Justice (UCMJ) requires that all military personnel obey lawful orders. Article 92 of the Uniform Code of Military Justice says, "A general order or regulation is lawful unless it is contrary to the Constitution, the laws of the United States...." Both the Nuremberg Principles and the Army Field Manuals create a duty to disobey unlawful orders.

"Sending troops to the U.S. border with Mexico is as immoral and illegal as sending them to invade and occupy foreign lands," said Gerry Condon, president of Veterans For Peace. "Donald Trump is carrying out a racist war against asylum seekers who are fleeing extreme violence, which in turn is caused by decades of U.S. support for repressive regimes in Central America."

Members of Veterans For Peace are fanning out along the U.S./Mexico border from California to Texas in order to reach out to the troops that Trump has ordered to the border. Condon added, "Soldiers who follow their conscience and refuse to follow illegal orders will have our support. We can also put GIs in contact with legal resources to help them get honorably discharged from the military."

Trump's Illegal Attack on the Right to Apply for Asylum

Under the 1951 Refugee Convention, any person who arrives in the United States has the right to apply for asylum. Applicants must show they are unable or unwilling to return to their country of origin due to a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. Yet Trump's new proclamation would deny migrants the right to apply for asylum unless they entered the United States at a designated port of entry, which violates the 1951 Refugee Convention.

On November 9, the ACLU, Southern Poverty Law Center, and Center for Constitutional Rights filed a lawsuit in the United States District Court for the Northern District of California, seeking an injunction to block Trump's new restrictions on asylum. The complaint states that Trump's proclamation is "in direct violation of Congress's clear command that manner of entry cannot constitute a categorical asylum bar." [...]

Nearly 2,500 hopeful migrants have already arrived in Tijuana and thousands more are en route. Several organizations, including the National Lawyers Guild, have sent legal backup to the border. Members of Veterans For Peace are also at the border, offering support to troops who refuse unlawful orders to enforce the immigration laws. (*Truthout*)

Visit our website: usmlo.org

ASYLUM IS A HUMAN RIGHT

Defy Trump's Criminal Attack on Asylum

On November 9, President Trump issued a proclamation attacking the right of refugees to seek asylum in the U.S. He said that only those who enter the country at ports of entry will be allowed to apply for asylum. He did so at a time when many are already being arbitrarily and illegally turned away at the ports of entry along the southern border with Mexico.

Refugees have the right to seek asylum and to do so irrespective of where they enter the country. This is codified both in U.S. and international law, which the president is duty-bound to uphold. Trump is instead openly acting against the rights and laws, which makes the proclamation a criminal attack. It has been backed up by deployment of 5,200 armed military troops to the southern border region. Trump claimed, "This is an invasion of our Country and our Military is waiting for you!" He is using language like "invasion" that lays the groundwork for potentially declaring martial law, and having troops in place to enforce it.

Trump is attempting to justify both the proclamation and military deployment in the name of the national interest. The proclamation states: "The continuing and threatened mass migration of aliens with no basis for admission into the United States through our southern border has precipitated a crisis and undermines the integrity of our borders. I therefore must take immediate action to protect the national interest..."

The action taken is to deny refugees who do not enter at ports of entry the right to apply for asylum: "Under this suspension, aliens entering through the southern border, even those without proper documentation, may, consistent with this proclamation, avail themselves of our asylum system, provided that they properly present themselves for inspection at a port of entry...But aliens who enter the United States unlawfully through the southern border in contravention of this proclamation will be ineligible to be granted asylum." Ports of entry have now been further militarized with barbed war fencing topped with razor wire and detention camps comprised of tents under military control. The suspension is supposed to last 90 days but can be extended by Trump, as can the troop deployment.

In the proclamation Trump again emphasized, "The entry of large numbers of aliens into the United States unlawfully between ports of entry on the southern border is contrary to the national interest, and our law has long recognized that aliens who seek to lawfully enter the United States must do so at ports of entry."

Actual facts are that most of the refugees do have "basis for admission," such as a "credible fear" of persecution, torture or death if they return to their home countries. It is also the case that both U.S. and international law specifically require the U.S. to accept refugees and hear their cases regardless of where they enter the country. Trump himself also admits that "The vast majority of such aliens are found to satisfy the credible-fear threshold," meaning their claims are legitimate. Even so, many are being denied asylum both because most do not have legal counsel (the majority of people that do secure lawyers receive asylum), many are tricked and forced into

signing documents used against them and because the U.S. keeps arbitrarily raising the bar. This includes eliminating domestic violence as a credible fear. The



U.S. continues to act with impunity and no doubt will continue to do so regardless of court rulings.

Actions Target Resistance and Defense of Rights

The thousands of migrants coming to the border, at least one third of them children, many more of them women and all unarmed and having traveled thousands of miles on foot, are not an invasion force. In an interview with *The New York Times*, Admiral James G. Stavridis, former commander of the U.S. military's Southern Command, openly called out Trump's "fictitious caravan invasion." Why then the language, the proclamation and troop deployment? Why also the threat to eliminate birthright citizenship, alongside the emphasis on "national interest?" These actions have far more to do with justifying use of force against the broad resistance to the U.S. attacks on rights taking place on both sides of the border. They are directed at the people in the U.S. and the growing sentiment that this is not the country people want. This was indicated in the broad actions against family separations bringing together people from all walks of life and various political views to say NO!

So too with resistance to the plans for mass detention camps. Nurses in El Paso reflected the stand of many demanding *Do Not Do This In Our Name, Do Not Do This in Our Community*. In California, when people heard of Pentagon plans for a detention camp for 47,000 people at Concord Naval Weapons Station, they refused, with signs saying *No Crimes Against Humanity in Our Community*.

Proclaiming an invasion, stationing troops and preparing to strip people of their citizenship so as to justify the denial of rights are in part aimed at blocking and disrupting resistance. As part of this there is an effort to keep people from persisting in looking at issues from their vantage point — the vantage point of the necessity for change, the necessity for a new direction and for a modern democracy that favors the interests of the people. Instead the "national interest" is that of the rich, which encourages people to join in attacking the rights of their fellow human beings.

*Defend the Rights of All, Abroad and at Home!
No Crimes Against Humanity in Our Community!*

Rights Groups Seek to Block Trump Asylum Order

November 9, 2018

Civil rights groups have filed a federal lawsuit challenging the legality of U.S. President Donald Trump's newly announced restrictions that would effectively bar migrants who did not enter the country at a port of entry from qualifying for asylum. The Trump order is directly against U.S. and international law concerning refugees, which requires the U.S. to accept refugees and hear their asylum cases regardless of where they entered the country.

The lawsuit was filed in San Francisco federal court by the American Civil Liberties Union, Southern Poverty Law Center and Center for Constitutional Rights. It seeks an injunction to prevent the administration from implementing the asylum policy. It charges the administration with violating the *Immigration and Nationality Act* as well as the *Administrative Procedure Act*.

Trump signed a proclamation November 9 that will suspend the granting of asylum to children, women and men who do not cross the U.S./Mexico border at port of entry locations for up to 90 days. The order, which goes into effect on November 10, means that migrants will have to present themselves at U.S. ports of entry to qualify for asylum. Existing law directly states that those entering anywhere along the border asking for asylum must be given protection. It is well-known that the government has been illegally forcing people to return even when they enter at ports of entry and has also illegally detained and deported many

with legitimate claims.

The civil rights groups involved emphasized that U.S. immigration law clearly allows anyone present in the country to seek asylum, regardless of how they crossed the border. "President Trump's new asylum ban is illegal. Neither the president nor his cabinet secretaries can override the clear commands of U.S. law, but that's exactly what they're trying to do. This action undermines the rule of law and is a great moral failure because it tries to take away protections from individuals facing persecution," Omar Jadwat of the American Civil Liberties Union said in a statement.

"The asylum ban, coupled with Custom and Border Protection's (CBP) widespread practice and policy of turning back individuals attempting to seek asylum at ports of entry, would effectively deny protection to thousands of vulnerable individuals. The government's blatant disregard for the rights of asylum seekers cannot stand," said Melissa Crow, Southern Poverty Law Center senior supervising attorney.

Baher Azmy, legal director of the Center for Constitutional Rights, added, "Ever since the horrors of World War II, the world's nations have committed to giving asylum seekers the opportunity to seek safe haven. The Trump administration cannot defy this most elementary humanitarian principle, in violation of U.S. and international law, with a flip of a presidential pen.

Illegal Pushbacks, Arbitrary Detention and Ill-treatment of Asylum-seekers in the U.S.

Amnesty International

The U.S. government has deliberately adopted immigration policies and practices that caused catastrophic harm to thousands of people seeking safety in the United States, including the separation of over 6,000 family units in a four-month period more than previously disclosed by authorities, Amnesty International said in a new report released today.

The report, "'You Don't Have Any Rights Here': Illegal Pushbacks, Arbitrary Detention and Ill-treatment of Asylum-seekers in the United States" reveals the brutal toll of the Trump administration's efforts to undermine and dismantle the U.S. asylum system in gross violation of U.S. and international law. The cruel policies and practices documented include: mass illegal pushbacks of asylum-seekers at the U.S.-Mexico border; thousands of illegal family separations; and increasingly arbitrary and indefinite detentions of asylum-seekers, frequently without parole.

"The Trump administration is waging a deliberate campaign of widespread human rights violations in order to punish and deter people seeking safety at the U.S.-Mexico border," said Erika Guevara-Rosas, Americas Director at Amnesty International. She added, "The intensity, scale and scope of the abuses

against people seeking asylum are truly sickening. Congress and U.S. law enforcement agencies must conduct prompt, thorough and impartial investigations to hold the government accountable and ensure this never happens again."

Approximately 8,000 family units separated in 2017 and 2018

Last month, Customs and Border Protection (CBP) disclosed to Amnesty International that it forcibly separated over 6,000 family units (a term that US authorities have used inconsistently to refer to whole families or individual family members) from 19 April to 15 August 2018 alone — more than U.S. authorities had previously admitted. CBP confirmed that this figure still excluded an undisclosed number of families whose separations were not properly recorded, such as grandparents or other non-immediate family members, whose relationships authorities categorize as "fraudulent" and do not count in their statistics. In total, the Trump administration has now admitted to separating approximately 8,000 family units since 2017.

"These shocking new numbers suggest that U.S. authorities have either misinformed the public about how many families they had forcibly separated, or they continued this unlawful



practice unabated, despite their own claims and court orders to halt family separations,” said Guevara-Rosas. “Congress must act immediately to investigate and establish a comprehensive record of family separations by U.S. government authorities, and pass legislation prohibiting the separation and indefinite detention of children and families,” she demanded.

The extreme suffering that U.S. authorities purposefully inflicted by separating families constituted ill-treatment and in some

cases torture. Amnesty International interviewed 15 parents and guardians separated from their children by U.S. border and immigration authorities, including 13 who presented themselves at official border crossings. Those family separations resulted in extreme anguish, and in some instances long-term trauma, for adults and children alike.

In an immigration detention facility in Texas, a 39-year-old Brazilian mother named Valquiria told Amnesty International that CBP agents separated her from her seven-year-old son, without providing any reason, the day after they requested asylum at an official port-of-entry in March 2018.

“They told me: ‘You don’t have any rights here, and you don’t have any rights to stay with your son,’” Valquiria said. “I died at that moment. It would have been better if I had dropped

dead... Not knowing where my son was, what he was doing. It was the worst feeling a mother could have. How can a mother not have the right to be with her son?”

Illegal pushbacks and arbitrary detention

In 2017 and 2018, CBP implemented a de facto policy of turning away thousands of people seeking asylum at official ports-of-entry along the entire U.S.-Mexico border.

“Every human being in the world has the right to seek asylum from persecution or serious harm, and request protection in another country,” said Erika Guevara-Rosas. “U.S. border authorities are flagrantly violating U.S. asylum law and international refugee law by forcing people back to Mexico without registering and determining their asylum claim. People pushed back to Mexico may face direct abuses there or deportation and the risk of serious human rights violations in their countries of origin,” she added.

Since 2017, U.S. authorities have also imposed a policy of mandatory and indefinite detention of asylum-seekers, frequently without parole, for the duration of their asylum claims. This constitutes arbitrary detention, in violation of U.S. and international law.

Amnesty International interviewed asylum-seekers being detained indefinitely after requesting protection, including separated family members, older people, and persons with acute health conditions and medical needs.

The organization also documented the cases of 15 transgender and gay asylum-seekers who were detained for periods ranging from several months to almost three years without parole, including two people who were denied parole despite having suffered sexual assaults while in detention. In several cases, their experiences of indefinite detention constituted ill-treatment.

Congress must act now to end the detention of children and families once and for all – and fund alternative options, such as the Family Case Management Program, which have been proven to be 99 percent effective in helping asylum-seeking families understand and comply with their immigration hearing requirements.”

Constitutional Law Scholars Say Trump Cannot Eliminate Birthright Citizenship Through Executive Action

October 30, 2018

Constitutional law scholars released the following statement October 30 arguing that there is no serious scholarly debate about whether a president can, through executive action, eliminate birthright citizenship and contradict the Supreme Court’s long-standing and consistent interpretation of the Citizenship Clause of the 14th Amendment. The statement reads as follows:

President Donald Trump is reportedly considering an executive order to essentially rewrite the Citizenship Clause of the 14th Amendment to eliminate birthright citizenship. In an interview

to be aired [on HBO] later this week, he explains that people are now telling him that he can do this “just with an executive order.” As constitutional scholars who have studied the 14th Amendment, we write to say in no uncertain terms that he is wrong.

The Citizenship Clause — enshrined as Section 1 of the 14th Amendment to the U.S. Constitution in 1868 — states simply that “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside.” The 14th Amendment, adopted in the immediate aftermath of a Civil War that very nearly ripped

this country in two, established the foundational principle that all persons are entitled to due process and equal protection under the law. The Citizenship Clause contained therein was meant as a direct rebuke to the infamous decision in *Dred Scott v. Sandford*, 60 U.S. (19 How.) 393 (1857), in which the Supreme Court held that people of African descent born on our soil whose ancestors were slaves could not be citizens, even if they were free.

The Supreme Court 120 years ago in *United States v. Wong Kim Ark*, 169 U.S. 649 (1898), settled the very issue raised by the president. In that case, the Court held that with certain very limited exceptions, all children born in the United States are natural-born citizens regardless of the citizenship status of their parents. Many decades later in the case of *Plyler v. Doe*, 457 U.S. 202 (1982), in which the Court upheld the right of all children regardless of alienage to a free public education, the Court analogized its holding on Equal Protection Clause grounds to the settled law on the Citizenship Clause as declared in *Wong Kim Ark*. Specifically, the Court noted that just as undocumented immigrants are “subject to the jurisdiction of the United States” for purposes of the Citizenship Clause, they too are “within the jurisdiction” of a state for purposes of the Equal Protection Clause. (Id. at 211 n.10.)

There is today no serious scholarly debate about whether a president can, through executive action, contradict the Supreme Court’s long-standing and consistent interpretation of

the Citizenship Clause of the 14th Amendment. Instead, as conservative legal scholar James Ho, now a federal judge on the U.S. Court of Appeals for the 5th Circuit nominated by President Trump, wrote more than a decade ago, “a constitutional amendment is ... the only way to restrict birthright citizenship.” The executive branch’s own lawyers have long agreed.

It took a Civil War — the bloodiest conflict in American history — to resolve a dispute about what it means to be an American — a person — in this country. The 14th Amendment, including the Citizenship Clause, is the rightly cherished result of that American tragedy.

(The statement was signed by Muneer I. Ahmad, Yale Law School; Walter E. Dellinger III, Duke University School of Law; Lucas Guttentag, Stanford Law School and Yale Law School; Harold Hongju Koh, Yale Law School; Stephen H. Legomsky, Washington University School of Law; Gerard N. Magliocca, Indiana University Robert H. McKinney School of Law; David A. Martin, University of Virginia School of Law; Michael W. McConnell, Stanford Law School; Hiroshi Motomura, University of California, Los Angeles (UCLA) School of Law; Gerald L. Neuman, Harvard Law School; Cristina Rodríguez, Yale Law School; Peter J. Spiro, Temple University Law School; Geoffrey R. Stone, The University of Chicago; Laurence H. Tribe, Harvard Law School; Stephen I. Vladeck, The University of Texas at Austin Law School)

An Executive Order Cannot Repeal Birthright Citizenship, Period

Stephen Yale-Loehr, October 31, 2018

President Trump’s assertion this week that he is considering signing an executive order to end “birthright citizenship” to children born in the United States to undocumented parents has created a firestorm of controversy. Rightly so. The idea should be rejected for the following reasons.

First, the law is clear. The 14th Amendment to the U.S. Constitution states that “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.” Courts and legal scholars have consistently interpreted that language to include children born in the United States.

The Supreme Court decided this issue 120 years ago, in an 1898 case called *Wong Kim Ark*. The court ruled that a child born in San Francisco to Chinese parents was a U.S. citizen, even though the *Chinese Exclusion Act* barred his parents from ever becoming citizens. “To hold that the 14th Amendment of the Constitution excludes from citizenship the children, born in the United States, of citizens or subjects of other countries,” the court said, “would be to deny citizenship to thousands of persons of English, Scotch, Irish, German or other European parentage who have always been considered and treated as citizens of the United States.”

The Supreme Court’s decision in *Wong Kim Ark* did not

specifically discuss the citizenship status of children of unauthorized immigrants. Nor could it have. The concept of unauthorized immigration did not exist then. But in 1982, in *Plyler v. Doe*, the court ruled that undocumented children were entitled to free public education. The court relied on another part of the 14th Amendment, its equal protection clause, and it interpreted language similar to that in the citizenship clause.

The *Plyler* court noted in a footnote that “no plausible distinction with respect to Fourteenth Amendment ‘jurisdiction’ can be drawn between resident aliens whose entry into the United States was lawful, and resident aliens whose entry was unlawful.”

Supreme Court’s interpretation makes sense. As fellow law professor and former USCIS Chief Counsel Stephen Legomsky has noted, “Like anyone else, native-born Americans, whoever their parents are, can be charged with crimes if they disobey U.S. law. How would this be possible if the U.S. had no jurisdiction over them?”

Second, even if the law were not clear, an executive order is the wrong procedural mechanism. A constitutional amendment can only be undone by another constitutional amendment. Moreover, the U.S. immigration statute also states that anyone born in the United States is automatically an American citizen. Only Congress can repeal a law, not the President. To do so by

executive decree would undermine our democracy.

Third, the practical problems in ending birthright citizenship would be huge. Would the executive order apply retroactively? If so, would that make some current U.S. citizens deportable? What would happen in split families, for example, where some children are born to undocumented parents, while younger siblings are born here after their parents legalize? And what would we do with children who become stateless? Ireland is currently dealing with this problem because it removed birthright citizenship. A 9-year-old boy there is facing statelessness and deportation from his place of birth and only home.

The United States is not alone in granting automatic citizenship to babies born in the country. NumbersUSA, a group that favors reduced immigration, compiled a list of 33 countries that grant

citizenship to anyone born within their borders.

In sum, ending birthright citizenship is an overly simple solution for a complex problem: our broken immigration system. Congress needs to tackle the problem; the president cannot do it unilaterally.

It is unclear whether the President will actually sign an executive order ending birthright citizenship. His statement could well be “vaporware,” intended merely as a political ploy to appeal to his base just before the midterm elections. But if Trump really tries to do this, both the court of public opinion and courts of law should immediately repudiate it and send it to the dustbin of history.

(Yale-Loehr is professor of immigration law practice at Cornell Law School. He also is co-author of “Immigration Law and Procedure,” a 21-volume immigration law treatise.)

Next Time ICE Rounds Up Workers, Remember that We Did Not Do the Same with Nazi-Era War Criminals

Jared McBride

U.S. Immigration and Customs Enforcement (ICE) has been making news with its brutal crackdowns on immigrants. Arrests of men and women with no criminal record are up 142% since January 2017. In December, the federal inspector general found widespread civil rights abuses at ICE detention centers.

We hear daily horror stories of longtime U.S. residents torn from their families: Edwin Marcial, father of four, who worked for 15 years at the New York Bagel Co. in Brentwood, California got detained. Stories like Marcial’s abound: Jorge Garcia, a 39-year-old father of two from Detroit was deported to Mexico on Martin Luther King Jr. Day. Green-card holder Dr. Lukasz Niec, who has lived in the U.S. since he was 3, faces deportation for misdemeanors committed 25 years ago, when he was a teenager.

ICE’s deportation zeal stands in contrast to a particularly shameful chapter in its history. When it was known as the U.S. Immigration and Naturalization Service (INS), from 1945 to 1979, it repeatedly failed to investigate and remove European war criminals from the U.S. And that included Holocaust perpetrators.

The re-opening of our borders in the years following World War II allowed thousands of collaborators and accomplices of the Nazi regime to make their way to the United States. A small number of them were knowingly brought in by U.S. intelligence services. Most came through the system undetected amid an influx of nearly 400,000 war-displaced persons. At the time, officials set a preposterously high bar for complicity in war crimes. That, combined with an initial lack of knowledge about the Holocaust, made it easy for applicants to cover up their backgrounds on their immigration forms.

Once here, it was as easy to escape justice. Adrija Artukovic, minister of the Interior and Justice in Croatia during the war, sneaked into the U.S. under an assumed name in 1948 and settled



in Seal Beach, California. Known in Yugoslavia as the Butcher of the Balkans, Artukovic was described by a U.S. official as Croatia’s Himmler. American authorities knew he was here as early as 1949, but he was not arrested and returned to Croatia for trial until the 1980s. His death sentence was never carried out; he died in 1988.

For the first two decades after World War II, the INS brought very few “denaturalization” cases to court, a total of five for the entire 1950s. Only one of these war criminals was successfully denaturalized. The 1960s saw just two cases pursued, despite INS being flooded with dozens if not hundreds of tips on potential war criminals living among us. The cases it did manage to bring to court in the 1950s and 1960s were so poorly constructed that even a Romanian Iron Guard member and virulent anti-Semite, Valerian Trifa, was not stripped of his citizenship. As for deportations, the INS filed no more than 10 cases against suspected war criminals from 1945 to 1973.

It is possible that skin color and country of origin played a role in the INS’s lack of interest in investigating the war records of newcomers from places like the Baltics and Ukraine. They

blended in, and records show that INS agents at every turn had a hard time seeing these immigrants as dangerous. They humanized them, and so did others, even after evidence emerged to the contrary. A suspected Nazi unit commander was identified in a Minnesota newspaper as a “pillar of the church” and a man who “takes care of his yard and walks with his wife.” A concentration camp guard living in New York was referred to as a “feeble old man” by neighbors.

The Kowalchuk brothers, Sergei and Mykola, of Philadelphia, served together in an auxiliary police force in the Ukrainian town of Liuboml, where more than 4,000 Jews were killed. Sergei was chief of police. In 1966, an INS investigator noted that Mykola’s Jewish boss told an interviewer he could not believe his employee was complicit in wartime violence, as if such a comment from such a source should be considered exculpatory. In a *New York Times* article, a police officer and neighbor of Kowalchuk’s said, “They are good people from what I can see. They get up early in the morning and work hard every day.”

It took the efforts of two members of Congress, Elizabeth Holtzman and Joshua Eilberg, aided by Jewish organizations and journalists, to call the INS to account for its failure to pursue war criminals. Congressional hearings in the 1970s demonstrated

how often the agency had failed to act on tips and how badly it botched investigations.

The hearings resulted in the establishment of an Office of Special Investigations in the Department of Justice specifically to find and remove war criminals. Still, the INS was not particularly cooperative: One document shows officers mocking the new office.

ICE now houses the evidence of the INS’ failures, and it too is not cooperative on the subject of war criminals. It has been extremely reluctant to release its files through the *Freedom of Information Act*, and when it does, it routinely applies unwarranted redactions to their contents, demonstrating a higher concern for the privacy of deceased accused war criminals than for transparency about the agency’s history.

The next time you hear about ICE agents hauling away a hard-working, law-abiding immigrant, put the incident in the context of the same institution’s history of allowing Nazis, and their accomplices, a safe haven in the United States. Like Mykola Kowalchuk, Edwin Marcial is a “hard-working” member of his community — but he is not white and he did not participate in war crimes.

Jared McBride is a lecturer in the history department at UCLA.

A Century of U.S. Intervention Created the Immigration Crisis

Mark Tseng-Putterman

A national spotlight now shines on the border between the United States and Mexico. [...] At the margins of the mainstream discursive stalemate over immigration lies over a century of historical U.S. intervention that politicians and pundits on both sides of the aisle seem determined to silence. Since Theodore Roosevelt in 1904 declared the U.S.’s right to exercise an “international police power” in Latin America, the U.S. has cut deep wounds throughout the region, leaving scars that will last for generations to come. This history of intervention is inextricable from the contemporary Central American crisis of internal and international displacement and migration.

The liberal rhetoric of inclusion and common humanity is insufficient: we must also acknowledge the role that a century of U.S.-backed military coups, corporate plundering, and neoliberal sapping of resources has played in the poverty, instability, and violence that now drives people from Guatemala, El Salvador, and Honduras toward Mexico and the United States. For decades, U.S. policies of military intervention and economic neoliberalism have undermined democracy and stability in the region.

In the past fifteen years alone, CAFTA-DR — a free trade agreement between the U.S. and five Central American countries as well as the Dominican Republic — has restructured the region’s economy and guaranteed economic dependence on the United States through massive trade imbalances and the influx of U.S. agricultural and industrial goods that weaken domestic industries. Yet there are few connections being drawn between the weakening of Central American rural agricultural economies

at the hands of CAFTA-DR and the rise in migration from the region in the years since. In general, the U.S. takes no responsibility for the conditions that drive Central American migrants to the border.

U.S. empire thrives on amnesia. The Trump administration cannot remember what it said last week, let alone the actions of presidential administrations long gone that sowed the seeds of today’s immigration crisis. There can be no common-sense immigration “debate” that conveniently ignores the history of U.S. intervention in Central America. Insisting on American values of inclusion and integration only bolsters the very myth of American exceptionalism, a narrative that has erased this nation’s imperial pursuits for over a century.

As the British immigrant rights refrain goes, “We are here because you were there.” The adage holds no less true here and now. It is time to insist that accepting Central American refugees is not just a matter of morality or U.S. benevolence. Indeed, it might be better described as a matter of reparations.

The following time-line compiles numerous sources to lay out an incomplete history of U.S. military and economic intervention in El Salvador, Honduras, and Guatemala over the past century.

El Salvador

1932: A peasant rebellion, led by leader Farabundo Martí, challenges the authority of the government. 10,000 to 40,000 rebels, many indigenous, are systematically murdered by the

NO CRIMES AGAINST HUMANITY IN OUR COMMUNITY

regime of military leader Maximiliano Hernández Martínez, the nation's acting president. The United States and Great Britain, having bankrolled the nation's economy and owning the majority of its export-oriented coffee plantations and railways, send naval support to quell the rebellion.

1944: Martínez is ousted by a bloodless popular revolution led by students. Within months, his party is reinstalled by a reactionary coup led by his former chief of police, Osmín Aguirre y Salinas, whose regime is legitimized by immediate recognition from the United States.

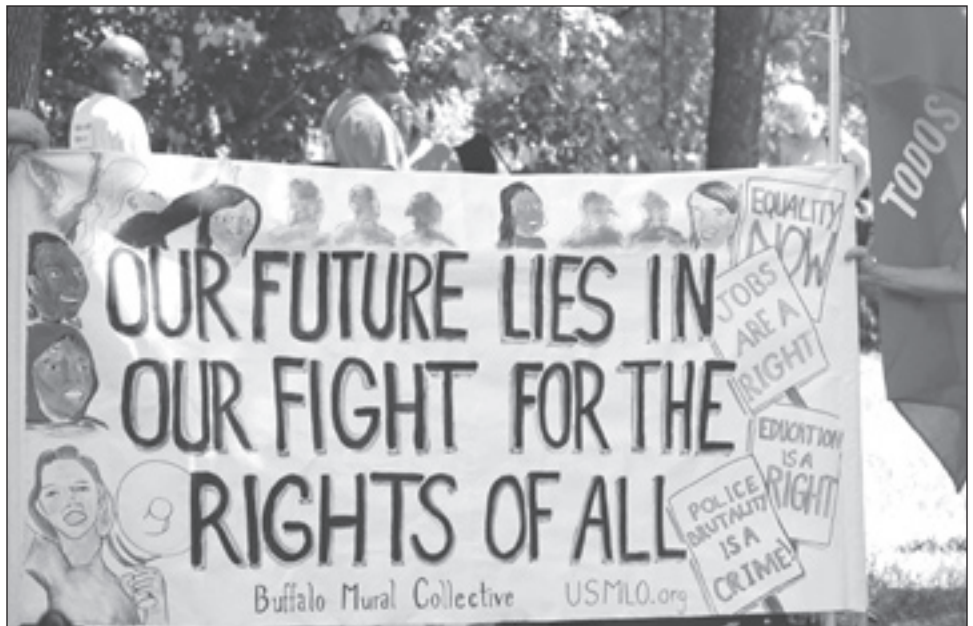
1960: A military-civilian junta promises free elections. President Eisenhower withholds recognition, fearing a leftist turn. The promise of democracy is broken when a right-wing counter-coup seizes power months later. Dr. Fabio Castillo, a former president of the national university, would tell Congress that this coup was openly facilitated by the U.S. and that the U.S. had opposed the holding of free elections.

1980–1992: A civil war rages between the military-led government and the Farabundo Martí National Liberation Front (FMLN). The Reagan administration, under its Cold War containment policy, offers significant military assistance to the authoritarian government, essentially running the war by 1983. The U.S. military trains key components of the Salvadoran forces, including the Atlacatl Battalion, the “pride of the U.S. military team in San Salvador.” The Atlacatl Battalion would go on to commit a civilian massacre in the village of El Mozote in 1981, killing at least 733 and as many as 1,000 unarmed civilians, including women and children. An estimated 80,000 are killed during the war, with the U.N. estimating that 85 percent of civilian deaths were committed by the Salvadoran military and death squads.

1984: Despite the raging civil war funded by the Reagan administration, a mere three percent of Salvadoran and Guatemalan asylum cases in the U.S. are approved, as Reagan officials deny allegations of human rights violations in El Salvador and Guatemala and designate asylum seekers as “economic migrants.” A religious sanctuary movement in the United States defies the government by publicly sponsoring and sheltering asylum seekers. Meanwhile, the U.S. funnels \$1.4 million to its favored political parties in El Salvador's 1984 election.

1990: Congress passes legislation designating Salvadorans for Temporary Protected Status (TPS). In 2018, President Trump would end TPS status for the 200,000 Salvadorans living in the United States.

2006: El Salvador enters the Dominican Republic–Central America Free Trade Agreement (CAFTA-DR), a neoliberal export-economy model that gives global multinationals increased



influence over domestic trade and regulatory protections. Thousands of unionists, farmers, and informal economy workers protest the free trade deal's implementation.

2014: The U.S. threatens to withhold almost \$300 million worth of Millennium Challenge Corporation (MCC) development aid unless El Salvador ends any preferences for locally sourced corn and bean seeds under its Family Agriculture Plan.

2015: Under the tariff reduction model of CAFTA-DR, all U.S. industrial and commercial goods enter El Salvador duty free, creating impossible conditions for domestic industry to compete. As of 2016, the country had a negative trade balance of \$4.18 billion.

Honduras

1911: American entrepreneur Samuel Zemurray partners with the deposed Honduran President Manuel Bonilla and U.S. General Lee Christmas to launch a coup against President Miguel Dávila. After seizing several northern Honduran ports, Bonilla wins the Honduran 1911 presidential election.

1912: Bonilla rewards his corporate U.S. backers with concessions that grant natural resources and tax incentives to U.S. companies, including Vaccaro Bros. and Co. (now Dole Food Company) and United Fruit Company (now Chiquita Brands International). By 1914, U.S. banana interests would come to own one million acres of the nation's best land — an ownership frequently insured through the deployment of U.S. military forces.

1975: The United Fruit Company (rebranded as the United Brands Company) pays \$1.25 million to a Honduran official, and is accused of bribing the government to support a reduction in banana export taxes.

1980s: In an attempt to curtail the influence of left-wing movements in Central America, the Reagan administration stations thousands of troops in Honduras to train Contra right-wing rebels in their guerrilla war against Nicaragua's Sandinistas. U.S.

military aid reaches \$77.5 million in 1984. Meanwhile, trade liberalization policies open Honduras to the interests of global capital and disrupt traditional forms of agriculture.

2005: Honduras becomes the second country to enter CAFTA-DR, the free trade agreement with the U.S., leading to protests from unions and local farmers who fear being out-competed by large-scale U.S. producers. Rapidly, Honduras goes from being a net agricultural exporter to a net importer, leading to loss of jobs for small-scale farmers and increased rural migration.

2009: Left-leaning and democratically elected President Manuel Zelaya, who pursued progressive policies such as raising the minimum wage and subsidizing public transportation, is exiled in a military coup. The coup is staged after Zelaya announces intentions to hold a referendum on the replacement of the 1982 constitution, which had been written during the end of the reign of U.S.-backed military dictator Policarpo Paz García. Honduran General Romeo Vásquez Velásquez, a graduate of the U.S. Army training program known as the School of the Americas (nicknamed “School of Assassins”), leads the coup. The United States, under Hillary Clinton’s Department of State, refuses to join international calls for the “immediate and unconditional return” of Zelaya. [The U.S. led and backed the coup and has since ensured the military government remains in power. — VOR Ed Note]

2017: Honduras enters an electoral crisis as thousands of protesters contest the results of the recent presidential election, which many allege was rigged by the ruling party.

Guatemala

1920: President Manuel Estrada Cabrera, an ally to U.S. corporate interests who had granted several concessions to the United Fruit Company, is overthrown in a coup. The United States sends an armed force to ensure the new president remains amenable to U.S. corporate interests.

1947: President Juan José Arévalo’s self-proclaimed “worker’s government” enacts labor codes that give Guatemalan workers the right to unionize and demand pay raises for the first time. The United Fruit Company, as the largest employer and landowner in the country, lobbies the U.S. government for intervention.

1952: Newly-elected President Jacobo Árbenz issues the Agrarian Reform Law, which redistributes land to 500,000 landless — and largely indigenous — peasants.

1954: Fearing the Guatemalan government’s steps toward agrarian reform and under the influence of United Fruit, President Eisenhower authorizes the CIA to overthrow democratically elected President Jacobo Árbenz, ending an unprecedented ten years of democratic rule in the country, colloquially known as the “ten years of spring.” In Árbenz’s place, the U.S. installs Carlos Castillo Armas, whose authoritarian government rolls back land reforms and cracks down on peasant and workers’ movements.

1965: The CIA issues Green Berets and other counterinsurgency advisors to aid the authoritarian government in its repression of left-wing movements recruiting peasants in the name of “struggle against the government and the landowners.” State Department counterinsurgency advisor Charles Maechling Jr. would



later describe the U.S.’s “direct complicity” in Guatemalan war crimes, which he compared to the “methods of Heinrich Himmler’s extermination squads.”

1971: Amnesty International finds that 7,000 civilian dissidents have been “disappeared” under the government of U.S.-backed Carlos Arana, nicknamed “the butcher of Zacapa” for his brutality.

1981: The Guatemalan Army launches “Operation Ceniza” in response to a growing people’s guerrilla movement. In the name of “counterattacks” and “retaliations” against guerrilla activities, entire villages are bombed and looted, and their residents executed, using high-grade military equipment received from the United States. The Reagan administration approves a \$2 billion covert CIA program in Guatemala on top of the shipment of \$19.5 million worth of military helicopters and \$3.2 million worth of military jeeps and trucks to the Guatemalan army. By the mid-1980s, 150,000 civilians are killed in the war, with 250,000 refugees fleeing to Mexico. Military leaders and government officials would later be tried for the genocide of the Maya victims of military massacres.

1982: A second U.S.-backed military coup installs Efraín Ríos Montt as president. Montt is convicted of genocide in 2013 for trying to exterminate the indigenous Maya Ixil.

2006: Ten years after a U.N.-brokered peace deal and the resumption of democratic elections, Guatemala enters the CAFTA-DR free trade deal with the United States. Ninety-five percent of U.S. agricultural exports enter Guatemala duty free.

I • Advance Struggle for Empowerment

to impose the notion that the role of the majority is limited to voting. Problems like the need for the people to decide the candidates and the agenda, such as issues of war and peace, inequality, poverty and the environment, are not to be examined.

The diversion is also done by using the vote to divide the polity and focus discussion on these divisions and not on empowerment and how to further advance this fight. Further, the reality that the majority did not vote and that people are often elected with 25-30 percent of those that did vote, both indicators of the undemocratic nature of the current set-up, is not to be examined. In this election, an estimated 49 percent of eligible voters voted, about 116 million people. What about the other 51 percent? Why is the system designed to ignore what is regularly the majority of the people?

The problem facing the polity is their lack of political power and how to achieve it. Elections can be used as part of this fight, but only if that aim of political power for the people is recognized and advanced. Otherwise, the great weight of the old, especially the undemocratic nature of the institutions, like Congress, and the whole electoral process designed to exclude and marginalize the majority, will dominate.

For example, it is well-established, from years of repeated experience, that both Democrats and Republicans are pro-war and anti-people. All the promotion of the so-called “blue” Democrat wave is designed to try and convince people that this is not the case and there is reason to hope the Democrats will bring change. This pressure of the old is especially significant at this time, when working people across the country are seriously questioning not only the direction of the country, but if this is the country we want. This is exemplified in demands such as *Not My President*,

Not My Democracy; Not in my Name, Not in My Community; No Crimes Against Humanity in My Community, and so forth. Organizing for rights and for peaceful relations of mutual benefit and respect with all those worldwide standing for rights, is going forward. So too is discussion about the undemocratic nature of the existing set-up.

What is needed now is further ad-

advancing the discussion on the struggle for empowerment and changes to the existing set-up that serve that fight. These could include demands for platform hearings, where the people gather to decide the platform, not the candidate. It could include running candidates who promote such hearings and who begin by gaining the support of their peers and encouraging the collectives of which they are apart to join in identifying worker politicians to represent them. And it can be done through public debates on politics of empowerment vs. politics of the status quo. These are a few of the steps that can be taken.



Exit Polling Used to Divide the People

Exit polling is commonly used to reinforce the notion that the only role for the people is voting and thus the main issue to analyze after the election is how various voting “blocs” as the media refer to them, voted. These “blocs” are divided into various categories, like different minorities, men and women, college educated or not and combinations of these. The various data provided are increasingly used both to divide and blame various segments of the population for election results. Supposedly white workers are to blame for Trump’s election, while African American and white college-educated women are the reason for gains by Democrats in this election. The role of Latinx has also been highlighted.

The population is to be divided according to categories created by the monopoly media, who does the polling, and the very limited data is then used to make broad generalizations about the population. That is, college educated white women vote in a particular way, and white workers in a particular way, and how they vote is supposed to represent their overall stands and concerns as human beings. And of course, the largest single

voting bloc — those who do not vote — are not counted at all. Nor are those who vote for parties and candidates other than the Democrats and Republicans, they apparently do not exist!

The exit polling is done by the National Election Pool (NEP), a consortium of monopoly news organizations (CBS, NBC, ABC, CNN, Fox and AP). It was formed in 2003, replacing their Voter News Service which had failed disastrously in predicting the 2002 elections. The poll surveys only a small sample of voters across the country and are regularly found to be inaccurate and unrepresentative (such as in 2004, 2006, 2008, 2012, etc.). About 50-60% of those asked refuse to participate. This is especially true of nonwhites and younger people. In addition, absentee voting, early voting, and all-mail elections in a few states (Oregon, Washington and Colorado) impact the data. In 2016, only 60% of voters reported voting in person on Election Day, according to the Census Bureau; 21% said they had cast ballots by mail, and 19% said they had voted early in person.

So even the data promoted is often inaccurate. Certainly it is not designed to assist the polity in uniting and working together

to solve the problems the country faces. Far from it, it is used to promote false divisions and false conclusions about various collectives. Everyone is to accept the perspective of the rulers that a vote represents the individual, or the “bloc” named, when this is not the case. As well, rather than looking at the common stands of the large majority, which are anti-war and pro-social, and whether those stands are in any way represented in governance, we are to accept these false divisions and debate them.

The entire effort ensures that the actual electoral set up that deprives the people of power is ignored. So too is the aim of the polling and its promotion as providing information to the public. On the contrary it is one of the tools used to disinform the public and undermine the struggle for a modern democracy where we, the people, decide. How far that battle has come and the role of the elections in assisting or undermining it is an issue to examine.

POST-ELECTION

A Role Beyond Voting

Now that the mid-term elections are over, still everyone is pressured to only look at the issue of voting. There is to be a debate as to whether there was a “blue” (Democrat) or “red” (Republican) wave. Working people are to be embroiled in this debate and the impact of either and both. That is, the starting point for discussion is the vote from an electoral system that is rigged against the people and produces governance against their interests. This is not only the long-standing experience but the existing consciousness as well — that government is of, by and for the rich. All the debate about “red” and “blue” waves is to divert from this reality and undermine this consciousness.

Similarly, there is emphasis on the fact that more women were elected: including two Native Americans (for districts in New Mexico and Kansas); two Muslim women (for districts in Minnesota and Michigan); a Puerto Rican (Bronx) an African American (Massachusetts) elected to Congress; nineteen African American women elected as judges in Texas; and a Latina women elected Governor of New Mexico (replacing another Latina women). Most of the reporting centers on these facts, with very little about what they stand for — that is do they represent their collectives and the interests of the people? And further, given Congress as an institution is dysfunctional, what role should these individuals play?

No doubt among those elected are women who take stands, like Puerto Rican Alexandria Ocasio-Cortez in the Bronx, who called to Abolish ICE and went to the border to confront Customs and Border Protection (CBP) agents. Rashida Tlaib of Detroit, a Palestinian, draped herself in a Palestinian flag at her



victory speech and stood firm in defense of Palestine and the Right of Return during her campaign. She also supports Medicare for all, a \$15 minimum wage and abolishing ICE.

The issue is, we are not supposed to even investigate their stands, but rather look only at the fact that they are women or minorities. Certainly for those standing up for the people, it is an accomplishment to get elected and likely a reflection of the desire for change among the people. It is also necessary to look beyond that. Have more women of the Hillary Clinton type been elected, for example? Have more women that urge people to rely on the Democrats and support them been elected — when what is needed are those who stand with the anti-war, pro-social majority and assist in advancing their fight for empowerment and rights. These questions are not to be investigated and answered. And the various organized forces who participated in the campaigns are not to be called on to assess the

situation now from the perspective of the people.

Individuals elected to a dysfunctional anti-people institution like Congress will themselves be eaten alive by such an institution without standing with and contributing to the independent politics of the working class — to raising the level of political discussion and providing public means for such discussion and debate so as to unify the polity. Success can be measured in how far the independent anti-war, pro-social politics are advanced. How far has common thinking and collective action stemming from that common analysis advanced? This requires recognition that the role of the people in the political process goes far beyond voting.

Buffalo Forum



Local Publication of the
U.S. Marxist-Leninist Organization

Workers of all countries, unite!

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November 16, 2018 Vol. 22 #11



MARITIME CHARTER
SCHOOL EXPANSION

Protests Defend Rights of Residents and Sacred Burial Grounds

Senecas and many in Buffalo are organizing to oppose the expansion of the Maritime Charter School, which is being pushed by Carl P. Paladino's Ellicott Development Company. People spoke out at the Common Council meetings to oppose granting a permit for the expansion and also called for an archeological survey to be done. Such a survey makes clear what the people already know: the land involved belongs to the Seneca and includes sacred burial grounds. At present the permit has not been granted but the school is persisting in its expansion efforts, backed by Ellicott Development. A third speak out at the Maritime Charter

Defend Residents and Burial Grounds • 25

Native Americans and Allies Rally in Buffalo to Defend Children and Sovereignty Rights

Native Americans and their allies rallied in Niagara Square November 8 to defend the sovereignty rights of Native nations and particularly their right to determine the fate of their children. The action defended the *Indian Child Welfare Act (ICWA)*, a federal law that specifically requires that Native families and tribes have control over their

children, particularly when it comes to adoptions. This is the 40th Anniversary of the federal law passed in 1978 to recognize Native nations as independent and sovereign and their children as citizens of their Native Nations, not the U.S. The law codified that legal jurisdiction rested with the tribes. The law arose out of broad

Defending Children and Sovereignty • 24

ICE Detainer Litigation Victory in NY

American Civil Liberties Union (ACLU), November 14, 2018

A state appeals court in Brooklyn ruled November 14 definitively, and for the first time, that it is illegal under New York state law for local law enforcement agencies to make immigration arrests at the request of federal immigration officials. In 2017, the Suffolk County Sheriff's Office received more requests

to detain immigrants for ICE than any other sheriff's office in New York State. Today's decision established that the sheriff's policy of honoring those requests is unlawful. "This critical ruling makes clear that police and sheriffs in New York not only should not, but cannot

ICE Detainer Victory • 24

DEMAND CUOMO VOTE NO

No Fracking Waste in Delaware Basin

The energy and war monopolies pursuing fracking of natural gas in Pennsylvania, New Jersey and surrounding states are demanding to dump their toxic waste in the Delaware Basin. The Basin serves as a main source of drinking water for millions of people. Though the specifics are kept secret, it is well-known that fracking waste contains dangerous chemicals, including carcinogens. People in New York before the ban on fracking, in Pennsylvania and elsewhere have already experienced the toxic impact. Drinking water was poisoned

and even water for use in showers was rendered unsafe. People across New York organized and marched repeatedly to secure a ban on fracking in New York. Today they are demanding that Governor Cuomo take the stand that a fracking BAN means No Fracking infrastructure, no dumping of toxic waste and no support of any kind for fracking activities. The demand today is *Ban Fracking Everywhere!* It is toxic to the human and natural environment and serves the war machine by providing the

Ban Fracking Everywhere • 24

23 • Defending Children and Native Sovereignty

mass struggles of the period, which included brutal police and FBI repression and jailing of leaders like Leonard Peltier. Peltier has now been imprisoned for 43 years on what even FBI agents admit are false charges. He and his family were among those impacted by the genocide of the U.S. that included removal of large numbers of children from their parents and tribes, placing them in boarding schools and religious institutions where they could not speak their language nor have contact with their families and tribes. Broad and repeated resistance to this genocide was a main reason the law was passed.

As organizers of the rally put it: “Native Nations have endured much suffering and one of the bigger traumas has been the

losses of our children throughout history. Our Nations were dwindling because of federal and other policies of removing our children from their people. *ICWA* was a law enacted to help prevent this by providing Native Nations notice should any of their children ever be removed from their parents. It’s not about race, but about these children having citizenship in other nations — their Native Nations.”

However, now *ICWA* it is being attacked in U.S. courts as “race-based” and therefore unconstitutional. As the organizers brought out, “*ICWA* is a citizenship status law, not based on race. Challenges to it in federal courts are direct attacks on the sovereignty of our Native Nations to determine the best interests of their most sacred resource, their children. These

children could grow up to be Clan Mothers, Chiefs, or Faithkeepers, but even if not title holders they are citizens and all of us play a role in the vitality of our Nations.”

The attacks by U.S. courts on both the children and the sovereignty of Native Nations are a continuation of the long history of genocide and striving to eliminate the independence of the tribes and their ways of governing. The U.S. has consistently acted to try and impose its courts and institutions on the Native peoples, so as to prevent their flourishing as independent and sovereign nations. *Buffalo Forum* stands as a staunch ally in this struggle and joins in demanding, *Hands of Children of Native Nations! Respect the Sovereignty Rights of Native Nations!*

23 • ICE Detainer Victory

do ICE’s bidding,” said Donna Lieberman, executive director of the New York Civil Liberties Union. [...]

In December 2017, the New York Civil Liberties Union filed an emergency petition on behalf of a man from India, Susai Francis, who the Suffolk County Sheriff’s Office refused to release after he pled guilty to a disorderly conduct violation and received a sentence of “time-served.” The Sheriff’s Office held Mr. Francis in jail for nearly two more days during which the state appeals court heard NYCLU’s urgent petition for his release. The court did not rule in time to prevent ICE officials from taking custody of Mr. Francis and transporting him to a detention facility in New Jersey. Today, however, the appellate court ruled that the detention of Mr. Francis constituted an arrest that the Sheriff’s Office had no authority to make. “This ruling makes clear that local law enforcement officers across New York do not have the authority to arrest immigrants at

the request of ICE,” said former NYCLU attorney Jordan Wells. “New York law grants officers specific, well-defined arrest powers, and the power to make immigration arrests is not one of them.”

Following the initial hearing in December, the appeals court invited and received submissions from both the United States and New York State Attorney General offices. The New York Attorney General’s office filed an amicus brief agreeing with NYCLU that state law does not authorize New York law enforcement officers to make civil immigration arrests. Federal law allows local officers to make civil immigration arrests only where, unlike in New York, state law authorizes such arrests. In July of 2017, Massachusetts’ highest court held in a similar case (*Lunn v. Commonwealth*) that Massachusetts law does not authorize local officers to make such arrests.

Many places in New York and around the country have adopted “sanctuary” policies,

which include prohibiting local law enforcement from complying with ICE requests, known as detainers, to hold immigrants who should be released. New York City, Westchester County, and some sheriff’s offices have versions of anti-detainer policies in place, while law enforcement in Suffolk County, Rensselaer County and other localities actively share information and coordinate with ICE to detain immigrants.

In response to calls from the NYCLU and other advocates, the Suffolk County Sheriff’s Office had stopped enforcing ICE detainer requests in 2014. But after President Trump’s election, the Sheriff’s Office reversed course, leading to a wave of detentions.

This ruling, which will have state-wide effect because this is the first appeals court to decide the issue, prohibits local law enforcement from holding people in their custody or in other law enforcement encounters like traffic stops on behalf of ICE.

23 • Ban Fracking Everywhere

military with an additional source of fuel secured inside the U.S.

For the Delaware River Basin, which spans parts of New York, New Jersey, Pennsylvania and Delaware, people are calling on Cuomo and all the governors to vote against the dumping of fracking

waste water in the Basin. Governors from each of the four states sit on the Commission and vote on the regulations. While the rules as currently drafted by the Commission ban fracking in the Basin itself, they would allow companies to dump fracking waste in the Basin

and to withdraw its water for use in fracking. People in New York and all four states are demanding a complete fracking ban.

No Dumping of Fracking Waste in the Basin! Ban Fracking Everywhere!

23 • Defending Residents and Sacred Burial Grounds

School is being organized for December 20. Join in!

Below are excerpts from material by local resident Art Giacalone on the impact of the Western New York Maritime Charter School expansion.

* * *

More than a century ago, an elementary school (former Public School No. 70) was constructed three blocks east of Seneca Street on Buffum Street, a 20-foot-wide residential road. The masonry building stands two stories high, and has approximately 43,000 square feet of gross floor area.

The elementary school site is encircled by residences — nearly all of which are one- and two-family homes. The residences immediately east of the school pre-date the 1915 construction of former School No. 70. The homes across the street from the project site on Buffum Street, and on Indian Orchard Place and Silverdale Place (one-block long dead-end streets) were built during or prior to the 1920s. The scale of the two-story elementary school building is in harmony with the neighboring residences.

In October 2016, Buffalo's Common Council approved the sale of the then-vacant school building (along with vacant land to the rear of 102 Buffum Street) to an affiliate of Palidino's Ellicott Development for \$975,600. According to City of Buffalo documents, it was the developer's intentions to renovate the property for an estimated \$390,000, lease it to an existing charter school, and construct a new 45,000 sq. ft. building which would include a gym. No mention was made of a plan to construct a high school building at the site.

WNY Maritime Charter School began operating its "middle school" at 102 Buffum Street in September 2017. The middle school has approximately 81 students and 24 faculty members. Buffalo's online property information website identifies the charter school as the current owner of the property, and also indicates that the facility is fully exempt from taxes as an education institution.

The October 2016 plan to construct "a

new building including a gym (45,000 sq. ft.) and an athletic field" has now transformed into a proposal "to construct a new 3-story classroom building" (64,913 sq. ft.) and "athletic facility addition" (24,050 sq. ft.) including "3 full size basketball courts." [See Charter school Special Use Permit packet 05-10-18.]

Impact on historical, archeological, and aesthetic resources

Historians believe that in 1819 the first Seneca Mission house was built by Christian missionaries at the site of the former School No. 70 — that is, the subject parcel. While the developer and the Planning Board acknowledge that the proposed action is in an "archeologically sensitive area," a "Phase 1" archeological survey has not been conducted. [As a result of protests, such a survey is now supposed to be done. The Senecas have also made clear and have abundant evidence that the area has sacred burial grounds. BF Ed. Note]

The mature trees and green lawn east of the existing school building are a significant aesthetic resource to this neighborhood, enjoyed by the residents who live across the street from the school property, passers-by, and, presumably, the staff and students at the Maritime middle school. This important aesthetic resource — which took generations to reach its current state — would be eliminated in a blink-of-an-eye if the proposed project is approved, replaced by a large, noise-producing, exhaust-creating parking lot.

Additional Neighborhood Concerns Ellicott Development's new proposal represents a significant increase in both the scale of development and the intensity of land use at the 102 Buffum Street site:

- The number of buildings would triple from 1 to 3.
- The gross floor area would increase more than 300% from 43,000 sf to 132,000 sf.
- The maximum building height would



Carl Jamieson speaking at Buffalo rally: "Buffalo Creek and Buffum Street are sacred lands and very rich in history and I think there are better places for Maritime schools."

increase from 2-stories to 3-stories.

- The current total of 105 students and faculty at the site would explode 500% to 525 (450 students/75 faculty).
- A beautiful grassy lawn on the east side of the existing school, graced by 8 to 10 mature trees, would be paved over to add an additional 57 parking spaces.

As expressed during a June 5, 2018 public hearing before the Common Council's Legislation Committee the proposed Maritime Charter School expansion threatens to adversely impact several aspects of the environment protected by the *State Environmental Quality Review Act (SEQRA)*:

Impact on land: SEQRA's regulations expressly include "a substantial change in the intensity of use of land" as one of the "indicators of significant adverse impacts on the environment." The stark contrasts between existing conditions at the site and the proposed addition of a high school building, athletic facility, and parking area reflect—in quantifiable terms—a substantial increase in both the scale of development and the intensity of use of the site.

Impact on traffic: Although the City Planning Board casually spoke of road
Defend Burial Grounds • 26

25 • Defend Burial Grounds

capacity “adequate to service any increase in traffic,” Buffum Street is not Seneca Street or a busy commercial thoroughfare. To the contrary, 102 Buffum is located three blocks from Seneca, in the heart of a residential neighborhood, where the principal public street is only 20 feet wide and two of the adjacent streets (Indian Orchard and Silverdale) are one-block long dead ends. Traveling on Buffum Street becomes more difficult, even treacherous, during the winter months. [...]

Some others concerns include:

- Ellicott Development and the Maritime Charter School engaged in a bait-and-switch transaction when the sale of the property was before the Common Council in October 2016, expressing a desire to construct one 45,000 sq. ft. building to house a gymnasium, and then replacing that scenario with a plan to add a 65,000 sq. ft. high school building (three-stories in height), a 24,000 sq. ft. athletic facility, and nearly 5 dozen additional parking spaces.

- The filing of site plan documents that omitted important and necessary information concerning existing conditions on- and off-site: the location and scale of the nearby residences; the location of driveways on Buffum Street; and, the number and location of the “established trees” on site.

- Despite a grassy front lawn approximately 48’ deep, the developer violated the Green Code’s “posted notice” requirement by ignoring the mandate to post a sign “clearly visible from” and “within 10 feet” of Buffum Street. Instead, the public notice was hidden in a classroom window more than 50’ from Buffum Street, obscured by the glare and light reflecting off the school window.

Update: On October 3, the Common Council voted to rescind the special permit for the Maritime expansion. An archeological study will now be done. Once complete, Maritime Charter School and Ellicott Development can again ask for a permit. Those opposing the expansion continue to organize, to defend the sacred burial grounds of the Seneca and defend the rights of residents.

Rally to Stop the Destruction of Seneca Burial Grounds!

Sign up to speak to the Maritime Charter School board about your concerns. Call David P. Comerford today at 716-842-6289 to be signed up to speak!

WHEN: THURSDAY DECEMBER 20 AT 5:15 PM

WHERE: MARITIME CHARTER HIGH SCHOOL 266 GENESEE ST.

WHY: Buffalo sits on what is traditionally Native land from time remembered, most recently it was the home of the Seneca of the Buffalo Creek Reservation. There is a proposed expansion by the Maritime Charter School on Buffum Street in South Buffalo on to Seneca Burial grounds. The proposed expansion is just a few hundred feet from Seneca Indian Park which was a Seneca burial ground where Red Jacket and Mary Jemison were once buried, and just one block from Indian Church Road where only a few years ago Buffalo Sewer Authority excavated and unearthed remains of the deceased. “Buffalo Creek and Buffum Street are sacred lands and very rich in history and I think that a lot of suggestions of putting a school on a place that’s sacred territory, I think there are better places for Maritime schools,” Carl Jamieson said. We are asking the Maritime Charter school to stop their plans for expansion onto what even NYS’s Historic Preservation Office has described as a site having “high cultural, historic and archeological sensitivity”. The people who really stand to gain on this project is Carl Paladino’s Ellicott Development Company which has a big investment and involvement in this project. Join us to tell the board of the Maritime Charter School to stop this expansion and find another location.

A MILLENNIUM OF HISTORY AND HERITAGE:

THE BUFFUM STREET SITE AND THE BUFFALO CREEK RESERVATION

WHEN: WEDNESDAY NOVEMBER 28 AT 7 PM

WHERE: BUFFALO MUSEUM OF SCIENCE, CUMMINGS ROOM

Join Alyssa Mt. Pleasant and Susan Maguire as we review the long history of settlement at the Buffum Street Site. Maguire will provide a review of the archaeological evidence for a Middle Woodland Mound with its associated village dating to approximately AD 1000 and a 16th-century Iroquoian palisaded village. In the spring of 1780, Seneca displaced by the Sullivan Campaign of 1779 resettled along the banks of the Buffalo Creek and established a village on the site of these earlier settlements. Mt. Pleasant will discuss the establishment of this village and the formation of the Buffalo Creek Reservation. UB Archaeological Survey will have artifacts demonstrating the extensive material culture of the site on display. Free and open to the public.

Alyssa Mt. Pleasant is Assistant Professor of Native American Studies in the Department of Transnational Studies at the University at Buffalo (SUNY)

Susan Maguire is Associate Professor in the Department of Anthropology at SUNY Buffalo State College