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Obama Administration Must Enforce America's Immigration Laws

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Americans can be forgiven for growing cynical of government when the rhetoric of politicians fails to match their actions. In the heated debate on illegal immigration, those in favor of granting amnesty—including the Obama Administration—have tried to convince Americans to support this plan by claiming that their actions to secure the border, strengthen interior enforcement, and tighten visa policy are tough. As evidenced by recent actions, however, such claims are largely baseless and wrapped in nuances.

Instead of constantly seeking ways to evade, skirt, and ignore the immigration laws that are on the books, the Obama Administration needs to simply execute the laws—as is its constitutional duty—while looking to solve the immigration problem in a way that discourages more illegal immigration, maintains security, and promotes the economy.

A Parade of Horribles. First, the Obama Administration fundamentally changed the contours of the Section 287(g) program that empowered state and local law enforcement to enforce federal immigration law. Though only a “revision,” the new policy placed unnecessary new financial and administrative burdens on states and localities. It further limited the ability of state and local law enforcement to check the immigration status of those arrested to individuals arrested for “serious offenses.”

Next, the Obama Administration failed to develop any coherent border security policy, even as it moved away from the gains made in the last few years of the Bush Administration. After the White

House dismantled the SBInet program and ceased any new physical fence work, the void left the border as porous as ever. A move to put 1,200 National Guard troops at the border was more politics than substance, as Guard troops are severely limited in their ability to assist the Border Patrol beyond administrative and maintenance duties. While this decision may have made sense in previous years where the simple lack of Border Patrol manpower hindered its ability to secure the border, a robust recruitment program by the Bush Administration has left the Border Patrol much better staffed.

Then, the President himself sat in silence as Mexican President Felipe Calderon lectured to Americans from the Rose Garden, chastising them for their lack of interest in subsidizing the Mexican economy through remittances or absorbing its poorest citizens. Never mind that Calderon's own failed policies have failed to create economic opportunities for his people at home, let alone stem the horrific violence now spilling over into the U.S.

Still worse, the Obama Administration abandoned worksite enforcement policies that resulted in record levels of arrests, deportations, and penalties against scofflaw employers and replaced it with

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a “soft” audit process that allows illegal immigrants to remain in the U.S. In some cases, the Administration is releasing illegal immigrants apprehended with temporary work permits.

To the surprise of no one, the Administration then sued the state of Arizona to stop it from enforcing its own laws dealing with illegal immigrants within its jurisdiction. Regardless of whether Arizona eventually prevails (which it likely will), the lawsuit itself will certainly chill action by other states, especially during such austere times when paying large legal bills is an unattractive option.

Finally, over the last month, reports indicate that an internal U.S. Citizenship and Immigration Services (USCIS) memorandum blatantly advised the leadership at USCIS—and, presumably, Secretary Janet Napolitano—to simply ignore the law. According to reports, the memo advised officials not to issue “Notice to Appear” letters to those illegal immigrants who did not have another avenue to use to delay their deportation. In conjunction with that memo, it was uncovered that Immigration and Customs Enforcement (ICE) has begun to review and dismiss cases of non-criminal illegal immigrants, which will allow those illegal immigrants to remain in America.

The Obama Administration has repeatedly advertised its intention to enforce immigration laws only against criminal aliens. This failure to enforce the letter and spirit of the law must end.

America Is a Nation of Laws. The unbiased and even enforcement of the law is one of the fundamental aspects of this country. If politicians or interest groups do not like the laws that are on the books, then they should use the legislative process to amend the laws with majority support in the House of Representatives and the Senate. Simply because they lack majority support does not give them the authority to just ignore the laws they deem unwise.

The Obama Administration is sending an unequivocal message to the American people: The White House knows best which laws should be enforced and which ones should be ignored. Equally problematic, the Administration is sending a clear signal to the millions of illegal immigrants

here—and to the millions more still in their home countries—that coming to America illegally carries no penalty. To those illegal immigrants inside the U.S., it indicates that if they only wait long enough, there will be another amnesty—ensuring that these individuals remain in the U.S. and do not return to their home countries as required by law. Such a message will only encourage more illegal immigration, especially when the economy rebounds.

Not only do these actions by the Administration infuriate Americans and promote illegal immigration, but such a course impacts the morale and effectiveness of ICE personnel, whose work is being undermined by such lack of enforcement actions. We can discern little else from the recent vote by ICE personnel that they lack confidence in ICE head John Morton. These brave men and women are being placed in conditions fraught with confusion, inconsistency, and danger. They and the nation deserve better.

Talk versus Walk. This latest action directly conflicts with what the Obama Administration itself stated in the February 2010 Quadrennial Homeland Security Review (QHSR). In the section “Enforcing and Administering Our Immigration Laws,” the QHSR notes, “Immigration policy must deter immigration violations, help eliminate the conditions that foster illegal immigration, and improve system efficiency, fairness, and integrity.” More directly, Goal 3.2 reads: “Prevent Unlawful Immigration: Reduce conditions that encourage foreign nationals to illegally enter and remain in the United States, while identifying and removing those who violate our laws.”

One must ask: How do any of the changes listed above—including the lack of enforcing laws via failing to send “Notice to Appear” letters and issuing dismissals to illegal immigrants—adhere to Goal 3.2 and “improve system efficiency, fairness, and integrity”?

Arguably, the very nature of ensuring uniform administration of justice requires adhering to the law and not creating an environment conducive to inconsistent applications of the law. One can easily imagine two similarly situated illegal immigrants being treated differently due to ambiguities created

by Obama Administration obfuscation. Such a result does severe damage to the fairness and integrity of America's legal system.

In order to demonstrate that it is enforcing the rule of law, the Obama Administration clings to a single piece of data: the number of deportations that occurred in fiscal year 2009. An examination of that figure, however, shows that the 2009 "success" is largely due to efforts made under the Bush Administration to enforce the laws. Specifically, the large numbers of arrests made in 2005, 2006, 2007, and 2008 by the Bush Administration made the Obama Administration's 2009 deportation numbers possible. After all, the Obama Administration's deportation numbers are largely comprised of illegal immigrants who were arrested between 2005 and 2008 and, having completed their sentences, were deported in 2009.

As the number of the Bush legacy deportees declines, so will the Obama Administration's deportation figures. In fact, the 2010 figure is substantially lower and unlikely to increase much in the last few weeks of the fiscal year.

Enforce the Laws. Congress, as the lawmaking body under the U.S. Constitution, should hold the Obama Administration accountable for failing to

execute the laws that the legislature has passed. It must enact meaningful immigration reforms that do not make the program worse, such as an amnesty that would only incentivize further illegal immigration. Such reforms would include:

- Enforcing all immigration laws;
- Securing the border;
- Reforming the Visa system; and
- Working with Mexico and Latin American on key economic development initiatives and reforms.

Failure to enact these reforms will only weaken Congress while providing Americans with even more reason to look at Washington as a city that is fundamentally at odds with the citizenry.

The First Step: Enforcement. To truly solve the illegal immigration problem, the U.S. government must take a critical first step: unequivocally enforcing existing laws.

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