

Why Not All Crimes by Immigrants Should Lead to Deportation

Take Care

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Not long ago, I met Richard, a young Haitian man facing deportation from the United States. He had arrived here as a nine-year-old, having fled Haiti with his mother in a perilous boat journey to escape the post-coup violence of the early 1990s. After asylum processing at Guantanamo Bay, they settled in the U.S.

Childhood was hard. Richard got caught shoplifting and possessing marijuana. He served seven months in prison. As a result of these convictions, he was ineligible for the financial aid he later needed for college. This background also precluded him from obtaining work authorization.

Without a steady, legal job, Richard fell behind in his duties to his family—most especially to his wife and baby daughter. “I was frustrated with my life, and frustrated that I couldn’t do more to support my family,” he explained.

In the heat of an argument, Richard broke a window at his wife’s house and was arrested for burglary. He was then transferred to ICE for detention and removal proceedings. There he remains, his fate uncertain.

Given new reports that immigration officials are digging for criminal data on Haitian immigrants seeking humanitarian protection, Richard’s deportation seems likely.

But that does not make it right.

President Trump is making good on his campaign promise of mass deportation. That goal hinges, in part, on vastly expanding the category of “criminal alien.” Whereas President Obama prioritized for deportation immigrants who committed serious crimes, such as violent acts or terrorism, Trump’s executive orders target those who have committed “any criminal offense”—from a minor traffic violation to the “offense” of being undocumented. A conviction is no longer even necessary to deport undocumented immigrants.

Trump has galvanized support for this policy by labeling undocumented immigrants “criminals” and stoking fear in the minds of Americans. During the campaign, he compared Mexicans to “rapists” and refugees to “snakes.” Since Trump’s inauguration, official memos have proclaimed, erroneously, that undocumented

immigrants “routinely victimize Americans” and “pose a threat to persons residing in the U.S.” A new federal office publicizes the crimes of undocumented immigrants; another advocates for their victims.

The word criminal is loaded. Technically, it means someone who has violated the law. But it also carries the designation of an immoral person. The word is so powerful that it can shift us from seeing Richard as a “Dreamer,” with potential to contribute to American society, to a “bad *hombre*,” stoked to attack the public.

When politicians brand people criminals, they aim to place them outside the human community in a way that justifies violence against them. As *criminals*, people can be banished, imprisoned, or even killed. In my class on the anthropology of violence, students learn that the Cambodian genocide, the Hutu-Tutsi wars, and the Holocaust all began by labeling the communities in question *criminals*.

Certainly, immigrants are not immune to committing crime—and in many cases a punitive response by federal officials is appropriate. But is Richard a “bad *hombre*” or simply someone who has violated the law? Consider how different his story would be if he had been able to obtain the protections and benefits of an American citizen. Would he have faced seven months in prison for violations common among teens? If he had been able to get an education and a good job, would he have avoided the frustrations that precipitated his domestic strife?

It is hard to know for sure. But my five years as a Country of Origin Expert for detention and removal proceedings for undocumented Haitian immigrants taught me that their status as “illegal aliens” cannot be separated from their criminal biographies. For the most part, those facing deportation are not innate criminals but people who have made bad choices under extremely constrained conditions, and who have then been severely punished for those choices.

The convicted immigrants with whom I’ve worked readily admit fault and believe they deserve to be punished. But they also feel that being uprooted from the only homeland they have known for minor offenses breaches the proportionality principle: that the punishment should fit the crime. [Immigrants convicted of crimes](#) not only are more likely to be sentenced to prison in the first place, but they also face longer terms compared to U.S. citizens. And after completing their criminal imprisonment, they also inevitably serve another lengthy period of detention as they undergo removal proceedings. In that respect, these men and women face two rounds of punishment.

The fact that many of our immigration policies flout core principles of justice should be enough to give us pause. But it’s also the case that a troubling number of deportations to Haiti arguably violate the [UN Convention Against Torture](#) by putting deportees’ lives at risk or subjecting deportees to treatment that is “cruel, inhuman, or degrading.”

With disturbing frequency, Haitian deportees are re-imprisoned when they return to their countries of origin. They are often held in local police stations until a relative signs for their release. This can result in lengthy detentions. For example, another deportee I know arrived in the U.S. at age four, had no immediate family in Haiti, and spoke only English. He spent a treacherous month in jail before a distant aunt claimed him. Without a prison cafeteria, relatives to bring him meals, or the social skills to build a network, he went hungry most days.

This past January, 21 prisoners at Haiti's National Penitentiary died.

Ultimately, immigrants convicted of crimes should be treated fairly, humanely, and in accordance with our principles of justice. This is not to say that those who pose a threat to society should not be deported. But treating any crime as evidence of a person's innate criminality is discrimination. For the many immigrants, like Richard, who have committed crimes but are more than criminals, the just policy would be to order a punishment proportional to the offense.