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St. John's University School of Law - 2013 An Introduction to the Symposium

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INTRODUCTORY COMMENTS

ALINA CAMACHO-GINGERICH

On Friday, March 16, 2012, the *Journal of Civil Rights and Economic Development* of St. John's University's Ronald H. Brown Center for Civil Rights and Economic Development, St. John's School of Law, hosted an all-day symposium ***Border Patrols: The Legal, Racial, Social and Economic Implications of United States Immigration Policy***. This symposium provided a multidisciplinary exploration of the issues affecting immigration in the United States. It was co-sponsored by St. John's University's Committee on Latin American and Caribbean Studies (CLACS) and St. John's School of Law Education Law Society. This issue of the *Journal* is dedicated to a selection of the many informative papers presented at that symposium.

This symposium could not have been more timely and relevant. Anti-immigrant sentiment had been growing nationally for the past several years, and had resulted in a series of violent confrontations, human rights violations, and deaths. In order to examine these issues under this change of climate and offer some possible solutions, St. John's University's Committee on Latin American and Caribbean Studies (CLACS) organized a series of previous multidisciplinary symposia, which resulted in several publications. When Professor Leonard Baynes, Director of the Ronald H. Brown Center for Civil Rights and Economic Development, approached CLACS for our co-sponsorship and participation in this symposium, we quickly accepted.

This anti-undocumented immigrant sentiment led to the passing of a series of laws in several states to discourage and deter "the unlawful entry and presence of illegal aliens and economic activity by illegal aliens in the United States," as specified by SB 1070 signed into law by Arizona Governor Jan Brewer on April 23, 2010. Utah, Georgia, Indiana, Alabama, soon followed suit. Many consider the Alabama bill, HB 56, passed in July 2011, the most comprehensive and most damaging anti-immigration law. It would, among other things, allow law enforcement to demand papers and detain those individuals they deem to be in the country illegally; make it a crime for undocumented immigrants to hold a job in Alabama, and make it a crime for any immigrant in the state to be caught without documentation proving status; make it illegal for a citizen to sign a contract with undocumented immigrants, to knowingly rent property to them, to knowingly hire them for jobs; require businesses to use E-Verify, the government database of names, to check employees legal status; mandate that parents report the immigration status of their children to public schools to assist the schools to maintain legal status records on all their students, and document the costs of educating them...

In total, six states have enacted immigration enforcement laws; other states have taken steps to pass similar laws. These anti-undocumented immigration laws present a serious threat to the values of our nation, and to the principles for which it stands. They would shake and weaken the socio-economic-political infrastructure of our nation. Fortunately, these anti-immigration laws have not, to date, been fully implemented due to legal challenges and great opposition from various sources.

In addition, undocumented immigrants and their families received some hope when President Barack Obama announced on June 15, 2012, that the U.S. Department of Homeland Security would not deport certain DREAM ACT-eligible undocumented individuals. These young people, under the directive of the secretary of DHS, would be granted "deferred action," or temporary relief from deportation, valid for two years, renewable at the end of that period of time. If granted deferred action, an individual could apply for and may obtain employment authorization or "work permit" for the period of deferred action status. Deferred action, in other words, allows undocumented individuals to temporarily remain in the U.S. with legal immigration status.

In order to be considered for deferred action, however, you must meet a long series of requirements, including having arrived in the United States before your sixteenth birthday; have continuously lived in the US since June 15, 2012, up to the present time; be present in the US on June 15, 2012, and at the time of your application; not be a legal immigrant; be at least 15 years old; be 30 years old or younger as of June 15, 2012; be currently in school, have graduated from high school or have obtained a high school equivalency diploma, or be an honorably discharged veteran of the coast Guard or U.S. Armed Forces; have not been convicted of a felony offense, or of a "significant misdemeanor offense," or three or more non-significant misdemeanor offenses; not pose a "threat" to national security or public safety. Even if you meet all the requirements, it is not a given that you will receive deferred action. DHS will decide who will get it on a case-by-case basis, and it does not provide a path to lawful permanent resident status or U.S. citizenship.

Patrick J. Charles in his article examines the objectivity of state immigration verification laws, whether the Supreme Court correctly ruled on their constitutionality, and the ramifications for federal-state spheres over immigration law, and what it means for future potential immigration reform.

Michelle R. Slack in "Ignoring the Lessons of History: How the 'Open Border' Myth led to Repeated Patterns in State and Local Immigration Control" examines our historical local immigration laws and how the persistence of the "open borders" myth led us to ignore and repeat the patterns of some of those laws. The author states that the recent decision by the United States Supreme Court to review Arizona's Senate Bill 1070 is an opportunity to remember history and the lessons it teaches us.

In her article, "Crossing the Border through Immigration, Importation, Illicit and Other Means, and the Implications for Human and Civil Rights," Anna Williams Shavers explores the various forms of entry of immigrants into our country, and the resulting consequences of the type of entry for human rights and civil

rights. She does so by examining the historical exclusions that have been applied to residents and by applying accepted concepts of human rights that are embodied in human rights instruments such as the Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR). The author also examines here the acquisition of citizenship and whether this acquired status should be relevant in a determination of available human and civil rights.

In "Making Civil Immigration Detention 'Civil': Preventive Detention 's Guilty Conscience," Mark Noferi examines current Immigration and Customs Enforcement ("ICE") efforts to make civil immigration detention "civil," by comparing them to current parallel state and federal efforts to civilly commit sexually violent predators. The author articulates the new "civil detention paradigm," and concludes that sex offender civil commitment is today where immigrant detention is likely to be in the next decade. The article questions the "civil detention paradigm" and concludes that it is doctrinally incoherent and potentially pernicious for society.

Katherine L. Vaughn in "Border Fixation: The Art of the Appearance of Security and Control in Immigration Reform," explores the unhealthy fixation that the United States Congress has had in the post 9/11 era on sealing the border with its southern neighbor, Mexico, in order to "protect" this nation's security. To date, those efforts to control unauthorized border crossings have failed miserably to curb the annual influx of hundreds of thousands of undocumented immigrants who come primarily in search of a job. Building a fence is unlikely a deterrent to illegal immigration but it gives the appearance of control and security and thus Congress keeps the public appeased. Vaughn begins her article by offering us a historical perspective as background to the on-going debate, and the special relationship between the United States and Mexico concerning border and migration management. She goes on to describe the rise and fall of border policies totally dependent on the politics of the day, and confronts the impact that politics will have in achieving immigration reform. Failure to consider the practical realities will continue to have unexpected and unintended consequences. The article explores an alternative approach to building fences; one that capitalizes on shared responsibilities among regional neighbors in a global society.

The multidisciplinary papers included in this issue of the *Journal of Civil Rights and Economic Development* are very valuable tools for scholars, researchers, community organization leaders, policy-makers and students interested in current immigration issues in the United States.

