

Right to Migrate: Legal Foundations, Policy Challenges, and the Fight for Racial Justice in Washington State

By Vanessa Gutierrez

Across continents and centuries, people have moved in search of safety, opportunity, and freedom. Yet today migration is portrayed as a crisis or burden, rather than as a universal human right. The widespread anti-immigrant framing of migration today ignores a critical truth: migration is a fundamental human right. The racialized nature of federal immigration laws, policies, and enforcement tactics in the United States must be combatted through a racial justice approach to immigrant rights advocacy.

In Washington State, where diverse immigrant communities form a vital part of the social and economic fabric, the fight for immigrant rights is urgent. Every day people are detained and deported, at times through violation of their constitutionally protected rights to due process.¹

Northwest Immigrant Rights Project (NWIRP), along with partners and allies, is at the frontlines of immigrant justice work. NWIRP advances its mission by offering immigration legal services to people in our communities who cannot afford to hire a private attorney, engaging in systemic advocacy to advance and defend immigrant rights, and by conducting community education to widely share timely and accurate information about the rapidly changing immigration landscape.

International Law and the Right to Migrate

While international law does not define migration as a standalone, codified right in a single treaty, various international instruments affirm that migration is inherently connected to fundamental human rights. One of the foundational documents, the Universal Declaration of Human Rights (UDHR), adopted in 1948, declares in Article 13:

1. Everyone has the right to freedom of movement and residence within the borders of each state;
2. Everyone has the right to leave any country, including his own, and to return to his country.²

These provisions assert not just the right to internal mobility, but also the right of individuals to cross borders and return home. The International Covenant on Civil and Political Rights (ICCPR), a legally binding treaty adopted in 1966, echoes this protection. Article 12 asserts:

¹ American Civil Liberties Union. "Immigrants' Rights." ACLU, www.aclu.org/issues/immigrants-rights. Accessed 30 Apr. 2025.

² United Nations. "Universal Declaration of Human Rights." United Nations, 10 Dec. 1948, www.un.org/en/about-us/universal-declaration-of-human-rights. Accessed 30 Apr. 2025.

"Everyone shall be free to leave any country, including his own... No one shall be arbitrarily deprived of the right to enter his own country."³ The 1951 Refugee Convention and its 1967 Protocol further specify the right to seek asylum from persecution. Signatories are prohibited from returning individuals to countries where they face threats to life or freedom.⁴ Beyond asylum, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families articulates the rights of migrants, regardless of their legal status.⁵ The convention reflects growing international consensus that the rights of migrants must be upheld under human rights law.

The principles memorialized in these documents collectively underscore the fact that migration, while often constrained by sovereign borders, is inherently tied to basic rights: to life, liberty, family unity, and freedom from persecution.

U.S. Immigration Policy: A History of Racial Inequity

In the United States, immigration policy has historically been, and continues to be, used as a tool of white supremacy, racial exclusion, economic stratification, and political control. Understanding this history of structural racism is important to contextualizing today's challenges and working toward meaningful solutions.

The first major immigration restriction in the U.S. was the Chinese Exclusion Act of 1882, which barred Chinese laborers and set the stage for explicitly racialized immigration policies.⁶ In the 1920s, national origin quotas codified preferences for Northern and Western Europeans while excluding Asians and significantly limiting immigration from Africa, Latin America, and Eastern Europe. These quotas were designed to preserve a Eurocentric national identity and maintain racial hierarchies.⁷

The 1965 Immigration and Nationality Act marked a turning point by abolishing racial quotas, but it instituted a preference system based on family reunification and employment – mechanisms that still heavily impact who can legally migrate and continue to perpetuate

³ United Nations. "International Covenant on Civil and Political Rights." United Nations Human Rights Office of the High Commissioner, 16 Dec. 1966, www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights. Accessed 30 Apr. 2025.

⁴ United Nations High Commissioner for Refugees. "Convention and Protocol Relating to the Status of Refugees." UNHCR, www.unhcr.org/en-us/about-us/background/4ec262df9/1951-convention-relating-status-refugees-its-1967-protocol.html. Accessed 30 Apr. 2025.

⁵ United Nations. "International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families." United Nations Human Rights Office of the High Commissioner, 18 Dec. 1990, www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-rights-all-migrant-workers. Accessed 30 Apr. 2025.

⁶ Lee, Erika. "The Chinese Exclusion Act of 1882." National Archives, 17 Sept. 2019, www.archives.gov/milestone-documents/chinese-exclusion-act. Accessed 30 Apr. 2025.

⁷ Ngai, Mae M. "The Architecture of Race in American Immigration Law: A Reexamination of the Immigration Act of 1924." *Journal of American History*, vol. 86, no. 1, 1999, pp. 67-92.

disparate impacts across racial groups.⁸ Meanwhile, border militarization, mass deportations, and detention have become increasingly normalized, particularly post-9/11's security state expansion that disproportionately targeted Muslim and Arab communities.⁹

Current immigration enforcement disproportionately affects people from Latin America, Africa, and the Middle East, reinforcing the racial and economic disparities embedded in the system.¹⁰ The myth of a "right way" to migrate ignores the structural barriers many face – including long waitlists, restrictive visa categories, and the near impossibility of legal pathways for many seeking refuge from violence or economic collapse in their home countries. This false narrative ignores how the U.S. immigration system privileges certain groups while creating insurmountable barriers for others based on race, nationality, and economic status.

Immigration Policy in Washington State: Racial Disparities and Community Impact

Diverse immigrant communities in Washington contribute significantly to a variety of industries, including agriculture, health care, hospitality, and technology. As of 2023, immigrants made up about 15% of the state's population, with people of color representing the majority of these residents.¹¹

Despite these contributions, immigrant communities of color face systemic racism and structural barriers, including limited access to legal representation, racial profiling, increased surveillance, and harsh enforcement tactics that target specific nationalities and ethnic groups.¹² Recent policy developments at the federal level have exacerbated this climate of fear and uncertainty.

At the state level, Washington has taken important steps to protect immigrants from unjust enforcement and discrimination. The Keep Washington Working Act, passed in 2019, prohibits local and state law enforcement agencies from using state resources to assist in federal immigration enforcement activities, such as detaining individuals based solely on immigration status or participating in immigration raids.¹³ The Courts Open to All Act, passed in 2020, further protects the rights of immigrants by preventing immigration agents from conducting civil

⁸ Chishti, Muzaffar, et al. "Fifty Years On, the 1965 Immigration and Nationality Act Continues to Reshape the United States." Migration Policy Institute, 15 Oct. 2015, www.migrationpolicy.org/article/fifty-years-1965-immigration-and-nationality-act-continues-reshape-united-states. Accessed 30 Apr. 2025.

⁹ Shiekh, Irum. "Detained Without Cause: Muslims' Stories of Detention and Deportation in America after 9/11." Palgrave Macmillan, 2011.

¹⁰ Golash-Boza, Tanya. "The Immigration Industrial Complex: Why We Enforce Immigration Policies Destined to Fail." *Sociology Compass*, vol. 3, no. 2, 2009, pp. 295-309.

¹¹ American Immigration Council. "Immigrants in Washington." American Immigration Council, 14 Aug. 2023, www.americanimmigrationcouncil.org/research/immigrants-in-washington. Accessed 30 Apr. 2025.

¹² Armenta, Amada. "Racializing Crimmigration: Structural Racism, Colorblindness, and the Institutional Production of Immigrant Criminality." *Sociology of Race and Ethnicity*, vol. 3, no. 1, 2017, pp. 82-95.

¹³ Washington State Legislature. "Keep Washington Working Act." SB 5497, 2019, [app.leg.wa.gov/bills/summary?BillNumber=5497&Year=2019](http://app.leg.wa.gov/bills/summary/BillNumber=5497&Year=2019). Accessed 30 Apr. 2025.

arrests in and around state courthouses, with the goal of ensuring that people can safely access the justice system without fear of detention or deportation.¹⁴

However, these state-level protections face ongoing federal resistance and threats. Federal authorities have challenged Washington's protective laws both legally and operationally. Federal officials have accused Washington of being a "sanctuary state," attempting to undermine its authority and pressure state and local officials into compliance with federal enforcement objectives.¹⁵

The federal government has also threatened to withhold funding from states and localities that do not cooperate with immigration enforcement. Washington's refusal to provide information about undocumented individuals or share access to state databases (like driver's license records) has drawn scrutiny and retaliatory efforts.¹⁶ These tensions have led to situations where ICE agents conduct arrests in public spaces and neighborhoods, often without notifying local authorities, bypassing state protections altogether.

These challenges underscore a key limitation: state law cannot override federal immigration authority. When federal policies become more aggressive – such as broadening enforcement priorities, limiting asylum access, or expanding expedited removal – Washington residents remain vulnerable. The state can mitigate harm but cannot fully shield immigrant communities from federal immigration enforcement.¹⁷

The impact of these policies extends beyond individuals. Families are torn apart, children are traumatized, and entire communities suffer economic and psychological harm.¹⁸ Fear of deportation also discourages immigrants from seeking medical care, reporting crimes, or accessing education—all of which undermines public safety and collective well-being.

NWIRP's Response: Legal Defense, Advocacy, and Community Education

The Northwest Immigrant Rights Project (NWIRP) has served immigrant communities in Washington State for over 40 years. With offices in Seattle, Tacoma, Granger, and Wenatchee, NWIRP provides direct legal representation to immigrants from all over the world, while also

¹⁴ Washington State Legislature. "Courts Open to All Act." SB 6008, 2020, app.leg.wa.gov/billssummary?BillNumber=6008&Year=2020. Accessed 30 Apr. 2025.

¹⁵ Merchant, Nomaan. "Justice Department Sues Over 'Sanctuary' Policies in Washington, New Jersey." Associated Press, 10 Feb. 2020, apnews.com/article/31ad4322dd0602c35aba41de8363a2e9. Accessed 30 Apr. 2025.

¹⁶ National Immigration Law Center. "Understanding Trump's Executive Order Targeting Sanctuary Cities." NILC, 13 Feb. 2017, www.nilc.org/issues/immigration-enforcement/understanding-trump-executive-order-sanctuary-cities/. Accessed 30 Apr. 2025.

¹⁷ Gulasekaram, Pratheepan, and S. Karthick Ramakrishnan. "The New Immigration Federalism." Cambridge University Press, 2015.

¹⁸ Capps, Randy, et al. "Implications of Immigration Enforcement Activities for the Well-Being of Children in Immigrant Families." Urban Institute and Migration Policy Institute, Sept. 2015, www.migrationpolicy.org/research/implications-immigration-enforcement-activities-well-being-children-immigrant-families. Accessed 30 Apr. 2025.

engaging in systemic advocacy and community education. NWIRP advocates represent individuals in detention, asylum seekers, survivors of domestic violence and trafficking, and children who arrived in the U.S. as unaccompanied minors. In recent years, NWIRP has significantly expanded its capacity in response to growing demand—yet the need still outpaces available resources. NWIRP also regularly challenges unjust immigration policies in court. Recent cases have addressed prolonged detention without bond hearings, unlawful deportations to third countries without due process, efforts to roll back asylum protections, and attempts to attack birthright citizenship. By litigating systemic issues, NWIRP pushes for broad changes in immigration policy and practice. Many of the systemic advocacy efforts NWIRP engages in stem out of the high volume direct legal services work which helps identify unjust laws and policies.

NWIRP also provides community education, including trainings for service providers, monthly immigration updates webinars, and "Know Your Rights" presentations to help immigrants understand their legal rights.

As political rhetoric grows more hostile and enforcement more aggressive, NWIRP's work is more critical than ever. The organization centers racial equity in its approach, recognizing that immigration enforcement disproportionately harms communities of color. NWIRP's vision goes beyond legal representation to address systemic racism and power imbalances in the immigration system, working to uphold the dignity and rights of all immigrants and ensure that Washington remains a welcoming place for all its residents.¹⁹

How Community Members Can Advance Racial Equity in Immigration Justice

The struggle for immigrant justice requires a collective commitment to racial equity and structural change. None of us can dismantle inequitable systems alone. Here are concrete ways you can make a difference:

1. Educate Yourself and Recognize Your Position

Examine how your own racial identity, privilege, and biases shape your understanding of immigration issues. Learn about the history of U.S. immigration law as a tool of racial control, the realities of life for undocumented people, and the structural barriers migrants face. Share this knowledge with your community while centering the voices of those most impacted. Trusted sources include:

- American Immigration Council (<https://www.americanimmigrationcouncil.org>)
- Migration Policy Institute (<https://www.migrationpolicy.org>)
- ACLU of Washington (<https://www.aclu-wa.org/docs/racial-history-immigration-presentation-flights-rights>)
- NWIRP's resource center (<https://www.nwirp.org/resources>)

¹⁹ Northwest Immigrant Rights Project. "Mission, Vision, and Values." NWIRP, www.nwirp.org/about-us/mission-vision-values/. Accessed 30 Apr. 2025.

- JustLead Washington's REJI Toolkit (<https://justleadwa.org/learn/rejitoolkkit/>)

2. Support Immigrant-Led Organizations

Prioritize supporting organizations where immigrant communities and people of color hold leadership positions and decision-making power. You can:

- Volunteer your skills (legal, translation, event planning)
- Attend fundraisers or awareness events
- Join NWIRP's email list for updates and action alerts

Visit <https://www.nwirp.org/join/take-action/> for more ways to help.

3. Engage in Anti-Racist Advocacy

Contact your representatives at all levels. Urge them to:

- Oppose racially biased immigration enforcement
- Support inclusive policies (such as driver's licenses for all residents, regardless of immigration status)
- Support increased funding for critical public benefits and services

4. Join a Rapid Response Network

Community response teams provide support during ICE actions and emergencies. These networks often assist families affected by arrests, monitor ICE activity, and collaborate with legal services organizations to mobilize quickly. Recognize that ICE enforcement primarily targets communities of color and that rapid response work requires cultural competency and language access.²⁰

Grassroots coalitions also play an essential role in Washington. The Washington Immigrant Solidarity Network (WAISN), the largest immigrant-led coalition in the state, coordinates rapid response efforts, trains community members, and builds collective power through statewide organizing. WAISN's hotline enables families to report ICE activity and access legal support in real time, helping ensure that state protections translate into on-the-ground safety.²¹

5. Be an Active Accomplice, Not Just an Ally

Move beyond being a "welcoming neighbor" to actively disrupting racist systems. This means leveraging your privilege when appropriate, following the lead of directly impacted communities, and taking concrete action against discriminatory practices. Offer tangible support

²⁰ Immigrant Legal Resource Center. "Community Responses to Immigration Enforcement." ILRC, Jan. 2023, www.ilrc.org/community-responses-immigration-enforcement. Accessed 30 Apr. 2025.

²¹ Washington Immigrant Solidarity Network. About Us. <https://waisn.org/about-us/>. Accessed 30 Apr. 2025.

like rides to immigration appointments through accompaniment programs, attend community events, and speak up when you witness discrimination.²²

Toward Migration Justice Through Racial Equity

Migration is not a crisis to be solved – it is a reality to be met with justice, compassion, and a commitment to racial equity. The right to move, to seek safety, and to build a better life is embedded in our shared humanity and affirmed in international law. But rights without access and protection are hollow, especially when systemic racism determines who can exercise those rights.

The current U.S. immigration system is unjust. It criminalizes presence, separates families, and disproportionately harms communities of color. In Washington State, the effects are deeply felt – but so is the resistance. Organizations like NWIRP, together with other immigrant-led groups, continue to push for a system rooted in dignity, fairness, and racial justice.

The path forward requires bold anti-racist action: defending legal rights, centering the leadership of directly impacted communities, rewriting unjust laws, and refusing to let dehumanizing narratives take hold. Whether you are an attorney, a student, a teacher, or a neighbor, we should all examine our own privilege and power and use them in service of immigrant justice. This work is necessary solidarity in the struggle for a more just society where we can all thrive.

²² Racial Equity Tools. "Racial Equity in Immigration System Work." Racial Equity Tools, 2023, www.racialequitytools.org/resources/plan/issues/immigration. Accessed 30 Apr. 2025.