

Expert: Trump’s attitude toward immigrants, migratory laborers echoes past presidents

President Trump’s approach to undocumented immigrants and migratory laborers follows the example of past presidents who relied on racial animus to scapegoat foreigners during times of cultural change, says U. of I. labor professor Michael LeRoy.

CHAMPAIGN, Ill. — President Donald Trump’s approach to undocumented immigrants and migratory laborers follows the example of past presidents who relied on racial animus to scapegoat foreigners during times of cultural change, says a University of Illinois expert who studies immigration law and labor issues.

Foreigners have caused recurring anxiety for American workers, and those fears have been fomented by presidents from George Washington through Franklin Roosevelt who viewed immigration in racial terms, said Michael LeRoy, a professor of labor and employment relations at Illinois.

“However you feel about President Trump, many tend to think that his attitude toward foreigners is unique,” LeRoy said. “The truth is, his beliefs are not all that unique. Roughly a dozen presidents were motivated by racial animus and used their powers as chief executive to malign immigrants under the auspices of ‘protecting’ American workers. If you view President Trump’s approach to immigrants through a historical lens, it’s really a throwback to the pre-Cold War era.”

According to LeRoy, the history of presidential immigration powers divides into two periods: before and after Harry Truman, culminating in the passage of the Immigration and Nationality Act of 1965.

The longest period, running from the founding of the U.S. to the end of World War II, was largely marked by “restrictions

and exclusions arising from racial bigotry directed at migratory laborers,” LeRoy said.

“You can cite examples going back to the era of our Founding Fathers, when President Jefferson used quiet diplomacy during his last year in office to enforce the Constitution’s fugitive slave provision by deporting free blacks to Sierra Leone,” he said. “President William McKinley cast foreigners as a public menace and issued the first executive order pertaining to immigration and labor conditions by barring Chinese workers from Hawaii. From the 1880s through the 1940s, presidents acted with Congress to restrict laborers from China, Japan and eventually all of Asia in order to severely limit the flow of poor, nonwhite European immigrants to the U.S.

“Immigrants have been blamed for lowering standards for American workers from the country’s inception. So what President Trump is doing now is nothing new. It’s part of our historical DNA.”

Truman and President Dwight Eisenhower set the tone for a comprehensive overhaul of immigration policies by explicitly challenging racial bias and using their limited executive powers to move the nation toward a more pluralistic approach to immigration – “one that would befit the ideals of American democracy,” LeRoy said.

“The passage of the Immigration and Nationality Act in 1965 was a watershed event in this regard,” he said. “Thereafter, the nation embarked on an ambitious

policy to promote immigration from all parts of the world. With the exception of Richard Nixon, every president since has embraced this sweeping legislation. In contrast to today, presidents have used executive orders and other administrative powers to permit entry to hundreds of thousands of people displaced by war, political upheaval and natural disasters. They used prosecutorial discretion to extend the stay of these temporary migrants and created a legal mechanism for their lawful employment.”

After the Immigration Reform and Control Act of 1986 was passed, presidents of both parties used their powers in the ensuing decades to pursue amnesty for migratory workers and create temporary legal status for their children, LeRoy said.

“Family unification was more important to Ronald Reagan, George H.W. Bush and Barack Obama than it is for Trump, who chooses to use his executive powers to deport large numbers of family members,” he said. “Indeed, the much-derided Deferred Action for Childhood Arrivals program of President Obama traces its authority back to President Reagan’s discretionary policy to allow minor children to remain in the U.S. with their parents.

“But President Trump offers a clear departure from that pluralistic vision. For now, that law remains a bulwark and explains why courts have for the most part been able to restrain Trump’s anachronistic impulses.”

Paper: Courts check presidential powers over immigration policy

CHAMPAIGN, Ill. — As courts continue to adjudicate President Donald Trump’s executive orders related to immigration and employment, a new study from a University of Illinois expert who studies immigration law and labor issues says presidential powers over immigration have been significantly hamstrung by the judicial branch.

Research by Michael LeRoy, a professor of labor and employment relations at Illinois, indicates that plaintiffs won all or part of 89 percent of the rulings in cases that consider Trump’s immigration orders that affect employment relationships.

“The results suggest that President Trump has overreached in his use of executive immigration powers, violating statutory and constitutional requirements,” LeRoy said. “Most of President Trump’s immigration orders that affect employment fall outside the Constitution’s Article II powers over conducting foreign affairs. The net result is that by overreaching with respect to his constitutional authority, President Trump has precipitated new legal precedents that function to limit his executive powers, thereby resulting in a significant erosion of presidential authority over immigration.”

LeRoy’s research shows that the Trump presidency’s “America First” theme closely parallels the substance and tone of presidential approaches to immigration from the 1880s through the 1940s.

“President Trump’s immigration policy is clearly at odds with the pluralistic vision and structure of the Immigration

and Nationality Act of 1965,” he said. “For now, that law remains in effect – and it explains, in brief, why courts have acted as a check on his immigration actions.”

Twenty consolidated lawsuits have been filed to challenge the travel ban, the rescission of the Deferred Action for Childhood Arrivals program and other immigration issues in the two years since Trump took office. LeRoy analyzed results from first-level and subsequent rulings and found that plaintiffs relied heavily on the Administrative Procedure Act and the Fifth Amendment’s Due Process Clause, which were cited in 75 percent and 70 percent of cases, respectively. In 77 percent of the cases involving a request for an injunction, courts granted some form of relief to plaintiffs.

The results indicate that Trump appears to have attempted to expand presidential immigration powers in ways that implicate individual rights under the Constitution and other U.S. laws, LeRoy said.

“When using executive powers for immigration, President Trump often conflates national security with jobs for Americans,” LeRoy said. “In doing so, he loses sight of the Immigration and Nationality Act of 1965. He also misunderstands that immigration law embeds significant employment regulations, including registration obligations and work privileges for undocumented individuals in the DACA program and recipients of temporary protected status. At a minimum, he is obligated by the Administrative Procedure Act to provide a formal notice and comment process for some of these actions.”

But by being careless in using executive orders to change immigration policies that are codified as law, Trump

has managed to undermine jurisdiction defenses in lawsuits, the paper says.

“His haste to implement orders has affected individuals and their employers, including people who are authorized to work lawfully under the Immigration and Nationality Act,” LeRoy said. “Those actions pose substantial harm with little or no process. Some courts have sharply rebuked the president’s actions by ordering injunctions – and a few have explicitly suggested he acted with racial or religious animus.

“The net effect is that President Trump has eroded and undercut his own executive branch powers over immigration every step of the way.”

The open question is whether the U.S. Supreme Court will allow these lower court rulings to stand or modify them to the point of entirely reversing them, LeRoy said.

“Certainly, the Supreme Court has a wealth of precedents from the pre-Truman age of racial animus,” he said. “The recent confirmation hearing for Justice Brett Kavanaugh, who is widely viewed as a key fifth vote in a conservative bloc on the court, showed that he favors a highly deferential view of the presidency. On the other hand, a conservative majority on the court overruled the Korematsu precedent in Trump v. Hawaii. The majority did not need to take this strong position to decide the case, but in doing so signaled some inclination to limit racial bias in a president’s use of Article II powers.

“Whether the Supreme Court, Congress or voters have the most influence on presidential powers over immigration is an unsettled question, but we’re a nation at the crossroads regarding immigration.”

High School Seniors Can Apply Now for an ICF Conservation Achievement Scholarship

SPRINGFIELD, IL - Applications are now being accepted by the Illinois Conservation Foundation (ICF) for the 2019 Conservation Achievement Scholarship program. The ICF annually awards scholarships to outstanding high school seniors in Illinois who demonstrate effective, voluntary, long-term dedication to the preservation, protection or enhancement of the state's natural resources. Up to three scholarships of \$2,000 each are available for the current school year.

"The ICF's Conservation Achievement Scholarship program helps further the education of young people who have shown interest in being our future conservation leaders," said Wayne Rosenthal, chairman of the Illinois Conservation Foundation Board of Directors and Director of the Illinois Department of Natural

Resources. "The scholarships help reward a commitment to natural resources stewardship by students from throughout Illinois."

The ICF Conservation Achievement Scholarships have been awarded since 2005. Applicants must be an Illinois resident and a senior in an Illinois high school. Applications must be received by the ICF by March 15, 2019.

Detailed instructions and the 2019 application form can be accessed through the ICF website at: <http://www.ilcf.org/portal/sponsorship-opportunities>

Contact the Illinois Conservation Foundation at 217-785-2003 or dnr.icf@illinois.gov for more information or to make a donation to support the Conservation Achievement Scholarship program.

Serve Illinois Asks People to Give Back on Dr. Martin Luther King, Jr. Day of Service and Honor Volunteers through the Governor's Volunteer Service Award

SPRINGFIELD - Martin Luther King, Jr. Day of Service is January 21, 2019. Serve Illinois encourages people across Illinois to take part in the day of service by volunteering in their community. Martin Luther King Jr. Day was designated a National Day of Service by Congress in 1994. Illinoisans have a rich history of service. Dr. King said, "Life's most persistent and urgent question is: ‘What are you doing for others?’" People can find volunteer opportunities at www.Serve.Illinois.gov.

"Illinoisans answer this question each day by helping their neighbors and their community. Volunteerism is the answer," said Serve Illinois Executive Director Scott McFarland. "Illinois is

proud that we were the first state to honor Dr. King with a holiday, and we are prouder still that Illinoisans make it a day on, not a day off."

Serve Illinois also wants to recognize those who serve their communities throughout the year, and is accepting nominations for the ninth annual Governor's Volunteer Service Awards. These awards recognize individual volunteers and for-profit businesses, and highlight the importance of community service in Illinois.

"Each year, millions of Illinoisans take time out of their busy lives to help their neighbors," said McFarland. "These volunteers are helping keep children safe, keeping our environment pristine, helping people find jobs, and so much more. They improve

and save lives each and every day, and with these awards, we recognize the best of Illinois."

Serve Illinois will present individual awards to one youth (18 years and younger), one adult (19-54 years old), and one senior (55 years and older) in each of Serve Illinois' five volunteer network regions across the state (Northeast, Northwest, East Central, West Central, and Southern). Serve Illinois will present National Service Awards to one AmeriCorps member, one Senior Corps member, and one for-profit business in each of the five service regions.

Nominations are due to Serve Illinois by February 15, 2019. Please visit www.serve.illinois.gov for nomination forms and more information. Serve Illinois will host a ceremony on April 9, 2019

at the Old State Capitol in Springfield to honor recipients.

The Serve Illinois Commission is a 40 member (25 voting and 15 non-voting), bi-partisan board appointed by the Governor and administered by the Illinois Department of Public Health. Its mission is to improve Illinois communities by enhancing volunteerism and instilling an ethic of service throughout the state. The Commission is accomplishing this mission through the support of local community-based efforts to enhance volunteer opportunities and the administration of Illinois' AmeriCorps program. For more information on Serve Illinois, or to find one of more than 2,500 volunteer opportunities in the state, please visit www.serve.illinois.gov.