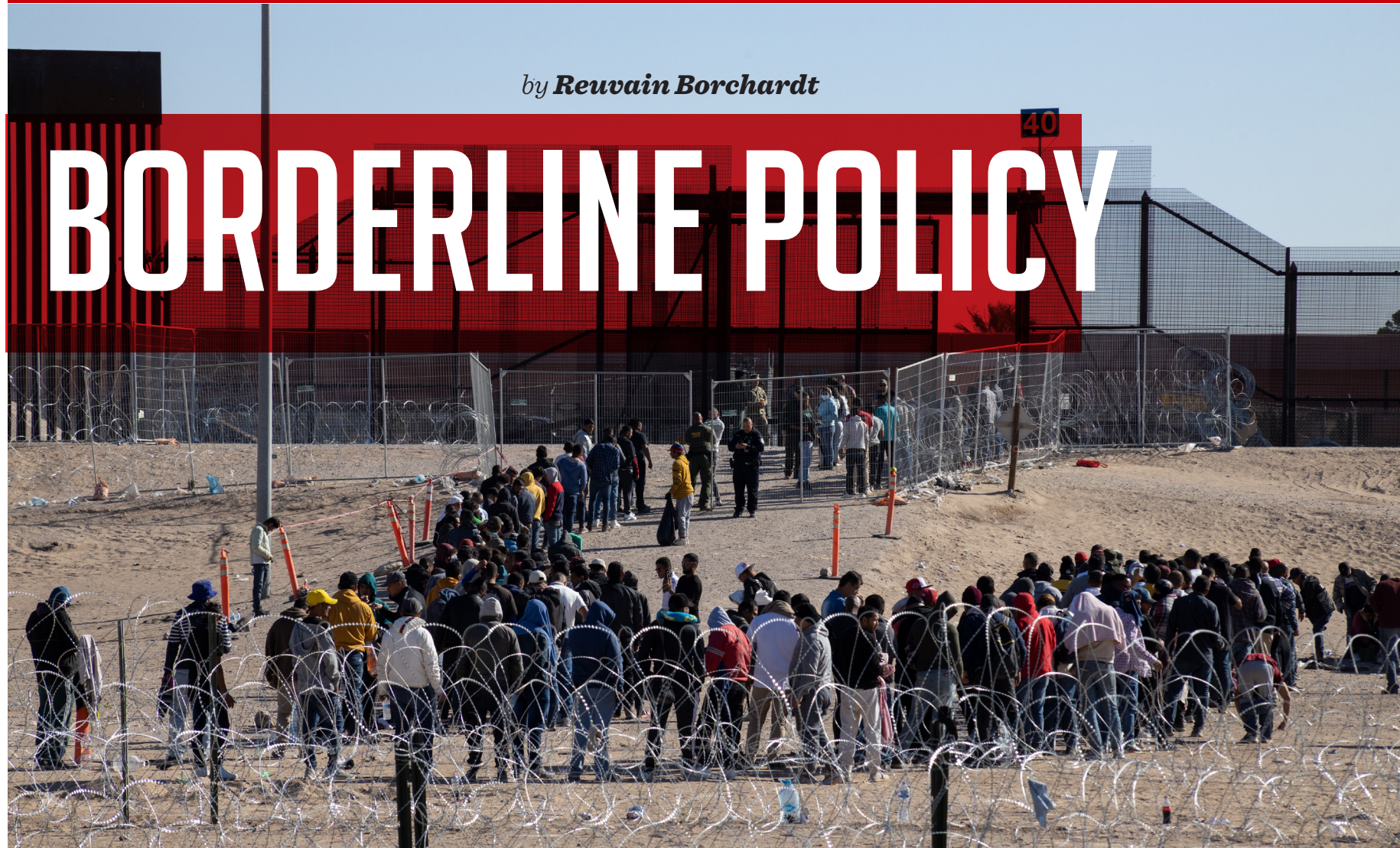


by *Reuvain Borchardt*

BORDERLINE POLICY



DAVID BIER, director of immigration studies at the Cato Institute, discusses what Trump's immigration policy will look like during his second term.

Bier drafted immigration legislation from 2013 to 2015 as a senior policy adviser for Rep. Raúl Labrador (R-Idaho), then a member and later the chairman of the House Judiciary Committee's Subcommittee on Immigration and Border Security.

He has testified before House and Senate committees, and the U.S. Supreme Court and multiple federal appellate courts have cited his work.

Candidate Trump vowed that as president, he would carry out the "largest domestic deportation operation in American history." Now that he has won, what do you see him doing in his second term? Will he actually carry this out, or was it just campaign rhetoric?

I think there will be an unprecedented effort to deport as many people who are in the country illegally as we've ever seen, in terms of the amount of money and amount of govern-

mental resources devoted to that effort.

How effective that effort will be largely depends on the courts and their interpretation of the authority of the federal government to conduct this type of operation, which would require going into homes, businesses and communities and detaining people and interrogating them about their status. This is the level at which they want to operate. And the question that's up in the air is to what extent that would be allowed under our laws and our Constitution.

I do think this deportation program will be less effective than Trump and his people think it will be, because it's not easy to find people even if you're really desperate to find them. In the United States, people can blend in. But of course, any large-scale operation is going to cause a lot of fear in the immigrant communities, and some people are going to leave because of that fear.

You said the courts will have to decide constitutional and legal questions about a deportation program. Regardless of one's opinion of the merits of deportation, doesn't the federal government clearly have this authority?

There's no question the federal government can remove someone who has no authorization to be here. The question is, what is the procedure by which you're going to identify those people? How are you actually going to find the people who you say are removable? What process are you going to go through in terms of interrogating people about their status? And if you think they might be removable, do you have to bring them before a judge? Can you just put them right on a plane? Do you need to put them in a detention facility that meets certain federal standards, or can you just put them on a military base somewhere with some guys guarding them and not give them shelter and a lot of the other things that you'd expect at any other prison or jail or detention facility in the United States?

These are the types of questions that are still up in the air.

If history and precedent are any indication, they would not be able to do a lot of the actions that they want to do, bypassing the courts and Congress. But it really is untested whether, for instance, they can bypass the appropriations process by using military funds to pay for deportation operations. Obviously, they think they have the authority to do those things, and they already succeeded in using military funds to build the border wall. Even if they don't have the authority, a lot of people might get removed before we even find out that they don't.

What changes do you expect Trump to enact at the border?

The most critical change is going to be with respect to returning people to Mexico. For non-Mexicans traveling through Mexico trying to reach the United States, he will return them to Mexico to wait while they apply for asylum. This is known as "Remain in Mexico."

The Mexican government has said they won't take these people back, but its commitment to that will be tested by a Trump administration that will threaten them with tariffs and other

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retaliation if they don't accept people back.

We've already been returning people throughout the Biden administration and first Trump administration under different authorities, but "Remain in Mexico" is the key component of Trump's plan.

However, he really wants to ban asylum every which way. But it's already effectively banned under the recently enacted Biden policy, so he would only need to continue that. I expect much more extensive detention camps at the border.

What sort of immigration policies can Trump enact on his own, and what would he need Congress to sign off on?

The only thing the courts are going to stand up to him on are due-process protections for U.S. citizens and people who have legal status here — you can't just be arresting people without checking to see if they have citizenship.

The only other area where there's real legal constraint on his ability to act is in appropriations. That's where the real debate will be in Congress: how much should we fund for this? We already know Trump wants to use the military to fund it.

When it comes to things like limiting the right of asylum and removing people and so forth, most of them are likely to hold up in court. They may be delayed by lower court rulings and so forth before they make it to the Supreme Court, but in the long term, these policies are likely to withstand scrutiny by the Supreme Court.

Capitalists, libertarians and the business community say having these immigrant workers here benefits the economy. The view from the populists, union workers and hard-core Trump supporters is that they're taking

jobs from Americans. In your opinion, in fact there was a mass deportation of low-skilled immigrant workers, what effect would that have on the economy?

There would be a massive contraction in the economy. The foreign workers who are doing these jobs will be deported. The output that they're producing will disappear, which means a smaller economy. Since they're no longer spending their earnings here, the consumption of goods and services elsewhere in the economy will contract, which means fewer jobs in those industries where the immigrants aren't working. You're going to see this great reshuffling, almost like you had during COVID, where you had this shock with a lot of people pulled out of the labor force and then paid not to work, but in this case, it's going to be a shock from deportation.

For example, Americans who are working in the front of the restaurant — assuming a restaurant can even survive in these conditions — are going to be pushed to the back of the restaurant into some of these lower-tier roles in order to just keep the operation going, and because they're taking on other skills and responsibilities that they're not accustomed to, they're going to be less productive. Those jobs tend to be lower-paying than the jobs where you're dealing with customers and you're managing, so you're going to reduce not only the total production of the economy, but you're also going to make American workers less productive. And if you're less productive, you earn lower wages.

You're going to see a lot of supply-chain problems, as farmers can't get their food to market, and obviously all the downstream industries that deliver the food to stores are going to be affected. Other big industries for immigrant employment, like construction and hospitality, are going to be extremely negatively affected.

