

English translation



Episode 2

Immigration Laws and Healthcare: Unraveling the Historical Context and Impact

Alejandro Moreno, MBBS, MPH, JD, MACP and 2023 ACP intern Loretta Alarcon

[Loretta] Welcome everyone to this episode of the ACP Podcast. I want to welcome Dr. Moreno, our guest today. I'm Lori Alarcon; I'm one of the people here (at ACP) who's working this summer as an intern with ACP. I'm working in the medical education department and my project this summer is creating a podcast and talking about different issues that are important for Latin Americans and for patients and the problems that Latinos face in the United States. Today I want to talk- I want to introduce Dr. Moreno, who is the ex-governor of the ACP chapter in the south of Texas, who will talk about how immigration laws affect medical attention. I've seen a change in immigration laws recently and we've seen that there's an impact on medical attention. I want to discuss the historical context of immigration laws in the United States and I want to include the discriminatory practices and the laws related to public health. My first question for you, Dr. Moreno, is how have the historical immigration laws, and medical attention, been molded for immigrant populations?

[Dr. Moreno] Good morning. Thank you very much for having me as part of the podcast. One correction- I'm still the governor of the Texas chapter.

[Loretta] No worries.

[Dr. Moreno] Immigration in the United States, immigration laws in the United States have really been a blanket solution. They've been patchwork for multiple laws that have been put together and have created a system that in many ways, does not create justice for the history of the nation, which involves immigrants. We must remember that the vast majority of us who live in the U.S. are immigrants in some way, or descendants of one. Something else that greatly characterizes immigration laws, has been the discrimination, or how discriminatory or how certain individual groups- specifically. It is interesting because during the first 80, 90 years of the nation, immigration laws, the few that existed, welcomed anyone who wanted to come to the country and settle here. Then there begin to be restrictions around the time of the civil war, more or less. And among the first strategies that are used to prohibit the entry of immigrants are public health measures. So, individuals who had syphilis, individuals who had tuberculosis, and mental illnesses, are denied entry. This is the first association made between immigration and disease. And I am sure that you have seen in the news that certain politicians have used that association to say that immigrants are not clean, they bring diseases to justify more barriers or establish new policies that prevent immigrants from entering the United States.

[Lorett] Very well. And I know that this feeling of anti-immigration has been caused by different historical events, especially when it is related to violence, like the Cold War, and how has the influence of war violence or different conflicts affected immigration and how immigrants are perceived in the United States?

[Dr. Moreno] Look, during World War II, the nation did not have the tools to allow the entry of a large number of refugees. Once the Second World War ends and the system of the United Nations is created, there is an agreement to establish a system for refugees that allows the entry of individuals who are persecuted for political reasons, ethnic, religious, nationality, or membership in a particular group. It creates a system of refugees among which asylum is part of that. In reality, the difference between refugees and asylum is where you get that protection. Refugees, you get protection being outside the United States and you enter with that status. And on the other hand, on asylum, you enter in a different way and you ask for humanitarian protection within the United States and you get that protection. The United States and the allied nations used this system effectively during the Cold War to absorb the individuals who were escaping from nations under the Soviet sphere. Obviously, they also used it as a propaganda mechanism saying that "individuals from these nations are not protected and we are being protected". When the Soviet Union falls at the end of the 80s, at the beginning of the 90s, that justification of refugee for political reasons or nationality does not mean that they disappear, but again, the ideological lines between communism and democracy disappear. So there is not so much justification to admit (give entry) those individuals under those two categories. It begins a process of eroding the protections given to this specific category of immigrants. The timeframe that they can claim asylum is restricted or for filing a petition. The reasons why an individual no longer qualifies for being asylum increase. The number of individuals who have to go to an immigration court increases and not necessarily under the administrative system, where it is not an adversarial system like court, but an interview with an immigration official. This is one of the restrictions. There are other increases in the anti-immigrant sentiment, especially at the end of the 90s. This is partly due to political changes in certain areas of the political spectrum in the United States. One of the factors that begins to live the flames of xenophobia is that states like Arizona, California, Texas, the descendants of immigrants, especially of Latin origin, begin to make the majority of the population. Then certain political parties start to realize that the Latinos are replacing the existing population.

[Lorett] It's so true how we have seen a huge change in southern states, such as Texas. As I said, there are now more immigrants who are established as citizens or as residents in Texas. There is also a change in Florida that we have seen, that now they are putting different laws that are not so welcoming to undocumented immigrants. Especially the law of 1718, that we have seen that states that it is now it is a crime, since July 1, to transport an undocumented person in the car, in the car, whether it is a family or a friend- this is called smuggling. And that is now seen as a crime in Florida. And also the licenses that undocumented immigrants receive from other states like Chicago, Illinois, or Massachusetts or Connecticut, where there are different ways to obtain a driving license to drive. Now the licenses are invalid in Florida. So there is also another way to block the attempt of having so many undocumented immigrants in Florida. And we have also seen that there are more Latinos there who have seen a lot of immigration there for their work and the opportunities to work in domestic jobs. But I think I have also seen a great transformation in the way that immigrants are seen, especially under the presidency of Trump, specifically the Law 44 and the prohibition of Muslims. And that started a different change, a different transformation of how we see immigrants in the United States. And it also caused a fear, a negative feeling, as you were talking about, that has always existed, I think it started in the 90s, but I think it has taken a lot in the last 10 years.

[Dr. Moreno] Look, you touch on very interesting points. As I said at the beginning of the podcast, the history of immigrant laws of discriminatory character are not new. Moreover, the prohibition of Chinese immigration, there was also data from the mid-1950s, for example, during the 19th century, the prohibition of the Catholic entry of Ireland. It was established at the end of the 19th century, at the beginning of the 20th century, a quota system where the entry of individuals who came, for example, from the United Kingdom, from Germany, from Norway, but it was disliked by other nations, for example, Italy, Greece, or from other countries. The use of public health, which we also saw during the COVID-19 pandemic, the use of the 42nd chapter of public health to prevent the entry of immigrants, it is not something new, as I tell you, the first way in which the entry of immigrants was restricted was the use of public health. At that time, if a person was confirmed, if they suspected that they had syphilis, tuberculosis, or venereal disease, any person who suspected that they were in prostitution was also prohibited. So, it is the use of old practices that have been revived again through. Allow me to talk a little about the law of Florida, because today we see that immigration is a matter of the federal government. The truth is that the Constitution of the United States does not have a specific article that gives power to immigration to the federal government. The Supreme Court, in several decisions, has determined that through the clause of external relations, the clause of giving the Congress the power to declare nationality, some have suggested that the amendment 14 of the Constitution, once it declared freedom of slaves, it said that all those who were born citizens of the United States, have citizenship. So, in one way or another, there has always been the perception that the states can dictate certain norms of immigration. The Supreme Court has said in its decisions that it is the federal government. But that ambiguity in the Constitution has taken advantage of certain states to create or establish laws. One of the examples is the Florida, as you mentioned, the prohibition of transporting individuals who do not have documents. It is mandatory that hospitals and clinics ask and report the immigration status of the patients. It is prohibited to not show a form a legal status, identification or driving license. Those are the three main parts of the law. The other one already exists, and it's a duplicate of the federal government's efforts to enforce the employment of someone who needs to complete verification and e-verify. That it is a federal platform where you review the social security and the name with the date of birth of the person.

[Loretta] And that law has affected domestic employees a lot. And when I say domestic workers, I mean gardeners, painters, people who work in construction, because those are the jobs which are more accessible for the people who immigrate from Mexico or from another country, like in Latin America. And those are the jobs more accessible and people who hire them a lot of time, they know that this type of employment does not need much experience in education or something like that. And they (immigrants) take advantage of these jobs. But now we have seen that many Latinos are moving out of Florida, and that after this law and this governor, people are moving because of fear. And my concern and my question is how do you think this law will affect doctors and patients in Florida, or with these types of laws?

[Dr. Moreno] Very good question. Look, in most countries in the world the health system is part of the government. There is the perception of all immigrants who arrive here, when accessing health resources, and when they're settling in, that they are being seen by someone who is an employee of the government. So, there is fear of going to the doctor because they do not see that your practice or the hospital where they are asking for medical attention is a private institution without profit or profit or

from a non-governmental institution. They are afraid. So there is a certain... when you do it with the absolute need to go. These laws like the one that Florida recently approved and that came into force two weeks ago creates even more fear. So these immigrants who are suddenly suffering from a disease that can be quickly corrected or cured, will not access medical resources that can cure or prevent complications, and will potentially leave them disabled. We will have to take in the cost of the disabilities that they suffer (when they don't receive care). As a society. They are also preventable diseases. For example, if you have an immigrant child who needs to go to school vaccinated, but you're fearful of going to see the pediatrician because you have to report your status, you won't go. Or let's say the child gets out of school, and I want to remind everyone that the Supreme Court ruled that immigrant children don't need to prove their legal status to receive a public education, or the child won't go to school with vaccinations, we can see the inevitability of that decision like we did in the pandemic. We know, for example, in the south of California and this is not related to immigrants, but what happened when there was a great volume of unvaccinated children, it created outbreaks of chickenpox, rubella, which are all extremely contagious diseases. They closed schools, they created a charge to the public health system. Look, really one of the biggest problems we have today is that there has been no serious conversation about immigration, a national conversation. The attempts to create a censored policy of immigration has always been co-opted by political extremes that have been used to create fear in society. And to create advantages at the time of elections. They use it as a political propaganda. In the mid-1950s was when Congress passed an immigration reform and finally all those statue law arrests that had passed, and when the national immigration system was finally created. What's left now are the barriers to that, and the nation has changed enormously in the last 70 years. It is time to make again a national dialogue where there is a sensitive conversation about what the nation needs, where there is no fear or threats. Now, we have to listen to all points of view, but without letting the threats or fears of immigration begin.

[Loretta] That is very important. Thank you for clarifying that because many of the immigrants who have come from Mexico and other countries have been disappointed that there is has not been a more serious conversation and no clear and immediate decisions that help the problem of immigration to help to have new laws and new ways of being a citizen. I think that the most recent news report that there are over 10 million undocumented immigrants in North America. That is a lot of people, and those are our neighbors, our workers, and they are Americans too. They have been here for a long time and they do not have many rights. I think there should be a big change to help these people who are here and who do not have an option to return to their country or do not have a way to become a citizen. That is a big problem. I also want to emphasize what you said about the vaccines. That is also very important. People should not have to fear vaccinating their children because that also prevents some cases of diseases, or we can prevent some diseases that we do have the vaccines to prevent, but people are not utilizing them because they are afraid to have persecution due to their status. That is a big problem, as you had said mentioned California and we have seen this happen. I hope that this improves and that people continue to vaccinate their children. Now I want to ask you about the implications in the process of the green card or green card. When there are rules of seeking welfare in the greencard process and do these new rules of public welfare affect the request of a green card for an immigrant?

[Dr. Moreno] I will answer the question and I want to add a point that has been seen since the 90s. The immigration laws are of civil character. So when you violates or infringes a law, usually the consequences are loss from some benefit or a fine. One of the things that has happened in the last 20-25 years is that immigration law has increased and has become a criminal matter. So a violation of an immigration law has criminal repercussions. So it is the criminalization of the immigrant. Obviously it is not just the consequence of being in prison for a civil charge, but it is also consequence the

stigmatization of being in prison. Even after you have an immigrant status, and you receive a pardon, that record remains in your file that you were in prison. So this affects your job, or your application for a loan in a bank. All of that will have repercussions that create again more fear in the less-willing population to participate in the usual activities that other individuals participate in. And as they live, they become more vulnerable to opportunists because obviously if I do not have an identification, I cannot go to a bank to open a savings account. So, I have to depend on people who cash in my money or to send my money abroad and usually they are people who take advantage of being in this position of power. Or let's say, if I cannot buy a car, I cannot get insurance, so this makes people more vulnerable in all aspects of everyday life. There are some economic points of view from a study- if I am not wrong, it was a study of the bank of the Federal Reserve of here in Dallas, where it is specified, where it is found that non-documented immigrants, despite all the political rhetoric, contribute significantly to the economic growth of the nation. I do not remember the exact numbers, but it is something that, again, certain political opinions say that the immigrant is a burden for the nation but this, from the economic point of view, prove the opposite. Going back to your question of the green card resident card, when you have permanent residence, you will sign a contract with the Federal Government, in which it promises, and it is a valid contract, that if you, as a person who has the resident card, you incur expenses to the Federal Government, and the Federal Government can go and claim all the expenses that it did. Usually, emergency medical expenses were not included in the concept of being charged at the public level. It's supposed to include social security disability benefits, food stamps, and certain housing subsidies. With the current administration, actually the last, that presidential administration changed the policy and said that health expenses would be considered as a burden to the public level. So again, one is not free from an accident. If you go to an emergency and the institutions are asking for your name and your status, this creates, as in the case of Florida, it creates panic, no one will go because if you are a resident, you know you will have to pay for that. The other problem is that insurance companies, including the Obamacare, if you do not have a legal immigration status, they will not extend you a health insurance policy. So, on the one hand, you are stressed because you cannot access, an insurance system, or a health insurance policy. And if you have an accident or an emergency, as in the case of Florida, they will ask for your immigration status and report you. So, bad if you try to do one thing and bad if you try the other.

[Loretta] Yes, this is important, it's a big problem. Like you said, the American health system is controlled by the government, and this impedes healthcare as a human right. And in the United States, maybe it is not seen as this, because instead of a right, it is a privilege.

[Dr. Moreno] That is a very important point. And the conception itself (healthcare) of being a state of emergency, or how not even the federal constitution protects the right to health, which is almost universal in other countries, where it is considered a fundamental right of the citizen or resident of that country. So, you have no protection of constitutional character. And there are all these barriers to access health services, which makes undocumented people even more vulnerable.

[Loretta] Of course and that is why it is important to protect these vulnerable people, and for organizations to do the same, like ACP, to encourage lawmakers that there are people who see them, that they support them and that they want them to see a big change for these undocumented people. And I want to focus also on the positions ACP has taken on immigration and access to medical attention. The ACP advocates for access to medical attention for immigrants, regardless of their migratory status, and it opposes discrimination based on immigration status. They emphasize that access to medical attention should not be restricted based on immigration status and that people should not be prevented from paying for their own pocket medical insurance coverage. The ACP recognizes the

risks for public health associated with the lack of medical attention to undocumented people and supports greater access to primary care to improve the health of the population. These positions show the commitment of the ACP to address the challenges that immigrants face in the medical attention system and promote an equitable access to medical attention for all people. And this is the official ACP position and you as a governor in Southern Texas, ACP, do you also support this position?

[Dr. Moreno] Look, of course, not only as a governor of the medical school, but I am a lawyer and I practice immigration, especially with helping people who have been victims of extreme violence such as torture and crimes. And I work in a health system where a large proportion of patients are immigrants. So I know how important an equitable access to health is. Again, there are vulnerable groups of individuals who, if they face more barriers from others, the only thing the others are doing is hurting the most vulnerable. At the end of the day, we are all humans, regardless of what your documents says, at the end of the day, we are all humans. We have to treat ourselves with minimal decency and respect for other beings who are equal to all of us. I think that is what the spirit of politics that the physician college, the ACP, tries to capture. Again, access to health services, access to public health services, access to health services without discriminatory. Access, for example, to services of interpretation or appropriate translation, so that there can be adequate communication between the doctor and the patient. And there should not be criminal repercussions or civil charges for accessing medical services. Those resources are essential for healthcare.

[Loretta] That is very important, and I agree that it is a great necessity to improve the conditions, and that everyone does their part to help this vulnerable population because that is how we can improve the the medical system, whether it is access to an interpreter or translator, because usually here in the United States, is it is also necessary that people know their rights and that they know what they are doing, what they are giving permission so that they can attend them and that they know everything about the process that is happening for them.

[Dr. Moreno] And look, I'm going to say- with certain frequency, you find citizens of birth who, who are discriminated for their, or not discriminated, but are assumed to be immigrants and do not receive the benefits because no one asks and people assume that they are immigrants. Look, not long ago I had a patient who needed dialysis. I don't know if you know but if you need dialysis, the government will pay for it under medicare. As a permanent resident, you will not access dialysis. And so, this lady in the hospital, was assumed to be an immigrant by the hospital staff. Her first language was Spanish. And just by speaking with her, you can hear she fluently speaks English. She had lived for a long time, or most of her life in Mexico, but she had been born in Texas. She lived her first- she was born in Texas. At the age of seven, her family returns to Mexico, where she lived all her adolescence and adulthood and returns here. So she asked, with her sisters that we find her birth certificate in the Piersville court because her birth certificate had to be an amendment because there was an error in one of the demographic data. And to do that amendment, you have to go to court to correct the document. So this was a citizen by where she didn't speak Spanish and because no one asked her, they assumed she was an immigrant. And she spent almost a year going to emergency care to receive emergency dialysis, which is indescribable by the risks of health, the pain, the symptoms caused when your kidneys are not functioning. And so I have had several people I have met through work or immigrants who are citizens by birth and lack of questioning, or discrimination they have not really been asked their status or their nationality and are assumed they are undocumented.

[Lorett] Wow, how sad that happened to your patient. I am not surprised, but of course I have always heard these kinds of stories. It is sad because we see how discrimination affects the medical treatment of patients who need their treatments. And I want to remind the people who listen that America does not have an official language and is especially it is not English. It does not say in any document that America's national language is English. In Mexico it is Spanish, but in America because there are so many people from different countries the national language does not exist, because there are so many people and perhaps you know more about that, doctor.

[Dr. Moreno] It's true, there is no official language. In the 90s some states tried to adopt a statute saying that the official language of the state was English or that all the procedures or official processes had to be carried out in English.

[Lorett] Is Spanish in Texas is very involved in different documents in the Texas system or not?

[Dr. Moreno] Not really. There are some federal and state agencies that translate certain documents but it is not of great dissemination. But, if you are being accused of a crime the courts will provide a certified interpreter because it is the right in representation. But it is only in that in that field of law. Actually, in immigration you do not have a right to a lawyer. The courts offer interpreters, but if you want legal representation you have to pay for it because it is not criminal charge, but it is of civil matter, so the individual deals with the cost of representation.

[Lorett] Wow. I think you have seen those videos of the children in the fields when they try to cross the border in Texas and they put them in a civil court. They are children who did not come with anyone and they have an interpreter in their hearing, but they do not have a lawyer and there is a judge and the child is there alone and they ask a lot of questions and this system clearly does not work because they are children, who do not have anyone to accompany them.

[Dr. Moreno] The policy dealing the detention of children is deplorable. Dr. Luis Salla who is now at the University of Texas in Rio Grande Valley, he is a social worker he has studied the psychological damage which is the most permanent change in character by the detention of these children which is really deplorable.

[Lorett] Of course.

[Dr. Moreno] As children are the vulnerable population, they're not adults where they have the capacity of determination and one assumes that while an adult has formed psychological maturity, physical maturity to defend himself to speak for himself, children do not. Regardless of the immigration status, as human beings, as a developed nation and who has been a leader in human rights we must advocate for the well-being of children who are completely defenseless, and who at the end of the day who are innocent of what is happening and the way we treat them is shameful.

[Lorett] Of course. That is very sad, that political situation it is very terrible how we treat them and I think of that a lot because we have the privilege of being here in the United States and many children did what they could to come here because they have no other option and look how we treat them. but with that I think that it is all the time that we have and I want to thank you a lot Dr. Moreno. Thank you for all your wisdom, all your knowledge. You of course know so much about the history of immigration

and thank you very much for sharing that I think it is very important to know why we are here and how we have reached this point of history, and thank you for all your words.

[Dr. Moreno] Lori, thank you very much for having me as guest for the show.