Labor Rights and Non-Citizen Workers

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By threatening striking graduate students with cancellation of employment and suspension from the university, President Janet Napolitano, in her February 14 statement, introduced citizenship status as a weapon with which to combat labor demands. As she well knows as former Director of Homeland Security, once graduate students who are in the US on visas are no longer employed or registered as students, then can be subject to visa revocation and deportation. Indeed, in an earlier letter to graduate students the administration explicitly threatened those whose residency in the US is contingent or undocumented: "any actions that result in student discipline or arrest may have immigration consequences, both on your current status and on possible future immigration applications you may make in the United States.”

In using immigration what as a weapon against UC strikers, the university is drawing on a long history in the United States of employers and the state deploying immigration status to repress labor activity. At the root of these threats lies a separation of employment from labor rights based on citizenship. Workers have repeatedly been allowed to work within in the US, but only if they refrain from exercising basic labor rights, including the right to discuss unions, the right to object to illegal treatment in the workplace, the right to strike, and even the right to be paid for their labor. The most famous example is the Bracero Program from 1942-1964, in which Mexican citizen workers were contracted for temporary employment in US agriculture. They had no US citizenship rights; they were only allowed in for a short contracted period; those who sought to exercise labor rights were swiftly deported. Many have never been paid, still.

Over and over, groups of workers from outside the US have been threatened with expulsion, been deported, or had immigration from their country of origin cut off altogether because of labor activism. Strikes by Japanese immigrant workers in California in the early twentieth century were one factor behind the 1924 prohibition of all immigration from Japan. Labor and left activism on the part of Southern and Eastern European immigrants during and after World War I led to the deportations of tens of thousands in 1919 and ‘20. During the 1930s, as Mexican immigrant farm workers and other workers engaged in militant strikes in rural California, as many as a million Mexicans and Mexican Americans were deported and "repatriated" against their will, a third of them US citizens.

In the more recent period, employers continue to use the threat of deportation to repress union activity. When immigrant garment workers organized at Guess Jeans in Los Angeles in the 1990s, employers threatened to call immigration authorities. Packinghouse employers in the Midwest employers routinely hold the threat of ICE raids over their immigrant workers. Just a year ago, when teachers in Denver went out on strike, the school board threatened to have the visas of striking immigrant teachers revoked. For every case of overt intimidation by management, moreover, the chilling effect is far broader, as noncitizen workers learn that they face a dangerous and serious risk should they choose to exercise their legal rights to engage in union activity. Workers from Latin America, the Caribbean, Africa, and Muslim-majority countries, who are repeatedly racialized as a dangerous immigrant "threat," face especially heightened terror.

A great body of law, however, prohibits employment discrimination on the basis of national origin--as well as on the basis of race--including the Fourteenth Amendment (1868),
Title VI of the 1964 Civil Rights Act, and the National Labor Relations Act (1935). Article 20 of UC's current contract with the UAW declares that "the University shall not discriminate or harass any ASE [Academic Student Employee] on the basis of race, color,...national origin,...citizenship...and/or union activity," among other prohibitions. [emphasis added.]

In recent years, as racist immigrant-bashing has escalated, the University of California's top administration has repeatedly expressed its support for undocumented students. UCSC has been declared a "Sanctuary Campus"; support for DACA students, in particular, has been an ostensible priority. But in its current response to noncitizen student workers, the administration is saying:  You can come here as a student. You can pay tuition into our coffers (in the case of some international students, amounting to tens of thousand of dollars). But if you seek to exercise basic labor rights as an employee, including the right to strike and the right to peacefully protest, you are not welcome at this institution or in this country, and we will see that you are expelled and not allowed back in. At a dire moment in US history, when President Trump is deploying racist nativism with lethal effect, and a new bracero-type visa program is being discussed in Congress, President Napolitano is placing the University of California's administration squarely on the side of Trump and Trumpism. Rather than welcoming noncitizen students and valuing their labors, the administration is slicing them off from the university. The message to all, especially immigrants and people of color among the staff and faculty as well as student body, is clear: you are only allowed here if you agree to be silenced.