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IMMIGRATION REFORMS: ISSUES FOR WORKERS

by Susan Gabbard

The Immigration Reform and Control Act of 1986 (formerly the Simpson-Rodino bill) raises several issues of concern to workers. The new law provides limited amnesty for certain categories of illegal aliens and imposes sanctions on employers who knowingly continue to hire illegal aliens. The law affects many types of workers differently. Illegal immigrants who think they qualify for amnesty need to know how to safely apply for amnesty and protect themselves from deportation in the meantime. Individuals who do not qualify for amnesty need to know their rights and what they can do to retain their current jobs. Legal aliens and minority workers are concerned that overzealous employers will discriminate against them in hiring.

It is important to understand how the new law applies to different types of workers and what they can do to be ready. Already, many unions, national groups and community organizations are gearing up to monitor the implementation of the new law, protect workers rights and provide services for immigrants.

Amnesty Provisions -- The immigration reform law contains an amnesty program for illegal aliens, but it must be remembered that this is a limited amnesty program. It has been estimated that there are between two and twelve million illegal aliens in the United States. No one knows exactly how many illegal aliens there are and no one knows what percentage of these will qualify for amnesty. To be eligible for amnesty individuals must have been *illegally* in the United States before January 1, 1982. Additionally, illegal aliens who meet this provision must also have continuously resided in the United States since 1982 except for "brief, casual and innocent absences." Finally, illegal aliens applying for amnesty must be able to prove that they meet these provisions.

Many illegal aliens will not be eligible for amnesty. Anyone who arrived in the United States after January 1, 1982 or who has not been continuously resident since 1982 is ineligible. Also anyone who was legally in the United States in 1982 and subsequently became illegal is ineligible. Finally, individuals who meet the criteria for amnesty but who are unable to prove their eligibility will not qualify. Proving residency may be difficult because illegal aliens often lead clandestine lives and many do not have the documents to prove their U.S. residency.

Even if workers qualify for amnesty, that does not mean that they automatically receive a green card. The amnesty provision provides only temporary residence status. Temporary status can be converted to resident alien status (green card status) after a time provided the individual meets the English, U.S. history and civics examination requirements for U.S. citizenship. Individuals can be deported if they do not meet these requirements within a certain time period. The Justice Department has yet to decide exactly how this requirement will be met, but already there is concern that there will not be enough resources available to teach the courses required for resident alien status.

The filing period for amnesty does not begin until six months after the law was enacted. Until such time, individuals who believe they qualify for amnesty are protected from deportation. But they must know their rights. Already, California Rural Legal Assistance is fighting the Immigration and Naturalization Service (INS) in court to require them to notify apprehended aliens of their rights under the new immigration law. INS's initial stance is that it will notify individuals of their rights if apprehended in the "interior" of the U.S. but at the border it is "business as usual."

Illegal aliens who think they qualify for amnesty should not contact the government directly. They should not go to INS for amnesty information or applications. Instead, individuals should wait until voluntary and community agencies are designated to process applications. These agencies will provide information on what documents are needed and help aliens decide whether or not to submit an application. Also they can monitor the aliens application and provide assistance if there is a problem.

Employer Sanctions -- The new immigration law institutes sanctions for employers hiring illegal aliens. **Only new hires are affected: current employees are exempt from these provisions.** Employer can be fined for each illegal alien they knowingly hire and they may be sent to prison for repeated violations. These sanctions will not be implemented for six months after the law was signed. Even then, the law establishes an additional 12 month period during which only warning citations can be issued. The full effect of employer sanctions will not be in force until mid-1988.

To comply with the new law, employers may now check the immigration status of all new employees. New employees will have to provide documents proving citizenship and identity. This may mean showing their passport, green card, a drivers license, and/or Social Security card. Employers may photocopy these documents to prove that they verified the identify of new employees.

Responding to Immigration Reform -- Many unions and community groups are already monitoring employers reactions, assisting immigrants and fighting to avert discrimination.

Some union officials think that the amnesty provisions will assist them in organizing workers. They hope that the newly legalized workers will be less fearful, more easily organized and more militant. This may be true for those workers who receive amnesty; however, the amnesty provisions are so limited that many workers will not qualify for amnesty. The combination of limited amnesty and employer sanctions will make some illegal aliens even more vulnerable than they are now. These workers may be less militant and more fearful under the new law. They may need to remain in their current jobs in order to escape employer sanctions and will be fearful of changing jobs.

Several organizations are setting up centers to provide information to illegal immigrants even though the filing period for amnesty petitions does not begin until May 1987. The International Ladies' Garment Workers Union has already opened a center in Los Angeles to assist workers with immigration related problems. Centers may help immigrants by providing them with correct information and warning them to stay away from INS. Immigrants need correct information so that they do not get duped by charlatans offering amnesty for a fee.

Unions such as the ILGWU are already monitoring employers' reactions to the new law, trying to ensure that the law is not used to harass existing employees or discriminate in hiring. Nervous employers have already begun firing currently employed illegal aliens despite the fact that current employees are exempt. In some cases, the individuals being fired will qualify for amnesty.

A major concern of legal immigrants and minorities is that the law will be used against them. The fear is that employers will discriminate against legal aliens or citizens from minority groups fearing that they may be illegal aliens. The law already legalizes preferential hiring of U.S. citizens in case where a citizen and a legally resident alien (green card) are equally qualified.

The ILGWU has already responded to this situation by notifying employers not to fire undocumented workers or check employee identification. The ILGWU sent employers in the Los Angeles area a letter stating: "The ILGWU remains committed to representing and organizing new immigrants, regardless of their legal status. The job security provisions of the LGWU's collective bargaining agreement with you including seniority rights and the right to only be disciplined or discharged for just cause, apply equally to undocumented workers."

Finally, a national coalition including the American Immigration Lawyers Association, National Council of La Raza, Mexican American Legal Defense Fund, National Council of Churches, American Civil Liberties Union and the U.S. Catholic Council has been formed to work with liberal members of congress in shaping the implementation of immigration reform. These groups will be active in providing assistance to immigrants and training lawyers on the rights of individuals under the new law. The coalition is particularly concerned that the immigration law not be used to foster discrimination.

-- Susan Gabbard

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