



Unauthorized Immigrants: The Case for Earned Legalization

By Patricia Hatch and Katherine Fennelly

This essay highlights reasons why creating a pathway to legal status for unauthorized immigrants already in the U.S. would be preferable to mass deportations for both the immigrant families and their U.S. citizen neighbors.

One of the most controversial issues in ongoing immigration discussions is the proposal to provide a path to legal residence for unauthorized immigrants currently residing in the U.S. It has been a stumbling block in congressional efforts to pass comprehensive immigration reform legislation, and a barometer by which many voters are judging candidates for elected office. As a result of the LWVUS Immigration Study, the League supports a path to earned legalization as part of comprehensive immigration reform (see LWVUS Immigration position on p. 12).

Who Are Unauthorized Immigrants?

In 2006, there were an estimated 11.5 to 12 million unauthorized immigrants in the U.S. Of this number, between 25 and 40 percent entered the U.S. legally, but overstayed their visas. Many others entered the U.S. without authorization, to join U.S. citizen or legal permanent resident (LPR) family members after years of waiting “in line” for visas that never materialized.¹

Many persons have entered the U.S. without authorization as an unintended consequence of the effects of international trade policies and globalization on their homelands.² Although the Bureau of Labor Statistics estimates that there will be 56 million new jobs created during the years 2002–12, and that 75 million baby-boomers will be retiring during the same

period, our current, broken system does not provide a reasonably timely means of legal immigration for foreign workers who are willing and able to fill those positions. “Pulled” by the availability of jobs in the U.S. at wages that greatly surpass any they could hope for in their homelands, many have risked apprehension, detention and death to enter the U.S.³

Many unauthorized immigrants have lived in the U.S. for years and are virtually indistinguishable from naturalized citizens or LPRs residing in the same communities. The Urban Institute estimates that at least 5 million children—including 3 million U.S. citizen children—have at least one parent without legal residency.⁴

What we, as a nation, choose to do about unauthorized immigrants currently in the U.S. will have far-reaching effects on

their LPR and U.S. citizen family members, the businesses that employ them, and the economic and social health of the communities in which many have deep roots.

Feasibility of Mass Deportations

How feasible are mass deportations? In 2006, in a major push utilizing all the staff and resources at its disposal, Immigration and Customs Enforcement (ICE) was able to deport approximately 190,000 people. In September 2007, ICE Director Julie Myers estimated that to detain and remove 12 million people would cost at least \$94 billion, more than twice the entire Department of Homeland Security 2008 budget, and nearly 18 times the current ICE budget.⁵

According to an ICE spokesperson, that figure does not include the cost of *locating* the illegal immigrants—arguably the most labor intensive and expensive part of such an operation—or the cost of immigration court hearings, where tremendous backlogs would create the need for much longer and significantly more costly detentions than the 30-day average cited in the ICE estimate.⁶ One year after the much-publicized New Bedford (MA) factory raid, 161 of the 361 immigrant workers initially taken into custody remain in U.S. detention facilities, awaiting the final adjudication of their cases.⁷

If mass deportations were attempted, what might be the effects on American communities? Recent ICE raids in targeted locations provide a small taste of the scale of family and community disruption likely to ensue if an attempt were made to deport 12 million residents from the U.S. It is estimated that for every two adults deported after the recent raids, one child was left behind, the majority under the age of five.⁸

In addition to the emotional impacts resulting from the abrupt separation of children from their parents in “mixed status” families, some communities where raids have taken place report abandoned housing, business closings due to lack of workers and dwindling customers, and dramatic drops in school attendance. Those

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unauthorized immigrants not caught in the first “wave” of deportations are likely to move deeper into the shadows of American society and become less productive and less invested in their communities.

For several weeks in 2000, the attention of the entire nation was focused on the plight of one child, Elian Gonzalez, who was forcibly returned to Cuba. That action sparked debate about the values reflected in our immigration policies. Deportations on a massive scale, with vivid images on the nightly news of parents being forcibly removed from their children and their homes, would shake many U.S. communities to their core.

Allowing Unauthorized Immigrants to Earn Legal Status

During the LWVUS Immigration Study Consensus process, local Leagues supported allowing unauthorized immigrants to earn legal status as an important element of any plan to restore law and order to our broken immigration system. How might such a policy work, and what effects might it have?

The McCain-Kennedy compromise immigration reform bill that failed to pass the Senate in 2007 would have provided a system through which unauthorized immigrants would pay to register with the government, go through rigorous background

checks and security clearances, learn English and civics, pay any back taxes, work steadily for a number of years, and only then earn the right to go to the back of the line to wait for visas to remain in the U.S. legally and permanently.

Under that system, it would take at least a decade for the first unauthorized immigrants to earn the right to become legal permanent residents, and then five more years before they would be eligible to apply for citizenship. This complex and lengthy process has been mislabeled “amnesty” by some critics.

The Benefits of a Legalization Policy

The benefits of an orderly earned legalization policy to unauthorized immigrants are clear. They would obtain permission to work legally. Mixed status families could remain intact and could participate fully in their communities without fear and plan for the future with more confidence.

The likely benefits to native-born Americans are equally significant.

- As unauthorized immigrants submit to background checks, Homeland Security officers would be able to focus resources on pursuing criminal aliens, rather than those who are gainfully employed.
- Public safety would improve when newly legal residents no longer fear reporting crime to the police.
- Wages and working conditions would be likely to improve for all entry level workers when abusive employers who have exploited the vulnerability of unauthorized workers are forced to compete with businesses that adhere to wage and labor standards.
- More Social Security taxes and income taxes would be paid to the federal and state governments by newly legalized workers, boosting the economy and helping to stabilize Social Security and Medicare.
- Public health would be likely to improve when newly legal residents can seek preventive care, rather than delaying treatment for illnesses.

The 18-month LWVUS Immigration Study and consensus, adopted by LWVUS Convention 2006 delegates, was successfully completed. Five hundred and sixty local Leagues (67 percent) submitted responses to the consensus questions. The position, written by the committee and based on responses to consensus questions, became effective upon approval by the LWVUS Board at its March 2008 meeting. The LWVUS Immigration Study Committee members were Chris Carson (CA), Katherine Fennelly (MN), Patricia Hatch (MD), Deborah MacMillan (NJ), Barbara Margerum (CA), Dorrit Marks (FL), and Carolie Mullan (TX), Chair.

LWVUS Immigration Position

The League of Women Voters believes that immigration policies should promote reunification of immediate families, meet the economic, business and employment needs of the United States, and be responsive to those facing political persecution or humanitarian crises. Provision should also be made for qualified persons to enter the U.S. on student visas. All persons should receive fair treatment under the law.

The League supports federal immigration law that provides an efficient, expeditious system (with minimal or no backlogs) for legal entry of immigrants into the U.S.

To complement these goals the League supports federal policies to improve economies, education, job opportunities, and living conditions in nations with large emigrating populations.

In transition to a reformed system, the League supports provisions for unauthorized immigrants already in the country to earn legal status.

The League supports federal payments to impacted communities to address the financial costs borne by states and local governments with large immigrant populations.

Criteria for Legal Admission to the U.S.

The League supports the following criteria for legal admission of persons into the United States:

- Family reunification of spouses or minor children with authorized immigrants or citizens;
- Flight from persecution or response to humanitarian crises in home countries;
- Economic, business and employment needs in the U.S.;
- Education and training needs of the U.S.;
- Educational program opportunities; and
- Lack of a history of serious criminal activity.

Administration and Enforcement

The League supports due process for all persons, including the right to a fair hearing, right to counsel, right of appeal and right to humane treatment.

The League supports:

- Improved technology to facilitate employer verification of employee status;
- Verification documents, such as status cards and work permits, with secure identifiers;
- Significant fines and penalties for employers who hire unauthorized workers;
- Improved technology for sharing information among federal agencies;
- More effective tracking of individuals who enter the United States; and
- Increased personnel at borders.

The League also supports programs allowing foreign workers to enter and leave the U.S. to meet seasonal or sporadic labor needs.

Unauthorized Immigrants Already in the U.S.

In achieving overall policy goals, the League supports a system for unauthorized immigrants already in the country to earn legal status, including citizenship, by paying taxes, learning English, studying civics and meeting other relevant criteria. While policy reforms, including a path to legal status, remain unachieved, the League does not support deporting unauthorized immigrants who have no history of criminal activity.

- Immigrants who learn English and civics would be more likely to assimilate and become more fully invested in their communities.
- As the federal government restores order and sanity to the immigration system, state and local governments would be able to spend their tax dollars on services that benefit all their constituents, rather than trying to enforce federal immigration laws.

The Future

The future of immigration reform in the U.S. is unclear. However, what has been sorely missing from the debates is a discussion of the *values* that should underpin our immigration policy. Once the smoke of campaign rhetoric clears, there may be an opportunity for more rational discussions of how to achieve realistic comprehensive reform that promotes economic goals, humanitarian objectives and national security. The League is poised to contribute to a solution. ■

End notes:

- ¹ "Family Reunification" LWVUS Immigration Study (IS) paper at www.lwv.org
- ² "Effects of Global Interdependence on Migration" IS paper at www.lwv.org
- ³ "Economic Aspects of Authorized and Unauthorized Immigration," "Immigration and the Economy," "What Motivates Immigration to America?" IS papers at www.lwv.org
- ⁴ Capps, Randy, "Paying the Price: The Effect of Immigration Raids on America's Children," Urban Institute and NCLR, 2007.
- ⁵ <http://www.dhs.gov/xabout/budget/>
- ⁶ www.cnn.com/2007/U.S./09/12/deportation.cost/incdex.html
- ⁷ "A Year After Raid, Immigration Cases Drag On," *Boston Globe*, March 6, 2008.
- ⁸ Capps, Randy, endnote 4.

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