

PRESENTED TO THE IMMIGRATION SUBCOMMITTEE  
COMMITTEE ON THE JUDICIARY  
U.S. SENATE

September 7, 2001

**I. Introduction**

My name is Raul Yzaguirre; I am the President of the National Council of La Raza (NCLR). NCLR is a private, nonprofit, nonpartisan organization established in 1968 to reduce poverty and discrimination and improve life opportunities for Hispanic Americans. NCLR is the largest constituency-based national Hispanic organization, serving all Hispanic nationality groups in all regions of the country through our network of over 250 affiliate community-based groups and regional offices. NCLR has supported fair and effective immigration policies for over two decades, and has provided a fact-based Latino perspective on the issue of immigration. NCLR approaches this issue as a civil rights organization, with an interest in protecting the rights of our constituency within the United States and promoting the values and principles of the nation as a whole. I appreciate the opportunity to appear before the Subcommittee today.

Mr. Chairman, I want to make it very clear that I believe that this committee, the Congress as a whole, and the Bush Administration are poised on the verge of a major opportunity to shape immigration policy in a way that makes sense and serves the national interest. It is almost impossible to describe to you how important this opportunity is to the nation's Latino community. I can tell you that when the news broke that the Bush Administration might be considering a legalization program, NCLR was opening its Annual Conference. The thousands of Latino leaders gathered for the Conference were electrified by the news. The response from within our community, as demonstrated by polls, media coverage, organizing, and energy in communities throughout the country, has been extraordinary. I can also say that my colleagues in the National Hispanic Leadership Agenda (NHLEA), a coalition of the major organizations in the Latino community, have spoken out on the issue in letters addressed to President Bush, President Fox, and the U.S. Congress. I have attached a copy of these letters to my written statement.

The reason for the intensity of focus within the Latino community on this issue is only partly related to the fact that a substantial number of the nation's Latinos are immigrants themselves. In fact, according to the 2000 Census, the majority of U.S. Latinos (60%) are natives of the United States. Nevertheless, Latinos across the country, immigrants or not, feel the impact of immigration policy because we live in immigrant families and communities, and many of us, like most Americans, have strong memories of our immigrant heritage. But immigration is also an issue of powerful symbolism for us. The debate on immigration policy often feels like an indicator of respect -- or the lack of it -- for the contributions of the larger Latino community to our common nation, even though most of us are not immigrants. We are also a community that believes in justice, and the injustice of the nation's current immigration policy, much of which was crafted in a

heavily anti-immigrant era, is offensive to America's best traditions and values. We feel connected to the experience of immigrants whose contributions to our nation are ignored by our laws and by the larger community, and who too often experience abuse as a result. During the last several months we have sensed that America has an historic opportunity to reshape immigration policy in a way that remedies fundamental injustice, saves lives, honors the hard work of immigrants which our nation clearly relies on, and deals sensibly with the difficult question of the future migration flow. We believe strongly that it is in the nation's best interest to maximize this opportunity; indeed, now that the door is open to the possibility of reforms that make immigration policy consistent with economic reality and America's most cherished values, we will insist on getting the job done right.

## **II. The Opportunity to Shift the Debate**

In general, NCLR agrees with the major underlying principle of the immigration debate, which is that, as a sovereign nation, the United States can and should control its borders. However, NCLR also believes that the enforcement of immigration laws, like that of all laws, must be nondiscriminatory and consistent with American values. NCLR also believes that, for the last 15 years, one fundamental premise of immigration law has been in error. That is, the Immigration Reform and Control Act of 1986 (IRCA) was based on the premise that there was no place in the U.S. labor force for migrants from Mexico and other countries. Clearly, that premise was in error; indeed, most of the sectors that supported the law and its premise have reached the conclusion that, despite an increasingly harsh enforcement regime, immigrants have made an important place for themselves in the labor force. For this reason, leaders in both the business community and the labor movement are together arguing that the legalization of these workers is in the national interest.

NCLR believes that a combination of factors demonstrate that U.S. immigration policies have failed to achieve their objectives and are in fundamental conflict with national needs and values In particular:

**The population of undocumented immigrants living and working in the U.S. has grown steadily since the 1986 immigration reforms.** Despite the imposition of penalties against employers who hire undocumented persons and heightened border controls, a substantial and growing number of undocumented workers have found a place in the U.S. labor force. Credible estimates from the Immigration and Naturalization Service (INS) and the Urban Institute estimate that the size of this population is between six and nine million. In addition to the population that crosses the U.S.-Mexico border illegally, as many as 40% of undocumented migrants enter on valid visas and overstay them, according to INS. As long as the U.S. economy needs additional workers, immigrants will continue to come, even at great risk to their safety.

**Enforcement of immigration laws at the border and the interior is conducted in a way that undermines civil rights.** There is widespread evidence of the use of racial profiling in immigration enforcement and of collaborations between immigration and local law enforcement officials, which have the effect of undermining the civil rights of citizens and legal residents who are mistaken for illegal immigrants based solely on ethnic appearance. In addition, independent studies by government and private agencies have shown that the employer sanctions policy, through which employers check the documents of new hires, has caused a widespread pattern of employment discrimination against persons lawfully in the U.S. and U.S. citizens.

**An alarming and unacceptable number of deaths take place each year at the U.S.-Mexico border.** Since the initiation of Operation Gatekeeper, a major border control initiative in the mid-1990s, at least 1700 migrants have lost their lives crossing rivers, deserts, and mountains to find work in the U.S. Just last week, ten more migrants died crossing the U.S.-Mexico border. As you can imagine, like all Americans, Latinos are horrified by this unacceptable price for our policies. It's important that we all remember that these are not simple statistics; in a highly emotional event at our Annual Conference last year, NCLR commemorated each and every migrant who perished at the border. We read their names and ages, one at a time, to remind ourselves of our responsibility to those who lost their lives while seeking the American dream.

In addition to these compelling issues that highlight the need for policy change, there is increasing evidence that a significant legalization program is needed to maintain U.S. economic growth:

**Key growth sectors of the economy increasingly rely on this labor force.** Representatives of industries in the service sector, like hotels, restaurants, and nursing homes have formed an Essential Worker Immigration Coalition (EWIC) which argues in favor of more generous immigration policies, including the legalization of those already in the U.S. workforce. These employers note that widespread labor shortages are a significant constraint on economic growth.

**The labor movement argues that legalization of the undocumented workforce is vitally important for protecting the overall U.S. workforce.** The AFL-CIO, in a unanimous decision by its executive council in February of 2000, took the position that the best way to protect all U.S. workers is to legalize those who are in the workforce without immigration papers. Unions argue that employers can ignore labor laws and undermine organizing campaigns for those workers who lack immigration status, because workers who complain run the risk of deportation. This dramatic shift in labor movement policy underscores the scale and importance of the undocumented workforce.

**These developments are consistent with the views of economic experts who confirm the overall benefits of immigration** A recent study by the North American Integration and Development Center at the University of California, Los Angeles estimates that undocumented workers from Mexico (3 million workers) contribute \$154 billion to the US GNP and \$77 billion to the GSP of California alone. In 1997, the prestigious National Academy of Sciences found that

immigrants contribute about \$10 billion to the nation's economy per year and pay more in taxes than they use in services. In addition, in Congressional testimony presented in July of 2001, Federal Reserve Board Chairman Alan Greenspan said, "I've always argued that this country has benefited immensely from the fact that we draw people from all over the world. And the average immigrant comes from a less benign environment, and indeed that's the reason they've come here. And I think they appreciate the benefits of this country more than those of us who were born here. And it shows in their entrepreneurship, their enterprise, and their willingness to do the types of work that make this economy function."

**There is substantial evidence that the American public is prepared to support substantial reforms.** A recent poll conducted by a bipartisan team, Lake Snell Perry & Associates and The Tarrance Group, sheds light on the public's view of these issues. They found that while voters are divided on the issue of legalization before they hear details of a proposal, once the issue is explained in terms of undocumented immigrants who can prove that they have lived, worked, and paid taxes in the United States, 59% of American voters, reflecting every demographic group, support the proposal. Indeed, NCLR believes that it is more clear than ever to the American public that our economy depends on this labor force, and that it is not in the national interest to allow the status quo to continue.

### **III. Principles for the Current Debate**

NCLR believes that negotiations between the United States and Mexico, and the Congressional debate that they have inspired, provide an historic opportunity to reshape immigration policy in a way that is responsive both to labor market needs in the U.S. and the needs of immigrants themselves. In particular, these discussions could create a coherent and more effective alternative to the current immigration control regime, which is ineffective, discriminatory, and inconsistent with both our national values and economic interests. However, this process also creates substantial risks. In order to maximize positive policy opportunities and minimize dangers, NCLR believes:

- 1) **Legalization must be a major element of any policy change.** A substantial number of undocumented immigrant workers: are long-term U.S. residents, work hard, pay taxes, and otherwise abide by our laws. Their futures are inextricably linked with ours. The interests of the U.S. are best served by allowing these long-term residents to come out of the shadows. Those who can demonstrate that they've made those commitments and have linked their future to America's future should be afforded the opportunity to legalize. While this discussion is taking place in the context of negotiations between the U.S. and Mexico, it makes little sense from the U.S. perspective to provide legalization opportunities only for Mexicans; all those similarly situated should have the same opportunity.
- 2) **Temporary worker programs by themselves are not a viable long-term policy option.** The nation's history with guestworker programs, which have mostly applied to

agriculture, has been a highly negative one. NCLR has opposed all proposed expansions to these programs because they undercut workers rights by offering few labor protections, tie workers to individual employers, and provide no opportunities for adjustment of status. Indeed, temporary worker programs have become notorious in the Latino community because of their history – and reality – of abuse. There is a real danger that the current debate will simply follow the structure that has been in place since the days of the *bracero* program; indeed, one such proposal is being talked about in the U.S. Senate. If such a proposal were to emerge from the negotiations between the U.S. and Mexico, or in the legislative process, NCLR would have no choice but to oppose it vigorously.

- 3) **Any temporary worker program that might emerge from this debate must be markedly different from the status quo.** We acknowledge the reality that some undocumented workers come to the U.S. with the intention of returning to their home countries. They do not seek to be immigrants, and often end up "trapped" in the United States because our border control policies make it difficult to depart and re-enter, swelling the ranks of the undocumented. It is reasonable, then, to construct a temporary worker framework, particularly to “regularize” future worker flows. However, this must be markedly different from the existing temporary worker construct. In particular, it is essential for any workers who participate to be fully covered by U.S. labor laws, including the right to change employers, strong protections for wages and working conditions, the right to unionize, and the ability to keep their families together. Similarly, it is essential that such laws be vigorously enforced, by strengthening the Wage and Hour division at the U.S. Department of Labor as well as by ensuring that these workers have access to legal services. Finally, any temporary worker program must also include a path to adjustment of status for its workers; that is, if their labor is needed here year after year, they should be able to choose to remain in the United States as immigrants, having demonstrated that their labor is of value here.
- 4) **Immigration enforcement must be conducted strategically.** Even a successful temporary worker structure would not eliminate the need to conduct immigration enforcement at U.S. borders and the interior. But this enforcement must be conducted strategically, aimed at large scale smugglers and employer networks that deliberately import workers from other countries in order to skirt U.S. wage and other laws that aim to protect workers. Enforcement at the border and the interior must also be conducted according to a strict set of standards to protect the civil and human rights of those who come into contact with enforcement personnel. In addition, the ineffective and discriminatory employer sanctions regime should be replaced by a new system that emphasizes labor law enforcement and eliminates the economic incentive for unscrupulous employers to hire unauthorized workers.
- 5) **Economic development efforts must be targeted to create opportunity in areas where migrants originate.** If the experience of the 15 years since IRCA has taught us

anything, it is that even the toughest laws, vigorously enforced, are no match for the economic forces that drive migration. As the U.S. properly revises the laws that affect what happens within its borders, it must also look closely at the so-called "push" factors that drive migration. In the long term, if we wish to alter the migrant stream that originates in Mexico and other countries, we must include economic development in those communities as part of our overall migration strategy.

- 6) **The situation of agricultural workers is a special case that must be considered carefully.** NCLR believes very strongly that no policy reforms affecting immigrants would be complete without taking into account the particular concerns of the farmworker community, which is overwhelmingly Latino with a significant proportion of undocumented immigrants. It is also true that the agricultural sector operates under an entirely different set of rules than the rest of the labor force, including far weaker labor protections. This, along with a history of temporary worker programs that offer insufficient protections to workers, has contributed to an abysmal situation for America's farmworkers which has not improved for decades. Recently, representatives of the agricultural industry and the United Farmworkers of America held historic discussions and agreed in principle on a set of policy alternatives that both sides can live with. Though the results of these discussions have not yet been presented as a legislative proposal for others to respond to, NCLR believes that these organizations have moved the debate forward in a positive direction. If the negotiated agreement has not moved forward on its own as immigration legislation proceeds, it is important to ensure that its provisions are reflected in broader immigration reforms.

#### **IV. Conclusion**

In conclusion, Mr. Chairman, the United States stands at the threshold of an important opportunity to finally bring rationality and justice to its immigration laws after decades of failed experiments. Our current immigration law is inconsistent with our economic interests, undermines our fundamental values, and is riddled with hypocrisy. To potential immigrants our law shouts, "We don't want you!" while our economy whispers, "Come on over, we need your labor." Our law says hiring undocumented workers is illegal, but winks at the existence of an unauthorized workforce demographers estimate to be 6-9 million people. The law is supposed to protect American jobs; instead, it tolerates a subclass of undocumented workers with no labor rights, thus undermining wages, working conditions, and organizing opportunities of all workers. We sanctify "family values," while spouses and children of U.S. citizens abroad must wait years to come here legally because of lengthy INS backlogs; it shocks no one that many choose to reunite with their families, even if it means entering or staying illegally. Some say we should do nothing, arguing that legalization would "undermine the rule of law." But it's hard to imagine any situation more likely to encourage disrespect for the law than the hypocrisy inherent in the status quo.

Mr. Chairman, the discussions between the United States and Mexico have left open the door to the possibility of reform and the enactment of an immigration law that begins to realign our

immigration laws with America's best traditions and values, as well as with the economic realities that drive migration. I urge you to move forward and make these reforms a reality.