

State Immigration Policy Issues

by Dan Petegorsky and Kalpana Krishnamurthy

The policy debate on immigration has deep implications for the nonprofit sector.

FULFILLING HIS EARLIER PROMISE TO PURSUE comprehensive immigration reform this year, President Barack Obama began the process by scheduling a mid-June meeting with members of Congress. Though ultimately postponed, the meeting was intended as a first step toward addressing the issue in legislation. For immigrant communities across the country, the conversation can't start soon enough.

For nonprofit organizations, the conversation about immigration is critical. Demographic, economic, and social forces will continue to bring immigrants of all backgrounds to our country, and U.S. immigration law and policy will either help or hinder new immigrants from fully contributing to our communities. As immigrants and refugees change the face of our cities and rural

areas, their concerns and needs will become the concerns and needs of community-based nonprofits. Whether debating harshly punitive measures or comprehensive reform, the policy debate on immigration has deep implications for the nonprofit sector.

A Challenging Climate

Since the collapse of comprehensive immigration reform in the summer of 2007, immigrant communities have faced challenges on multiple fronts. They've had to bear the brunt of both the meltdown of the economy and the impact of "enforcement only" policies at both the state and federal levels in the absence of comprehensive reform. In response, nonprofit service providers, community organizers, and policy and legal advocates have had their hands full addressing a rapidly escalating set of needs with tightening resources.

Policy Battles in the States

States, counties, and municipalities have been exceptionally active in taking up literally thousands of proposed laws aimed at immigrants. According to the National Conference of State Legislatures, during the first quarter of 2009

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alone, more than 1,000 bills were introduced in legislatures. This number has kept pace with the record number in 2007 and 2008 sessions.¹ Thus far, several dozen have been enacted, along with more than 450 enacted in 2007 and 2008, covering areas such as voting, access to public benefits, health, education, and employment.

Some of the most popular laws—those aimed at requiring a photo ID in voting or registering to vote, for example—targeted noncitizens but ultimately turned away more citizens from the polls than noncitizens, especially among populations that have difficulty obtaining birth certificates or other required documents, such as the elderly. In an extremely unfortunate ruling, the U.S. Supreme Court upheld one of the most draconian such laws in Indiana, even though “Indiana Secretary of State Todd Rokita . . . conceded the state . . . never presented a case of ‘voter impersonation,’ which the law was designed to safeguard against.”²

Before the legislation took effect, the courts struck down more extreme laws. Among those were a Hazelton, Pennsylvania, law that would have fined landlords for renting to illegal immigrants, and in Columbia County, Oregon, a ballot measure that would have imposed fines on businesses hiring undocumented workers.³

Elsewhere, however, local laws targeting undocumented workers that were passed in recent legislative sessions have taken or will soon take effect. A general crackdown in Utah, for example, has created widespread fear among immigrants in the state; S.B. 81 will take effect July 1.⁴

Organized Hate Groups

In addition to state and local laws, the failure of federal reform has added impetus to organized hate groups and media demagogues seeking to capitalize on public fear. This fear mongering reached its height during the swine flu epidemic and is escalating once again in the wake of President Obama’s nomination of Sonia Sotomayor to the Supreme Court. Radio talk-show host Michael Savage “speculated that terrorists are using Mexican immigrants as walking germ

warfare weapons.” It would be easy,” he noted, “to bring an altered virus into Mexico, put it in the general population, and have them march across the border.”⁵ G. Gordon Liddy referred to the Spanish language as an “illegal alien.”⁶

As a result, even as nonprofits and churches struggle to provide services to immigrant families, they and their constituents can face often intense harassment. In many parts of the country, the climate of fear and intimidation for Latinos today is not unlike what African, South Asian, and Muslim immigrants and supporters faced in the wake of September 11.

The Southern Poverty Law Center has recently noted that systemic discrimination against Latinos constitutes a “civil rights crisis. . . . And as a result of relentless vilification in the media, Latinos are targeted for harassment by racist extremist groups, some of which are directly descended from the old guardians of white supremacy.”⁷

The Impact of Economic Meltdown on Immigrant Communities

In the recent economic downturn, two key sectors that relied most heavily on immigrant labor—housing construction and hospitality—have been most heavily hit. This trend was identified early on and affected both documented and undocumented workers: a 2008 Pew Hispanic Center report indicated that “due mainly to a slump in the construction industry, the unemployment rate for Hispanics in the U.S. rose to 6.5% in the first quarter of 2008, well above the 4.7% rate for all non-Hispanics.”⁸

This phenomenon is not limited to the United States and affects not only employment and migration patterns in host countries but, equally important, remittances to countries of origin, which have declined rapidly.⁹

Along with increasing enforcement along the border, these collapses have not only cut off avenues of employment for families already living in the United States but also resulted in a strong decline in those seeking to cross the southern border. Recent figures, for example, show that about 226,000 fewer people emigrated from Mexico to other countries during the year

that ended in August 2008 as compared with the previous year.¹⁰

Workplace Raids

While the worldwide economic slump has been the primary cause of this slowdown, in recent years the U.S. Immigration and Customs Enforcement Division (ICE) of the Department of Homeland Security (formerly INS, the Immigration and Naturalization Service) had also conducted a series of highly visible raids across the country. These included, for example, a widely publicized June 2007 raid on a fresh fruit-processing plant in Portland, Oregon, and, in May 2008, on an Iowa kosher meat packing plant.¹¹

The raids had devastating effects on local communities. Many families have members who are citizens and others who are either legal residents but not yet citizens or are undocumented. The arrests and deportations following the raids tore families apart, frequently separating minor children from parents and caregivers, creating crises for schools, and so on. Churches and legal advocates have stepped in to aid families affected by the raids.¹²

Beyond employment and ICE enforcement, however, the economic meltdown has had a disproportionate effect on immigrant communities—and not primarily among new arrivals, but rather among longtime inhabitants: those who had finally begun to realize the American dream of homeownership and middle-class standing. As recently documented in a compelling report by the Pew Hispanic Center, along with African Americans, Latino families were especially targeted for subprime loans (even where they qualified for traditional loans) and thus are at much greater risk of home foreclosure than are white families.¹³

Federal Policy Shifts

With a new administration in Washington, expectations for major shifts in policy and enforcement have been heightened. While detention and enforcement remain highly problematic, we have seen significant progress in other areas.

The Obama administration's record on enforcement has been mixed.¹⁴ The first large ICE raid to

take place under President Obama and Department of Homeland Security Secretary Janet Napolitano took place near Bellingham, Washington.¹⁵ Immigrant-rights groups responded strongly and quickly, and the administration issued an almost apologetic response, ultimately suggesting that future actions would target employers more than workers.¹⁶ But federal policies and actions have continued to threaten jobs for undocumented workers. On May 19, for example, CAUSA (Oregon's largest immigrant-rights coalition) reported that in mid-March "managers at Meduri Farms' four locations in Salem and Dallas informed some 250 workers that they might lose their jobs. The cause wasn't the bad economy. It was an I-9 check conducted by ICE."

Steps Forward

For all these challenges, the new climate in Washington, D.C., and the shift in administrations have already resulted in significant policy shifts that will change the lives of hundreds of thousands of immigrants. Renewal of funding for the Children's Health Insurance Program, for example, contained an important change: now states can cover legal immigrant children together with pregnant women rather than only citizens.¹⁷

At the state and local level, Progressive States Network reports many positive new laws and procedures have been passed and implemented alongside punitive ones.¹⁸ These include creation of statewide "New Americans Councils" to facilitate immigrant integration; expanded resources for naturalization assistance; and improved access to English-language classes for adult learners.¹⁹

In Washington State, for example, after key organizing by OneAmerica and allies, Governor Christine Gregoire signed an executive order in 2008 establishing a New Americans Policy Council to study immigration integration in the state, and the legislature allocated significant new funds for immigrant integration.

In many states, advocates have worked to pass versions of the Development, Relief and Education for Alien Minors Act (or the DREAM Act) to allow children of undocumented immigrants

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who have successfully graduated from local high schools to attend state colleges and universities paying in-state tuition. But again, these efforts have been waylaid by budget battles alongside general anti-immigrant fervor. With most states now confronting intractable budgetary problems, programs serving immigrants—whether documented or undocumented—provide easy targets for the chopping block.

Community organizations have also been successful in K–12 education, especially in advocating with school boards, district administrations, principals, faculty, and staff to better address the needs of immigrant children. Parent-organizing groups such as Oregon’s Salem/Keizer Coalition for Equality have secured additional funding for dual-language programs as well as an understanding of how policies and procedures have disproportionate effects on Latino children.

Similar work around the country has focused on the criminal-justice system, which has also ill served immigrant communities. A recent study by the National Council of La Raza shows the harm caused by incarcerating Latino youth as adults and points to model alternative programs, such as the Southwest Key Program.²⁰

Equally important are policies in the making right now. The Agricultural Job, Opportunity, Benefits, and Security Act (or AgJOBS) has been reintroduced in Congress. In the past, this has split immigrant-rights proponents when the job portion of a bill has been cut off from a path to citizenship. This time around, the bill includes a path to citizenship. As the National Immigration Forum puts it, “AgJOBS is a win-win piece of legislation benefiting workers, employers, and the economy at large. It is the result of a delicate and historic agreement between farm-worker advocates and unions and the agriculture industry. It serves as a model for how business and labor can come together on a solution to put in place rules on immigration without undermining American workers.”²¹

The Importance of Civic Engagement

Over and above the economic factors on the ground, political factors have shifted considerably in ways that may especially affect the national

policy debate. In 2008 the most strident national candidates did not fare well. Colorado Congressman Tom Tancredo, for example, was one of the first to drop out of the race for the Republican presidential nomination and did not seek reelection to the House, while other state and federal candidates were defeated at the polls.

Equally important, in 2008, Latinos—especially in key swing states—increased their overall vote share and voted far more strongly Democratic than they had in 2004. As a result, the extremist anti-immigrant forces in the Republican party are likely to be marginalized politically as the GOP seeks to recover from its 2008 losses and regain ground within Latino communities. This dynamic has now resurfaced in relation to the Sotomayor nomination.

Across the country, Latino and other immigrant community organizations and labor unions have devoted increasing energy and resources toward civic engagement programs. The Funders’ Committee for Civic Participation has recently profiled the model efforts of the Illinois Coalition for Immigrant and Refugee Rights,²² and California’s Mobilize the Immigrant Vote (MIV) is another model program. In 2004, MIV began as the first-ever statewide campaign in California to organize a multiethnic coalition of community-based organizations working within immigrant communities and building their capacity to register, educate, and mobilize constituents for electoral participation.

Looking Ahead

Looking beyond the immediate horizon, other major developments may affect immigrant communities over the coming years.

- The 2010 Census is approaching and will have significant consequences, including the representation of key constituencies as they are drawn into legislative and congressional districts. Groups such as the Asian Pacific Islander Community Leadership Foundation (ACLF) have partnered with the Census to ensure accurate counting within their communities.²³
- The Supreme Court has just decided one key voting rights case²⁴ and will soon rule on

several other cases affecting civil rights, with potentially major implications for immigrant communities.²⁵

- If in fact Congress opens paths to citizenship for undocumented immigrants, organizations working in immigrant communities will need to scale up enormously to take advantage of the opportunity. In the Pacific Northwest, groups such as PCUN (Pineros y Campesinos Unidos del Noroeste, Oregon's farm-workers' union) and its sister organizations have planned for this eventuality, which will require vast new resources.
- The conversation about immigration reform also has the opportunity to address issues of equality for members of the lesbian, gay, bisexual, and transgender immigrant community. Democratic Senator Patrick Leahy of Vermont has introduced the Uniting American Families Act, a bill that would allow American citizens and legal immigrants to seek residency in the United States for their same-sex partners, just as spouses now petition for foreign-born husbands and wives. The bill will affect some 36,000 same-sex couples.²⁶

For additional resources, see *Crossing Borders*, *Crossing Barriers* and the Bridge Project's Web site.²⁷

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