

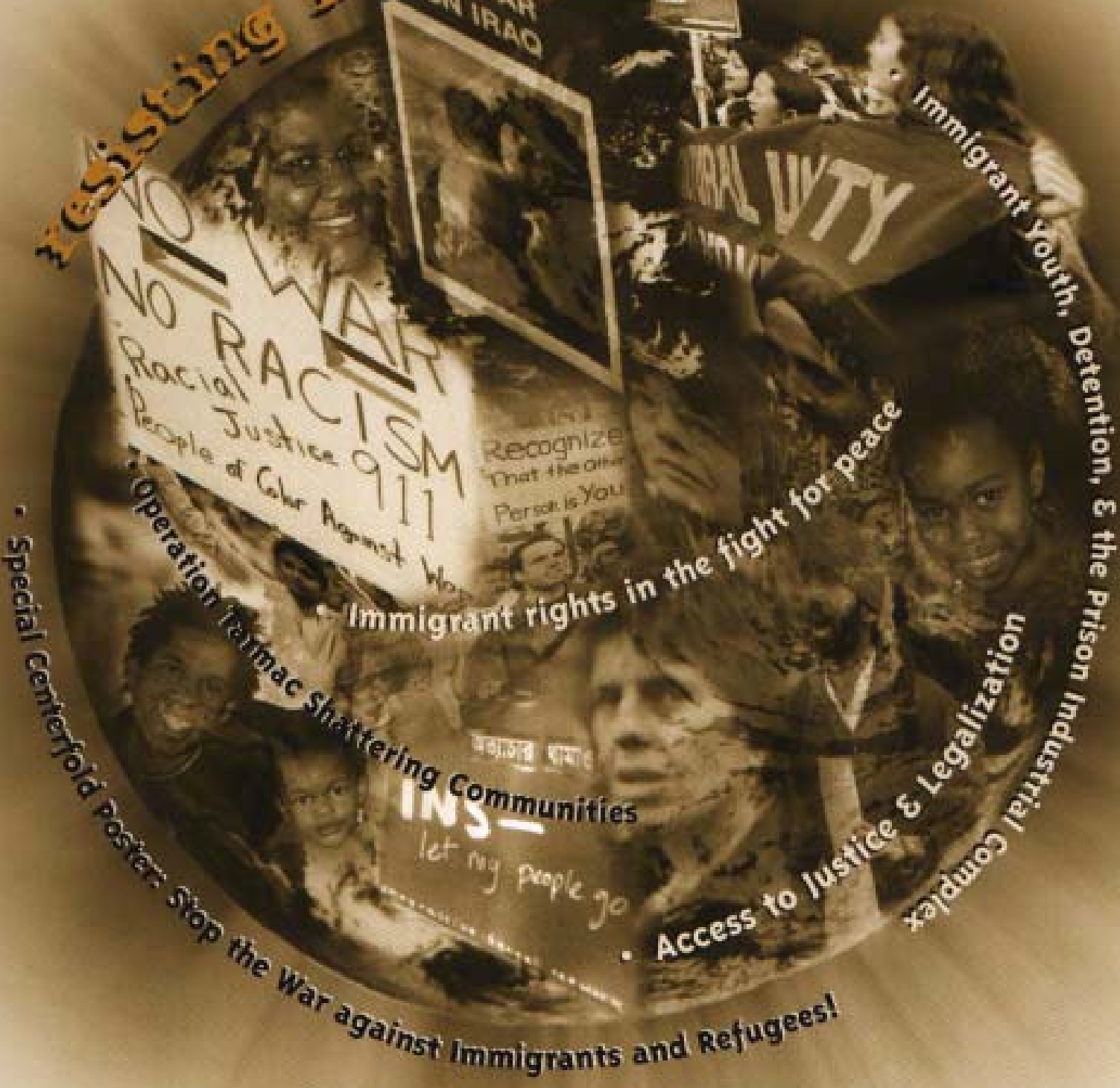
FALL-WINTER 2002/2003



NETWORK NEWS

NATIONAL NETWORK FOR IMMIGRANT AND REFUGEE RIGHTS

Resisting injustices



• Special | Centerfold Poster: Stop the War against Immigrants and Refugees!

• Operation Farmac Shattering Communities

• Immigrant rights in the fight for peace

• Access to Justice & Legalization

Immigrant youth, Detention, & the Prison Industrial Complex

Network News

Editors:

Arnoldo García, Catherine Tactaquin

Contributing Writers, Artists, & Photographers:

Javier Aguinaga, AJA Project, David Bacon, Mariana Bustamante, Eunice Cho, Claudia Gómez, Jacque Larrainzar, Pierre Labossiere, Elizabeth Martínez, Alexis Mazón, Arturo Romo, Steven Rubin, Angélica Salas, Aarti Shahani

Design:

Guillermo Prado, 8 point 2 design, Berkeley.

Network News is published three times a year by the National Network for Immigrant and Refugee Rights, 310 8th Street, Suite 305, Oakland, CA 94607. Tel (510) 465-1984; FAX (510) 465-1885; e-mail: nnirr@nnirr.org. Web page: www.nnirr.org. Commentaries, articles, and letters are welcome and should be accompanied with your name, address, and telephone or email.

National Network Staff, Interns, and Volunteers

Catherine Tactaquin, Director; Eunice Cho, Program Associate; Arnoldo García, Program Associate; Claudia Gómez, New Voices Fellow; Jasmine Leoncilla González, Administrative Assistant; Miriam Chang Louie, BRIDGE Curriculum Research Interns; Diana Bernal, Corrine Gorla, Rachel Gugler, Angela Junck, and John Minardi, Web-Site intern.

NNIRR Mission Statement

The National Network for Immigrant and Refugee Rights (NNIRR) is a national organization composed of local coalitions and immigrant, refugee, community, religious, civil rights, and labor organizations and activists. It serves as a forum to share information and analysis, to educate communities and the general public, and to develop and coordinate plans of action on important immigrant and refugee issues. We work to promote a just immigration and refugee policy in the United States and to defend and expand the rights of all immigrants and refugees, regardless of immigration status. The National Network bases its efforts in the principles of equality and justice, and seeks the enfranchisement of all immigrant and refugee communities in the United States through organizing and advocating for their full labor, environmental, civil and human rights. We further recognize the unparalleled change in global political and economic structures which has exacerbated regional, national and international patterns of migration and emphasize the need to build international support and cooperation to strengthen the rights, welfare and safety of migrants and refugees.

Action Alert!

Demand Equal Treatment for Haitian Refugees

By Pierre Labossiere

Throughout November and December 2002, in solidarity with 200 Haitian refugees being detained by the Immigration and Naturalization Service, members of the Haitian-American community in several cities -- notably Miami, New York, and Pennsylvania -- held demonstrations and a day of call-in demanding their freedom. The Haitians arrived in Florida after spending many days at sea in a small boat as their homeland is being subjected to a campaign of economic and political destabilization supported by some in the U.S. administration.

These demonstrations are the latest in an ongoing protest movement by Haitian-American and other organizations against the discriminatory and racist INS policy to detain and deport Haitian refugees without due process. This policy was secretly initiated in December 2001.

During 2002, 1,405 Haitians were deported in violation of their rights. The community is also alarmed by the massive number of deportation of long-term residents. Most are non-violent offenders, trapped by the unjust and retroactive provisions of the 1996 changes in criminal law that affects immigrants.

Please call the Director of the INS to demand the release and equal treatment for Haitian refugees. Call your representative and Senator to urge an end to unjust deportations.

For more information or to express support or join in the ongoing actions, please contact Veye Yo (Florida): (305) 895-7485. ☺

Pierre Labossiere is a member of Haiti Action Committee, contact HCA at: tel (510) 483-748; E-mail: haitiactlon@yahoo.com.



Immigrant Rights and the Fight for Peace

By Elizabeth Martínez

GUEST EDITORIAL

The anti-immigrant climate that frequently plagues the United States always intensifies in times of war and economic decline. Today, as the Bush administration speeds toward a war that few people really want, the human and civil rights of immigrants are under accelerated attack. This means that all of us concerned with immigrant rights must see the need to stop this war – before it starts, if possible.

We cannot shrug off that responsibility by saying the war is far away. We can't say immigrants don't connect the war with their daily, urgent survival needs. We can't say it's enough to work for legalization, although that is an important goal in itself.

At the same time the anti-war movement needs to see that immigrant rights and the war are closely linked. One of the main ways for the anti-war movement to draw more working class people, especially those of color, is to understand that linkage and act on it. Putting them together, we can become the mighty force needed to turn U.S. policy around.

What are some of the key links? Since September 11, 2001 we have already seen thousands of immigrants harassed, fired, imprisoned, and even deported – all in the name of the "war against terrorism." More detention centers are being set up at the border for immigrants; thousands of airport workers have been or are being fired because they are not citizens.

The three anti-terrorism laws passed so far – the PATRIOT Act, the Aviation and Transportation Security Act, and the Enhanced Border Security and Visa Reform Act – all target immigrants. If and when the U.S. launches a war on Iraq, it will find even more excuses for repression. We know what that looks like; from World War II when more than 120,000 Japanese Americans were interned in camps.

Immigrants' rights to basic human needs are also under attack. We see life-threatening cutbacks in social services as huge funds go to the military budget, now standing at \$335.5 billion. An immigrant's chances at obtaining childcare, welfare, health care, education, have been shrinking steadily and now face giant blows.

We also know that U.S. war-making, its militarism around the world, is profoundly racist. The vast majority of immigrants today are people of color. Racial profiling of Blacks and Latinos, a problem before Sept. 11, now affects a broad range of other peoples, all immigrants: Arab and Muslim peoples, South Asian, and any man with anything but a baseball cap on his head – not to mention a woman who must be a terrorist because of a scarf covering her hair.



Javier Aguinaga
¡Atención!
oil painting

AJA Project
woman cleaning
black and white photograph
From NARIP's December 10 Virtual Art Show, visit
www.narip.org



U.S. militarism is racism raised to an extreme. Look at the post-World War II history of U.S. "interventions" – a diplomatic word for actions that range from helping overthrow legitimate governments to direct military attacks on governments that inconvenience U.S. interests. That history – stretching from Latin America to the Pacific Islands, Asia, and Africa, all lands of color – has driven millions of human beings to this country. From a war abroad to the war at home, immigrants are bound by a giant chain of racism and militarism.

The linkage is all too clear. The struggle for immigrant rights and the struggle against U.S. militarism – especially the war that could break out any day if it has not already done so – are one. ☺

Elizabeth Martínez, director of the Institute for MultiRacial Justice, is a longtime activist and noted author. Her recent works include "500 Years of Chicano History" (book and video) and "De Colores Means All of Us," (South End Press).



national network for immigrant and refugee rights

Celebrating Migrant Rights Worldwide:

By Eunice Cho

International Migrants Day, 2002

Working in solidarity with migrant rights organizations around the world, NNIRR initiated a national campaign to encourage immigrant and refugee rights organizations to celebrate International Migrants Day in 2002. Adopted by the U.N. in 2000, International Migrants Day, observed on December 18, is a day when international institutions and communities worldwide promote the human rights of all migrants.

This year's International Migrants Day had special cause for celebration. Timor-Leste (East Timor) began the process to ratify the International Migrant Rights Convention, giving migrant rights advocates hope that the treaty will soon come into force. After twenty countries ratify the Convention, the United Nations will establish an office to monitor the Convention's implementation among those countries that have ratified it, as well as an international committee to review countries' adherence to the treaty. The International Migrant Rights Convention is the first U.N. human rights treaty to specifically address the issues of migrants.

This year, migrant rights organizations built upon collaboration at the 2001 UN World Conference Against Racism to celebrate December 18 world-wide. Events took place in over twenty countries, including the Philippines, Spain, Japan, Ireland, and Pakistan.

Over sixty organizations endorsed NNIRR's statement in support of migrant rights, released on December 18. U.S.-based immigrant rights organizations held events such as press conferences, public protests, vigils, community hearings, and posadas in thirteen cities. Highlighting the diverse challenges and campaigns of immigrant rights groups, these events included an art show celebrating the voices of immigrant women in Santa Fe, hosted by Somos Un Pueblo Unido, and the release of a report and press conferences protesting the rise of right-wing vigilantes in Arizona by the Border Action Network and Coalición de Derechos Humanos.

Labor and immigrant coalitions also used the day to highlight their campaigns, including the Multiethnic Immigrant Workers' Organizing Network in Los Angeles, the Labor Immigrant Organizing Network in Oakland, CA, and the Coalition of Immokalee Workers in Immokalee, FL. Many groups also organized posadas to celebrate the contribution of migrants in society, including the Centro Comunitario Juan Diego, Chicago IL, the Interfaith Coalition for Immigrant Rights in San Francisco, CA, and a coalition of groups including SEIU and the National Organizers Alliance in Houston, TX. Other groups used December 18 as an opportunity to educate their communities and public officials about the importance of migrant rights: the Refugee Women's Network in Atlanta, GA, hosted a human rights training, while Domestic Workers United in New York, NY, lobbied and educated city officials on migrant women's rights.

Virtual Immigrant Rights Art Exhibit

In celebration of this year's International Migrants Day, the National Network for Immigrant and Refugee Rights also launched the December 18 International Migrants Day Virtual Art Show. Celebrating the cultural contributions of immigrants, the show exhibits works by immigrant artists and non-immigrant artists working on the theme of migration. ©

Eunice Cho is Program Associate at the National Network for Immigrant and Refugee Rights

If your organization is interested in participating in next year's December 18 Campaign, please contact NNIRR, or visit our website: www.nnirr.org. For more information about International Migrants Day activities globally, visit: www.december18.net or www.migrant-watch.org.

To see NNIRR's Virtual Immigrant Rights Art exhibit, visit: <http://www.nnirr.org/dec18/artshow.html>

Members of the Migrant and Refugee Rights Caucus at the World Conference against Racism in Durban, South Africa.





Lost in a dream of you Art by Arturo Romo

This issue of *Network News* features the art of Arturo Ernesto Romo. Born in Los Angeles, California in 1980, Arturo has exhibited his work in galleries in Baltimore, Los Angeles, Salt Lake City and San Miguel de Allende in the state of Guanajuato, Mexico. Romo recently graduated from the Maryland Institute College of Art in Baltimore, Maryland, with a Bachelor of Fine Arts degree in Painting.

Contact Arturo Romo at (626) 284-5310;
Email: nopales@hotmail.com

End 'Special Registration,' Stop the Illegal Detentions

By Arnaldo García
and
Catherine Tactaquin

A NETWORK POINT OF VIEW

The Department of Justice's "Special Registration" program and all other forms of "anti-terrorist" anti-immigrant law enforcement must end immediately. "Special Registration" is nothing more than "special" harassment, jailings, and deportations targeting South Asian, Arab, Muslim, and other Middle Eastern, Asian, and African communities. "Special Registration" criminalizes immigrant and refugee communities, driving documented and undocumented immigrants alike deeper underground and makes them further vulnerable to abuse.

The INS announcement last fall to require males 16 years and older from certain Middle Eastern, Arab, Muslim, and South Asian countries to register with the government was met with a lot of suspicion and outcry. Our worst fears were realized as hundreds of men underwent fingerprinting, photographing, and questioning for possible "terrorist" information. "Special Registration" is the latest wave of unlawful immigration raids based on illegal racial, ethnic, and religious profiling, since September 11, 2001, as hundreds who went in to register were detained.

The INS with the FBI, local police, and other law enforcement agencies have been arresting and, in many

cases, deporting scores of South Asian, Arab, and Muslim men as part of the anti-immigrant/anti-terrorist hysteria and scapegoating that has swept the country since 9/11. The government has yet to account for all the illegally detained, deported, and "disappeared." The threat of expanding registration to all immigrant and refugee communities means more "disappeared" and deported, rights violations on a wide scale.

Once more, a so-called "national security" program has been put into place that reinforces public anxieties and stereotypes that terrorists are "living in our midst" - but which does nothing to really ensure public safety. In fact, special registration and other programs - such as local police collaboration with the INS - undermine the safety and security of thousands of immigrants, and their families.

No community is safe while the rights and freedoms of immigrants and refugees are violated and assaulted. End special registration and all other anti-terrorist immigration law enforcement; fully restore our civil liberties and civil rights NOW.

For more information and links on registration, visit: www.nnirr.org/registration. ©



national network for immigrant and refugee rights

Operation Tarmac Immigration Raids Continue Shattering Lives

by Anna Núñez

Operation Tarmac raids continue to devastate immigrant communities across the country. Over 1,000 low-income service workers have been arrested through massive surprise sting operations in over 30 U.S. airports since Tarmac began in December 2001. Following September 11th, the Justice Department spearheaded this multi-agency national security crackdown, charging airport workers with lying about criminal histories and possession of fraudulent identification to obtain security badges.

The latest raids - in Dallas, Denver, Houston, Los Angeles during August and September, and Chicago in November - were again all carried out in the "interest of national security." The Bush administration's efforts rang hollow when not one of the mostly Latino and Asian immigrant workers were found to have links to terrorism. Nonetheless, the Tarmac raids succeeded in ripping families apart and intimidating immigrant communities.



David Becht

"People feel they are no longer free and are persecuted, afraid to send their children to school or even go to work," lamented Ricardo Ortega with the Labor Employment Labor Office after Tarmac hit the Seattle airport earlier this year. "There is profound sadness and depression, workers feeling used and unappreciated."

In Los Angeles, the INS instituted harsher penalties by rounding up unsuspecting passengers in airport sweeps. "INS got in trouble for sending visas to terrorists so they needed to get 'tough on crime,'" said Mayron Payes of the Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA), "and nothing was easier than targeting poor people who were racially profiled."

A tangled web of hysteria and fear caused the community and media to scatter misinformation about the INS raids, further exacerbating the situation. CHIRLA initiated partnerships between immigrant rights advocates and organizations, community leaders, unions, and religious groups working to dispel rumors and help calm fears. Fear turned into indignation as they proactively launched protests, press conferences, and meetings with arresting officials in response to the perceived injustices.

"We cannot keep quiet. The right thing to do is respond to these types of abuses," advocates Mr. Payes, "If we don't respond, we may as well expect more of that."

"The key to handling this situation is to be pro-active and prepared," said Donna Lipinski, a pro-bono attorney who represented Operation Tarmac detainees in Denver, Colorado. She is also an American Immigrant Lawyers Association board member and, despite her legal training, conceded that dealing with Operation Tarmac was "on the job training."

"There was so much fear, tears, hysteria, people filled with uncertainty and unanswered questions about their legal situations and families. Unfortunately, this lack of information and fear caused many people to take drastic actions which had permanent devastating effects on their lives," lamented Ms. Lipinski, "barring them from the possibility of ever seeking relief or returning to this country."

Sharing her lessons and insights learned "the hard way," Ms. Lipinski advised, "Organizing will allay fears and concerns of the immigrant community and help them pursue remedies they may unknowingly sign away. We need be prepared and do as much as we can before [arrests] happen again - because it will." ©

Anna Núñez is a Latino community activist and Host/Producer of "Latino Voices" on KPFT 90.1 FM Pacifica Radio in Houston, Texas. Email: AnnaNunez2@aol.com



LAST FAIR DEAL GONE DOWN

national network for immigrant and refugee rights



10 Steps to Prepare for Raids

- 1 Be prepared and have an emergency plan -- now!
- 2 Refer to the National Lawyers Guild "Know Your Rights" information available at <http://www.nlg.org/post911/>
- 3 Strategize with key leaders and organizations to understand procedures and options.
- 4 Communicate and assign a "contact person" to facilitate communication and coordination between groups.
- 5 Establish relations with your Consulate who can be a key contact between arresting authorities.
- 6 Organize & assign responsibilities for proactive response!
- 7 Negotiate in advance with INS to hold a group meeting with detainees to inform them of their rights and remedies.
- 8 Create a simple form for quick assessment of each situation.
- 9 Educate folks on their right to NOT sign forms until legal counsel is present.
- 10 Understand federal charges that can forever negatively impact acquiring U.S. citizenship.

—Anna Núñez

Immigrant Student Under Fire

By Claudia Gómez

Last September, Rep. Tom Tancredo, Colorado's two-term Republican Congressman, called for the deportation of honor student Jesús Apodaca and his family who live in Denver. Jesús had been featured in a *Denver Post* article highlighting the struggles undocumented immigrant students face trying to attend college. Jesús, like many undocumented immigrant students across the country, has to pay out-of-state tuition although he is a resident of Colorado and attended and graduated from high school there. As a result of the *Denver Post* story, Jesús received a private scholarship, which paid for his first semester of college. This outraged Rep. Tancredo, who then publicly demanded that the Immigration and Naturalization Service deport Jesús and his entire family.

In response to Rep. Tancredo's actions, various organizations and individuals including American Friends Service Committee and Rights for All People came together to support the Apodaca family and the issue of higher education and legalization for undocumented immigrant

students. Quickly, calls poured into the INS Regional Director and to other congressional legislators. Subsequently, both Democratic and Republican politicians, including Colorado Gov. Bill Owens, came out in support of Jesús and pending federal legislation (DREAM Act, S1291 and Student Adjustment Act, H.R. 1918) that would allow students like Jesús access to higher education and legalization. Colorado Senator Ben Nighthorse Campbell asked the INS not to deport the Apodaca family, introducing a "private bill" to grant the Apodacas residency. While the case is still under INS investigation, Tancredo has backed off from pressuring for their removal. Nighthorse does not plan on resubmitting the special legislation to protect the Apodaca family in this new situation.

Immigrant youth and student organizers are preparing a national day of mobilization to converge on Washington, D.C. April 12 to continued pressuring Congress for relief for undocumented students. ©



Claudia Gómez is the NNIRR's New Voices Fellow and coordinates the National Grassroots Legalization Collaborative.



national network for immigrant and refugee rights

Immigrant Youth in the U.S. Prison Industrial Complex

By Alexis Mazón

Immigrant youth are increasingly being targeted for detention and deportation not only by the INS and Border Patrol, but also by local police, juvenile and criminal courts, probation officials, and others in the juvenile and adult justice systems. This is contributing to an unprecedented growth in immigrant youth in INS detention.

Since 1997, INS youth detention has tripled to more than 5,000 annually. Along the U.S.-Mexico border, nearly twice this number of youth are detained by INS and deported within 72 hours. Over one-third of all unaccompanied immigrant minors end up in INS detention for an average of 45 days. And unlike U.S. citizen minors, unaccompanied immigrant youth have no right to a court appointed guardian or attorney, facing removal proceedings alone.

Although estimates vary on how many immigrant youth are entering the U.S. juvenile justice system, the fact that immigrant adults are the fastest growing incarcerated population indicates that the INS enforcement in the criminal justice system gravely impacts youth. The number of incarcerated immigrant adults grew 90% in the last 7 years although 98.5% are nonviolent.

The profit incentive to incarcerate immigrant communities includes youth. County juvenile

detention centers have for years entered into lucrative contracts with the INS to jail immigrant youth during their immigration proceedings.

This detention violates the 1996 settlement agreement reached in *Flores v. Ashcroft*, restricting the circumstances under which youth in INS custody can be held in secure detention. The INS systematically violates this agreement aimed at improving the deplorable detention conditions of immigrant youth.

Stop the Detention of Immigrant Youth

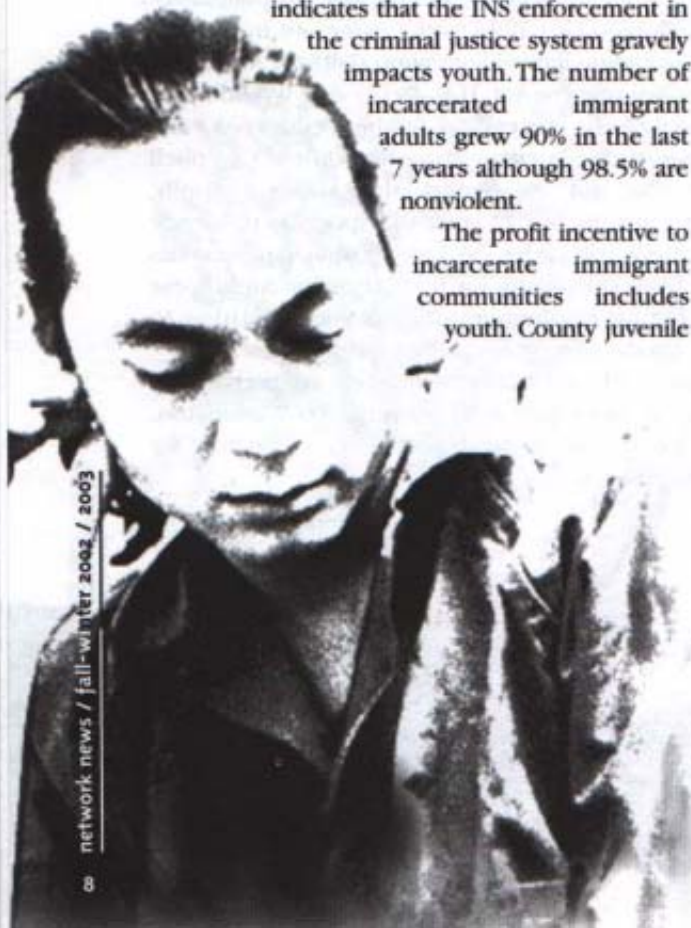
Detention becomes a deportation sentence for undocumented youth. In many cities, probation departments and juvenile court judges routinely report youth to the INS. This occurs despite the fact that unlike many adult criminal convictions, youth convictions or juvenile disposition, are not deportable offenses. However, INS has increased its screening for undocumented youth in juvenile halls and other juvenile detention centers.

A recent case in the California Supreme Court challenged juvenile court judges' authority to order INS screening of youth during juvenile disposition. In *In Re Victor F.*, a Mexican teenager attending high school near Napa with no history of disciplinary or delinquency problems was arrested during a schoolyard scuffle. Rather than recommend probation, camp, or an alternative-to-detention program, the probation officer told the juvenile court judge that Victor was undocumented and recommended referral to the INS for deportation. The juvenile court judge then postponed Victor's sentencing hearing for three weeks to allow the INS screening to take place. Victor was deported before he had his day in court.

After being sent back by the California Supreme Court, the California Court of Appeals ruled that a judge's order for INS screening constitutes an "informal order" and does not fall outside a handful of dispositions juvenile court judges have the authority to make. Although immigrant rights and youth advocates feared a bad decision in this case would only encourage greater collaboration between the juvenile justice system and the INS - as well as set a terrible national precedent - the court decided not to publish the decision. This means that *In Re Victor F.* cannot be cited or otherwise relied upon as legal precedent in the future. Nevertheless, the systematic reporting of youth by juvenile justice system personnel continues unabated in many jurisdictions.

Immigrant rights and juvenile justice advocates, along with those fighting the prison industrial complex, need to challenge the mass detention and deportation of immigrant youth and adults. To stop the race to incarcerate immigrant youth and adults means speaking out vigorously for the rights of all immigrants, regardless of delinquent or criminal backgrounds. ©

Alexis Mazón, who joined the Youth Law Center in San Francisco as a fellow in September of 2001, works on issues affecting immigrant youth in the juvenile justice and INS detention systems.



© network news / fall-winter 2002 / 2003



Urgent Battle at the Supreme Court to End Mandatory Detention

By Rarti Shahani



"Lifers," detained immigrants, at an Immigration & Naturalization Service detention facility in San Pedro, California, face deportation to home countries they left as young children from Vietnam, Laos and Cambodia. Lacking sufficient diplomatic relations with the U.S., their countries will not accept their return. Although this has recently changed with Cambodia, the INS cannot then deport them and will not release them. So they sit in detention indefinitely and wait, often for years. Hence their name, indefinite detainees or "lifers."

Steven Rubin photo, July 2001.

The U.S. has seen the acceleration of a peculiar kind of "right": the Bush administration's right to wage war on civilians. The Department of Justice (DOJ) fought to protect this dear outgrowth of 9/11 at the Supreme Court on January 15, 2003, when it argued against the American Civil Liberties Union to uphold "mandatory detention." A ruling is expected later this year.

Mandatory detention has made immigrants the fastest growing prison population in the country. The policy, a key feature of the 1996 immigration laws, states that an immigrant facing removal for virtually any type of offense must be detained during his/her removal proceedings. Even if an immigration judge believes that the person is neither a flight risk nor a threat to society, the judge cannot grant bond. In 1994 the federal government detained about 6,000 immigrants daily. By 2000 that number exploded to over 20,000.

Federal courts have ruled that mandatory detention is unconstitutional, forcing the DOJ to release countless detainees within their jurisdictions. Now the DOJ is retaliating. It successfully petitioned the Supreme Court to review the constitutionality of mandatory detention in the case of *Demore v. Kim*. Justices will hear oral arguments and ultimately decide for the entire country whether the U.S. can detain immigrants en masse.

Detention makes irrelevant the purpose of a removal proceeding – to determine whether an individual is in fact deportable – by isolating and breaking down the detainee. The government may transfer a detainee to any facility around the country, regardless of its distance from family and counsel. Usually facilities have no meaningful law library and telephone access is limited to marked-up collect calls. Those who have legal claims against removal are gagged into life exile.

Concerns well beyond immigration influence the mandatory detention policy. The DOJ pays over 400 private prisons and county jails to house immigrant prisoners. Members of Congress from poor districts and corporations with declining revenues are actively lobbying to join the prison industry.

Demore v. Kim will not only determine the legal rights of millions of detainees now and in the future. It also tests the limits of the



national network for immigrant and refugee rights



government's power to police and punish. The judiciary branch will either shore up or shatter the executive branch's war against the average person. That war started well before 9/11. Today its target is called an "immigrant" or a "terrorist." Tomorrow the labels may change. But the underlying battle remains the same.

The DOJ anticipates that the Supreme Court will affirm this growing system of apartheid against immigrants. But the very fact that the case is going to court presents us with an opportunity. Immigrant communities and advocates around the country have been working locally to protect targeted communities. *Demore v. Kim* gives us a rallying point to act and win nationally, to structurally regain our rights. ©

Aarti Shabani is a legal rights advocate and organizer at the Immigrant Defense Project of the New York State Defenders Association.



Aarti Shabani

TELLEVOENNIMEMORIA

Take Action for Freedom

To join the battle against the mandatory detention of immigrants, a key feature of the domestic war on civilians, and to find out how your organization can:

- Get a toolkit on mandatory detention.
- Organize a local vigil or press conference in response to the Supreme Court hearings in *Demore v. Kim*.
- Join national efforts to oppose the government's detention practices.

Contact: the Immigrant Defense Project, Tel (212) 367-9104;
E-mail: ashahani@nysda.org



Aarti Shabani

PUEBLO
NUEVO

ACCESSING JUSTICE

By Mariana
Bustamante

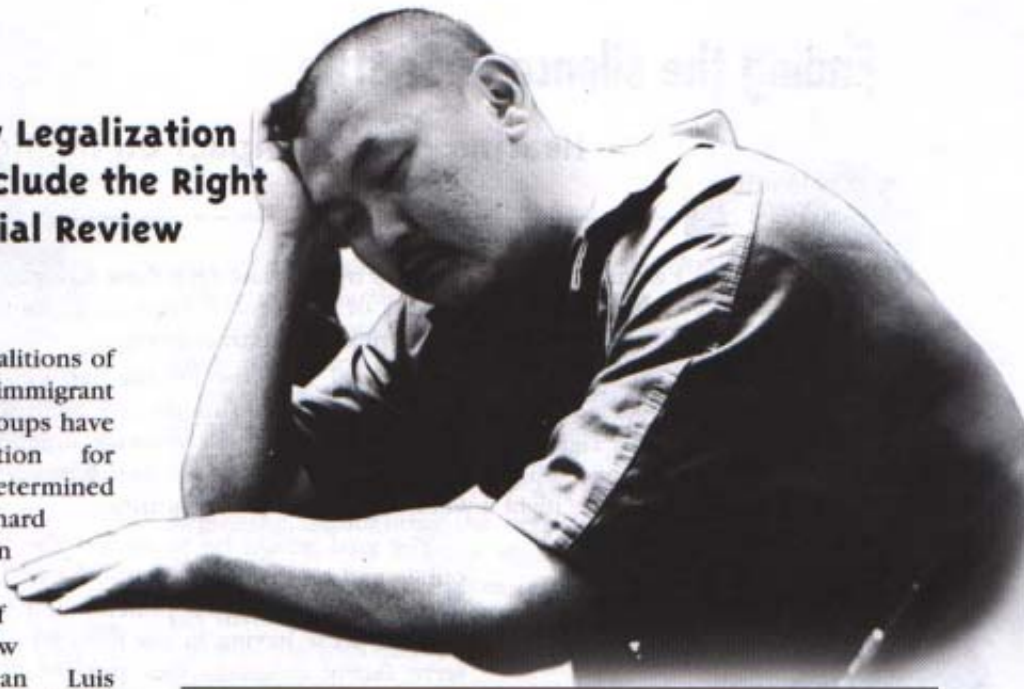
Why a New Legalization Law Must Include the Right to Judicial Review

For the past three years powerful coalitions of labor unions, business associations, immigrant advocates, religious, and community groups have emerged to push for legalization for undocumented immigrants. For their determined efforts, House Democratic Leader Richard Gephardt proposed legislation in October 2002 that would have given "legal residency to millions of undocumented immigrants." In the new Congressional session, Congressman Luis Gutiérrez (D-IL) recently re-introduced his legalization proposal, the "U.S. Employee and Family Unity and Legalization Act (USEFUL Act, H.R. 200). Whatever form the legalization program takes, it will not fully benefit undocumented immigrants if it does not include explicit language on access to the courts.

History teaches us that legalization without meaningful judicial review will allow the INS to interpret the law and trample over immigrants' rights. Tens of thousands of people deserving legalization could be left behind.

In 1986, when Congress passed the Immigration Reform and Control Act (IRCA), the INS adopted restrictive eligibility rules and even engaged in illegal practices that would have denied legal status to tens of thousands of applicants. More than a dozen major federal lawsuits, most of them class actions by countless amnesty applicants, successfully challenged the INS. In virtually every case, the federal courts found that the INS had illegally interpreted the law to disqualify applicants. According to Catherine Tactaquin from the National Network for Immigrant and Refugee Rights, "If immigrants had not had the right to go to court to challenge the INS, the amnesty granted by IRCA would have been completely undermined."

However, the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) curtails the ability of immigrants to challenge INS policies and practices and to obtain class action injunctions to force the INS to follow the law. Other restrictions apply to long-time legal residents and threatens them with summary deportation based on minor criminal convictions



and without the opportunity to challenge their deportation in court. In addition, the INS decided to apply the new deportation laws retroactively and tried to prohibit any judicial review of that decision.

Legalization and the Courts

Emma Mendez de Hay, a forty-year old mother of four U.S. citizen children and a permanent legal resident, was arrested in 1992. She was sentenced to three years probation with no jail time. Seven years later, she was detained by the INS and put in removal proceedings.

In 1992 Ms. Mendez could have applied and would have been eligible for a waiver of deportation. But because of the retroactivity of the law in 1999, the INS denied her the chance to even apply for a waiver.

Had it not been for the ACLU achieving a landmark decision in the Supreme Court in 2001, Ms. Mendez would have been deported after almost twenty years in this country without any chance for a federal court to decide whether her deportation violated the law. The decisions, *INS v. S. Cyr* and *Calcano-Martinez v. INS*, upheld the right of immigrants to appeal INS decisions in federal court. Thousands of long-time legal residents who would have been subjected to mandatory deportation won the right to apply for a waiver.

Despite this major victory, however, many provisions of the 1996 law still restrict judicial review for immigrants. Moreover, the government's domestic actions and the political climate in the wake of September 11 have further eroded immigrants' rights. The federal courts are the last line of defense in protecting the rights of immigrants in the face of far-reaching attacks.

Although talk of legalization came to a halt after the attacks of September 11, it has since resurfaced. As the war on terrorism at home and abroad continues to sow fear among immigrant communities, organizations and unions with large immigrant

continued on page 13



Ending the silence in Seattle

By Jacque Larrainzar

Hearing on 9/11 impact on immigrants and refugees

Last July 29, 2002, I attended a meeting called by the Hate Free Zone Campaign of Washington to discuss what kind of event should we organize - as members of different refugee and immigrant communities - to mark the first anniversary of September 11. What happened next was extraordinary.

Karen Yoshitomi, Pacific Northwest Regional Director for the Japanese American Citizens League, proposed organizing a hearing modeled on those held in early 1980's on the U.S. internment of Japanese Americans during World War II. The idea struck the right balance between appropriate message, urgency, and solidarity. For the next six weeks, 20 to 30 people from the Sikh, Arab American, South East Asian, East African, Asian Pacific Islander, and Latino communities gathered for one night a week to plan the public hearing.

The goal would be to inform the public and elected officials about the impact that post 9/11 policies and inaction were having in our lives. We were facing incidents that put into question the ideals of tolerance, religious freedom, diversity, and equal treatment that inspired many of us to come to the United State in the first place. During the meetings we came to realize that "the risk of not standing together was grave, and the only real antidote to deep-seated fear was standing together."

On September 21, 2001, "Justice for All: The Aftermath of September 11. A Public Hearing" took place in Seattle. Over 1,000 people attended from Muslim, Arab, Sikh, Cambodian, Somali, Latino, and other communities. Some 100 faith-based, peace, justice, labor, and community organizations sponsored and supported the event.

Breaking the Silence

The principles on which America is founded have been eroded or disregarded," declared Pramila Jayapal, executive director of the Hate Free Zone Campaign, at

the hearing. "There are those who say that securing our country comes at a cost. To the American public, we say that we are not willing to sacrifice those very principles of liberty, democracy and equality that define us as a great nation - that cost is far too high to pay."

Many stepped forward to share their experiences since September 11. Twelve-year old Samer Hamoui of Lynwood testified on behalf of his parents who are in INS detention and, with his sister, waits for their release.

Issal Qandeel, a Jordanian, spoke of seeing a stranger pouring gasoline on his car in the parking lot of Seattle's Idriss Mosque.

Asha Mohamed from the Somali Community testified, "We are here to say, as a community, enough is enough - enough with targeting, enough with harassment."

Abdinasir Ali Nur of Seattle talked about the federal government closing his Somali market, even though he was not charged with any wrongdoing. They heard from Sikh and Muslim children who said they were being harassed at school for wearing turbans. And they heard from lawyers of clients who had been questioned by the FBI or INS.

Officials on the hearing panel included State Sen. Adam Kline, U.S. Representatives Jay Inslee and Jim McDermott, representatives from the City of Seattle, King County, and Washington State. Representatives from the FBI, the U.S. Attorney General's office, and the INS were also present. Afterwards, they



Pramila Jayapal addressing the "Justice For All" hearing, held on the first anniversary of 9/11.





responded to questions read by state Supreme Court Justice Charles Z. Smith.

After listening to the testimony, many said that better communication between the government and the community was needed. Bruce Miyake, Assistant U.S. Attorney General for Western Washington, promised to send a memo to U.S. Attorney General John Ashcroft and President Bush.

The hearing's organizers presented ten recommendations to the panel of elected officials. These addressed the city and state's role in implementing federal policies unfairly targeting immigrants, state anti-terrorism and other pending legislation, such as drivers license bills and immigrant communities, as well as the need to defend everyone's civil rights. The recommendations also called on the state government to promote

policies addressing the discrimination and climate of fear facing immigrant and communities of color and that promote instead a climate of inclusion. They also called for establishing a congressional oversight committee, with authority over the Department of Justice, to monitor the balance between security and civil rights.

Our hearing, "Justice for All," was a great beginning, highlighting the need to educate and hold our elected officials accountable. We also learned we need to be more creative on how we get involved in the political process and have a voice in the laws that impact our daily lives in the United States.

In Seattle, silence died. ©

Jacque Larrainzar is a musician and activist based in Seattle who works for the City's Office for Civil Rights. To receive a copy of "Justice for All: The Aftermath of September 11. Report from the Public Hearing," contact Hate Free Zone Campaign of Washington, 4860 Rainier Ave South, Seattle, WA 98118 Tel (206) 723-2203, www.hatefreezone.org or email: info@hatefreezone.org

ACCESS TO JUDICIAL REVIEW continued from page 11

constituencies are moved to act by people determined to pass a new law for legalization.

It is imperative that any legalization measure includes the right to judicial review. Those opposed to legalization will probably attempt to undermine it by proposing prohibitions on judicial review in the law, as they did in the past. That would allow the legalization process to be once again manipulated by the INS - and the dreams of many immigrants shattered.

As Lucas Guttentag, director of the national ACLU Immigrants' Rights Project explained, "Access to the courts is the cornerstone of our constitutional system. If judicial review can be denied to any group or individual, then everyone's rights are threatened."

The legalization debate provides a unique opportunity to build greater awareness of the importance of preserving access to the courts. The stakes

are high: the future of tens of thousands of immigrants literally hangs in the balance. ©

Mariana Bustamante is the Education Coordinator of the ACLU Immigrants' Rights Project and the ACLU's Access to Justice Campaign organizer. For more information, call (510) 625-2010 ext. 204; or email: mbustamante@aclu.org.



Getting Ready for the Next Two Years

by Angélica Salas

COMMENTARY

No doubt many of our organizations are still analyzing how the results of the past election will impact the fight for legalization and other important immigration and social reforms. What is certain is that as an immigrant rights and social justice community we must adapt our strategies to this new environment to ensure that we are successful in securing our full human, civil, and labor rights. Moreover, these political changes also provide us an opportunity to evaluate strategies and activities employed thus far in relation to our principles and ultimate goals.

In October of 2002, minority leader Representative Richard Gephardt had introduced the "Earned Legalization and Family Unification Act of 2002," H.R. 5600. The bill would amend the Immigration and Nationality Act to provide for permanent resident status for certain long-term resident workers and college-bound students, to modify the worldwide level of family-sponsored immigrants promoting family unification.

More recently, Representative Luis Gutiérrez reintroduced his legalization proposal HR. 200, U.S. Employee & Family Unity Legislation Act that provides for a rolling registry that would legalize undocumented immigrants who were present prior to February 6, 1996 and then allowing immigrants to legalize their status every year after until reaching all immigrants present prior to February 6, 2001. [Editor's Note: As *Network News* went to press, Rep. Gutiérrez introduced an additional proposal, the "Unity, Security, Accountability and Family Act" (USA Family Act), that would grant legal permanent residence to immigrants who have lived over five years in the U.S. and conditional legal status and work authorization to those who have lived in the U.S. less than five years.]

The introduction of such legislation is certainly a step in the right direction and an action long awaited by so many immigrants who are part of the struggle to change immigration and immigrant policy in the United States.

Nonetheless, we must be careful in believing that this piece of legislation alone will remedy the situation for all the undocumented in the United States or that it will decrease undocumented migration to the United States. The current legislation does not address employer sanctions, economic disparity in sending countries, or border militarization. It also does not recognize the U.S. economic dependence on migrant labor. While H.R. 5600 was an important piece of the puzzle, it certainly is not the whole "enchilada," "egg roll" or "lumpia."

Immigrant Rights Are Human Rights

To achieve a meaningful transformation of our nation and its leaders in relation to the rights of immigrants, we must first and foremost affirm that immigrants have irrevocable human rights. Immigrants have value not simply for their economic productivity. Immigrants' worth or deserving of legal status cannot be solely measured by their sheer labor contribution. If our arguments are based only on the contributions of immigrants to the workforce, we reduce ourselves to simple economic units that merit respect only while producing for the nation. Additionally, the courage and sacrifice of so many before us have won for everyone civil liberties and civil rights that we now enjoy.

To achieve a meaningful transformation of our nation and its leaders in relation to the rights of immigrants, we must first and foremost affirm that immigrants have irrevocable human rights.

In a time of war and increased national security policies that promote fear of the other, it is imperative that we do not give away as payment for a legalization program rights that are essential to ensuring the full integration of all immigrants into U.S. society. Finally, H.R. 5600 was a one shot deal as amnesty was in 1986, failing to recognize the global reality of continued migration and thus leaves many migrant workers out of the equation. Meaningful immigration reform cannot ignore the global migrant force and must create vehicles by which individuals can migrate without fear of death at sea

or at our borders.

As we reflect on the newest political changes, let's ask ourselves if we have really made strides in transforming the debate on immigration and migrants and, if not, what more we need to do to uphold our dignity and value both legally and morally in this nation. Giving in to arguments of national security and economic utility as reasons why immigrants need to be legalized will only divert us from our intended goals. ©

Angélica Salas is the executive director of the Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA).

national network for immigrant and refugee rights



3 WAYS TO MAKE 2003

the Year of Immigrant Rights Leadership for Equality, Peace & Justice

Dear Network News Readers, Friends, and Colleagues:

The rights of immigrants and refugees in the United States suffered disturbing setbacks in 2002 - a year filled with daunting challenges and alarming political developments threatening everyone's civil rights and civil liberties, regardless of immigration status.

Along with the new anti-terrorist laws, old and new repressive immigration law enforcement strategies, policies, and practices were unleashed under the guise of national security. Hundreds of immigrant workers were arrested and deported in "anti-terrorist" airport sweeps, raids on homes and other workplaces. Through illegal INS-police collaboration and racial profiling, thousands more were stopped and arrested because they "looked like immigrants." Thousands more were jailed and/or deported after FBI and INS rounded up Muslims, South Asians, Arabs, and other Middle Easterners after questioning them for any information or links to terrorism. Others were deported as a result of the "absconder" initiative. 2002 closed with the INS unleashing "Special Registration" - the latest anti-immigrant dragnet - sowing fear and confusion in our communities.

This has been 2002. Is it a prelude of worst to come in 2003? With the new Department of Homeland Security, where enforcement is the key word, what should we expect? Our response:

Protecting and expanding the rights of immigrants and refugees will be key to reversing or altogether ending the brutal assault on our civil rights and civil liberties that has unfolded since 9/11. With your support, we can help to make a difference and roll back the hate and illegal government repression.

Make a Difference in 2003!

Support the National Network

There are three ways you can make a difference in 2003:

Give generously to meet the challenges in 2003:

Give a generous donation to the National Network so that in 2003 we can meet all the challenges facing the rights of immigrants and refugees. Your support will ensure that we can bring activists and organizers together at critical junctures, produce and distribute information, analysis, and materials, and mobilize to raise our voices.

Subscribe to *Network News* and also give gift subscriptions

By subscribing, you will guarantee that *Network News* continues being a dynamic news-magazine reaching communities, organizations, leaders, and allies with the voices and perspectives of the grassroots immigrant rights movement.

Join the National Network!

By becoming a member of NNIRR, you join the ranks of a crucial network of ideas, leaders, organizations, and communities demanding equal rights for all, regardless of immigration status. NNIRR members receive a subscription to *Network News*, special notices of NNIRR publications and reports, and invitations to conferences and meetings, building an action-oriented movement on the frontlines of the struggle for equality, justice, and peace.

Please send in your contribution today! You are the "network" in the National Network for Immigrant and Refugee Rights!

Yes, I want to support the National Network!

SUBSCRIPTIONS:

Individuals: \$20/regular; \$10/low-income; \$5/unemployed/fixed income.
Institutions: \$35.00

MEMBERSHIP DUES:

Individual:
\$25 regular
\$15 low income
\$10 unemployed, fixed income

Organizational:

ANNUAL BUDGET
\$35 (below \$50,000)
\$50 (\$50,000—\$99,999)
\$100 (\$100,000—\$199,999)
\$150 (\$200,000—\$349,999)
\$250 (\$350,000+)

Please print clearly: Make your check or money order payable to "NNIRR," mail with form to: NNIRR, 310 8th Street, Suite 303, Oakland, CA 94607

name _____

organization _____

address _____

city/state/zip _____

phone _____ fax _____

e-mail _____

total enclosed \$ _____

- I'm joining the National Network
- Please add me to NNIRR's on-line news list
- Please add me to NNIRR's fax alert list
- I'm just subscribing to *Network News*
- Here's a special contribution to support the National Network's vision of peace, justice, & equality for all!

\$ _____



national network for immigrant and refugee rights

National Network for Immigrant and Refugee Rights (NNIRR)

BOARD OF DIRECTORS

Susan Alva, *Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA), Los Angeles*

Francisco Argüelles, *National Organizers' Alliance, Houston*

Jane Sung E. Bai, *CLAW Organizing Asian Communities, New York*

Eduardo Canales, *Mountain West Regional Council, United Brotherhood of Carpenters, Denver*

Brad Erickson, *Oakland*

Lillian Galedo, *Filipinos for Affirmative Action, Oakland*

Isabel García, *Coalición de Derechos Humanos, Tucson*
Maricela García, *Chicago*

María Jiménez, *American Friends Service Committee VOICES, Philadelphia*

Dan Kesselbrenner, *NIG/National Immigration Project, Boston*

Stan Mark, *Asian American Legal Defense and Education Fund (AALDEF), New York*

Rogelio T. Núñez, *Casa de Proyecto Libertad, Harlingen*

Juan Manuel Sandoval, *Seminario Permanente de Estudios Cbicanos y de Fronteras, México*

René Saucedo, *La Raza Centro Legal, San Francisco*

Catherine Tactaquin, *NNIRR Director*

A WORLD ON THE MOVE

Prepared by the National Network for Immigrant and Refugee Rights, the report, "A World on the Move, A Report on the 2001 U.N. World Conference against Racism, Racial Discrimination, Xenophobia, and Related Intolerance" presents a comprehensive look at the outcomes, lessons, and successes for immigrant and refugee rights from the 2001 U.N. World Conference against Racism.

A World on the Move includes testimonies of participants in the Immigrant Rights Working Group and tips on preparing for international conferences. This up-to-date resource kit also shares analysis of international migrant and refugee issues, with practical guides on connecting local issues with international human rights campaigns and systems. A must-read for any organization thinking about immigrant and refugee rights in a global era.



Cover art by Daniel Camacho

A WORLD ON THE MOVE: A REPORT ON THE 2001 U.N. WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA, AND RELATED INTOLERANCE

To order, visit www.nnirr.org. Available for a contribution of \$10.00 (includes shipping/handling); U.S. currency please. Please inquire for international and bulk orders. For more information, call (510) 465-1984 or email nnirr@nnirr.org. A publication of the National Network for Immigrant and Refugee Rights (USA), 2002.



National Network for Immigrant and Refugee Rights (NNIRR)

310 8th Street, Suite 303
Oakland, CA 94607

Pre-sort Standard
U.S. Postage
PAID
Oakland, CA
Permit No. 1530

Address Service Requested

