

January U.S. Immigration Alert!

**A Monthly Newsletter from National Immigrant Solidarity Network
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What We Might Expect in the 109th U.S. Congress in 2005

Lynn Tramonte and Maurice Belanger
National Immigration Forum

Comprehensive Immigration Reform

Given the dynamics in the House and Senate, political will on the part of the President will be necessary to pass comprehensive immigration reform in the 109th Congress. If the President engages meaningfully on this issue, will he “go it alone” with Republican allies (and perhaps a few Democrats) in Congress and try to get an exclusively temporary worker program passed, or will he bring Republicans and Democrats together meaningfully to craft real and lasting reform?

It may be nearly impossible for the President to accomplish the former. There is a significant number of Republicans in both chambers who would abandon the President on this issue, and never vote for an increase in even temporary immigration. Therefore, the President will need Democrats on his side, and will be unable to carry enough by adopting a guestworker-only model. To work in a bipartisan manner, the President must be open to modifying his January 2004 plan.

There are early indications the President will go the bipartisan route. He has already met with one immigration reform leader in the Congress since the elections, Senator John McCain (R-AZ), who is one member of Congress who can work meaningfully across party lines to pass legislation. We hope that other key immigration reform leaders from both sides of the aisle, and both chambers, will be brought in

quickly to contribute their perspectives and draft a bill that can be enacted in the next Congress.

AgJOBS and DREAM

The need for these bills has not diminished, and neither has the resolve of the advocates clamoring for their enactment. The question now becomes: do AgJOBS and DREAM continue to move on tracks separate from (and even ahead of) the comprehensive immigration debate, or do they become part and parcel of the advocacy for a systematic fix. These questions will be hammered out in detail by the constellations of advocates driving these issues in the coming weeks.

CLEAR Act/Homeland Security Enhancement Act

Now that the CLEAR Act/Homeland Security Enhancement Act has been discredited, proponents will be assessing the situation. We fully expect Representative Charlie Norwood (R-GA) and Senator Sessions to re-introduce their legislation, perhaps with serious or simply cosmetic modifications. We do not know if they will retain the support of all original co-sponsors and others who signed up after introduction.

Any kind of positive immigration reform plan that is advanced in the next Congress will likely face the threat of a CLEAR-like amendment. Given the makeup of this Congress, some immigration enforcement will very probably be part of a package of immigration reform. This reality requires advocates to work with our allies in Congress to develop an immigration enforcement plan that is fair, more humane, and respectful of rights. We have a chance to make immigration enforcement better if we engage in figuring out what the rules should be and the consequences for not following them.

Otherwise, decisions will be made by others more concerned about toughness, not fairness, and a version of the CLEAR Act passing in this situation becomes increasingly likely.

Civil Rights and Civil Liberties

Given the realities in this Congress, prospects are not great for passage of the Civil Rights Restoration Act (CRLA). However, good legislation serves an important role in educating Congress, the media, and the public about the issues, and to organize the field—all to pave the way for change when a more favorable climate returns. Also, as we saw in the 108th Congress, pieces of this bill can always be pulled out and offered for consideration with other proposals, which would be a way to enact some of these needed reforms sooner rather than later. Advocates are just meeting to discuss options with CLRA and identify a direction to take the bill in the 109th Congress.

The makeup of the 109th Congress suggests that we may spend more time on defense on the Hill, fighting off bills that will further curtail due process and civil liberties. Additionally, provisions in the PATRIOT Act are set to sunset in 2005, and the “PATRIOT 2” proposal rumored last year showed up in pieces in the House 9/11 recommendations bill, so we know there will be fights on these issues next year.

Miscellaneous anti-immigrant proposals

As we saw in the 108th Congress, dormant legislation can often creep into unrelated proposals when those proposals are suddenly moving on a very fast track. An anti-due process bill known as the Fairness in Immigration Litigation Act (FILA, S. 2443/H.R. 4406) was introduced by Senators Hatch, Chambliss, Cornyn, Kyl (R-AZ), and Sessions, and Representatives Sensenbrenner, Hostettler, Lamar Smith (R-TX), and Nathan Deal (R-GA) in 2004. This legislation picked up where the 1996 immigration and anti-terrorism laws left off, further denying immigrants’ access to judicial review, increasing the burden of proof for asylum-seekers, and requiring repatriation of immigrants who are deportable but face dangerous home country conditions if returned.

This bill was never scheduled for mark-up. However, it surfaced when the 9/11 recommendations bills were drafted in September 2004 and provisions of FILA were attached to the House bill (H.R. 10) and proposed as amendments to the Senate bill (S. 2845). The provisions seemed poised for immediate enactment, but ultimately fell by the wayside. Advocates were successful in pointing out the fact that these provisions are not related to the 9/11 Commission recommendations.

We fully expect these and other anti-immigrant measures to pop back up again and again in the 109th Congress. Specifically, Rep. Sensenbrenner has already promised to re-

introduce, as soon as the new Congress begins, measures that were dropped from the 9/11 bill, such as a ban on acceptance of the Consular ID card; an expansion of expedited removal; making it harder for asylum seekers to win asylum; indefinite detention for certain foreigners; making drivers’ licenses unavailable to undocumented immigrants; and the list goes on. As always, we will be playing defense with one hand as we attempt to advance the ball with the other. But the shriller our anti-immigrant foes get—and the more desperate their proposals—the more we know we are having an impact. We know that we will ultimately prevail in the larger debate; it’s not a question of if, but when, and not a question of how, but by how much.

Other proposals on the horizon

The exhaustion of H-1(b) and H-2(b) temporary worker visa quotas early in the government’s fiscal year will lead to some debate next year on Capitol Hill regarding changes to those temporary worker programs. Such debate and discussion will likely have implications for our work on comprehensive immigration reform.

H-1(b) visas, given for three-year periods, are visas for high-skilled and educated workers. Up to 65,000 of these visas are allocated annually. H-2(b) visas are issued to seasonal, non-agricultural workers, such as those employed for the summer tourist season. Up to 66,000 of these visas are allocated annually.

In the 108th Congress, legislation was introduced to raise the H-2(b) cap. The H-2(b) visa quota has not been adjusted since the program’s inception in 1990. Some seeking to reform the employment immigration system point out that the H-2(b) program does not adequately meet the needs of employers seeking less-skilled employees. The employment immigration system leaves many employers without access to longer-term legal workers when such a labor need exists. Others with truly seasonal labor needs are out of luck when the cap is exhausted before their recruiting starts.

Though the system is in need of a comprehensive overhaul, Congress is more apt to modify existing programs than create new ones, and we may be required to think creatively to advance our comprehensive reform agenda in order to fit this possibility.

Whatever happens in the next Congress, work on our issues is likely to begin early, and become very intense. The stakes will be high, and will require unprecedented cooperation and discipline on the part of advocates. The restrictionists are already making preparations. They have shown over and over that they can flood Congressional offices with calls and e-mails. The thing is, though, they don’t have a solution for our broken immigration system. We do.

Immigration News Briefs from Across the Country **(Stories You Will Not hear from the Corporate Media)**

Immigration News Briefs is a weekly supplement to Weekly News Update on the Americas, published by Nicaragua Solidarity Network, 339 Lafayette St, New York, NY 10012; tel 212-674-9499; fax 212-674-9139; wnu@igc.org.

AZ: MORE FARMWORKERS ARRESTED

On Dec. 23, US Border Patrol agents arrested 94 undocumented immigrants at a "tactical checkpoint" in Dome Valley, in Yuma County, Arizona. Authorities said the majority of the immigrants were on their way to farm-related jobs in Yuma County. Some were traveling on three labor buses and the rest were either in harvest-related work vehicles or in privately owned vehicles, said Joe Brigman, spokesperson for the Border Patrol's Yuma sector. Three days earlier, on Dec. 20, the Border Patrol arrested 138 immigrants in a similar sweep at a checkpoint in the same area [see INB 12/25/04]. The "tactical checkpoints" are set up to apprehend vehicles which try to circumvent established checkpoints nearby. [Yuma Sun 12/24/04]

PA: FOUR DETAINED FOR VIDEOTAPING

On Dec. 27, local police detained four Guatemalan immigrants in Chester County, Pennsylvania, after being tipped off by a local delivery driver who saw the four videotaping near the Limerick nuclear plant. An investigation by Chester County detectives, Pennsylvania State Police agents from the town of Skippack in neighboring Montgomery County, and Federal Bureau of Investigation (FBI) agents subsequently determined that the four men were making a "tourist video" and were not involved in terrorist activities, according to Jerri Williams, an FBI spokesperson in Philadelphia. Williams said authorities found three of the men were in the US illegally; they are now held by the US Immigration and Customs Enforcement (ICE) office in Philadelphia, she said. The fourth man was released following the investigation, said Williams. No criminal charges will be filed against the four. Their names were not released. [The Mercury (Pottstown, PA) 12/29/04]

CA: MUSLIM CLERIC AGREES TO LEAVE

On Dec. 28, Egyptian immigrant Wagdy Mohamed Ghoneim, an imam at the Islamic Institute of Orange County in Anaheim, California, agreed to drop his fight against deportation and leave by Jan. 7 for Qatar, where he holds a work visa, in exchange for his release from immigration detention. His family, including his wife and seven children, must also leave. The deal, which bars Ghoneim's return for 10 years, was approved by Immigration Judge D.D. Sitgraves at a bond hearing in immigration court in San Pedro. "I came to this country in peace," Ghoneim said during the hearing. "I did not come here to scare anybody." Since his arrest, Ghoneim has been held at the federal detention facility in San Pedro. Earlier in December, Ghoneim suffered chest pains and was taken to a hospital, where neither his personal physician nor family were allowed to visit him or talk to him by phone.

Ghoneim came to the US from Egypt in 2001 on a visitor's visa, and remained after obtaining a special visa for religious workers. He was arrested at his home in Anaheim, California, on Nov. 4 and charged with overstaying his religious-worker visa. According to documents provided to Ghoneim's attorney by ICE, the visa was valid until June 20, 2004; Ghoneim applied for an extension last February but never received a reply, his attorneys say. ICE claims Ghoneim participated in fundraising activities which could have helped terrorist organizations. Ghoneim's attorney, Valerie Curtis-Diop, said that Richard Garcia, assistant director-in-charge of the Los Angeles office of the FBI, testified at an earlier hearing that the FBI did not have an interest in Ghoneim and did not request that he be detained. Bill Odencrantz, ICE director of field legal operations, said Ghoneim was charged with the immigration violation "because it was the easiest charge to prove."

The bond hearing came a day after Ghoneim's family and some 20 other supporters met with Rep. Christopher Cox (R-CA), who chairs the Select Committee on Homeland Security, to deliver a petition signed by more than 1,000 people asking Cox to investigate the case. Cox told Ghoneim's family he would look into it. "I'm going to use this opportunity to learn, very thoroughly, how ICE is proceeding in cases like these," he said.

On Dec. 28, outside the hearing, more than 100 supporters braved wet, windy weather to protest Ghoneim's detention. Hussam Ayloush, executive director of the Council on American-Islamic Relations (CAIR) in Orange County, said Ghoneim's arrest fits a trend of discriminatory enforcement which includes "the selective application of laws on Muslims, especially on minor violations; the targeting of Muslim travelers at airports; the revoking of visas of Muslim visitors coming to the United States."

Ayloush later said many in the Muslim community have mixed feelings about Ghoneim's decision to give up the fight. "The last thing the community wants to see is for him to have a heart attack and lose his life [in custody]," he said. "On the other hand, his packing up and leaving is unfortunately a dent in our civil rights struggle." At least two other Orange County Islamic leaders are in immigration detention: Abdel Jabbar Hamdan of Buena Park has been held without bond since July 27 [see INB 12/18/04]; and Abdel Malik, an imam at the Islamic Center of Irvine, is also in custody. [Los Angeles Times 12/28/04, 12/29/04, 12/30/04; KABC-TV 12/27/04; Islam Online 12/29/04]

NCLR Texas Alert: CREATE A VOICE FOR IMMIGRANT VICTIMS OF ABUSE ASK TEXAS SENATORS TO SPONSOR THE WISH ACT

Take Action! Visit this page: <http://capwiz.com/nclr/utr/1/MVBHEDAEIT/HGZEEDAEKH/>

From: Jennifer Ng'andu National council of La Raza e-mail: jngandu@nclr.org

Senator Kay Bailey Hutchison and Senator John Cornyn need to hear from you. Early next year, we hope to have a much-needed bill introduced in the U.S. Senate which will help battered immigrants and their children escape from abusive situations. The "Women Immigrants Safe Harbor (WISH) Act" would eliminate barriers that currently prevent many immigrants from accessing resources to help them leave situations of violence.

Bipartisan support of the bill is needed in order to ensure the bill's progress over the next year. It is critical that you reach out to Senator Kay Bailey Hutchison (R-TX) and Senator John Cornyn (R-TX) and convince them that their sponsorship is vital to the movement of this bill.

We urge you to contact their offices in the coming weeks, writing letters and calling to demonstrate your support for the "WISH Act." Please use the model letter and sample messages provided in this alert to communicate how important the welfare of battered immigrants is to Texans.

GENERAL BACKGROUND

Due to legal barriers that limit eligibility to programs when they need them most, most new immigrants are restricted from accessing federal benefits such as Medicaid, TANF, food stamps, Supplemental Security Income (SSI), and the State Children's Health Insurance Program (SCHIP). This is especially problematic for low-income immigrant victims of abuse who need these programs so they can escape their abusers, protect other family members, and become self-sufficient. The "Women Immigrants Safe Harbor (WISH) Act" would eliminate the five-year bar that currently restricts battered immigrants from receiving federal benefits. Additionally, it would ensure that immigrant victims of trafficking, crime, and sexual assault would be able to access these programs, protecting them from continued violence.

Please let your senators know that you want to protect the health and well-being of battered immigrants! Click the link at the right to send your letter today.

About National Immigrant Solidarity Network

ISN is a coalition of community, immigrant, labor, human rights and student activist groups, founded in 2002 in response to the urgent needs for the national coalition to [fight immigrant bashing, support immigrant rights, no to the sweatshops exploitation and end to the racism on the community](#). Please visit our website:

<http://www.ImmigrantSolidarity.org>

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