Response to Undocumented Immigration: The Arguments

BACKGROUND: According to recent estimates by the Pew Hispanic Center, there are as many as 10-11 million undocumented immigrants currently in the United States. Two-three million are children. This estimate reflects an increase from 7.5 million projected by the U.S. Census Bureau in 2000. About 70 percent of the undocumented immigrant population has resided in the country for five years or more. Approximately 450,000 new undocumented immigrants enter the United States each year.

As lawmakers and government officials consider various proposals designed to strengthen immigration law enforcement, one of the central issues in the immigration reform debate is how the United States should respond to the presence of the large undocumented population in our nation. Some argue that increased enforcement will force this population to eventually leave the country, while others, including the U.S. Conference of Catholic Bishops (USCCB), believe that this population, which has by and large worked in the U.S. economy and otherwise abided by the law, should be given the opportunity to obtain permanent legal status through an "earned" legalization program that would require the applicant to undergo screenings and reviews and otherwise demonstrate eligibility. The following lists some of the arguments advanced by proponents of enforcement-only proposals, along with some of the counter-arguments made by those who advocate more comprehensive approaches to solving the immigration system's deficiencies.

ARGUMENT:

THEY BROKE THE LAW; THUS, THEY SHOULD NOT BE REWARDED BY ALLOWING THEM TO STAY.

RESPONSE:

Opponents of immigration use the argument, "they broke the law," as a way of combating any proposals that provide legal status to undocumented immigrants. They also say that the United States should not be "rewarding lawbreakers," and such phrases as "what part of illegal do you not understand?" Their intent is to stop any discussion of *why* these persons are outside the law, what *consequences or harm* come to the United States because of this circumstance, and whether the law they broke is just or in the best interest of the United States and should be changed. In using these arguments, they also imply that undocumented immigrants, being outside the law, are criminals.

The first response is to answer the *why* and *harm* questions. Migrants and their families, largely, enter the United States to survive by finding jobs. Once they cross the U.S.-Mexico border, 80 percent find employment. Their intent is not to *harm* the United States, but simply to work and, by doing so, they help our country and the economy. So, because they come here to work and they help our nation by doing so, we must ask whether current immigration law, which causes them to hide in the shadows and offers them no protections, is *just* in the first place.

Moreover, the availability of visas to enter the country through legal channels to either work or reunite with family members are severely limited and do not come close to meeting labor market demands. While the Church supports the rule of law, there are times when laws should be examined through a justice lens and be changed. In many ways, the current immigration system is broken and contributes to the abuse, exploitation, and even deaths of migrants who otherwise contribute their work and talents to our nation. While undocumented immigrants are indeed outside the law, and thus "break" the law, the unjust, outdated, and inadequate law also breaks them. Our nation cannot have it both ways.

Moreover, undocumented immigrants are not criminals—they have not broken a criminal law. They have only violated civil law, as we do when we violate a traffic ordinance. The United States Supreme Court has held that "a deportation proceeding is a purely civil action to determine the eligibility to remain in this country, not to punish an unlawful entry....The purpose of deportation is not to punish past transgressions, but to put an end to a continuing violation of immigration laws."

ARGUMENT:

MY RELATIVES (GRANDFATHER, GREAT-GRANDFATHER, ETC.) CAME HERE LEGALLY AND SO SHOULD THESE NEW IMMIGRANTS.

RESPONSE:

In the history of the United States, immigration law was developed relatively late, in the middle and late stages of the twentieth century. For the first 153 years of our nation, there was no general law barring entry into the United States, unless it was targeted to certain convicts or prostitutes. The Alien Sedition Act, passed early in our history, was seldom enforced. Entering the United States did not become a violation until Congress passed a law on March 4, 1929. Because of the lack of funding, Congress did not authorize or appropriate funds to enforce the law until the late 1940's.

The beginning of our current immigration code, the Immigration and Nationality Act, was enacted in 1965. The INA began imposing limits on categories of immigration and establishing an immigration enforcement regime which we adhere to, in part, today.

Today, our immigration system is ill-equipped to handle the current demand for immigrant labor in our country. According to the 2005 *Economic Report of the President*, "one of the most pervasive features of undocumented immigration is that it is overwhelmingly driven by supply and demand: immigrants want to work in the United States and American employers want to hire them." However, current legal limits on both temporary and permanent immigration remain largely unresponsive to changes in labor demand as a result of arbitrary numerical limits. Only 66,000 visas per year are available to low-skilled, nonagricultural workers to enter the country legally and work. The H-2A program for agricultural workers brings in about 30,000 workers a year, yet hundreds of thousands of jobs per year in these sectors are filled with immigrant labor, including undocumented immigrants.

ARGUMENT:

PROVIDING LEGAL STATUS TO UNDOCUMENTED IMMIGRANTS WILL PENALIZE IMMIGRANTS WHO PLAY BY THE RULES AND WAIT IN LINE.

RESPONSE:

The current proposal endorsed by the U.S. bishops, the Secure America and Orderly Immigration Act, requires that undocumented workers work six years before applying for permanent resident status. This places them "at the back of the line," behind immigrants who have petitioned for a green card through an employment-based or family-based petition. In addition, the proposal reduces backlogs in family categories so that waiting times are reduced to six months or less in all categories by 2011.

Furthermore, many of the undocumented who are here and immigrants waiting in line are the same people. Because of the long backlogs for family visas and other employment-related visas, many decide not to wait and enter through unauthorized means. By fixing the system, through expanding the number of visas available to work and reunite with families, the incentive to migrate without proper visas will be mitigated.