



## **San Francisco Immigrant Legal and Education Network (SFILEN)** **Platform for the Rights of New Americans, December 2009**

2010 will be a pivotal year for immigrant communities. At stake are the livelihoods of millions of New Americans and their families who are denied recognition as full and equal members of society. We need solutions that undo the problems created by our national leaders over the past two and a half decades. We need solutions that uphold the core American values of democracy, opportunity, and fairness. And the time is now. *The San Francisco Immigrant Legal and Education Network provides this platform to offer specific benchmarks for Comprehensive Immigration Reform legislation that will move our country forward and uphold the rights of all.*

### **Create meaningful opportunities for undocumented immigrants to legalize**

Congress should create a legalization program that results in the maximum reduction in the size of the undocumented population, currently estimated to be 12-15 million people. This pathway to legal residence should not disqualify applicants from eligibility based on misdemeanor convictions and should not impose unnecessary obstacles, such as minimum English proficiency and high fees or fines. The program should include clear and fair standards for eligibility, and allow for applications to be processed expeditiously. Applicants should be granted employment authorization during this time, and should not be forced to leave the country. Inclusion of young people and farm workers through the provisions of the DREAM Act and AgJobs, respectively, are essential components of any meaningful legalization effort.

### **Create a workable, realistic framework for future immigration to the US**

#### **Reunite Families**

Family is one of most fundamental pillars of American society. However, immigrant families have been subjected to unconscionably long periods of separation due to structural flaws in our family immigration system. The Reuniting Families Act includes many important provisions: exempting immediate relatives from the numerical caps on family immigration; recapturing unused family and work visas due to bureaucratic delay; creating immigration rights for same sex partners; and removing the 3 and 10 year permanent bars to reentry. Under no circumstances should the siblings of US citizens should be eliminated as a category of family immigration. Lastly, 245(i) should be permanently reinstated.

#### **Future workers**

Congress should allow all future workers to come to the US with full labor and immigration rights. Temporary worker programs should not be expanded due to historical and contemporary abuses in the program by employers. Necessary reforms to existing temporary worker programs include: strengthening of the labor certification process in order to prevent displacement of US workers from jobs for which they are qualified; visa portability to other employers; and, ultimately, access to permanent resident status.



### **End workplace discrimination and expand protections for immigrant workers**

Congress should restore the right of all immigrants to work legally in the United States. Enacted in 1986, employer sanctions have been unsuccessful in deterring illegal immigration. Rather, employer sanctions encouraged widespread race and national origin discrimination in the workplace and have vastly undermined fair working conditions for immigrants. Any proposal that builds upon the flawed employer sanctions framework – most prominently, E-Verify – should be deferred in favor of vigorous enforcement of labor laws. All immigrant workers should have the right to be free from discrimination on the job in accordance with Title VII of the 1964 Civil Rights Act. Additionally, employers should be prohibited from using workers' immigration status in retaliating against efforts to improve working conditions.

### **Adopt Humane Enforcement Policies and Judicial Standards that Uphold Basic Due Process**

Congress should ensure that enforcement policies do not undermine universally-recognized due process rights or other legal protections. Enforcement activities must be based upon individualized suspicion and specific evidence of a person's unlawful conduct, not mass worksite investigations. Local and state law enforcement, National Guard, and other government agencies such as the Department of Motor Vehicles should in no case be permitted to serve as immigration enforcement agents. As such, the 287(g) and Secure Communities programs should be discontinued. Furthermore, national security backgrounds checks in all immigration contexts must establish stricter standards that recognize individuals' due process rights and must not cause undue delays in processing.

Congress must restore the jurisdiction of the federal courts to review the actions of Executive Agencies. The jurisdiction stripping provisions of the Anti-Terrorism and Effective Death Penalty Act of 1996, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and the REAL ID Act 2005 should be repealed. The definition of "aggravated felony" must be refined to reflect offenses that actually are criminal felony convictions, which includes particularly violent or serious crimes. Finally, the immigration functions of the Department of Homeland Security should be removed and restored within the Department of Justice.

### **Establish Rational Border Protections**

Congress should take specific concrete actions to address the growing humanitarian crisis at the US borders. Firstly, individuals apprehended at the US-Mexico border should be allowed to present evidence they may obtain legal status in the US and not automatically be subjected to expedited removal. Second, the occasions upon which deadly force and high speed chases are utilized by Border Patrol should be sharply limited. Third, criminal incidents of vigilantism should be actively prosecuted. Fourth, racial and religious profiling of travelers at all US ports of entry should be categorically banned and safeguards guaranteeing their civil liberties must be strengthened. Furthermore, the construction of the border wall between the US and Mexico should be halted and funds instead allocated to other domestic infrastructure needs.