

TESTIMONY
ON THE
LEGALIZATION OF UNDOCUMENTED IMMIGRANTS
IMPLICATIONS FOR HISPANICS

BY
FRANCISCO GARZA
LEGISLATIVE DIRECTOR
NATIONAL COUNCIL OF LA RAZA

BEFORE THE
HOUSE SUBCOMMITTEE ON CENSUS AND POPULATION

CHAIRMAN
ROBERT GARCIA

APRIL 28, 1981



TESTIMONY
ON
LEGALIZATION OF UNDOCUMENTED IMMIGRANTS
IMPLICATIONS FOR HISPANICS

BY

FRANCISCO GARZA
NATIONAL COUNCIL OF AL RAZA

Mr. Chairman, fellow Members of the Subcommittee, and Members of the Congressional Hispanic Caucus, I am Francisco Garza, and I am appearing on behalf of the National Council of La Raza (NCLR) in my capacity as Legislative Director for the organization. As you know, the National Council of La Raza is a private, non-profit Hispanic civil rights organization dedicated to the improvement of the social, economic, political well-being of all Hispanic peoples in the United States. We are very appreciative of the invitation to offer this testimony, and are especially pleased with the sensitivity and concern displayed by the Subcommittee and the Hispanic Caucus on this important issue which has tremendous implications for Hispanics.

The issue of a fair immigration policy for this country has long been a top legislative and public policy priority for the Council. Several years ago Raul Yzaguirre, NCLR President, served as Chairman of the Hispanic Advisory Committee to the United States Commissioner of Immigration until the Committee was discharged by the immediate past Commissioner. More recently, NCLR was the main coordinator for the Hispanic Task Force on Immigration comprised of highly knowledgeable Hispanics in this field, and which focused on sensitizing the Select Commission on Immigration and Refugee Policy on issues of concern to Hispanics in immigration policy.

The Council's basic strength is derived from its network of 130 affiliated local Hispanic organizations located in many parts of the country which also includes a dozen or more agencies servicing undocumented persons.

My testimony today will center upon our support for proposals which would legalize or adjust the status of those undocumented persons already residing and building equity in the United States.

Background Information

In the Congress, legislation relating to undocumented aliens has been introduced in various forms ever since 1971. In August of 1977, President Carter presented to Congress a set of proposals aimed at reducing the number of undocumented aliens entering the country and regulating the presence of the millions of undocumented aliens already in the country. The Alien Adjustment and Employment Act of 1977 marked the first set of proposals advanced in recent times including provisions for the regularization or adjustment of status of undocumented aliens already residing in the United States. This legislation provided for adjustment of status by amending the existing registry procedures set forth in Section 249 of the INA. Registry is a mechanism through which undocumented immigrants lacking documentary proof of lawful entry into the United States may apply for permanent resident status provided they meet certain character and durational residency requirements.

The provisions for registry have been a part of immigration law and policy since 1929. Under its current form, section 249 authorizes the Attorney General to grant permanent resident status to any alien who has resided continually in the United States since June 30, 1948. The alien

must apply for adjustment of status with the INS submitting proof of residency since 1948, and once approved, is recorded as a lawful entrant becoming eligible for naturalization and citizenship five years after the adjustment in status. Given this precedence in administrative law and policy, the new proposals amending immigration practices must include provisions to legalize the status of those persons already here.

While the Carter proposals included an adjustment of status to permanent residence for many undocumented immigrants and was supported in principle, NCLR, MALDEF and other Hispanic organizations disagreed with the cut-off date, and adamantly opposed the Administration's proposed temporary resident status which would have officially delegated subclass status to a majority of the undocumented in the country. This latter proposal would have thwarted any attempt to administer status adjustment because of the threat of deportation after five years. In addition, the proposed temporary resident status smacked of a guest worker or bracero program with the inevitable exploitation and violation of basic human rights.

With the submission of its final report, the Select Commission on Immigration and Refugee Policy has presented its recommendations for revising immigration law and policy to the Congress. In its report, the Select Commission recommends that a program to legalize undocumented immigrants now in the United States be adopted. The Commission selected January 1, 1980 as the cut-off date for eligibility for legalization. In addition, eligibility is dependent on continued residency in the United States for a minimum period of time to be set by the Congress.

While it is generally acknowledged that the selection of any residency requirement or cut-off date is necessarily arbitrary, the National Council

of La Raza wholeheartedly opposes the Select Commission's recommendation that those ineligible for legalization be subject to deportation or voluntary departure pursuant to provisions of the INA.

Moreover, report language on this particular Commission recommendation is extremely ambiguous and even contradictory. On the one hand, the report states that legalization is desirable because it will bring the undocumented into the open and would give us a better sense of their characteristics and measures to curtail future flows. On the other hand, ineligible aliens in coming to the attention of immigration authorities would be subject to deportation. The contradiction lies in the gross misunderstanding of the fear and distrust for immigration authorities on the part of the undocumented. A legalization program for all its good intentions would be thoroughly undermined by deportation of those ineligible for the program.

The impracticality of the Commission's recommendations regarding legalization warrant us to respond with an alternative recommendation for consideration. Given the cut-off date offered by the Commission and residency requirement to be set by Congress, NCLR recommends that, for the residual group of ineligible applicants for legalization, no deportation proceedings be instituted at the time legalization begins to take effect to provide for maximum utility and effectiveness in processing every undocumented person currently residing in the United States. The benefit derived from this proposal would be that the undocumented themselves would not have cause to fear immigration officials because of the threat of deportation, but rather come forth for an investigation into their probable status under the legalization proposal. Should the undocumented person not qualify for permanent residency, he or she should be permitted

to reside in the United States up to one year after this determination and then and only then be subject to voluntary departure or deportation.

NCLR also recommends that for those undocumented persons not accommodated by the continued residence requirement in this country to be set by Congress be supplemented with provisions for demonstrating substantial connection in this country thus forming the basis for adjustment of status. Substantial connection would include statuses such as family ties to persons in this country, employment, equity as in ownership of real property, or children enrolled in public school. This provision is consistent with historical immigration objectives in maintenance of family structure, and equity in property and roots in the community.

NCLR endorses the Select Commission recommendation that voluntary agencies and community organizations be given a significant role in the legalization program. However, the Commission is not specific enough in suggesting an actual administration of the program.

The National Council of La Raza advocates for the provision of financial support to local, non-profit and voluntary organizations to provide immigration counseling services to undocumented immigrants, and more importantly, reach out to the undocumented community in facilitating the legalization process in an effort which could never be matched solely by immigration officials.

NCLR offers these recommendations for consideration in a genuine understanding of the need to act now. We are not blind to the problems associated with an open border or continuation of the status quo. On the contrary, these recommendations are offered as parallel measures in conjunction with measures to restrict and regulate future illegal entry. The reality is that current deliberations emphasize the restrictive

measures such as employer sanctions and beefed-up border patrol. In regard to the undocumented population already in this country and legalization proposals, it must be said that any official sanction of a permanent subclass of vulnerable and exploitable people will not be tolerated. A nation which officially tolerates a permanent subclass within its borders is a nation less than fully committed to the protection of civil and human rights for all.

On behalf of the Hispanic community in the United States which stands to be disproportionately impacted by immigration law and policy, thank you for considering this one view.

