

Immigrant worker rights & legalization – what’s in it for us?

By Doug Nopar

“From the beginning of time, the human being has migrated to where it could survive.”

— from *The Guardians*, by Ana Castillo

For the past several years, Land Stewardship Project members and staff have been working to build an understanding of immigrant worker issues and how those issues intersect with building a healthier food and agriculture system. We’ve invited immigrant farmworkers to our events, and we’ve attended presentations on the issues they face in their daily lives. We’ve attended workshops and marches organized by Centro Campesino (the Farmworker Center) in Owatonna, Minn., and have begun the long, slow process of creating friendship and understanding between our LSP members and the members of the farmworker community, working across culture and language to lay the early groundwork for future work together.

We’ve been led to this work for several reasons:

1) Rural southern Minnesota communities have become much more diverse in the past 15 years. The passage of NAFTA (North American Free Trade Agreement) in 1994 helped cause a huge increase in migration of Mexicans to the U.S. Mexican farmers put out of work by this trade agreement headed north to find work on dairy, livestock

and produce farms, as well as in food processing facilities. The state demographer anticipates that by 2030 Minnesota’s population will be comprised of 25 percent people of color, compared to 14 percent today.

2) Many of our farmer-members have hired, or are thinking about hiring, immigrant workers.

3) Many of those migrating to rural Minnesota from other countries are farmers and rural people displaced by the very same U.S. trade and farm policies that have done damage to family-sized farms, the environment and rural communities in the U.S. We have a common enemy.

4) To date, we’ve done a poor job of integrating these newcomers into our communities. Huge disparities persist in the education, health care, employment, agricultural and criminal justice systems between our native-born population and immigrant communities. These disparities are more glaring in Minnesota than almost any other state in the country. Within LSP, we place a high value on creating healthy communities and these disparities prevent us from creating the kind of communities that we want.

Our early conversations with immigrant workers have helped us identify and begin to tear down the numerous myths about immigrants that are perpetuated throughout our culture. Both in the *Land Stewardship Letter* and in opinion pieces submitted by our

members to southern Minnesota newspapers, we’ve de-bunked myths about immigrants exploiting our health care system (they don’t), about getting welfare and food stamps (they can’t), about immigrants being more prone to criminal activity (they’re not), about immigrants not paying taxes (they do pay taxes), and about immigrants just needing to get in line to immigrate legally (next to impossible due to the paltry number of visas available).

As for our members in recent years that have hired immigrant workers—for some it has worked out well, for others not so well. They are to be applauded for taking some risk, and trying something new in an effort to make their farms viable.

A middle ground?

Opinions vary widely among LSP members on immigration policy. We’ve heard some LSP members suggest that the U.S.- Mexican border should be opened up to allow for a more free flow of labor (we’ve opened the border for corporations to move goods, capital and factories, why not open the border for labor too?). Others have suggested that all undocumented workers should be immediately deported (factory livestock farms really couldn’t exist without immigrant labor — getting rid of these workers would create better opportunities for family-sized farms).

The stark political reality is that we won’t be opening up the border with Mexico, nor will the U.S. be sending all undocumented

Immigration, see page 13

Summaries of pending federal immigration legislation

→ **The AgJOBS Act** (www.farmworkerjustice.org) would allow many undocumented farmworkers to obtain temporary immigration status with the possibility of becoming permanent residents through continued agricultural work.

Eligibility is restricted to immigrants that have: 1) worked in U.S. agriculture for at least 150 days or 863 hours during the past 24-months; 2) have not been convicted of any felony or a misdemeanor that involves bodily injury, threat of serious bodily injury or harm to property in excess of \$500; and 3) paid an application fee and small fine.

The AgJOBS Act also would revise the existing agricultural guest worker program, known as the “H-2A temporary foreign agricultural worker program.”

→ **The DREAM Act** (www.immigrationpolicy.org) would provide qualified undocumented students that have lived in the U.S. for at least five years, have a high school diploma and no criminal record the opportunity to secure legal permanent status, and pursue a college degree or enlist in the military.

→ **Comprehensive Immigration Reform** (www.immigrationpolicy.org) includes border and worksite enforcement, detention reform, adjusting employment-based visas to better match the need for workers, immigrant integration and English literacy, and provisional legal status for undocumented workers that register with the government and have never committed a serious crime.

immigrants home. But what if we took a middle ground approach and made some significant reforms to our nation's immigration system, helping legalize the undocumented workers that are here now and ensuring a more orderly situation that better matches availability of worker visas with our need for immigrant workers? And what would such reforms mean for the long-term ability of LSP to accomplish its mission?

Here are some benefits to these "middle ground" options that could be in the best interest of all of us:

✓ **Boost access to professional farm laborers**

Many of our LSP farmer-members are looking for reliable help, and would like to hire experienced immigrant farmworkers. Yet they are stymied by the complex and unworkable rules embodied in the current immigration system. Some LSP farmers already employ immigrant workers, but fear that their workers will be targeted by immigration authorities and local police, rounded up and deported. Instances of racial profiling already occur on a regular basis in rural Minnesota, with immigrant workers being stopped by local police for no other reason than they "look Mexican." These kinds of disruptions significantly affect the day-to-day viability of family-sized farms hiring immigrant workers. Legalization of immigrant farmworkers, such as what is proposed in the AgJOBS Act (*see sidebar on page 12*), would lessen the fear and uncertainty of those employing immigrant workers, as well as create greater trust and communication between farmers and workers.

✓ **An end to "wage theft" & a more level playing field for family-sized farms**

LSP continues to hear about instances of "wage theft" on factory farms. "Wage theft" refers to a variety of practices (*see sidebar on this page*) that deny workers their fully deserved pay. Along with being illegal and immoral, when these practices are used on factory farms they give these farms yet one more additional financial advantage over family-sized farms that pay wages according to the law and treat workers with dignity and respect. Wage theft also prevents workers from making their full contribution to state tax revenue and decreases their ability to purchase goods and services in the local community. Wage theft depresses wages not only for immigrant workers, but also for all workers throughout rural communities,

regardless of race or where they are from. If undocumented workers were legalized and no longer feared immediate deportation, it would help end a practice that not only hurts workers, but small- to mid-sized farms that treat their workers fairly.

✓ **Increase English language skills & community participation**

The level of anti-immigrant rhetoric and enforcement actions in the U.S. has increased dramatically in the past decade. The fear of authorities and deportation has resulted in undocumented workers and their families minimizing their participation in rural community activities and in English classes. Their legalization would begin to lessen these fears and would promote greater integration into the local community, and build trust and friendship between immigrant workers and the native born.

✓ **More licensed & insured drivers**

Thousands of immigrant workers in Minnesota drive to their jobs without a license and without insurance. Ironically, Minnesota and many other states allowed undocumented workers to have a license until the early 2000s when anti-immigrant politics began to surge, and this opportunity was taken away. The legalization of these workers could rectify this situation, and create a demand for not only the licenses (and the associated state fees associated with them), but also for automobile insurance, as well as economic and community activities that require a valid photo ID.

✓ **More producers of local food for local institutions**

Interest among schools, hospitals and nursing homes in purchasing locally produced fruits, vegetables, meat and dairy products has begun to grow in recent years. Among other things, this effort needs a tremendous expansion of infrastructure in transportation, processing and storage. When the institutional demand for local foods truly does take off, it will also need a tremendous expansion in supply of local foods produced by both existing and new producers. The legalization of immigrant farmworkers could help lay the foundation for these already-skilled producers (previously farming in other countries) to begin renting and buying land and creating the food production enterprises that our communities will need in the future.

✓ **Making LSP's vision come true**

LSP's vision is of a well-cared for land, of prosperous communities across our coun-

'Wage theft' & other labor violations

The practices below are examples of wage theft, and they are violations of Minnesota's wage and hour law, regardless of the employee's legal status (documented or undocumented):

- Failure to pay for all hours worked.
- Failure to pay wages due after resignation, termination or facility closure.
- Failure to provide breaks for meals and restroom use.
- Failure to pay minimum wage.
- Wage deductions for damages to equipment and facilities incurred during workday.
- Failure to pay overtime.

An increasingly common practice is to routinely dismiss higher paid workers (without justification) in favor of lower paid new hires. While this practice may be legal, it is highly unethical. Some employers have also created their own personnel policies, some of which are not in compliance with the law.

Some employers fail to inform their workers of workers' compensation rules, and fail to ensure that employees get the medical coverage they need for workplace injuries through workers' compensation.

tryside, of widespread ownership of the land by thriving family farmers, of understanding and cooperation between the racial and ethnic groups that make up our communities, of robust local and regional food systems, of a free people turning away from fear, greed and hatred. We envision a transformed food and farming system, one that delivers abundant social, environmental, health, cultural and economic benefits.

But to achieve these changes, we need to build far greater community power than we now have. It will take enormous people power to challenge the corporate control of the food and agricultural system we're living under. We will need the skills, experience and perspective which immigrant rights groups, indigenous communities and people of color bring to the table from rural and urban communities throughout our state, nation and world. □

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