

System failure: The ethics of immigration reform

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A human rights lawyer, Ralston Deffenbaugh has since 1991 been president of Lutheran Immigration and Refugee Service, an agency of the Evangelical Lutheran Church in America, the Lutheran Church–Missouri Synod and the Latvian Evangelical Lutheran Church in America. He previously represented the Lutheran World Federation at the United Nations. He has worked for the Refugee Council USA and has served as an observer of political trials for Amnesty International. We talked to him about the work of LIRS and about current debate over immigration policy.

Why do you think immigration has suddenly become a major political issue?

Because we have had a period of high migration, and the system to govern that migration is fundamentally and visibly broken. There is a dire need for a comprehensive solution.

How do Christian ethics shape your approach to immigration issues?

The Christian tradition recounts the migrant experience we have had as God's people and emphasizes that we should show empathy, compassion and welcome to newcomers in our midst (Exod. 23; Matt. 25). Because of our experience of being loved and our tradition of being welcomed, our basic approach to migrating people is to open our hearts and welcome the newcomers. The mission statement of Lutheran Immigration and Refugee Service captures this perspective: "In response to God's love in Christ, we welcome the stranger, bringing new hope and new life through ministries of service and justice."

Specifically, we think immigration policy should be based on four principles: uniting families, protecting human rights and worker rights, bringing undocumented people out of the shadows and providing a path to permanence for newcomers.

In virtually all cases, people who migrate to the United States come for reasons of family, work or freedom—to unite with loved ones, to take up employment or to seek

refuge from persecution. As President Bush has said, the vast majority of U.S. newcomers are decent, hardworking people and good members of the community. Most people would judge the newcomers' motivation for migrating and their actions in the United States as good acts that contribute to the common good.

While most Americans would question the appropriateness of unlawful entry, their judgment should be tempered by at least two realities. First, necessity is often driving the migration—people are fleeing persecution or abject poverty or the prospect of living for years and years without family. Second, the immigration system is so broken that there is often no viable way to migrate legally.

As you've noted, your organization has focused on protecting human rights and worker rights and on uniting families. Could you give us some examples of the kinds of problems you try to address?

Some 11 million people live in the margins of society, in the shadows. They are frequently exploited in the workplace, paid substandard wages and forced to live and work in subhuman conditions. Among them are children, who are often victims of trafficking and forced labor.

One cornerstone of U.S. immigration policy has always been family unity, but that is hard to achieve in the current system. There are long wait times and large backlogs in processing applications—a wait of seven to ten years is not unusual. In family time, a lot can happen in seven to ten years—childhood passes, people are born, get married, die. That is a lot of life to miss. If individuals do choose to unite with their families by entering without permission, the united family often includes a mix of undocumented people, legal permanent residents and U.S. citizens. They live in the shadows and in fear.

What parts of the immigration system don't work well, or don't work at all?

Billions of dollars are spent unsuccessfully trying to stop the migration of people who mean us no harm and whose hard work is in fact helping our communities. We need to create a regularized, authorized workforce.

Our current enforcement system, for example, relies more and more on mandatory detention and removal schemes that are not prudent financially and that are inconsistent with the right to fair process. These schemes undermine our ability to provide safe haven for asylum seekers, who are often detained upon arrival. They

are often retraumatized by the experience and are left to navigate the complicated immigration system on their own. Furthermore, overly broad security provisions are currently blocking deserving refugees and asylum seekers from getting protection in the U.S.

Is it reasonable for the U.S. to try to secure its borders?

It is not just reasonable; it is the duty of the U.S. government to establish orderly, safe, expeditious migration controls. Controls at the border are meant to keep out those who intend us harm. At the same time, it is the duty of the government to put in measures consistent with our values as a nation of immigrants and a nation of laws.

Should immigration papers be given to anyone seeking a job in the U.S.? To put it another way: while Christians are clearly called to welcome the stranger and the alien, does such an approach translate directly into public policy? What kinds of limits are reasonable, given current realities?

There are different scenarios once the stranger is welcomed. LIRS works with strangers who come to the U.S. and become transformed from strangers to members of families and communities. In other instances, strangers are welcomed and they go on their way or return to their homeland. Sometime this is voluntary, sometime involuntary.

Individuals and communities are best off when close family members are able to reunite. So we should welcome those who come to reunite with family. As for those who come seeking work, the number of new workers could be calibrated according to the labor needs in the U.S.

As for refugees, the number we can absorb effectively, according to the Office of the United Nations High Commissioner for Refugees, is one refugee for every 1,000 citizens. This would translate to 280,000 U.S. admissions per year. We are far from maximizing that capacity right now. Expanding refugee protection would be consistent with our best traditions as a nation.

Most people acknowledge that it is impractical for the U.S. to deport the estimated 11 million people who are in the country without proper authorization—even assuming that such a move would be appropriate. What do you think is the proper government response to these people who

have been living and working in the U.S. for years?

Comprehensive reform would provide documentation for most of the 11 million undocumented people currently in the U.S. From an economic standpoint, this seems to make sense, given employment standing at 95 percent. Whether documented or not, these people are an important part of America's workforce. Pastors and service providers across the country tell us that while there are challenges in integrating newcomers, they are overall a vital and energizing force in communities and churches.

Reform would also include a way for future workers to be authorized, and the number would be calibrated according to community needs.

Would you comment on the legislation now in Congress? What do you hope—or fear—will come out of the legislative process?

The Senate bill is more consistent with the critical principles of uniting families, protecting human rights and worker rights, bringing undocumented people out of the shadows and providing a path to permanence for newcomers. In contrast to the enforcement-only House bill passed in December, the Senate bill would make strides in improving America's approach to welcoming and protecting hardworking immigrants and their families. It would reduce backlogs for family immigration visas, make more family visas available, enable more willing and able workers to maintain their family unity and provide visas for vulnerable widows and orphans.

The Senate bill's earned legalization program would offer the opportunity for many immigrants to come out of the shadows. It would also provide a path to permanence for individuals, albeit an arduous path of 11 years in some cases. It establishes protections for workers from potentially exploitative employment practices by tying temporary worker visas to continued employment instead of to a particular employer or job. For certain immigrants, this bill would uphold the right of review by a federal court by delaying immediate deportation until a person has his or her day in court.

Nevertheless, numerous provisions in the Senate bill contradict LIRS's core principles. LIRS advocates simpler criteria for earned legalization, instead of the proposed three-tier approach that offers eligibility and assigns rights on the basis of the amount of time an undocumented immigrant has been living in the U.S.

We also oppose provisions of the bill that expand the immigration detention system and erode the basic rights afforded to immigrants, including the provisions that allow for the indefinite detention of individuals who cannot be deported to their home countries; that expedite removal proceedings or automatically imprison immigrants without providing them access to attorneys or judges; that increase detention capacity by an additional 20,000 beds to house immigrants awaiting their day in court; and that diminish the checks and balances of judicial review over immigration decisions.

Expansion of the immigration detention program would be a travesty when there are humane, fiscally responsible and proven alternatives to imprisonment that support President Bush's assertion that the vast majority of immigrants are "decent people who work hard, support their families, practice their faith and lead responsible lives."