

ELECTION 2008: *Voting the Common Good*

Immigration and the Law

One of the major differences among citizens and candidates in the current immigration debate concerns what to do about the estimated 12 million immigrants who have not entered the U.S. through our established immigration procedures.

"But illegal is illegal," many are insisting, "and these immigrants are illegal." This is a simplistic approach that betrays the intelligence, sophistication and humanity of our faith and our system of law.

Through the centuries, Catholic social thought has insisted that the most basic truth about every human person that is vastly more important than anything else is that that person has the sacred dignity of being created in God's image and loved by God. Further, the faith of Christians of all denominations is centered in Jesus who sought out "sinners" – those who lived outside the Law in his society and Jewish faith. He scandalized the teachers of the law by associating with these "illegals". His disciples broke the law of the Sabbath and he defended them. Jesus himself cured on the Sabbath. His comments to the Pharisees and lawyers who objected seem apt in today's context: "Learn the meaning of compassion!"

Building on that inspiration and perspective, Catholic social thought approaches the question of the legality of immigration today with some prior questions. How serious are the illegal actions? Is the law in question just in God's eyes? Is the law the most important value involved in the situation?

Levels of Seriousness.

In U.S. law, different levels of seriousness are recognized. Some illegal actions are seriously criminal, some are less so, and some are not considered criminal by the population – which tempers the seriousness and the applicability of the laws. Finally, some are not criminal at all, but only violations of administrative law.

Entering the country illegally is simply a violation of administrative law. It is not in any way a serious criminal offense; there is no intent to commit serious economic or personal harm. It is more like driving faster than the speed limit or failing to register when a person moves to a new state. Thousands of native-born U.S. citizens who live in Washington, DC, including many working on Capitol Hill, have never registered to vote there or applied for a local DC driver's license. Few would argue that they should be deported back to where they came from, though their actions and status are illegal. Nor would anyone seriously insist that anyone who has ever driven faster than the speed limit should be stripped of the privilege of driving – especially if their speeding was to save a life. Yet many of the immigrants entering the country without documents today feel that kind of urgency to provide for their families.

Are These Laws Just?

In addition, "respect for the law" is a broad attitudinal value, but it is not without limits. In a recent address, Donald Kerwin, Executive Director of the Catholic Legal Immigration Network, Inc. (CLINIC) in Washington, D.C., noted:



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The “rule of law” describes a legal system with prospective laws that are coherent, stable enough to be followed, predictable, and consistently administered. Anybody who has encountered our immigration system knows that the rules can be arbitrary, they change constantly, they are inconsistently administered, they do not correspond to the written law and many are retroactive. The “rule of law” demands respect for rights, but our immigration system undermines the right to family unity by requiring people approved for family-based visas to wait for years until they receive them. (unpublished address, Knoxville, TN)

It is widely recognized among people who know the U.S. immigration system that it is unfair and destructive of family values. For centuries, Catholic social thought has held that unjust laws do not bind. As we learned through the civil rights movement, unjust laws should not be blindly enforced and obeyed; they should be resisted and changed.

A Higher Value, A Higher Law.

The first of the five principles that the bishops of North America affirmed together is that every person has a right to find opportunities to support themselves and their families in their own homelands. This right flows from their sacred dignity and their right to life. But when it is too difficult or impossible to find those opportunities, they have a right to migrate— even a duty to their families to do so.

A nation also has a right to control its borders in service of the common good, but that is not an absolute right. It cannot do that by violating the fundamental human rights of needy people. As Pope John XXIII commented in *Pacem in Terris* in 1963, government exists “not to confine its people within boundaries of their nation, but to protect, above all else, the common good of the entire human family.”

The Universal Declaration of Human Rights and centuries of Catholic social tradition affirm the fundamental right of each person to the necessities for human survival. The basic human rights to life and livelihood clearly make more urgent moral demands on people everywhere than inadequate or outdated immigration statutes. These rights are grounded in the God-given sacred dignity of each human being. States are responsible for recognizing and protecting them; they are not free to ignore or deny them.

Responsibility.

In addition, a nation, like an individual, is responsible for the results of its actions and for the protection of human rights.

- If a trade agreement (NAFTA, for example) our nation negotiated has resulted in the widespread loss of livelihoods and opportunities for workers in Mexico and the U.S., we are co-responsible for that outcome. It is clearly unjust to ask the Mexican people affected to wait patiently at the border for the many years it would take to get a visa while their families starve.
- If our invasion of a nation sets off a flood of refugees, we are co-responsible for their care.
- If U.S. lifestyles contribute in major ways to the global warming fueling conflict and migration flows in distant parts of the world, we are co-responsible for those tragedies and must be part of finding comprehensive and lasting solutions.