

INS Raids Follow Union Organizing; Aliens Say Law Is Being Misused

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Body

For months the chambermaids at the Holiday Inn Express in downtown Minneapolis had been pressing for a half-hour lunch break on their seven-hour shift and a raise in wages. Norma Lerma del Toro, a single mother from one of Mexico's poorest provinces, hoped to use the extra cash to buy more clothes for her three children.

Finally, in August, Lerma and the other workers voted to join Local 17 of the Hotel Employees and Restaurant Employees International Union. But last month, three weeks before the union was scheduled to begin contract negotiations, the manager enacted what to workers seemed like carefully plotted revenge: He called the Immigration and Naturalization Service to check on the immigration status of some of his employees. INS agents arrested half of the 16 workers at the hotel--including Lerma, who now faces deportation.

"We just wanted better treatment," she says. "None of us ever imagined this would happen."

U.S. labor law forbids employers to retaliate against workers for union activity. But labor organizers from New York City to San Jose say that employers are increasingly circumventing that prohibition by using a 1986 immigration law to selectively target undocumented workers who push for better conditions. The labor movement sees in immigrants a prime source of new members to boost its dwindling ranks. Now the AFL-CIO--which actively lobbied to pass the 1986 law--is thinking of calling for its repeal.

"Anyone who is trying to organize workers in America today has got to grapple with the fact that employers are abusing the immigration system to terrorize workers," said John W. Wilhelm, president of the Hotel Employees and Restaurant Employees International Union and chairman of the AFL-CIO committee charged with reexamining the federation's position.

Indeed, as immigrants come to dominate the work force in many of the nation's lowest-wage industries, incidents like those at Holiday Inn Express are becoming the battleground for a new and growing wave of labor disputes. With so much at stake, they are forcing a dramatic shift in the labor movement's position on immigration and its view of immigrants themselves.

The 1986 Immigration Reform and Control Act is best known for extending an amnesty to some 3 million illegal immigrants who had arrived in the United States before 1982. It also sought to shut the door on further illegal immigration by requiring that employers verify the immigration status of their employees or face fines and even jail time.

The "employer sanctions" provision has been widely criticized since its inception. Civil rights groups complain that it encourages employers to discriminate against Hispanic and other foreign-seeming job applicants. Others say the problem is that the law is poorly enforced--largely because it is so hard to prove that companies knowingly employ undocumented workers. In 1997, the most recent year for which statistics are available, the INS investigated only

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5,361 out of the more than 569,000 companies with more than 20 employees operating in the United States, and fined only 888 of them.

John Hiatt, general counsel of the AFL-CIO, says that keeping the employer sanctions law on the books without enforcing it has created another, and until now, largely unnoticed problem: "There is no disincentive for employers to hire undocumented workers, yet employers who want to get rid of people [for union activity] can say they're doing it out of fear of employer sanctions. It's the worst of both worlds."

Employers such as Lerma's manager, Kevin Koenig, insist that they are merely trying to comply with the immigration law, and that their efforts just happen to coincide with union activity.

"If I wanted to not have the union here, why wouldn't I turn them in before the vote? So it didn't have anything to do with that," Koenig said. Instead, he says, he was acting on a tip from an "outside source" that some of his employees were illegal immigrants.

Because these cases often occur in the murky underground economy of illegal labor, it is impossible to determine how prevalent they are--let alone how often employers are telling the truth.

Employers also complain that the law unfairly targets them.

"Why aren't unions violating the law by not checking the documents of their union members?" asked Sharon Hughes, executive vice president of the National Council of Agricultural Employers.

Undocumented workers have little legal protection against employers who dismiss them for union involvement. They can file charges with the National Labor Relations Board, but the board can mandate their reinstatement only if they demonstrate that they are authorized to work. And while INS internal policy warns immigration agents against being used by employers to disrupt union organizing, agents often find out about the organizing only after they conduct a raid.

Labor organizers say unscrupulous employers are also aided by the Social Security Administration's practice of sending out notification letters to employers with a large number of employees whose Social Security numbers don't match the agency's records. The "mis-match letters" are not intended to catch illegal immigrants per se, but rather to help the agency sort out errors in its database. And the letters do not legally require employers to take any particular action. But union organizers say employers often use the letters as a pretext for retaliating against undocumented workers involved in union drives.

Organizers cite the example of a San Jose food processing plant, Zoria Farms Inc. In March 1998, workers at the dried-food factory had recently voted to join Local 428 of the United Food and Commercial Workers Union and were in the midst of contentious contract negotiations with management.

Then the company announced that it had received a mis-match letter citing more than 50 of the 93 employees in the union. Unless those workers could prove they were legal immigrants, said management, they would have to leave. The workers, all of whom were undocumented, had no choice but to quit.

The chief financial officer at Zoria Farms, Paul Troutner, said the company's action had nothing to do with the contract negotiations. "We received notices from Social Security that said that if [the employees listed in the letter] can't work here legally, we should get rid of them," he said. "This happened after the company was unionized, and Social Security contacted us, we did not contact them."

The district manager of the East San Jose Social Security Administration office, Vic Borba, said the agency sent a mis-match letter to Zoria Farms, but that agency representatives never told company officials they should fire the workers. "That has never been stated," said Borba. "We don't even imply that."

As a precaution, and following several complaints from the AFL-CIO, the Social Security Administration in February will begin using a revised version of the mis-match letter that expressly warns employers against using the letter as an excuse to intimidate workers.

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Disputes like those at Zoria Farms are gradually giving rise to a fundamental shift in the way the AFL-CIO views the immigrant work force.

In 1986, the AFL-CIO pushed Congress to pass the employer sanctions law on the grounds that undocumented workers steal jobs from American workers and undermine labor standards. But this summer, a series of local labor councils passed resolutions calling for a repeal of employer sanctions and an amnesty for the nation's estimated 5 million illegal immigrants. In response, at the AFL-CIO's annual convention in Los Angeles in October, federation leaders for the first time debated the issue.

"Existing laws and policies do not protect any of us," said Frank Hurt, who headed the union committee that developed the AFL-CIO's policy in 1986. "Instead they arm employers with additional weapons to further undermine workers' rights."

Employers' associations debate that contention, arguing that in today's tight labor market the last thing employers want to do is get rid of workers--even those engaged in union drives. "Our members aren't firing anyone," said John Gay, director of governmental affairs at the American Hotel and Motel Association. "They're not worried about unionizing, they're worried about finding enough employees."

For different reasons, employers agree with the labor union's call for both a repeal of employer sanctions and an amnesty program for illegal workers. And though there are no proposals on the table, it's possible that this confluence of interests may eventually lead Congress to change the law.

Whatever the outcome, it is unlikely to happen soon enough for Norma Lerma del Toro, who is getting by on funds raised from a local church while she awaits word on whether the INS will deport her from Minneapolis to Mexico.

"I don't know what I will do if I have to go back," she says. "I don't have anything there. No money and no place to live."

Illegal Workers

The 10 states with the highest illegal immigrant population:

Number of illegal immigrants, 1996

Calif. 2 million

Tex. 700,000

N.Y. 540,000

Fla. 350,000

Ill. 290,000

N.J. 135,000

Ariz. 115,000

Mass. 85,000

Va. 55,000

Wash. 52,000

SOURCE: Immigration and Naturalization Service

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Mexican Reyna Albino, left, is embraced on release from **INS** custody by Jaye Rykuny, an official of Local 17, which posted bond for hotel workers. Hundreds gather **in** front of the Holiday Inn Express hotel Oct. 18 **in** a candlelight vigil for the eight Mexican hotel workers detained by the **INS** after a **raid**.

Graphic

Chart, The Washington Post

Classification

Language: ENGLISH

Subject: LABOR **UNIONS** (94%); IMMIGRATION (92%); SERVICE WORKERS (90%); IMMIGRATION **LAW** (90%); HOTEL STAFF (90%); LOBBYING (89%); ILLEGAL IMMIGRANTS (89%); FOREIGN LABOR (89%); NIGHT & SHIFT WORK (78%); LABOR DISPUTES & NEGOTIATIONS (77%); WAGES & SALARIES (77%); LABOR FORCE (77%); COLLECTIVE BARGAINING (77%); CITIZENSHIP (76%); EMPLOYMENT DISCRIMINATION (76%); HUMAN RIGHTS ORGANIZATIONS (76%); DEPORTATION (74%); US FEDERAL GOVERNMENT (74%); ARRESTS (74%); AMNESTY (73%); HUMAN RIGHTS & CIVIL LIBERTIES **LAW** (72%); LABOR & EMPLOYMENT **LAW** (71%); EMPLOYMENT SEARCH (71%); DISCRIMINATION (70%); JAIL SENTENCING (69%); CIVIL RIGHTS (63%); CRIMINAL FINES (62%); FINES & PENALTIES (60%); SINGLE PARENTS (57%)

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