
Policy Statement on Employer Sanctions

National Conference
of
Catholic Bishops

November 1988

The Gospel of Christ challenges us to care for the less fortunate. The Catholic Church in the United States has repeatedly expressed its concern for a segment of our population that must be counted among the least fortunate: undocumented aliens. The Church's attention today must focus now on the imposition of employer sanctions which is causing so much suffering for these undocumented workers.

Our Past Position

The United States Catholic Conference (USCC) opposed employer sanctions from the beginning. From 1971 to 1977, the U.S. House of Representatives considered a series of employer sanctions bills. It was not until 1976, following a presidential commission's recommendation that sanctions be tied to a legalization program, that the U.S. Senate initiated immigration reform. In that year, on behalf of the National Conference of Catholic Bishops, Archbishop Robert F. Sanchez of Santa Fe testified against employer sanctions before the Senate Subcommittee on Immigration and Refugee Policy. Since that time, the USCC has refined and reiterated this opposition.

In a 1985 statement to the Senate Subcommittee on Immigration and Refugee Policy, Archbishop Anthony J. Bevilacqua, then bishop of Pittsburgh and chairman of the Bishops' Ad Hoc Committee on Migration and Tourism, presented the USCC position:

One must consider the relationship of sanctions to the overall questions of immigration reform. If indeed sanctions become a precondition for a fair and generous legalization program, the USCC will consider supporting them. Unless these conditions are satisfied, the Church must oppose sanctions.¹

One of the Church's conditions for a "fair and generous" program was an eligibility date

that would allow as many people as possible to apply for legalization. The final version of the Immigration Reform and Control Act of 1986 (IRCA) offered legalized status only to individuals who had resided continuously in the United States since before January 1, 1982. This 1982 cutoff date was too restrictive. It left an ineligible population of post-1982 arrivals that many estimate is as large as the eligible population.

The USCC has been encouraging an expansion of the legalization program to post-1982 entrants. In addition, the USCC supported efforts to extend the legalization program for six months beyond its initial application period. The Senate thwarted these efforts by voting down an extension bill which had passed the House.

Because of the failure of IRCA to meet minimum standards of generosity and because of its negative effects on the residual undocumented population, we must, once again, underscore our opposition to employer sanctions. This concern goes beyond the negative effects of sanctions on the residual undocumented population. We are also disturbed by the potential for more widespread discrimination. As General Secretary Monsignor Daniel F. Hoye stated in the final USCC letter to Congress before IRCA was passed in 1986:

Sanctions . . . will probably exacerbate discrimination against foreign-looking and foreign-sounding individuals Employer sanctions are unbalanced, and essential guarantees against workplace discrimination have become almost unrecognizable.²

There is no doubt that the impact of employer sanctions can be severe. Jobless, undocumented people form a subculture that by choice or by necessity fails to be integrated into the mainstream of life in the United States. They may face a lack of food, housing, and health care. As their number increases, they

could cause division and major social problems in this country. Undocumented and unemployed persons may be tempted to commit crimes in order to survive or to provide sustenance for their families. They are vulnerable to exploitation by unscrupulous employers who violate the law and hire unauthorized noncitizens willing to work long hours for the lowest wages. These employees may be too intimidated to ask for compliance with basic health and safety laws. Far from eliminating this easily exploited group of people, IRCA has driven them deeper into the underground of our society. In fact, even those whom the law explicitly protects—individuals whose employment began before IRCA became law—have suffered. Many have been fired by employers ignorant of the law. They cannot now legally obtain new jobs.

The Moral Roots of Our Concern

Catholic social teaching explicitly supports the human rights of aliens outside their home countries. These rights, by their very nature, extend to the rights of the undocumented aliens. The 1969 Vatican *Instruction on the Pastoral Care of People Who Migrate* speaks of the "right to seek conditions of life worthy of man" that include humane working conditions, decent housing, and the education of children.³ In addition, Pope John Paul II states in his encyclical *On Human Work*:

Emigration in search of work must in no way become an opportunity for financial or social exploitation.

The most important thing is that the person working away from his native land . . . should not be placed at a disadvantage in comparison with the other workers in that society in the matter of working rights.⁴

The right to migrate for work cannot be simply ignored in the exercise of a nation's sovereign right to control its own borders. In this regard, Catholic social teaching sets a higher ethical standard for guarding the rights of the undocumented within our borders than do current United States law and policy. The Church must necessarily concern herself with the universal common good and the human rights of all persons, no matter what borders they cross.

Catholic tradition defends the right to migrate as a basic right in accord with the common good, with one exception: migration based on excessively selfish interests. Catholic social teaching also recognizes that political and economic pressures often combine to compel people to become refugees and leave their homelands.

The Church's obligation to work for change in United States immigration policies derives from our moral duty to seek an increasingly just immigration system. The Church especially must encourage a spirit of justice and generosity. Nowhere is this needed more in our society than in the case of undocumented persons. A spirit of justice and generosity to the undocumented enriches the moral life of this country. It anchors in fact our professed national concern for the human rights of all people.

Our Plan of Action

How best can we work toward ensuring the rights and needs of the undocumented? First, it must be said that many strategies are possible for social actions that follow the light of Catholic teachings. People of good will and good faith can differ on their approaches. In our judgement effective opposition to employer sanctions does not require that we break the law. Defying legal sanctions must be viewed as

an exceptional act justified only by clear moral necessity to prevent a greater evil for which all other remedies have been exhausted.⁵ The common good requires all persons to uphold the law and, where the law is deficient, to change it.

As leaders of the Catholic community, we urge the following actions for helping the undocumented:

- Work to change the employer sanctions law. If enough cases of discrimination can be reported through the Government Accounting Office, Congress must revisit the law. It is important that we document and report any instances of discrimination. The USCC is compiling a record of these cases.
- Promote legislation that provides legalization opportunities for people who arrived after January 1, 1982.
- Educate employers. It is essential to alert employers to the exact compliance requirements in order to mitigate employment discrimination.⁶
- Support legislation that provides effective safe haven for those fleeing economic and political upheavals. Aside from country-specific legislation, this may require a new standard of humanitarian admissions under U.S. law.
- Strive to provide housing, food, and clothing to newcomers and unemployed workers and their families. Document the social service needs of the nonlegalized families and individuals in dioceses across the country.
- Provide education on the socioeconomic conditions in the countries of origin which generate migration. As the bishops' pastoral letter on the economy suggested, we can press for a U.S. international economic policy designed to empower people

everywhere and ensure that the benefits of economic growth are shared equitably.⁷

Conclusion

As we continue to explore more creative pastoral and governmental responses to employer sanctions, let us think together and share our ideas across the country without any unnecessary polarization. In the midst of difficult social policy debates, the Church has an obligation to promote an atmosphere of civility.

We must concentrate not on ourselves and on our differences, but on the needs of those we seek to serve. Through our direct service we make it clear that newcomers can always turn to the Church as a friend. We will protect them, support them, and love them as full members of our family in Christ. In the name of Jesus Christ, the Church must be the first to insist that love knows no borders.

Notes

1. Most Reverend Anthony J. Bevilacqua, "Statement on behalf of United States Catholic Conference before the Senate Subcommittee on Immigration and Refugee Policy" (June 18, 1985).
2. Monsignor Daniel F. Hoye, "Letter to Congress regarding the Conference Report on H.R. 3810 and S. 1200" (October 15, 1986), pp. 3, 4.
3. Sacred Congregation for Bishops, Vatican City, August 22, 1969, *Instruction on the Pastoral Care of People Who Migrate* (Washington, D.C.: USCC Office of Publishing and Promotion Services, 1969), Ch. I, no. 7.
4. John Paul II, *On Human Work (Laborem Exercens)* (Washington, D.C.: USCC Office of Publishing and Promotion Services, 1981), Part IV, no. 23.
5. The Second Vatican Council stated in the *Pastoral Constitution on the Church in the Modern World (Gaudium et spes)*, Ch. I, no. 16: "For man has in his heart a law written by God. To obey it is the very dignity of man; according to it he will be judged." [Published in Walter M.

Abbott, SJ, *The Documents of Vatican II* (New York: The America Press, 1966), p. 213.]

6. a) Many employers do not realize that employees hired before *November 6, 1986* are *grandfathered* by the law. These employees should not be dismissed or asked to show documents demonstrating their immigration status and employers cannot be sanctioned for failing to do so.
 - b) Under the current interpretation of the law employees who are only sporadically employed (e.g., freelance or irregular domestic workers in private homes) are not affected by employer sanctions and they need not be asked to complete the form (I-9) verifying employment eligibility.
 - c) An employer must make a reasonable, good faith effort to ensure that the documents provided are valid, but employers are not required to authenticate documents.
 - d) Employers should be careful to see that INS inspections for possible violation of the employer sanctions law do not also involve random searches to arrest or detect undocumented workers.
 - e) Employers should use the three-days notice provided by the law to prepare for an inspection, and the I-9 files should be kept separate from personnel files.
7. National Conference of Catholic Bishops, *Economic Justice for All: Pastoral Letter on Catholic Social Teaching and the U.S. Economy* (Washington, D.C.: USCC Office of Publishing and Promotion Services, 1986), no. 292.

In July 1988, Migration and Refugee Services of the United States Catholic Conference identified a need to formulate and articulate church policy on the employer sanctions mandated by the Immigration Reform and Control Act of 1986. MRS/USCC staff prepared a draft statement and in September 1988 submitted it to the Bishops' Committee on Migration. Based on committee responses, the draft statement was revised and presented to the National Conference of Catholic Bishops (NCCB) at their November 1988 meeting. The preceding bishops' *Policy Statement on Employer Sanctions* was approved by the general membership of the NCCB during its plenary assembly on November 16, 1988 and is authorized for publication by the undersigned.

Monsignor Daniel F. Hoye
General Secretary
NCCB/USCC

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