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A Story Of Men Without A Country

Friday, November 27, 1998

(This is an unedited, uncorrected transcript.)

ANNOUNCER This is a *Nightline* Friday night special.

TED KOPPEL, ABCNEWS (VO) Like many of us, they are hard working, working hard at raising their families, working hard at being good neighbors. Each has also broken the law, just once, but that's enough. Now they face a punishment most of us could never imagine.

ROY REESE (PH) I got punished more than enough being in jail, never mind now they're going to tell me I have to go back, I've got to go back to Portugal.

TED KOPPEL (VO) They are losing their homes, their families. They are losing their country.

DAN STEIN, FEDERATION FOR AMERICAN IMMIGRATION REFORM The constitution says "we the people." This issue involves who are "we the people," who are the people and who are they, who are not the people? If you don't become a citizen, you're not "we the people."

TED KOPPEL (VO) Tonight, deportation, a story of men without a country.

ANNOUNCER From ABCNEWS, this is *Nightline*. Reporting from Washington, Ted Koppel.

TED KOPPEL As you will hear later in this program, the United States does have a problem with immigrants who are also criminals. A disproportionate number of prison inmates in this country are not U.S. citizens.

And in the wake of the bombing of Murrah Federal Building in Oklahoma City, a new law was passed, the intent of which was to close a number of loopholes. Even though the men responsible for the bombing were U.S. citizens born and raised, the climate in the wake of that

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event was such that there was pressure to crack down on the possibility that foreign terrorists might strike against domestic targets. In that climate, a law was drafted which would give the Immigration and Naturalization Service the power to deport any non-citizen who had ever been convicted of a crime for which the penalty was more than one year in prison.

Congress passed that bill into law, and among those who've been swept up in the newly tightened dragnet are several men who were never really intended to be the targets of that law in the first place. Some of them came to this country as infants, grew up here, went to school in America, got jobs, married and raised families.

For a variety of reasons, though, they delayed applying for U.S. citizenship. That was one mistake. Each of them also committed a crime. That was another mistake. And now, having served their time in prison they either have been or are about to be deported back to countries they scarcely know.

(VO) In many ways, Charlie Jaramillo (ph) leads a typical middle class American life. He's a family man devoted to his wife and kids, to his work and to his community. But Charlie's life is about to be changed by one thing he is not, a citizen of the United States.

CHARLIE JARAMILLO I've always thought I was an American, all my life. When I came from Colombia, I was eight months old. My parents came here for a better life. Our family's a very tight family ever since we were kids. When one has a problem, the other one jumps to help.

TED KOPPEL (VO) Charlie's problems began when his father urged him to go to the Immigration and Naturalization Service, the INS, to apply for U.S. citizenship.

CHARLIE JARAMILLO I said no big deal. I went down to the INS office in Philadelphia and I picked out the form, I did my paperwork, got a picture taken, got my fingerprints done and I filled out an application. And on the application they ask the question if you've ever been convicted of a crime.

TED KOPPEL (VO) He answered the question truthfully. Nine years ago Charlie was convicted of selling \$40 worth of cocaine. He says it was a macho thing, a one time mistake.

CHARLIE JARAMILLO I wasn't a troublemaker, I

wasn't a troubled kid. I was this kid that had basically everything he wanted from hard work, come from a good family and then next thing you know I do something so stupid like this.

TED KOPPEL (VO) After serving five years probation, Charlie thought his ordeal was over. Until he went back to the INS to take his citizenship test.

CHARLIE JARAMILLO Two agents got on each side of me and the one guy says Mr. Jaramillo, you're under arrest. You're being deported to Colombia.

I died. I had no idea what he was talking about. I'm like what are you talking about?

And he goes in 1996 a new law came out. Anyone that's been convicted of a crime will be de, a felony crime, will be deported to their native country.

TED KOPPEL (VO) What the INS agent told Charlie was true.

In 1996, on the first anniversary of the Oklahoma City bombing, the President signed into law the Anti-Terrorism and Effective Death Penalty Act. The bill streamlined the procedural process for removing terrorist aliens. But included in the bill were deportation provisions that could have a devastating impact on legal aliens, long time, permanent residents of the United States.

REP BILL RICHARDSON, (D), NEW MEXICO

This bill eliminates also longstanding discretionary relief from deportation that will say to American family members of immigrants being deported that you get no second chance.

JEANNE BUTTERFIELD, AMERICAN IMMIGRATION LAWYERS ASSOCIATION When Congress enacted these laws in 1996, I think in many ways they weren't completely conscious of the consequences of what they were doing. It was a political climate in which in the criminal arena three strikes and you're out were the kinds of laws being enacted.

TED KOPPEL (VO) Jeanne Butterfield is executive director of the American Immigration Lawyers Association, a national coalition of attorneys who practice and teach immigration law.

JEANNE BUTTERFIELD One of the harshest ways in which the 1996 laws changed the immigration laws were

that they made the definition of the kinds of crimes that make a person deportable vastly expanded.

Secondly, they took the new definition and they made it retroactive so it reaches back literally decades. And thirdly, the new law eliminates the power of the judiciary, of the court, to review these kinds of cases.

TED KOPPEL (VO) Dan Stein is the executive director of FAIR, the Federation for American Immigration Reform.

DAN STEIN Congress said look, when they violate our trust by committing felonies, by committing serious offenses, our obligation to them ceases. They become the responsibility of the country that sent them here. And it's perfectly permissible, right, moral and correct or, as the President loves to say, the right thing to do to send them home.

TED KOPPEL (VO) One of Charlie Jaramillo's strongest supporters is Mike Ueler. (ph) Ironically, Ueler is the detective who arrested Charlie nine years ago.

MIKE UELER I personally don't have a lot of time for defendants nor drug dealers. Years ago my younger brother died of a drug overdose. And for me to speak on his behalf, it means a lot to me and it would mean a lot to have this flaw in our system corrected.

REP BARNEY FRANK, (D), MASSACHUSETTS
The irony is that this automatic deportation in particular is very anti-family. What we've got are men now in their late '20s and early '30s who have two or three kids, who are providing for those kids, who are sending those kids to school, who are earning money being torn from the families.

DAN STEIN The constitution says "we the people." This issue involves who are "we the people," who are the people and who are they, who are not the people? If you don't become a citizen, you're not "we the people."

If you become, if you're an alien, you're there, those people.

JEANNE BUTTERFIELD This is not us and them. This is us. These are American families. These are people, yes, from another country who have married a U.S. citizen, who have U.S. citizen children, who are contributing members of our society and our communities, who serve

in our military, who pay taxes and have made one mistake.

DAN STEIN Immigration and naturalization are conjunctive, immigration is the first step and naturalization is the next.

If you don't immigrate without an intention to naturalize and then if you plan on coming here and never become a citizen, don't bother coming. You can just stay home because we don't want you here unless you want to go the whole road.

(Commercial Break)

asdf **LILLIAN RODRICKS (PH)** We did everything together. Oh, Brian, look at this one. Two years ago we went to Florida. We were always doing things together.

TED KOPPEL (VO) Brian and Lillian Rodricks came to this country from the Azorean Islands, part of Portugal. Like thousands of others in this New England working class town of Fall River, Massachusetts, they pursued the American Dream, working in the mills and raising a family.

Lillian became an American citizen, but Brian never changed his status of legal permanent resident.

LILLIAN RODRICKS I did ask him to become a citizen a couple of years back but Brian was always working. He's a workaholic. So he had a, he never had the time to go and this is what happened.

I found out he was doing drugs and I totally was against it. So I got a restraining order on him. I figured that would scare him off a little bit, you know, she's not playing around, she's serious and let me get my act together.

TED KOPPEL (VO) Lillian's plan to hold her marriage together backfired. One evening, a neighborhood fight broke out and a friend of Lillian's accused Brian of brandishing a baseball bat. He was charged with assault and battery with a dangerous weapon and plea bargained for a reduced sentence of 18 months.

What Brian didn't know was that under the new law the sentence of at least one year made him deportable without relief.

LILLIAN RODRICKS OK, in the old law they were taking the family into consideration. They took that law

away from, they didn't take it away from the inmates, they took it away from the family.

THOMAS HODGSON (PH) Having such a large Azorean population in my community made me aware of the concerns for families, made me aware of the concerns for the people that were going to be going over there.

TED KOPPEL (VO) In fact, Sheriff Thomas Hodgson of Bristol County, Massachusetts, signed an agreement with the Azorean government that books be provided to teach inmates the basics of the Portuguese language.

THOMAS HODGSON They at least feel that some effort's being made to help them get acclimated ahead of time rather than arriving there on the tarmac and saying now what do I do?

TED KOPPEL (VO) Roy Reese was accused of kicking his girlfriend and convicted of assault and battery with a dangerous weapon. Like Brian Rodricks, he pled guilty for a reduced sentence.

ROY REESE I didn't know anything about this, this new law, immigration and deportation. If I did, I would never have plead out guilty.

TED KOPPEL (VO) Roy was two months old when his family fled the economically depressed Azorean Islands. They emigrated to Fall River, retaining their Portuguese heritage yet embracing American culture.

ROY REESE Like in baseball games and in football games like when they say the national anthem, I get butterflies in my stomach for some reason. I don't know why. I guess maybe it's because it's the song, the home of the free and the home of the brave.

I've been punished more than enough being in jail never mind now they're going to tell me I have to go back, I've got to go back to Portugal knowing that when I leave in a van here to go to Boston to where they supposedly ship you out onto the plane I'm going to see before I ever go that I might never see where I was brought up and where I'm accustomed to and memories, that's all I'm going to have is memories.

I'll have to start my whole life over again going over there.

TED KOPPEL (VO) Most deportees arrive in the

Azores with limited education, few job skills and little or no family. Many turn to drugs or alcohol. Ironically for some deportees, the structure and order of prison is a more welcoming home.

AZOREAN DEPORTEE Out here we drink because of our problems. We start thinking of our families, our families back in the states. Here we got nobody. Some of us even start crying thinking of our families.

1ST MASSACHUSETTS CITIZEN The ultimate law of the country is the constitution and this law is unconstitutional. This is double jeopardy.

TED KOPPEL (VO) In the United States, families of awaiting deportees are taking their frustration out. Massachusetts Congressman James McGovern and INS District Director Steve Parkison (ph) listen to emotional appeals from family members.

2ND MASSACHUSETTS CITIZEN These are our family that you're talking about. These, it is, you know, the United Nations Commission on Human Rights held a special session against this law, saying to us how dare you? You are supposed to be the models around the world.

JEANNE BUTTERFIELD I think Congress realizes, many in Congress realize that they went too far, that this law is overly harsh, it's overly punitive and they are being challenged now, I think, by the stories coming from their own constituent families to look at this and to correct some of these problems in what they enacted in 1996.

TED KOPPEL (VO) Paul Virtue is general counsel for the INS.

PAUL VIRTUE For the most part, we're in favor of many of the changes that Congress made in the statute to make it tougher for those people who commit crimes to remain in the United States. But there has to be a balance with respect to people, for example, with older convictions or people who have been in the United States for a long period of time.

DAN STEIN But it's very important that we don't miss the underlying legislative purpose, which is to ensure that people who come here don't abuse our generosity by violating our laws, committing crimes and then turning

around and saying either they didn't mean it or they've changed or they're a new man. Heck, anybody will tell you anything when they're caught.

JEANNE BUTTERFIELD Zero tolerance may sound like a good catchphrase, but when it is applied to actual family situations one sees that we still have to have a concept of compassion and mercy in our immigration laws. We still have to retain some sense of discretion.

TED KOPPEL (VO) Ultimately, it's up to the newly elected Congress to amend the law, but it is unlikely the issue will be revisited any time soon. Meanwhile, the game of emotional and political football continues.

JEANNE BUTTERFIELD It really offends, I think, the American people's fundamental notion of fairness to say that the rules have suddenly changed, that the goal post has suddenly been moved.

ROY REESE If I could have done something all over again it would have been getting my American citizens papers.

TED KOPPEL (VO) After serving 10 months in jail, Roy was released on bail. His case is now pending with the Board of Immigration Appeals. It is, for the most part, a formality, though. Deportation cases are rarely overturned.

ROY REESE My family's hopes and dreams were to see me succeed in life, to be married, to have kids, have a good job. I want that picket fence. I want to live a normal life.

TED KOPPEL When we come back, a less sentimental point of view. We'll talk to an immigration reform advocate who believes if you want to try and live a normal life here, you have to become a US citizen first.

(Commercial Break)

TED KOPPEL Joining us now from our Washington studios, Dan Stein. He is the executive director of the Federation of American Immigration Reform, a group that is now calling for a halt to new immigration. But let's talk about this law which has been the subject of our pieces this evening. You approve of the law, you like it in all its parts?

DAN STEIN, FEDERATION OF AMERICAN IMMIGRATION REFORM (Washington) Well, I approve of it 98 percent. I think Congress had a very specific intent when they passed this law. The Immigration Service has not been effectively removing deportable aliens at the time they're serving their sentence.

TED KOPPEL Let me bring you back, though, to some of the cases in tonight's story. Clearly, they do not fall under the category, in other words, this law was drafted and passed in the emotional climate immediately after the bombing in Oklahoma City. These folks don't fall into the terrorism category, do they?

DAN STEIN No, they don't fall in the terrorism category, but we've had a tradition of law in this country for 150 years that aliens can't come in, they're non-citizens, citizens of another country and commit crimes.

TED KOPPEL But we're talking ...

DAN STEIN I mean as far as criminals go ...

TED KOPPEL We're talking here in at least a couple of cases about people who came over when they were eight months old, six months old.

DAN STEIN Well, right but, right. That's true. And several of them should have become, either become citizens or have been deported at the time they were convicted. While they were serving their sentence or on probation they should have been put in deportation proceedings.

TED KOPPEL I just want to make sure that I understand you correctly. In other words, you're saying this is a one strike and you're out procedure as far as your concerned. If anyone who is an alien, a legal alien in this country, commits any sort of crime ...

DAN STEIN No, not any sort.

TED KOPPEL Any sort for which the penalty is at least a year in prison then out?

DAN STEIN Prospectively, yeah.

TED KOPPEL Whether or not they ...

DAN STEIN Ted, there are ...

TED KOPPEL Whether or not they have otherwise, I mean remember now ...

DAN STEIN Listen ...

TED KOPPEL ... our law is based on the premise that you try to do it in such a way that innocent people are not harmed. Clearly the families around these people, they're American families, they're American wives, they're American children, they're being harmed by this.

DAN STEIN Well, they obviously have an interest. But see, remember that the important point here is that Congress, there are hundreds of millions of people all around the world who want a shot at the American Dream, people who want the opportunity to immigrate. We can only admit a very small number of those who do.

TED KOPPEL Mr. Stein, we're almost out of time and I've allowed you for most of this interview to talk about the broader issue, which as far as I'm concerned is not the subject of this program tonight.

We were talking about these kinds of individuals, one crime, they've been in this country for a very long time, some of them since they were infants. They are now being deported back to countries they don't know at all and leaving behind American families. I just want to know as far as those people are concerned, would you be willing to see the law amended?

DAN STEIN Yes. What I said is we should have discretion for convictions before 1980. I think that's a fair approach.

TED KOPPEL Not even convictions before 1980? I mean some of these people clearly were convicted after 1980 but long before this law was passed and ...

DAN STEIN But see, but look, deportation, Ted, is not a criminal conviction. We're not putting people in jail. We're liberating them to their own jurisdiction, their own country ...

TED KOPPEL No, first we ...

DAN STEIN ... to bloom where they're planted.

TED KOPPEL First we put them in jail. In other words, first they're in jail and they do the time for the crimes they've committed and then, in effect, we hit 'em with another penalty and that is we kick 'em out of the country.

DAN STEIN Well, yeah. These folks are citizens of another country. They are citizens of a country where they have the right to live, reside, vote, prosper and bloom where they're planted.

We can't take everyone. We have to be careful about who we let in. It's a public safety issue. Congress was acting on the basis of the information it had at the time. For convictions that are a long period of time, statute of limitations of, say, 15 years ...

TED KOPPEL Congress amends ...

DAN STEIN ... some discretion ...

TED KOPPEL Congress amends ...

DAN STEIN ... might be appropriate.

TED KOPPEL Congress amends laws all the time.

DAN STEIN Right. But we ...

TED KOPPEL As far as those people are concerned, you wouldn't have any problem with amending the law?

DAN STEIN Right. Yes, but we don't want to go back to the status quo of just letting criminal aliens walk out on the street after serving their sentence. If you're a guest of the nation as an immigrant, you shouldn't come here and commit crimes. We grow our own just fine. We don't need to import them.

TED KOPPEL On that note, Mr. Stein, thank you for joining us this evening.

DAN STEIN Thank you.

TED KOPPEL I'll be back in a moment.

(Commercial Break)

TED KOPPEL And that's our report for tonight. I'm Ted Koppel in Washington. For all of us here at ABCNEWS, good night.

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Wednesday, November 25, 1998

DEPORTATION RULES: The Clinton administration proposed rules that immigrant advocates say could trigger deportations of thousands of people to hurricane-ravaged Guatemala and El Salvador and cripple a flow of private money from the United States to disaster-stricken families. The groups say the Immigration and Naturalization Service rules should be changed to allow an estimated 250,000 people from the two Central American nations — as well as some from former Soviet bloc countries — blanket approval to stay in the United States, provided they are of good "moral character" and lived here before 1990. The proposed rules would subject this particular group of immigrants to a case-by-case determination of their fitness to remain in the United States. The key is proof that deportation would cause "extreme hardship" for the immigrant or a relative living in the United States.





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My country — right and wrong

New report shines light on human rights abuses in U.S.



Haitian refugees wait outside of a detention building in Miami, Florida. According to Amnesty International, refugees and immigrants to the United States are often victim of human rights abuses.

By **Eric Alterman**
MSNBC CONTRIBUTOR

NEW YORK, Oct. 6 — America is a notoriously self-congratulatory nation. While everyday people live with any number of troubles and travails from which the monetary, political and media elite are spared, they are forever being bombarded with propaganda pronouncements about how lucky they are to be living in the greatest country of all time.

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Who's at the hub of
today's most important
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Eric Alterman
MSNBC CONTRIBUTOR

America is a great country if you are wealthy, white and straight.

LISTEN TO George Will, who argues that “...Americans have more fun than any other people, in part because their politics — their collective conversation — is so astonishingly amicable and, all things considered, intelligent.” My favorite example of this kind of self-reverential cheerleading comes from the pundit Ben Wattenberg, who once proclaimed: “America is and will be Number One ... Today only American democratic culture has legs. Only Americans have the sense of mission — and gall — to engage in global cultural advocacy. We are the only mythic nation ... we have the highest standard of living ... we have the best filmmakers ... America is the number one tourist destination....”

CASUAL BRUTALITY

Even allowing for a degree of patriotic intoxication, there is some truth to these proclamations, but here's the rub: America is a great country if you are wealthy, white and straight. It's a pretty good country for Asian-Americans, and other non-black or Hispanic minorities as well. But for many millions of people, victims of a system that allows them to be brutalized by the few and ignored by the many, America is no better than some of the Third World dictatorships we routinely condemn.

These practices — and the lack of attention they enjoy in the media — make a mockery of the words of the professional propagandists who masquerade as journalists and condemn all attempts to point to our problems as somehow unpatriotic or (in the good old days) Communist-inspired. No doubt this column will enjoy the same reaction among many MSNBC readers.

AMERICA'S DARK SIDE

Nevertheless, Amnesty International, the London-based human-rights organization, has done

Amnesty International has done Americans the service of shining a spotlight on the darkness at the edge of our celebratory political culture.

Americans the great service of shining a spotlight on the darkness at the edge of our celebratory political culture. Basing its investigation on numerous on-site visits and interviews, along with information provided by government agencies, court documents, academics, lawyers, and victims and their relatives, the organization has produced a lengthy report which demonstrates just how systematic are the everyday abuses visited on America's poor, indigent, incarcerated and many of its immigrants.

Unlike virtually all mainstream media coverage of such incidents, the Amnesty report makes it impossible to pretend that these indignities are one-time occurrences. In many cities, police, prison and anti-immigrant brutality is the rule rather than exception. It is not undertaken, as in totalitarian societies, for political purposes. Rather it tolerated because no one with any power in the system cares enough to put an end to it. (Where is the so-called "liberal media" when we need it?)

Among the most disturbing findings of the Amnesty report are the following:

■ **Police brutality:** Police departments routinely ignore routine abuses. When complaints are lodged, police officers cover up misconduct by fellow officers, and hide behind a "code of silence." Across America, people have been beaten, kicked, punched, choked and shot by police officers, even when they posed no threat. The majority of victims have been members of racial or ethnic minorities. Many people have died, many have been seriously injured, many have been deeply traumatized. Each year local authorities pay out millions of dollars in compensation to victims, yet successful prosecutions of police officers are rare.

■ **Prison brutality:** The 1.7 million people housed in U.S. prisons are frequently abused by other inmates and guards fail to protect them. Others are assaulted by the guards themselves. Women and men are subjected to sexual as well as physical abuse. Overcrowded and under-funded prisons, many of them privatized, control inmates by isolating them for long periods and by using methods of restraint that are cruel, degrading and sometimes life-threatening. Victims include pregnant women, the mentally ill and even children. The weakness of independent scrutiny, together with a public mood demanding harsher treatment of offenders, have created a climate in which such human rights violations can occur.

■ **Anti-immigrant brutality:** U.S. immigration

authorities persistently violate the fundamental human rights of people who have been forced by persecution to leave their countries and seek asylum. As if they were criminals, many asylum-seekers are placed behind bars when they arrive in the country. Some are held in shackles. They are detained indefinitely in conditions that are sometimes inhuman and degrading.

■ **An epidemic of violence:** Homicide is the leading cause of death among young black people in America today. One contributory factor is the prevalence of firearms: more than 200 million handguns, rifles, shotguns and high-powered weapons are currently in circulation. America's current response to crime centers on the imposition of harsher punishments, including mandatory minimum prison sentences; the prosecution of juveniles as adult offenders; longer prison terms and the removal of parole options for a range of crimes, especially drugs offenses. As a result, the United States now puts a higher percentage of its population behind bars than almost any other country on earth. The number of people in U.S. prisons and jails tripled between 1980 and 1996 to more than 1.7 million. The number of women in prisons and jails has quadrupled over the same period. Another 3.8 million people are on probation or parole.

■ **Inhumane use of the death penalty:** While international human rights standards aim to restrict the death penalty, forbidding its use against juvenile offenders and the mentally impaired, in the United States the death penalty is applied in an arbitrary and unfair manner and is prone to bias on grounds of race or economic status.

■ **Global hypocrisy:** While it reserves the right to lecture other nations on how to behave, the United States has been slow to agree to be bound by important international and regional human rights treaties: it is one of only two countries which have failed to ratify the United Nations Convention on the Rights of the Child. (The other is Somalia.) Even when the United States has ratified human rights treaties it has often done so only half-heartedly, with major reservations. For example, it has reserved the right to use the death penalty against juveniles, expressly forbidden by the International Covenant on Civil and Political Rights.

Brutality is tolerated because no one with any power in the system cares enough to put an end to it.

Moreover, we dominate the global market for arms and security equipment exports, supplying arms, security equipment and training to governments and armed groups that commit torture, political killings and other human rights abuses in countries around the world.

The media has done a magnificent job of celebrating America's virtues: its wealth creation, its relative openness, its ability to incorporate change and make use of individuals' talents. Let's see how it handles the flip side of that coin; the part of America that has yet to have its fifteen minutes of fame on any celebrity talk show. My guess is, the Amnesty Report, and the information it contains, disappears quicker than Bill Clinton's marriage vows.

Eric Alterman is a columnist for The Nation and a regular contributor to MSNBC. He is the author of "Who Speaks for America? Why Democracy Matters in Foreign Policy," published by Cornell University Press.

INTERNET Human rights abuses in the United States: Amnesty International's report

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Tuesday, November 17, 1998 Published at 09:42 GMT

World: Americas

United States suspends deportation of Central Americans

The United States Immigration and Naturalization Service INS has announced that it will suspend the deportation of illegal immigrants from Central America until January 1999.

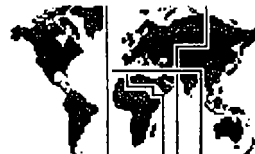
An INS statement said this was in recognition of the fact that the four countries worst affected by Hurricane Mitch- El Salvador, Guatemala, Honduras and Nicaragua, were not in a position to receive their repatriated nationals.

The position will be reviewed at the end of the first week in January.

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PG Columnists

Dennis Roddy

Law takes U.S. from land of opportunity to fortress against immigration

Saturday, November 14, 1998

By Dennis Roddy, Post-Gazette Staff Writer

When it appeared Congress might not pass his grandly named Illegal Immigration Reform and Immigrant Responsibility Act, U.S. Rep. Lamar Smith sent out a furious warning.

"The bill secures America's borders," Smith declared. "Illegal aliens take jobs, public benefits, and engage in criminal activity."

It was enough to make any decent American put down his TV remote and choke the nearest foreigner. Congress did the next best thing: in late 1996, it passed Smith's bill.

This is why a woman named Yu Lei "Sherry" Del Gallo, an eight-year resident of the United States, married to an American citizen and pregnant with a future one, spent seven months trying to get back home from Niagara Falls.

Yu Lei's plight illustrates what is diseased in the American soul in an era of anti-immigrant hysteria. Here are the bare facts:

Yu Lei came to America in 1990 from a China that had long despised her bourgeois family. One grandfather was shot. Another died in exile. Yu Lei was in prison before she was born. Her mother, Bing Ben, was jailed during the Cultural Revolution while pregnant.

Daughter wangled a student visa to study in America. Her mother joined her two years later. When the student visa ran out, Yu Lei applied for asylum, under the reasonable assumption that no small amount of hell awaited her in China.

"I am in fear for my future," was how she explained it to me. Bing Ben also applied.

Mom was approved. Daughter was turned down. Go figure.

Yu Lei appealed and, last year, married Rinaldo Del Gallo. On Memorial Day of this year, they took a delayed honeymoon to Niagara Falls, N.Y. She'd heard one could see a rainbow over the American Falls from the Canadian side so, Yu Lei and Rinaldo walked across the bridge. On the way back, she was stopped.

She learned that by leaving America for a better glimpse of its wonders, she'd "self-deported." Her asylum appeal was automatically forfeit and she was now an illegal immigrant. Then Smith's 1996 law kicked in.

Under the old law, Yu Lei could have come back as the spouse of a citizen, citing a hardship by separation. The new law demands a level of hardship beyond mere separation. The old law would have let her stay in America while appealing the border guard's decision to expell her. The new law says she's welcome to appeal -- after she goes back to China.

One wonders how good the mail service is from Chinese prisons.

After a brief struggle, border guards handcuffed her, put her in a van and deposited her on the Canadian side.

Canada, being Canada, let her stay for the seven months in which Rinaldo spent their savings, lost his job as a patent lawyer and brought Bing Ben to Buffalo, where she went on a 10-day hunger strike.

Yu Lei found a cheap apartment in the border town of Fort Erie. Rinaldo commuted on weekends. One day, she discovered she was pregnant.

At one point, the Immigration and Naturalization Service allowed Yu Lei and her mother to meet at the border. As mother and daughter spoke, an INS official handed Yu Lei a document telling her she was now deported. The years she'd spent in the U.S. appealing for refugee status was now, in the eyes of the law, a period of illegal immigration. Under the new law, she was now barred from entering the U.S. for the next 10 years.

After seven months of this kind of thing, the INS relented.

This week, pregnant, shaken, Yu Lei Del Gallo was allowed back home on "humanitarian" grounds.

Broke and jobless, the couple become parents early next year.

How many Yu Leis the U.S. has, or will, place beneath tyranny's heel we do not know. It is no longer enough to despise illegal immigrants. We have found ways to create them from young women who fall for the old story that this is the place at the end of a rainbow.

Updated: Sunday, Nov. 8, 1998 at 19:15 CST

Illegal immigrant agrees to testify, held in jail for three months

By The Associated Press

LAREDO, Texas -- Alejandro Barrera Gonzalez has not been charged with illegally crossing the border. Nevertheless, the 18-year-old man has spent the last three months in jail awaiting trial.

Prosecutors corralled Barrera into testifying against Sincecio Valadez, the man who smuggled him and 11 other Mexicans across the border in the back of a tractor trailer in early August.

The undocumented immigrants were transported back to Mexico and Valadez, who was convicted Thursday of transporting the immigrants, was released on bond shortly after his arrest.

Prosecutors persuaded Barrera to testify against Valadez, but the teen-ager could not afford to post bond to get out of jail before the trial. He has been behind bars for the last three months.

"It's crazy that (Barrera) has been in jail for three months as a witness," prosecutor Andy Guardiola told the Laredo Morning Times. "But that's the only way we can keep him here."

In Laredo, it is standard for undocumented immigrants who are witnesses to be kept behind bars until they can testify in court, he said.

Charles Roth, attorney for Proyecto Libertad, a Harlingen-based advocacy group that provides legal assistance to immigrants, said Barrera's situation is common.

"Whenever there's a smuggling case, it's the little guys who end up spending months in the detention," Roth said.

But federal prosecutors in Corpus Christi and McAllen said they typically take videotaped statements from undocumented immigrants and then release them to the Immigration and Naturalization Service.

But Guardiola said setting up a system to videotape depositions would be costly.

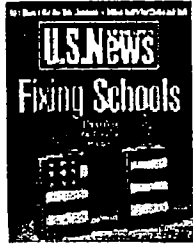
"We don't have the money to set up a videotape system, and even if we could do that the next hurdle would be having the public defender's office agree to do it," Guardiola said.

Guardiola said Barrera might be released this week.

Distributed by The Associated Press (AP)



U.S. News



Writing Murphy's law

The new immigration bill may be too tough for our own good

More on the immigration law's impact

Here is a political tale, the moral of which is that too much toughness can be self-defeating. Two weeks ago, Republicans were begging Bob Dole to stop supporting a controversial amendment to the new immigration bill that would bar the children of illegal immigrants from public schools. The congressional Republican leadership had once backed the amendment but soon saw that it would doom the bill's chances in the Senate. If the bill failed, the Republicans reasoned, it would mean troubles for Republicans seeking re-election in places like California and Florida, where voters are demanding action to stop the flow of illegal immigrants.



So Dole was asked to drop the schools amendment in favor of a measure that would reimburse local school districts for some of the costs of educating the children of illegal immigrants. Such a measure would address the schools' legitimate budgetary complaints. And it would satisfy Democratic fears, permitting the bill's passage. But Dole refused, and compromise died. Why, Dole reasoned, give the president an opportunity to sign yet another piece of legislation and capture still more headlines? Better to force Clinton to veto the bill, then accuse him of being soft on illegal immigration.

Of such calculations are political victories often made. But not always. Last week, Republicans in Congress bucked Dole and yanked the offending amendment from the bill like an abscessed molar. By acting tough, Dole hurt himself politically. He also blew a chance to help relieve the financial burdens on schools serving the kids of illegal immigrants.

Wowing voters. Even without the school amendment, the legislation will be tough on immigrants--legal and illegal. Previously deported aliens, for instance, will find it more difficult to re-enter the United States. And legal immigrants could face draconian penalties for utilizing welfare programs.



Some of the measures written into the new bill, which the president is expected to sign shortly, have an especially strong cringe factor. Limits on judicial review for undocumented asylum seekers, for instance, could mean that many people fleeing political persecution

will be sent back to their home countries, perhaps to their death. But because the bill will have the effect of reducing the flow of criminals and other undesirable aliens into the country, it should be generally popular with voters.

But some aspects of the bill may prove to be too tough, and the new law might wind up impeding efforts to solve the nation's immigration problems.

Computer
Registry
↓

Consider the provision for creating a new system to keep employers from hiring illegals. The current process has never worked well, largely because even the most careful employers have trouble spotting the counterfeit documents illegal aliens routinely use to land jobs. The new bill mandates a test of, among other systems, a giant, government-run computer registry of Social Security numbers, which officials hope will solve that problem. Employers would simply dial into the computer and send the job applicant's name and Social Security number, much the way merchants check customers' credit cards.

Can the government manage such a complex task? What about workers who are denied jobs because of the inevitable computer glitches? Can workers' privacy be protected? Two years ago, the bipartisan U.S. Commission on Immigration Reform considered precisely these questions. It recommended having an independent agency evaluate the computer system's privacy and antidiscrimination protections. Congress ignored those recommendations on workers' civil rights--even as it mandated an evaluation of whether the system might adversely affect employers. That means that four years from now, when it's time to decide if the computer registry is ready to be used nationwide, no one will be able to say whether it protects workers. Says Susan Martin, the immigration commission's executive director: "Congress blew its chance to disarm the criticisms of the civil rights folks."

The bill also allows for more aggressive measures to stop legal immigrants

from using welfare. That some immigrants abuse the system is undeniable. Yet fewer immigrants are on welfare than today's political rhetoric would suggest. Legal, nonrefugee immigrants, for instance, receive checks from the government's main cash assistance program, Aid to Families With Dependent Children, at slightly *lower* rates than native-born Americans.

The real abuse stems from a legal loophole that allows immigrants, many of whom are well off, to bring over aging parents and sign them up for Medicaid and Supplemental Security Income, a cash-assistance program for the elderly poor and disabled.

The U.S. Commission on Immigration Reform recommended a two-step solution to this problem. First, deny Supplemental Security Income and Medicaid to all future elderly immigrants and force their children to buy them health insurance as a condition of bringing them over. Second, make the "affidavit of support," which all sponsors of immigrants must sign, a legally enforceable document. That way, the government could dock the sponsor for any social-service costs incurred by the immigrant. Together these measures would drastically lower the cost of welfare for immigrants while keeping a government safety net in place for those who fall on hard times.

Consequences. Congress had other ideas. It adopted the immigration commission's sponsor-reform idea. But it added provisions that enforce the recently passed welfare reform law. That law makes most immigrants ineligible for the vast majority of government social programs. Under the new bill, an immigrant who uses any forbidden program for 12 months faces deportation. At week's end, White House negotiators were feverishly trying to get that provision removed.

The bill, and the harsh political rhetoric that preceded its passage, are already having unintended consequences. For months, there has been a rush underway by legal immigrants to become citizens so they can retain their benefits. More than 1.1 million immigrants have applied for citizenship this year, a record. Elderly immigrants kicked off Medicaid, meanwhile, are certain to crowd into expensive and overburdened emergency-care facilities. In pushing for the new welfare and immigration bills, members of Congress boasted of the savings it would achieve. Such predictions, says Demetrios Papademetriou, an analyst with the Carnegie Endowment for International Peace in Washington, D.C., are apt to "prove wildly off the mark."

BY PAUL GLASTRIS

Playing politics: the ins and outs of reform

The immigration bill passed by the House of Representatives reflects the public's desire to get tougher on legal and illegal immigrants.

Border checks. Doubles the number of agents patrolling borders and airports. New technology to identify those overstaying their visas.

Worker checks. Employers in five states will dial up a pilot computer registry to verify job applicants' work authorizations.

Alien benefits. Restricts legal immigrants' eligibility for some social programs, under threat of deportation.

Tougher laws. Strengthens rules on deportees' re-entry into the United States. Nearly eliminates judicial review for undocumented asylum seekers.

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The Oregonian

THE FULL STORY

Vietnam veteran faces deportation

Joe Van Eeten willingly served a country that may not be willing to claim him because of his convictions on drug charges

Sunday, November 1 1998

By Don Hamilton of The Oregonian staff

Joe Van Eeten thought he was a U.S. citizen when the Marines sent him to Vietnam in 1968. He fought at Khe Sanh, saved a buddy, got wounded, won some medals and came home to Oregon.

Citizenship, after all, was one reason the Dutch native dropped out of Hillsboro High School his senior year to join the Marines.

But two years ago, while he was serving time in the Oregon State Penitentiary for dealing marijuana, the Immigration and Naturalization Service told him he was wrong, that he had never become a U.S. citizen. And because of his criminal convictions, he could be deported to the Netherlands.



(Robert Bach/The Oregonian)
Joe Van Eeten, who was decorated for valor during the Vietnam War, is fighting deportation to his native Holland after being convicted twice on drug charges.

His drug sentence served, Van Eeten was released recently from the Columbia River Correctional Institution into INS custody, where he waits in jail for his immigration hearing sometime in the next few weeks.

The case is troubling, even for the INS agents involved, because it brings into conflict two universally held social values: honoring war veterans and punishing drug dealers.

Van Eeten is both.

Immigration law is clear. In 1996, Congress passed the Illegal Immigration and Reform Responsibility Act, which directs the agency to permanently ban noncitizens convicted of an aggravated felony. And enforcement is strict. Last summer, the INS moved to deport legal immigrants with drunken driving convictions.

Van Eeten wants to go home to his wife and young son in Newberg. He hopes to resume his advocacy for homeless vets, an operation he called Base Camp Bravo in rural Yamhill County. That's what he was doing when he was arrested on drug charges three years ago.

But unless Van Eeten can document his claim of citizenship -- and so far he can't -- an immigration judge may banish him from the United States forever.

"How can they say I'm not a citizen? Van Eeten asks. Laying down your life for your country is worth more than signing a piece of paper.

Van Eeten claims he was naturalized at Camp Pendleton in California in late 1967, soon after finishing boot camp. All American soldiers fighting in Vietnam, he was told, had to be citizens. And he had to stay behind while his unit, all citizens, shipped out to Vietnam.

Three weeks later, he says he was summoned to a base auditorium where he signed some papers, raised his right hand and was sworn in as a citizen by a man in civilian clothes, someone he believed to be an immigration judge. There were 100 to 200 of them, all American soldiers but citizens of Germany, Canada, Britain, Japan, Mexico and other nations.

"They gave us the speech about how this was a great moment of our lives, he said.

Since then, his discharge papers had been enough proof of citizenship. He registered to vote. He received

Social Security.

But Van Eeten received no citizenship paperwork. He says he was told the document would be processed while he was in Vietnam and available at a California INS office, but there is no trace of it.

Joe Shaffer, assistant director for investigations at the Portland INS office, is seeking Van Eeten's complete service record from the Department of Defense archives. Shaffer is tracking second- and third-hand reports from veterans, but so far he has found no evidence to back up Van Eeten's claim.

Trying to go overboard

"Because of who he is and his military service, I've been trying to go overboard to find out about his claims," Shaffer said. But without any proof, what we have is an aggravated felon convicted of distribution of narcotics.

Shaffer, more than most people, is willing to believe the story about a special naturalization ceremony prior to going to war. Shaffer's grandfather, a Swedish immigrant, was sworn in as an American citizen under remarkably similar circumstances before being sent to France in World War I.

"That's why I have, in my gut, the feeling that there's something there," Shaffer said. If he's a citizen, he's the last person we want to remove from the United States.

Lt. Col. Tom Begines, a Pentagon spokesman who is a specialist in personnel issues, has never heard of the scenario Van Eeten paints. The policy today, he said, allows noncitizens to enlist and go to war, but they must become citizens to re-enlist.

Gary Solis, associate professor of law at West Point, also has never heard of such citizenship ceremonies, even though he was a deputy judge advocate in 1971 at Camp Pendleton. Neither has Charles Smith, historian with the Marine Corps History and Museums Division.

Both men cautioned, however, that their not hearing of it doesn't mean the ceremony didn't happen.

What's not in dispute, however, is Van Eeten's stellar record in the Marines.

He arrived in Vietnam in February 1968 and within eight hours was rolling off the tailgate of a transport plane at Khe Sanh.

A month later Van Eeten joined a patrol seeking to recover the bodies of Marines lost a few weeks earlier. He found a dead Marine and started hauling him to base in a body bag. A buddy came to help but tripped over a booby trap, losing several toes. After helping his buddy to safety, Van Eeten ventured back into the battlefield alone and retrieved the body bag.

He was in battle for 13 months, at Quang Tri, Phu Loc and Happy Valley, before returning to Oregon, wounded but not seriously, in 1969. He spent a stint in the Army in the 1970s but after his discharge was judged 100 percent disabled from post traumatic stress disorder.

Trouble in Yamhill County

Van Eeten was born in 1949 in the Dutch East Indies, the son of a Royal Dutch Marine. The next year, Indonesia became independent so the family returned to Amsterdam. In 1961, they moved to Oregon, settling in the Aloha area east of Hillsboro.

Van Eeten's first entanglement with drugs came in 1981 when he began a three-year prison term on charges related to cocaine use.

But by 1995, he owned 25 acres in Yamhill County and started what he called Base Camp Bravo for homeless veterans. He brought an evangelical zeal to his mission, scouring the hills for lost souls, bringing them to his property and connecting them with veteran service programs. It was, he promised, a drug-free refuge, which won praise from veterans groups and elected officials.

Yamhill County ultimately made him close Base Camp Bravo because it was zoned for residential use, not for the collection of trailers, tents and camps that had been set up.

And in the fall of 1995, Van Eeten was busted for being the middleman in a marijuana deal. He pleaded guilty to delivery and manufacture of a controlled substance and in July 1996 began what turned into 28 months in prison.

By all accounts, he's been a model prisoner. At the Columbia River Correctional Institution in Portland, where he spent the last phase of his sentence, he set up regular meetings on veterans issues and started a weekly group on post traumatic stress disorder.

"Hes an amazing guy, said Chuck Seeley, program services manager at the minimum security prison.

Van Eetens case has generated support among veterans and their advocates. One of his Vietnam buddies, Darryle Carpenter of Pittsburgh, believes the swearing-in ceremony story and that Van Eeten earned his citizenship.

"He put his life on the line for the U.S. of A., Carpenter said. He deserves it.

Jack Estes, co-founder of the Fallen Warriors Foundation, which advocates for veterans rights and benefits, thinks Van Eetens service to the United States at least qualifies him for leniency.

"Its guys like Joe who are helping other vets, Estes said. He's made some mistakes, but he's a well-meaning soul. If he's deported, its a travesty.



A 'Schizophrenic' Attitude
Toward Illegal Immigrants

The Laws: Failure and Reform



Jorge Mejia raises his fist as part of an anti-deportation protest outside the Immigration and Naturalization Services building in Miami (A. Enrique Valentin/AP Photo)

By Jackie Cooperman
ABCNEWS.com

Every day, attorney Gregory Schell represents exploited illegal immigrants harvesting sugar cane in Florida.

And then he helps their opponents. "We represent both the illegal immigrants who are here and the legal workers who they're displacing," Schell said, on the phone from his office at the Migrant Farm Worker Justice Project in Belle Glade, Fla. In a dozen years, he has represented more than 1,000 sugar cane workers and nearly as many apple pickers in Florida farms.

And he acknowledges illegal immigrants hurt U.S. laborers by creating a surplus, thereby allowing employers to cut wages.

It's a contradiction that illustrates how ineffective and inadequate U.S. immigration laws have become—something those on both sides of the issue agree on. As long as labor laws go unenforced, and employers do not get punished, industries will exploit both documented and undocumented workers.

The Laws: Failure and Reform

In 1986, Congress passed the Immigration Reform and Control Act, the most dramatic rewriting of immigration laws since the 1950s. The measure provided general amnesty to people who had been in the United States continuously since 1982. It also gave amnesty to farm workers who had logged 90 days of qualifying agricultural work between May 1, 1985, and April 30, 1986.

The IRCA required employers to prove they were only hiring legal workers, and imposed sanctions on those who hired

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LAWS,
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"The documents are as phony as a three-dollar bill but they can get by employers,"

— Gregory Schell, immigration attorney

In 1994, state prisons in Calif., N.Y., Texas, Fla., Ill., N.J. and Ariz. spent \$474 million incarcerating illegal immigrants, according to the Urban Institute

illegal immigrants. Congress revised the law in 1996, making it harder for immigrants—both legal and illegal—to qualify for public assistance and benefits.

But the verification laws backfired; there were too many loopholes. Because employers are not forced to verify the authenticity of workers' papers, illegal immigrants often present fraudulent documents. Some employers look the other way.

"If you're talking about the problem of illegal immigration, the solution is not to put a Labor Department inspector in every employer's back room. The solution is to tighten up on document verification," said K.C. McAlpin, the deputy director of the Federation for American Immigration Reform, a group that wants to impose a five-year moratorium on immigration.

A Run on Fake Papers

Anyone who knows immigration law also knows a lot about fake IDs.

One Department of Labor official said some factories maintain phony databases on their computers, falsifying worker time sheets in case the INS audits them. In Chicago, immigrant advocate Diego Bonesatti said Spanish-speaking immigrants are often duped into buying fake papers by notaries calling themselves "notarios"—a Spanish word meaning lawyer that conveys far more authority than its owner really possesses.

In Polish-speaking communities, people calling themselves "travel agents" pass themselves off as legal authorities. Rob Smith, a sociologist at Barnard College, said he knew of immigrants "renting" Social Security numbers.

"The documents are as phony as a three-dollar bill but they can get by employers," Schell said.

As long as employers are not penalized for employing illegal workers, they will use intimidation to keep the wages low and the hours long, workers groups and economists say.

"Bosses will say, 'if you're not willing

MAIL

to meet my demands, I have all these other people to take your place,' ” said Trahn Duong, project director at the Chinese Staff and Workers Association in New York.

Information Sharing

The INS has begun collaborating with the Labor and Justice departments and local law authorities to build databases on undocumented workers.

But a high-level Labor Department official acknowledged “there's a certain tension between our fundamental mission to protect workers and the possibility that our work will lead to their being apprehended and deported.”

Immigrant rights groups say they fear that if immigrants know their reports of abuse will be forwarded to the INS, they are likely to remain silent.

“Instead of facilitating systems that would protect immigrants and American workers, the INS goes after the victim,” said Lucas Guttentag, director of the American Civil Liberties Union's national immigrants rights project. “And that sends a strong message to other workers: ‘don't come forward because the price you'll pay is deportation.’ ”

Others dismiss those fears as too dramatic.

“The question is: can there be sensitive cooperation between the labor department and the INS? The answer is yes,” said Dmitri Papademetriou, who directed immigration policy and research for the Labor Department from 1988-1992.

Papademetriou, now the director of the international migration policy program at the Carnegie Endowment in Washington, stops short of saying local police should get involved. “I think that's a bad idea. Police have to worry about the security of their cities, they're not trained in immigration laws.”

In New York City, Mayor Rudolph Giuliani has gone to court to protect illegal immigrants who complain of workplace violations or seek medical help.

Giuliani supports a policy that forbids city officials from reporting immigrants' illegal status except in connection with a criminal investigation. A federal court overturned Giuliani's argument and he has vowed to appeal. Other cities, including Chicago, Los Angeles and San Francisco, are making similar arguments.

But anti-immigration groups call the approach unrealistic.

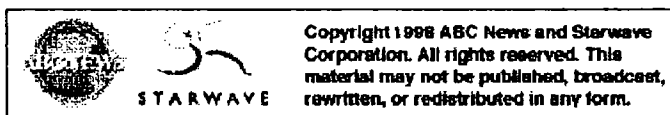
"You can't enforce laws without involving local law enforcement," said McAlpin of FAIR. "The fact is, these people come in as illegals and who's to say they're not going to break other laws, too?"

Uncomfortable Existence

As federal and local authorities grapple with the complex issues, the groups on both sides of the debate find themselves in a tricky position.

From his behind his desk, littered with papers about sugar cane farmers, Schell recalled working on immigration reform issues in 1996.

"On some issues, we found ourselves allied with FAIR," said the immigrants' advocate. "And that was very uncomfortable."





HERALDLINK FULL STORY

Published Wednesday, October 14, 1998, in the Miami Herald

Justice for all?



NOT FOR IMMIGRANTS

Harsh new laws and their application threaten the basic human rights of the nation's immigrants.

Last week brought the latest squeezing of immigrants in this, the nation built by immigrants. That's when vast numbers of legal immigrants living in America -- including those who committed nonviolent crimes, convicted decades ago, and with suspended sentences -- became subject to mandatory detention and deportation by congressional fiat. You want to see unjust punishment, hang on. Immigrant-rich communities haven't begun to see the worst.

An early warning sounded last year when the U.S. Immigration and Naturalization Service jailed Jesus Collado, of the Bronx. Though he had lived in the United States since 1972, was a legal permanent resident, and had three U.S.-born children, he was subject to deportation for a 1974 "crime" for which he served no time. At age 19 he had been convicted of statutory rape and given probation for having sex with his 15-year-old girlfriend. Despite a clean record since, he spent six months in jail and would have been deported but for a technicality.

The sad truth is that new, extreme laws, most notably the frightful Illegal Immigration Reform and Immigrant Responsibility Act of 1996, have stripped noncitizens of time-honored constitutional protections. Simple humanity dictates that people who have served time, atoned for their sins, reformed, and become productive members of society have a measure of consideration. That no longer applies even to legal immigrants.

For non-U.S. citizens, practically any crime in the book is now punishable by mandatory detention and deportation. That includes stealing cable services, failing to file tax returns, passing a bad check, basically any conviction with a year or more sentence -- even if suspended, even if long ago. If INS detention facilities are overwhelmed and reports of prison conditions shock now, wait and see what happens as every immigrant with a forgotten past crime is a target. *

Worse still, statutes under which good acts justify a reprieve have been eliminated, and sanctions are retroactive. Under INS interpretation, a legal immigrant being detained and deported is denied the ultimate recourse of American justice: judicial review by a federal court. Indeed, this is the first time in American history that a group of people are being denied the sacred right of the accused to demand that the government prove its case against them.

That may yet prove to be unconstitutional as the new law and INS practices come under legal attack nationwide. In one of the first challenges, a class-action suit by thousands of South Florida Nicaraguans ordered deported, Senior U.S. District Judge James Lawrence King last year found persuasive evidence that these immigrants had been denied due process. Now federal appeals courts in two circuits have ruled against the government on the retroactivity issue, and courts in three circuits have upheld the right to judicial review.

We are not arguing for the bad guy: The violent career criminal, rapist, or murderer should be deported. We simply are defending due process and basic human rights, principles shamefully ignored by Congress's unforgiving immigration law and its enforcers.



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Getting in touch with HERALDlink

Immigration Law Separates Valley Pair

■ **Deportation:** New rules making it easier to oust illegal immigrants send husband to native Argentina. Critics say guidelines are unfair.

By MARGARET RAMIREZ
TIMES STAFF WRITER

VAN NUYS—As the blackness of night surrounded them, Luis Gabriel Gurrea and his wife, Mireya, slept soundly in their bed, unprepared for the nightmare that was about to unfold.

About 4:30 a.m. they were awakened by rustling sounds in the backyard. When they sat up, a harsh spotlight was beamed into their eyes. Fists pounding on the door followed. Then, immigration agents stormed the house and asked, "What's your name?" When Gurrea answered, officials twisted his arms behind his back, handcuffed and arrested him.

Terrified and in tears, Mireya grabbed their 6-month-old daughter Megan and cried, "Stop! It's a mistake."

Within 48 hours of the Sept. 15 raid, Gurrea—who entered the country legally in 1988—was separated from his family, thrown into jail and deported to his homeland, Argentina. Left alone to support their daughter, Mireya wondered how the life they built in this country had so easily been ripped apart.

"Do they just destroy families like this?" she asked.

Under tougher immigration laws passed by Congress in 1996 that expanded the definition of who is deportable, Gurrea became caught in a bureaucratic snare that ruined his family. The law was designed so the Immigration and Naturalization Service could easily deport illegal immigrants. But, critics complain, the law overextends its reach to include legal entrants like Gurrea who misunderstood the new proc-

ess and failed to file documents for permanent residency on time.

Whether the soft-spoken office supervisor with no criminal record is allowed to return to his family could become a litmus test for how the new rules should be applied. Although the law says Gurrea is barred from entering the country for 10 years, a new waiver makes an exception if the spouse will suffer extreme hardship by the separation.

Few would argue that Mireya is not enduring emotional hardship. Earlier this year, she testified in a Van Nuys courtroom that she was the victim of a vicious rape.

"I need my husband home," said Mireya Gurrea, 32. "I'm not a regular person. I'm still recovering from this horrible sexual attack. How do they think I feel when I'm home alone?"

Meanwhile, the 39-year-old man sobbed on the telephone from Buenos Aires as he described the traumatic episode that has transformed his life.

"They never let me explain anything," he said of the INS officials at the San Pedro jail, where he was held for two days. "I'm not a criminal. I paid my taxes every year. I just want to be back with my wife and daughter. Here in Argentina, I have nothing."

Gurrea came to Los Angeles in 1988 and applied for temporary residency under the late amnesty program. In January 1994, he met Mireya and was immediately captivated by her. They found an apartment in Sherman Oaks and began living together that summer.

When he returned to the United States after a brief trip to Argentina in November 1995, his problems began. Immigration officials stopped him at Los Angeles International Airport and entered his alien registration number into the computer. The agents discovered his temporary visa had expired and ordered a hearing before an immigration judge.

At the hearing in early 1996, Gurrea was told his application to change his status

from temporary to permanent residency had been denied because he never filed the proper paperwork. The judge ordered him "excluded" on March 13, 1996, which meant he had to leave the country. But, Gurrea said, on the mistaken advice of an attorney, he ignored the exclusion order. The attorney said that since he planned to marry Mireya the next year, Gurrea could remain in Los Angeles and file for change of status as spouse of U.S. citizen.

In 1996, President Clinton signed the Illegal Immigration Reform and Immigrant Responsibility Act, which cracked down on illegal immigrants living in the United States. Because Gurrea had not filed for permanent residency, the INS argued he

was in the country illegally at that time and under the new law, exclusion became an order of deportation.

To make matters worse, on Dec. 30, 1996, Mireya was brutally assaulted outside her home by a serial rapist preying on Latinas. To help cope with the trauma after the attack, she sought therapy. But, she said, it was her husband who pulled her through.

"Throughout the whole ordeal, he was so patient. Every time I started feeling bad, he would run a hot bath for me or just talk

to make me feel better," she said. "I could've never done it without him."

Due in part to her testimony in court, the attacker, Jose Zarate, was convicted and sentenced to 157 years to life in prison.

Now, the horrible incident may help bring her husband back home. She is seeking a waiver that would allow him back into the country based on her still fragile emotional state. She has also written to U.S. Sens. Dianne Feinstein and Barbara Boxer for assistance in her appeal.

INS officials said that only a handful of the waivers have been granted since the law was enacted. But to be issued a waiver, the consulate of the immigrant's native country must approve it. Requests are decided on a case-by-case basis.

"The way you survive something like this depends on the daily support you have at home," she said. "I'm always going to have these emotional scars. They never heal."

Since the new laws went into effect, deportations in the Los Angeles area have increased dramatically. In 1996, the INS deported 6,890 illegal immigrants. The next year, the agency ordered 9,278 illegals to leave the country.

"The law was meant to target people who had orders to leave and did not comply with those orders," said INS district director Richard Rogers.

Currently, there are 4,925 illegal immigrants in Los Angeles who have been issued final deportation orders.

➔ But Jean Butterfield, executive director of the American Immigration Lawyers Assn. in Washington, D.C., believes the law goes too far and snags people simply confused about the requirements, like Gurrea. Her organization and several others are contemplating appeals to the legislation, saying it was blindly put into effect without any regulations or guidelines.

"On the face, he is deportable. Yet, it seems cases like this should not be high priorities for the INS," she said.

Mireya and Gabriel Gurrea married on Oct. 25, 1997. Shortly after, Gurrea applied for an adjustment to his status and paid the fee: a whopping \$1,210. In April, he received a letter and receipt for the fee, which gave him the impression that his paperwork was in order. The letter said: "Adjustment of status has been received."

"They took the \$1,210 check, cashed it

and in turn, deported my husband," she said. "Our marriage was not based on a green card. Don't they realize what they've done to my life?"

Gurrea's lawyer, Roger Gleckman, said the fact that the INS took the money is irrelevant to the case because the deportation order precedes the application to change his status.

"All that shows is how inept the agency is. The left hand doesn't know what the right hand is doing," he said.

In addition to the waiver that would make an exception to the 10-year ban, Gleckman must also file two other documents to get Gurrea back in the United States—a new visa petition and a waiver of exclusion of deportability.

Meanwhile, Mireya Gurrea is in an impossible financial situation. Because she cannot pay for a three-bedroom house in Van Nuys on her salary, she is searching for a small apartment for herself and her daughter. To raise some extra money, she is selling her husband's truck and most of their furniture.

"If I was strong enough for the [rape] trial, I have to be strong enough to get him back," she said.



IRFAN KHAN / Los Angeles Times

'Our marriage was not based on a green card. Don't they realize what they've done to my life?"

Bad Guys and Good Ones

THE PROCESS of fitting immigration policy to last year's toughen-up-on-immigration law continues to reveal anomalies not fully anticipated at the time. The latest concerns the new rules for deporting legal residents on account of earlier crimes. In 1996 Congress expanded the range of offenses that would trigger deportation and shrank the authority of immigration judges to grant exceptions. Now the list includes misdemeanors for which criminal judges send sentence offenders to jail, and the Immigration and Naturalization Service and immigration judges have lost discretion to apply the law flexibly in cases involving lesser offenses committed some time ago by people who since have become good citizens.

There is some political back-and-forth on this issue—and not only on this issue—between the INS and Spencer Abraham, Republican chairman of the Senate's immigration subcommittee. The two have sparred over the volatile question of how to handle the considerable number of possibly deportable aliens who are in federal or state prisons. The notion has spread that the INS is carelessly naturalizing many of the criminals among them. In fact, an outside audit has found that the INS wrongly naturalized about 300 out of the million applicants granted citizenship in fiscal 1996.

The evident need is to use scarce resources, including detention space and administrative energy, against the most serious criminals. They ought to be the first screened and, if the facts warrant it, deported, preferably (if they already are detained) from the place of their detainment.

Immigration advocates point to cases in which deportation proceedings are brought against people who misstepped in a minor way as long as 20 or more years ago and who now are stable family people contributing to their communities. They are better treated as desirable immigrants than as deportable criminals.

Sen. Abraham had something to do last year with putting in the wrinkles of the immigration law that he and the INS in their separate ways now seek to take out. He proposes to hold hearings on why, in his reading, the INS is pursuing some admittedly minor deportation cases aggressively "while letting some hardened criminals in jail go free." If this is going on, it should be fixed. But it is important to extend the hearings to cases in which people who would seem good candidates for citizenship are being penalized for minor, older offenses that they have long since lived down. Immigration policy has to focus not just on deporting the bad guys but on welcoming the good ones.

New York Times
Monday, March 30, 1998

Abroad at Home

ANTHONY LEWIS

Punishing the Past

BOSTON

In 1967 the apartheid Government of South Africa passed a Terrorism Act that defined hostile words as "terrorism." An ingenious provision said the act should be deemed to have come into effect in 1962, so that things said and done in the previous five years were retroactively made criminal. And people were prosecuted for past acts.

It can't happen here: So most Americans would assume. Our Constitution forbids ex post facto laws.

But one thing can happen and has happened. Congress has passed immigration laws that require the deportation of people for past acts that at the time were not deportable offenses. That is possible because the Supreme Court has held that the bar on ex post facto laws applies only to criminal punishment and deportation is not that. But retroactive deportation laws, if constitutional, can still offend our sense of justice.

Gabriella Dee is a 33-year-old Canadian married to an American, Stephen Dee. They live in Bethlehem, Pa. She has a doctorate in biology and has taught at several colleges in the area, with permission to do so under temporary U.S. visas.

In 1996 Ms. Dee applied for a green card, the first step toward becoming an American citizen. As the spouse of a citizen she would qualify. An agent of the Immigration and Naturalization Service checked their documents and found the marriage legitimate. But then he checked a part of the form that asks whether the applicant has ever been arrested. Ms. Dee had answered, honestly, yes. In 1985, when she was a student at Concordia University in Canada, an Israeli boyfriend was visiting her. He wanted to see the United States but could not get a visa. A fellow student at Concordia drove her across the border; the Israeli walked across without going through immigration, and they picked him up. I.N.S. agents immediately stopped them. A magistrate found Ms. Dee guilty of a misdemeanor and fined her \$25.

At the time, her offense was not grounds for deportation; only professional alien-smuggling, for pay, was. But in 1990 Congress passed a law barring from this country anyone who had ever been involved in bringing someone here illegally. Ms. Dee knew nothing about it, but it made her deportable.

Last month an immigration judge ordered her deported. She is appeal-

ing to the Board of Immigration Appeals, but her chances there do not look bright. If she loses, she will be forever barred from the United States.

"It seems they wrote a very, very strict law that affects a lot of people," Ms. Dee said when I spoke with her. "And even though some of them may not be the kind of people you really want deported, it doesn't seem to make any difference."

Yes, retroactive changes in immigration law are now condemning many people who do not fit the image of evil criminals. Another example is Jesús Collado, who 23 years ago was found guilty of a misdemeanor for sleeping with his teen-age girlfriend. The 1996 immigration law called that an "aggravated felony" and made it, retroactively, a deportable offense.

Mr. Collado was detained by the I.N.S. for six months last year. When there were protests from local citizens and a member of Congress, Nydia Velazquez of New York, the agen-

Retroactive immigration law.

cy released him on parole. But it is still pressing for his deportation.

The prevailing attitude in Congress seems to be that "criminals" should be deported without regard to individual justice. A principal sponsor of the 1996 immigration law, Representative Lamar Smith of Texas, said recently, "The American people like a law that keeps criminals out of their communities."

But the people in and around Bethlehem, Pa., do not want Ms. Dee removed from their community. They have written to the local newspaper, The Morning Call, about what a valued teacher and community volunteer she is.

When I hear about a case like Gabriella Dee's or Jesus Collado's, I want to ask those who make and enforce our immigration laws: What is the point? Why do we want to look back at what at worst were foolish mistakes long ago, forgetting about the hard-working lives lived ever since? Why do we want to hurt ourselves by driving out decent people and depriving them, as Justice Brandeis said, of "all that makes life worth living"? □

Thousands Confront Deportation Dragnet's Longer Reach

By Pamela Constable
and William Branigin
Washington Post Staff Writers

Wayne Smith once wandered the District streets late at night, trying to score one more hit of cocaine and begging God to deliver him from his addiction. He wound up serving three years at Lorton Reformatory on drug charges, and when he was released in 1992, he was determined to build a new life.

Today, Smith owns a janitorial service with 25 employees—some of them former offenders and addicts he is trying to help. He is married, active in a church prison ministry, and, at age 40, studying to be a registered nurse.

"It's been rough, but I finally came out of my addiction. Now I want to give something back to the community," said Smith. "My children see me as a strong man and a good provider. My employees say I have inspired them. For the first time, I see a real future."

But Smith, a legal immigrant from Trinidad who came here at age 10, may have to pay a second time for his crime. Last spring, federal immigration agents knocked on his door and arrested him. Several months later, he was ordered deported by an immigration judge in Baltimore, based on his original drug charges. He has appealed the order, but he and his lawyer say his chances of winning are slim.

Last year, a tough new immigration law retroactively expanded the range of crimes for which federal authorities can deport legal residents. In addition to such serious felonies as murder, armed robbery and drug trafficking, which already were grounds for deportation, the list now includes lesser offenses such as shoplifting, credit card fraud, simple assault and drug use, as long as the defendant was sentenced to at least one year's probation.

The new law also severely limits an immigration judge's authority to grant exceptions, no matter how long ago the immigrant committed the crime, or how well he has behaved since then. It also makes it possible to block any immigrant convicted of such a crime from reentering the United States, meaning that if he travels abroad and tries to return he can consequently be held in custody until deported.

Supporters say the law is a necessary tool for getting rid of undesirable immigrants, especially violent or habitual criminals who have escaped deportation for years. Over the past year, the Immigration and Naturalization Service has deported more than 45,000 foreigners convicted of crimes by U.S. courts.

In the Washington area, 1,043 criminal aliens were arrested in the past year, an increase from the previous year of nearly 200 percent. In one Texas operation in March, INS agents arrested and deported more than 1,000 immigrants who had been convicted of charges that included murder, armed robbery and child molestation.

"I feel that law-abiding people, not hardened criminals, should be filling our priceless immigration slots," Sen. Spencer Abraham said in a speech last week. The Michigan Republican chairs a Senate immigration subcommittee. "Until last year's bill," Abraham said, "only a tiny percentage of deportable criminal aliens had actually been deported."

But critics argue that the new law is unduly harsh, often sweeping up decent people in a dragnet that ought to be aimed at serious offenders. They note that many of the crimes for which immigrants can now be deported are misdemeanors under criminal law, for which judges rarely sentence offenders to jail.

In recent weeks, an especially dramatic case in New York has focused public attention on the law's far-reaching consequences. Jesus Collado, a 43-year-old legal immigrant and restaurant manager from the Dominican Republic, was returning from a vacation in his homeland last spring

when he was arrested by immigration agents at John F. Kennedy International Airport and imprisoned.

It turned out that 23 years before, when Collado was 19, he had been convicted of sexual misconduct and sentenced to one year's probation after the mother of his 15-year-old girlfriend complained to police that they were having sex. Under the new law, Collado can be deported for his misdemeanor and held without bond in the meantime.

Collado's family mounted a campaign to publicize his plight, and a documentary film about him was released two weeks ago. Even the mother of his long-ago girlfriend wrote the immigration authorities, saying she now feels "extremely guilty" about having gotten him in trouble, and comparing their teenage romance to Romeo and Juliet.

On Friday, immigration officials released Collado after more than six months in federal custody, citing a new INS rule on detentions that took effect this week. The rule gives INS district directors temporary authority to free certain legal immigrants who were stopped when reentering the country, although they still face eventual deportation under the law.

"This is the most terrible thing I have ever been through," Collado said by telephone shortly after his release from a detention center in York, Pa. "I

understand they are trying to stop crime, but this new law is also destroying families as a result. I have always worked hard for my wife and children. To take me away from them is just so cruel."

In an interview last week in the Manhattan restaurant he manages, Collado's family recounted how his 18-year-old daughter, Julissa, had nearly died in a car accident while he was in prison, and how desperate he had been to visit her in the hospital. Wearing a metal body brace, Julissa tearfully described Collado as a doting but strict father, who had been especially critical when she dated older boys.

Immigration officials said the year-old law leaves them no choice but to start deportation proceedings against people who committed crimes that are now considered "aggravated felonies," whenever they are encountered. Usually, the INS discovers the immigrant's criminal record either because he applied for citizenship or returned from a trip abroad and was questioned by an inspector at an airport.

As a result, thousands of immigrants across the country face expulsion for past crimes. Some are recent, violent crimes, but others are minor offenses that occurred a decade or more ago. Among those who are vulnerable under the new law:

- Oscar Pereira, a 29-year-old District man from El Salvador who works at a late-night parking lot. He was convicted of carrying an unregistered pistol in 1992—he said he needed it for protection from muggers—and given one year's probation. Now, immigration authorities have ordered him deported, and he has appealed. In the past, he could have sought an exemption because of his otherwise clean record and U.S.-born children, but the new law does not allow it.

- An Iranian cab driver from Virginia, who asked that his name not be used. He was arrested at a student protest outside the White House in the late 1970s, convicted of assault and given 18 months' probation. This year, the 40-year-old man was planning to apply for citizenship, but his lawyer has advised him that if he submits his application, or leaves the country and tries to return, he will probably be ordered deported.

- A 22-year-old Salvadoran man from Boston, Rafael Bardales, who was involved in a street gang when he was a teenager, and convicted of robbery and assault. He received two years' probation, joined a Catholic church and became an active volunteer in its missions. In July, the group traveled to the Dominican Republic to build churches. When they reentered the

United States, the man was arrested and is awaiting deportation.

After a Washington Post reporter reached Bardales at the detention center in York, more than a dozen other immigrants being detained there for past crimes, most of whom had been arrested while returning from trips abroad, called The Post seeking help.

Abraham charged that authorities "seem to be pursuing some admittedly minor cases aggressively ... while letting some hardened criminals in jail go free." He said he plans to hold hearings on the matter.

Immigration officials acknowledged that the new law is having a harsh impact on one-time minor offenders, but said their hands are tied because Congress, in seeking to crack down on immigrants who commit crimes, left both the INS and immigration judges with little room for flexibility or leniency in applying the rules.

"They cast a big net, and they're catching some dolphins in it," said Russ Bergeron, an INS spokesman. He added, however, that "probably only a handful" of such cases are as extreme as Collado's. The way the new law is written, Bergeron said, immigration officials do not "have sufficient discretionary authority any longer to adequately address exceptional circumstances."

Short of changing the law, immigration lawyers say, the only remedies for former offenders facing deportation are expensive, time-consuming and often fruitless. One is to ask a member of Congress to submit a private bill on behalf of the immigrant. Another is to request a pardon from the governor of one's state. A third is to seek to have the original conviction overturned or expunged from the record.

In interviews, several immigrants facing deportation said they tried to have their original convictions reviewed, without success. Lawyers said state executives rarely pardon people for such cases, and that submitting a private bill in Congress requires expensive legal work and takes many months to work its way through the political process.

Stephen Converse, a lawyer in Pennsylvania who represents Collado and a number of other immigrants awaiting deportation for past criminal convictions, explained the problem: "In theory, you can do something, but you need time and money. So you get an ordinary immigrant who committed a youthful indiscretion, and suddenly it comes back as a horrible offense, and there's virtually nothing he can do."

Harsh Immigration Law

To the Editor:

Your Oct. 15 news article on the plight of Jesus Collado highlights the harshness of the immigration law that Congress passed last year. Mr. Collado faces deportation for a misdemeanor offense — having sex with his teen-age girlfriend when he was 19.

While your article refers to Mr. Collado's statutory-rape conviction as "a crime of moral turpitude," amazingly his misdemeanor offense may qualify as an aggravated felony under immigration law.

Among other consequences, an aggravated-felony conviction renders a lawful permanent resident ineligible for relief from deportation.

Mr. Collado has been incarcerated in a high-security prison for six months now only because the I.N.S. reads the present rules on detention too stringently. He should be released while his removal proceedings are pending.

MARGARET H. TAYLOR

Winston-Salem, N.C., Oct. 15, 1997
The writer is an associate professor of law at Wake Forest University.

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To the Editor:

Every day that Immigration and Naturalization Service officials do their jobs to the letter, Jesus Collado and his family suffer (news article, Oct. 15). For the officials to throw up their hands and exclaim, "We are bound to enforce the law" is an outrageous affront to compassion. In an enlightened society, the people charged with enforcing a law should have a mandate to recognize its spirit, too.

MARC SCHULHOF

Bethesda, Md., Oct. 15, 1997

New Law Resurrects an Old Crime

Immigrant May Be Deported for 1974 'Moral Turpitude'

By MIRTA OJITO

For 171 days now, immigration officials have held Jesus Collado, a Bronx restaurant manager and a legal resident of the United States, in a detention center in Pennsylvania for a misdemeanor he committed 23 years ago and for which, until now, he had never spent a day in jail.

Mr. Collado was convicted of statutory rape and given probation in 1974 because, at 19, he had sex with his 15-year-old girlfriend. Now, the Immigration and Naturalization Service wants to deport Mr. Collado to his homeland, the Dominican Republic, which he left in 1972 and where he has returned only for occasional family visits.

Mr. Collado, his wife and their three children, and even the family of his former girlfriend, are baffled and horrified that his long-ago misdeed — a crime of moral turpitude, in legal terms — could tear apart the life that he has built in this country. The immigration agency says that under tougher laws passed by Congress last year, the agency has no choice but to deport him. The laws broadened the definitions of what constitutes a deportable crime and who is subject to deportation.

But some members of Congress who supported the new laws say they are troubled by cases like Mr. Collado's and are considering whether some of the legal language needs to be clarified. They say it was never Congress's intention to deport people who committed minor crimes decades ago but have spotless records since.

Even some immigration officials say Mr. Collado could become a test case of how exactly the new rules should be applied. While the legal issue is being debated, the 43-year-old man at its center sobs on the telephone as he describes his life at the York County prison.

"The nights are the worst," Mr. Collado said yesterday. "Every half an hour, a guard comes by with a flashlight and opens a little door in my cell and peers in. That noise, that pum-pum-pum of the door, is ingrained in my brain and, no matter what, will always be there."

In the six months he has been jailed, his oldest daughter and his wife have both been hospitalized with serious ailments. First, his daughter Julissa, 18, was in a car accident and underwent two major operations. Then his wife, Judith, 39, had a hysterectomy when doctors found tumors in her ovaries. In both instances, Mr. Collado's lawyers petitioned the immigration agency to allow him to visit his family. The requests were denied.

The story of how Mr. Collado, a quiet family man from Brooklyn, became a test case for new immigration rules began on April 7, when he returned to the United

The I.N.S. says it has no choice but to deport a man.

States after a two-week trip to the Dominican Republic.

An inspector at Kennedy International Airport punched Mr. Collado's alien registration number into his computer and asked him to step aside. "They asked me if I had ever been convicted of a crime, and I remembered that little problem I had in 1974 and told them," Mr. Collado said.

While his wife and one daughter waited outside for four hours, Mr. Collado was ushered into a room and told to wait. Twenty-four hours later, he was told he was being detained. Two days later, he was sent to Pennsylvania.

An immigration judge ruled in favor of Mr. Collado in May, arguing that the new laws could not be applied to him because he was already a permanent resident of the United States, not an arriving alien, a term used for people seeking entry to the United States. But I.N.S. officials say that the new law applies to any noncitizen convicted of a crime of moral turpitude.

The agency's officials appealed the judge's ruling to the Board of Immigration Appeals, hoping the board would clarify the statute.

Joseph P. McMonigle, communications director for Senator Spencer Abraham, a Republican of Michigan who supports tougher laws against immigrants who are criminals, said the immigration agency was going too far.

"It is puzzling to us that I.N.S. continues to pursue cases involving individuals who committed crimes 20 years ago, rehabilitated themselves and are making contributions to society," he said.

The dispute over how to interpret the 1996 laws may prompt members of Congress to call immigration hearings and, if necessary, introduce a bill next year amending some of the language of the law, Mr. McMonigle said.

The basic question is whether I.N.S. officials must detain and try to deport every immigrant who has committed any crime now punishable with deportation under the law, which is retroactive. Members of Congress say the agency should pursue only those cases that merit it, and that the agency still has prosecutorial discretion.

But immigration officials say the law has stripped them of discretion, and clearly makes Mr. Collado and others like him criminal aliens

subject to deportation.

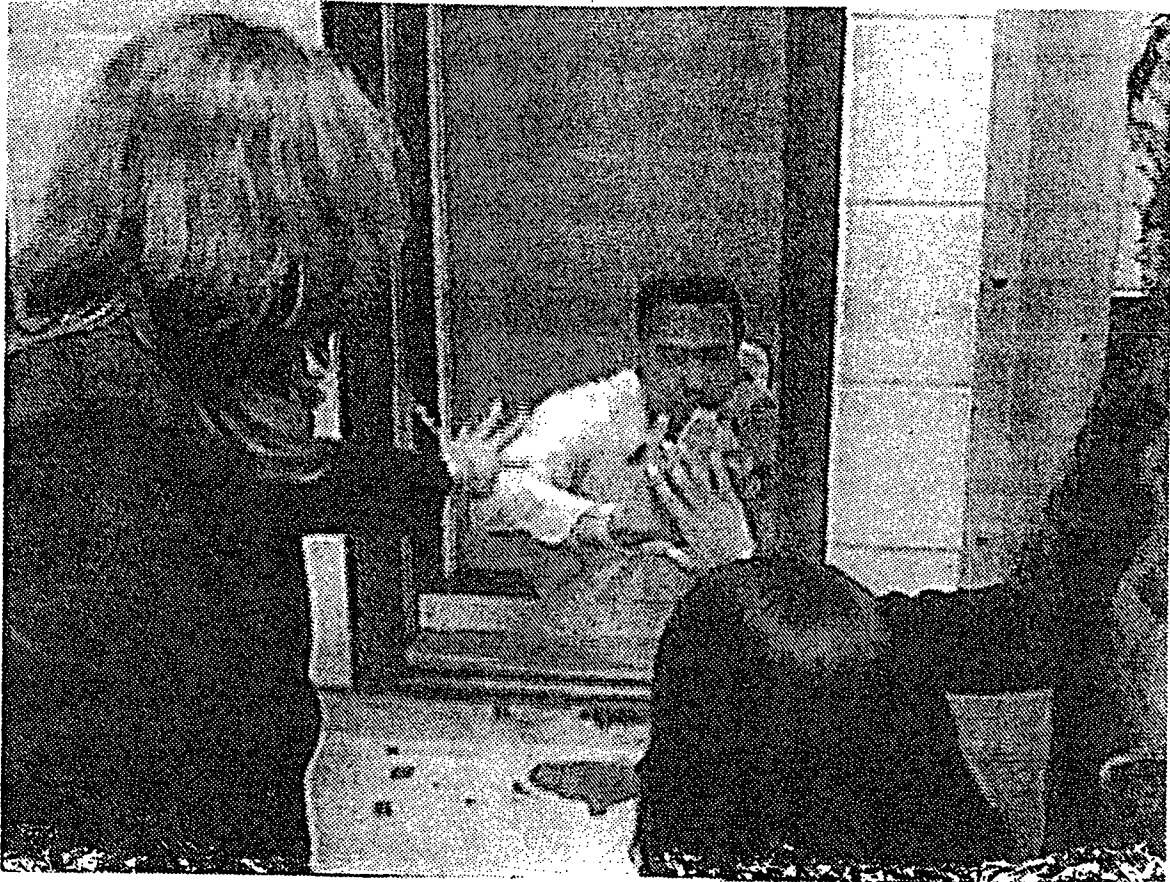
"We are bound to enforce the law," said one I.N.S. official, who spoke on condition of anonymity. "But we need to know clearly what the law is. We need a decision to clarify those statutes."

While the issue is debated, people like Mr. Collado linger in detention centers, sometimes, as in the case of Mr. Collado, surrounded by hardened criminals. Mr. McMonigle said his office had heard of at least a dozen cases of legal residents detained for crimes they committed decades ago.

Representatives Nydia M. Velázquez of Brooklyn and Queens and Major R. Owens of Brooklyn have written to the I.N.S. in his behalf, but have not received a response.

While the I.N.S. demurs, the victim of Mr. Collado's transgression has already forgiven him. In a letter May 20, Melida Alcantara, the mother of Mr. Collado's former girlfriend, asked an immigration judge for mercy.

"Now I feel extremely guilty that what we did to him so many years ago," she wrote, "has come back to cause him and his family such pain and hardship. I truly wish this incident would not have escalated to the point that it did. Jesus is not a criminal nor a violent or immoral person, and he does not deserve to be treated as such."



A picture taken from a videotape showing Jesus Collado, a Bronx restaurant manager, being visited by his wife and family in a prison in York County,

Pa. Mr. Collado, a Dominican who has been an American resident since 1972, faces possible deportation for a crime he was convicted of in 1974.

Alliance for Justice

Road To Deportation

Immigrants, Lawyers Find Guilty Pleas Lead To U.S. Exit

By CHRIS EDWARDS
News-Record Staff Writer

When an immigrant signs a plea agreement, it may bring a quick end and a lighter sentence in a criminal case. But it also provides legal ground for the immigrant to be deported later, as some in this area have discovered.

Immigrants, and often their attorneys, don't realize they are essentially not only signing guilty pleas, but their own deportation warrants. And a spokeswoman for the American Immigration Lawyers Association says that may be setting the stage for significant court challenges.

Elissa McGovern, said, immigrants enter guilty pleas "every day" without knowing they could be deported, adding, "I think this

Oscar Hernandez
Faces Hearing



is going to be one of the big issues that will make its way into appellate courts.

Following the Immigration and Naturalization Service's arrest of 10 area criminal aliens last month, legal specialists have said defendants often do not know various guilty pleas could get them deported months or even years later. "Defense lawyers often don't know the impact," said Washing-

— “

They're now going back to convictions from 10 or 15 years ago.

Elissa McGovern, American Immigration Lawyers' Association

” —

ton, D.C. immigration attorney Richard Douglas, who added that the Immigration Reform and Immigrant Responsibility Act of 1996 is increasing deportations.

Harrisonburg poultry worker Oscar Hernandez awaits an Oct. 20 removal — or deportation — hearing with the Executive Office of Immigration Review. The Mexico City native came to the U.S. with his parents in 1988, arriving in the Valley four years ago. His wife Debbie, employed at a local orchard, insists he never used or dealt drugs. But he was arrested on a cocaine possession charge in

July 1996 and entered a guilty plea.

Asked why he did so, Oscar, 24, says haltingly that he had no choice because police found the drug in his car. Court records show Hernandez — as a first offender — received a year's supervised probation last Nov. 1.

He says he was not advised — either by his attorney, Danita Alt, or Rockingham County Circuit Court Judge Porter R. Graves Jr. — that the plea could get him deported. Only 11 states — and Vir-

See INS, Page 22

... was born March 27, 1917, in Lenor, N.C., the daughter of the late William Jarvis and Mary Adeline Davis Jones.

She was an Army veteran and, along with her husband, was the owner of the former Southern Restaurant and Perkins Pancake House. She was also employed by the Wayne Motor Lodge and the Comfort Inn in Waynesboro, from which she retired.

Survivors include her husband, John M.F. Greco, Bridgewater; two sons, John W. Greco, Verona, and Michael L. Greco, Radford; two brothers, William Jones, Dayton, Ohio, and Claude Jones, Tallahassee, Fla.; and six grandchildren.

A service will be held Saturday at 3 p.m. in the Waynesboro Chapel of Etter-Reynolds Funeral Service, with the Rev. Jerry Ruff officiating.

The family will receive friends today from 7 to 8 p.m. at the funeral home.

Memorial contributions may be made to the Alzheimer's Association of Harrisonburg by telephoning (540) 432-9061.

Much-Decorated Pilot Scott Dies

CHRISTCHURCH, New Zealand (AP) — Group Capt. Desmond James Scott, New Zealand's most decorated World War II fighter pilot, died Wednesday. He was 79.

Scott had the rare distinction of being decorated by every country in which he served.

He held Britain's Distinguished Service Order, the Distinguished Flying Cross and Bar, the Order of the British Empire, the French Croix de Guerre and Palme, the Belgian Croix de Guerre and Palme, and was a Commander of the Order of Orange Nassau (Netherlands).

He was also the youngest group captain in Britain's Royal Air Force, attaining the rank at the age of 25.

He was the only New Zealander to command an RAF mobile wing, four squadrons that moved between bases, during the Allied invasion of Normandy in 1944.

Continued from Page 21

ginia is not one of them — require courts to inform defendants a guilty plea may affect immigration status, Douglas said.

Alt said Thursday she had not believed Hernandez could be deported for the guilty plea under his first-offender probationary status. She added, "in the past, they never deported people" in such conditions.

On Sept. 17, walking into the office where he was scheduled for his final visit with a probation officer, Hernandez thought his trouble with the law would soon end.

But, he said, "a guy told me my probation officer wasn't there" and asked him to wait. Soon he found "the INS was there."

As he was placed in handcuffs, "the only thing they told me was they was going to take me to the jailhouse and fill out the paperwork," said Hernandez, who is free on \$5,000 bond.

He was not advised of his rights — but that's a procedure the INS need not follow because removal proceedings are civil, not criminal, noted Douglas and Seattle University School of Law Professor Robert Pauw.

INS spokesman Russ Bergeron said any alien may be deported who has been judged guilty of an "aggravated felony" — usually, a crime for which state laws allows sentencing of a year or more — as well as some misdemeanors. Even before 1996, all drug crimes other than possession of 30 grams or less of marijuana were deportable, Bergeron said.

Douglas, however, noted the law's 1996 revisions mandate a more aggressive search for criminal aliens.

"They're now going back to convictions from 10 or 15 years ago," said McGovern.

Bergeron said the INS keeps track of alien prisoners. Though the status of those on probation may be more hit-or-miss, he said the INS researches probation files. Removal proceedings begin once sentence is served.

John R. H. ... attorney and former head of the Virginia Bar Association's criminal section, said "mostly, the client is fully informed (of immigration consequences) before he pleads guilty."

Pauw, however, noted that "many relatively minor and non-violent crimes can make someone deportable."

For example, he said an immigrant in Washington may plead guilty to misdemeanor ownership of an unregistered hunting rifle, pay a \$50 fine, and face removal years later — even if his family are citizens.

Hernandez's hearing is to be held the day his probation had been scheduled for final disposition.

"If he leaves (the U.S.), that means I'm going to have to leave," said Debbie Hernandez, a U.S. citizen. She has two children by a former marriage.

"It affects you sleeping and eating and working because that's all you have on your mind," she said. "I don't give up easy."

The New York Times
February 28, 1997

Abroad at Home

ANTHONY LEWIS

With Exquisite Cruelty

ATLANTA

After Congress passed a restrictive immigration bill last fall and President Clinton signed it into law, I had a letter from a New York lawyer, Stanley Mailman.

"The law sets us back 100 years in its disrespect for due process," Mr. Mailman wrote. "It is pitiless in barring relief to those who have transgressed the law even in minor ways, including those with dependent U.S. families. Decades of reasonable court decisions have been overturned in the effort to remove from immigration judges the discretion to administer the immigration law with mercy. Worse than the individual hardship is the sacrifice of the sys-

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The immigration law's injustices.

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In recent weeks numbers of people have begun to understand what Mr. Mailman described. The Justice Department has been aggressively urging courts to throw out pending appeals of actions by the Immigration and Naturalization Service on the ground that the new law strips courts of power to hear them.

One such case concerns a legal immigrant, Alfredo D., who has been in this country 21 years. He has a disabled wife and four children, all U.S. citizens. In 1994 he was found deportable because he had been convicted of carrying an unlicensed gun. He sought relief from deportation.

An immigration judge said it was a sympathetic case, but he refused to grant relief because Alfredo would not admit his guilt on the gun charge. His lawyers appealed, arguing that his failure to admit guilt was not a valid reason to deny relief. On the Government's motion, the U.S. Court of Appeals for the Ninth Circuit threw the case out as now beyond its power to review.

After April 1, the new law will remove entirely the historic discretion of the immigration authorities to waive deportation of legal immigrants who have committed one criminal offense if their spouses or children are citizens. The crime can

be a minor one, committed many years ago, that was not even a deportable offense at the time. There will be no discretion for mercy, even in the most pitiable case.

One of the cruelest sections of the new law strips courts of the power to review the cases of people who arrive at our borders without proper papers and seek asylum from persecution. It will have devastating effects on asylum applicants like Fauziya Kassindja, the young woman who fled from Togo to escape genital mutilation.

Ms. Kassindja's appeal for asylum was turned down at the border and by an immigration judge. But a lawyer took the case to the Board of Immigration Appeals, and she was granted asylum.

Under the new law someone like Ms. Kassindja would have a week to ask an immigration judge for asylum — probably by telephone, and without a lawyer. If the judge said no, all appeals would be barred — and she would be sent back immediately to be mutilated.

Representative Lamar Smith, Republican of Texas, wrote a letter to The New York Times last fall denying that the legislation would bar judicial review in asylum cases. But his own lawyer conceded to me that it would do just that when someone like Ms. Kassindja arrived without proper documents. If Mr. Smith was really unaware of that, he should file legislation now to remove the provision barring judicial review.

President Clinton could help, too, by instructing the Justice Department to stop pursuing every chance to intensify the law's worst features — by arguing, for example, that they are retroactive. The I.N.S. could be told to write regulations that give asylum applicants and others fair notice of what they face.

But it is probably too much to expect concern from the President who signed this legislation. To return fairness to our immigration procedures we shall have to have a President and Congressional leaders who care.

In a recent column I wrote incorrectly that The Wall Street Journal called for the replacement of Robert Fiske as Independent Counsel after his report on Vincent Foster. Though The Journal was highly critical of Mr. Fiske on other matters, it said his conclusion that Mr. Foster committed suicide was persuasive. □