



Austin American-Statesman - September 4, 2001

### **Equal Justice for Immigrants**

by E. Joshua Rosenkranz

---

When President Bush sits down with Mexican President Vicente Fox at the White House on Wednesday, the U.S. president will have an opportunity to shed light on the most persistently debated question of his presidency: just how compassionate is George W. Bush's brand of conservatism?

At the top of the agenda for this meeting is the formulation of U.S. policy toward more than 3 million documented and undocumented Mexicans living in this country. The leaders will discuss permanent legal status for Mexican immigrants and stronger protections for migrant workers. At stake is a better life for Mexican immigrants and their families.

But these advances will be little more than empty promises unless Bush provides the necessary leadership to undo a devastating restriction on federally funded legal-aid lawyers enacted in 1996. Under this punitive law, local legal-aid offices that accept money from the federal Legal Services

Corp. are barred from representing many documented and all undocumented immigrants. Without a legal aid lawyer, immigrants cannot expect to make their way into court. And without access to the justice system, they become easy prey for unscrupulous employers. Civil legal protections, such as labor and worker safety laws, simply go unenforced.

If compassionate conservatism means anything, it must be that the rule of law safeguards not only the well-to-do, but also society's most vulnerable. Of all the axioms on which our democracy rests, none more clearly joins compassion with conservatism than "equal justice under law." But the world of migrant labor, defined by relationships of vastly unequal power, is a place where laws are routinely disregarded without consequence. Law does not rule.

Justice is not equal. For evidence, Bush and Fox can take a break from their meeting and turn their gazes south, across the Potomac, to Northern Virginia. There, a contractor recently paid a Spanish-speaking day laborer with a check marked "void" in the memo section, cheating the unsuspecting worker of his wages. Migrant workers have been forced into housing that exposed them to toxic pesticides and animal waste. In another case, employers refused to provide medical treatment and back wages to workers suffering disabling injuries, including the loss of fingers.

Because of the immigrant restriction on federally funded legal aid lawyers, exploited migrant workers, from apple farmers in New York to grape pickers in California, routinely suffer such injuries without legal recourse. The abuses in Virginia have come to light only because a fledgling office of three privately funded lawyers, called the Virginia Justice Center for Farm and Immigrant Workers, took on these cases. But the Virginia Justice Center can't begin to meet the need even in its own back yard.

Unshackling federally funded legal aid lawyers from the restriction under which they now operate

takes on new urgency with the likely transformation of U.S.-Mexico immigration policy. Whatever the final shape of the reforms, the notoriously complex application procedures for attaining permanent legal status are sure to mystify most eligible immigrants. A misstep may mean deportation. With the restriction lifted, federally funded legal aid lawyers will be able to represent these applicants. And in so doing, they will be helping to translate one of the advances championed by Bush from the realm of international diplomacy to the reality of immigrants' lives.

The services of legal aid lawyers are not limited to fighting back against abusive employers or navigating arcane immigration procedures. Access to justice means much more. Consider the undocumented single mother who needs a lawyer to stave off eviction by a landlord seeking an illegal rent, or to appeal a bureaucrat's irresponsible denial of medical care or schooling for her children.

The restrictions imposed on federally funded legal aid lawyers in 1996, like many of the laws associated with the Gingrich-era Contract with America, are notable for their distinct lack of compassion. The restrictions emerged from an unfair caricature of the federally funded Legal Services Corporation that too readily ignored the severe human cost visited on vulnerable individuals seeking justice.

Bush's desire to identify himself as a compassionate conservative was born of the wise political judgment to break from the unpopular policies of the Gingrich Congress. By insisting that immigration reform be coupled with a restoration of meaningful legal representation for vulnerable immigrants, the president can achieve a variety of goals. He can ensure that his reforms will be felt in the fields farmed by migrant workers. He can celebrate a true conservative's commitment to the rule of law. And the president can show that his talk of compassion was something more than a winning campaign slogan.

*Rosenkranz is president of the Brennan Center for Justice at New York University School of Law.*

[PRESS RELEASE INDEX](#)

[BACK TO PRESS CENTER](#)

BRENNAN CENTER FOR JUSTICE AT NYU SCHOOL OF LAW  
161 AVENUE OF THE AMERICAS, 12TH FLOOR  
NEW YORK, NY 10013  
212 998 6730 FAX 212 995 4550

e-mail: [brennan.center@nyu.edu](mailto:brennan.center@nyu.edu)