

QUEERS AND IMMIGRATION: A VISION STATEMENT

Two of the most divisive issues in the United States today are those concerning Lesbian, Gay, Bisexual, Transgender, and Queer rights and immigration. There is little discussion of how immigration is also an issue for queer people, and even less analysis of the structural similarities between queer and immigrant struggles. Queer immigrants are marginalized or invisible at the intersection of two identities. As a whole, more complex family structures -- such as those of binational same-sex couples and extended families -- are completely absent from the larger struggle for immigration reform. The immigrant advocacy movement places undue emphasis on heteronormative relationships and conceptions of normality in an effort to gain basic citizenship rights. The mainstream LGBTQ rights movement tends to focus on those immigrants who are partners of US citizens. This leaves out the predicament of, for instance, single people and/or those who do not define themselves within conventional relationships like marriage or conjugality. Both movements are depriving themselves of the power and strategic insights that LGBTQ immigrants can provide. We, lesbian, gay, bisexual, transgender, queer, and gender-nonconforming people and allies, stand in solidarity with the immigrant rights movement. With this statement, we call for genuinely progressive immigration reform that helps LGBTQ immigrants.

We recognize that many in our community live as queers and immigrants and we are taking this opportunity, at a historic moment for both groups, to articulate our analysis of the immigration debate. We call for an end to the stigmatization of queer individuals, the recognition of our varied, unique, and flexible kinship networks, the end of the restrictive and dangerous criminalization of migrant and queer communities, and an immigration reform package that puts progressive labor reforms into practice.

The 2006 elections provided mixed results for our communities. Even though anti-LGBTQ ballots were being passed around the country, Arizona voters defeated a measure that would further stigmatize LGBTQ people (Proposition 107). Nationally, voters rejected anti-immigrant candidates running for Congress. Sadly, draconian anti-immigrant amendments were approved at the state level in Arizona (Propositions 100, 102, 103, and 300) and Colorado (Referendums H and K). These measures will have a severely negative impact on the lives of LGBTQ immigrants, virtually nullifying the positive gains of the election. We are strongly against states initiating laws that have detrimental effects on both queer and non-queer-identified people. In the past year we have seen bills such as HR4437 and the Senate Bill S261. There are several problematic aspects of these bills, and none of these bills address the needs of LGBT immigrants. We focus on the following issues:

HIV Ban

We call for an immediate repeal of the HIV ban and bar on travel and immigration. The bar forces several immigrants to hide their HIV status and into criminalization. Moreover, the HIV bar is an unscientific public health measure because it perpetuates the stigma about HIV/AIDS. In many cases, the mandatory immigrant visa-related HIV test at the time of the adjustment of status application is the first diagnosis of HIV for an immigrant who may not be subsequently offered counseling or treatment options. The ban is ostensibly designed to keep the virus out, but it only penalizes HIV positive people, many of whom are already in the country. Moreover, immigrants are often infected in the US. The ban defines them as public health risks instead of ensuring their access to health care.

Under the current ban, waivers are offered on the basis of qualifying familial relationships. The ban does not offer waivers for non-conjugal relationships/kinship networks/same-sex partnerships and perpetuates the traditional devaluing of non-heteronormative bonds. We call for the reinstating of individual hardship waivers that would allow an individual to self-petition for humanitarian reasons or reasons of public interest—similar to those in place before the 1996 reforms which instituted the familial relationship requirement.

Policing the Border

The proposal for a national wall along the 20,000 mile border between US and Mexico is economically unsustainable and takes away from programs like education and public assistance. A

wall would expand the existing police state and harm inflicted upon immigrants entering at the border. As the National Immigration Forum has reported, increased surveillance only results in increased desperation as migrant workers face injury, exploitation by coyotes, and the increased possibility of dying: "From January 1995 through March 2004, more than 2,640 migrants died. In the last four years there has been on average more than one death per day. A record 460 migrants lost their lives this past year compared to 325 in 2004, according to the U.S. Border Patrol." Clearly, spending on border security drains much-needed resources from US society and is not effective. These same resources could be used to strengthen social services for all within the US and to improve the economies of countries that send immigrants. Paradoxically, the demand for the wall comes with an increase in demand and need for immigrant labor in the US (Mexicans form 40% of California's agricultural labor force). It heightens anti-immigrant sentiment among US citizens and only extends the exploitation of immigrant labor.

The proposed wall is also detrimental to Native Americans and indigenous peoples. There are 26 federally recognized Native American tribes that live between Mexico and the US. These tribes are currently allowed to move freely in the border region; the wall would drastically change their way of life. Immigrants follow a travel cycle dependent upon work demand. This cycle would be interrupted by a wall and increased security by forcing them to stay in the US when it may be in their best interests to travel back to their country of origin. The construction of a wall would be counterproductive, increasing rather than reducing undocumented migration into the US.

Family

The current definition of family in immigration law is limited to parents, spouses, and children. This definition also implies a heterosexual family structure. Unfortunately it is very restrictive because it leaves out most of the family structures in which LGBTQ immigrants live. Partners in same-sex binational couples, aunts and uncles, grandparents, cousins, nieces and nephews, and other extended family members are not considered eligible under this narrow definition (if recognition is granted, such as in the case of siblings, the time it takes to obtain a family-based visa is so long that it is equivalent to not having the benefit at all). As a result, the broad universe of non-heteronormative family units created by LGBTQ immigrants is automatically excluded from receiving immigration benefits. Both the LGBTQ and immigrant rights communities need to work towards expanding their narrow definitions of "family" in order to better serve all immigrants, including LGBTQ immigrants.

Asylum

Applying for asylum based on sexual orientation is the only way for some of the most vulnerable LGBTQ immigrants to legalize their status. Currently, those who apply for asylum based on sexual orientation must do so within a year of entering the country. This disproportionately affects LGBTQ immigrants since many of them are unaware of the asylum provision or are recovering from torture and persecution. Many LGBTQ immigrants are affected by homophobia and transphobia in their day to day lives. This leads to isolation and lack of access to information and resources and delays their applying for asylum based on sexual orientation. We call upon removing the one year deadline for applying for political asylum. Moreover, the category of aggravated felony is being expanded to include offenses such as shoplifting and prostitution; this expansion only applies to immigrants. Individuals charged with aggravated felony are barred from any immigration relief including asylum. This is unjust and only a way of keeping more people from applying for immigration relief.

Harboring Provisions

Harboring is the act of protecting or in any way assisting an undocumented immigrant. Harboring provisions appear in both the House and Senate Bills and target individuals and organizations that provide assistance to undocumented immigrants with financial aid, food, housing, and other basic social services. Currently individuals--friends or partners--who live with undocumented immigrants and immigrants who overstay their visas for any significant length of time are targeted under harboring provisions. US citizen partners of many foreign nationals, who are often denied legal relationships with their partners, could be targeted and prosecuted under harboring provisions and face fines, asset seizure, and imprisonment. We oppose efforts to criminalize those who assist the immigrant community, their families, and loved ones through harboring provisions.

Guest Worker Programs

The guest worker program provisions create a two-tiered system that divides our communities into “better” and “worse” immigrants depending on how long they have been in the country and what kind of work they do. It establishes hierarchies among immigrants based on their income potential and class categories. Under the guest worker program, employers may underpay and/or mistreat low-wage, temporary workers who cannot seek redress for fear of being left without employer sponsors. The program allows work-visa holders in supposedly more prestigious industries to gain citizenship more quickly. Such programs undercut and divide the labor rights movement in the U.S. by making it impossible to regulate immigrant workers’ rights. This hurts US workers, especially those with fewer skills and low income. Moreover, the proposed guest worker program calls for mandatory HIV testing, making it the only non-immigrant visa worker program that actively discriminates against immigrants by requiring them to take an HIV test. We support the Employment Non-Discrimination Act and call for it to be extended to immigrants, especially since an LGBTQ immigrant may lose his or her ability to live in the U.S. if fired for sexual or gender identity.

Reforms

We demand genuine legalization and opportunities to adjust status for all undocumented immigrants. We believe that the current immigration system is broken and in need of repair. To that end, we demand the following:

- **Enact** genuinely progressive immigration legislation at the state level that respects the human rights of immigrants. We call for all states to opt out of the Real I.D. Act, reinstate in-state tuition fees for undocumented immigrant students, and not pass legislation that will disallow undocumented immigrants from accessing public benefits. Proposed legislation would allow for greater collaboration between local police and immigration enforcement officials. We are against such collaboration because turning police officers into immigration officials would further jeopardize the already fragmented relationship between police and immigrant communities.
- **Repeal** the HIV ban immediately.
- **End** the one year deadline for applying for asylum
- **End** the heightened policing and criminalization of immigrant communities, including the increased militarization of the border, the construction of any wall around the US-Mexico border, and/or the use of city and state government agencies to enforce federal immigration law.
- **End** the indefinite and mandatory detention of non-citizens and ensure the safety and self-determination of all people, regardless of national origin, religion, race, gender or sexuality. Detention is particularly harsh for LGBTQ and HIV positive detainees. Rape, harassment, abuse, and denial of HIV treatment/hormone therapy are some of the routine forms of hardship that LGBTQ people face in detention.
- **Strengthen** labor laws and protections for all workers, native and foreign born, and end guest worker proposals that would continue the exploitation of many low-wage workers.
- **End** penalties imposed upon service providers and family members of undocumented immigrants.
- **Repeal** the Real I.D. Act, which creates a national database and makes it more difficult to obtain legal identification, thus causing hardship for thousands of people who cannot obtain identification. In addition, we demand that the Federal government not penalize states that opt out of the Real I.D. Act by, for instance, withdrawing support for educational programs. This Act is particularly hostile to transgender people who can be penalized and deported if birth records do not match current IDs. The national database is also worrisome for transgender workers who may not be open about their transitions at work.

- **Eliminate** the high-income requirements for immigrant sponsors.
- **Eliminate** the 3 and 10-year bars for so-called unlawful presence.
- **Support** efforts to create and affirm the broader definitions of family and kinship patterns in which LGBTQ people already live. Currently, LGBTQ US citizens and Green Card holders cannot sponsor their partners for immigration. The Uniting American Families Act would allow them to do so. We urge the passage of the Uniting American Families Act. But this is only a first step in the direction of the expansion of the definition of “family.” A truly fair immigration system should recognize all families in our LGBTQ and immigrant communities, including non-immediate relatives and non-traditional families of our choice. We call for the end of immigration reform based on the notion of conjugality and instead support efforts to broaden definitions of “family” and end inequality.
- **Support** legalization for all immigrants, including undocumented immigrants. End the criminalization of immigrants by preventing the expansion of deportation criteria and increased penalties for minor offenses.

As LGBTQ people (both immigrants and non-immigrants) we would like to express our disappointment with President George W. Bush. In addition to promoting the Federal Marriage Amendment, he has given in to the radical elements in his party and backed down on his commitment to immigration reform by choosing to focus on enforcement. The LGBTQ community is once again let down by lawmakers who are playing with our lives.

The undersigned are coming out as LGBTQ immigrants and allies in support of genuinely progressive immigration reform. Our natural allies are the LGBTQ and immigrant rights communities and we are eager to work with you towards achieving social justice for all. We will insist that both movements’ strategies address the intersection where we live and love and struggle.

List of Endorsing Organizations as of 03/01/2007:

ALLGO, A Statewide Queer People of Color
Organization

701 Tillery St. Box 4
Austin, TX 78702
Phone: (512) 472-2001
Fax: (512) 385-2970

American Friends Service Committee

1501 Cherry Street
Philadelphia, PA 19102
Phone: (215) 241-7000

The Audre Lorde Project

85 South Oxford Street
Brooklyn, NY 11217-1607
Phone: (718) 596-0342
Fax: (718) 596-1328

Boston Mayday Coalition

c/o Kaveri Rajaraman

The Center Project

307 Highway 15
PO Box 3448
Myrtle Beach, SC 29578-3448
Phone: (843) 626-4953
Fax: (843) 626-9900

El CENTRO de Igualdad y Derechos

1701 Broadway SE
Albuquerque, NM 87102
Phone: (505) 246-1627

Chicago Lesbian, Gay, Bisexual, Transgender
Immigrants Alliance (CLIA)

Chican@/Latin@ Academic Student
Development

MultiCultural Student Development
245 Cesar E. Chavez Student Learning Center
University of California, Berkeley
Phone: (510) 642-1802

Chinese for Affirmative Action/Center for
Asian American Advocacy

17 Walter U. Lum Place,
San Francisco, CA 94108
Phone: (415) 274-6760

COLAGE (Children of Lesbians and Gays
Everywhere) National Office

1550 Bryant Street
Suite 830
San Francisco, CA 94103
Phone: (415) 861-5437
Fax: (415) 255-8345

The Colorado Anti Violence Program

P.O. Box 181085
Denver, CO 80218
Phone: (303) 839-5204
Fax: (303) 839-5205

Coloradans For Immigrants Rights (CFIR)

901 W. 14th Avenue #7
Denver, Colorado 80204
Phone: (303) 623-3464
Fax: (303) 623-3492

Colorado Immigrant Rights Coalition (CIRC)

1212 Mariposa St, Suite 5
Denver, CO 80804
Phone: (303) 893-3500
Fax: (303) 893-3505

The Colorado Progressive Coalition

1600 Downing Street, Suite 210
Denver, CO 80218
Phone: (303) 866-0908
Fax: (303) 832-6416

Colorado Stonewall Democrats

c/o Colorado Democratic Party
777 Santa Fe Drive
Denver, CO 80204

Committee in Solidarity with the People of
El Salvador (CISPES)

168 7th St.
Brooklyn, NY 11215
Phone: (212) 465-8115

Equality Alabama

P.O. Box 13733
Birmingham, AL 35202
Phone: (205) 445-4843

Equality Illinois

3712 North Broadway, #125
Chicago, IL 60613
Phone: (773)477-7173

Filipinos for Affirmative Action

310 8th Street, Suite 306
Oakland, CA 94607
Phone: (510) 465-9876

GABRIELA Network

PO Box 403
Times Square Station
New York, NY 10108 USA

Phone: (212) 592-3507

GABRIELA Network Chicago Chapter
P.O. Box 259 392
Chicago, IL 60625
Phone: (708) 439-4071

GABRIELA Network, SF Bay Area Chapter
3543 18th Street, #17
San Francisco, CA 94110

Gay Men's Health Crisis
Tisch Building
119 West 24th Street
New York, NY 10011
Phone: (212) 367-1200

Highlander Research and Education Center
1959 Highlander Way
New Market, TN 37820
Phone: (865) 933-3443
Fax: (865) 933-3424

Indigenous Dialogue
c/o Jesse Lokahi Heiwa
lavenderblock@yahoo.com

Joplin Gay & Lesbian Center
PO Box 4383
Joplin, MO 64803-4383
Phone: (417) 642-5626

La Raza Centro Legal
474 Valencia Street, Suite 295
San Francisco, CA 94103
Phone: (415) 575-3500
Fax: (415) 255-7593
The Latina SafeHouse Initiative
Denver, CO
Phone: (303) 433-7208

LGBT Community Center of Central Iowa
3839 Merle Hay Road, Suite 227
Des Moines, IA 50312
Phone: (515) 277-7884

Lighthouse Community Center
1217 A Street
Hayward, CA 94541
Phone: (510) 881-8167

Love Sees No Borders
P.O. Box 60486
Sunnyvale, CA 94088
Fax: (413) 502-4758

LUZ: A Reproductive Justice Think Tank
www.luzthinktank.org

Movement for a Democratic Society (MDS),
New York City
www.movementfordemocraticsociety.org

National Center for Lesbian Rights
870 Market Street, Suite 370
San Francisco, CA 94102
Phone: (415) 392-6257

National Coalition of Anti-Violence
Programs
240 West 35th Street, Suite 200
New York, NY 10001
Phone: (212) 714-1184
Fax: (212) 714-2627

National Immigration Project
The National Lawyers Guild
14 Beacon Street, Suite 602
Boston, MA 02108
Phone: (617) 227-9727
Fax: (617) 227-5495

National Lawyers Guild
132 Nassau Street, Rm. 922
New York, NY 10038
Phone: (212) 679-5100
Fax: (212) 679-2811

National Network for Immigrant and
Refugee Rights
310-8th St., Ste. 303
Oakland, CA 94607, USA
Phone: (510) 465-1984
Fax: (510) 465-1885

National Transgender Advocacy Coalition
PO Box 76027
Washington, DC 20013
Phone: (978) 373-8898

New York City Anti-Violence Project
240 35th St, Suite 200
New York, NY 10001
Phone: (212) 714-1184, ext. 50

Northwest Immigrant Rights Project
615 Second Ave., Ste. 400
Seattle, WA 98104
Phone: (206) 587-4009
Fax: (206) 587-4025

People of Faith CT
POB 270811
West Hartford, CT 06127
Phone: (860) 841-5006

Pride At Work, AFL-CIO
815 16th St, NW
Washington, DC 20006
Phone: (202) 637-5085
Fax: (202) 508-6923

Unid@s, the National Latina/o Lesbian,
Gay, Bisexual and Transgender Human
Rights Organization
1403 Fifth Avenue #6 New York, NY 10029
Phone: (646) 358-1479

Queens Pride House
Diversity Center of Queens
76-11 37th Ave. Suite 206
Jackson Heights, NY 11372
Phone: (718) 429-5309

Queer Immigrant Rights Project (QuIR)
590 Fort Washington Avenue, Apt. 2J
New York, NY 10033

Queers for Economic Justice
16 W. 32nd St., #10H
New York, NY 10001
Phone: (212) 564-3608
Fax: (212) 564-0590

R.U.1.2? Queer Community Center
PO Box 5883
Burlington, VT 05402
Phone: (802) 860-7812

South Asian American Leaders of Tomorrow
(SAALT)
6930 Carroll Avenue, Suite 400L
Takoma Park, MD 20912
Phone: (301) 270-1855
Fax: (301) 270-4000

South Asian Network
18173 S. Pioneer Blvd, Suite I
Artesia, CA 90701
Phone: (562) 403-0488, ext. 108
Fax: (562) 403-0487

Southerners On New Ground / S.O.N.G.
c/o Paulina Hernandez
Phone: (865) 387-8236

Sylvia Rivera Law Project
322 8th Avenue, 3rd Floor
New York, NY 10001
Phone: (212) 337-8550
Fax: (212) 337-1972

Triangle Foundation
19641 West Seven Mile Road
Detroit, Michigan 48219-2721
Phone: (313) 537-3323
Fax: (313) 537-3379