Immigration Status

An edited excerpt of Ivan Espinoza-Madrigal's op-ed titled "LGBT and HIV Equality Is at the Heart of Immigration Reform."

April 30, 2013 By Iván Espinoza-Madrigal

We often hear that our immigration system is broken. But too few people understand how it disproportionately harms many LGBT people and people with HIV. Plans to overhaul it must include protections for millions of Americans, including LGBT and HIV-affected people.

Reinforcing family unity has long been a fundamental tenet of sound immigration policy: Family unity and the support networks it engenders contribute to a stable community and healthy society. Accordingly, immigration law has long recognized that a U.S. citizen's foreign-born spouse should be granted immigration protection. Without such relief, families can be torn apart. Many LGBTs are enduring this nightmare because binational same-sex couples currently are denied these protections. This harm is discriminatory and wrong. According to the Williams Institute, there are about 40,000 binational same-sex couples. Many are raising children. At Lambda Legal, we are fighting for these couples. Truly comprehensive reform must promote family unity and equality by recognizing the rights of these couples.

Immigration reform should also be informed by the experiences of LGBT and HIV-affected immigrants. Many transgender, gender-nonconforming and HIV-affected people flee to the United States after surviving rape, so-called "ex-gay therapy," imprisonment, violence and other forms of persecution. Many depend on our asylum and immigration laws. At Lambda Legal, we are actively using asylum and immigration law to protect LGBT and HIV-affected immigrants. Yet many immigration officials do not have the training, expertise, cultural competency or sensitivity to address their needs.

Worse, while confined in immigration detention facilities awaiting decisions, they are often denied access to lifesaving medical care, including hormone therapy and HIV medications. Reform should strengthen asylum and refugee protections to ensure that our country is not forcibly deporting vulnerable victims to lands where they will be persecuted and tortured based on their sexual orientation, gender identity or HIV status. We also need to ensure immigration detention facilities are addressing their medical needs.

At a minimum, immigration reform must create a path to legalization and U.S. citizenship. Without it, LGBT immigrants will remain trapped in a double closet—afraid of disclosing their sexual

orientation or gender identity, and afraid of disclosing their immigration status. We cannot afford to have them in the shadows. The threat of deportation creates significant public safety risks because they are more likely to be targeted for acts of violence. Undocumented victims of hate crimes and discrimination are often without redress because they are reluctant to seek justice out of fear of arrest and deportation. Undocumented witnesses are also hesitant to come forward to help resolve crimes. Fear and hiding pose serious risks for all communities.

The threat of deportation also creates public health risks. For example, immigration status can present a significant barrier to HIV testing, care and treatment because undocumented people often are afraid of accessing hospitals. Because testing and treatment are important steps to helping curb the HIV epidemic, reform can help protect public health.

As President Obama noted in his second inaugural address, the struggle for inclusion “guided our forebears through Seneca Falls and Selma and Stonewall.” This is a powerful affirmation of the interconnected nature of our struggles. We invite the LGBT and HIV community to support comprehensive immigration reform and stand in solidarity as it opens a new chapter of American history.

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