

Preliminary Ideas on Legalization Implementation

Prepared by the Immigrant Legal Resource Center - November 2009

Table of Contents

- I. Introduction
- II. Background
- III. Preparing for Legalization with the Community - Outreach and Education in Full Force - Now is the Time
- IV. Application Assistance
 - 1. Group Processing of Legalization Applications
 - 2. Handling Red Flag, Waiver, and Appeals Cases – Setting up Referral Systems and Pro Bono Attorney Panels
 - 3. Charging Fees for Services
 - 4. Coalitions and Direct Service Providers Working Together
 - 5. Recruiting Volunteers
 - 6. Analyzing the Role Agencies have with the Legalization English Requirement
 - 7. Recruiting other Service Providers to Help with Applications and Become a Qualified Designated Entity
- V. Resource Center Work
 - 1. Legalization Manuals
 - 2. National Trainings
 - 3. Developing Training Curriculum and Training Materials
 - 4. National Technical Assistance
 - 5. Brief Bank
 - 6. Pro Bono Attorneys
 - 7. Building Management and Administrative Capacity among the Service Providers
 - 8. Technology
- VI. Advocacy Work with Local and National CIS Offices
- VII. Litigation
- VIII. Immigrant Integration/Immigrant Civic Engagement
- IX. Financial Resource Distribution
 - 1. Application Assistance Work
 - 2. Resource Center Work
 - 3. Satisfaction of English Requirement
 - 4. CIS Application Fees and Penalties
- X. Conclusion

I. Introduction

The goal of this memo is to provide ideas for discussion around legalization implementation, given the possibility Comprehensive Immigration Reform (CIR) or similar legislation that includes a legalization provision passing both houses of Congress and being signed into law. The memo starts with a summary of the lessons learned during the legalization program of the 1980s and reviews the Immigrant Legal Resource Center's (ILRC) role during that program. We then discuss the need to begin outreach and education now, rather than waiting until the bill is enacted into law. The memo delves into the different components of a successful implementation program such as application assistance, resource center work, U.S. Citizenship and Immigration Services (CIS) advocacy work, litigation, and immigrant integration and civic engagement work. We also touch upon the likely necessity of assistance with the English requirement. We end the memo by making some funding suggestions.

II. Background

The last time a legalization bill was passed and signed into law was November 6, 1986, with the Immigration Reform and Control Act (IRCA). Legislation had languished in Congress for several years, yet the final legislation was passed and signed into law with little warning. While immigrant communities and advocacy groups were excited about the opportunities IRCA presented, they were caught off guard. Because many individuals were expected to apply for legalization during the short application window, most applicants understandably were wary of relying on the Immigration and Naturalization Service (INS) to provide direct assistance in preparing applications, determining eligibility, and finalizing applications.

During the legalization program, the ILRC took on many roles. The ILRC became one of the leading resource programs on legalization nationally. Our manuals on Phase One and Phase Two of legalization were adopted by service organizations across the country. In order to prepare legal services providers, volunteers, community leaders, and immigration lawyers, the ILRC provided dozens of trainings on mass application filing and how to complete the complicated application form and related documentation. Staff attorneys went through the process with countless applicants, gleaned information from that experience and the experience of other well trained legal professionals, and shared the lessons learned with other service providers in low wage and working class immigrant communities. A process for handling complex cases and appeals was also developed by the ILRC.

After the application window closed for the IRCA legalization program, the ILRC took the opportunity to reflect on what worked, what did not work, and what we might have done differently. We wanted to remain prepared for future opportunities and to build on the experiences, methods and networks developed during that exciting time. Much of that reflection is documented in a law review article written by ILRC founder and general counsel, U.C. Davis law professor Bill Ong Hing, entitled *The Immigration and Naturalization Service, Community-Based Organizations and the Legalization Experience: Lessons for the Self-Help Immigration*

Phenomenon (1992). The article provides a history of the program, and reviews the perspectives of the advocacy community, the affected communities, and the INS.

Some of the key points in Professor Hing's law review article include:

- Immigrants misunderstood some of the provisions, because the INS poorly explained them. Many immigrants did not understand INS materials and outreach messages. Many thought they did not qualify for the amnesty program, when in fact they did. As a result, some who were eligible did not apply; others applied late in the process when there was pressure to rush. Some thought their children were automatically included in their applications by providing children's names and biographic information on forms. Others could not document or understand how to go about documenting work, residence, taxes, expunged records, or other information.
- INS had an enforcement mandate, and had to change direction 180 degrees to become an "amnesty" organization. Not all INS staff made this transition well. INS interviewers were at times intimidating. Some immigrants withdrew applications after an intimidating interview, which then dissuaded others from going through the process. Others were afraid to apply because they did not want to expose ineligible family members, whom they feared would be deported. Some preferred group processing, non-profit organization processing, and hiring private attorneys because they wanted to be assured of confidentiality.
- Congress's mandate did not intend or require a complicated process. INS procedures were much more complicated and onerous than necessary to gather and process applicants' information. It is unclear how much this had to do with their internal tendency to view the INS role as an enforcement agency, or as a byproduct of a culture of the bureaucracy.
- Group processing was efficient, led to self-help and community building (i.e., applicants learned more than just how to apply; they also strengthened community connections and shared other information relevant to immigrants). Non-profits were often the least efficient at processing individual and family applications. They managed applications with typical legal case file systems – individually, with very limited reimbursement for services – and often this was less efficient than the group work that other non-profits used. Because private attorneys charged substantial fees, they could afford the support and provide the turnaround necessary to make individual filing efficient.
- Many immigrants were financially unprepared to proceed. The problem was not just with the application fees, but with fees associated with gathering documents (like birth certificates, marriage certificates, leases, etc.), medical exams, finger-printing, photographs, notarization, and counseling.

The amount of work that thousands of organizations and attorneys engaged in to help approximately 3,000,000 people qualify for legalization in the late 1980s was enormous. The task was monumental, not only because of the high volume of applicants, but also because the INS failed to provide quality support, the timeframe for the application process was short, and attempts to legalize everyone who was eligible involved high stakes.

Yet, as difficult as the work was during the legalization program of the 1980s, the difficulties could be increased four-fold during the next legalization program. According to most estimates, this time 12 million individuals could qualify and the eligibility factors and documentary requirements could be significantly more difficult.

Four of the five ILRC attorneys who worked at the ILRC during the first legalization program are still working at the ILRC. We have thought a lot about the prior legalization program and what we would do if there were another one. Based on our collective reflections over the years, we have arrived at the following recommendations for implementing a legalization program. Our recommendations are that in order to be effective, the non-profit community must:

- Lay the groundwork for a robust and successful implementation program before a legalization bill is passed and signed into law. The implementation work will need to be accelerated once the legislation is signed by the President and until the application period begins and, of course, stay in high gear during the entire application period.
- Start doing outreach and education on legalization now so potential applicants will be ready and able to gather their documentation for eligibility, pay their taxes, stay out of trouble with law enforcement, and start complying with an English requirement. We must make sure all the outreach is honest and forthright, clear and simple, multi-lingual, and effective in encouraging immigrants to prepare early.
- Through outreach and education programs, prepare applicants for the costs of the program so they can start saving money now.
- Recruit and utilize a network of volunteers to help with the outreach, education, application assistance, and immigrant integration/civic engagement aspects of legalization implementation. The last legalization program also utilized volunteers – some of whom are still organized and engaged in community work, and would be a great resource for the next amnesty.
- Through advocacy with the Department of Homeland Security (DHS) and outreach and education efforts in the immigrant community, strive to ease the fear of many immigrants that they might be deported if they apply for legalization.
- Encourage potential applicants to stay away from fraudulent immigration providers (both attorneys and notarios) who falsely promise legalization benefits and/or preferred CIS treatment in exchange for thousands of dollars, even before the law is enacted.
- Encourage everyone who has a chance of qualifying for legalization to apply. There were too many people during the 1980s legalization who did not apply because they were afraid they would not qualify. Assuming that a strong confidentiality provision is contained in the final legalization bill, that potential applicants have the funds necessary to apply, and that they have a reasonable chance of qualifying, applicants should be encouraged to apply.
- Encourage the direct service providers assisting people with applications to engage in a group processing model for completing the applications.
- Make sure as many organizations as possible that are working on legalization are thinking about ways to work on immigrant integration and civic engagement issues during and after the legalization process. The millions of new lawful residents will be a wonderful group to work with on these issues in the future.

- Obtain as much funding as possible for direct services and resource center work so that organizations are well-staffed, effective, and efficient.
- Make sure that organizations providing application assistance keep track of everyone they help legalize so that they can encourage and help them become United States citizens when they qualify.
- Employ the best use of new technology (especially web-based 2.0 technologies such as wikis, A2J programs, and others) to assist applicants and advocates with the legalization process, to increase efficiency and capacity for all involved in the process, and to provide resources for applicants, such as English language programs and virtual interviews.

III. Preparing for Legalization with the Community - Outreach and Education in Full Force - Now is the Time

In the ILRC's view, we must start initial outreach and education campaigns around legalization now, even before the bill is passed and becomes a law. Also, it is imperative to start educating the community now in order to dissuade people from being taken advantage of by unscrupulous immigration providers (certain notarios and lawyers). Dishonest notarios and lawyers will start promising people they can guarantee a green card and early service by CIS for a large sum of money. Obviously, no one can deliver either of these promises. No applicant should be paying thousands of dollars for any legalization service, especially before a bill is passed and if the advice from the dishonest notario or attorney is uninformed and/or incompetent.

At the same time, we must start educating the community about the possibilities of a new law and what we do know. Potential applicants need to know that they must collect their documents demonstrating eligibility, file any back tax returns that they might have missed, start saving money for the application fees and penalties, and keep out of trouble with law enforcement. If we educate as many people as possible as soon as possible about what to do if there is a new legalization law, we will have a better chance of helping the maximum number of people apply and qualify for legalization.

Essentially, to be as effective as possible, we need to conduct outreach and education before a bill is passed, between the time when a bill is signed and the application process starts, and during the entire application process. Before a bill is signed the outreach and education efforts should be done at a local level. Thus, we need to concentrate on conducting community meetings and media interviews, and producing and distributing videos and outreach flyers. The multi-lingual messages should contain the warnings about immigration provider fraud and collecting documents, filing taxes, saving money for the filing fees and any penalties, and staying out of trouble with law enforcement. Once the bill is signed and the application period begins, the outreach and education programs must be accelerated, and conducted and coordinated at both the national and local levels.

Even though legislation has not yet been proposed, and obviously the CIS has not yet made available details about the actual filing process and forms, we can anticipate that any enacted legalization application process will require extensive documentation proving residence in the United States, payment of taxes and work history, identity, and good moral character or similar

law enforcement clearances. Thus, we think now is the right time to conduct outreach and education to assist immigrants in collecting the following sorts of documents for legalization:

- Documents that show their identity such as a foreign identification card and birth certificate, which often can take months to obtain from a foreign government when the applicant does not already have a birth certificate.
- Proof of payment of taxes, which can take months to obtain because often the applicant will not have a copy of his/her filed tax returns.
- Proof of residence in the United States for the requisite number of years, which can take months to collect. Often applicants, who have been trying to stay in the shadows for years, have failed to receive or save documents showing their residence in the United States. Some of the best proofs of residence include: rent receipts, check stubs, copies of payroll records, copies of filed tax returns, school registration forms, copies of leases or letters from landlords, medical records, records of social security earnings, union records, bills, affidavits from people who have known the applicant, and other similar documents.
- Proof of good moral character or some sort of police clearance documents, if deemed necessary.

To help immigrants start collecting their documents and get ready for legalization, we need to create the following items even before a legalization bill is signed:

- Model letters for immigrants to request documents from various sources.
- Model declarations from people who can attest to the good moral character of the applicants.
- Checklists for eligibility for legalization and other avenues for normalizing their immigration status in case they do not qualify for legalization.
- Checklists that detail the types of documents applicants will need, the amount of time it will take to obtain the necessary documents, and a suggested timeline demonstrating which documents they should seek first and from whom.
- Information on how to avoid fraudulent and/or inaccurate information from legal services providers trying to take advantage of potential legalization applicants.

Some of the documents immigrants needed during the last legalization process took months to acquire and/or required a multi-step process that was complicated, often overwhelming agencies who handled the requests. Although organizations were successful in producing significant resources in 1987, including an excellent manual for immigration legal services providers, in a very short time period, our internal reflection concluded that much of the work for subsequent legalization opportunities can be anticipated. By taking steps in advance of finalized legislation, the resources will be more timely and effective. Furthermore, new technologies and training systems have emerged since the 1986 legalization program, which the organizations can utilize to increase their ability to work more efficiently and effectively.

IV. Application Assistance

In order to obtain the very ambitious goal of legalizing 10 – 12 million immigrants, it is vital that direct service providers who will be helping immigrants complete their applications do so in a

smart, efficient, and effective manner. We must complete as many applications as possible, help as many immigrants complete their own applications as is possible, and provide top notch methods for screening those who are not eligible and those whose cases will be complex and need more expert legal assistance. We call these complex cases the “Red Flag” cases because when reviewing them we must waive a red flag that indicates special attention is necessary.

1. Group Processing of Legalization Applications

A few organizations utilized a group processing methodology when they provided application assistance during the IRCA legalization program, which helped 3 million people. To assist 10 – 12 million immigrants apply for legalization, the ILRC suggests that as many organizations as possible implement some or all facets of a group processing model. There are several models available from amnesty and naturalization programs.

Whenever large numbers of people are interested in the same process or application, agencies, community groups and lawyers should consider using a group processing strategy. Group processing involves working with a whole group of people to accomplish a common goal: in this case, to submit applications for legalization and prepare for interviews with the CIS. It has been used effectively in several immigration contexts, including preparing applications for both phases of the amnesty program during the 1980s, naturalization, and family visas.

Although there could be varying versions of legalization group-processing models depending on what fits an organization’s needs, one example would include the following steps:

- Step 1: An information session is held where potential applicants learn about and discuss the advantages and disadvantages of legalization and the requirements and application process. Legal workers and trained lay advocates who have already gone through this or the previous legalization process review the application forms, the documentation checklists, the legalization process, and the fees so the applicants are informed and able to continue with the process. In addition, legal workers screen out applicants who fall within the Red Flag checklist categories so these applicants can obtain individualized assistance from an attorney or accredited representative who specializes in immigration law.
- Step 2: Applicants go home and each person fills out a draft of a legalization application in his/her own language and gathers the required documents that are listed on his/her documentation checklist.
- Step 3: A legal expert leads an application completion workshop at which participants review their applications in a group, help applicants organize their documents that prove eligibility for legalization, and fill out official legalization forms, which are reviewed by attorneys or expert paralegals. Trained volunteers who speak the native language of those at the workshops help the applicants organize their documents and identify what documents they still need and how to obtain those documents. Applicants with difficult cases, or who fall within the Red Flag checklist categories, are instructed to meet individually with agency staff for lengthier meetings, apply for waivers, obtain extra documentation, and receive other types of specialized assistance. In many cases, these applicants need to make individualized appointments with expert legal workers outside of

the group processing session so the applicant and the legal worker can decide if the applicant should even apply for legalization and, if so, how to qualify.

- Step 4: Expert legal workers will review all applications to ensure that everything is in order and increase the likelihood of the application being successful.
- Step 5: An interview preparation workshop is held a week or two before the interview where participants learn about interview strategies and role-play their interviews with legal workers and trained volunteers who have already gone through the process.

Group processing makes sense because it is efficient, effective, and offers long-term benefits to the applicants. Efficiency is central, because a few community workers and lay advocate volunteers can explain the legal requirements and process and review many applications at one time, rather than scheduling individual appointments and repeatedly explaining the same information. More people can get help quickly and cheaply—saving both the agency and the clients their time, and money.

Group processing workshops also serve as a perfect forum to recruit lay advocate volunteers to help with various parts of a community-based agency's program—which in turn makes it easier for agency workers to help more people. Volunteers' contributions to their communities can be significant. These “lay advocates” can fill important roles in an agency office: they can advocate, teach, organize, and lead. Having trained lay advocates helps the immigrant community and the agency, and the volunteers' experience can be beneficial to their own long-term goals.

Group processing is effective because group processing helps clients better understand the process in which they are involved. Group workshops enable community workers to spend a little more time explaining the process the applicants are going through since they only have to go through it once for each group. In a workshop, members of the group are encouraged to ask questions and volunteer information that they know. This increases the probability that issues that some affected participants had not even thought about will be reviewed in an accessible manner.

Group processing facilitates active and participatory learning. Educators have found that this is the most effective type of learning. Clients in group processing are put in charge of their own cases. The group model relies on the fact that clients can do many parts of the application process themselves. Generally, they keep their own records, such as copies of their applications, and receive all correspondence from the CIS. This involvement makes clients very aware of what is going on in their cases. They are more inclined to learn the reasons behind the different questions the CIS is asking on the application, as they consider their personal answers to each question. Having been involved in their own applications every step of the way, applicants are better equipped to respond to questions during an interview at the CIS. Also, when applicants understand why the CIS is asking each question on the application, they are less discouraged by the number of questions and documentation needed, and are more likely to complete the process.

Of course, group processing might not be the most appropriate way to complete applications for everyone. For example a disability may interfere with an applicant's ability to participate. Groups will need to accommodate the learning styles and needs of particular individuals and groups.

Group processing offers long-term benefits to applicants. Having applicants understand the process they are involved in, helping them figure out how to fill out applications and gather documents, and facilitating the sharing of information with one another has the broader effect of making them more informed and participatory members of society. The skills they learn are transferable and useful for other aspects of their lives. Through group processing, participants are encouraged to teach and learn from each other. This can build self-esteem and admiration for the skills and knowledge of other participants as they are acknowledged for their own contributions to the group. Group processing itself, and the development of lay advocates, encourages collaboration with other workshop participants, and with other members of their communities in their day to day lives. The teaching, learning and collaborating—that is, the community participation—that participants undertake in group workshops are at the heart of what it means to be an integrated and participatory citizen.

The group processing model is flexible. Group processing workshops can be small or large depending on the needs of the particular community, and the resources of the agency presenting them. Organizations can adopt parts (such as the information session) or the entire model. The process is mobile and can be used out in the community at sites such as schools and clinics where the immigrant community lives and feels safe. And, group processing workshops can generate fees. A fee from each applicant can help offset the staff and materials costs of the program.

2. Handling Red Flag, Waiver, and Appeals Cases – Setting up Referral Systems and Pro Bono Attorney Panels

Inevitably many legalization cases will surface that need additional attention from attorneys or experienced paralegals. All providers need to develop plans for how to handle these complicated cases, whether handling the case in-house, referring the case to a different service provider with more capacity, or finding pro bono attorneys to help handle these cases. Generally these types of cases will fall into one of three categories: red flag cases, waiver cases, and appeals cases. Red flag cases are those cases that are difficult because one or more of the eligibility requirements are in doubt, and they need additional expert legal assistance to sort out the issues and represent the client. Waiver cases involve situations where an applicant will not qualify for legalization unless s/he applies for and is granted a waiver by the CIS. These cases need additional expert assistance. Appeals cases are those cases that CIS denies and within a short time frame (probably 30 days), the applicant needs to appeal the denial in order to obtain a review. These cases always need additional expert assistance, often from an experienced attorney.

To adequately staff red flag, waiver, and appeals cases, organizations must do an analysis of the resources available. Prior to the beginning of the legalization application period, organizations in each region should map out the different types legalization services that will be available (that is, who will provide application assistance, who will work on red flag cases, who will work on waivers, and who on appeals). Once the mapping is done, service providers can determine the gaps in services that need to be filled by pro bono attorneys or other agencies.

Additionally, each region should identify, recruit, and train pro bono attorneys to work on all three of these types of complex cases. The pro bono attorneys recruited can practice in any field of law, not just immigration law. Pro bono attorneys from large law firms can fill this role well. They provided a significant amount of assistance on these types of cases during the last legalization program. Recruiting experienced private immigration attorneys to serve as mentors to the pro bono attorneys is important. With the help of mentoring attorneys pro bono attorneys have access to extra input and direction in addition to the technical assistance a regional or national resource center like the ILRC can provide.

3. Charging Fees for Services

To help defray the costs of providing application assistance to millions of legalization applicants, we suggest that agencies charge a reasonable fee in addition to obtaining resources from national, local, and community foundations. The amount of the fee will depend on the exact type of service (application assistance, translations of documents, waivers, etc), the complexity of the case, and the number of applicants being served (application assistance for an individual would be less expensive than for an entire family, for instance). But, organizations should be encouraged to charge at least a small fee and no more than a reasonable fee. Such income will help the agency help more applicants.

4. Coalitions and Direct Service Providers Working Together

Regional and local immigration coalitions will have an important role in helping to organize the direct service providers and enhance collaboration in providing services to the community. Additionally, the coalitions can help the direct service providers with fundraising from local community foundations and help organize liaison meetings with the local CIS office when a resource center is unavailable. Coalitions can effectively produce and distribute massive amounts of multi-lingual outreach materials on legalization. They can work with the press and media to conduct the vast community outreach for a new legalization program that will be necessary.

5. Recruiting Volunteers

To help complete the workload at agencies providing application assistance and help build leadership among the immigrant community, agencies should recruit and train a significant number of volunteers. Volunteers can help complete applications and conduct outreach and education in the community. Volunteers can help the agencies leverage their resources when providing application assistance and community outreach and education. These volunteers should be recruited from the general immigrant community, with special emphasis on attracting people who went through the previous legalization process. They can provide experiential knowledge as members of the immigrant community who have gone through a legalization process, as well as provide general application assistance to new legalization applicants. Essentially, these volunteers will act as “Lay Advocates” who are trained to help others with the legalization process. Of course, the lay advocates must be trained and supervised by experienced legal staff at an organization providing legalization services.

6. Analyzing the Role Agencies have with the Legalization English Requirement

Although most organizations that help immigrants with immigration applications do not teach English classes, these agencies can help immigrants comply with whatever English requirement the final legalization bill includes. First, as was the case during the last legalization bill, some application assistance service providers do and will teach English classes. Second, some English as a Second Language (ESL) teachers inevitably will help their students complete their legalization applications. Third, service providers will need to keep track of the English requirements and educate the applicants about the requirements and the different ways to fulfill the requirements. For instance, during the IRCA legalization program, applicants could fulfill the English and U.S. government and history requirement by taking a 40-hour class, passing an English and U.S. government and history competency test during their legalization interviews, or passing an English and U.S. government and history competency test off-site before their test. Generally, agency staff educated applicants about their options. Fourth, service providers need to have referral lists of schools that applicants can attend to fulfill the English requirement. Finally, service providers will need to engage in community outreach and education on the topic of the English requirement so all applicants will become aware of their options and are not intimidated from applying.

It is important to note that inevitably some of the ESL teachers will assist applicants with their legalization applications as they did during the 1980s amnesty program and have been doing with naturalization cases. Thus, we need to train and provide technical assistance to the large group of ESL teachers who will be working with legalization applicants.

7. Recruiting other Service Providers to Help with Applications and Become a Qualified Designated Entity

Because there will be so many applicants who need help, we must broaden the group of organizations that provide application assistance well beyond the traditional immigration services providers. We must help recruit and train and provide materials and technical assistance to Legal Service Corporation grantees (if the legalization bill allows them to provide application assistance under this program), unions, organizing groups (both local and national affiliates), social services providers, mutual assistance organizations, ESL providers, religious institutions, law schools, college and university organizations like MECHA, and others. The organizations that have not provided immigration application assistance in the past will need additional training, technical assistance, and materials as well as increased mentoring.

Additionally, every organization helping to complete applications should consider applying to become a Qualified Designated Entity (QDE), that is, if the legalization law contains a provision for QDEs as it did during the 1980s legalization program. Depending on the final language of a legalization bill, QDEs will most likely be allowed to accept legalization applications and complete applications without engaging in the unlawful practice of law.

V. Resource Center Work

The ILRC firmly believes that for a legalization implementation program to be successful, a significant amount of capacity building must be offered to the organizations and pro bono attorneys who are providing the direct assistance to the legalization applicants. The ILRC and other experienced legal resource centers were instrumental in building the capacity of direct service providers during the last legalization process and have done so during other major immigration campaigns such as the asylum campaign of the 1980s and the naturalization campaign of the 1990s. By building the capacity of the direct service providers, resource centers will be able to support the service providers' work of providing application assistance much more efficient and effective. Specifically, resource centers provide the training, technical assistance, materials, and manuals necessary for the direct service providers to be able to concentrate on completing as many successful applications as possible.

2. Legalization Manuals

It is imperative that direct service providers have access to a comprehensive legalization manual to use as a guide while helping clients with the application process. During the last legalization program thousands of service providers used the ILRC's manual, which was the only comprehensive manual in existence. The benefits of a comprehensive manual are that service providers will become acquainted with the law and application process and be able to view sample applications, documents, and forms. In addition to a legalization manual, we think there should be a separate manual for legalization under AgJOBS and the DREAM Act, and perhaps a separate manual for appeals cases, as there was during the last legalization program. We suggest there be wide distribution throughout the United States of bound paper versions of these manuals as well as CD-ROM versions that include a searchable function.

We think it will be invaluable to start producing a preliminary manual on what to expect during legalization before a law is even passed. This manual would include all the checklists for comprehensive immigration reform preparedness. We think it is vital to start advising organizations who serve immigrants on how to prepare themselves, their volunteers, and their larger communities for the legalization process during the next six months.

Once we know the details of the final legalization legislation, the authors can complete a more comprehensive manual that will walk immigrants and those who assist them through the exact application process as enacted. This manual will be written in plain English so that lawyers, paralegals, volunteers, and ESL teachers can understand all the legal and procedural requirements and processes, as well as the group processing system described above.

These manuals will contain specific information on the law and process for legalization and best practices. The manuals will include sample applications and answers to the difficult questions that arise when handling both simple and complex cases. They will walk organizations through the critical steps of organizing and training their volunteers and advocates, as well as provide checklists, definitions, consequences, and practical advice for those assisting immigrants throughout their application process. A comprehensive resource guide will be a critical component of any future legalization program.

3. National Trainings

In order to make sure a sufficient number of people are ready to complete legalization applications, resource centers must be able to train thousands of staff members and volunteers throughout the United States. These trainings must address all the legal and procedural issues as well as issues of cultural competency, advocacy, volunteerism and lay advocacy, and group processing.

A good model for these trainings is the one that many organizations used during the 1990s to train on naturalization. These national trainings were funded by the Emma Lazarus Fund of the Open Society Institute. The model consisted of having a resource center with expertise in naturalization contract with local coalitions and/or service providers throughout the United States to secure training venues and conduct the outreach and logistics for the trainings, while the resource center recruited and prepared local trainers to help the attorneys from the resource center conduct the trainings. The resource center attorneys developed the agenda with the input of local practitioners, provided the materials for the trainings, and served as the lead trainer.

In addition to in-person trainings, which are generally the most successful kinds of trainings especially when new laws are introduced, resource centers should conduct webinars and podcasts. Resource centers should experiment with developing interactive trainings and mock interviews via the internet as well.

4. Developing Training Curriculum and Training Materials

An efficient way of providing live trainings that are specific to the needs of local and regional providers is for a resource center to produce a general training curriculum that can be adopted and used in any city throughout the United States. Additionally, resource centers need to develop the training materials that accompany the curriculum and that they can distribute at the trainings. Assuming there is a comprehensive legalization manual, one option is to distribute the legalization manual at the training as the actual training materials for the training participants.

5. National Technical Assistance

In addition to written materials, manuals and trainings, it is imperative that service providers have immediate access to legal advice from expert attorneys working at a resource center. Interactive technology explaining legalization resources, legal resource manuals, and trainings when combined with the ability for a service provider to pick up the phone or send an email asking questions specific to his/her individual case that s/he is handling and receive timely, accurate, and specific legal advice, is the best way to create an efficient and effective system of legalizing as many people as possible.

The technical assistance delivery system, like an Attorney of the Day program, should be free, if the resource center can raise enough money from foundations to defray the costs of such a program. The service provider would be able to call a hotline number that is staffed during business hours or email the same location and an experienced immigration attorney working at a resource center would be accessible to provide quick and accurate advice. These technical

assistance requests can be from service providers providing application assistance or immigration experts and pro bono attorneys handling the more complex cases such as the red flag, waiver, and appeals cases.

6. Brief Bank

Hundreds of thousands of complex legalization cases will need special expert legal assistance. As outlined above, many complex legalization cases will include waiver cases and appeals. Most of the waiver cases and appeals will need legal briefs to accompany the waiver or appeal form in order to zealously advocate with the CIS on behalf of the client. We need to make sure many competent attorneys representing legalization applicants in these complex cases are available, developing legal arguments for briefs and writing winning briefs that can be shared by everyone handling these types of cases. It will be very useful if an organization can take on the role of organizing a brief bank in electronic form that can be accessed by all attorneys working pro bono or at non-profit organizations.

7. Pro Bono Attorneys

We need to build a strong stable of pro bono attorneys to help with the complex legalization cases such as waiver cases and appeals cases. Resource centers must take responsibility to develop curriculum, materials and trainings for pro bono attorneys working on legalization cases. These trainings and materials will differ from the trainings and materials designed for advocates providing regular application assistance because the pro bono attorneys need training specifically on how to handle the waivers and appeals cases.

8. Building Management and Administrative Capacity among the Service Providers

In addition to providing substantive legal technical assistance and capacity, many organizations that intend to provide application assistance need to build their own management and administrative capacity. CLINIC has an entire program on how to build management and administrative capacity and help organizations work toward becoming a BIA-recognized agency, including training accredited representatives to represent legalization applicants.

9. Technology

The ILRC believes that new technology, especially interactive web 2.0 technologies, as well as more common technology such as listservs, webinars, and podcasts will be very useful for a new legalization program. The ILRC and other organizations have been expanding their own capacity on essential uses of new technology that address the needs of immigrants in a manner that is practical, culturally relevant, and accessible. We envision developing interactive tools for taking people through simulations of the legalization process, such as interactive practice interviews and a web-form. Additionally, we envision creating an annotated legalization application or intake form that will indicate when applicants have red flag issues and what the issues mean. Also, we hope to use interactive web 2.0 technologies such as wikis that can provide collaborative resources to service providers and pro bono attorneys helping legalization

applicants with their cases. It is possible that CIS will accept electronic filing of legalization applications.

One unrelated but anticipated result of this process is increasing the capacity and access of immigrants, not just to immigration resources, but to new and digital media of all kinds. This will serve to improve their civic participation, because those who use new media increasingly participate in civic areas and impact political outcomes.

VI. Advocacy Work with Local and National CIS Offices

Throughout most of the immigration work that non-profits engage with the CIS, advocates must work with the CIS on both the national and local level to ensure the laws are being properly, fairly, and justly implemented and that everyone who should qualify for the immigration benefit is indeed successful. During the IRCA legalization program, organizations worked on both the national and local levels to ensure proper behavior by INS. We believe that organizations in Washington D.C. will work with CIS on the national level. Coalitions, direct service providers, and resource centers will work with CIS on the ground in all the local district CIS offices to ensure CIS adjudicates cases fairly and properly. The ILRC and other organization are already in communication with national and local organizations on these issues, and have solid working relations with new personnel in the national office of CIS and many local California CIS offices.

In our experience, the best way to engage the CIS on the local level is to have local monthly Community-Based Organization (CBO) – CIS liaison meetings where everyone can share their issues and resolutions.

On the national level, organizations in Washington D.C. and in the field, including resource centers, have to be actively engaged in making comments on proposed CIS legalization regulations. The CIS regulations will interpret the legalization law and will be the guiding light for CIS offices. The CIS adjudicators in the field will follow the regulations that will be much more specific and detailed than the law. Essentially, the regulations will provide the blueprint of the legalization process for the CIS offices to follow.

VII. Litigation

The ILRC envisions there will be a significant need for litigation surrounding the implementation of a new legalization law, as there was during the IRCA legalization program. We think that organizations like NILC, ACLU (both local and national offices), the ACLU Immigrants' Rights Project, AILF, law school clinics, the Center for Human Rights and Constitutional Law, several pro bono attorneys, and other groups will be actively involved in litigation around legalization. Once legalization is implemented, issues will arise that cannot be resolved through advocacy and negotiation. Yet, we are hopeful the Obama Administration would appoint people to oversee a new legalization who are more thoughtful and understanding than the Regan Administration appointed during the 1980s legalization program. We are guardedly optimistic there would be less of a need to conduct massive litigation during a new legalization than during the 1980s.

VIII. Immigrant Integration/Immigrant Civic Engagement

It is vital for immigrant communities' integration that all the implementation work is done with integration and civic engagement in mind. For instance, an important facet of group processing of legalization applications is that applicants be involved in their cases, learn the process of documenting their cases, work together with other applicants, lay advocates, and experts in immigration law, and prepare to explain their story (or case) to the CIS adjudicator. All of these activities are empowering experiences that increase the client's confidence in advocating on his/her own behalf. Additionally, the group processing model employs volunteers as lay advocates who, under direct supervision of a legal expert, learn how to assist their community members with their legalization cases, which can be a first step toward learning how to advocate for others and building immigrant leadership in the community. Through these processes, applicants learn how to be more self-sufficient and gain more from the relationship with lay advocates working in their communities. Self-sufficiency and reliance on trusted people in one's community are valuable lessons for everyone living in the United States to learn, including low income immigrants, in becoming successful and civically engaged citizens.

Other examples of immigrant integration include teaching legalization applicants how to avoid immigration provider fraud scams and other consumer fraud scams, how to use technology in the legalization context, and how to develop English skills. When advocates review important tips with legalization applicants, it helps them avoid fraudulent providers. Legalization applicants will be able to use these tips in other contexts to avoid other forms of fraud and help others in their community avoid fraud as well. One anticipated result of teaching legalization applicants to use technology to navigate the legalization process is the increase in their capacity and access, not just to immigration resources, but to new media of all kinds. This will improve their civic participation and amplify their voice as new media increasingly impacts political participation. When legalization applicants develop their English skills they become more able to integrate into mainstream society and become active civic participants who raise their voices on issues that affect their communities.

Throughout the legalization process, all direct service providers need to explain to their clients the methods and importance of becoming engaged. The group processing system can facilitate such a process because the direct service providers are meeting with applicants in groups, which is always a good time to talk about and implement examples of integration and civic engagement issues. Additionally, the providers need to keep in touch with all the applicants so that five years after becoming lawful permanent residents through legalization they can help the applicants apply for naturalization and become voters.

It would be a shame if immigration service providers came into contact with 10 – 12 million immigrants during a legalization program and failed to take advantage of the civic engagement and organizing opportunities that could be present during such a program. We think a group of organizations needs to think through a multitude of ways in which the service providers can promote civic engagement and integration opportunities. For example, on their own or with other organizations they can engage legalization applicants in organizing and movement building campaigns and leadership training, in addition to encourage participation in local PTAs and school site council.

IX. Financial Resource Distribution

The ILRC has been a significant participant in several major national immigration initiatives implemented over our 30 year history. These efforts include the Central American asylum initiative, legalization during IRCA, and the great naturalization push during the middle to late 1990s. All of these initiatives required that significant financial resources be spread around to many organizations nationally.

The ILRC believes that four groups of pooled funds are necessary for implementing a legalization program. These four groups of pooled funds should be earmarked for application assistance, resource center work, satisfaction of any English requirement that the legalization bill may have, and CIS application fees and penalties.

1. Application Assistance Work

The ILRC recommends that if foundations pool resources for distribution to organizations on a nationwide basis for application assistance then two options should be considered. One is to grant funds to community foundations that would then re-grant the funds to organizations in their jurisdiction, as was done in part by the Open Society Institute's (OSI) Emma Lazarus Fund during the national naturalization campaign. The other option is to make grants directly to the organizations they think would do the best job of implementing a new legalization process.

As mentioned above, the ILRC was very involved on both a national and local level with the national naturalization program from 1997 – 2000. Because OSI distributed some of the naturalization funds through community foundations, the money generally went to the best groups on the ground, which were actually doing the most important and highest impact work. Local community foundations know the organizations providing resources and direct services best, because these foundations are constantly working with the organizations in their communities. Additionally, as happened during the naturalization surge 10 years ago, because OSI distributed funds to community foundations, the community foundations were encouraged to contribute their own money and staff to the effort. This situation expanded the overall pool of funds and educated the community foundations about the importance of funding immigrant initiatives. The Peninsula Community Foundation, now called the Silicon Valley Community Foundation, is a good example of a local foundation expanding its program areas to include immigrants' rights and integration that was not very involved in immigration funding before the Emma Lazarus Fund.

The ILRC thinks it would be beneficial to distribute some of the funds earmarked specifically for application assistance through national networks, most notably the CLINIC network, the LIRS network, perhaps the PICO network, and some local and/or regional immigration coalitions.

2. Resource Center Work

For a legalization implementation program to be successful, a significant amount of money must be invested into the work of resource centers to build the capacity of the direct service providers who help immigrants complete their legalization applications. The resource centers will make

the work of the direct service providers more efficient and effective. The resource centers provide the training, technical assistance, materials, and manuals necessary for the direct service providers to concentrate on completing as many winning applications as possible. Because legalization would be a new program, many questions and opportunities for legal interpretation will surface. Having a few resource centers concentrate on analyzing the law and procedure and then distribute the information to the thousands of direct service providers, will make everyone's job more collaborative, effective, and efficient. We found this process successful during the last legalization program and naturalization program, as it is an effective way to leverage the foundation's resources.

The ILRC believes that foundations should make direct grants to the resource centers for the resource center work. There are only a handful of resource centers that can play the role of providing high quality and broadly-distributed legal analysis, training, technical assistance, materials, and manuals. The resource centers need to be experts in immigration law, well-respected, and experienced in providing training, technical assistance, and manuals to a wide variety of service providers. The resource centers must be experts in general immigration law. Those resource centers with staff that lived through the last legalization program would be particularly helpful, so that the best practices from IRCA's legalization can be shared. The new legalization program may be three to four times more difficult than the prior one.

3. Satisfaction of English Requirement

How foundations should pool their resources to help applicants satisfy the English requirement of a new legalization is unclear at this time. Ideally there will be federal, state, and/or local government money to help fulfill this need, as there was with the State Legalization Impact Assistance Grants (SLIAG) program during IRCA. If government resources for this need are thin, then a dramatic funding gap will develop.

4. CIS Application Fees and Penalties

Conventional wisdom holds that the CIS application fees and penalties for the legalization program will be very high and may even preclude some people from filing. The challenge for larger families applying may be worse, as their fees will be significantly higher than an individual or couple. We will advocate that a fee waiver program for the legalization fees be implemented. However, the CIS fee waiver programs are generally hard to qualify for and they can require a substantial amount of paperwork to prove the applicant is eligible. Yet, we are hopeful that some applicants will qualify for any fee waiver program that a CIR bill might include and the fee waiver program will be generously applied.

It could be helpful for community and/or other foundations to set up CIS legalization fee payment programs or even loan programs. The loan programs could be paid back over a period of time, especially because with legalization successful applicants would receive work authorization and thus make it easier to obtain a better paying and more stable job. A loan program would be important, although we understand that such a program may be very difficult to administer.

X. Conclusion

Obviously, the ILRC and everyone else in the immigrants' rights movement are hopeful that good immigration reform is passed soon. Yet, it is imperative that we are ready to tackle the challenge of assisting millions of immigrants in their quest to legalize their status and obtain all the benefits and rights that accompany legal status. This paper outlined some of the important steps we all can take to help realize our goal of helping 10 – 12 million immigrants come out of the shadows and become full participants in the United States. But, we must not wait. We must start the process of getting ready as soon as possible so we can be as successful as possible. Hopefully, this paper will help organizations and funders prepare to legalize millions of deserving immigrants once the law is passed.