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HIDING IN PLAIN SIGHT ILLEGAL IMMIGRATION IN THE CAROLINAS

Entry into U.S. not same for all

Foreign policy, clout can be heavy influences on immigration rules

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In a national debate fixated on Mexicans sneaking across the border, there's been barely a peep about how arbitrary and political U.S. immigration law can be.

Congress, the White House and U.S. immigration agencies have developed over the years a complex patchwork system that favors some groups and nationalities over others.

Did you know that:

- 220,000 Salvadorans -- many of them illegal immigrants now living in the Carolinas -- can legally stay and work because the Bush administration has offered them "temporary protected status" for the past five years?
- Irish American members of Congress -- including Sen. Edward Kennedy, D-Mass. -- were able to set aside thousands of "green cards," a path to eventual citizenship, for thousands of Irish immigrants?
- Cubans who make it to U.S. soil can legally stay and apply a year and a day later for permanent residency? Those fleeing the communist Castro regime are probably the biggest winners in the U.S. immigration game.

Most Cubans who leave make the dangerous 100-mile trip by boat. But in October 2004, Charlotte's Jocelyn Honorate did what a growing number of Cubans do: She flew to Mexico, then headed for the U.S. Border Patrol checkpoint in Hidalgo, Texas.

"I'm Cuban," she told the guard.

A few days later, she was released, leaving behind clothing for other detainees -- Haitians, Guatemalans and others -- who eventually would be sent back home.

"It was hard talking with them," remembers Honorate, now 26 and a legal U.S. resident who works for a Charlotte architectural firm. "They were people without hope."

By contrast, Honorate and 40 other Cubans got this greeting by speakerphone: "Congratulations! You've all been approved. Welcome to the United States!"

That legal break dates to the Cold War.

Hoping to strike a blow against Fidel Castro, Congress passed the 1966 Cuban Adjustment Act.

No such blanket welcome exists in U.S. law for those who'd like to emigrate from other communist countries -- China, North Korea, Vietnam. One reason: None of those countries have an exile community with the political clout of Cuban Americans in South Florida.

Last Friday, after Castro's decision to cede power, the Bush administration announced plans to speed up family visas to make it even easier for some Cubans to come.

That latest step "has more to do with a handful of political races in Florida in November than with rebuilding Cuba," charged the Federal for American Immigration Reform, a group that wants tougher immigration laws.

Angela Kelly of the National Immigration Forum, which wants more welcoming laws for immigrants, agrees: "You can't deny the high degree of influence by the Cuban lobby."

Ditto the Irish lobby, which has long had pull with powerful Irish American politicians in Congress.

In the late 1980s, Rep. Brian Donnelly, D-Mass., added amendments that enabled more than 10,000 illegal Irish immigrants to gain legal status. And in 1990, Rep. Brian Morrison, D-Conn, was able to set aside 40 percent of 40,000 so-called "diversity visas" for natives of Ireland and Northern Ireland.

One of Morrison's allies: Sen. Kennedy, whose office said his efforts were aimed at the unintended consequences of a 1965 law that made it harder for Irish to come because most no longer had immediate family here.

"He wants to help the Irish and others who don't have family connections and have no other way to emigrate," said Kennedy spokeswoman Laura Capps.

The lesson: It never hurts to have a U.S. senator on your side.

'Temporary protected status'

Or a U.S. president. El Salvador became a "temporary protected status" (TPS) country in 2001, following two earthquakes that killed 1,000 people and destroyed more than 200,000 homes.

After intense lobbying by the Salvadoran government, the TPS was just extended for another 12 months. That means Salvadorans who were living in the United States in 2001 -- many of them illegally -- can stay and work for another year. TPS comes up for renewal or termination every 12 to 18 months.

TPS is designed to aid countries reeling from a natural disaster, civil war or other destabilizing situation. But nations that qualify have been denied.

Pakistan had 80,000 people die in an earthquake last year. It doesn't have TPS even though 50 groups and 34 members of Congress have asked for it.

The government of Colombia has also asked for TPS, to no avail, even though the South American country is plagued by guerilla conflict and narco-terrorists.

And why has Haiti's request for TPS been denied? With poverty, violence and unstable governments, "what nation has suffered more?" asks Joan Friedland of the National Immigration Law Center, which promotes the rights of low-income immigrants.

Meanwhile, some of the seven TPS-designated countries get extensions though their disasters happened long ago. Christopher Bentley of the U.S. Citizenship and Immigration Services says "assessments" and "studies" help decide whether to extend TPS and whether holders can return safely home.

But some experts see politics in the process, saying President Bush is using TPS to boost the pro-American government in El Salvador, as other Latin American countries such as Venezuela and Bolivia flirt with anti-Americanism.

El Salvador President Antonio Saca sent 400 troops to Iraq. And El Salvador was the first nation to implement CAFTA -- Bush's trade pact with Central American countries.

Salvadorans in the United States send home \$2.5 billion every year -- \$250 million of it from TPS holders. Keeping those "remittances" flowing to voting families in El Salvador is a political plus for Saca and his conservative party.

El Salvador's TPS "has to be political," says Charlotte immigration attorney Phillip Turteltaub, who represents some local TPS holders. "Those (earthquakes) happened years ago. Come on!"

Being pro-American and sending troops to Iraq are no guarantees of winning the immigration game, however.

Poland, which also ordered troops to Iraq, would like better immigration benefits. Polish citizens who want to visit the United States are irked that they have to get tourist visas. They want to be part of America's "visa waiver" program, along with 27 other staunch U.S. allies. Citizens of those countries need only a passport to visit the United States.

This year, the U.S. Senate approved an amendment to its immigration reform package that would exempt Poles from the visa requirement. Among the sponsors: Sen. Barbara Mikulski, the great-granddaughter of Polish immigrants.

But it's not law yet, and there's also the pesky truth that many Poles who do come to the U.S. don't return home, making them illegal immigrants.

Still, U.S. politicians who visit the ex-Soviet bloc country say the Poles feel like second-class friends.

Sen. Richard Burr, R-N.C., says he was peppered with the same question: "Why don't you treat us the same?"

Policy has discriminating roots

Fairness has never been a requirement or a tradition in fashioning U.S. immigration law. Since 1875, when the Supreme Court ruled that immigration is a federal matter, Congress has felt free to discriminate.

"Immigration law is so wide open that Congress could, theoretically, pass a law saying only 6-foot-tall, blue-eyed Norwegians can come," says Dan Kowalski of Bender's Immigration Bulletin, an online guide to U.S. immigration news.

It's never gotten that wacky, but Congress did vote in 1882 to ban Chinese immigration -- a law that wasn't repealed until 1943.

From the 1920s until the 1960s, immigration quotas also gave preference to white Northern Europeans.

Since then, a host of factors ranging from foreign policy to political clout have shaped laws and rules about who can come legally and who can't.

U.S. immigration officials can cite reasons," says Josh Bernstein, director of federal policy at the National Immigration Law Center.

But, he adds, "at the individual level, (the system) is unfair. ... Immigration policy is a hodgepodge of measures and standards that are always made in a compromise of policy and politics."

Making special cases for some nations' immigrants has its defenders.

Honorate, the Cuban woman who moved to Charlotte, says living under communism is something not even the poorest Mexicans have had to endure. She still gets angry about government policies and the suffering in Cuba. She remembers authorities removing air conditioning from a family car so everyone "could be equal."

Also grateful: José Romero, a 31-year-old Charlotte construction worker who now earns three times what he did in his native El Salvador.

He got TPS five years ago after living in the U.S. illegally for five years.

Romero told his fellow workers, most of them Mexican, about his TPS. They were happy for him, but jealous.

"They're never going to give us anything," he said the Mexicans told him.

Now Romero has peace of mind.

"You're free and you're happy," he said. "It's the freedom of having a piece of paper that everyone wants."