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Peer reviewed

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Advocating for Immigrants' Rights: An Interview with Susan Alva

Susan Alva coordinates the Immigration and Citizenship Project of CHIRLA, the Coalition for Humane Immigrant Rights of Los Angeles. CHIRLA is an umbrella organization made up of non-profit, legal, religious, community, and other groups that are interested in immigration issues. CHIRLA sponsors trainings, policy meetings, organizing efforts, outreach and educational programs and other projects. In this interview, which was conducted by Susan Coutin in July 1999 for publication in *PoLAR*, Susan Alva discusses her experiences as an immigration and labor rights activist and analyzes recent changes in U.S. immigration policy. The original interview was tape-recorded, transcribed, and edited. The goal of editing was to maintain the quality of spoken language while transforming the most interesting and relevant portions of an almost two-hour-long conversation into written text. To that end, some portions of the conversation, such as repetitive phrasings and tangential remarks, have been omitted. Brackets have been used to mark additions, bold has been used to indicate emphasis, a colon after a vowel indicates that a vowel was lengthened, and a single dash indicates that the speaker's sentence cut off or was interrupted. Deletions have not been marked. The final version, which is printed here, was reviewed by Susan Alva before publication.

Coutin: Could you start by just saying when and how you got involved in immigration issues?

Alva: Well, that's what I've always done, going back twenty-five years. What drew me into immigration and labor issues was just family. My family had to deal with that issue in its various forms. The whole mixed experience of someone who was born here and some of our family needing to be crossed.

Coutin: And what kinds of things have you done?

Alva: I did a couple of years of college and then I started working for the California Rural Legal Assistance, an organization that was created almost as a legal arm of the United Farm Workers union. During the time I was there, probably the biggest highlight was a years-long struggle to get the short-handled hoe banned from being used in agriculture. It's a hoe about two-feet long so people [who use it] are stooped over. That took years of political pressure, lawsuits, community activism, dealing with the state Department of Health and Safety. We finally succeeded, and I got to be part of that.

Then I went to work for the United Farm Workers Union when the Agricultural Labor Relations Act¹ was first passed. Jerry Brown was governor, the Labor Relations Board was formed to implement that law. It was just one of those historic periods. The UFW saw, "We've got to really put a lot of emphasis and focus on organizing and having union elections because, just like the NLRB, this thing's only going to be good for a couple of years before it becomes a bureaucracy."

So those were super-exciting times. Farmworkers had been waiting all that time for a law that would back up their right to organize and have elections. The UFW formed a[n] organizing task force and a legal workers task force. Those two task forces, I was

part of the legal one, followed the *corrido*, you know, the season. Whatever was in harvest, that's where we were. We'd hit town, and as soon as people knew we were there, they would come. I mean, farmworkers were coming to us! They didn't even have to be organized.

Coutin: And then after that you went to law school?

Alva: After two years with the UFW, it was time to go on with [my] plan about law school. The nearest city that had a law school was San Diego. I went to law school at night [and] I worked at San Diego Legal Aid in the immigration unit. If you could get certified by INS, a nonlawyer who works for a nonprofit can do immigration cases. So I did representation. We did a lot of advocacy work around border issues, and dealing with the [Mexican] Consulate there. There's a detention center in the area. So all the different aspects of this topic converged, you know, in San Diego.

[My law school] was one of your little B-string schools that offered a night program. At the time it was called Western State. I quit Legal Aid right when I finished law school to study for the bar, and passed the bar and moved back to L.A.

Coutin: And then did you start working for CHIRLA at that time?

Alva: No, CHIRLA was formed in late '86, early '87.

Coutin: Oh. After IRCA.²

Alva: Yes. It was a response to IRCA.

Coutin: So you went back to L.A.-

Alva: So I came to L.A. and so my first job as a lawyer lawyer was for the Center for Law and Justice in Boyle Heights. And I'd say the UFW was the real teacher for me in terms of how you can be a lawyer and a community activist. This experience at the Center for Law and Justice took that even further. I can remember vividly my first week there. We got a call from the Starkist cannery down in San Pedro. I mean these workers said, "We're out here in the parking lot at a pay phone. We've just walked off the job because our employer has been asking for immigration papers" — and this was way before IRCA — "and then firing on the spot workers who couldn't produce papers." You know, workers who'd been there, like ten, twenty years. So they flipped and they'd all walked out. And [my boss] said to me, "Okay!! You're on!"

Then I went to Public Counsel, the public interest law office of the County Bar. That was when the amnesty law, IRCA, came into effect. Passage of IRCA was an issue that the Center for Law and Justice, along with dozens of immigrants rights groups around the country, had been dealing with already for several years. In terms of fighting against passage of something like sanctions. And fighting for the amnesty part. And finally, in '86, after several years of struggling either for or against whatever the mood of Congress was, it hit. CHIRLA grew at that time, and what prompted it was, here was a major major piece of legislation that would really have an effect on people, a very long term effect. It brought organizations together around this notion that, okay, differences aside, whatever squabbles, whatever personal histories, this is serious shit here.

So folks came together for two purposes. One was [to] try and get as many people legalized as possible, because there was only a window of time [before IRCA's legalization program expired]. And the second was one of the concessions we got in the law was that if employer sanctions could be shown to be discriminatory, there was a provision that would [cause] Congress to sunset, in other words, to eliminate sanctions. That finding would have to be made by a government entity. But of course, we didn't hold a lot of hope for a government agency to find the discrimination. So the second thing we wanted to focus on was doing our own monitoring and documenting of cases of discrimination.

That was the basis for the formation of the Coalition. And there were simultaneously coalitions forming in half a dozen major cities around the country.

Coutin: At what point did you actually become a staff member of CHIRLA?

Alva: I spent four years at Public Counsel. And then I got on staff at CHIRLA.

Coutin: The next question I wanted to ask is what you see as the milestones in immigration law over that time period. I mean, obviously IRCA and IIRIRA.

Alva: It's stuff we've already talked about really. ALRB, the Agricultural Labor Relations Act was pretty historic. It's an interesting law because there's this notion that the law is this neutral arbitrator between employers and workers. And the state is supposed to be this mediator. And if you read the law, that's not it. The law gives workers the right to organize and to vote, and the state is really supposed to be looking out for the interest of the workers.

And probably the other one to throw in would be [California Proposition] 187.³ Not so much because I think laws are things that set the tone, but they are indicators of the current mood or political will at the time.

Coutin: What do you see as- Do you see things getting bleaker and bleaker and rights getting eroded, or do you see a much more complex picture?

Alva: There's definitely been enormous, enormous regressions. There's probably three or four pieces of law that coming together have probably set us back 50 years in terms of immigrants' rights.

Coutin: And what are those three?

Alva: The Anti-terrorist law,⁴ that, by hook or by crook, Clinton was going to sign on the one-year anniversary after the Oklahoma bombing. Anti-immigrant legislators saw the opportunity to slip in some provisions. [This law] allows INS to arrest and detain much larger numbers of people with greater reductions in their ability to fight deportation.

And then the other big piece of legislation was the IIRIRA.⁵ That **really** wiped out immigration law as we know it. From a practitioners' point of view, it's like **everyone** had a blank slate! It was like **years** of practice and experience was out the door! It was like we were all starting from scratch. That's how major the revamping of immigration laws [was].

And then the other one is the welfare reform law,⁶ because for the first time in the

history of this country, they took away benefits or restricted rights of lawful residents. There'd never been that distinct- It was always like, you're either citizen and legal immigrant or undocumented. Right? And now you're looking at policies that are taking away benefits from lawful resident blind, aged, and disabled. I mean, it's like, how low can you go?

Coutin: Do you think that those laws have had any unanticipated effects? For example, CHIRLA and other coalitions were a response to IRCA.

Alva: Okay, you've got IRCA that [made it] illegal for people to work without papers. And [created] the potential criminal sanctions not only against the worker but the employer. Supposedly.

The other thing that comes out of that is the underground workforce. And it came back to haunt them. Now you've got employers *chillando* (screaming) that they don't have enough workers. Why don't they have enough workers? Because, you know, they don't have enough **cheap** workers! The workforce they have, for the most part. And this especially you can see in agriculture, but it certainly isn't limited to that.

Now, as you were I think saying, there's some **up** sides to things that happen like this. For one, you've got this undocumented work force [and] things get so **bad** that you get to a point where [people think], "okay, what do we have to lose anymore?" And there's a militance that I think comes out of that.

Coutin: For the average person? Or do you mean activists?

Alva: No, I think the workers. And I don't know if I'd say "average" in the sense that it's the majority, but you've got some boiling that surfaces up. For example, you can see a resurgence among, what, a good half-dozen unions in the greater L.A. area. And it's not a coincidence that those are unions that have significant immigrant work forces. The best line I ever heard is [from] a guy — I think he might have been from El Salvador — and he's like, "Okay. Now let me see if I get this straight. The worst that can happen to me if we go on strike is that I'll lose **my job**?" I mean, it kind of puts it in perspective, you know? These are folks that have come from countries where- You know, it puts it in perspective really how bad we have it here.

So, okay, [turning to Proposition] 187, I think what started to happen is, how many people legalized under amnesty, like 3 million? More family members were being immigrated. And frankly, I do think a lot of it is the "R" word that prompted something like a 187. Just plain old, good old American racism. Especially in California — the demographic changes here have just been enormous. Which is not to say it's all immigrant-related. APIs [Asian and Pacific Islanders] are the fastest growing minority. L.A. is 50% Latino. I think some folks got uncomfortable with that, and the best translation for it was "immigration." So all the hue and cry about that, [combined with] a lousy economy [to produce] 187.

The unintended consequence was this historic outpouring of immigrants naturalizing. True, I wouldn't say it was just this consciousness raised by 187. There were probably two or three factors that came together. One was the welfare reform law. Taking away benefits from lawful residents did encourage lawful residents to become citizens if they wanted to retain eligibility for benefits. The other was [that] at that time there

was a change in immigration law that required all old green cards to be replaced. Because as part of sanctions and this notion that there's so much fraud out there that we need to crack down on was this [conclusion] that the old green cards were not fraud-proof. And so we've got these new tamper-proof state-of-the art green cards. Plus for the first time ever, green cards have an expiration date. You know, nice way to keep track of people. It doesn't mean that if you blow it and your card expires you're no longer a lawful resident, it's just that you don't have valid proof of it.

Those three things came together, the post-187, the green card replacement, and the welfare reform law. So that the naturalization statistics have just been wild in the last couple of years. I think at its peak, in L.A., just the L.A. [INS] office was getting two thousand citizenship applications a day. A day! L.A. is the definite eye of the storm for this stuff. Our figures just stagger everything else.

Coutin: What's boggled my mind is that if you go to the [Los Angeles] Convention Center and you sit in on those [naturalization] ceremonies, over a three-day-period they naturalize more people than live in many towns. It's just amazing.

Alva: Actually, the other thing that came about at the same time is that all these IRCA amnesty people accumulated their five years and were eligible [for naturalization]. And the thought is that the amnesty population is much more apt to naturalize than old-time lawful residents. Maybe [due to] the recency of their interaction with INS [the U.S. Immigration and Naturalization Service] and a somewhat positive experience in that they did get the amnesty.

So — it was interesting politics too that we're very suspicious of — INS on seeing this enormous, steady growing of citizenship applications, launched what they called "Citizenship USA." Here's all these resources put into processing applications, not waiting for FBI clearances necessarily, approving all these cases and swearing people in. And then, come November [1996], after the election, the mood kind of shifted. [Naturalization] is no longer a big priority and in fact fell in great disfavor with Congress [due to testimony] painting this picture of chaos, of wholesale processing of naturalization applicants, and [saying that] all these criminals got in. But the other thing I think that happened is that it was by then obvious that immigrants were not only naturalizing, they were voting and having an impact on outcomes of elections. The newly naturalized citizens have a tendency to participate more, unlike the rest of us who were born here.

This victory of getting 187 passed by a fairly significant number in a state like California set the wheels, I think, in terms of federal policy makers. It was like this sort of several-years-long campaign or plan. [The first phase was to] go full-storm on restrictions of the undocumented. Really beef-up enforcement. They quadrupled their [INS enforcement] budget and [the] border patrol, they got all this incredible equipment, all of this computerization of communications between federal agencies, of sharing information. You started to see things like now the drivers license requires a green card, you know, just really putting the squeezes on undocumented. And [they] did a pretty damn good job of it.

Then the second year [of this plan] became, okay, now it's lawful residents, with things like welfare reform, and also there was an effort to reduce the quotas for legal

immigrants. That didn't go far. But they managed to get the same result [through] the changes in the financial responsibility of sponsors who wanted to immigrate family members. They enormously raised the amount of income now required [to sponsor the immigration of a family member]. So the result was the same — a fifty percent drop in the number of immigrants who can qualify to legalize [through family visa petitions].

Part three was then anticipated to have been this year, and that was citizenship. There were rumors and some actual bills introduced to make the acquisition of citizenship more difficult. There was one bill that doubled the years of residence required. All of the eligibility requirements were going to be made more difficult. That fortunately didn't get too far. They did on the other hand almost double the filing fee. The administration is still, even within current law, making the process more difficult. They're talking about doing a pre-screening of people to see if they're eligible. The upside [for the applicant] is that you get to save yourself some money. The downside is that the INS comes out with some nice statistics about what a great pass rate they have on citizenship because they've eliminated the denial factor.

So [those were the] moves that we started to see coming out of Congress. And it does seem as if the most rabid and extreme element is starting to whimper out a little bit. You definitely still have people who are being loud and vociferous. Right now, I think the mood of these folks is to go after the INS itself. There's talk of splitting enforcement and services. Which is actually an idea that on the pro-immigrant side has been talked about for a long time. The obvious downside is, you know, who's going to get most of the budget?

And I guess the sense is that the mood is changing a little bit, for maybe the usual historic reasons why these moods change. The economy's doing a little better. Maybe it went too far and got too ugly.

Coutin: What about the argument that the fact that the newly naturalized citizens are voting [has led to] a reassessment on the part of the Republicans and/or others who are backing immigration reform?

Alva: They've said as much. [They are] arguing among themselves, saying, "Some of you went too far. And we've now got a lot of cleaning up to do. Or we're going to start losing." Yeah, there's some very smart people out there from that political pragmatic point of view.

Coutin: Do you have a sense of the overall goal of this immigration reform project? Do you think the goal was for the people promoting that project to gain votes? You know, the scape-goating argument? Do you think it was really fiscally necessary? Do you think it was to actually get people out of the country? Do you think it was to force them further underground?

Alva: Of the four that you mentioned, I think it was at least a couple of them. I think some of it was scapegoating to divert attention from some serious problems.

I really don't believe that hard-core racism is the issue for most people. I don't think that the goal here is, except for maybe the hardcore racists, to really get rid of people completely. But there is that economic advantage of having an underground

workforce that you can control.

There was an interesting story somebody told me once about the anti-immigrant FAIR group. Just going back to that three-part era [of immigration reform]. And I think the question that had been put to them was, "Are you disappointed that you didn't get a lot of what you wanted?" Their main thing at that time was the reduction of the quota for legal immigration. And the guy's response was something like, "Okay, we didn't get that, but there's one thing we succeeded in doing that we consider significant. And that was, we made 'illegal aliens' and 'border enforcement' ugly words among immigrant advocates themselves."

Coutin: So it pushed the debate in a direction where even advocates had to really step back from the claims they were making.

Alva: Yeah! Yeah. They [advocates] bought into it and their line in the sand moved significantly, and the anti-immigrant people saw exactly what happened, and consider that a major victory. And they were right.

Coutin: Have there been any particularly creative responses that you've seen either on the part of advocates themselves or people who are directly affected by these policies?

Alva: I don't know if this really answers that question but I think as advocates, we've really got to start incorporating into our work a little more analysis of economic issues and the dynamics that are at play here. Immigrants can get used, I guess, in some ways, to lower standards and allow either employers or landlords to get away with a little more. And it does cause some ill will. And I think we saw that during [the campaign over] 187, where for some reason, we thought we could automatically count on the vote of African Americans and Mexican Americans and Chicanos and it wasn't the case!

The second thing is immigrants are getting involved in just regular issues that affect everybody and so are just becoming a fabric of the community. Immigrants care about education, crime, neighborhoods, deterioration, etc., etc.

And it's funny how economics kind of transcends. Business is seeing that this is a huge population that spends a lot of money and they're sort of, "Screw the policy makers. There's money to be made here!" I mean we're filling up Universal Amphitheatre with all these Latino acts, where the tickets sell in ten minutes. The top two or three radio stations listened to in all of L.A. are the Spanish stations!

Coutin: If you had to make predictions, what do you see happening, for example, to people who don't have legal status right now and who aren't likely to get it immediately?

Alva: There's some aspects of immigration policy and laws and its impact on people that we're not done with yet. Really ugly ugly aspects of the IIRIRA stuff. In particular, I think the ugliest stuff and the most socially far-reaching parts of it have to do with these new laws that allow INS to pick people up with criminal convictions. And we're talking lawful residents. There's these like four [aspects of this. One is that] the grounds for deporting people on criminal grounds have greatly expanded. For example if you buy pirated cassettes, that's fraud. That could make you deportable. If you know somebody who knows how to set up a cable antennae so you can start

getting T.V. stations that you should be paying for, that could be the basis for deportation. [The second aspect is] the reduction and downright elimination of the ability to make your case for why you should stay.

The third thing that happened was the law about mandatory detention for people who were deportable on these grounds. With no ability to bond out.

And the fourth [is that] it's being allowed to be applied retroactively. And INS is putting some significant resources into not just having people transferred into their custody as they come out of their criminal sentence. [In addition, INS is] tracking down people with convictions from five, ten, twenty, thirty years ago, who've never had another problem since, who've settled in, have married, have kids, have jobs. We have stories of people who have the 5:00 a.m. knock on the door by INS and [they] freak the family out, drag some guy out in his underwear, they don't even let him put clothes on. One guy's been working for the city for eleven years. INS came and asked for him, and picked him up. I think he had a **dime-bag** of marijuana when he was eighteen. The man's in his thirties now. He did three days of jail for the marijuana. It's frightening.

You had INS saying, a couple of years ago when these laws passed, "There will be no mass deportations." It's like, "Give us mass deportations rather than this insidious one-on-one." I mean, the knock on the door at dawn?

Coutin: Now what could the goal of the criminal conviction portion of this be?

Alva: I think what they're reacting to are the congressional threats to split up INS. They don't want that. So if they can pump up some really good statistic that says, "We've arrested and deported 10,000 criminal aliens," then that shows that they know what they are doing, that they should be left alone. As a result, detention centers are like these powder kegs! They're brimming, people are freaking out, there've been hunger strikes, there've been protests.

The other thing that we're going to see [is] some serious labor shortages. Obviously, the border's not sealed, but Operation Gatekeeper⁴ and news of so many deaths along the border has its effect. And deportations are taking its toll. You're seeing it in agriculture first. They're feeling supposedly some shortages. Obviously it's complicated by the fact that, if they were providing decent wages and working conditions then presumably, [they would not have a shortage.] I think the growing concern among employers is, "You guys [the INS] are doing too good of a job!"

Coutin: When IIRIRA passed, it was like the rug was pulled out from under many people who were thinking that they were going to be able to legalize. Some people will be able to pursue their cases regardless. But it seems like certain features of IIRIRA, as I understand it, are going to make it impossible. So what are those people going to do? They may go live elsewhere outside the United States, but they may live here. And it may be that there's such a demand created by the presence of those people-

Alva: Oh, there's talk of another amnesty!

Coutin: Do you think that's going to happen?

Alva: I think that something will happen. It may not use that word, because [it] just freaks

so many people out. One way it could happen — and I know we've talked to a couple of congresspeople — is to update the registry date.⁹ Right now it's '72. Move it up. Real simple.

Coutin: It's also interesting to me to see how when certain people in the government wanted to cut back on legal immigration, and there was this rallying around, "No, no, no! Legal immigration is good for the country." And then they accomplished it through other means and named it something else. It's almost the flip side of a person who doesn't have the right to work because they don't have a work permit defining themselves as an independent contractor.¹⁰

[Or] when IRCA was passed and people needed work permits, more people were willing to apply for political asylum,¹¹ and also some were defrauded not understanding what they were applying [for]. And then this abundance of cases [became] backlogged in the INS. Meaning that people bought themselves this time without intending to do so. [One could argue that] an unintentional consequence of IRCA was an increase in asylum applications, which backlogged the asylum adjudication process, gaining people years of residency in the country with a work permit, during which time they might become eligible for something else.

Alva: Right, right. And then they eventually catch on and close that little door.¹² The same thing used to be [used] for Mexicans who were in deportation proceedings and could apply for suspension of deportation.¹³ You could buy a few years by appealing. So now, how did they close that door? Well, they stopped your accumulation of time upon the initiation of proceedings. So they eventually catch on, but like you said, then people just [say]. "Okay, there's that wall, now we'll find something else."

But definitely, it doesn't seem to me that they ever get the result of having people leave.

Notes

1. Agricultural Labor Relations Act of 1975, California Stats. 1975, 3rd Ex. Sess. c.1, p. 4013, section 2.
2. IRCA, the Immigration Reform and Control Act (P.L. 99-603, 100 Stat. 3359), was passed in 1986. IRCA permitted the legalization of certain seasonal agricultural workers as well as individuals who could prove that they had been continuously and illegally present in the United States since January 1, 1982. The legalization program was popularly known as "amnesty." In addition, IRCA imposed sanctions on employers who failed to verify employees' authorization to work. Prior to IRCA's passage, it was not illegal for employers to hire undocumented workers.
3. Proposition 187 was passed by California voters in 1994. This law would have required service workers such as doctors, teachers, and social workers to check the identity documents of their patients, students and clients. Implementation of Proposition 187 has largely been forestalled by the courts.
4. The Antiterrorism and Effective Death Penalty Act, P.L. 104-132 (110 Stat. 1214).

5. Illegal Immigration Reform and Immigrant Responsibility Act P.L. 104-208 (H.R. 3610), September 30, 1996.
6. Personal Responsibility and Work Opportunity Reconciliation Act of 1996. P.L. 104-193 (110 Stat. 2105).
7. Here, Susan Alva is referring to the fact that during the Salvadoran and Guatemalan civil wars, being active in a union meant risking arrest, torture and even assassination.
8. Operation Gatekeeper is a border enforcement effort that targets heavily trafficked portions of the U.S.-Mexican border, near San Diego. As a result of Operation Gatekeeper, undocumented immigrants have attempted border crossings through rougher terrain, leading to an increase in deaths among border crossers.
9. Registry is a little-known portion of U.S. immigration law that permits individuals who have been in the United States since 1972 to regularize their status.
10. Independent contractors are self-employed and therefore do not have to demonstrate their work authorization to an employer. Independent contractors, such as gardeners who service multiple homes, are not subject to the employer sanctions provisions of IRCA.
11. Prior to 1995, individuals who applied for political asylum were eligible for work permits while their cases were pending, although INS offices in certain regions of the United States were reluctant to issue such permits.
12. In 1995, the INS adopted regulations that require asylum applications to be adjudicated on a "last-in/first-out" basis, and that delay the issuance of a work permit for six months. As a result of these changes, applying for asylum no longer "buys" time or results in a work permit.
13. In order to qualify for suspension of deportation, applicants must prove seven years of continuous presence in the United States, good moral character, and that the deportation of the applicant would cause and extreme hardship to the applicant or to a U.S. citizen or legal permanent resident relative of the applicant. Individuals who were in deportation proceedings and who had not yet acquired seven years of continuous presence sometimes sought to delay proceedings until they accrued the requisite time. IIRIRA made this strategy impossible by making an applicant's accumulation of time stop upon the issuance of notice to appear in court. IIRIRA also increased the required period of continuous presence from seven years to ten years.