

5 MYTHS ABOUT UNDOCUMENTED IMMIGRANTS¹

MYTH #1: Anyone who enters the country illegally is a criminal.

Facts: Being an undocumented (or “illegal”) immigrant has been, until now, only a civil, not a criminal violation. Under federal immigration law, unlawful presence in this country is a civil offense. The civil penalty for being in this country unlawfully is deportation, or removal, which the U.S. Supreme Court has held is not “criminal punishment.” However, some states—like Arizona—are trying to criminalize an undocumented immigrant’s mere presence.

MYTH #2: Undocumented immigrants do not have any rights in the U.S.

Facts: Undocumented immigrants have the right to access the courts. They have rights in their homes, and those who have been arrested or who are in custody have certain constitutional rights under the Fourth, Fifth, and Sixth Amendments. Undocumented immigrants have rights in the workplace, including the right to minimum wage and overtime pay. Undocumented immigrant children have the right to a public school education. Undocumented immigrant children may now qualify for in-state tuition to attend college in Connecticut and a few other states. Undocumented immigrants can own property and get mortgages. Undocumented immigrants can be child support obligors or obligees and can get court orders giving them custody of their children. (Connecticut courts have not ruled on what role, if any, a parent’s immigration status should play in making custody determinations.)

MYTH #3: Immigrants don't want to become citizens.

Facts: Immigrants come to the U.S. for a variety of reasons — to reunite with family or to find better employment opportunities — and would prefer to do so through legal channels. However, avenues to legalize under the U.S. immigration system are extremely limited, and most undocumented immigrants in the U.S. cannot simply apply for a visa and obtain legal status. (It is untrue that most undocumented immigrants can simply fall in love and get married to a U.S. citizen in order to legalize. In most cases, even those who are married to U.S. citizens and who have U.S. citizen children are not eligible to legalize under current immigration laws.) Those immigrants who are eligible and seek citizenship do so despite difficult requirements and huge backlogs that can delay the process for years.

¹ See Doris Meissner, “Five Myths about Immigration” at <http://www.washingtonpost.com/wp-dyn/content/article/2010/04/30/AR2010043001106.html>; ACLU “Immigration Myths and Facts,” at <http://www.aclu.org/immigrants-rights/immigration-myths-and-facts>; Alexander Barnard, Myths and Realities of Illegal Immigration,” at http://cmd.princeton.edu/files/POM_june2007.pdf; Randolph Caps & Michael Fix, “Undocumented Immigrants: Myths and Realities” at <http://www.urban.org/publications/900898.html>

