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The System Is the Problem

Immigration Laws Trap Those Who Comply and Those Who Don't

By Tamar Jacoby

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At dawn on Tuesday more than a thousand Immigration and Customs Enforcement agents descended on six plants owned by Swift & Co., one of the country's largest meat processors. Some 1,300 workers were arrested, and operations at all six slaughterhouses were suspended.

Seen in one light, the raids were perfectly justified. Both employer and employees were breaking the law. It's a law that's being violated on a massive scale from coast to coast, and the public is increasingly upset about it.

The only catch: Swift has been trying for years to comply with our poorly conceived immigration laws, coping as best it could with an impossible situation. Like a driver who finally goes through a broken traffic light, the company and its workers aren't the problem -- the system is.

Both Swift and its employees -- who bore the brunt of the punishment -- are caught in an economic bind far bigger than themselves. Meat processing is dirty and dangerous. Fewer and fewer members of the increasingly educated American workforce are interested in the jobs.

As a result, although it now pays an average of \$13 an hour, or \$25,000 a year, the industry increasingly relies on foreign workers, not because they're cheap -- \$25,000 a year is what trained paramedics and college-educated kindergarten teachers make in meatpacking states such as Iowa and Kansas -- but simply because they'll do the work. If immigrants weren't available, companies such as Swift would have to close, and both meatpacking and the agriculture that depends on it -- cattle and hog producers -- would eventually move to other countries.

Not only that, but U.S. law makes the bind much worse for both employers and employees. Despite the meatpacking industry's well-known need for foreign labor, the United States offers virtually no way for these workers to enter the country legally. Every year the economy as a whole creates some 500,000 more unskilled jobs than Americans want to do, yet we issue only 5,000 year-round visas for the immigrants who might fill them. For companies such as Swift and its workers, there's no good answer, and it's not surprising that many break the law.

But even that isn't the end of the cruel twists of Swift's story. Far from ignoring or shrugging off the law, the firm has been trying to comply with it. When job applicants started showing up with what the company suspected were false papers, it tried inquiring into their backgrounds -- only to be sued for discrimination by the Justice Department.

When the government created a program meant to help employers verify that their workers were in the country legally by checking Social Security numbers against a central database, Swift was among the first to sign up. And when that program didn't seem to be catching the worst offenders -- people using not false Social Security cards but stolen ones -- Swift came to Washington to testify in Congress about the problem. The reward: That was precisely the offense that ICE raided the company for on Tuesday.

Don't misunderstand: Swift is no band of saints. Everyone involved -- the company, its workers, the U.S. government -- knows that the kind of compliance required to pass muster today is a

charade. But it is a charade our dysfunctional immigration system has all but forced the firm and its workers to play.

Does this mean it's all right to break the law? Of course not.

Our nudge-nudge, wink-wink immigration system -- unrealistic laws, all but ignored on the ground -- must be replaced by a law enforcement regime that works: more honest quotas, enforced to the letter, including in the workplace. Raids such as those that took place this week would be justified in the context of an immigration overhaul of the kind proposed by the president and passed by the Senate last spring. Workers need a legal way to enter the country. Businesses need a legitimate way to get workers, plus a reliable verification system -- not unlike credit card verification -- to tell them which workers are legal and which aren't. And once these things are in place, there will be no excuse for breaking the rules.

But until then, raids of the kind that occurred this week can only be counterproductive: Companies trying to do the right thing will be driven out of business, even as those happy to flout the law will find themselves with more of a competitive advantage. And meanwhile illegal workers will be driven further underground.

I happened to be with a group of employers when the Swift raids were announced -- not food-processing companies but contractors, landscapers, growers and others who also count on unskilled workers -- brought together by their growing anger at the broken immigration system and the lies it makes them tell.

"What am I supposed to do?" one employer asked bitterly. "I'm paying \$22.50 an hour. I still can't find enough workers. I'm making less and less money as a result -- I've stopped bidding for lots of jobs. And I could go to jail just for trying to get the work done."

And the sad truth is, he can't do much. Only Congress can fix the system he and his workers are trapped in. As the Swift raids remind us, it's a job that cannot wait.

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