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## For Some Immigrants, Voting Is a Criminal Act

By **KIRK SEMPLE**

The way Joseph E. Joseph tells it, he was just doing his civic duty.

On his way home from work one evening in 1992, he came across a group of volunteers in Brooklyn registering people to vote. Mr. Joseph, a legal permanent resident who had immigrated from St. Kitts eight years earlier, decided it was time to sign up. He cast a ballot in that year's presidential election, he said, and in every one since.

His participation in American democracy came at a steep cost: The government is now trying to deport him.

In the United States, only citizens are allowed to vote in national and statewide elections. And while immigrants who are granted permanent residency — a green card — enjoy an array of privileges, including the right to work, they can lose them all and be expelled from the country if the authorities discover that they have even registered to vote.

Uncovering an immigrant's voting history is not always hard. Many proudly acknowledge having voted when applying for American citizenship.

"I thought that was expected of me," said Mr. Joseph, who volunteered the information on his citizenship application in 2008 and during his naturalization interview in 2009. "I felt like I was part of the democracy."

Officials with United States Citizenship and Immigration Services, which processes immigrants' visas and naturalization petitions, say the agency does not keep records of how many noncitizens have been caught violating voting laws. Many election law

experts said there was no evidence that the violations happened frequently — or at least enough to skew election results.

But for those who do register to vote and get caught, the penalties can be severe. Lawyers at the Legal Aid Society, a nonprofit group for low-income New Yorkers, said that they had handled at least eight cases in the past few years involving permanent residents who faced deportation because they had registered to vote. Noncitizens who are convicted in criminal court of having made a false claim of citizenship for the purpose of registering to vote in a federal election can be fined and imprisoned for up to a year, then deported.

Advocates for immigrants said that in most cases, those who violated the voting law did so unwittingly.

“It really annoys me that they’re just trying to do their civic duty for no pecuniary gain at all, yet they wind up in removal proceedings,” said Jeffrey N. Brauwerman, a lawyer in Coral Gables, Fla., and a former immigration judge, who has represented four immigrants that the government tried to deport for registering to vote.

Some groups, including the Heritage Foundation, contend that illegal voting by immigrants may be more widespread than anyone realizes. They say it disenfranchises legal voters and warrants tougher enforcement.

In a 2008 report, Hans A. von Spakovsky, a senior legal fellow at the foundation, wrote: “Lax enforcement of election laws permits individuals who have not entered the American social compact or made a commitment to the U.S. Constitution, U.S. laws, and the U.S. cultural and political heritage to participate in elections and potentially change the outcome of closely contested races.”

No group appears to have made the issue a central cause this election season, Mr. von Spakovsky said, but that could change if some results in crucial races are close. “That’s when people will potentially pay attention,” he said.

William G. Wright, a spokesman for Citizenship and Immigration Services, said the agency did not provide “specific information on voting rights” when granting green cards. But he pointed out that voter registration forms explain that an applicant must be an American citizen.

Immigrants and their advocates, however, say there is widespread confusion, even among native-born Americans, about who is allowed to vote. Volunteers, whether

working for political parties or nonpartisan causes, sometimes give incorrect advice when registering new voters.

Confusing matters, permanent residents are permitted to vote in some municipalities, though not in New York City. And elections officials around the country do not customarily verify the citizenship of newly registered voters. Arizona is the only state that requires proof of citizenship; Georgia passed a similar law, which has not taken effect.

Mr. Joseph, 53, said that when he encountered the registration volunteers in Prospect Heights, Brooklyn, in 1992, he told them he had a green card. “They said that if I’m paying taxes, I have a right to vote,” he said.

He mailed his application to the city’s Board of Elections and soon received a voter registration card.

“I assume that every application should be checked out, and I assumed that if there was something wrong, then I’d get a call,” said Mr. Joseph, a welder at a New Jersey construction company who has five children, three of them American citizens by birth.

Under Citizenship and Immigration Services guidelines, a noncitizen’s vote does not always scuttle a bid for citizenship. The agency’s officers are required to evaluate the circumstances of the violation, as well as the “moral character” of the applicant, and decide whether the law has been intentionally violated.

In Mr. Joseph’s case, the agency said that intent was irrelevant — and rejected his application. “Whether or not making false claim of U.S. citizen was intentional or not, you nonetheless voted in an election in violation of” the law, his rejection letter said. “Therefore you failed to satisfy the good moral character requirement under the law.”

The case was sent to Immigration and Customs Enforcement for deportation proceedings, which Mr. Joseph is trying to stop.

His lawyer, Olivia Cassin, said she saw nothing in the agency’s case file that suggested officials had fully evaluated his character. “He’s a desirable person, paid taxes, supported his children, committed zero crimes,” said Ms. Cassin, a staff lawyer with the Legal Aid Society.

Officials with Citizenship and Immigration Services said they were not permitted to discuss the details of individual cases. "Each case is complex, and the decision in that case is based on our adjudicators looking at all the evidence provided," said Chris Bentley, a spokesman with the agency.

But Ms. Cassin and other immigrant advocates said the agency was being too strict. The advocates pointed out that, in some cases, immigration judges had relied upon the same evidence to rule against deportation that immigration officials had used to deny citizenship.

In eight New York cases that Ms. Cassin recalled, none of the immigrants were deported, and all were able to maintain their permanent residency. In one, she said, the client's application for naturalization was reopened and eventually approved.

Mr. Joseph was supposed to have an immigration hearing last month, but the judge postponed it until early next year. He said he now regrets signing that registration form 18 years ago.

"I wish I could take it back," he said.