

IMMIGRATION IN THE UNITED STATES: A BRIEF OVERVIEW OF THE CURRENT SYSTEM AND THE CATHOLIC CHURCH'S RESPONSE



Provided by the Archdiocese of Cincinnati Catholic Social Action Office (Last updated: 1/2010)

The Catholic Church recognizes the need to secure our borders and regulate the flow of immigration. However, at the same time, it always seeks to maximize the protection of the life and dignity of every human person and family, regardless of national origin. Therefore, the Church seeks to find a better, more humane balance in our immigration laws than what exists today. In essence, we can do better and laws can be changed. The overall regulation of immigration flows into our country only began to evolve as recently as the late nineteenth century, beginning with the Chinese Exclusion Act of 1882. The last major reform of our system was under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The following is a brief overview of our current immigration system and how it needs to be reformed in order to better protect the dignity of migrants.

From the U.S. Bishops, *Strangers No Longer: Together on the Journey of Hope*, 2003

The immigration system “is weakened by inconsistent and divergent policies that are not coordinated and, in many cases, address only the *symptoms* of the migration phenomenon and not its root causes... It is now time to harmonize policies on the movement of people, particularly in a way that respects the human dignity of the migrant and recognizes the social consequences of globalization.” (no. 56, 57)

From Most Rev. Thomas Wenski, Bishop of Orlando

“The so-called ‘illegals’ are so not because they wish to defy the law; but, because the law does not provide them with any channels to regularize their status in our country – which needs their labor: **they are not breaking the law, the law is breaking them.**”

LEVELS OF LEGAL STATUS

- **U.S. Citizen:** Legal Permanent Residents may be able to attain full citizenship status after residing here for a number of years and going through the naturalization process.
- **Legal Permanent Resident (i.e. “Green Card”):** A foreign-born individual admitted to reside permanently in the U.S. Typically, the individual can become an LPR through the family-sponsored visa system; employment-based visa system; or the diversity visa lottery. See below for a summary on how these systems need reform.
- **Refugees and Asylees:** Those allowed to reside in the U.S. after proving a well-founded fear of persecution. For refugees, this usually involves screening through the U. N. High Commissioner for Refugees. Refugees and asylees can readjust their status to LPR after one year.
- **Non-immigrants:** Those temporarily in the U.S. for pleasure, business, study, etc. Travelers from most countries need visas for entry (tourists, business visitors, students, etc.), but Canada and citizens from 27 countries participating in the Visa Waiver Program (nearly all first-world nations) can enter for up to 90 days without a visa.
- **Undocumented immigrants:** Those who arrived on U.S. soil without authorization from the U.S. government. These immigrants enter illegally by either not being inspected by an immigration officer or by providing false documentation. Or they arrive legally on a temporary visa (e.g. student or tourist) and remain beyond the visa’s expiration date.

THE ROOT CAUSES OF IMMIGRATION

Searching for the basic needs for themselves and their families, more than 2,000 migrants have died crossing the U.S.-Mexican border since 1998. Thousands more die en route as they cross through other countries and across oceans.

Many migrants are compelled to leave their homes out of economic necessity in order to provide even the most basic of needs for themselves and their families. The bishops call for international efforts designed to create conditions in which people do not have to leave their homes out of necessity. Trade, international economic aid, debt relief, and other types of economic policies should be pursued that result in people not having to migrate in desperation in order to survive. (“Catholic Bishops Call for Comprehensive Immigration Reform” June 2005)

LEGAL AVENUES FOR MIGRATION

The Family-Based Visa System

Foreigners can immigrate if family members already residing legally in the U.S. petition for them. Yet the U.S. places per country caps on the number of visas available to family members of citizens and legal residents. There are also different categories for family members depending on their relationship with the petitioning citizen or legal resident. These categories are so “oversubscribed” that a legal immigrant would have to wait years – if not decades – for their loved ones to legally join them here. As of February 2010, for instance:

- A man from any country who immigrated to the U.S. legally to work would have to wait at least 4-6 years for his wife and children to join him legally.
- A U.S. citizen who had a married son or daughter in Mexico would have to wait at least 18 years for him or her to be let in.
- A U.S. citizen who had a brother or sister in the Philippines would wait at least 23 years!

This information is provided by the U.S. Department of State and can be viewed in its entirety in the monthly “Visa Bulletin” at http://www.travel.state.gov/visa/frvi/bulletin/bulletin_4611.html.

Catholic Church’s position:

U.S. citizens and legal permanent residents must endure many years of separation from close family members who they want to join them in the United States. The backlogs of available visas for family members results in waits of five, ten, fifteen, and more years of waiting for a visa to become available. The bishops call for a reduction of the pending backlog and more visas available for family reunification purposes. (“Catholic Bishops Call for Comprehensive Immigration Reform”, 2005)

The Employment-Based Visa System

The U.S. also places caps on the number of permanent employment visas available, depending on the field of work.

- Generally speaking, the U.S. is able to provide enough visas to immigrants who hold advanced degrees or who are “persons of exceptional ability”.
- However, there are only 5,000 visas available per year for “other workers”, meaning those who are “capable of performing unskilled labor”. This clearly does not meet the demand for businesses with these jobs available and immigrants looking to fill them.

Aside from the few number of permanent worker visas, there are a number of **temporary worker visas**. None of these programs include paths to residency, and immigrants are expected to return home after the visa expiration date. For most “low-skilled” workers, visas are available for 1-year terms and can be extended for up to 3 years. The options for them include:

- H-2A for temporary or seasonal agricultural work (e.g. harvesting the food we eat);
- H-2B for non-agricultural temporary or seasonal work (e.g. working at an amusement park)

The Catholic Church’s position:

The U.S. economy depends upon the labor provided by migrants. Therefore, many migrants come to the United States to fill jobs. The bishops acknowledge this reality and call for a more rationale and humane system by which laborers from other countries can enter the country legally to fill positions in the labor force, including on a temporary basis. Because the U.S. experience with temporary workers programs has been fraught with abuses, the bishops call for a temporary worker program that includes:

- *Path to permanent residency which is achievable/verifiable*
- *Family unity which allows immediate family members to join worker*
- *Job portability which allows workers to change employers*
- *Labor protections which apply to U.S. workers*
- *Enforcement mechanisms and resources to enforce worker’s rights*
- *Wages and benefits which do not undercut domestic workers*
- *Mobility between U.S. and homeland and within U.S.*
- *Labor-market test to ensure U.S. workers are not harmed*

(“Catholic Bishops Call for Comprehensive Immigration Reform”, June 2005)

Diversity Visa Lottery and Temporary Protected Status (TPS)

- The lottery provides a limited number of permanent resident visas (about 50,000) to immigrants from countries that currently do not have high levels of immigration to the U.S.
- TPS allows nationals to live and work legally in the U.S. for up to 18 months (with possible renewal) if the Secretary of Homeland Security determines that armed conflict or natural disaster in their home countries would place them in danger. After May 2, 2009, nationals from El Salvador, Honduras, Nicaragua, Somalia and Sudan are protected by TPS.

Refugees

- All refugees admitted to the United States must meet the U.S. refugee definition (modeled on the UN definition), which requires a well-founded fear of persecution based on race, religion, nationality, membership in a particular social group, or political opinion. The admissions process begins with a consultation between the Administration and Congress. The Administration then establishes a ceiling for the number of refugees to be admitted in the upcoming fiscal year. Over the years, the ceiling has ranged from more than 200,000 in the early 1980s to a recent low of 70,000.
- In partnership with over 100 diocesan refugee resettlement offices, which are typically part of Catholic Charities agencies, the U.S. Conference of Catholic Bishops Migration and Refugee Services Dept. serves nearly one-quarter of all refugees admitted for resettlement into the United States each year. Resettlement services are also provided to other newcomer populations including asylees and entrants. This process is assisted by many parishes in the Cincinnati Archdiocese.

The Catholic Church's position:

Those who flee wars and persecution should be protected by the global community. This requires, at a minimum, that migrants have a right to claim refugee status without incarceration and to have their claims fully considered by a competent authority. (Strangers No Longer: Together on the Journey of Hope, 2003)

A Path to Citizenship for the Currently Undocumented

- Due primarily to the lack of enough legal avenues for immigration, there are an estimated 12 million undocumented immigrants in the U.S.
- **Re-entry Bar:** When many undocumented immigrants are caught, they are not allowed to immigrate legally back to the United States for up to 10 years. This provides no incentive for the currently undocumented to let themselves be known to authorities or to try to legally change their status.

The Catholic Church's position:

For those in this country without proper immigration documentation, opportunities should be provided for them to obtain legalization if they can demonstrate good moral character and have built up equities in this country. Such an "earned" legalization should be achievable and independently verifiable. ("Catholic Bishops Call for Comprehensive Immigration Reform", June 2005)

MORE HUMANE ENFORCEMENT

- "Illegal immigration" is a CIVIL offense; it is not breaking CRIMINAL law.
- U.S. Dept. of Homeland Security's Immigration and Customs Enforcement (ICE) enforces immigration law. In 2008, ICE removed 356,739 undocumented immigrants from the U.S.
- Once apprehended, migrants are often held in unsanitary and crowded prisons, jails and detention centers, often along side criminals.
- During a raid, family members are often separated from each other, detainees can be transferred from facility to facility, and it is often difficult for members to find out what has happened to their loved ones.
- ICE often uses "expedited removal", which is an on-the-spot expulsion without legal representation or a hearing before a judge.
- In 2008, ICE arrested 5,184 immigrants in worksite enforcement raids. In Ohio, 161 were arrested in 2007 at Koch Foods in Fairfield, and in 2008, 58 Mexican employees were arrested at the Casa Fiesta restaurant chain up north.
- By the end of 2008, under the "287(g) program", ICE gave limited enforcement authorities to 67 local law enforcement entities. The Butler County Sheriff's Department received this authority in 2008 after 8 of its officers received training. This has instilled a lot of fear in our local immigrant communities.

The Catholic Church's position:

In recent years, immigrants have been subject to laws and policies that debase our country's fundamental commitment to individual liberties and due process. These laws and policies, including detention for months without charges, secret hearings, and ethnic profiling, signal a sea of change in our government's policies and attitudes towards immigrants. We are a nation with a long, rich tradition of welcoming newcomers. Government policies that unfairly and inappropriately confuse immigration with terrorism do not make us safer, tarnish our heritage, and damage our standing abroad. The bishops urge our government to revisit these laws and to make the appropriate changes consistent with due process rights. (“Catholic Bishops Call for Comprehensive Immigration Reform”, June 2005)

[W]e believe that the Department of Homeland Security has not gone far enough to ensure that human rights protections are consistently applied in all enforcement actions... While we do not question the right and duty of our government to enforce the law, we do question whether worksite enforcement raids are the most effective and humane method for performing this duty, particularly as they are presently being implemented. (USCCB Statement on Worksite Enforcement Raids, September 10, 2008)

WHAT NEXT?

Federal Legislation, the DREAM Act, and ICE Raids

The Church will continually advocate for federal comprehensive immigration reform. In addition, we will advocate for the DREAM Act, currently in Congress, which will legalize certain children who were brought to the U.S. if they attend college or join the armed forces. We also call upon the Administration and ICE officials to stop enforcing laws that result in inhumane treatment of immigrants and their families, especially through worksite raids.

Local Legislation

Due to the failure of Congress to enact comprehensive immigration reform legislation, local states and jurisdictions are now trying to pass their own patchwork of regulation. Many bills that are introduced are “enforcement-only” measures, which the Church has generally opposed because they serve to only make life more difficult for working immigrant families who are subject to inadequate federal immigration laws.

Local Law Enforcement

Local police and county sheriff departments are becoming more active in enforcing immigration law. Just recently, the Ohio Bureau of Motor Vehicles required immigrants to provide Social Security Numbers to validate their vehicle registrations. This has resulted in a loss of movement and job income for many immigrants. We hope that law enforcement agencies will leave immigration law to federal officials, as we do not want local immigrants, undocumented or not, to ever fear local police. When they are victims of crime or suffer injury, they should have the same right to rely on public officials for their own safety. We will work with local officials to request that they not foster a climate of fear in immigrant communities.