

2016

Christian Community Development
Association

CCDA's Biblical Justice Committee with
special thanks to Matthew Soerens

IMMIGRATION WHITE PAPER

Introduction

More than 40 million immigrants live in the United States. It is home to more immigrants than any other nation in the world.ⁱ A significant share of those immigrants—an estimated 11.4 millionⁱⁱ—are in the country without valid legal status, presenting both unique vulnerabilities for those individuals and their families as well as complex challenges for American society. These realities are fueled by an immigration legal system that has not been substantially revised in decades

Immigration's timeline

Until the late 1800's, the U.S. had no federal immigration policy, nor restrictions on immigration.. Chinese immigrants were among the first category of individuals restricted from migration, with the passage of the Chinese Exclusion Act in 1882, a law that remained in effect until the 1940s.

From the 1890s to the 1910s, the U.S. experienced unprecedented numbers of arrivals, primarily from Southern and Eastern Europe, into New York's Ellis Island. Anti-immigrant sentiment grew throughout this time and culminated in the 1920s with the National Origins Act, which established the requirement that most would-be immigrants first obtain a visa, and which restricted access to visa primarily to those from Northern and Western Europe, with special exceptions for those coming from within the Western Hemisphere.

U.S. immigration policy was changed again in 1965: the two pillars of that reform—basing availability to immigrant visas on family or employer sponsorship—remain the center of U.S. immigration policy to this day. Two other significant legislative bills addressing lawful migration were formalized in the Refugee Act of 1980, which permits the President to permit a set number of refugees for resettlement each year, and the Immigration Act of 1990, which established the Diversity Visa Lottery for would-be immigrants from under-represented countries of origin.

While the number of immigrants present unlawfully in the United States has been relatively stable over the past decadeⁱⁱⁱ—with the number of new arrivals approximately matched by those who have either been deported or departed the U.S. voluntarily—federal immigration policy remains at a standstill. While significant bipartisan legislation has passed the U.S. Senate on two occasions, in 2006 and 2013, with the support of a Republican and Democratic president, respectively, the House of Representatives has not passed parallel legislation, perpetuating the status quo.

Challenges of Current Legal System

The U.S. immigration system is plagued by a number of significant challenges:

- **Insufficient Visas to Meet the Demand for Labor:** Particular industries in the United States rely heavily upon immigrant labor, whether those immigrants are highly-educated workers in technology industries, or those in roles that require little to no formal education. In the agricultural sector, for example, the majority of farmworkers—more than 70%—are immigrants.^{iv} Because the number of immigrant visas is starkly limited under current law, particularly for those who are not classified as highly-skilled, there are not enough lawfully authorized workers to meet the demand, and many industries rely significantly on immigrant workers who are not authorized to work. More than half of farm workers, for example, are

undocumented.^v The disparity between the number of jobs available and the number of visas available is significantly responsible for the large number of immigrants present unlawfully.

- **Backlogs for Family Reunification:** U.S. immigration law allows certain U.S. citizens or Lawful Permanent Residents to petition for certain close relatives to migrate lawfully to the United States. However, as a result of quotas written in the law, in many cases this family reunification process can take many years or even decades. As of July 2015,^{vi} for example, a Lawful Permanent Resident who petitioned for her husband and minor children would have to wait more than two years. A citizen who petitions for a twenty-one-year-old unmarried son would need to wait about eight years before he would be eligible to migrate, or even more if the son is in Mexico (twenty-one years) or the Philippines (fifteen years). A sibling of a U.S. citizen would need to wait at least twelve years, and as much as twenty-four years if the sibling is a Filipino national. Many of those immigrants who are present unlawfully in the U.S. came to be reunited with family, but were unwilling or unable to wait through the backlogged family reunification, so they either entered unlawfully or overstayed a temporary, non-immigrant visa.
- **Potential Risks Related to Inadequate Border Security:** Much of the political rhetoric around immigration issue has focused upon the security (or lack thereof) of the U.S.-Mexico border. Given that millions of undocumented immigrants have entered the U.S. without being properly inspected, many have voiced concerns that those with the intention of committing acts of terrorism or other crime may be able to enter among the many others without any malicious intent.

Despite persistent rumors to the contrary, the U.S. Department of Homeland Security says that there has never been credible evidence of terrorists entering the U.S. unlawfully through the U.S.-Mexico border.^{vii} Nevertheless, nearly all Americans agree that the U.S. government has a responsibility to ensure secure borders.^{viii}

In the past decade, the number of border patrol officers at the Southern border has nearly doubled (to more than 18,000), as Congress has increased funding for Customs and Border Protection by more than 75% (to \$10.7 billion); nevertheless, the number of individuals apprehended attempting to cross the U.S.-Mexico border is down dramatically, from a high of 1.6 million people in 2000 to a consistent level of about 400,000 people each year since 2012.^{ix} While it is not known precisely how many individuals have *not* been apprehended, who have successfully entered the country without inspection, there are clearly far fewer individuals attempting to enter now than a decade ago, which scholars believe is an effect of the economic downturn in the U.S., an improved economy in Mexico, and increased border security.^x

- **Erosion of the Rule of Law:** As a result of stark limitations on legal migration that do not correspond to fluctuations in the U.S. labor market, many immigrants seeking employment have entered the U.S. without inspection or overstayed a temporary visa. The Department of Homeland Security under the direction of the President has the legal authority under existing

law to deport each of these undocumented individuals (unless they otherwise qualify for relief from deportation, such as those who may have a valid claim to asylum).

However, to do so would have enormous economic ramifications: it would cost between \$100 billion and \$300 billion—and take an estimated 20 years—just to identify and remove the more than 11 million individuals who are currently undocumented, plus another \$300 billion or more in sustained enforcement over that time period to prevent these deportees from returning or new individuals from entering or overstaying unlawfully.^{xi} The long-term economic costs of not having those individuals present as workers, consumers, and taxpayers would be even more significant: over 20 years, if all undocumented workers were removed and no changes to the legal immigration system resulted in their replacement, the U.S. Gross Domestic Product would decline by an estimated 6%, approximately \$1.6 trillion.^{xii}

Given these realities, as well as the social disruption that would accompany such a policy, it is perhaps not surprising that no President in recent history has attempted a policy of mass deportation, nor has Congress ever appropriated the funds that would be necessary to undertake this operation. Only a small minority of American voters—about one in four—*want* the U.S. government to pursue a policy where undocumented immigrants would be required to depart the country.^{xiii}

With the U.S. government unwilling to either fully enforce the law or to amend the law, though, the law itself begins to lose its meaning. Many immigrants, as well as many employers who hire unauthorized immigrant workers, have taken the federal government's practice of limited selected enforcement as a tacit acknowledgement that these laws are no longer relevant—though both employers and undocumented immigrants still live with the constant threat that the government *could* choose to enforce the law at any time, which could result in significant penalties (for an employer) or deportation (for the immigrant).

- **Labor Abuses and Human Trafficking of Undocumented Immigrants:** Undocumented immigrants are disproportionately likely to be victims of wage theft and even of human trafficking. Wage theft occurs when an employee is not paid the full wage promised to them and required by law; undocumented immigrants are uniquely vulnerable to wage theft because, since they are working unlawfully, many fear that reporting this abuse would expose their unlawful employment and lead to their termination or even deportation. A study of Mexican immigrants in New Mexico, for example, found that about three in ten undocumented immigrants in the state had been victims of wage theft.^{xiv} These abuses are particularly pronounced in certain industries: a study of carwash workers in Chicago found that the significant majority were undocumented, and that less than one-quarter were being paid the legal minimum wage.^{xv} Similarly, the *New York Times* recently conducted an extensive study of nail salon workers in New York City, most of them undocumented immigrants, finding that only about one-quarter were paid the legal minimum wage and that many were not paid at all.^{xvi}

In some cases, these labor abuses meet the legal standard of human trafficking, where an individual is made to work (whether in a labor situation or in the commercialized sex industry)

under force, fraud, or coercion. A report by the Faith Alliance Against Slavery and Trafficking notes that undocumented immigrants are disproportionately likely to be victims of both sex trafficking and labor trafficking, and that undocumented immigrants are often afraid to report the abuse they are suffering to law enforcement.^{xvii}

- **Lack of Access to Basic Services Funded by Undocumented Immigrants' Tax Dollars:** Despite a persistent misperception to the contrary, most undocumented immigrants are paying taxes. In 2012, sales and excise taxes, property taxes, and income taxes paid by undocumented immigrants accounted for \$11.8 billion just for state and local governments.^{xviii} Most undocumented workers (75%) are also having federal payroll taxes deducted from their paychecks^{xix}; contributions for Social Security alone from unauthorized immigrants have been as much as \$15 billion annually.^{xx} The Internal Revenue Service allows and requires undocumented immigrants to file and pay their taxes, offering an "Individual Taxpayer Identification Number" for those ineligible for a valid Social Security Number.^{xxi}

Nevertheless, these undocumented immigrants are ineligible for many of the benefits that these tax dollars help to fund. Undocumented immigrants are ineligible for most federal means-tested public benefits (food stamps, Temporary Aid for Needy Families, Medicaid), as well as for Social Security retirement benefits or access to subsidized health care insurance under the Affordable Care Act.^{xxii} While the Supreme Court has ruled that undocumented immigrant children are eligible to attend public primary and secondary schools, they are ineligible for federal financial aid programs and, in most states, do not qualify to pay in-state tuition rates.^{xxiii}

Without valid legal status, undocumented immigrants are also ineligible to obtain a driver's license in most states^{xxiv}; if they drive without a license, which many feel is a necessity, especially in communities without adequate public transportation, they put themselves at risk of penalties and, in some cases, of being referred to federal immigration officials for deportation.

- **Separation of Families:** A record 438,421 immigrants were deported from the U.S. in fiscal year 2013, more than double the number of deportations a decade earlier.^{xxv} While some of those individuals deported had been convicted of significant criminal offenses, the majority (about 240,000) had not been convicted of any criminal offense (unlawful presence in the United States, while sufficient grounds to be deported, is a civil, not criminal, offense).^{xxvi}

Because most undocumented immigrants have, at this point, been present in the U.S. for at least a decade or more,^{xxvii} some have married U.S. citizens and many more have had children who, by nature of their birth within U.S., are U.S. citizens under the 14th Amendment. When an undocumented spouse or parent is deported, their U.S. citizen relatives cannot be deported, which often leads to families being separated. As a result, deportations have inevitably led to separation of families: in 2013, for example, an average of about 200 parents of U.S. citizen children were deported *each day*; more than 10,000 of those parents deported had never been convicted of a crime.^{xxviii}

When a parent is deported, in some cases the entire family departs the U.S. In other cases, children remain with a remaining parent, or go to live with another relative. In rare cases, children are placed into foster care: as of 2011, more than 5,000 children were in foster care as a result of their immigrant parent's deportation or detention just from within the 22 states where data was available.^{xxxix} In all cases, these situations lead to significant disruption for children.

- **Detention of Vulnerable Immigrants in Inhumane Conditions:** When an immigrant is facing a deportation hearing, he or she will, in many cases be placed into a detention facility. In some cases, the immigrant will be allowed to post bond, but in other cases bond is not offered. The rationale for immigrant detention is that, if released into society pending their court hearing, these immigrants facing detention might abscond or do harm to others.

The practice of detention has increased exponentially in recent years, from less than 200,000 individuals detained in 2002 to more than 475,000 detained in 2012.^{xxx} In fact, Congress has mandated that the Immigration & Customs Enforcement Agency "shall maintain a level of not less than 34,000 detention beds," most of which are filled on any given night.^{xxxi}

Though detention has increased under the auspices of preventing "criminal aliens" from doing harm, as many as half of immigrants who have ultimately been deported in recent years have no criminal conviction, and many of the remaining deportees who did have convictions were convicted solely of immigration-related violations, such as unlawful entry.^{xxxii} The other primary rationale for detention is to ensure that immigrants facing deportation show up for their hearings, but alternatives to detention, such as ankle monitors, are far less costly and have been found to be highly effective.^{xxxiii}

Another explanation for the dramatic increase of immigrant detention may be profit-motivated. Mirroring a trend among prisons for those convicted of a crime, many immigrant detention facilities are operated not directly by federal, state, or local governments, but by private corporations who receive governmental contracts. Given that spending of tax dollars on immigrant detention averages approximately \$159 per day, per detainee, these contracts can be very lucrative.^{xxxiv} Private detention companies who have lobbied for increases in the number of immigrants detained have spent at least \$45 million on lobbying and campaign contributions.^{xxxv}

Immigrants held in detention facilities have consistently reported problematic conditions, including situations of being denied access to legal counsel, detained children being held in extremely cold environments for extended periods of time, the use of long-term, unchecked solitary confinement, sexual abuse and harassment, and overcrowding.^{xxxvi} Tens of thousands of immigrant detainees perform essential roles within detention facilities—working in kitchen and janitorial functions—for payment of \$1 per day or less.^{xxxvii}

Solutions

Many CCDA communities see firsthand the experiences immigrants in our communities face as a result of a broken immigration system. As Christians called to do biblical justice, we are actively engaging people in our community through education, leadership development, and bringing our experiences and understanding to the public square.

We recognize that churches and community-based programs within our association work alongside immigrants in a variety of ways and applaud and support the good justice work they are doing. We also recognize that systemic change is needed for holistic justice to be completed. We believe that this is most effective when immigration organizing and advocacy is directed to federal level leaders.

Over the past decade, Congress has at various times debated some form of “Comprehensive Immigration Reform.” While specific legislative proposals have varied, Comprehensive Immigration Reform has included three primary elements:

- 1) Increased Enforcement, including additional funding for border security and interior enforcement, as well as expansion of a workplace authorization system and of a system to ensure that visitors on non-immigrant visas depart the country in an appropriate timeframe
- 2) Revisions to the U.S. visa system, designed to provide an increased number of employer-sponsored visas, whether as permanent immigrant visas or temporary guest worker visas, as well as to reduce backlogs in the family-based immigration system
- 3) An earned legalization process by which undocumented immigrants could come forward, pay a fine (distinguishing this process from “amnesty”), and then meet various other requirements over the course of a provisional legalization period, before eventually being eligible to apply for permanent legal status and then citizenship

While some have attempted to introduce individual elements of these reforms as stand-alone bills—and indeed bills have passed to increase funding for immigration enforcement—advocates of a comprehensive approach argue that each element is necessary to permanently resolve the dysfunction of the U.S. immigration system, and that passing all elements simultaneously is the only way for elected officials with different political interests in reform to be able to come to consensus.

In the absence of Comprehensive Immigration Reform, Congress has also considered less expansive pieces of legislation, such as the DREAM (Development, Relief, and Education for Alien Minors) Act, which would grant permanent legal status only to individuals who entered the U.S. prior to their 16th birthday and who, with provisional legal status, went on to complete at least two years of college or military service. The DREAM Act has been introduced many times, but has never passed, most recently failing in the U.S. Senate in 2010. Sustainable solutions to the U.S. immigration challenges would require looking beyond the U.S. to the countries from which immigrants have come, addressing issues of poverty, un- and under-employment, lack of access to healthcare, conflict, environmental degradation, and persecution that compel many individuals to migrate.

-
- ⁱ Elizabeth Grieco et al, "The Size, Place of Birth, and Geographic Distribution of the Foreign-Born Population in the United States: 1960-2010," U.S. Census Bureau, October 2012, accessed at <http://www.census.gov/population/foreign/files/WorkingPaper96.pdf>.
- ⁱⁱ Bryan Baker and Nancy Rytina, "Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2012," U.S. Department of Homeland Security, March 2013, accessed at http://www.dhs.gov/sites/default/files/publications/ois_ill_pe_2012_2.pdf.
- ⁱⁱⁱ Jeffrey Passel, D'Vera Cohn, Jens Manuel Krogstad, and Ana Gonzalez-Barrera, "As Growth Stalls, Unauthorized Immigrant Population Becomes More Settled," September 3, 2014, accessed at <http://www.pewhispanic.org/2014/09/03/as-growth-stalls-unauthorized-immigrant-population-becomes-more-settled/>.
- ^{iv} Andrew Wainer, "Farm Workers and Immigration Policy," Bread for the World, December 2011, accessed at <http://www.bread.org/institute/papers/farm-workers-and-immigration.pdf>.
- ^v Ibid.
- ^{vi} U.S. State Department, Bureau of Consular Affairs, "Visa Bulletin for July 2015," accessed at <http://travel.state.gov/content/visas/english/law-and-policy/bulletin/2015/visa-bulletin-for-july-2015.html>.
- ^{vii} Jennifer Lasley, quoted in Lauren Carroll, "Is ISIS in Mexico and Planning to Cross the Border?," *Tampa Bay Times*, September 17, 2014, accessed at <http://www.politifact.com/truth-o-meter/statements/2014/sep/17/trent-franks/isis-mexico-and-planning-cross-border/>.
- ^{viii} Kevin Robillard, "Poll: Border Security a Top Priority," *Politico*, April 4, 2013, accessed at <http://www.politico.com/story/2013/04/border-security-poll-89620.html>.
- ^{ix} Jerry Markon, "Fewer Immigrants Are Entering the U.S. Illegally, and That's Changed the Border Security Debate," *Washington Post*, May 27, 2015, accessed at http://www.washingtonpost.com/politics/flow-of-illegal-immigration-slows-as-us-mexico-border-dynamics-evolve/2015/05/27/c5caf02c-006b-11e5-833c-a2de05b6b2a4_story.html.
- ^x Alex Nowrasteh, "What Explains the Flow of Unlawful Migration?," Cato Institute, June 11, 2015, accessed at <http://www.cato.org/blog/what-explains-flow-unlawful-immigration>.
- ^{xi} Ben Gitis and Laura Collins, "The Budgetary and Economic Costs of Addressing Unauthorized Immigration: Alternative Strategies," American Action Forum, March 6, 2015, accessed at <http://americanactionforum.org/research/the-budgetary-and-economic-costs-of-addressing-unauthorized-immigration-alt>.
- ^{xii} Ibid.
- ^{xiii} Pew Research Center, "Broad Public Support for Legal Status for Undocumented Immigrants," June 4, 2015, accessed at <http://www.people-press.org/2015/06/04/broad-public-support-for-legal-status-for-undocumented-immigrants/>.
- ^{xiv} Andrew Schrank and Jessica Garrick, "Mexican Immigrants and Wage Theft," University of New Mexico, August 2013, accessed at <http://library.constantcontact.com/download/get/file/1102033386859-275/Somos+Wage+Theft+in+NM+WEB+Vesion%5b1%5d.pdf>.
- ^{xv} Robert Bruno, Alison Dickson Quesada, and Frank Manzo, "Clean Cars, Dirty Work: Worker Rights Violations in Chicago Car Washes," University of Illinois, September 20, 2012, accessed at http://arisechicago.org/wp-content/uploads/2012/12/Clean-Cars-Dirty-Work_Bruno-Quesada-Manzo.pdf.
- ^{xvi} Sarah Maslin Nir, "The Price of Nice Nails," *The New York Times*, May 7, 2015, accessed at <http://www.nytimes.com/2015/05/10/nyregion/at-nail-salons-in-nyc-manicurists-are-underpaid-and-unprotected.html>.
- ^{xvii} Faith Alliance Against Slavery and Trafficking, "Uniquely Vulnerable: The Nexus between Human Trafficking and Immigration," accessed at http://storage.cloversites.com/faithallianceagainstsaveryandtrafficking/documents/FAAST%20Brief%20on%20Trafficking%20and%20Immigration%20final_5.pdf.
- ^{xviii} Matthew Gardner, Sebastian Johnson, and Meg Wiehe, "Undocumented Immigrants' State & Local Tax Contributions," Institute on Taxation and Economic Policy, April 2015, accessed at <http://www.itep.org/pdf/undocumentedtaxes2015.pdf>.

-
- ^{xix} Stephan Goss, quoted in Eduardo Porter, "Illegal Immigrants Are Bolstering Social Security with Billions," *The New York Times*, April 5, 2005, accessed at <http://www.nytimes.com/2005/04/05/business/illegal-immigrants-are-bolstering-social-security-with-billions.html>.
- ^{xx} Stephen Goss, quoted in Adam Davidson, "Do Illegal Immigrants Actually Hurt the U.S. Economy?," *The New York Times*, February 12, 2013, accessed at <http://www.nytimes.com/2013/02/17/magazine/do-illegal-immigrants-actually-hurt-the-us-economy.html?pagewanted=2&r=0>.
- ^{xxi} Immigration Policy Center, "The Facts about the Individual Taxpayer Identification Number (ITIN)," June 30, 2009, accessed at <http://www.immigrationpolicy.org/just-facts/facts-about-individual-tax-identification-number-itin>.
- ^{xxii} Pew Charitable Trusts, "Mapping Public Benefits for Immigrants in the States," September 24, 2014, accessed at <http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2014/09/mapping-public-benefits-for-immigrants-in-the-states>.
- ^{xxiii} National Conference of State Legislatures, "In-State Tuition and Unauthorized Immigrant Students," February 19, 2014, accessed at <http://www.ncsl.org/research/immigration/in-state-tuition-and-unauthorized-immigrants.aspx>.
- ^{xxiv} National Conference of State Legislatures, "States Offering Driver's Licenses to Immigrants," November 5, 2014, accessed at <http://www.ncsl.org/research/immigration/states-offering-driver-s-licenses-to-immigrants.aspx>.
- ^{xxv} Ana Gonzalez-Barrera and Jens Manuel Krogstad, "U.S. Deportations of Immigrants Reach Record High in 2013," Pew Research Center, October 2, 2014, accessed at <http://www.pewresearch.org/fact-tank/2014/10/02/u-s-deportations-of-immigrants-reach-record-high-in-2013/>.
- ^{xxvi} Michael John Garcia, "Criminalizing Unlawful Presence: Selected Issues," CRS Report for Congress, May 3, 2006, accessed at <http://trac.syr.edu/immigration/library/P585.pdf>.
- ^{xxvii} Baker and Rytina, 2012.
- ^{xxviii} Elise Foley, "Deportation Separated Thousands of U.S.-Born Children from Parents in 2013," *Huffington Post*, June 25, 2014, accessed at http://www.huffingtonpost.com/2014/06/25/parents-deportation_n_5531552.html.
- ^{xxix} Gretchen Gavett, "5,100 Kids in Foster Care After Parents Deported," PBS Frontline, November 3, 2011, accessed at <http://www.pbs.org/wgbh/pages/frontline/race-multicultural/lost-in-detention/study-5100-kids-in-foster-care-after-parents-deported/>.
- ^{xxx} U.S. Conference of Catholic Bishops and Center for Migration Studies, *Unlocking Human Dignity: A Plan to Transform the U.S. Immigrant Detention System*, 2015, accessed at <http://www.usccb.org/about/migration-and-refugee-services/upload/unlocking-human-dignity.pdf>, 9.
- ^{xxxi} *Ibid*, 22.
- ^{xxxii} U.S. Conference of Catholic Bishops and Center for Migration Studies, 18.
- ^{xxxiii} Lutheran Immigration and Refugee Services, *Unlocking Liberty: A Way Forward for U.S. Immigration Detention Policy*, 2012, accessed at <http://lirs.org/wp-content/uploads/2012/05/RPTUNLOCKINGLIBERTY.pdf>.
- ^{xxxiv} National Immigration Forum, "The Math of Immigrant Detention," August 2013, accessed at <https://immigrationforum.org/wp-content/uploads/2014/10/Math-of-Immigration-Detention-August-2013-FINAL.pdf>.
- ^{xxxv} Garance Burke and Laura Wides-Munoz, "Immigrants Prove Big Business for Prison Companies," Associated Press, August 2, 2012, accessed at <http://news.yahoo.com/immigrants-prove-big-business-prison-companies-084353195.html>.
- ^{xxxvi} U.S. Conference of Catholic Bishops and Center for Migration Studies, 16.
- ^{xxxvii} Ian Urbina, "Using Jailed Migrants as a Pool of Cheap Labor," *New York Times*, May 24, 2014, accessed at <http://www.nytimes.com/2014/05/25/us/using-jailed-migrants-as-a-pool-of-cheap-labor.html>.