

# Justice for Newcomers

A Catholic Call for  
Solidarity and Reform

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*Catholic Charities 2005 Policy Paper*



*Justice for Newcomers: A Catholic Call for Solidarity and Reform* represents the response of Catholic Charities USA and our members to the United States Catholic Conference of Bishops campaign for immigration reform: Justice for Immigrants: A Journey of Hope.

As a national partner in the Bishops' campaign, Catholic Charities USA and its members bring the experiences and challenges that are faced by the immigrant people that we serve every day. The Bishops' campaign is "designed to unite and mobilize a growing network of Catholic institutions, individuals, and other persons of good faith in support of a broad legalization program and comprehensive immigration reform." The goal of *Justice for Newcomers: A Catholic Call for Solidarity and Reform* is to specifically mobilize the members of Catholic Charities and those we serve.

**About the Bishop's Campaign:  
Justice for Immigrants: A Journey of Hope.  
The Catholic Campaign for Immigration Reform**

In June 2004,  
the United States  
Conference of  
Catholic Bishops  
Committee on  
Migration and  
The Catholic Legal



Immigration Network, INC. (CLINIC) Board of Directors resolved to make comprehensive immigration reform, with special emphasis on legalization, a major public policy priority within the Church. Many other national Catholic institutions have also made legalization a policy priority.

As part of the Church's response, a diverse group of Catholic organizations with national networks have decided to join the United States Conference of Catholic Bishops' *Justice for Immigrants: A Journey of Hope* campaign designed to unite and mobilize a growing network of Catholic institutions, individuals, and other persons of good faith in support of a broad legalization program and comprehensive immigration reform. Its goal will be to maximize the Church's influence on this issue, consistent with the immigration reform principles enunciated in the bishops' pastoral letter.

Additionally, the bishops recognize that the conditions that compel people to leave their homes out of desperation and lack of opportunities to provide for themselves and their families, must be addressed if an effective and comprehensive response to migration is to be achieved. Therefore, the Catholic Campaign for Immigration Reform will work closely with the Catholic Campaign against Global Poverty, initiated by the USCCB Office of International Justice and Peace and Catholic Relief Services. That Campaign aims to reduce poverty through trade, aid and debt reforms. The Immigration Reform and Global Poverty campaigns are integrally related in that one addresses the rights and needs of migrants in the U.S., while the other addresses the rights and needs of persons living in their native countries.

The Campaign aims to reach beyond the networks of the participating national agencies, and to enlist the support of Catholic individuals and institutions in dioceses throughout the country. Catholic Charities USA is a participating member in this campaign.

## **Acknowledgments**

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- Jim Canavan and the staff of the Creative Services Department of Catholic Charities USA for the design and publishing of this paper and the website tools.
- The leadership and staff of our member agencies across the country who provide compassionate care to immigrants and who advocate for change to improve their lives.
- The United States Catholic Conference of Bishops for their leadership in calling all of us to action through the Justice for Immigrants Campaign: A Journey of Hope.



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## Table of Contents

Acknowledgments.....	ii
Executive Summary .....	v
Background .....	v
The Problem.....	v
About <i>Justice for Newcomers</i> : a national policy paper .....	vi
The Strategy.....	vi
The Solution.....	vi
Resumen Ejecutivo .....	vii
El Problema.....	vii
Sobre <i>Justicia para los Recien Llegados</i> : un documento de política nacional .....	viii
La estrategia.....	viii
La Solución .....	viii
Justice for Newcomers .....	1
I. Catholic Charities: Who We Are .....	3
II. Catholic Social Teaching on Migrants and Newcomers .....	5
1. Human Dignity, Natural Rights and Responsibilities .....	5
2. The Common Good.....	7
3. The Preferential Option for the Poor.....	7
4. Solidarity and Justice .....	9

III. The Church’s History of Migration and Newcomers .....10

IV. Issues Facing Migrants and Newcomers Today.....13

    1. Immigrant Families .....13

    2. Low-Wage Laborers .....17

    3. The Undocumented .....20

    4. Refugee, Asylum-Seekers, and Others in Need of Protection .....22

    5. Newcomers Treated as National Security Threats .....23

V. Recommendations.....25

    1. The Need for Immigration Reform .....25

    2. The Need for a Humane Response to Immigrants  
    Affected by Hurricane Katrina.....25

    3. The Need for An Immigrant Policy .....25

    4. The Need for Anti-Poverty Reforms .....25

VI. A Call to Solidarity .....26

## Executive Summary

### Background

Catholic Charities USA and its members are committed to working in solidarity with migrants and newcomers to develop a comprehensive solution that creates immigrant policies that work for all people.

Our history as a faith community in the United States has been as an immigrant church in an immigrant nation. From 1890 to 1920, 18.2 million immigrants entered the United States, mostly from southern and eastern Europe. By 1920, immigrants constituted 75% of U.S. Catholics. In response, the Church created, adapted or expanded ministries to meet the needs of this immigrant population. Parishes, schools, hospitals, charities, religious communities, mutual aid societies and fraternal and sororal groups provided for our own, especially at the parish level in a nation often hostile to our faith.

The Church's biblical experience of migration has taught all Catholics to empathize with migrants. Jesus himself was a migrant – born in a manger on a journey, he and his family fled to Egypt, and in his ministry he had “nowhere to lay his head.” (Mt. 8:20). We have been taught by Him to look for Him in the faces of migrants and to welcome the stranger.

### The Problem The Migrant Struggle

- There are 11 million undocumented persons living in the United States – this number continues to grow.
- Every day, one migrant on average perishes along the U.S.-Mexico border.
- 86% of the growth in those without health insurance between 1998 and 2000 were immigrants.
- It typically requires 5 years for a lawful permanent resident to become eligible to become a naturalized citizen; once eligible, applicants face further delays that can last nearly a year.
- 20% of those who seek legal assistance from Catholic Charities programs are prevented from lawful admission or status for family members because they cannot meet the requirement that a U.S. citizen or lawful permanent resident must show he or she can maintain himself or herself and each family member at 125% of the poverty level.

### The Impact on Children and Families

- 16% of children under the age of six and 11% of children between the ages of 6 and 17 in the United States live in families with non-citizen adults.
- 21.7% of non-citizens in 2003 fell below the poverty line for a family of 5 which is about \$12 per day.
- Although 93 percent of the young children of immigrants are U.S. citizens, they receive public benefits at lower rates than the children of U.S. citizens.
- One million applications are pending for a family member to become a lawful permanent resident of the United States. The average processing time for these applications is 13 months.

### Workforce Issues

- 15% of the U.S. workforce is made up of immigrants; 5% of the workforce is undocumented.
- Immigrants suffer work related injuries at higher rates than U.S. citizens. These injuries include pesticide poisoning, construction accidents and repetitive stress injuries. Mexican nationals living in the United States are 80% more likely to die on the job than other workers.
- Labor laws fail to protect large categories of immigrants – the three million who are agricultural laborers, one million domestic employees and seven million independent contractors.
- 58% of newly created jobs between 1996 and 2000 were filled by immigrants; these rates were higher for service and construction jobs.

From the time it was founded in 1910, Catholic Charities USA has worked tirelessly to be “an attorney for the poor”. We strive to bring the lived experience of the people we serve to the attention of those in power in an effort to bring about systemic change that promotes justice and human dignity. As part of that effort, each year Catholic Charities USA will identify one major issue of critical importance and engage the broadest segment of its membership in dialogue that leads to commitment to pursue specific action on that issue.

Through this process we will:

- Commit ourselves to significant action on an issue that has a major impact on the people we serve.
- Draw a strong, clear connection between Catholic social teaching, the experience of Catholic Charities and social policy.
- Demonstrate that advocacy is at the core of who we are and what we do.
  
- **Reflect and pray** for migrants and their families, those separated from families, those who have been lost on their journey, and for each other that together we can continue to build a culture that welcomes the stranger and stands in solidarity with them.
- **Extend ourselves** to migrants and their families to offer compassionate care and understanding as well as acceptance.
- **Re-examine** our own attitudes regarding immigrants and our position on immigrant policies.
- **Learn more** about Catholic teaching regarding immigrants and our position on immigrant policies and
- **Teach others** in the Catholic Community about our migrant heritage and our work with newcomers.
- **Reorient our agencies** and, if necessary, create new institutions to serve the needs of newcomers more fully.
- **Collaborate and support others** including immigrant-led organizations and labor unions that seek to improve conditions for migrants and newcomers.
- **Advocate more actively** by speaking on the issue in the public square for our newly arrived brothers and sisters calling on public officials to take notice of the problem and help them embrace and act to resolve the injustices.
- **Transform** the debate to build a constituency that welcomes the stranger calling upon our Catholic Charities member agencies and all Catholics to provide leadership on enactment of comprehensive immigration reform.
- **Assist Congress** in passing comprehensive immigration reform.
- **Partner with the Administration** in implementing comprehensive immigration reform legislation in communities across our nation.

- **The Need for Immigration Reform:** The United States should enact broad immigration reform legislation that puts the undocumented and their families on the path to lawful residence and citizenship and creates greater legal avenues for necessary workers to enter into the United States in the future.
- **The Need for a Humane Response to Immigrants Affected by Hurricane Katrina:** The United States must humanely assist affected immigrants by adopting measures that respond to their unique circumstances and avoid using the occasion of the tragedy to enforce violations of U.S. Immigration law.
- **The Need for an Immigrant Policy:** The United States needs an “immigrant” policy that welcomes and promotes the success of newcomers.
- **The Need for Anti-Poverty Reforms:** The United States should enact policies and support programs for all residents including newcomers that improve economic prospects, health, labor protections and stability.

**About *Justice for Newcomers*: a national policy paper**

**The Strategy**

**The Solution**

## Resumen Ejecutivo

**C**atholic Charities USA y sus miembros están comprometidos a trabajar en solidaridad con inmigrantes y los recién llegados para desarrollar una solución comprensiva que establezca una política de inmigración que funcione para todos.

Nuestra historia como una comunidad de fe en los Estados Unidos ha sido la de una iglesia inmigrante en una nación de inmigrantes. De 1890 a 1920, 18.2 millones de inmigrantes entraron los Estados Unidos, generalmente del sur y del este de Europa. En 1920, los inmigrantes constituían el 75% de los católicos en los Estados Unidos. En respuesta, la Iglesia creó, adaptó, o amplió ministerios para llenar las necesidades de esta población inmigrante. Parroquias, escuelas, hospitales, organizaciones benéficas, asociaciones de ayuda mutua, y órdenes fraternales proporcionaron ayuda a los nuestros, especialmente al nivel parroquial en una nación a menudo hostil a nuestra fe.

La experiencia bíblica de la iglesia en migración ha enseñado a todos los católicos a empatizar con los emigrantes. Jesús mismo era un emigrante- nacido en un pesebre durante un viaje, él y su familia huyeron a Egipto, y en su ministerio no tenía “dónde recostar su cabeza.” (Mat. 8:20). Nosotros hemos sido enseñados por Jesús a buscarle en la cara de los emigrantes y darle la bienvenida al desconocido.

### El Problema La Lucha del Emigrante

- Hay 11 millones de personas sin documentos que viven en los Estados Unidos, este número continúa creciendo
- Cada día, en promedio, un inmigrante perece a lo largo de la frontera entre los Estados Unidos y México
- Un 86% del crecimiento en aquellos sin seguro médico entre 1998 y 2000 eran inmigrantes.
- Típicamente se requieren cinco años para que un residente permanente legal sea elegible para convertirse en un ciudadano norteamericano, una vez elegible los aplicantes enfrentan demoras que pueden durar casi un año.
- A un 20% de los que buscan asistencia legal en los programas de Catholic Charities les está impedido ser admitidos legalmente o de recibir estatus a través de familiares porque no cumplen con los requisitos de que un ciudadano Americano o residente permanente legal debe mostrar que él o ella puede mantenerse solo(a) y a cada miembro de la familia a un nivel económico del 125% del nivel de pobreza

### El Impacto en los Niños y las Familias

- 16% de niños menores de seis años y 11% de niños entre 6 a 17 años en los Estados Unidos viven en familias con adultos que no son ciudadanos
- 21.7% de los que no son ciudadanos en 2003 estaban debajo del nivel de pobreza para una familia de 5 personas que es alrededor de \$12 al día.
- Aunque 93% de los hijos menores de inmigrantes son ciudadanos americanos, ellos reciben menos beneficios públicos que los hijos de ciudadanos americanos.
- Un millón de aplicaciones están pendientes para que un familiar pueda recibir estatus legal permanente de los Estados Unidos. El promedio de tiempo que toma la tramitación de estos documentos es de 13 meses.

### Temas con la Mano de Obra

- 15% de la mano de obra en los Estados Unidos está compuesta de inmigrantes; 5% de la fuerza laboral es indocumentada.
- Los inmigrantes sufren lesiones relacionadas con el trabajo a niveles más altos que los ciudadanos americanos. Estas lesiones incluyen envenenamiento por insecticida, accidentes de construcción, y lesiones causadas por hacer fuerza continuamente. Mexicanos que viven en los Estados Unidos tienen el 80% más de probabilidades de morir en el trabajo que otros trabajadores.
- Las leyes laborales no logran proteger a una gran categoría de inmigrantes- los tres millones que son trabajadores agrícolas, un millón de empleados domésticos, y siete millones de contratistas independientes.
- 58% de nuevos empleos creados entre 1996 y 2000 fueron desempeñados por inmigrantes; estas tasas son aun más altas en las industrias de servicios y la construcción.

A partir de su fundación en 1910, Catholic Charities USA ha trabajado incansablemente para ser “un abogado para los pobres.” Luchamos para traer la experiencia vivida por los que servimos a aquellos que están en el poder en un esfuerzo de lograr cambios sistemáticos que promuevan la justicia y la dignidad humana. Como parte de ese esfuerzo, cada año Catholic Charities USA identificara un tema de importancia crítica y hará un llamado al dialogo a un amplio segmento de su membresía para lograr un compromiso de buscar acciones específicas en ese tema.

- Comprometernos a una acción significativa en un tema que tenga el mayor impacto en la gente a quienes servimos.
- Establecer una conexión sólida y clara entre la enseñanza social Católica, las experiencias de Catholic Charities y la política social
- Demostrar que el abogar por otros es el núcleo central de quienes somos y de lo que hacemos.
  
- Reflexionar y orar por los migrantes y sus familias, aquellos separados de sus familias, los que se han perdido en su viaje, y por cada uno de nosotros para que juntos podamos continuar creando una cultura que de la bienvenida al desconocido y luche en solidaridad con ellos.
- Ofrecernos a los inmigrantes y sus familias para dar atención compasiva y entendimiento así como también aceptación.
- Re-examinar nuestras actitudes respecto a los inmigrantes y nuestra posición en la política de inmigración.
- Aprender más sobre la enseñanza Católica respecto a los inmigrantes y nuestra posición en políticas de inmigración y
- Educar a otros en la comunidad Católica sobre nuestra herencia migratoria y nuestro trabajo con los recién llegados.
- Reorientar nuestras agencias y, si es necesario, crear nuevas instituciones servir mejor las necesidades de los recién-llegados.
- Colaborar y apoyar otros incluyendo organizaciones dirigidas a los inmigrantes y sindicatos que buscan mejorar las condiciones para inmigrantes y recién-llegados.
- Abogar mas activamente hablando sobre el tema en foros públicos en apoyo a nuestros recién llegados hermanos y hermanas haciendo un llamado a los servidores públicos a compenetrarse del problema y ayudarles a que actúen y resuelvan las injusticias.
- Transformar el debate para crear una comunidad que de la bienvenida al desconocido apelando a nuestras agencias miembros de Catholic Charities y a todos católicos a demostrar liderazgo en la promulgación de una reforma comprensiva de inmigración.
- Asistir al Congreso en la aprobación de una reforma comprensiva de inmigración
- Ser socios con la Administración en implementar una legislación comprensiva de inmigración en comunidades por todo el país.

- La necesidad de reformar inmigración: Los Estados Unidos deben promulgar una legislación amplia que reforme inmigración y que ponga a los indocumentados y sus familias en camino a la residencia legal y la ciudadanía, estableciendo mecanismos legales para que trabajadores esenciales puedan entrar en el futuro a Estados Unidos.
- La necesidad de una respuesta humanitaria a los inmigrantes afectados por el Huracán Katrina: Los Estados Unidos tienen que asistir humanitariamente a los inmigrantes afectados adoptando medidas que respondan a sus circunstancias específicas y evitar usar la ocasión de una tragedia para imponer violaciones de la ley de Inmigración de los Estados Unidos.
- La necesidad para una política inmigrante: Los Estados Unidos necesitan una política “inmigrante” que de la bienvenida y fomente el éxito de los recién-llegados.
- La necesidad para reformas contra la pobreza: Los Estados Unidos deben promulgar políticas y apoyar programas para todos los residentes, incluyendo los recién-llegados, que mejoren las perspectivas económicas, salud, protección laboral, y estabilidad.

**Sobre Justicia para los Recién llegados: un documento de política nacional**

**Através de este proceso deseamos:**

**La estrategia**

**La Solución**

# Justice for Newcomers

## A Catholic Call for Solidarity and Reform

*Catholic Charities 2005 Policy Paper*

*“The Christian community feels close to those who live this painful condition; it exerts itself to support them and manifests in different ways its interest and love, which is translated into concrete gestures of solidarity so that whoever finds himself far from his country, feels the Church as a homeland where no one is a stranger.”*

– Pope Benedict XVI, Message for World Refugee Day (June 20, 2005)

**T**he timeless phenomenon of migration has re-assumed its preeminent role in the life of our nation and Church. Thirty-five million people have ushered in the third great era of immigration in U.S. history. Their work contributes to our economic vitality. Their sacrifices show the meaning of family values. Their faith energizes our parishes. Their cultural diversity enriches us. Their presence revitalizes our communities. They participate so generously in our communal life that it defies our experience to distinguish between “us” and “them.”

Despite their gifts and contributions, many newcomers struggle to establish themselves in a nation that is ambivalent about their presence.<sup>1</sup> The United States allows thousands of immigrant families to reunify each year. However, backlogs in its legal immigration system, insurmountable obstacles to legal status and unforgiving deportation standards divide and impoverish U.S. families. As a nation, we depend on immigrant labor, but do not offer sufficient legal avenues for workers to enter. We worry that newcomers depress wages and adversely impact working conditions, but we do not adequately enforce labor and workplace protection laws. We cherish civic equality, but watch the steady growth of an undocumented population with few rights, little security and scant prospects. We take pride in our heritage as a haven for the dispossessed, but impede many from securing refuge or even from reaching our shores. We trust newcomers to care for our children, our sick and our elderly, but we embrace measures that treat broad categories of them as security threats. We honor the forbearance of our immigrant ancestors, but sit by passively as anti-immigrant media, politicians and advocacy groups attribute to today’s newcomers – as they did to our ancestors – all manner of social ills.

In the Catholic community, we honor migrants and newcomers. We identify them as our brothers and sisters, and see in them the face of God. They live in our families, fill our pews, work in our agencies and receive our services. Our experience of newcomers could not be more at odds with much of the public discourse about them.

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<sup>1</sup> In this paper, the term “migrant” refers to a person on the move or in transit. The terms “newcomer” and “immigrant” refer (interchangeably) to any foreign-born person. The paper does not use the term “immigrant” (as U.S. law does) to mean only lawful permanent residents. It uses the term “undocumented” to describe residents who do not have legal status in the United States, typically because they entered illegally or overstayed the term of a temporary visa. A “refugee” cannot return to his or her country due to a “well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion.” Refugee determinations take place outside the United States. An “asylee” has met the refugee standard, but within the United States.

**Catholic  
Charities joins  
Justice for  
Immigrants  
Campaign**

Earlier this year, Catholic Charities USA joined several colleague agencies to initiate, under the auspices of the United States Catholic Conference of Bishops, a national campaign titled “Justice for Immigrants, a Journey of Hope: the Catholic Campaign for Immigration Reform.”<sup>2</sup> In this campaign, we seek to educate persons of good faith on the needs, aspirations and contributions of newcomers. We hope to help Catholics understand what their Church teaches about newcomers.

As part of a comprehensive solution to this challenge, the Justice for Immigrants campaign advocates for an overhaul of our nation’s broken immigration system. In particular, we support expanded legal avenues for admission of necessary workers, a path for undocumented residents to earn permanent legal status through their labor, the elimination of barriers to family reunification, and effective enforcement of U.S. labor and immigration laws.

Because we recognize the need to address the root causes of migration and believe that no one should be forced to migrate to meet their basic human needs, the Justice for Immigrants campaign has been linked to the Catholic Campaign Against Global Poverty. This campaign seeks to overcome poverty in immigrant-sending countries by reshaping U.S. trade policies, supporting effective development, eliminating the foreign debt of poor nations, and redirecting debt payments to poverty-reduction programs.<sup>3</sup>

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<sup>2</sup> To learn more about joining Justice for Immigrants, a Journey of Hope: the Catholic Campaign for Immigration Reform, please go to [www.justiceforimmigrants.org](http://www.justiceforimmigrants.org).

<sup>3</sup> To learn more about joining the Catholic Campaign Against Global Poverty, please go to [www.usccb.org/sdwp/globalpoverty/index.shtml](http://www.usccb.org/sdwp/globalpoverty/index.shtml)<http://www.catholicrelief.org>.

## I. Catholic Charities: Who We Are

**C**atholic Charities USA represents the nation's largest charitable network, consisting of 179 local agencies with more than 1,300 branches and affiliates. In 2003, 137 of its member agencies served 6.6 million persons. Catholic Charities agencies offer comprehensive services – housing, food, health, family, elderly, addiction, HIV-related, adoption, child welfare and disaster relief – to the poor and vulnerable.

We also provide immigrant- and refugee-specific services. Between 1975 and 2004, the Catholic Charities network resettled 859,494 refugees throughout the country. Over the last 15 years, Catholic Charities agencies have dramatically expanded their legal work for newcomers. At present, 156 Catholic Charities immigrant service programs provide legal services out of 260 offices. In a given year, these programs directly represent more than 100,000 newcomers who are seeking to reunify with their families, to become U.S. citizens, to work and to secure protection from persecution. In 2003, 139 agencies reported serving 313,000 newcomers. Many agencies offer English-as-a-Second-Language (ESL) and civics classes.

In recent years, Catholic Charities have created new, population-specific programs. Most agencies provide shelter, counseling and legal services to immigrant survivors of domestic violence. Many have turned to the scourge of human trafficking, partnering with the government to identify, protect and resettle modern-day slaves. Catholic Charities have also created centers for immigrant day laborers that offer a protected environment where workers can be matched with employers and receive other services.

Catholic Charities, hospitals, health systems, schools and parishes increasingly support immigrants who are ineligible for publicly funded services and who cannot afford to pay for health insurance or care. While the need far outstrips the private resources available, the Catholic community has found ways to provide and secure primary and even specialty care for immigrants, as well as prescription drug assistance. Spurred by the New Covenant Initiative, Catholic institutions have established new clinics, mobile medical units, and bi-lingual telemedicine programs.<sup>4</sup> These successes have occurred at a time when political and budget pressures threaten the inadequate medical safety net for U.S. citizens.

Catholic Charities offer shelter, health-care, legal services and pastoral accompaniment to migrant laborers and their families. They support immigrant organizing efforts in which vulnerable groups identify and work to resolve their most pressing concerns, including health care, public transportation, education, crime and legal status. For many years, comprehensive immigration reform has been a public policy priority for Catholic Charities USA.

Faith inspires and grounds this work. We in the Catholic Charities community believe in the presence of God in our midst, in the sanctity of life and in the dignity of all persons. We believe that human dignity represents the pre-condition and the ultimate end of a just society. We provide services that reflect the full spectrum of human need. Our community includes the “anawim” (the “little ones”) of

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<sup>4</sup> To learn more about the New Covenant initiative, please go to [www.chausa.org/NEWCOVNT/NEWCOVNT.ASP](http://www.chausa.org/NEWCOVNT/NEWCOVNT.ASP)

## Justice for Newcomers: A Catholic Call for Solidarity and Reform

Hebrew scripture and others who hunger and thirst for justice (Mt 5:6). We plant the seeds of justice in our Church and nation, seeds planted in us by our tradition and by those we serve. Our work informs our public policy positions. Our solidarity with newcomers lends urgency to our call.

*My name is Mai Trinh. In 1979, I fled Vietnam with my mother and five siblings after learning that my father had died in a communist "reeducation camp." After staying in a refugee camp in Malaysia, my family resettled in the Boston area in 1980. Since my arrival, I have devoted my life to serving other refugees and immigrants. In 1984, I began work at Catholic Charities of the Archdiocese of Boston by helping to resettle Vietnamese refugees. In 1993, I became an immigration counselor at Catholic Charities. Over the years, I have worked under the supervision of attorneys to provide legal assistance to thousands of immigrants. Catholic Charities empowers immigrant families by offering them classes in English, citizenship, family literacy, workplace communication, health and computers. We provide families with shelter, food, rental assistance and counseling. In the Refugee, Immigration and Interpreter Services division, we work daily to reunify families, secure protection for those fleeing persecution and obtain legal relief for victims of domestic violence. To serve our hardworking clients, we offer an immigration hotline and a "walk-in" clinic with evening and week-end hours. We also provide interpreter and translation services in more than 50 languages to agencies throughout Massachusetts. As a refugee and a naturalized citizen, the driving force behind my work is to offer my clients comfort and support through the immigration process. I understand the stresses that they endure and I find it very rewarding to see their lives improve with help from our programs.*



## II. Catholic Social Teaching on Migrants and Newcomers

While we celebrate the Church's multi-faceted work with immigrants, we understand that this ministry may challenge some Catholics. They question why the Church should involve itself in such a polarizing issue. By way of response, we will describe Church teaching, our biblical heritage and our experience of migration.

### 1. Human Dignity, Natural Rights and Responsibilities

*“The comprehension of the human being, that the Church acquired in Christ, urges her to proclaim the fundamental human rights and to speak out when they are trampled upon. Thus, she does not grow tired of affirming and defending the dignity of the human person, highlighting the inalienable rights that originate from it. Specifically, these are the right to have one’s own country, to live freely in one’s own country, to live together with one’s family, to have access to the goods necessary for a dignified life, to preserve and develop one’s ethnic, cultural and linguistic heritage, to publicly profess one’s religion, to be recognized and treated in all circumstances according to one’s dignity as a human being.”*

– Pope John Paul II, Message of the Holy Father for the World Day of Migration 2001, par. 3 (Feb. 2, 2001).

At its heart, the Catholic tradition views migrants and newcomers as human beings created in God’s image, our brothers and sisters for whom Jesus gave his life. The Church does not have an immigration policy so much as an “immigrant” policy rooted in the Gospels. To be anti-immigrant in our tradition is to be anti-person.

Migrants and newcomers possess all the rights and corresponding responsibilities recognized by the Church.<sup>5</sup> These do not derive from membership in a state or from immigration status, but from the inherent dignity of every person. In our view, citizenship does not confer rights, personhood does. The Second Vatican Council defined these rights to encompass “all that is necessary for living a genuinely human life: for example, food, clothing, housing, the right freely to choose their state of life and set up a family, the right to education, work, to their good name, to respect, to proper knowledge, the right to act according to the dictates of conscience and to safeguard their privacy, and rightful freedom, including freedom of religion.”<sup>6</sup> Of particular relevance, newcomers enjoy a right to productive work, to wages “adequate for the maintenance of the worker and his family,” to humane working hours and to belong to a union.<sup>7</sup>

<sup>5</sup> This paper uses the terms “natural,” “human” and “God-given” rights interchangeably to describe those rights based on the inherent dignity of all persons.

<sup>6</sup> Pope Paul VI, Pastoral Constitution on the Church in the Modern World, *Gaudium et Spes*, par. 26 (Dec. 7, 1965).

<sup>7</sup> Pope John Paul II, *Centesimus Annus*, par. 6-8, 15 (May 1, 1991) [hereinafter “*Centesimus Annus*”]. Under the Catholic principle of subsidiarity, states must also respect and promote the key role played by the institutions of civil society, the most important of these being families.

The dignity of migrants must be respected at every stage of the migration process, from their uprooting, to their journeys, to their reception in their adopted countries. The Church advocates for economic development as way to improve conditions in sending countries. It recognizes a human right not to have to leave one's nation.<sup>8</sup> If a person's rights cannot be realized at home, however, he or she can migrate to seek conditions consonant with human dignity.<sup>9</sup> The right to migrate applies to persons fleeing persecution, violence, natural disaster and other refugee-like conditions. It also extends to the economic migrants who increasingly characterize our inter-dependent world.<sup>10</sup> While international agreements allow for the free flow of goods and services, states do not provide sufficient legal avenues for the movement of people in search of work. This anomaly lies at the heart of much "illegal" migration.

Most newcomers do not uproot their lives casually: they leave due to gross poverty, war, human rights violations, natural disaster and economic upheaval. They seek to escape conditions that offend their dignity. They come to work, to support (and join) their families and to live in safety. They come to exercise their God-given rights and to fulfill their basic human responsibilities. We do not trivialize "rule of law" concerns. However, we believe that U.S. immigration policies deny many immigrants a legal way to meet their most solemn responsibilities, particularly to their families.

Migrants also have a right to humane treatment on their journeys. At the very least, government policies should not contribute to the separation of families, to human rights abuses or to crossing deaths.<sup>11</sup> Receiving states should normally embrace newcomers as full members, allowing them to assume the rights and responsibilities of their adopted country.<sup>12</sup>

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8 Conferencia del Episcopado Mexicano and United States Conference of Catholic Bishops, *Strangers No Longer: Together on a Journey of Hope*, par. 59, United States Conference of Catholic Bishops (Jan. 2003) [hereinafter "*Strangers No Longer*"].

9 Sacred Congregation for Bishops, *Instruction on the Pastoral Care of People Who Migrate*, par. 7 (Aug. 22, 1969).

10 Pontifical Council Cor Unum and Pontifical Council for the Pastoral Care of Migrants and Itinerant People, "Refugees: A Challenge to Solidarity," par. 4,5, 67 (1992).

11 *Strangers No Longer*, par. 78-91.

12 John XXIII, *Pacem in Terris*, par. 106 (Apr. 11, 1963) [hereinafter "*Pacem in Terris*"] ("Now among the rights of a human person there must be included that by which a man may enter a political community where he hopes he can more fittingly provide a future for himself and his dependents. Wherefore, as far as the common good rightly understood permits, it is the duty of that State to accept such immigrants and to help them into itself as new members.")

## 2. The Common Good

*“The Church recognizes the right of a sovereign state to control its borders in furtherance of the common good. It also recognizes the right of human persons to migrate so that they can realize their God-given rights. These teachings complement each other. While the sovereign state may impose reasonable limits on immigration, the common good is not served when the basic human rights of the individual are violated.”*

– Conferencia del Episcopado Mexicano and United States Conference of Catholic Bishops, *Strangers No Longer: Together on a Journey of Hope*, par. 39 (Jan. 2003).

The Church views immigration policy through the lens of the common good, defined as “the sum total of those conditions of social living whereby men are enabled to achieve their own integral perfection more fully and more easily.”<sup>13</sup> Immigrants contribute to the common good with their faith, their commitment to family, their labor, their taxes and in many other ways. The Church does not support open borders. It recognizes a state’s right and duty to control its borders and to enforce its immigration laws in furtherance of the common good. However, it sees no conflict between this legitimate role and the rights of migrants. States can assure the orderly entry of migrants. They can deny entry to those who, whether for benign or malign reasons, will not advance the common good.

At the same time, “civil authority exists, not to confine its people within the boundaries of their nation, but to protect, above all else, the common good of the entire human family.”<sup>14</sup> The “universal” common good – the shared good of people across borders – requires states (and international bodies) to safeguard migrant rights.<sup>15</sup>

## 3. The Preferential Option for the Poor

*“[I]f we recall that Jesus came ‘to preach the good news to the poor’ (Mt. 11:5; Lk 7:22), how can we fail to lay greater emphasis on the Church’s preferential option for the poor and the outcast?”*

– Pope John Paul II, Apostolic Letter, *Tertio Millenio Adveniente*, par. 51 (Nov. 10, 1994).

The U.S. immigrant population includes highly skilled workers, professionals, investors and others of substantial means. However, many newcomers have fled poverty and persecution, and struggle to make better lives for their families. In their cases, migration implicates the “preferential option for the poor.”<sup>16</sup> This teaching requires us to evaluate public policy decisions based on their impact on the poor. It sets as the moral standard of a society (and faith community) how it treats its most vulnerable members. It does not rest on the merits of the poor, but on a belief in the goodness of God who identified with the poor and created all of us in his image.<sup>17</sup> The right to private property (in service of the common good) cannot “hinder others from having their own part of God’s gift.”<sup>18</sup> Given wide-spread poverty and persecution in sending countries, the Church presumes that “persons must migrate in order to support and protect themselves and that nations who are able to receive them should do so whenever possible.”<sup>19</sup>

<sup>13</sup> *Pacem in Terris*, par 58.

<sup>14</sup> *Pacem in Terris*, par. 98.

<sup>15</sup> Pope John Paul II, Message of the Holy Father for the World Day of Migration 2001, par. 3 (Feb. 2, 2001); *Pacem in Terris*, par. 104.

<sup>16</sup> The Latin American bishops first used this term in their Third General Conference at Puebla, Mexico in 1979.

<sup>17</sup> Fred Kammer, S.J., *Doing Faithjustice: An Introduction to Catholic Social Thought* (Paulist Press, 2004) at 157-158 [Hereinafter “*Doing Faithjustice*.”]

<sup>18</sup> *Centesimus Annus*, par 31.

<sup>19</sup> *Strangers No Longer*, par. 39.

*My name is Sheila Gomez and I am the Director of Catholic Charities of Arkansas. On Tuesday, July 26, 2005, the Immigration and Customs Enforcement (ICE) division of the Department of Homeland Security raided the Petit Jean Poultry Plant in Arkadelphia, Arkansas. The raid resulted in the arrest of more than 100 undocumented, long-time residents of Arkadelphia, including several individuals who were clients of my agency's Immigration Services program. The Arkadelphia community is a small one and the raid has left nobody untouched. We witnessed the dismantling of entire families, including those with U.S. citizens. In many families, the main source of income has been removed and we provide the remaining family members emergency assistance for food, utilities, infant supplies, rent and other necessities.*



*Mr. and Mrs. A-, both from Mexico, crossed the U.S. - Mexico border in 2000 in search of work so that they could start and support a family together. Today, the couple has a U.S. citizen infant child. Until recently, the couple worked at the poultry plant. They each worked an average of 20-30 hours per week, earning \$8.40 per hour. Mrs. A- worked the morning shift and Mr. A- worked in the evening. Mrs. A was arrested in the raid and has been returned to Mexico. Mr. A-, who was at home with their son at the time, remains in Arkansas. He can no longer work at the poultry plant and receives no income to support his U.S. citizen son or his wife. Mr. A- reports that his son cries for his mother every day and that his eating patterns have changed. Mr. A- is afraid to leave the house for fear that immigration officials will find and arrest him, leaving his son with no parent to care for him. This sense of fear is widespread among affected community members. Mr. A's lease ends soon and he plans to move in with a friend. He wants to find a way to send his son to Mexico to be with his mother. He has spoken to his wife by phone several times, but hearing her son reduces Mrs. A- to tears. Our program has talked with U.S. citizens equally distressed by the impact of the raid on their community and families. As one U.S. citizen explained:*

*"I have lived in Gurdon for five years. My husband is a professor at the local university. We have four children, ages 17, 14, 10, and 5, who all have friends whose families have been torn apart by this raid. My youngest son's best friend's family has lived here for 10 years. Both parents worked at the factory. The father was arrested at the plant and has been returned to Mexico. The mother cannot return to work, is afraid to go to her apartment for fear that ICE will track her down, and has no money to support her family. A few nights ago, the mother and her three children, two of which are U.S. citizens, sat on the floor of our living room wrapping all of the coins they had in coin wrappers. I wired several hundred dollars to her husband in Mexico because he had no money on him at the time he was returned. My own son has cried for five days. "Is there any way they can take me too?" he asks. When I explain that they cannot because I live here, he says of his best friend's family, "but they lived here too." No matter how I try to explain the difference between that family's situation and ours, it has not relieved his fears. The raid has disrupted my family life and affected our entire community. Regardless of how they entered the community, these people were part of us and our community is no longer complete without them."*

#### 4. Solidarity and Justice

*“This then is not a feeling of vague compassion or shallow distress at the misfortunes of so many people, both near and far. On the contrary, it is a firm and persevering determination to commit oneself to the common good; that is to say to the good of all and of each individual, because we are all really responsible for all.”*

– Pope John Paul II, *Sollicitudo Rei Socialis*, par. 38 (Dec. 30, 1987).

Solidarity requires standing with those in need based on a recognition of our interdependence and common humanity. It commits us to the common good and reflects our connection to each other through what we value most deeply. In our tradition, God not only calls us to solidarity with the poor, but forms the very basis of our solidarity.<sup>20</sup> He binds us as a family. Conversely, not caring for the poor and the stranger is a form of atheism, a failure to honor God’s presence in them.<sup>21</sup> “How can the baptized claim to welcome Christ,” Pope John Paul II asked, “if they close the door to the foreigner who comes knocking?”<sup>22</sup>

Justice requires giving others their due, protecting their rights and honoring their agency. It cannot be divorced from faith; the “mission of preaching the Gospel” demands work for justice.<sup>23</sup> Social justice dictates that newcomers be allowed to contribute fully to the good of their adopted society. In this spirit, we celebrate the jubilee tradition of restoring the dispossessed to full membership in our community (Lev. 25: 10-17). This tradition should not be viewed as “merely the recurrence of an anniversary in time,”<sup>24</sup> but as an ongoing “call to conversion” that “includes the effective recognition of the rights of migrants.”<sup>25</sup>

<sup>20</sup> Bishop Alvaro Ramazzini, “Living Solidarity,” *Houston Catholic Worker* (Nov.-Dec. 2004)

<sup>21</sup> Doing Faithjustice at 25-26.

<sup>22</sup> Pope John Paul II, Message of the Holy Father for the World Migration Day 2000, par. 5 (Nov. 21, 1999).

<sup>23</sup> World Synod of Catholic Bishops, *Justitia in Mundo*, par. 36 (1971).

<sup>24</sup> Pope John Paul II, Apostolic Letter, *Tertio Millenio Adveniente*, par.11 (Nov. 10, 1994).

<sup>25</sup> Pope John Paul II, *Message for the World Migration Day 2000*, par. 6 (Nov. 21, 1999).

### III. The Church's History of Migration and Newcomers

*“Once a small minority of Anglo-American landed gentry in the eighteenth century, the Catholic Church in the United States became a working class, urban Church during the nineteenth century. The entire pastoral agenda of the Church changed to accommodate the new immigrants and their descendants. For today’s American Catholics to have forgotten that history is akin to the prophets claim about Israel’s historical amnesia regarding the exodus or exile.”*

– Rev. Kenneth Himes<sup>26</sup>

**T**he Church’s biblical experience of migration has taught us to empathize with migrants. “The stranger who resides with you shall be to you as one of your citizens: you shall love him as yourself, for you were strangers in the Land of Egypt.” (Lv. 19:33). Jesus taught that we would ultimately be judged on how we treated the “stranger” and other vulnerable persons (Mt. 25:35). Migration characterized his life. He was born in a manger on a journey, he and his family fled to Egypt, and in his ministry he had “nowhere to lay his head.” (Mt. 8:20). He taught us to look for him in the faces of migrants.

Migration also speaks to the identity and mission of the Church. As the Rev. Michael Blume, SVD, Undersecretary for the Pontifical Council for the Pastoral Care of Migrants and Itinerant People, explains:

Migration is a sign of the times and belongs theologically to the history of salvation. It immediately recalls an underlying reality of the Church: It is a pilgrim people. There is thus something quasi-sacramental about migration, for it makes this pilgrim reality present not only as a problem but also as a grace... For Christian communities that are tempted to withdraw from these realities, migration is a call to conversion and a new solidarity with the pilgrim condition (citations omitted).<sup>27</sup>

As disciples, we pass through the world on a journey to our spiritual home; there is no “eternal city” for us in this life (Heb. 13:14). As St. Teresa of Avila put it: “This life is like a night spent in an uncomfortable inn.”

Migration allows us to build the human family.<sup>28</sup> It should not be feared; rather, its potential should be embraced. As our history teaches, it has always been part of the human experience. In our interdependent world, it will continue to be a fact of life.

<sup>26</sup> Rev. Kenneth Himes, OFM, “The Rights of People Regarding Migration: A Perspective from Catholic Social Teaching,” *Who Are My Sisters and Brothers: Reflections on Understanding and Welcoming Immigrants and Refugees* (United States Catholic Conference, 1996) at 27.

<sup>27</sup> Rev. Michael A. Blume, SVD, “Catholic Church Teachings and Documents Regarding Immigration: Theological Reflection on Immigration on Immigration,” *Who Are My Sisters and Brothers: Reflections on Understanding and Welcoming Immigrants and Refugees* (United States Catholic Conference, 1996) at 12-13.

<sup>28</sup> Pope John Paul II, *Message of the Holy Father for World Migration Day*, 1995-1996, par. 3 (July 25, 1995).

In the United States, we identify with newcomers in a special way. Ours has been correctly called an immigrant Church in an immigrant nation. The last great era of immigration in U.S. history parallels our current era and offers important lessons. From 1890 to 1920, 18.2 million immigrants entered the United States, mostly from Southern and Eastern Europe. By 1920, immigrants constituted 75 percent of U.S. Catholics.<sup>29</sup> In response, the Church created, adapted or expanded all of its defining institutions – parishes, schools, hospitals, charities, religious communities, mutual aid societies, and fraternal and sororal groups.<sup>30</sup> The impression should not be of a church in the abstract doing for immigrants, but of the Church of immigrants providing for its own, particularly on the parish level, in a nation that was often hostile to the faith and the faithful. As they do now, the Church’s ministries arose from a direct experience of the needs of newcomers, needs that immigrants largely met themselves.

Today’s anti-immigrant rhetoric and policies suggest that many U.S. citizens have forgotten their heritage. Like immigrants now, newcomers in the late 19th and early 20th centuries came from different countries than their predecessors. Harsh, well-organized movements portrayed them as a threat to the nation’s security, to law-abiding citizens and to U.S. workers. Restrictionists accused Catholics of being un-assimilable due to their faith, just as some vilify Muslim-Americans today. The vast wealth created by economic innovation coexisted with gross poverty. Newcomers suffered from low wages and dangerous working conditions. Many families split apart and dissolved. Yet those immigrants –our ancestors-- helped to build our nation and our Church.

We in the Catholic Charities community also recall our historical roots in service to newcomers. Our nation’s second era of large-scale immigration coincided with the consolidation of diverse local charities into diocesan Catholic Charities agencies and the emergence of a national Catholic Charities umbrella agency. The Charities movement came into being in response to the needs and struggles of that earlier period.<sup>31</sup> Our core challenges remain much the same. Then, as now, our agencies:

- concentrated their work on children, families, poverty and living wage issues.
- wrestled with the need to work for justice and charity, and the tension between trying to address root causes and to provide services.
- rooted their advocacy in direct service and in the Church’s natural rights tradition, believing that need (not governments) created rights.
- viewed themselves as “attorney[s] for the poor,” vindicating their rights.<sup>32</sup>
- benefited from the leadership, prominence and witness of women in their work.
- drew on the strengths and diversity of other Catholic ministries, relied on Catholic schools to replenish their ranks and channeled the work of volunteers.
- partnered with the government on programs, but held it responsible for making structural change and addressing the root causes of social problems.
- attacked the injustice of denying aid to children based on their parents’ behavior and status, and opposed measures that restricted benefits and services based on immigration status.
- championed high professional standards and fought to retain their Catholic identity and mission.
- provided holistic services to meet the full range of their client’s needs, including their spiritual needs.
- saw the need to treat Church employees – many of them newcomers – consistently with Catholic teaching.

<sup>29</sup> Jay P. Dolan, *The American Catholic Experience* (Doubleday & Company, Inc., 1985) at 135, 160-61, 255.

<sup>30</sup> *Ibid.*

<sup>31</sup> Dorothy M. Brown and Elizabeth McKeown, *The Poor Belong to Us: Catholic Charities and American Welfare* (Harvard University Press, 1997).

<sup>32</sup> *Doing Faithjustice* at 195.

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## Justice for Newcomers: A Catholic Call for Solidarity and Reform

We also recognize differences between then and now. Catholic Charities no longer serve as high a percentage of Catholics. We serve the poor and vulnerable based on our faith, not theirs. In addition, the Church in the United States includes more wealthy members today, the progeny of those earlier immigrants. This creates an opportunity for us. We seek to empower the poor, to call rich to remember their own heritage and to link the two in support of justice.

*My name is Rene Franco. Twenty-three years ago, I fled the violence of my native country of Guatemala. Upon my arrival in Tucson, Arizona, I received assistance from an ecumenical group of churches that supported thousands of Central American refugees in the 1980s. In the 1990s, I coordinated a medical, educational and legal services program for thousands of migrant laborers from Mexico and Central America who passed through the orchards of Chandler, Arizona. In 1998, I became director of the Immigration and Citizenship Program of Catholic Community Services of Southern Arizona/Catholic Social Services. My program represents families, would-be citizens, victims of domestic violence, asylum-seekers and foreign priests and seminarians. We conduct educational outreach to immigrant communities through parishes, Head Start programs, wellness centers, and elementary and high schools. Recently, the U.S. Department of Justice awarded us with a grant to educate employees and employers on immigration-related employment discrimination. In helping my fellow immigrants, I learn about their hopes, fears, hard work and dreams. I am grateful for the opportunity to serve them.*



## IV. Issues Facing Migrants and Newcomers Today

*“Immigration is by definition a gesture of faith in social mobility. It is the expression in action of the possibility of a better life. It has thus contributed greatly to developing the spirit of personal betterment in American society and to strengthening the national confidence in change and the future. Such confidence, when widely shared, sets the national tone. The opportunities that America offered made the dream real, at least for a good many; but the dream itself was in large part the product of millions of plain people beginning a new life in the conviction that life could indeed be better, and each new wave of immigration rekindled the dream.”*

– John F. Kennedy, *A Nation of Immigrants* (Popular Library, 1964) at 98-99.

The United States offers legal admission and permanent status to hundreds of thousands of immigrants each year. Of its 35 million foreign-born residents, nearly 22 million have received lawful permanent residence and another 2.5 million arrived as refugees.<sup>33</sup> In short, millions continue to find our nation welcoming and generous. However, this does not diminish the hardship that certain features of the U.S. immigration system (set forth below) work on families, low-wage laborers, undocumented residents, persons in need of protection, and populations viewed as national security threats. Without comprehensive reform, the dream of security and a better life will elude far too many of these newcomers.

### 1. Immigrant Families

*“It is important that, as a nation, we recognize the importance of affirming family within the immigration context as a means of not only affirming the family in the United States in general, but as a means of providing buffers for immigrants who seek to acclimate to this society.”*

– National Conference of Catholic Bishops, Committee on Migration, “One Family Under God” (1995) at 11.

Most immigrants want nothing so much as to live securely with their families. They also remain loyal to their relatives in their native countries, as evidenced by annual remittances to Latin America and the Caribbean (alone) of \$30 billion.<sup>34</sup> Like migration itself, remittances embody the sacrifices that immigrants make for their families.

<sup>33</sup> J. Passel, “Estimates of the Size and Characteristics of the Undocumented Population” (Pew Hispanic Center, Mar. 21, 2005) at 7 [hereinafter “Estimates of the Undocumented Population.”]

<sup>34</sup> Pew Hispanic Center and the Multilateral Investment Fund of the Inter-American Development Bank, “Remittance Senders and Receivers: Tracking the Transnational Channels” (Nov. 24, 2003) at 3-4.

*My name is Amalia Molina. My husband came to the United States from El Salvador in 1995. He had worked for the U.S. Agency for International Development, which was trying to rebuild El Salvador after the war. Because of this job, he gained enemies and suffered persecution. I came to the United States in 1996. By 1997, we had saved enough to pay for our three children – Diana age 19, Amy age 17, and Jose age 14 – to join us.*

*In March 1998, the immigration service arrested my husband and me, and placed us (apart) in the San Pedro detention center on Terminal Island near Los Angeles. For the next 16 months, my children lived on their own, continuing to attend school and to support themselves as best they could. We did not report this situation to the authorities because we did not want to lose custody of them. Ultimately, we lost our home and my two oldest children moved in with a neighbor. In return for room and board, they cleaned the neighbor's home and watched their children. Diana also worked from 10 p.m. to 3 a.m. in a parking lot. Amy and Jose continued to attend high school, but Diana stopped going to college because she had no money to pay her fees. Six months after they arrived, they were in a strange land without their parents or even friends. Whenever I spoke to them, I urged them to be brave.*

*I witnessed great suffering during my time in detention, including many women who wept inconsolably because they had lost their children. With the encouragement of a Catholic priest, I tried to comfort these women.*

*After several months in detention, my husband's health began to fail due to a lung condition that the center treated with Tylenol. Finally, I received political asylum, and my husband and I were released from custody. Six months later, he was diagnosed with lung cancer. He died in June 2001. Despite these struggles, my children are not bitter toward the United States. They know that we paid a high price. In fact, my husband paid with his life. But today my two daughters have finished college and my son attends college. We feel grateful for the opportunity that this country offers us. But sometimes the price you pay is very high.*



The U.S. immigration system reflects our nation's commitment to families. In a typical year, two-thirds of those who gain lawful permanent residence do so based on a family relationship to a U.S. citizen or lawful permanent resident. Between 2001 and 2003, for example, the United States admitted 2.83 million persons as lawful permanent residents, 1.84 million of them with family-based visas.<sup>35</sup> Immigrant families typically include members with different immigration statuses. By one estimate, more than three million U.S.-born children live in households headed by undocumented persons.<sup>36</sup> Sixteen percent of all U.S. children under the age of six and 11 percent between the ages of six and 17 live in families with non-citizen adults.<sup>37</sup> Policies that target non-citizens devastate these "mixed status" families.

The success of immigrant families, compared to the native born, has historically corresponded to their time in the United States. However, today's undocumented residents may well be more entrenched in their poverty and lack of status than were past populations.

Many criticize the undocumented as law-breakers, but few understand how the law contributes to their plight. Under U.S. law, the minor children, spouses and parents of U.S. citizens can secure visas without numerical limitation. However, persons with other qualifying family relationships are subject to quotas based on their nationality and their family relationship. As a result, millions who have been approved for visas based on a family relationship to a U.S. citizen or a lawful permanent resident languish in multi-year backlogs. In 1997, the U.S. Department of State concluded that 3.5 million persons approved for family-based visas had not yet received them.<sup>38</sup> These persons must either live apart from

<sup>35</sup> U.S. Department of Homeland Security, Office of Immigration Statistics, "2003 Yearbook of Immigration Statistics" (Sept. 2004) at 7 [hereinafter "2003 Statistical Yearbook."]

<sup>36</sup> "Estimates of the Undocumented Population" at 3.

<sup>37</sup> R. Capps, M. Fix, J. Ost, J. Reardon-Anderson, J. Passel, "The Health and Well-Being of Young Children of Immigrants" (Urban Institute, 2004) at 6 [hereinafter "The Health and Well-Being of Young Children of Immigrants"].

<sup>38</sup> U.S. Department of State, Bureau of Consular Affairs, "Immigrant Visa Waiting List in the Family-Sponsored and Employment-Based Preferences as of January 1997" (Mar. 1997).

their families (abroad) or live in undocumented status (here), even though the latter course means that they may never be able to legalize their status. Many understandably chose family reunification over legal status.

Once a visa becomes available, a family member must apply to become a lawful permanent resident. Roughly one million of these applications are pending, with an average processing time of 13 months.<sup>39</sup> Since it typically requires five years in lawful permanent resident status to naturalize, these delays also postpone U.S. citizenship. Once eligible to naturalize, applicants face further processing delays of nearly a year.<sup>40</sup>

Exacerbating the situation, restrictive immigration laws make it impossible for many undocumented residents to gain legal status. Under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“the 1996 Immigration Act”), a U.S. citizen or lawful permanent resident must show that he or she can maintain an income of 125 percent of the federal poverty line and must agree to maintain his or her family member at the same level. Twenty percent of those who seek legal assistance at Catholic Charities programs cannot meet this requirement, thus foreclosing lawful admission or status for family members.<sup>41</sup> Forty-two percent must rely on joint sponsors. Many cannot afford to bring in all of their family members together, but must stagger their arrival. The law consigns these families to lives apart or to the instability of undocumented status for years on end. The financial, psychological and emotional toll on these families can be overwhelming.

The U.S. immigration system also includes bars to legal status based on unlawful presence and other immigration offenses. Persons who have been unlawfully in the United States for more than one year, for example, face a ten-year bar if they leave the country. This provision can be waived if its application would cause “extreme hardship” to a U.S. citizen or lawful permanent resident spouse or parent. The hardship caused to a child by a parent’s departure cannot be considered. Yet separation from a parent can scar a child for life.

Lawful permanent residents can also be removed due to relatively minor crimes that they committed years in the past. Persons facing removal for “aggravated felonies” – an expansive category that includes misdemeanors – have no legal recourse. Under the law, Immigration Judges cannot take into account the severity of the crime, the time elapsed since its commission, rehabilitation, family ties or other equities. In case after case, these provisions have torn apart U.S. families.

Most of immigrants facing removal for criminal behavior face mandatory detention in the local jails, for-profit prisons and federal facilities used by the Department of Homeland Security (DHS). The DHS also detains asylum-seekers, torture survivors, undocumented residents and deportees whom no country will accept, often co-mingled with or in close proximity to persons serving criminal sentences. Despite its well-documented abuses, the DHS detention system continues to grow. In 2003, it detained 231,500 persons or an average of 21,133 per night,<sup>42</sup> roughly triple the number of a decade ago. Legislation passed in December 2004 raised the authorized number of detention beds to 60,000. Apart from detained adults, an estimated 8,000 unaccompanied immigrant minors pass each year through the custody of the Office of Refugee Resettlement (ORR) in the Department of Health and Human Services (HHS). These children often face deportation without legal counsel, and a small percentage continue to be held in secure facilities. Government, human rights and religious entities have criticized the lack of alternatives to detention for adults and children who represent neither a danger or a flight risk.

39 U.S. Department of Homeland Security, “I-485 Projected Processing Time” (Apr. 30, 2005); U.S. Department of Homeland Security, “I-485, Application for Adjustment of Status: Fiscal Year 2005 Year to Date” (Apr. 30, 2005). Between 2000 and 2003, the overall number of applications in the processing backlog grew from 3.9 million to 6.2 million. U.S. General Accounting Office, “Immigration Application Fees: Current Fees Are Not Sufficient to Fund U.S. Citizenship and Immigration Services’ Operations,” GAO-04-309R (Jan. 5, 2004) at 36.

40 U.S. Department of Homeland Security, “N-400, Application for Naturalization: Fiscal Year 2005 Year to Date” (Apr. 30, 2005); U.S. Department of Homeland Security, “N-400 Projected Processing Time” (Apr. 30, 2005).

41 Catholic Legal Immigration Network, Inc., “The Affidavit of Support and Its Effect on Low-Income Families” (Aug. 2000) at 13.

42 “2003 Statistical Yearbook” at 148.

*At the time of his removal, "Mr. G-" was 81-years-old and had been a U.S. lawful permanent resident for 50 years. Years before, he had been watching television when his grandson entered their home, followed by police officers. After finding narcotics in the boy's room, the police arrested Mr. G- and his grandson. On the advice of counsel, Mr. G- pled guilty to a drug possession charge and received probation. Twenty years later, the immigration service removed him as an "aggravated felon."*



*Francisco Celaya, a U.S. citizen, has lived in the United States since 1988. He filed a visa petition for his undocumented wife in February 2002. The couple has two U.S. citizen children, a four-year-old daughter and three-year-old son. In February 2003, Mrs. Celaya's father suffered a stroke and she returned to Mexico to care for him. When she left the United States, Mrs. Celaya knew that she would not be able to return until her visa petition had been granted. In addition, she triggered a 10-year bar to re-entry for having lived in the country without immigration status for more than one year. Since Mr. Celaya could not work full-time and care for his children, Mrs. Celaya took their children to Mexico. For two years, Mr. Celaya has been separated from his family. In March 2004, Mrs. Celaya's visa petition was approved and she awaits her consular interview. At that point, she will need to secure a discretionary waiver – by no means a certainty – to the 10-year bar. The waiver process will take an additional four to six months.*



*Kure Toyiring, now a U.S. citizen, immigrated from Nigeria in 1995. Since that time, he has been separated from his wife and five children. The visa petitions he filed for his family (through Catholic Charities of Stockton) have all been approved. However, he must now demonstrate (in an affidavit of support) that he can maintain an income of 125 percent of the federal poverty line which, for a family of his size, equals \$36,412 a year. Mr. Toyiring shares his apartment with other immigrants, bicycles to work and has no telephone. He works full-time at a laundromat and week-ends as a vendor at a flea market. However, he does not earn nearly enough to immigrate his family. Mr. Toyiring could also satisfy the income requirement through the joint sponsorship of a U.S. citizen or lawful permanent resident. However, he cannot find anybody willing to assume responsibility for supporting his family members at the required level. In May 2005, Mr. Toyiring received letters from the U.S. Consulate in Nigeria stating that if he did not act on the approved family petitions within the year, the cases would be terminated. The letter also requested that Mr. Toyiring submit \$70 for the affidavit of support and \$380 for each visa.*



## 2. Low-Wage Laborers

*“Every kind of discrimination in wages and working conditions should be avoided in regard to workers who come from other countries or areas and contribute by their work to the economic development of a people or a region. Furthermore, no one, especially public authorities, should treat such workers simply as mere instruments of production, but as persons; they should help them to bring their families with them and to obtain decent housing conditions, and they should try to integrate them into the social life of the country or area to which they have come.”*

– Pope Paul VI, Pastoral Constitution on the Church in the Modern World, *Gaudium et Spes*, par. 66 (Dec. 7, 1965).

Most immigrants come to the United States to work. Overall, they comprise nearly 15 percent of the U.S. workforce.<sup>43</sup> The undocumented alone constitute 5 percent of U.S. workers.<sup>44</sup> Between 1996 and 2003, immigrants filled 58 percent of the 11 million new jobs created by the U.S. economy, with higher rates in service sector and construction jobs.<sup>45</sup>

Many immigrants work in professional and highly skilled jobs while others perform the often thankless, necessary work that serves the common good and benefits us all. They pick crops, sew clothes, prepare food, clean hotel rooms, wait on tables, mow lawns, build homes, protect offices, drive taxis and care for children, the elderly and the ill. Between 2002 and 2012, the U.S. economy is projected to create 21.3 million jobs, with much of the fastest growth in jobs that immigrants occupy at high rates.<sup>46</sup> Since they arrive at relatively young ages and have more children than natives, immigrants represent one solution to the problems associated with the nation’s aging workforce.<sup>47</sup>

For a family of five, the U.S. poverty line equals a grossly inadequate \$12 day per person for housing, food, transportation and all other expenses. In 2003, 21.7 percent of non-citizens fell below this bare minimum, as did 11.8 percent of natives.<sup>48</sup> In 2003, median earnings for immigrants amounted to \$511 a week, compared to \$688 for the native born.<sup>49</sup> Children in immigrant families suffer higher poverty rates, endure more housing and food problems, and receive public benefits at lower rates than children in native families.<sup>50</sup> In 2002, more than one-half of the children of immigrants and one-third of the children in native-born households lived in families that earned less than 200 percent of the poverty line.<sup>51</sup>

Many decry the flow of “unskilled” labor to the United States and the high poverty rates of newcomers. Fewer criticize the policies that contribute to the poverty of hard-working people. The federal minimum wage of \$5.15 an hour – which has not increased since 1997 – does not represent a “living wage” and certain employers fail to pay even the minimum.<sup>52</sup> Immigrants also work at high rates in jobs that do not offer health insurance and other benefits. More than 45 percent of immigrants lack health insur-

43 U.S. Department of Labor, Bureau of Labor Statistics, “Labor Force Characteristics of Foreign-Born Workers in 2004” (May 12, 2005).

44 “Estimates of the Undocumented Population” at 1, 4.

45 Council of Economic Advisers, “Economic Report of the President” (U.S. Government Printing Office, Feb. 2005) at 94-95 [hereinafter “Economic Report of the President”].

46 D. Hecker, “Occupational Employment Projections to 2012,” Bureau of Labor Statistics, Monthly Labor Review (Feb. 2004) at 80-81, 87 and 91.

47 “Economic Report of the President” at 108.

48 U.S. Census Bureau, Current Population Reports, P60-226, “Income, Poverty, and Health Insurance Coverage in the United States: 2003” (U.S. Government Printing Office, 2004) at 11 [hereinafter “Income, Poverty, and Health Insurance Coverage in the United States.”]

49 “Economic Report of the President” at 100.

50 “The Health and Well-Being of Young Children of Immigrants” at 21-23.

51 Urban Institute, “Children of Immigrants Show Slight Reductions in Poverty, Hardship,” Snapshots of America’s Families III Series (Nov. 7, 2003) [hereinafter “Children of Immigrants.”].

52 See generally, Catholic Legal Immigration Network Inc., “Work Without Justice: Low-Wage Immigrant Laborers” (2000).

ance.<sup>53</sup> Between 1998 and 2003, immigrants accounted for 86 percent of the growth in the uninsured.<sup>54</sup> In 2002, 18 percent of the children of immigrants did not have health insurance, compared to 7.5 percent of children with native parents.<sup>55</sup>

Immigrants in many industries suffer work-related injuries at high rates, including pesticide poisoning, construction accidents and repetitive stress injuries. Mexican nationals are 80 percent more likely to die on the job than native workers.<sup>56</sup>

Newcomers have also borne the brunt of public benefit restrictions. Lawful permanent residents do not qualify for most public assistance for five years or until they naturalize. Although 93 percent of the young children of immigrants are U.S. citizens, they receive public benefits at lower rates than the children of U.S. citizens.<sup>57</sup>

Labor laws fail to protect large categories of immigrants. The National Labor Relations Act (NLRA) prohibits a range of anti-union activities. However, it does not cover an estimated three million agricultural laborers, one million domestic employees and seven million independent contractors.<sup>58</sup> Agricultural laborers and domestic workers suffer some of the worst conditions in the U.S. labor force. The National Labor Relations Board (NLRB) can order an employer to pay back wages and benefits, reinstate an employee, obey the law and undo the illegal steps taken. However, these penalties provide little disincentive to anti-organizing practices. Under a Supreme Court decision in 2002, undocumented workers illegally fired for union organizing cannot receive back pay and benefits.<sup>59</sup> Since 1950, the number of unfair labor practice cases has tripled, but the NLRB staff has fallen to 2,000 people, slightly above 1950 levels.<sup>60</sup> Similarly, the Fair Labor Standards Act's (FLSA's) minimum wage, overtime and child labor standards apply to roughly seven million workplaces and 130 million workers. Yet in 2004 the U.S. Department of Labor employed only 788 "wage and hour" investigators to enforce these rules. In the circumstances, many immigrants – particularly the undocumented – have little recourse for labor violations.

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53 "Income, Poverty, and Health Insurance Coverage in the United States" at 17.

54 Employee Benefit Research Institute, "The Impact of Immigration on Health Insurance Coverage in the United States," *EBRI Notes*, Vol. 26, No. 6 (June 2005) at 6.

55 "Children of Immigrants" at 1-2.

56 J. Pritchard, "Mexican Worker Deaths Rise Sharply," *Associated Press* (Mar. 12, 2004).

57 "The Health and Well-Being of Young Children of Immigrants" at 22-24.

58 Human Rights Watch, "Unfair Advantage: Workers' Freedom of Association in the United States Under International Human Rights Standards" (Aug. 2000) at 189 [hereinafter "Unfair Advantage"].

59 *Hoffman Plastics Compound, Inc. v. NLRB*, 122 S. Ct. 1275 (2002).

60 "Unfair Advantage" at 26.

*Milagros Gonzalez, a U.S. lawful permanent resident, entered the United States in 1988 so that she could better support her three children in the Dominican Republic. At the time, her children were 22, 21, and two years old. She has spent the last 17 years apart from them, able to visit them for only two or three weeks each year. In October 2000, Catholic Charities Immigration*



*Legal Services in Washington, D.C. assisted Milagros in filing visa petitions for her children. Although the petitions were approved in April 2005, she will not be reunited with her two oldest children for several more years. The current backlog in their visa category exceeds nine years. Visa processing will take several additional months. Since her arrival, Milagros has worked extremely hard. Today, at the age of 56, she keeps a busy schedule, working an average of 55-hours per week between several jobs. She works as a housekeeper for three families, and also works 30 to 40 hours per week as a cleaner for an apartment building. "I am happy to have the opportunity to work in this country," she says, "but I am lonely and I want to have my children here with me."*



*My name is Teresa Alonso-Bray. In 1985, I immigrated from Michoacan, Mexico to the United States. My father had immigrated in 1978 and received legal status under the 1986 legalization program. He came to the United States to work so that he could support my family. He lived in Petaluma, California, where he worked as a cow milker. My older brother (then 17-years-old) lived with him, doing yard work and cleaning hotel rooms. My mother and my five younger brothers remained in Michoacan. For three months after my arrival, I worked in the fields of Viola, California, picking tomatoes and cutting grapes, in order to pay off our debt to a "coyote" for bringing me to the United States. After that time, I moved in with my father and brother. I did not have the "luxury" of attending high school. Instead, I worked in a greenhouse planting, weeding and filling orders for alfafa, oregano and other plants. I also cleaned houses. I worked roughly 50 hours a week in these jobs, earning an average of \$150 per week. After two years, I started to take adult classes in the evenings. After five years, I earned a GED. During this period, I severely injured my back and began a program of physical therapy and job training. As part of this program, I began to volunteer at Catholic Charities of Santa Rosa's legal program for immigrants. In September 1990, Catholic Charities hired me to be a receptionist. Gradually I became more experienced and knowledgeable in immigration law and procedures. In 1993, I assisted my mother and brothers to immigrate legally to the United States. By 1998, I had obtained accreditation by the Board of Immigration Appeals to represent immigrants. That same year, Catholic Social Services of Vallejo hired me to direct their new legal immigration program. Our program serves people seeking family reunification, citizenship, permanent residence and visas based on their cooperation with law enforcement against smugglers and other criminals. I now divide my time between the immigration programs of Catholic Social Services of Vallejo and Catholic Charities of the East Bay. The work allows me to bring immigrant families together, just as I helped to reunite my own family. It allows me to help other immigrants in need. I know how hard life can be for many of those we serve because I lived that life.*

### 3. The Undocumented

*“It is against the common good and unacceptable to have a double society, one visible with rights and one invisible without rights – a voiceless underground of undocumented persons.”*

– National Conference of Catholic Bishops, *Together a New People: Pastoral Statement on Migrants and Refugees* (United States Catholic Conference, 1986).

The Immigration Reform and Control Act of 1986 (IRCA) sought to reduce forever the U.S. undocumented population through a generous legalization program and sanctions against employers who hired the undocumented. Since then, the undocumented population has risen to nearly 11 million with no end in sight.<sup>61</sup>

Between 1993 and 2003, funding to the U.S. Border Patrol more than quadrupled. While border control efforts have failed in their primary purpose, blockades of frequent crossing routes have pushed migrants to more perilous courses, caused more crossing deaths from dehydration and exposure, fostered the emergence of organized smuggling rings and reduced migrant travel to their home countries.<sup>62</sup> Failed U.S. immigration policies can be witnessed most graphically along the U.S.-Mexico border where, on average, one migrant perishes each day.

Undocumented residents endure all the abuses and indignities of second-class status, including exploitation by unscrupulous employers, landlords and legal practitioners. In recent years, select police departments have begun to enforce federal immigration violations. Not only does this trend further strain limited police resources, but it drives undocumented persons (and their families) away from institutions – like the police, schools, emergency rooms, health clinics, day care centers and churches – that are fundamental to the common good. The recently-passed REAL-ID Act makes it more difficult for undocumented residents to obtain drivers’ licenses.

Each year, several thousand undocumented teens cannot advance beyond high school. Many entered the United States as young children and know no other country. Some do not even learn of their undocumented status until they apply for college. To attend state colleges, they must pay out-of-state tuition. In addition, they cannot receive federal financial aid. These restrictions put their dreams of attending college beyond reach.

On a positive note, IRCA demonstrated what legal status means for workers. Four to five years after IRCA, the wages of legalized workers had increased by 15 percent.<sup>63</sup> The program also prompted immigrants to learn English, secure job training and develop skills to improve their prospects in the United States.<sup>64</sup>

Critics of immigration reform legislation dislike the idea of “rewarding” those who have violated our immigration laws. Yet as the Bush Administration has recognized, expanding the legal avenues to immigration – to reflect labor and family realities – will reduce illegal migration, a result that enhanced immigration measures cannot achieve on their own.<sup>65</sup> While effective reform must go beyond a

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61 “Estimates of the Undocumented Population” at 1.

62 K. Eschbach, J. Hagan and N. Rodriguez, “Causes and Trends in Migrant Deaths Along the U.S. Mexico Border, 1985-1998,” University of Houston (Mar. 2001) at 41; Catholic Legal Immigration Network, Inc., “Chaos on the U.S.-Mexico Border: A Report on Migrant Crossing Deaths, Immigrant Families and Subsistence-Level Laborers” (Nov. 2001) at 8-15, 20-21 [hereinafter “Chaos on the U.S.-Mexico Border.”]

63 U.S. Department of Labor, “Effects of the Immigration Reform and Control Act: Characteristics and Labor Market Behavior of the Legalized Population Five Years Following Legalization” (May 1996) at 43.

64 *Id.* at 45.

65 Statement of Michael Chertoff, Secretary of the U.S. Department of Homeland Security (Jul. 13, 2005), available at [http://www.dhs.gov/dhspublic/interapp/speech/speech\\_0255.xml](http://www.dhs.gov/dhspublic/interapp/speech/speech_0255.xml). (“A second imperative is the need to strengthen border security and interior enforcement, as well as to improve our immigration system .... We are developing a new approach to controlling the border, one that includes an integrated mix of additional staff, new technology and enhanced infrastructure investment. But control of the border will also require reducing the demand for illegal border migration by channeling migrants into regulated legal channels to seek work.”)

temporary worker program, we would note that the “bracero” program – a “guest worker” program for agricultural laborers from Mexico from 1942 to 1964 – significantly diminished illegal migration to the United States.<sup>66</sup> Although discredited for other reasons, this program highlighted the relationship between sufficient legal opportunities for entry and decreased illegal migration.

It is difficult to envision an adequate alternative to allowing undocumented workers to earn legal status in the United States. The status quo – a growing and fixed population of second-class residents offends our religious and civic values. Furthermore, it would be prohibitively expensive, if not impossible, to remove 11 million undocumented residents. A recent study estimates that it would cost \$206 billion over five years to accomplish this, more than the entire DHS budget.<sup>67</sup> In 2003, the United States removed 186,151 persons, a four-fold increase since 1994, but less than two percent of the undocumented population.<sup>68</sup> Even if the resources existed, a program to expel so many residents would raise civil liberties problems, would tear apart millions of families and would devastate the economy.

The needs of newcomers go well beyond immigration status; they include work, education, health care, civic participation and home-ownership. The United States has an immigration policy that determines who can enter and stay, but it lacks a coordinated program to respond to immigrants’ multi-faceted integration needs. Given the nation’s overwhelming interest in the success of its 35 million newcomers, this failure seems short-sighted at best.

<sup>66</sup> Stuart Anderson, “The Impact of Agricultural Guest Worker Programs on Illegal Immigration,” *The National Foundation for American Policy* (Nov. 2003) at 1-3.

<sup>67</sup> Rajeev Goyle and David A. Jaeger, Ph.D., “Deporting the Undocumented: A Cost Assessment,” *Center for American Progress* (Jul. 2005) at 1-2.

<sup>68</sup> “2003 Statistical Yearbook” at 149.

*In May of 2000, Yolanda Gonzalez and her 10-month-old daughter, Elizama, left their home in the village of San Pedro Chayuco, Oaxaca, Mexico. Yolanda sought to join her husband, Hermilo Hernandez Velasco, in Portland, Oregon. Yolanda and Hermilo had grown up in poverty. Her family subsisted on five acres of land and his family on two acres. Yolanda and Elizama set out with a group of ten migrants. The smuggler told them that their journey would take six hours. For four days they wandered in the desert. Yolanda drank little, saving most of her two gallons of water for Elizama. When she could no longer continue, two men from the group stayed with her and others went looking for help. She died near Sells, Arizona. Although badly dehydrated and sun-burned, Elizama lived.*



*In December 2003, Maria, her husband and their two young children moved to Monroe, Michigan where her husband had work. They resided in a housing complex with a number of other undocumented families. Maria met Christine, a bi-lingual, Head Start family advocate, from the local Catholic Charities office. Christine helped Maria and her family get her son enrolled in Head Start and provided other services to the family including interpreting. The Catholic Charities Head Start bus came to the complex to pick up Maria’s son and the other children. Just before Christmas, the border officials began to follow the bus, parked and began watching Maria and others put the children on the bus. Maria became fearful that they would arrest her and separate her from her young children. Other parents feared the same and one day Maria did not bring her son to the bus anymore. She and the others disappeared.*

#### 4. Refugee, Asylum-Seekers, and Others in Need of Protection

*“The emigre Holy Family of Nazareth, fleeing into Egypt, is the archetype of every refugee family. Jesus, Mary and Joseph, living in exile in Egypt to escape the fury of an evil king, are, for all times and all places, the models and protectors of every migrant, alien and refugee of whatever kind who, whether compelled by fear of persecution or by want is forced to leave his native land, his beloved parents and relatives, his close friends, and to seek a foreign soil.”* – Pius XX, Apostolic Constitution, *Exsul Familia* (1952).

Twelve million persons worldwide meet the legal definition of a refugee.<sup>69</sup> This definition does not cover the 23 million who are displaced within their own countries and the millions more who have fled civil war, generalized violence and natural disaster.<sup>70</sup> For nearly 60 years, the United States has resettled refugees from abroad, with Catholic Charities constituting the largest network of resettlement agencies. In the two years following the September 11th terrorist attacks, the United States admitted its lowest numbers of refugees in a quarter of a century.<sup>71</sup> In 2004 and 2005, refugee admissions have rebounded, but they remain relatively low.

Migrants fleeing persecution have also found it more difficult to reach the United States. Prior to September 11th, Mexico intercepted thousands of migrants in transit to the United States per year, but did not provide adequate screening to determine who would be at risk if returned home.<sup>72</sup> The United States also continues to interdict, return and (if they reach our shores) detain Haitian boat people, policies it now justifies on spurious national security grounds. Making matters worse, the number of asylum-seekers able to reach U.S. ports-of-entry has plummeted, perhaps due to document pre-inspection programs at overseas airports. In 2002, 9,763 migrants without proper documents requested asylum at U.S. ports-of-entry.<sup>73</sup> By 2003, this number had fallen to 5,367.<sup>74</sup> This trend raises concerns that many in need of protection cannot escape their countries.

Asylum-seekers often cannot obtain proper travel documents prior to their departure. When they arrive at a U.S. port-of-entry with false or no documents, they must request asylum or express a fear of persecution to a U.S. immigration official or face “expedited removal.” The United States has recently extended this process to migrants caught within 100 miles of the U.S.-Mexico border who have been in the country for 14 days or less.

U.S. Attorneys criminally prosecute certain arriving asylum-seekers for document fraud.<sup>75</sup> In these cases, asylees begin life in the United States with a criminal record. Other asylum-seekers have also been targeted. The United States and Canada have entered an agreement that requires migrants to seek asylum in the first country (of the two) that they reach.<sup>76</sup> Prior to this agreement, roughly 14,000 asylum-seekers made their way to Canada each year through the United States. Under the 1996 Immigration Act, migrants must seek asylum within a year of their entry in the United States, with narrow excep-

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69 U.S. Committee for Refugees, “World Refugee Survey 2004” (Immigration and Refugee Services of America, 2004) at 1 [hereinafter “World Refugee Survey 2004.”]

70 The United States provides temporary protection to nationals from designated countries that are experiencing armed conflict, environmental disaster, or other extraordinary conditions.

71 The Refugee Council USA, “U.S. Refugee Admissions Program for Fiscal Year 2004” (May 2003) at 4.

72 “Chaos on the U.S.-Mexico Border” at 35-37; M. Flynn, “Dónde Está La Frontera?,” *Bulletin of the Atomic Scientists* (2002); M. Flynn, “U.S. Anti-Migration Efforts Move South,” Americas Program, Interhemispheric Resource Center (Jul. 8, 2002).

73 U.S. Department of Homeland Security, “2002 Yearbook of Immigration Statistics” (Oct. 2003) at 57.

74 “2003 Statistical Yearbook” at 48.

75 *Associated Press*, “Prosecution of Asylum Seekers Challenged” (Aug. 12, 2003).

76 Agreement for Cooperation in the Examination of Refugee Claims from Nationals of Third Countries (Aug. 30, 2002). <http://www.cic.gc.ca>

tions.<sup>77</sup> The REAL-ID Act requires asylum-seekers to show that a central motive for the persecution they suffered was their political opinion, social group membership, nationality, race or religion.<sup>78</sup> Of course, asylum-seekers are not typically in a position to know, much less to prove, their persecutors' motives. The REAL-ID Act also made it easier for Immigration Judges to deny asylum claims based on lack of corroborating evidence.

*The Togolese military arrested, beat and tortured Dominique Kunu for his work in a pro-democracy organization. In 2001, he fled the country, leaving behind his family. With help from a Catholic Charities attorney, Dominique gained political asylum in the United States. After his departure, his wife and five children (including a son he has never seen) spent nearly two years in a refugee camp. They have suffered greatly, and the separation has also been difficult for Dominique. As he puts it, "I am a grown man but sometimes I go home at night and cry in my apartment because I am without my family." In January 2005, Dominique filed a petition to bring his family to the United States. Meanwhile, he works as a stock clerk and cashier at a pharmacy, and a housekeeper at a nursing home. He tries to send \$300 a month to his family so that they can buy food and clothing.*



## 5. Newcomers Treated as National Security Threats

*"[A] society's or political community's reason for being is not the security of the state but the human person."*

– Archbishop Oscar Romero.<sup>79</sup>

Since September 11, 2001, newcomers have been viewed through the lens of national security. Among those targeted as security threats have been Haitian boat people, detainees whom no country will accept, persons fleeing persecution and Middle-Eastern men who came forward to register with the government. Newcomers should not be confused with terrorists. At the same time, the immigration system has an important role to play in a coordinated counter-terror strategy. In particular, it should be able to conduct identity and security checks on those seeking to enter and to gain status; to stop those at ports-of-entry who appear on security watch lists; to help locate visitors to the United States; to assure that they abide by the terms of their visas; and to decrease unauthorized crossings.

Since terrorism promises to be an enduring problem, the United States must develop effective, long-term strategies in response. If its tactics do not respect civil liberties, they cannot be sustained in a constitutional democracy and should not be adopted. Likewise, the United States must enlist the support of immigrant communities, particularly those in which terrorists might attempt to hide.

After September 11th, the United States arrested and detained nearly 800 Middle Eastern and South Asian men. The government held many for weeks without charging them.<sup>80</sup> A report by the Department of Justice's Office of Inspector General on two prisons concluded that post-9/11 detainees suffered severe mistreatment, including mental and physical abuse. Many remained in prison even after it became clear that they had no connection to terrorism.<sup>81</sup>

<sup>77</sup> INA § 208(a)(2).

<sup>78</sup> Pub. L. No. 109-13, \_\_ Stat. \_\_ (May 11, 2005).

<sup>79</sup> Oscar Romero, *The Violence of Love* (Orbis Books, 1988) at 29.

<sup>80</sup> *Associated Press*, "Supreme Court Rejects Dispute Over Closed Deportation Hearings" (May 27, 2003).

<sup>81</sup> U.S. Department of Justice, Office of the Inspector General, "The September 11 Detainees: A Review of the Treatment of Aliens Held on Immigration Charges in Connection with the Investigation of the September 11 Attacks" (Apr. 2003) at 16, 41-42, 47.

Another program required Middle-Eastern and South Asian men from 25 countries, who had entered the United States on temporary visas, to be registered, photographed, fingerprinted, and interviewed. Of the 83,519 people who came forward, nearly 14,000 were placed in removal proceedings.<sup>82</sup> Thousands more fled to Canada and went underground. Measures like these can be self-defeating. As Vincent Cannistraro, former chief of operations in the Central Intelligence Agency's Counter-Terrorism Center, cautions: "What I see as the problem today is that we are using immigration policy as a proxy for law enforcement, and it is a poor proxy because it alienates the very communities we need to depend upon for early warning."<sup>83</sup>

While Catholic Charities agencies are not experts on border enforcement or homeland security, we note that many analysts share our view that immigration control cannot succeed in the absence of reform of our nation's system of legal immigration. Stuart Anderson, Executive Director of the National Foundation for American Policy and a former Bush Administration official, has concluded that "the absence of avenues to work legally in the United States is a primary reason for the current levels of illegal immigration."<sup>84</sup> The Heritage Foundation argues:

Rather than diverting exorbitant resources to the task of attempting to guard every mile of the border, why not make it in the interest of those seeking legitimate employment to enter this country through lawful means? This would make the task of policing borders and coastline more manageable. When the only individuals seeking to enter the United States illicitly are terrorists and transnational criminals, meeting the challenge of securing our borders will be more realistic. Under these conditions, everyone benefits – except the lawbreakers.<sup>85</sup>

Tamar Jacoby of the Manhattan Institute agrees:

In principle, the naysayers are right: No one wants to reward lawbreaking or encourage future transgression. The conundrum is how to reassert the law – how to retake control of the border and restore legality to the American workplace – given the fact that several sectors of our economy now depend on 11 million unauthorized workers ...Immigration naysayers don't like to admit it, but the fact is that today's immigration reformers – the president and conservatives like Sen. Cornyn, but also, increasingly, liberals once concerned primarily with immigrant rights – are driven by a desire to restore order to this broken system. Their goal is replace the old "nudge-nudge wink-wink" arrangement of unrealistic laws, intermittently enforced, with an honest, airtight system: realistic laws, enforced to the letter. The problem is we can't build this new structure on a rotten foundation. We must first eliminate the underground economy and find a way to deal with illegal immigrants already here.<sup>86</sup>

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82 U.S. Department of Homeland Security, "Fact Sheet: Changes to National Security Entry/Exit Registration System (NSEERS)" (Dec. 1, 2003).

83 Center for Migration Studies, "Immigration Policy, Law Enforcement and National Security" (2003) at 11-12.

84 Stuart Anderson, "Making the Transition from Illegal to Legal Migration," The National Foundation for American Policy (Nov. 2003) at 5.

85 Edwin Meese III, James Jay Carafano, Ph.D., Matthew Spaulding, Ph.D., and Paul Rosenzweig, "Alternatives to Amnesty: Proposals for Fair and Effective Immigration Reform," Background #1858 (Jun. 2, 2005), available at <http://www.heritage.org/research/legalissues/bg1858.cfm>.

86 T. Jacoby, "Getting Beyond the 'A-Word,'" *Wall Street Journal* (Jun. 20, 2005).

## V. Recommendations

**W**e in the Catholic Charities movement offer several recommendations regarding U.S. immigration policies. These proposals, coupled with poverty-reduction measures in migrant sending countries, represent a comprehensive, workable approach to the challenge of immigration. If adopted, they would also bring our nation's policies more closely in line with our religious and civic values.

### **1. The Need for Immigration Reform**

We encourage the United States to enact broad immigration reform legislation that puts undocumented laborers and their families on the path to lawful permanent residence and citizenship, and that creates greater legal avenues for necessary workers to enter the United States in the future.

### **2. The Need for a Humane Response to Immigrants Affected by Hurricane Katrina**

As demonstrated by the response to Hurricane Katrina, Catholic Charities agencies cannot meet their mission of service to the poor and vulnerable if they do not serve immigrants. Newcomers are among the victims of this disaster and thousands face particular hardship and uncertainty based on their immigration situations. Catholic Charities immigration and refugee program staff are poised to play a unique role in serving Gulf Coast evacuees as they attempt to resettle, work and secure legal status in communities across the nation.

### **3. The Need for An Immigrant Policy**

The United States has an immigration policy that determines who can enter the country and who may remain. It needs an "immigrant" policy to welcome, to help integrate and to promote the success of newcomers.

### **4. The Need for Anti-Poverty Reforms**

We support a number of measures to improve the economic prospects, health, labor protections, and stability of all U.S. residents, including newcomers.

## VI. A Call to Solidarity

*“The Spirit of the Lord is upon me, because the Lord has anointed me to bring good tidings to the afflicted; he has sent me to bind up the brokenhearted, to proclaim liberty to the captives, and the opening of the prison to those who are bound; to proclaim the year of the Lord’s favor ...” (Is. 61:1-2).*

**W**e in the Catholic Charities movement have never been content to criticize injustices without offering to help remedy them and without acknowledging our own need for conversion. In 2003, the U.S. and Mexican bishops stated:

Faith in the presence of Christ in the migrant leads to a conversion of mind and heart, which leads to a renewed spirit of communion and to the building of structures of solidarity to accompany the migrant.<sup>87</sup>

In this spirit, we commit to acting in greater solidarity with migrants and newcomers. We vow to help educate Catholics on the Church’s social teaching, its migrant heritage and its work with newcomers. We pledge to be more active advocates for our newly arrived brothers and sisters. We vow to evaluate our commitments and to measure our work based in part on our concrete experience of the needs and aspirations of newcomers. We commit to reorienting our agencies and, if necessary, to creating new institutions to serve the needs of newcomers more fully. We pledge to support and collaborate more significantly with institutions – like immigrant-led organizing agencies and labor unions – that seek to empower immigrants. We hope to serve today’s newcomers as devotedly as the Church served our parents, grandparents and other ancestors.

We vow to work for a solution to the plight of vulnerable migrants both in their countries of birth and in the United States. Reform of the U.S. immigration system will remain one of our top public policy priorities until it comes to pass. We vow to assist Congress in passing comprehensive, humane and effective legislation, and to partner with the Administration in implementing it in communities across the nation.

We renew our commitment – in all our work and acts – to welcome the stranger, to embrace our brothers and sisters, and to bring good news to the afflicted. We commit our gifts and resources to the task of gathering into one God’s scattered children (Jn. 11:52).

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<sup>87</sup> *Strangers No Longer*, par. 40.



