



Testimony

Of

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Before the

Senate Judiciary Committee

On

Comprehensive Immigration Reform

February 12, 2013

I am Archbishop Jose Gomez, Archbishop of Los Angeles, CA, and chairman of the U.S. Conference of Catholic Bishops' (USCCB) Committee on Migration. I testify today on behalf of the Committee of Migration on the Catholic Church's perspective on comprehensive immigration reform.

Mr. Chairman, I am pleased to have the opportunity to testify today on this important topic. I would like to thank Chairman Patrick Leahy, and Ranking Minority Member Grassley for holding this hearing on an issue that is of such vital importance to our nation.

We are hopeful that today's hearing marks the beginning of a process that will result in swift enactment of comprehensive immigration reform. Our nation cannot wait any longer to repair our broken immigration system, which does not accommodate the migration realities we face in our nation today, or respect the basic human rights of migrants who come to this nation in search of employment for themselves and their children.

In order to achieve real reform, the Obama Administration and Congress must work together on a comprehensive package that would provide a path to citizenship for undocumented migrants and their families in the U.S., provide legal means for migrants to enter our nation to work and support their families, and reform the system whereby immigrants come to the United States to reunite with close family members. We also must restore due process protections to immigrants, many of which were taken away under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Perhaps most importantly, the United States must work with Mexico and other nations to address the root causes of migration, so that migrants and their families may have a greater opportunity to remain in their homelands and can live in dignity.

Mr. Chairman, in January 2003, the U.S. and Mexican Catholic bishops issued a historic joint pastoral letter on the issue of migration entitled *Strangers No Longer: Together on the Journey of Hope*. Among its many recommendations, it outlines the elements which the bishops of both nations believe are necessary to reform U.S. and Mexican immigration policy in a comprehensive and just manner.

My testimony today will focus on many of the recommendations contained in the U.S.-Mexican bishops' joint letter.

Specifically, my testimony recommends that Congress—

- Enact comprehensive immigration reform legislation that provides a path to citizenship for undocumented workers in our nation; reforms the employment-based immigration system so that low-skilled workers can enter and work in a safe, legal, orderly, and humane manner; and reduces backlogs and waiting times in the family preference system so families can be reunited.
- Examine the “push” factors of migration, such as international economic policies, and enact policies that encourage sustainable economic development, especially in sending communities;

- Restore basic due process protections for immigrants, including the restoration of administrative and judicial discretion in removal proceedings and elimination of the 3- and 10-year bars to re-entry;
- Adopt necessary legal reforms for special populations, such as refugees, asylum seekers, trafficking victims, and unaccompanied children; and
- Include the necessary elements in any legislation to efficiently implement any new immigration program, including taking actions to prepare the U.S. Citizenship and Immigration Service (USCIS) to implement any new program and to properly fund such implementation.

## **I. Catholic Social Teaching and Migration**

The Catholic Church is an immigrant church. More than one-third of Catholics in the United States are of Hispanic origin. The Church in the United States is also made up of more than 58 ethnic groups from throughout the world, including Asia, Africa, the Near East, and Latin America.

The Catholic Church has a long history of involvement in the immigration issue, both in the advocacy arena and in welcoming and assimilating waves of immigrants and refugees who have helped build our nation throughout her history. Many Catholic immigration programs were involved in the implementation of the Immigration Reform and Control Act (IRCA) in the 1980s and continue to work with immigrants today. In fact, the U.S. Conference of Catholic Bishops (USCCB) was a national coordinating agency for the implementation of IRCA. We have a strong working relationship with the Department of Homeland Security (DHS) and with U.S. Citizenship and Immigration Services (USCIS), the agency that would be largely responsible for implementing any new legalization and temporary worker programs. In 1988, the United States Conference of Catholic Bishops (USCCB) established the Catholic Legal Immigration Network, Inc. (CLINIC) to support a rapidly growing network of community-based immigration programs. CLINIC's network now consists of over 212 members serving immigrants and their families in over 300 offices.

The Church's work in assisting migrants stems from the belief that every person is created in God's image. In the Old Testament, God calls upon his people to care for the alien because of their own alien experience: "So, you, too, must befriend the alien, for you were once aliens yourselves in the land of Egypt" (Deut. 10:17-19). In the New Testament, the image of the migrant is grounded in the life and teachings of Jesus Christ. In his own life and work, Jesus identified himself with newcomers and with other marginalized persons in a special way: "I was a stranger and you welcomed me." (Mt. 25:35) Jesus himself was an itinerant preacher without a home of his own as well as a refugee fleeing the terror of Herod. (Mt. 2:15)

In modern times, popes over the last 100 years have developed the Church's teaching on migration. Pope Pius XII reaffirmed the Church's commitment to caring for pilgrims, aliens,

exiles, and migrants of every kind, affirming that all peoples have the right to conditions worthy of human life and, if these conditions are not present, the right to migrate.<sup>1</sup> Pope John Paul II states that there is a need to balance the rights of nations to control their borders with basic human rights, including the right to work: "Interdependence must be transformed into solidarity based upon the principle that the goods of creation are meant for all."<sup>2</sup> In his pastoral statement, *Ecclesia in America*, John Paul II reaffirmed the rights of migrants and their families and the need for respecting human dignity, "even in cases of non-legal immigration."<sup>3</sup>

In an address to the faithful on June 5, 2005, His Holiness Pope Benedict XVI referenced migration and migrant families; "... my thoughts go to those who are far from their homeland and often also from their families; I hope that they will always meet receptive friends and hearts on their path who are capable of supporting them in the difficulties of the day."

During his visit to the United States in April 2008, His Holiness Pope Benedict XVI chose migration and immigration as one theme of his visit, citing the importance of keeping families together and addressing the issue not only nationally, but regionally and globally as well: "The fundamental solution is that there would no longer exist the need to emigrate because there would be in one's own country sufficient work, a sufficient social fabric, such that no one has to emigrate. Besides this, short-term measures: It is very important to help the families above all." (Interview with His Holiness Pope Benedict XVI on his flight to America, April 15, 2008.)

In our joint pastoral letter, the U.S. and Mexican Catholic bishops further define Church teaching on migration, calling for nations to work toward a "globalization of solidarity." "It is now time to harmonize policies on the movement of people, particularly in a way that respects the human dignity of the migrant and recognizes the social consequences of globalization."<sup>4</sup>

The U.S. and Mexican bishops also point out why we speak on the migration issue. As pastors, we witness the consequences of a failed immigration system every day in the eyes of migrants who come to our parish doors in search for assistance. We are shepherds to communities, both along the border and in the interior of the nation, which are impacted by immigration. Most tragically, we witness the loss of life at points along our southern border when migrants, desperate to find employment to support themselves and their families, perish in the desert.

For these reasons, the Catholic Church holds a strong interest in the welfare of immigrants and how our nation welcomes newcomers from all lands. The current immigration system, which can lead to family separation, suffering, and even death, is morally unacceptable and must be reformed.

## II. The Immigration Debate

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<sup>1</sup> Pope Pius XII, *Exsul Familia (On the Spiritual Care of Migrants)*, September, 1952.

<sup>2</sup> Pope John Paul II, *Sollicitudo Rei Socialis*, (On Social Concern) No. 39.

<sup>3</sup> Pope John Paul II, *Ecclesia in America (The Church in America)*, January 22, 1999, no. 65.

<sup>4</sup> *Strangers No Longer: Together on the Journey of Hope. A Pastoral Letter Concerning Migration from the Catholic Bishops of Mexico and the United States*, January 23, 2003, n. 57.

During the 113<sup>th</sup> Congress, there is real opportunity to adopt bipartisan immigration reform legislation. We hope Congress can avoid the experience of the 110<sup>th</sup> Congress, when immigration legislation died on the U.S. Senate floor when there were insufficient votes to invoke cloture on the measure.

During consideration of the bill on the floor and prior to a cloture vote, the U.S. Catholic bishops worked with senators to fashion the most comprehensive and humane legislation possible. Unfortunately, as negotiations ensued, it became clear that the legislation would include provisions that made it difficult for the U.S. Catholic bishops to endorse it.

Primarily, the U.S. bishops were concerned about the inclusion of a point-based system to replace the family-based immigration system that the nation currently employs, among other issues. I will address some of these problem areas in my testimony.

We would like to work with Senate leaders and interested groups to ensure that the product that the Senate Judiciary committee produces, and, indeed that the U.S. Senate and U.S. House of Representatives passes, is one that updates and repairs our broken immigration system in a humane manner.

We are heartened by statements by President Obama that immigration reform is a priority for his Administration, and that he is committed to working with Congress for its enactment in the near future. We also are heartened by recent statements from Republicans and Democrats alike in the House and Senate in support of immigration reform. In order to achieve this goal, Congress and the president will have to work in tandem throughout the legislative process, and both sides in this debate should make efforts to minimize the harsh rhetoric evidenced in previous debates.

We are hopeful that the future national debate on immigration will focus upon the many contributions which immigrants, both documented and undocumented, make to our country. History informs us that our nation has been built, in large measure, by the hard work of immigrant communities. We must remember that, except for Native Americans, we are all immigrants or descendants of immigrants to this great land.

### **III. Policy Recommendations**

Mr. Chairman, the U.S. Catholic bishops believe that any comprehensive immigration reform bill should contain the following elements:

- A path to citizenship that gives deserving migrants who are currently in the United States in undocumented status an opportunity to earn legal permanent residency and eventual citizenship;
- a new worker visa program for unskilled workers that allows migrants to enter the U.S. legally and safely and protects the labor rights of both U.S. and foreign workers;

- reform of our family-based immigration system to reduce waiting times for family reunification, based on the union of a husband and a wife and their children;
- restoration of due process protections for immigrants, including asylum-seekers;
- policies that address the root causes of migration, such as the lack of sustainable development in sending nations, and
- legal remedies for special populations, such as refugees, asylum seekers, trafficking victims, and children.

During my testimony, I will attempt to spell out in more detail our recommendations in this regard, as well as point out the policy provisions the U.S. Conference of Catholic Bishops (USCCB) would oppose in any immigration reform bill.

#### *A. Path to Citizenship for the Undocumented*

With regard to immigration policy reform, it is vital that Congress and the administration address a path to citizenship for the undocumented currently in the United States; employment-based immigration through a new worker visa program; and family-based immigration reform. Without addressing reform in each leg of the “three-legged stool,” any proposal will eventually fail to reform our immigration system adequately.

A main feature of any comprehensive immigration reform measure should be a path to citizenship that permits undocumented immigrants of all nationalities in the United States the opportunity to earn permanent residency and eventual citizenship. Such a feature would provide benefits to both our nation and to immigrants and their families, who would be able to “come out of the shadows” and become full members of the community. We support requiring applicants to pay a fine, achieve English competency, and wait in the back of the line.

The “Bipartisan Framework for Comprehensive Immigration Reform” (Bipartisan Framework), proposed on January 22, 2013 by a bipartisan group of eight U.S. Senators supports a path to citizenship for legalizing undocumented aliens but would make the path contingent on enforcement goals; moreover, it recommends the establishment of a commission to assess whether the border is “secure.” Among the goals stated in the Bipartisan Framework are the completion of an entry-exit system and an increase in the number of Border Patrol agents and technology at the southern border.

We ask the committee to resist making the path to citizenship contingent upon enforcement goals along the border. Mr. Chairman, over the past 25 years our nation has pursued an enforcement-only immigration policy, with little or no reforms to our legal immigration system and no program for bringing millions of the undocumented out of the shadows. Moreover, over the past 12 years, the U.S. government has spent billions of dollars along our southern border, including the tripling of border patrol agents, the addition of unmanned aerial vehicles and other technology, and the construction of nearly 700 miles of border fencing. According to the Pew

Hispanic Center, net migration from Mexico has reached zero. As the Department of Homeland Security has stated, as of 2010, we have obtained “operational control” of our borders.<sup>5</sup>

We should no longer wait to implement other reforms to the system, particularly a path to citizenship for the undocumented. We can work to improve humane border enforcement and implement other reforms simultaneously.

At a minimum, there should be a “date certain” in which qualifying immigrants should be able to apply for permanent residency. It should not be contingent on new initiatives which could take many years to complete and a subjective judgment by a commission.

Additionally, it is vital that any earned legalization program is both **workable** and **achievable**. In other words, the program should not be so complicated as to be unworkable, or not easily administered, nor should the requirements be so onerous as to disqualify or discourage otherwise qualified applicants.

We also would support a shorter waiting time for applicants to apply for permanent residency. Some proposals in the past have suggested waiting times as long as 10 years or more before an applicant could apply for permanent residency. We find this period too lengthy, and believe the American public would agree. Polls and other surveys of the American public find that Americans want immigrants integrated into society as soon as possible, so that they are “playing by the same rules,” as U.S. citizens.

We also support broad eligibility requirements for any legalization program, including generous evidentiary standards and achievable benchmarks toward permanent residency. This also would include a recent arrival date. The assessment of fines associated with a legalization program should be reasonable and English competency, not fluency, should be required of legalization applicants, whereby they are permitted to demonstrate that they are working toward fluency.

It is important that any program capture the maximum number of those who currently live in the shadows, so that we significantly reduce, if not eliminate, the undocumented population in this country. To this end, we ask that those individuals who qualify for the DREAM Act or for AgJOBS specifically be given an immediate path to permanent residency and citizenship.

Finally, the U.S. bishops oppose proposals that would only grant legal residence to the undocumented and withhold from them any opportunity for permanent residency and eventual citizenship. We believe that such proposals would create a permanent underclass in our society, without full rights in our communities, and that the establishment of such an underclass would cut against American tradition and values.

In our view, an earned path to citizenship would provide many benefits, as follows:

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<sup>5</sup> Rebecca Gambler, Border Patrol Strategy: Progress and Challenges on Implementation and Assessment Efforts, Testimony Before the Subcommittee of Border and Maritime Security Committee on Homeland Security, House of Representatives, GAO, May 8, 2012.

- **A path to citizenship would keep families together and improve the well-being of U.S.-citizen children.** Legalization would help stabilize immigrant families and would protect U.S.-citizen children in “mixed” status families. More than 5.5 million U.S. citizen children have one or more undocumented parents.<sup>6</sup> Between July 2010 and September 2012, 204,810 parents of U.S.-citizen children were removed from the U.S. away from their U.S.-citizen children.<sup>7</sup>
- **A path to citizenship would recognize and maintain the economic contributions of the undocumented.** Undocumented workers are an integral part of many industries across the country, including agriculture, service, construction, meatpacking, and poultry processing. For example, undocumented workers make up more than 50 percent of the labor force in agriculture. Currently, there are roughly over eight million undocumented workers in the U.S. labor force, representing 5.2% of the total American workforce in 2010.<sup>8</sup> In addition, undocumented workers contribute billions to the tax and Social Security systems, paying \$520 billion into the Social Security system since 1975, and contributions from these newly legalized workers would add close to \$5 billion in additional tax revenue in just the next three years.<sup>9</sup>
- **A path to citizenship would improve wages and working conditions for all workers.** By legalizing the labor force in a way which allows immigrants to become permanent residents, wages and working conditions would improve for all workers. According to a North American Integration and Development Center study, a new legalization program would increase the wages of immigrant workers by 15 percent, similar to the effect after passage of the 1986 Immigration Reform and Control Act.<sup>10</sup> Legalization also would allow workers to organize and assert their rights, leading to better working conditions and wages for all workers.
- **A path to citizenship would help bring U.S. immigration policy in line with U.S. economic policy.** The United States and Mexico are more integrated than ever. U.S. immigration policy has yet to adjust to the fact that U.S. economic policies such as NAFTA have facilitated rapid interdependence between Mexico and the United States. As economic policies are integrated, so, too, must bilateral migration policies.

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<sup>6</sup> Jeffrey Passel and D’Vera Cohn, *Unauthorized Immigrant Population: National and State Trends*, 2010 Pew Research Hispanic Center, (2011)

<sup>7</sup> American Immigration Council, *Falling Through the Cracks: The Impact of Immigration Enforcement on Children Caught Up in the Child Welfare System*, December 12, 2012.

<sup>8</sup> Jeffrey Passel and D’Vera Cohn, *A Portrait of Unauthorized Immigrants in the United States*, Pew Hispanic Research Center (2009-2010)

<sup>9</sup> Marshall Fitz, *Time to Legalize 11 Million Undocumented Workers*, Center for American Progress, November 14, 2012.

<sup>10</sup> Raul Hinojosa Ojeda, *Comprehensive Migration Policy Reform in North America: The Key to Sustainable and Equitable Economic Integration*. Los Angeles, California: North American Integration and Development Center, School of Policy and Social Research, UCLA, August, 2000.



- **A path to citizenship would make us more secure.** By legalizing the 11 million undocumented and requiring that they register with the U.S. government, law enforcement would be able to focus on others who are in the United States to harm us.

Despite the dire warnings of opponents of a path to citizenship for undocumented workers, evidence suggests that it would yield benefits at many levels by preserving family unity, securing the economic contributions of migrants, and raising the wages and working conditions of all workers.

## ***B. Employment-Based Immigration***

Perhaps the most challenging aspect of immigration policy reform is the creation of a new worker program that protects the basic rights of all workers, both foreign and domestic. The history of “guest worker” programs in the United States has not been a proud one. Indeed, the *Bracero* program, the largest U.S. experiment with temporary laborers from abroad, ended abruptly in 1964 because of abuses in the program. The U.S. Catholic bishops have long been skeptical of large-scale “guest worker” programs. Nevertheless, the status quo, which features a large underclass of undocumented workers, unprotected by the law, is unacceptable.

In this regard, the U.S. bishops have proposed a new model for a worker program that includes several elements, better labeled a new worker program. Each of these elements, properly implemented, would, in our view, help protect the rights of foreign and U.S. workers and ensure that legal avenues are provided for future migrants so that they can enter the country in a safe, legal, and humane manner.

- **Wage and Benefit Levels.** Any worker program should ensure that wage levels and benefits for “guest workers” are equal to those afforded to domestic workers in an industry. Overtime pay should be available. Benefits such as worker’s compensation, social security, housing, and health-care should be made available.
- **Worker Protections and Job Portability.** Workers in any “guest worker program” should enjoy the same protections of U.S. labor law as U.S. workers, regardless of the industry they are working in. This should include a right to redress grievances in federal court and a transparent arbitration system; safe and sanitary working conditions; and expressed terms of employment. Workers should be able to move to other employment within an industry and not be tied to one employer. Work accrued toward permanent residency should not be affected by changing jobs or employers.
- **Family Unity.** Workers should be able to be joined by their spouse and children in the United States during the length of the worker’s visa. Both husband and wife should be eligible for work authorization, regardless of whether they work in the program. Spouses and children should be able to become eligible for permanent residency at the same time as the worker in the program.

- **Labor-Market Test.** A mechanism should be included to ascertain whether U.S. workers within an area are adversely impacted by the hiring of workers from abroad. Employers should be required to advertise job openings to the maximum extent practicable and make good-faith efforts to recruit U.S. workers for a sufficient amount of time.
- **Mobility.** Workers and their families should be able to travel throughout the United States, travel back and forth from the United States to their country of origin, as well as travel from work site to work site, regardless of location, for the duration of their visa. Visas should be renewable as long as workers meet the requirements of the program, and applicable waivers to bars to admission should apply.
- **Enforcement Mechanisms.** Resources should be appropriated to ensure proper enforcement of worker protections in the program. Workers should be given the right to sue in federal court for violation of rights.
- **Path to Citizenship.** Workers should have the option of working to earn permanent residency over time, similar to an earned legalization program, as outlined in my testimony.

In our view, any new worker program must contain these elements in order to avoid the abuses of past such programs and to ensure that workers' rights are protected. In addition, such a program should be enacted in conjunction with a legalization program for the undocumented so that groups of workers are not pitted against each other. A just worker program also would mitigate the amount and effects of undocumented migration, which can lead to the abuse, exploitation, or even death of migrants.

**Standing Commission on Labor Markets.** There have been proposals in the past that would create commissions to determine annual visa levels, based on economic needs.

While the U.S. bishops do not oppose the concept of a commission, we believe that the scope of its oversight and its authority should be limited.

First, we do not believe that visa programs outside the employment-based system, particularly family-based categories, should be placed under such a commission's purview. We also believe that niche programs, such as the Religious Worker Visa Program, should be excluded from such a commission's jurisdiction, as the levels and structure of such programs should be decided by Congress, in consultation with the full range of faith groups who benefit from it.

In addition, we believe that Congress should establish a floor for annual visas in any new worker program and that any commission's examination of such programs should be limited to examining environmental factors and making recommendations to Congress regarding a level of visas above the floor. We also believe that the commission should consider humanitarian factors, such as the rates of deaths in the American desert, so that the program can be adjusted accordingly.

**Religious Workers.** We urge you to include a permanent extension of the special immigrant non-minister portion of the Religious Worker Visa Program in any reform legislation. This program permits 5,000 non-minister religious and lay persons each year to enter the United States and work on a permanent basis. They work in religious vocations and contribute to their denominations, but also work in the community helping U.S. citizens.

### ***C. Family-Based Immigration***

Family reunification, upon which much of the U.S. immigration system has been based for decades, should remain the cornerstone of U.S. immigration policy. Immigrant families contribute to our nation and help form new generations of Americans. Even while many migrants come to the United States to find employment, many come as families.

The U.S. family-based immigration system, which helps keep families together, is in urgent need of reform. The current visa quota system, last revised by Congress in 1990, established statutory ceilings for family immigration that are now inadequate to meet the needs of immigrant families wishing to reunite in a timely manner. The result has been waiting times of five years or more—and more than eight years for Mexican permanent residents—for husbands and wives to reunite with each other and for mothers and fathers to reunite with minor children. The waiting times for adult siblings to reunite can be twenty years or longer.<sup>11</sup>

Such lengthy waiting times are unacceptable and actually provide unintentional incentive for some migrants to come to the United States illegally. Substantial changes must be made to the U.S. family-based immigration system so that it will meet the goal of facilitating, rather than hindering, family unity. Such changes can be made in several ways, but they should not alter the basic categories in the family preference system.

**Opposition to a “point” system to replace family-based immigration.** Mr. Chairman, during the 2007 immigration reform debate, the U.S. Senate strongly considered replacing the family-based immigration system with a “point” system, which would have allocated visas to applicants based on the number of points they scored on different criteria. This idea was based on the Canadian model, which currently employs that system.

We oppose the imposition of such a point system, which we fear would place higher value on highly-educated and skilled immigrants than on family ties. We reject the premise that the family-based system has historically not worked in the best interest of this nation. Indeed, there is evidence that immigrant families represent the backbone of communities in this nation, especially in urban areas. They have started and maintained family businesses, from restaurants to dry cleaning stores and from auto mechanic businesses to pastry shops. Immigrant families also take care of each other and ensure that all members of the family are provided for, as well as contribute their talents to the strengthening of local neighborhoods.

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<sup>11</sup> *U.S. Citizenship and Immigration Service Fact Sheet*, January, 2004.

Family reunification has been the cornerstone of the U.S. immigration system since the inception of our republic. It would be foolhardy to abandon this system, as the family unit, based on the union of a husband and a wife and their children, represents the core of our society and culture.

**Opposition to the inclusion of the Uniting American Families Act (UAFSA) in immigration reform legislation.** Mr. Chairman, we are opposed to the inclusion of the Uniting American Families Act (UAFSA) in comprehensive immigration reform legislation. This legislation would erode the unique meaning of marriage by allocating spousal immigration benefits to persons in same-sex relationships. The inclusion of this provision would unnecessarily introduce controversy into an already divisive debate. We should not jeopardize the success of comprehensive immigration reform by using it as a vehicle to advance an issue that is already the source of polarizing debate in the states and in the courts.

*D. Enforcement Regime and Due Process*

Mr. Chairman, we believe that the best way to secure our borders and to ensure that our immigration laws are just and humane is to enact comprehensive immigration reform legislation. Since 1993, when the U.S. Border Patrol initiated a series of enforcement initiatives along our southern border to stem the flow of undocumented migrants, Congress has appropriated and the federal government spent about \$50 billion on border enforcement, tripling the number of Border Patrol agents and introducing technology and fencing along the border.

During the same period, as Congress has enacted one enforcement-only measure after another, the number of undocumented in the country has more than doubled and, tragically, nearly 8,000 migrants have perished in the desert of the United States. One of the more troubling and severe enforcement efforts that has been implemented in the name of protecting the border, Operation Streamline, has criminalized unauthorized entry and re-entry of immigrants beyond the civil immigration system, placing them in the U.S. federal criminal justice system. The sheer volume of individuals detained under this program has overwhelmed the U.S. court and prison system and has led to procedural due process violations in the courts and substantive due process violations related to arbitrary detention.

As you may know, Mr. Chairman, the U.S. bishops have expressed concern with the border fence which has been built along our southern border as well as the ongoing implementation of Operation Streamline. We do not believe these approaches will solve the problem of illegal immigration and could send migrants into even more remote regions of the border and into the hands of unscrupulous smugglers.

We are hopeful that comprehensive immigration policy reform that emphasizes legal avenues for migration will mitigate the perceived need for continuing to increase the number of border patrol agents, criminal prosecutions of immigrants and the amount and length of border fencing. Such reform could alleviate the pressure on border enforcement by undermining human smuggling operations and reducing the flow of undocumented migrants across the border. It also could help create a more stable atmosphere for the implementation of enforcement reforms, such as biometric visas and passports, which would help better identify those who come to harm us.

Mr. Chairman, I would like to offer the position of the U.S. Conference of Catholic Bishops on several enforcement issues you may consider during consideration of comprehensive immigration reform:

**National Employer Electronic Verification System.** Mr. Chairman, we know that there has been significant discussion and debate, including the introduction and markup of legislative proposals, over the question of whether the U.S. should enforce immigration-related work eligibility requirements in the workplace by imposing a mandatory electronic verification system on employers nationwide, so that employees who are hired are in the country legally and authorized to work. While we are not *per se* opposed to such a system, several steps should be taken to ensure that any system is applied uniformly and in an accurate way.

We would not oppose the adoption of a mandatory employer verification system provided that such a system: 1) is accompanied by a broad-based legalization program, so that all workers have an opportunity to become legal and not remain outside of the system; 2) is phased in at a reasonable rate with objective benchmarks so implementation is feasible for both employers and the government; 3) is not reliant on inaccurate, uncorrected government databases that result in the wrongful denial of employment of potential employees; 3) puts protections in place so that employers do not use the system to wrongfully discharge certain employees; and 4) provides a mechanism for employees and potential hires who are falsely identified as ineligible to work to correct any misinformation that leads to the false positive

**Reform of Detention Standards and Practices.** Mr. Chairman, we are deeply concerned with the status quo when it comes to the detention of aliens who are in removal proceedings, especially vulnerable migrants, such as children and families. We applaud Secretary Napolitano for her initiative to reform the detention system, but we believe that statutory change is necessary. Similarly, we call for the end of Operation Streamline and the corresponding \$1.02 billion spent in FY2011 on the incarceration costs of non-violent individuals for basic migration crimes.<sup>12</sup> We support the enactment of provisions which would: end mandatory detention and restore discretion to immigration officials and judges to release individuals who are not a flight risk and do not pose a risk to public safety; create nationwide alternatives to detention programs; improve standards for detention conditions, making the detention system truly civil in nature and including prompt medical care in compliance with accreditation requirements, access to legal counsel, and standards for families, children, and victims of persecution and torture; and establish a new Office of Detention Oversight at the Department of Homeland Security.

**Restoration of Due Process Protections.** Finally, we urge the committee to reexamine the changes made by the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), which eviscerated due process protections for immigrants. We urge you to restore administrative and judicial discretion in removal proceedings so that families are not divided, repeal the 3-and 10-year bars to re-entry, and revisit the number and types of offenses considered as aggravated felonies as a matter of immigration law.

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<sup>12</sup> FY2011, Budget in Brief, Department of Homeland Security, (2011)

### *E. Special Populations*

**Asylum-seekers and refugees should be afforded protection.** Those who come to our shores in need of protection from persecution should be afforded an opportunity to assert their claim to a qualified adjudicator and should not be detained unnecessarily. The expansion of “expedited removal,” a practice that puts *bona fide* refugees and other vulnerable migrants at risk of wrongful deportation, should be halted. At a minimum, strong safeguards, such as those suggested by the U.S. Commission on International Religious Freedom, should be instituted to prevent the return of the persecuted to their persecutors. We urge the subcommittee to include these reforms in any reform legislation.

We also believe that the definitions of terrorist activity, terrorist organization, and what constitutes material support to a terrorist organization in the Immigration and Nationality Act (INA) were written so broadly and applied so expansively that thousands of refugees are being unjustly labeled as supporters of terrorist organizations or participants in terrorist activities. These definitions have prevented thousands of bona-fide refugees from receiving protection in the United States, as well as prevented or blocked thousands of applications for permanent residence or for family reunification.

We urge the committee to reexamine these definitions and to consider altering them in a manner which preserves their intent to prevent actual terrorists from entering our country without harming those who are themselves victims of terror—refugees and asylum-seekers. At a minimum, we urge you to enact an exception for refugees who provide assistance to a defined terrorist organization under duress.

Additionally, we ask the committee to repeal the one-year filing deadline on asylum applications, which has prevented many asylum-seekers from obtaining immigration relief. Often it takes time for asylum-seekers to adjust to the United States and obtain legal assistance to file these claims. Many are detained and are unable to access the asylum system.

**U.S. Refugee Program.** Mr. Chairman, we also have several recommendations for reform of the U.S. refugee program. Our nation employs a robust refugee program which has served as an example to the rest of the world that refugees should be afforded protection. However, the U.S. refugee program suffers from inadequate funding and structural and policy deficiencies. We ask for the following changes in the law affecting refugees served in the U.S. refugee program:

- Refugees admitted into the U.S. Refugee Resettlement Program are being extended a special humanitarian protection reserved for those most in need, and have passed through an incredibly rigorous process of screening and background checks before entry. They are here legally and permanently and should therefore be admitted as Legal Permanent Residents, instead of being required to wait at least a year before applying to adjust their status, as current law necessitates. This requirement can lead to a number of delays and complications for refugees, including detention.

- The U.S. Refugee Resettlement Program is in dire need of restructuring and increased funding. In addition to an overall assessment of the program, we advocate strongly for an increase in and annual update of the Reception and Placement Grant; creation of a Resettlement Emergency Fund; significant expansion of the Matching Grant Program, enabling more refugees to become self-sufficient through early employment; expansion of the Unaccompanied Refugee Minor program, which serves some of the most vulnerable refugee children; and establishment of a Refugee Integration Grant Program and a Case Management Program.
- Family reunification is a central tenet of the U.S. Refugee Resettlement Program. However, due to gaps in current U.S. immigration law, some refugees who have a legitimate refugee claim and should be able to join family members here are unable to enter the U.S. as refugees. Reforms to address this problem include allowing orphaned refugee children to be resettled along with their adoptive families and speeding up the adjudication of refugees' and asylees' family reunification petitions.
- We support reform of the fee structure to provide for the direct appropriation of funds for refugee and asylum adjudications; the requirement that a refugee applicant whose application for admission as a refugee is denied be notified in writing of the reasons why his or her application was denied; and the establishment of formal training programs in each of the refugee processing regions to provide English as a Second Language (ESL), cultural orientation, and work orientation programs for refugees who have been approved for admission to the United States before they are admitted.

**Unaccompanied Alien Minors.** Mr. Chairman, the USCCB is also very concerned with the plight of unaccompanied minors who enter the United States. The number of unaccompanied alien minors entering the U.S. has reached new levels with more than 14,000 minors coming into Office of Refugee Resettlement custody in FY2012. With this in mind, we feel strongly that the following changes should be made in laws impacting minors:

- All children at the border, including unaccompanied Mexican children, should be screened for trafficking and fear of return as mandated in the Trafficking Victims Protection Act of 2008. Child welfare experts should assist in the screening and other humanitarian assistance at the border.
- Unaccompanied Alien Minors Special Immigrant Juvenile and U-Visa recipients should qualify for refugee benefits, so they can receive appropriate health-care and social services.
- Small scale community-based programming should be a priority for housing of unaccompanied children in federal custody as opposed to large scale institutionalized settings.
- Legal counsel should be guaranteed to unaccompanied alien minors, so they can navigate the complex legal immigration system and obtain appropriate immigration relief.

- Post release family preservation services should be guaranteed for all unaccompanied minors who are released to sponsors in the United States.
- A transnational family reunification approach should be adopted when deciding on durable solutions in the best interest of unaccompanied children. This includes family tracing and assessment, through international home studies, of the viability of all family reunification options, regardless of geography, for reunification.
- Return and re-integration services in countries of origin should be supported by the U.S. Government, with clear authority and appropriations given to the appropriate federal agency.
- An independent outcome evaluation should be conducted that assesses the well-being of unaccompanied children released from federal custody, taking in account such factors such as legal relief and child permanency outcomes.

#### *F. Addressing the Root Causes of Migration*

As the bishops have also taught, all persons have the right to remain in their homeland and to find there the means to support themselves and their families in dignity. Migration flows should be driven by choice, not necessity. To achieve this goal there is a need to develop the economies of sending nations, including particularly Mexico and the countries of Central America.

Only a long-term effort that adjusts economic inequalities between the United States and the nations south of our border will provide indigenous workers with employment opportunities that will allow them to remain at home and to build a dignified life for themselves and their families. The Church has consistently singled out economic inequality between nations as a global disorder that must be addressed. Within the United States-Mexico relationship, for example, we have witnessed the application of economic policies that do not adequately take into account the welfare of individual persons and families who struggle to survive and flourish.

In light of historic relationships, recent migration patterns, and increasing economic integration among the United States, Mexico, and Central America, particular attention should be dedicated to bilateral and multilateral efforts in the hemisphere to reduce the economic and social factors driving irregular migration.

In our pastoral letter on migration, the Catholic bishops of Mexico and the United States wrote, “the realities of migration between both nations require comprehensive policy responses implemented in unison by both countries. The current relationship is weakened by inconsistent and divergent policies that are not coordinated and, in many cases, address only the symptoms of migration and not its root causes.”<sup>13</sup>

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<sup>13</sup> *Strangers No Longer*, n. 56.



It is critical that Congress and the administration look at the immigration issue, particularly with Mexico and Central America, as part and parcel of the bilateral relationships with these neighboring countries, including trade and economic considerations. Improving migration management in the region will need to be coupled with bilateral efforts to address the forces which compel migrants to take great risks to come to the United States. Such investment in shared prosperity in the region is an essential element of improved regional migration management.

Without a systematic approach which examines why people migrate, the United States and other governments will not be able to address the underlying causes of migration. It is clear that foreign-born workers continue to come to this nation regardless of enforcement strategies. What attracts them is employment and opportunities to meet the basic needs of their families, opportunities largely unavailable in their home communities. Increasingly, youth and women migrate to reunite with their families or escape violence in their home countries. These populations are particularly vulnerable to sexual assault, kidnapping, human trafficking and other opportunistic crimes frequently perpetrated against migrants.

Particular focus should be given to rural poverty, disaster risk reduction and addressing high youth unemployment, issues particularly associated with emigration in the hemisphere.

Small-scale farm families in Latin America have benefitted little from the region's economic growth over the past two decades. Migration in Central America and Mexico often occurs first from rural to urban areas, and subsequently across borders. Families unable to recoup key assets in the aftermath of natural and environmental disasters and to meet basic shelter and livelihood needs have a greater likelihood of displacement and migration.

The majority of migrants to the United States from Central America and Mexico are between 15-30 years old. In Latin America young people 15-25 years old are three times more likely to be unemployed than other workers, and in 2011-2012 the rate of migration of unaccompanied minors from Central America doubled, with a significant percentage of these youths reporting threat of violence, primarily from gangs, as their primary reason for migrating.

We offer the following policy recommendations to address the root causes of migration:

- ***Trade policy must reflect principles of just development.*** Wealthier countries should reduce the subsidies, tariffs, and quotas that severely constrict poorer countries in their ability to market their own products and sustain their own agriculture. Developing countries should be given some flexibility in using appropriate subsidies, tariffs, quotas, and other support measures to make sure they have sufficient food supplies, enhance rural incomes, and promote rural development.

- ***Trade negotiations should reflect standards of equity and fairness.*** Trade documents should be made available during the process of negotiation for review and public comment. Major elements of civil society, including groups representing poor, business, labor and religious communities, should have greater access to participation in the negotiation process. Wealthier countries should provide technical assistance to help poorer countries be able to participate more fully in trade negotiations and to ensure that sectors that would not benefit from the agreements are supported. Labor and environmental concerns should be treated as integral to trade agreements and not as peripheral matters.
- ***Labor rights need to be recognized in the trade negotiation process.*** Trade agreements should lead to economic and social improvements at home and abroad, particularly for poor and vulnerable workers and their families; this can be accomplished by adopting internationally agreed upon labor standards and by ensuring there is a safety-net in sectors that would be adversely affected by the agreements. Trade agreements should foster the right to organize and bargain collectively. Trade agreements should also encourage and not undermine the ability of poor countries to promote environmental protection and sustainable agricultural practices.
- ***The North American Free Trade Agreement (NAFTA) and other free trade agreements have harmed small businesses and small farmers in Mexico and elsewhere in Latin America, especially in the rural sector.*** Nations should reconsider the impact of economic and trade agreements on persons who work hard at making a living, particularly small farmers. In addition, these agreements must preserve the rights of workers in these countries to work under just labor conditions, and must adequately safeguard human rights and environmental protections.
- ***The creation of employment opportunities in Mexico, the nations of Central America and throughout Latin America would help to reduce poverty and would mitigate the incentive for many migrants to look for employment in the United States.*** The implementation of economic policies in these countries that create living-wage jobs is vital, especially for Latin American citizens without advanced skills. Investments in health, housing and educational systems in these nations must be improved to provide the basis for enhanced employment opportunities for workers. Targeted development projects in municipalities and rural areas that traditionally have had the highest rates of emigration are necessary. Projects and resources particularly should be focused on the agricultural sector and small businesses in Latin America.
- ***Support the identification and promotion of key national and municipal level public policy innovations for poverty reduction and inclusive development in the region.*** Sustainable poverty reduction and more equitable growth in countries of origin require comprehensive economic, political and social policy approaches.

The U.S. Government should expand its partnerships with governments, private sector, and civil society to identify and develop public policy innovations that demonstrate substantive impact on poverty reduction, social inclusion and disaster risk reduction.

- ***Establish a Regional Social Investment and Development Fund to reduce economic and social disparities and migration pressure between NAFTA and CAFTA trading partners.*** Investment in shared prosperity in the region is an essential element of improved regional migration management.
- ***Alleviate rural poverty and revitalize agricultural production in prioritized migrant sending countries, through the granting of Trade Preferences, Most Favored Nation Status or adjustment to current agricultural trade relations, to ensure greater poverty reduction benefits from trade.*** Such assistance should prioritize investment in rural development strategies, marketing support and extension services to small farmers, strengthening of agro-enterprise partnerships, programs that protect or reverse degraded natural resources and expanded access to credit and micro-finance opportunities for small farmers, particularly in regions of highest out-migration.
- ***Support disaster recovery strategies for highly vulnerable populations in Central America and Mexico as part of social safety net and disaster response systems.*** This should include support for the development of mechanisms to expand financial (savings and credit) and non-financial services (property and livelihoods insurance), and environmental adaptation for vulnerable families within Disaster Risk Reduction and Recovery Strategies.
- ***Support comprehensive public-private strategies, partnerships and programs which prioritize income-generation and violence reduction efforts with youth in Central America and Mexico.*** Targeted public-private investment and partnerships to reduce youth unemployment in the region would significantly contribute to poverty and violence reduction, regional stability and investment in human capital and the future of the region.
- ***As border regions are a focal point of the migration phenomenon, resources also should be directed toward communities on the United States-Mexico border.*** Such additional resources should augment existing efforts by border residents to aid migrants in meeting their most basic needs. We urge the initiation of joint border development projects that would help build up the economies of these areas so that border residents may continue to work and live cooperatively, obtaining necessary support for their health, educational and legal needs.
- ***Governments should recognize the importance of preserving the environment and the rights of indigenous populations.*** Economic development and opportunity must be fostered in a context that preserves and protects the

environment. In particular, land policies should respect the rights of indigenous people in the region to use and live on their land.

- *External economic factors, including excessive levels of foreign debt, must be addressed.* Government policies at both the national and international level must address the role of excessive debt as a destabilizing element in the economy of a nation. Where appropriate, debt relief and reform must be considered as a critical component of foreign policy to allow foreign governments the opportunity to develop without the undue burdens of high levels of indebtedness.
- *Efforts must also continue to address the underlying causes of violence in the border regions.* Policies must reflect the importance of controlling the illicit drug trade, the centrality of curbing corruption at every level of national life, and the need to curtail the arms trade, weapons and human trafficking, as well as the resultant violence that accompanies these illicit activities.

#### IV. Implementation of Immigration Policy Reform

It is important to understand that the manner in which comprehensive immigration reform is implemented is vital to its success. A public-private partnership is necessary so that immigrant communities are aware of the facts of the application process (thus eliminating the involvement of “notarios”) and are able to receive assistance in accessing the program.

It will be essential that Congress provide adequate resources for DHS and community-based legal services programs to implement and execute any earned legalization program. As passed by the Senate, for example, the Comprehensive Immigration Reform Act (CIRA) of 2006 anticipated this need by establishing a fee structure that approximately 66 billion dollars of revenue dedicated to processing applications for earned adjustment.

Fee-generated funds, alone, will not be adequate, however, to meet the needs of an earned adjustment program. Congress will also need to directly appropriate funds to get any such program started. And it will need to be vigilant to ensure that fee-generated funds are not diverted for other purposes, as has often been done in the past.

While some may quarrel with the use of appropriated funds for this purpose, I would suggest that the alternative would likely require the expenditure of far more funds and yield a less desirable result. Imagine how much it would cost to apprehend, detain, and deport the estimated 11 million people who are in the United States illegally? The cost of properly implementing an earned legalization program is tiny when compared to the cost of the alternative approach.

Mr. Chairman, we believe that any comprehensive legislation can be implemented through reasonable fees imposed on applicants and with some supplemental funding appropriated by Congress. Fees should not be so punitive as to place the program out of the reach of qualified applicants.

We recommend the inclusion of the following elements in any legislation to ensure that a program is implemented appropriately:

- **Confidentiality.** Applicants for legalization should be extended confidentiality and not be subject to arrest and deportation if they fail to qualify for the program. This would ensure maximum participation in the program and that those who do qualify are not discouraged or intimidated from applying.
- **Reasonable Implementation Period.** Sufficient time should be given between enactment and implementation so that regulations, procedures, and infrastructure are in place. Deportations of prospective applicants should be suspended between these two dates.
- **Derivative Benefits.** Immediate family members—husband, wife, and children—should receive the same immigration benefits under legalization as the primary beneficiary.
- **Generous Evidentiary Standards.** For purposes of verifying an applicant's eligibility for legalization, evidentiary standards should be based upon "preponderance of the evidence" and should include a wide range of proof, including attestation.
- **A Simple and Broad Registration Process.** Such a process would bring forward eligible applicants for preliminary security screening.
- **Operational Terms Should be Clearly Defined:** Operational terms in the bill, such as "continuous residence," "brief, casual, and innocent," and "known to the government," should be defined in the legislation to avoid later confusion.
- **Broad Humanitarian Waiver.** A broad waiver of bars to admissibility, such as unlawful presence, fraud, or offenses related to unauthorized status, should be included in the legislation.
- **Increased Resources for the Executive Office for Immigration Review:** in order to meet the need for qualified, competent legal services, rapid adjudication of applications for Board of Immigration Appeals (BIA) Recognition and Accreditation will be necessary. Funding for EOIR should be generously appropriated ahead of implementation.
- **Funding for Legal Services:** Funding for BIA recognized agencies should be authorized prior to implementation, to conduct public outreach and to build the capacity of these agencies.
- **Funding to Assist Service Providers and Potential Applicants to Meet Program Requirements:** Funds should be allocated to organizations that will assist immigrants

to become eligible for the legalization program, including for providing civics and ESL instruction.

The inclusion of these elements in any legislation would facilitate the implementation of any program.

In addition, the Congress and the administration should take steps to reduce the immigration adjudication backlogs which now exist so that immigrants receive benefits in a timely way and that the U.S. Citizenship and Immigration Service (USCIS) is able to implement any new program.

Moreover, in 2007 the government enacted an increase in fee applications by three times for green card applications, leaving these benefits financially out of reach of many applicants.<sup>14</sup> This has led to a drop in naturalization applications in 2008 and 2009. USCIS recently announced that it may raise fees even further in the near future. We urge the subcommittee to reassess these fee increases and authorize the use of general funds for processing of applications. Mr. Chairman, reduction in the current backlogs in naturalization and adjustment of status applications as well as the maintenance of affordable fees should be part of our nation's efforts to reform our immigration system. We recommend that Congress evaluate the budget of the U.S. Citizenship and Immigration Service (USCIS) and provide more directly appropriated funding for infrastructure and backlog reduction.

## **V. Conclusion**

Mr. Chairman, we appreciate the opportunity to testify today on the issue of comprehensive immigration reform. Now is the time to finally enact such reforms, and we must do it right.

Mr. Chairman, we urge you and the committee to consider our recommendations as you consider the myriad issues in this vital area. We are hopeful that, as our public officials debate this issue, that migrants, regardless of their legal status, are not made scapegoats for the challenges we face as a nation. Rhetoric that attacks the human rights and dignity of the migrant are not becoming of a nation of immigrants. Neither are xenophobic and anti-immigrant attitudes, which only serve to lessen us as a nation.

Mr. Chairman, the U.S. Catholic bishops strongly believe that comprehensive immigration reform should be a top priority for Congress and the Administration and should be enacted this year. We look forward to working with you and the administration in the days and months ahead to fashion an immigration system that upholds the valuable contributions of immigrants and reaffirms the United States as a nation of immigrants. Thank you for your consideration of our views.

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<sup>14</sup> 69 Federal Register 5088 (February 2, 2007)