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The Immigration Dilemma.pdf

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“The Immigration Dilemma” *

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On this continent, too, thousands of persons are led to travel north in search of a better life for themselves and for their loved ones, in search of greater opportunities. Is this not what we want for our own children? We must not be taken aback by their numbers, but rather view them as persons, seeing their faces and listening to their stories, trying to respond as best we can to their situation. To respond in a way which is always humane, just and fraternal. We need to avoid a common temptation nowadays: to discard whatever proves troublesome. His Holiness Pope Francis, addressing joint meeting of Congress, Sept. 2015.

The intoxicating call of freedom brings dreamers from all over the world, inspiring people to face extreme challenges in its pursuit. Many do not make it, but this is a special land of opportunity to those who do. The United States of America is unique because its formation came from people who trekked from other lands to come here. Founded on principles derived from God and written in a permanent social contract, the U.S. guaranteed a representative republic to protect the people represented. The founding declaration makes these sentiments clear: “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.”[1]
Time after time, these American legal principles have suffered deformations, and often resurface in reformed legislation, transformed by the experience. New generations come to power and question or forget what wisdom was gained. Concerns about culture, competition, or safety resurface. [2] As legal professionals, we must look beyond the rhetoric and closely inspect the “criminal” charges against immigrants when their crimes derive directly from their efforts to survive. It is true that entering without inspection or overstaying a legally issued visa violates federal immigration law, but civil penalties punish these civil violations. [3] In addition, the Constitution affords legal options and due process to all people regardless of documentation.[4]

We must stand with justice and engage with an eye towards our nation’s future. We must provide guidance and clarity so that errors of the past are not repeated. Some say immigrants don’t assimilate to U.S. customs. On the contrary, post-recession immigrants are more assimilated than those who arrived before the recession. [5] Immigration laws must change to withstand the test of time because it is the right thing to do.

A principal tenet of Catholic Social Teaching [6] is that human beings are “the clearest reflection of God’s presence in the world” [7] and all humans are created in the image of God.[8] If we truly understand and accept that all people, regardless of nationality, are our brothers and sisters as children of God, we must respect their right to exist and to improve their lives just like our ancestors did. The Catholic Church consistently defends the human rights of immigrants regardless of legal status. His Holiness, Pope Francis, is explicit on the subject:
A change of attitude towards migrants and refugees is needed on the part of everyone, moving away from attitudes of defensiveness and fear, indifference and marginalization – all typical of a throwaway culture – towards attitudes based on a culture of encounter, the only culture capable of building a better, more just and fraternal world.\[9\]

We must abandon provincialism and embrace a better world based on human dignity and respect for one another, not on prejudice, hate and fear. The Catholic Catechism instructs the faithful that good government has two duties, both of which must be carried out and neither of which can be ignored. The first is to welcome foreigners out of charity and respect for the human person. Persons have the right to immigrate, and thus government must accommodate this right to the greatest extent possible, especially financially blessed nations.\[10\] The second duty is for political authorities to subject immigration to judicial conditions for the sake of the common good. Furthermore, immigrants must be grateful to their adopted country, obey its laws, and assist in carrying out its civic burdens. [11]

As a nation, we must think long term, not in 4 year electoral cycles. Immigration laws represent our nation’s principles to the entire world. These laws affect commerce, international sentiment, and make us friends or provoke enemies. Letting ambitious politicians use misrepresentations of immigrants to manipulate voters and instill fear, anger, or even a false sense of superiority may constitute a sin of omission [12]. We are instructed not to follow directives that are contrary to the moral order like persecuting immigrants indiscriminately and “obey God rather than men.[13]” These laws affect everyone - both those alienated or removed as well as our communities,
friends, workforce, and even future taxpayers that subsidize social security for our aging population.[14]

Collective action, fueled by individual pursuit changed our world. We are the product of coming together and overcoming the harshness of primitive life. Migrants have always benefitted the USA and enacting more restrictive anti-immigrant laws would deprive us of their contributions. Study after study concludes that immigrants provide a net benefit to the nation and cannot be ignored.[15] These contributions include: immigrants started 28% of new businesses in 2014[16]; immigrant-owned businesses employed over 4.7 million people in 2007[17]; Latino immigrant purchasing power will reach $1.5 trillion by 2015[18]; immigrants founded +40% of Fortune 500 companies[19]; 29% of scientists are immigrants[20]; 50% of PhDs in math/computer science and 57% of PhDs in engineering are immigrants[21]; immigrants constituted $ of patent growth in the 1990s[22]; immigrants started 25% of public US companies.[23]

Furthermore, fixing our broken immigration system is critical to bilateral trade and U.S. exports. Investments to strengthen the border and facilitate more efficient trade with both Mexico and Canada will strengthen the U.S. economy. Canada and Mexico are our second and third trading partners in the world, respectively, together accounting for nearly one-third of U.S. exports in 2012 and more than $3.1 billion two-way trade per day in 2013. [24] An increase in exports means more jobs right here in the U.S. Reforming immigration laws will increase international travel and tourism to America and to tourism dependent states like Florida. In the U.S, the largest service-export industry is tourism with over $220.8 billion in exports and
supporting more than 8 million jobs in 2014. The economic impact and importance of travel and tourism will continue to grow as emerging economies continue to expand their middle classes. [25]

Immigration laws are good and necessary, but like all laws, they must be fair to withstand the test of time. Many past immigration laws have slapped us in the face. We cannot with one hand declare our values and with the other enact laws that trample them. Employers are in need of workers, yet families are separated because they cannot legalize their status. At an enormous cost to taxpayers, we detain individuals who could be working [26]. It would cost far less to pay them to work rather than paying for-profit prisons to deprive them of their freedom.

Congress should examine the root causes of migration, including violence, under-development and poverty, and seek long-term solutions with our neighbors. The remedy to the problem is sustainable economic development and less predatory lending practices. [27] Globalization with an eye on the importance of managing trade with the objective of achieving development goals is essential. The World Bank estimates that reform of international trade rules could take 300 million people out of poverty. [28]

In an ideal world, migration should be driven by choice as the needs of our economy expand or contract and immigration should be regulated by a logical and flexible system of laws. Most immigrants would certainly follow the laws and immigrate legally if that were a realistic option. Current laws restrict family reunification and delay immigration processes by decades with expensive and problematic bureaucratic burdens. Farms who need help at
harvest time should be able to find workers who want to do the job and want to be able to go back to their homes afterwards. We need serious practical reforms that eliminate abuse and improve the human condition, “[A] world where human rights are violated with impunity will never stop producing refugees of all kinds.” [29]


[8] Genesis 1:27


These studies include findings by the Federal Reserve Bank (http://www.frbsf.org/economic-research/publications/economic-letter/2010/august/effect-immigrants-us-employment-productivity/ (last accessed 02/2016); the Congressional Budget Office; businesses; non-profit organizations; universities; and state, county, and local officials. The nonpartisan Congressional Budget Office (CBO) estimated that immigration reform would increase real Gross Domestic Product relative to current law projections by 3.3 percent in 2023 and 5.4 percent in 2033 – an increase of roughly $700 billion in 2023 and $1.4 trillion in 2033 in today’s dollars. https://www.cbo.gov/publication/49868 (last accessed 02/2016).


[21] Id.

China, Brazil, and India alone represent approximately 40 percent of the world's population and by 2017 the number of travelers from those countries is expected to increase by 259 percent, 83 percent, and 47 percent respectively.