

Messenger

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U.S. Immigration Law 101: Shining Light on a Complex Process

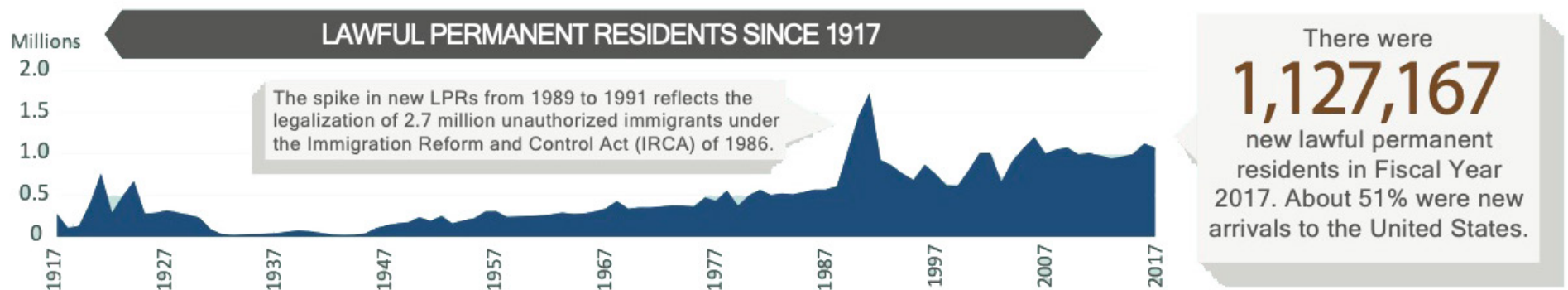
In this edition of *Messenger*, we offer this primer on U.S. immigration law to help shed some light on a complicated process that takes years to navigate for those seeking to make the U.S. their home. We hope this will take away some of the mystery of the U.S. immigration process for those unfamiliar with how the system works.

The Immigration and Nationality Act (INA), which governs current U.S. immigration law, was passed by Congress in 1965. It sets a limit of 675,000 permanent immigrant visas (often referred to as “green cards” because of their distinctive color) that may be granted on an annual basis. To ensure the diversity of the immigrant population, no more than seven percent of the total number of green cards awarded can go to immigrants from any one foreign nation.

Foreign nationals seeking to immigrate to the U.S. can legally apply for a “green card” if they fall into one of the following categories. Once granted a “green card”, they obtain lawful permanent resident status, but not citizenship. (continued on pg. 2)

“The more prosperous nations are obliged, to the extent they are able, to welcome the foreigner in search of the security and the means of livelihood which he cannot find in his country of origin.”

–Catechism of the Catholic Church No. 2241



*all data sourced from the U.S. Department of Homeland Security

Family Reunification

480,000 family-based visas are available each year. Immediate family members of U.S. citizens can be admitted if they are the spouse, unmarried child under 21, or parent of the sponsoring citizen, so long as they meet certain criteria and the petitioning citizen meets age and financial requirements. Adult children and brothers and sisters of U.S. citizens can also be admitted under the “family preference” category.

In Fiscal Year 2017, immigrants granted visas through family reunification accounted for 66% of all new immigrant admissions. To be admitted through the family-based immigration system, the sponsoring citizen must establish the legitimacy of the relationship, meet income requirements and sign an affidavit attesting that he/she will financially support the relative upon his/her arrival. Those seeking admission must submit to a medical exam, obtain any necessary vaccinations, pass a criminal background check, and establish that he/she will not become dependent on government assistance for their subsistence.

Reunification for legal immigrants can be a lengthy process. A sibling of a naturalized U.S. citizen from the Philippines, for example, can currently expect to wait at least 20 years before being able to immigrate legally to the U.S.

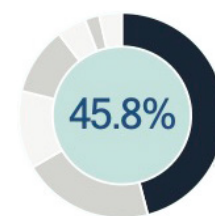
Special Skills of Value to the U.S.

140,000 permanent work visas are available for those with special skills. Immigrants admitted under this category must meet certain skill criteria, such as in the arts, sciences, education, or research and have a job offer from an employer willing to sponsor them. Visas for unskilled or low-skilled workers are limited to 5,000 annually. Religious workers, or those working for the U.S. foreign service may also qualify under this category for admission, along with those willing to invest between \$900,000 and \$1.8M (as of 11/21/19) in a job creating enterprise that employs at least 10 full-time U.S. workers. In fiscal year 2017, immigrants admitted through this category accounted for 12% of all new immigrant admissions.

1

LEGAL PERMANENT RESIDENTS (LPRS) BY CATEGORY OF ADMISSION (FY 2017)

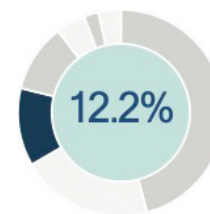
Immediate Relatives of U.S. Citizens



Family-Sponsored Preferences



Employment-Based Preferences



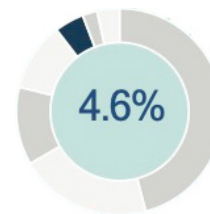
Refugees



Asylees



Diversity

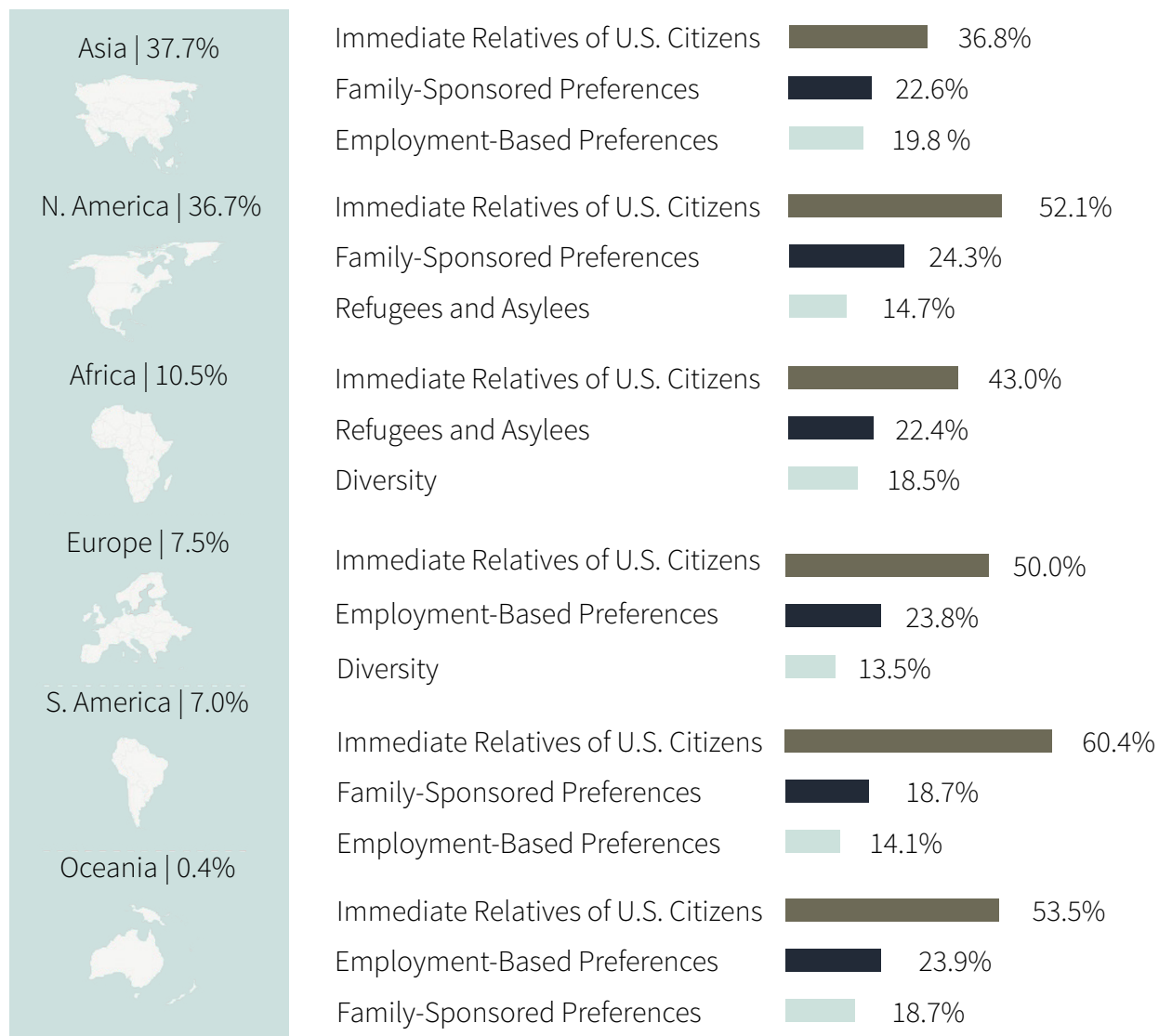


Other



2

LPRS BY GEOGRAPHIC REGION OF BIRTH AND TOP CATEGORIES OF ADMISSION PER REGION (FY 2017)



“Immigrants are obliged to respect with gratitude the material and spiritual heritage of the country that receives them, to obey its laws and to assist in carrying out civic burdens.” —

Catechism of the Catholic Church No. 2241

Defensive Asylum Cases Received by Country of Nationality: FY 2016 to 2018

Country	2016		2017		2018	
	Number	Percent	Number	Percent	Number	Percent
TOTAL	81,730	100.0	142,971	100.0	159,473	100.0
El Salvador	19,521	23.9	37,489	26.2	31,371	19.7
Guatemala	13,024	15.9	23,511	16.4	26,055	16.3
Mexico	15,673	19.2	22,340	15.6	24,412	15.3
Honduras	11,883	14.5	20,974	14.7	21,336	13.4
China, People's Republic	3,912	4.8	6,272	4.4	8,028	5.0

Individuals Granted Asylum Affirmatively or Defensively by Country of Nationality: FY 2016 to 2018

Country	2016		2017		2018	
	Number	Percent	Number	Percent	Number	Percent
TOTAL	20,362	100.0	26,509	100.0	38,687	100.0
China, People's Republic	4,495	22.1	5,615	21.2	6,905	17.8
Venezuela	343	1.7	549	2.1	6,087	15.7
El Salvador	2,144	10.5	3,476	13.1	2,963	7.7
Guatemala	1,921	9.4	2,949	11.1	2,358	6.1
Honduras	1,474	7.2	2,045	7.7	2,029	5.2

**all data sourced from the U.S. Department of Homeland Security*

Refugees

Refugees are foreign nationals that flee their country because of political strife, war or personal conflict with their government. They seek “refuge” in the U.S. due to a “well-founded fear of persecution” if they return to their homeland because of their race, religion, national origin, political opinion, or being a member of a particular social group in their country of origin. Refugees apply for admission from outside the United States, typically from a “transition country” (designated by the U.N.) that is not their home country.

Each year, the president and Congress set a limit on the number of refugees that will be admitted during that calendar year. Since Donald Trump was elected, that number – called the “Presidential determination” (PD) - has been decreasing. In 2019, the PD was 30,000, down from 85,000 in 2016, 50,000 in 2017, and 45,000 in 2018. For 2020, President Trump has proposed 18,000 refugees be admitted, the lowest number since the current system was enacted in 1980.

The United States Conference of Catholic Bishops (USCCB), through its Migration Committee, has spoken out in recent years in opposition to reductions in the number of refugees admitted under the Presidential determination, stating in late 2019 that “[g]iven the unprecedented humanitarian need and the crucial global leadership role that our country plays, we strongly urge the Administration and Congress -- as they engage in the consultation phase mandated by statute -- to work together to restore U.S. refugee resettlement to normal, historical levels.”

The USCCB, through state charitable agencies like Catholic Charities, has been involved in helping settle refugees in the U.S. for years. In 2017, the U.S. admitted 53,691 refugees. The top five countries of origin of individuals admitted were the Democratic Republic of the Congo, Iraq, Syria, Somalia, and Burma.

Asylees

Asylees are foreign nationals that cross into the U.S. and make a claim for asylum after they arrive here, unlike refugees who make a claim before they arrive. Like refugees, they must prove that they are unable to return to their native land because of a “well-founded fear of persecution.” Asylum seekers who arrive at the border and request asylum typically present their case to a government agency (affirmative cases), while those who enter the U.S. and are later apprehended by ICE present their case before an immigration judge during deportation hearings (defensive cases). The U.S. granted asylum (both affirmatively and defensively) to 26,509 individuals in 2017. Asylees accounted for just 2.3% of all new immigrant admissions in 2017.

Diversity Visa Program

In addition to the categories above, the Immigration Act of 1990 established a visa lottery whereby 55,000 visas are made available to foreign nationals from countries that have sent fewer than 50,000 immigrants to the U.S. in the previous five years. Because of historical immigration patterns, the diversity program benefits primarily immigrants from Africa and Eastern Europe. 51,592 individuals were admitted as citizens in 2017 through the diversity visa program, accounting for 4.6% of admissions.

U.S. Citizenship

Obtaining a green card doesn't confer citizenship status. Those holding green cards must wait at least five years before applying for citizenship through the naturalization process, which can take as long as 14 months after the application is submitted. Applicants must be at least 18 years of age, demonstrate continuous residency in the U.S., possess “good moral

character,” pass English, U.S. history and civics exams, and pay any applicable application fees, among other requirements. Those holding green cards can lose their lawful permanent resident status if they fail to establish a permanent U.S. residence, vote in an election as if they were already a citizen, commit a crime, or defraud the immigration system.

The Immigration Crisis at the Southern U.S. Border

Over the last five years, the U.S. has seen a rise in asylum cases brought by foreign nationals crossing the southern U.S. border, overwhelming the U.S. immigration infrastructure. Migrants from El Salvador, Honduras, Guatemala, Mexico and Venezuela, some traveling as families, have sought refuge in the U.S. due to rising political and social problems in those countries, grabbing headlines and increasing political and social tension in the process.

The unprecedented migration to the U.S. has led to a backlog in the immigration courts. In 2015, immigration courts in the U.S. faced a backlog of just over 500,000 cases. In September of 2019, the backlog reached an historic milestone of over 1 million cases. These cases are expected take as long as four years to be resolved, and the humanitarian crisis caused by the migration is far from over.

For those who arrive here on the Southern border, the reality is that most will not be able to stay. In the last ten years, roughly only one in five migrants seeking asylum have been granted relief, the other four seeing their requests for asylum denied. Despite an increase in the number of cases filed, the number of migrants granted asylum has stayed fairly consistent, at least for the last three years for which data are available. 20,362 individuals were granted asylum in 2016, 20,265,09 in 2017, and 38,687 in 2018. Of those granted asylum in 2018, 34.7% came from El Salvador, Honduras, Guatemala, and Venezuela. (see graphic on pg. 3)

The USCCB, again through its Migration Committee, has been advocating for the humane treatment of migrants at the border, some of whom come from historically Catholic countries and in the majority of cases are fleeing violence, crime, and political instability in their home countries. The bishops have opposed policies that result in detention and separation of children from their parents at the border, and ones that put migrants at further risk of exploitation or abuse. Various Catholic and other charity agencies are serving migrants at the border as part of their call to ministry, offering services to help arrivals maintain some sense of humanity and normalcy as they wait for their individual situations to be addressed.

DACA/Dreamers

Another hot topic in immigration law the last few years is a program that has allowed children brought to the U.S. by their foreign-born parents to remain here, despite the technical designation of no legal status in the U.S. Known as Deferred Action for Childhood Arrivals, “DACA” has received much publicity since its announcement in June 2012 by President Barack Obama. Foreign-

born children who file for recognition under the DACA program are insulated from deportation proceedings. DACA recipients do not receive citizenship status but are temporarily protected from deportation.

To obtain relief under DACA, recipients must have been at least 15 years old and no more than 31 as of August 15, 2012, have entered the U.S. before age 16, have lived continuously in the U.S. since June 15, 2007, have been in school or have graduated high school or obtained a GED, or be in the military, and have no serious criminal history. DACA recipients are granted relief for periods of two years at a time. Only previously registered DACA recipients are currently eligible for this program, as no new DACA applications are being accepted

For DACA recipients to obtain lawful permanent status, Congress would have to pass legislation like the “Dream Act.” The Dream Act would offer a path to citizenship to registered DACA recipients as a humanitarian gesture because they have lived here most of their life, have little — if any — legal status in their parents’ home country, and are effectively citizens without a country.

After his election, President Trump announced in September 2017 that he was going to phase out the DACA program, thereby putting in jeopardy the deferred deportation status of an estimated 600,000 – 800,000 “Dreamers.” Numerous lawsuits have been filed challenging President Trump’s decision, and the DACA program remains active pending the outcome of the cases, which have now reached the U.S. Supreme Court. At issue in the case is whether the court has the authority to review the decision to discontinue DACA, whether the DACA program was legal in the first place and whether it was lawful for President Trump to cancel it in the manner that he did. A decision on the cases is expected by the end of June 2020.

The USCCB has been supportive of DACA and the Dream Act, stating the Dream Act in particular “provides critical protection to Dreamers, immigrant youths who entered the United States as children and know America as their only home. The bill offers qualifying young people ‘permanent resident status on a conditional basis’ and a path to full lawful permanent residency and eventual citizenship.”

To learn more about the U. S. bishops’ positions on immigration issues, please visit the Justice for Immigrants website at [justiceforimmigrants.org](https://www.justiceforimmigrants.org).

For statistical data on U.S. immigrants, visit the Department of Homeland Security’s immigration page at [dhs.gov/topic/citizenship-and-immigration-services](https://www.dhs.gov/topic/citizenship-and-immigration-services).



Join the Missouri Catholic Advocacy Network! (MOCAN)

Join the 10,000 + Catholic Missourians who make up the team of advocates who help the Catholic voice ring through the halls of the Missouri State Capitol. If you want to stay updated on pro-life legislation — or any of the many other legislative priorities the MCC advocates for — you will not want to miss the opportunity to join MOCAN.

If you're already a member, encourage your family, friends, and fellow parishioners to join! As MOCAN grows, so does the Catholic voice in Missouri's Capitol. Visit mocatolic.org, send us an email at mocatolic@mocatolic.org, or text MOCAN to 50457 to join.