

A photograph showing a man in clerical attire, identified as the former Bishop of Tucson, offering the Eucharist through a border wall. He is holding a small golden chalice and a host, reaching out to a person whose hand is visible on the other side of the wall. The wall is made of vertical metal bars. Other people are visible in the background, some looking on.

## MIGRATION BACKGROUNDER

*Former Bishop of Tucson Gerald Kicanas offers Eucharist to people through the border wall during a U.S.-Mexico border Mass in 2014.*

*Immigration policy in the United States is complicated and often confusing—a fact that is compounded by national rhetoric around immigration as a political issue and the diverse lived realities of those who have migrated to the U.S. This backgrounder provides context for immigration policy and realities as it stands today, to provide some clarity as you prepare for your advocacy visit.*

*In the following pages, we will start by examining the basics—the differences between asylum seekers and refugees. We will then take a look at the root causes of migration and immigration policy and issues as they stand today.*

### **WHAT IS AN IMMIGRANT?**

An immigrant is any individual who comes to live permanently in another country. This includes individuals who come to reunite with a family member, individuals fleeing persecution, or an individual coming to work.

## REFUGEES

### WHAT IS A REFUGEE?

A refugee is any person who has been forced to leave their country in order to escape war or persecution, or a natural disaster. As a legal term in the U.S., refugee refers to one of these persons who has been given refugee status by the United Nations High Commissioner on Refugees (UNHCR) **before entering the U.S.**

### HOW DOES THE U.S. GOVERNMENT DECIDE HOW MANY REFUGEES TO ADMIT?

Each September, the President issues a determination of the number of refugee admissions for the upcoming fiscal year.

The determination includes the total number of refugees allowed from each country. This number is a ceiling; many years the number of refugees admitted has been significantly lower than this ceiling. The determination of refugee numbers is based on both humanitarian concerns and foreign policy, and certain groups have been excluded, such as Afghans after 9/11 and Jews after WWII.

In 2018, President Trump set the ceiling for refugees at 45,000; it was previously capped at 110,000 under the Obama Administration. [Source: HIAS PA]

### HOW ARE REFUGEES ADMITTED INTO THE COUNTRY?

The process to come to the United States as a refugee is long and arduous. Every potential refugee is vetted by the U.S. government again and again. Here is the vetting process as it currently functions:

**STEP 1: FLEE COUNTRY OF ORIGIN** A refugee flees their country of origin due to persecution or fear of persecution due to race, religion, nationality, political opinion, or membership in a particular social group. They end up in another country.

**STEP 2: IDENTIFY SELF TO UNHCR** In the new country, the refugee identifies him or herself to the UN High Commissioner on Refugees (UNHCR) which confirms refugee status and need for resettlement

**STEP 3: START RESETTLEMENT PROCESS** The refugee is received by a Resettlement Support Center that collects identifying documents and starts the process of Biographic Security Checks.

**STEP 4: SECURITY CHECKS** The National Counterterrorism Center, FBI, Department of Homeland Security, and State Department Screen the candidate. Refugees are subject to the highest level of security checks of any category of traveler to the U.S.

**STEP 5: USCIS INTERVIEW** USCIS officers interview the refugee and collect biometric information (including fingerprints).

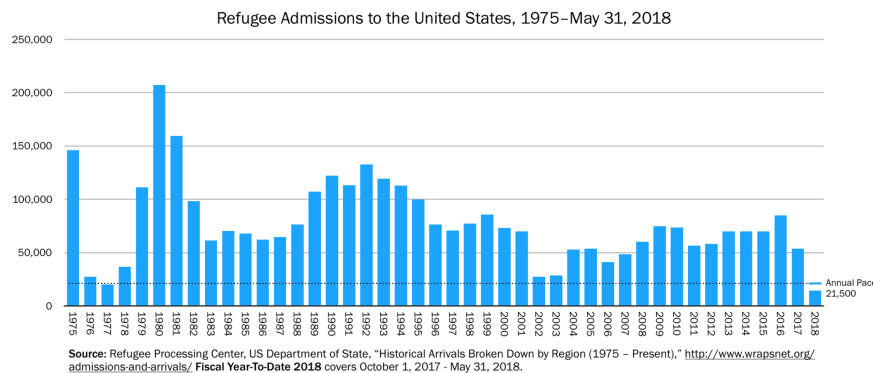
**STEP 6: SECURITY CHECKS** Biometric Security Checks are run.

**STEP 7: MEDICAL SCREENINGS** The refugee undergoes medical screenings.

**STEP 8: CULTURAL ORIENTATION AND ASSESSMENT** The refugee completes cultural orientation and is assessed to determine the best resettlement location.

**STEP 9: RESETTLE IN NEW COMMUNITY** The family travels to the U.S. and is met by a resettlement agency, that helps provide housing, connects the refugee to school, jobs, healthcare, etc.

**STEP 10: ELIGIBLE FOR GREEN CARD** After a year, refugees can apply for a green card. [Source: HIAS PA]



The lowest number of refugees admitted since passage of the Refugee Act of 1980 was 22,491 in 2018, while the highest number ever admitted was 207,000 in 1980.



**Remember:** While people who have been granted asylum are eligible for the same benefits as refugees, the process for receiving refugee and asylum status are completely separate. Learn more about the asylum process on the next page.



## ASYLUM SEEKERS



During an Ignatian Family Teach-In for Justice panel in 2018, Fredys shared his story. He fled threats in Honduras in 2017 and arrived at KBI's aid center. He decided to seek asylum in the U.S. After months of detention, he was released and soon afterwards won his asylum case.

### WHAT IS AN ASYLUM SEEKER?

An asylum seeker is someone who has been forced to leave their country **who is directly seeking legal status while in the U.S. rather than from abroad.** In order to obtain this status, they must go to a U.S. court and claim asylum. Once they are granted asylum, they have an equivalent legal status to a refugee and are eligible for the same benefits.

**To gain asylum in the U.S, a person must prove that he or she has:**

- A well-founded fear of persecution that is due to race, religion, nationality, political opinion, or membership in a particular social group; their own government must be unable or unwilling to protect them from that persecution
- Generalized violence, resisting gang recruitment, or escaping extortion in and of themselves are not currently recognized as grounds for asylum

### ASYLUM PROCESS

People detained at the border generally have to seek defensive asylum, which means that they have to argue their case in front of an immigration judge. Unlike criminal defendants, in immigration court the government does not provide free legal representation to people fighting their cases. So asylum seekers either have to pay thousands of dollars for a private attorney, rely on the limited resources of community organizations, or represent themselves in court.

- At least one in five asylum seekers appear in court without an attorney
- 90% of asylum seekers without legal representa-

tion lose their cases in court, compared to 54% of those who do have an attorney

- Most adults traveling without children are held in immigration detention, essentially prison, while they go through the asylum process, which could take months or years.
- Only 17% of asylum seekers in detention win their asylum cases, and only 7% of those in detention who don't have attorneys win their cases

### CHANGES IN ASYLUM

Immigration court is under the executive branch, not the judicial branch, so the attorney general has significant power to affect court processes and set precedent that guides court decisions. Recent changes include:

- Quotas for immigration judges, which forces them to rush through cases and limits their ability to reschedule hearings to allow people more time for preparation
- Dramatic restriction on access to asylum for victims of domestic violence
- Requirement that asylum seekers meet a higher standard to show that their own government can't provide protection from persecution

### WHY DON'T ASYLUM SEEKERS FROM CENTRAL AMERICA AND MEXICO COME TO THE U.S. AS REFUGEES?

Migrants from Central America and Mexico are not eligible for refugee status via the UNHCR mandate which provides refugee status to entire groups. The United Nations does uphold the universal right for any human to leave their home country and seek asylum.

## JESUIT CONTEXT AND ROOT CAUSES



Fr. Ismael Moreno, S.J., (second from left) and his staff from Equipo de Reflexión, Investigación y Comunicación (ERIC) and Radio Progreso hosted a press conference to address the murder of their colleague who was killed for his journalism. ERIC and Radio Progreso are Jesuit sponsored NGOs in Honduras whose work encompasses grassroots radio programming; training on human rights, community organizing, and empowerment; the formation of leadership committed to social change; and aiding migrant families.

**THE JESUIT CONTEXT** Throughout the three Northern Triangle countries (El Salvador, Guatemala, and Honduras) and Mexico, the Jesuit network serves migrants directly, researches the causes that drive displacement as well as its effects, and advocates in the United States for policies that honor their dignity.

Through its presence across the region, the network witnesses the inequitable economic, social, and political conditions that drive migrants out of their home communities and make it extremely challenging for them to safely return and reintegrate.

Furthermore, the network witnesses the adversity migrants face on their journey in search of survival and well-being and the exclusion caused by the lack of legal status and policies in the U.S. that safeguard human dignity and family unity.

Despite the interconnectedness of conditions in sending countries and migration flows, U.S. foreign policy and domestic immigration policy fail to adequately respond to the individuals and families that our network serves.

**ROOT CAUSES: THE SYSTEMIC INJUSTICE THAT DRIVES MIGRATION.** We believe that people have the right to live, work, and reach their full potential in their country of origin, and that when that is not possible, that they also have the right to migrate. **Catholic Social Teaching** calls us to examine the systemic injustices that drive people to leave their home communities and countries.

- A complex mix of failed economic models, armed conflict and other forms of violence, and corrupt governance have led to the situations faced today by many in the Northern Triangle and Mexico.

- Rates of poverty and violence remain high in the region, and violence at the home, community, and state levels is now listed as one of the primary driving factors for migration.
- Governments have failed to provide protection in the midst of violence and insecurity. High **impunity** rates—at or over 95 percent for such crimes in El Salvador, Guatemala, and Honduras—and the **complicity** of state agencies in crime foster widespread distrust.
- The repression of Honduran citizens by security forces following contested elections last year, which the United States ended up backing, has likely fueled forced **displacement** and migration of its citizens as exemplified by the high number of Hondurans in recent flows and a reported spike of people leaving Honduras immediately after the election. Until these violations are investigated and prosecuted and assistance to the Honduran military is withheld, among other steps to address the repression, the emergency situation in Honduras will continue fueling displacement and migration.
- U.S. assistance to the Northern Triangle countries has been tied to human rights-related conditions, in an effort to **incentivize institutional advances**. While we support these conditions in principle, we have been disappointed to see that the **Department of State** has certified these conditions despite grave human rights concerns; for example, assistance to Honduras was certified two days

**CATHOLIC SOCIAL TEACHING:** *Catholic teaching on human dignity and common good in society*  
**IMPUNITY:** Freedom from punishment or negative consequences of an immoral and/or illegal act  
**COMPLICITY:** Being involved with others in an illegal activity or wrongdoing

## ROOT CAUSES

after its highly contested elections. Other conditions on U.S. assistance that incentivize governments to constrain migration flows out of their countries are inconsistent with our faith's teaching on an individual's right to migrate when conditions for well-being are not being met.

- In an effort to repress protesters, the Nicaraguan government has killed over 300 citizens and jailed 550 people for their opposition to the government, including many journalists. This repression has particularly targeted people associated with the Catholic Church and Jesuit institutions, as both have been vocal in defending the right to peaceful protests. It has also stripped civil society groups of their legal status and shut down news organizations that report on the protests. Over 40,000 Nicaraguans sought asylum in Costa Rica in 2018 and have also fled to other countries in the region, including the United States.
- In Venezuela, a political and economic crisis is quickly becoming a humanitarian one. Hyperinflation beginning in the 2000s and worsening over the past five years to levels of 83,000% has led food and basic staples to become unaffordable. An estimated 2.3 million Venezuelans have left their country since 2014, resulting in what William Spindler of UNHCR calls "one of Latin America's largest mass population movements in history." In addition to unaffordability and shortages of basic needs, the nation's healthcare system teeters on collapse. According to a recent NPR report, patients are being told they need to find their own supplies to be treated at some hospitals; meanwhile, infant mortality has increased 33% in the last decade and infectious disease outbreaks like measles threaten anew.

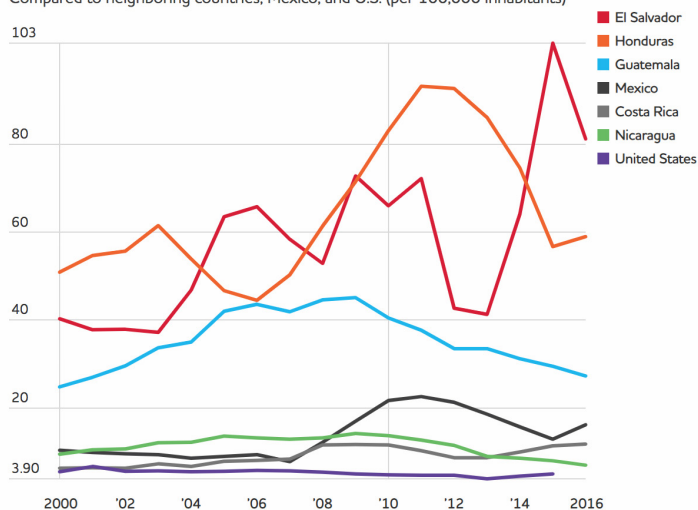
## HOW ARE VIOLENCE AND POVERTY IMPACTING MIGRATION?

In 2016, the three Northern Triangle countries had a combined total of 14,870 homicides. They individually had significantly higher homicide rates than the number that constitutes an epidemic of violence, as defined by the World Health Organization—with El Salvador at 81 murders, Honduras at 58, and Guatemala at 27 per every 100,000 inhabitants. Individuals, families, and small businesses are frequently targeted for **extortion**. In El Salvador, 70% of small businesses pay extortion and in Honduras, approximately \$200 million per year is extorted.

- Mexico similarly faces high levels of violence that drive individuals to seek safety in other countries. In 2017, there were 25,340 homicides, which was a 23% increase from 2016, and a 50% increase from 2015.
- Domestic violence and sexual and gender-based violence against women and children are pervasive. Honduras has the highest femicide rate per capita in the world; in El Salvador a woman is murdered every 18.5 hours.

### Homicide Rates in Central America's Northern Triangle

Compared to neighboring countries, Mexico, and U.S. (per 100,000 inhabitants)



Source: Source: United Nations Office of Drugs and Crime; InSight Crime (2015 and 2016 figures); Federal Bureau of Investigations (U.S. 2005, 2014, 2015); EFE (Nicaragua 2014). 2016 U.S. homicide rate unavailable as of 1/25/17 [Get WOLake](#)

**EXTORTION:** Obtaining something, especially money, through threats

**INCENTIVIZE INSTITUTIONAL ADVANCES:**

Rewarding a government for protecting human rights by offering U.S. assistance or aid

**DEPARTMENT OF STATE:** The U.S. department that advises the President and represents the U.S. in international affairs



## SUFFERING IGNORED AND LEGAL RIGHTS DENIED



*An Operation Streamline mass trial of immigrants at the Lucius D. Bunton Federal Courthouse in Pecos, Texas. Each of the men, women, and children were charged with misdemeanors or felonies for crossing the border. This practice has swelled the population of our federal prisons so that in border districts, half of those incarcerated are there for immigration-related offenses alone.*

### SUFFERING IGNORED AND LEGAL RIGHTS DENIED

As people of faith we believe we must treat all people with dignity and respect, yet immigration policy is increasingly sacrificing the due process of immigrants and asylum seekers.

Rather than offering protection and compassion for those who have been forced to flee from their countries of origin, our system treats them with extreme cruelty, and seeks to deter them from seeking protection. Deterrents include lengthy legal delays, sacrifices to due process, punitive enforcement measures, and the separation of families.

- The drastic expansion of expedited removal allows low-level immigration officers to deport individuals without appearing before an immigration judge, sacrificing due process which has resulted in wrongful deportations, including of individuals eligible for consideration of international protection.
- Fast-track prosecution programs, known as **Operation Streamline**,

charge people caught crossing the border with either unauthorized entry (a **misdemeanor**) or unauthorized re-entry (a **felony**). This practice has swelled the population of our federal prisons so that in border districts, half of those incarcerated are there for immigration-related offenses alone. These policies are not new, but their implementation has increased under the current administration.

- Under international law, individuals who fear returning to their home country are eligible to apply for asylum. However, the U.S. government has systematically turned away individuals seeking international protection from ports of entry and, if admitted, have subjected them to detention and criminal prosecution.
- In January 2019 the U.S. government began to require some asylum seekers to wait in Mexico for months or possibly years for their immigration court hearings, despite the danger they face in border towns and the lack of access to shelter and legal advice.

#### OPERATION STREAMLINE:

A “zero tolerance” border policy sending immigrants into the criminal justice system to be charged with a misdemeanor or felony crime for crossing the border

#### IMMIGRATION FELONY VS. MISDEMEANOR:

A person charged with an immigration felony (a more serious crime), often for crossing the border more than once, is not eligible for asylum in the U.S. A person charged with a misdemeanor (a less serious crime), often for crossing the border for the first time, is still eligible for asylum.

## THE BORDER

### AN INCREASINGLY MILITARIZED BORDER:

Catholic Social Teaching calls us to promote peace and **disarmament**, which includes respect and cooperation between nations as well as an absence of war.

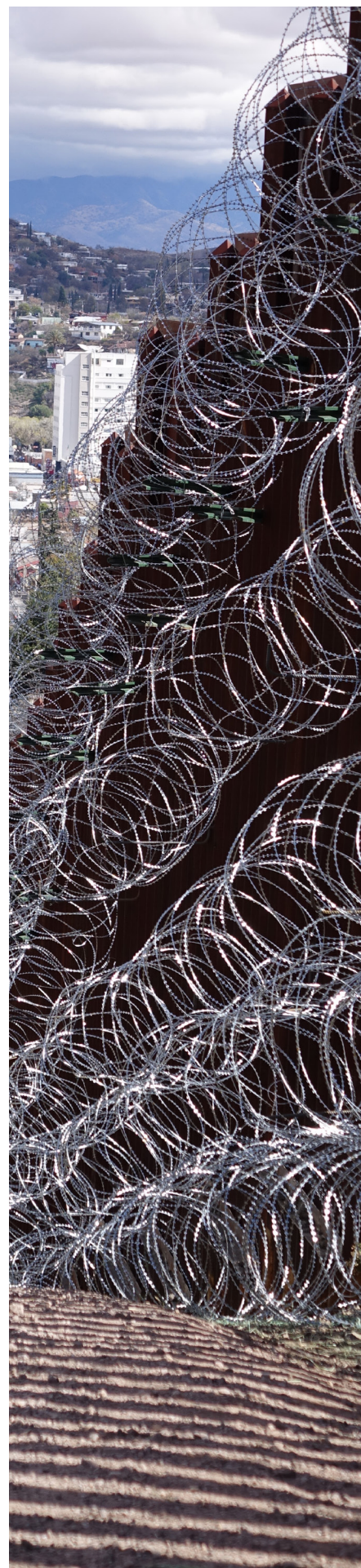
- Instead of fixing our broken immigration system, since 2004, the United States has spent over \$100 billion on border and interior enforcement and doubled the size of U.S. Customs and Border Protection (CBP). CBP's growth has led to rampant levels of abuse, corruption, and human rights violations by our nation's largest law enforcement agency.
- A 2015 report published by the **Office of Justice and Ecology at the Jesuit Conference** and **Kino Border Initiative** found that more than one-third of deported migrants experienced some type of abuse or mistreatment at the hands of U.S. immigration authorities. The range of abuses included theft, physical abuse, verbal abuse, and inhumane detention conditions in federal holding facilities. In response to these findings, KBI began helping migrants use the Department of Homeland Security complaints process. From late October 2015 to early March 2017, KBI filed complaints on behalf of 49 individuals in response to a variety of abuses, from excessive use of force to lack of medical attention and denial of the right to seek asylum. According to a subsequent report, as of July 2017, KBI received a substantive response on only 25% of the complaints.
- The Trump Administration continues to place significant emphasis on establishing a border wall or structure that extends the entire length of the U.S.-Mexico border. Over the past few months, the Administration has requested significant funding (as much as \$25 billion) for continued construction of this border structure. Nearly 700 miles of border fencing or barriers currently exist, predominately in more populated areas of the border. Critics say that money is better spent on additional staffing and technology at the port of entry to facilitate trade and travel as well as stop drugs that are being smuggled in through legal ports. Others have expressed deep concerns about the environmental impacts and socio-economic ramifications for border communities in the U.S.

#### DISARMAMENT:

Removal of military force and weapons

**JESUIT CONFERENCE:** The office overseeing all Jesuits in the U.S. and Canada.

**KINO BORDER INITIATIVE:** Jesuit-run organization in Nogales, Arizona and Sonora, Mexico that provides direct humanitarian assistance to migrants and accompanies them through education and advocacy





## FAMILY SEPARATION

*Florencio was deported away from his four children, ages 3, 4, 7, and 12. He lived 16 years in Phoenix before being detained and deported to Nogales, Sonora in 2017.*

**Photo Credit:** Larry Hanelin



### FAMILIES AND COMMUNITIES

**TORN APART:** Our faith recognizes family as the cornerstone of community, but we see hundreds of thousands of families being separated by our broken immigration system.

- 16.6 million people are in “mixed-status” families, with at least one member who is undocumented. Nine million mixed-status families have at least one U.S.-born child. [Pew Research Hispanic Center]
- Increased enforcement actions, combined with significantly broadened priorities for enforcement and the termination or weakening of temporary protections, have been detrimental to families and communities. An estimated 78% of people deported to Mexico are separated from their U.S.-born children. On average the parents have lived nearly 20 years in the U.S. and 48% report that their children experience difficulty in school as a result of

their deportation [KBI, Center for Migration Studies, Office of Justice and Ecology]

- Shortages of **family-based visas**, which are financially out of reach for many, and backlogs at **U.S. Citizenship and Immigration Services (USCIS)** of up to 22 years force family members to choose between being separated for extended periods of time or entering the country without documentation. [Bread for the World]
- Parents who are fleeing violence and intend to seek asylum in the United States also are often separated from their children by our detention system. Even husbands and wives and brothers and sisters are systematically deported separately, which puts them at great danger in unknown border cities upon deportation. [Lutheran Immigrant and Refugee Service and Kino Border Initiative]

**FAMILY-BASED VISAS:** A document allowing a person to be in the U.S., in this case given to family members of citizens or documented immigrants in the U.S.  
**U.S. CITIZENSHIP AND IMMIGRATION SERVICES:** Part of the U.S. Department of Homeland Security dealing with the immigration system



## DACA/TPS AND WORKERS RIGHTS

**TALENT WASTED:** Catholic Social Teaching tells us that everyone has a right and a duty to participate in society. We are called to work for the common good and to provide avenues by which all can participate. Many immigrants want to participate in their community through the workforce, higher education, or military service, but their lack of legal status often limits that participation.

- **DACA** has allowed nearly 800,000 young people to contribute their talents more fully. They live in uncertainty, awaiting court decisions and legislative action to sustain their ability to engage more fully.
- Over 300,000 individuals with **Temporary Protected Status** who have integrated into our schools, workplaces, parishes, and communities will lose work authorizations and temporary legal status in the coming one to two years. These decisions are contrary to our faith's teaching and hurt our communities by limiting the ability of immigrants to contribute.

### VALUE OF WORK DENIED AND WORKERS EXPLOITED:

Migrant men and women are an integral part of the U.S. economy, yet there is a general failure to recognize their value. Because many migrants live in the shadows of society with no pathway to obtaining citizenship, they are often subject to exploitation (e.g., not paid, wage theft) that is inconsistent with Catholic Social Teaching that work provides dignity and that all have the right to dignified work.



*Senator Durbin spoke on the Senate floor in 2015 about Maria Ibarra-Frayre, a Jesuit-educated 2012 University of Detroit Mercy graduate and DACA program recipient. The Senator was speaking in support of DACA recipients.*

**DACA:** A U.S. government program, Deferred Action for Childhood Arrivals, allowing some undocumented immigrants who were brought to the U.S. as children to be free from the risk of being deported and granting a work permit for a two-year period.

**TEMPORARY PROTECTED STATUS:** A U.S. government program providing temporary legal immigration status to people in the U.S. from countries that have experienced war or other conflicts and natural disasters.

## IMMIGRATION DETENTION

### IMMIGRANTS UNJUSTLY DETAINED:

Our current detention system incentivizes the unjust detention of many immigrants who are contributing members of their communities and pose no threat to society.

- People placed in these jail-like facilities with inhumane living conditions have no access to **free court-appointed attorneys**. Too often, people seeking asylum, immigrants who might have a right to stay in the U.S. through family or other unknown connections, and others who are in need of legal help are forced to face our broken immigration system without the legal representation or support needed to navigate the complicated immigration system.
- Almost half a million immigrants are placed into **immigration**
- Family detention facilities, where mothers and children, including infants and toddlers, are detained in jail-like facilities has surged since 2014. In efforts to deter Central American refugees and migrants from coming to the U.S., both the Obama and Trump Administrations have placed thousands in these prison camps even though the vast majority of the women and children are seeking asylum.
- Although federal court has consistently intervened to protect the rights of children, the Trump Administration has moved again to revise the **Flores court settlement**

**detention** annually in a network of over 250 county and state jails, **for-profit prisons**, and federally administered facilities. In 2018, Congress increased funding for detention from 34,000 beds to over 40,000 [National Immigration Forum] and is likely to increase funding to 45,000 beds in February 2019. [Vox]

### FREE COURT-APPOINTED

**ATTORNEYS:** In the U.S., anyone who cannot afford a lawyer is entitled to a free lawyer appointed by the court

### IMMIGRATION DETENTION:

Prison-like center for holding people with uncertain immigration status, immigrants who are being deported, and often people seeking asylum

### FLORES COURT

**SETTLEMENT:** A 1997 court decision limiting the amount of time immigrant children can be held in detention



*Fr. Rafael Garcia, S.J. presides over Mass at an immigration detention center in El Paso, TX.*

with plans to indefinitely jail children. [U.S. Conference of Catholic Bishops]