

“CROSSING THE BORDER: AN OVERVIEW OF U.S. IMMIGRATION POLICY”

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Crossing Borders/Encontrando a Dios  
Cruzando Fronteras/Encountering God

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After Dinner Presentation with Q & A

The Office of Immigration Issues

I want begin by telling you what services the Office of Immigration Issues provides to you as Presbyterians.

In your packet, you have a copy of the 2004 policy statement [*Resolution Calling for a Comprehensive Legalization Program for Immigrants Living and Working in the United States*, 216th General Assembly (2004), [www.pcusa.org/oga/publications/immigrant-legal.pdf](http://www.pcusa.org/oga/publications/immigrant-legal.pdf)] that created the Office of Immigration Issues. Some kind of centralized location where people could ask immigration questions was needed, and my office was created in 2005 as a result of this G.A. action.

Sometimes Presbyterians are surprised to know that we have over 800 churches holding worship services on Sundays in languages other than English. Sometimes we talk about the church losing members, but in our immigrant churches, it is growing ... and growing fast. We have 173 presbyteries, and the Office of Immigration Issues has worked with 165 of them over the past five years. This shows you how pervasive immigration is around the country. Sometimes, here on the border, it's easy to think that this is where it's all happening, but immigration is happening everywhere in the country. We've worked with Maine; we've worked with South Dakota.

The services that the Office of Immigration Issues provides are:

- 1) Legal Services – This is especially for pastors, helping them if they are not American citizens or permanent residents to get immigration status. Also, if you are pastor, and you have someone in your church with an immigration issue, or you have issues yourself, you can call the Office of Immigration Issues. If a church member has a personal immigration problem, the pastor or a committee member from the church needs to bring the person in and have them present when they call. This is for two reasons: One, the office would be inundated with phone calls; and two, it is important for churches to be aware of the immigration issues of their members.
- 2) Work with Immigrant Churches – This includes doing “Know Your Rights” presentations and providing information on immigration realities.

- 3) Work with Presbyterian entities – Presbyterian Women, Presbyterian Disaster Assistance, the Peacemaking Program, the racial ethnic caucuses, etc. – all these entities have immigration components to their work.
- 4) Resource Development – We develop a lot of resources, and we are constantly putting new materials up on our web site. A new, more interactive website for our office should be up by the end of the year.
- 5) Speaking and resourcing the church about immigration from a theological perspective, a historical perspective, a legal perspective, and a policy perspective.
- 6) Advocacy – Helping Presbyterians do advocacy around immigration. I work closely with the Interfaith Immigration Coalition in Washington D.C. (<http://www.interfaithimmigration.org>) and a denominational mission network called Presbyterians for Just Immigration (PFJI) (<http://www.pcusa.org/immigration/pfji>). We have a monthly free phone call for members of the network to discuss issues, and there is an email listserve that we use for getting resources and information out to churches.

### Historical/Legal Framework

We have heard about the push/pull factors that fuel immigration issues, so this is sort of a segue from Mark's earlier presentation.

There is nothing new under the sun. Our spiritual forefathers, as we also learned earlier today, did a lot of migration; these stories are shared with us in both the Old Testament and the New Testament. People are still migrating all over the world. How many are aware of deaths in the *Saharan* Desert? I was recently in Italy, and there are similar issues there with immigration from Africa. As people migrate, some aren't welcomed very warmly. It's helpful to remember that what's happening here is also happening throughout the world.

There is a new book, *Clandestine Crossings: Migrants and Coyotes on the Texas-Mexico Border* by David Spaner, a professor at the Trinity University, a Presbyterian school in San Antonio (Cornell University Press, 2009). In this book, Spaner makes a connection between the former apartheid system in South Africa and our current migration patterns. We now have, he says, a system of global apartheid. Workers go to rich nations where they are not welcome to live – but their work is needed and accepted. Then when the time allocated for working comes to an end, they are expected to go back to their substandard homes and their calorie-deficient meals. **[See reading list elsewhere on this website for further detail on this publication.] HOW DO WE WANT TO HANDLE SUCH NOTES??**

People always talk about immigration and the need to follow the law, that we need to be a nation of laws. They talk about the importance of the rule of law. Let's look at U.S. law as it relates to immigration.

Historically, people have come to the United States for economic reasons. The major immigration waves were all in response to economic conditions. To put the current conversation in what may be a new perspective, let's talk about the economic laws that were made by the first immigrants to this country – Northern Europeans.

There were many laws that harmed Native Americans; one of them was the Indian Removal Act. New immigrants to this country wanted land, so they took it, and they passed a law to justify that, and this became the law of the land. Then the land that was taken from the Cherokee, for instance, was planted with crops, and those crops required workers. Because the United States didn't have enough workers, they engaged in a form of forced migration (slavery), and over time the Slave Fugitive Act was passed. In my home state of Kentucky, this was not an abstract law. Rather, if you were out working in your field and a slave wandered through your land en route to freedom across the Ohio River, you had a choice: to follow the law and return that slave to the slave catcher or the master who was chasing the slave ... or to break the law and help the slave escape across the Ohio River.

Meanwhile a few years later, there was a rice shortage in China, and recruiters sailed to China, encouraging Chinese to come to the United States – for agriculture jobs, for mining jobs, and of course for jobs constructing the railroad. Things went well for a while, until at some point the Chinese got to some kind of critical number; then fear and suspicion of people who were “different” started to set in. They first passed an act called the Page Act (1875), which prohibited Chinese women from entering the country; this aimed to keep the Chinese from forming families. Because there were also misogynist laws, which prohibited Chinese men from marrying white women, this took care of it for a while. But later it was determined that this wasn't enough, and the Chinese were excluded totally. These laws stood until the 1940s, when our Chinese allies in World War II complained, and the laws were finally repealed.

Meanwhile, on the East coast, the Industrial Revolution was in full swing. The doors were thrown open to poor Eastern and Southern Europeans, and of course we know about the Irish Catholics and what happened when they arrived on our shores. This was a situation of a lack of laws. We didn't have child labor laws or laws demanding adequate housing or police protection or safety standards.

So then we come to the Big War. There were the *braceros*, who came here with their strong arms to help out. Also during that Big War, the decision was made that some American citizens were to be feared, and thousands of Japanese lost their homes and businesses by the signature of President Franklin Roosevelt on Executive Order 1966. In the 1980s, another American president gave reparations to those Japanese who were still living and pronounced that they had been done a grievous wrong.

We could also talk about the Civil Rights Movement, but I think you get the picture....

In other words, there are many times in our history when we realized that just because something was the “law” that did not make it a good thing.

We need to think about how we might break this cycle of abuse – this cycle of cautious welcome followed by abuse – which is the history of immigration in our country. What will our history books a century from now say about *this* time?

It's the American way to change laws we don't like or laws that don't work. Sometimes when a law is needed, we *create* them in order to promote a more just society. As a woman I can now vote. President Obama and I can eat at a Southern lunch counter together. After this session we could go

down to the hotel bar, and those who might choose to do so could order a drink containing alcohol, which is now a legal substance. This is all possible because there were laws we didn't like, and we got them changed.

How many have heard this statement: "We are not against immigrants, just those who come to the U.S. illegally. They should go home and get in line to come here legally, just like our ancestors did."

I often wonder what people think that "line" is!

Often when I go to speak to groups, I say: "Lots of people have very strong opinions about immigration, so tell me, what's one of the laws about immigration that you don't like? What would you change?" And I get blank stares. It seems there are a lot of people with very strong opinions and a lot of anger about immigration, even though it's something they don't know much about.

While we could spend several hours talking about the current laws governing immigration in this country, I want to focus on three aspects of immigration law tonight: categories of immigration status, rules that apply to legal residents, and quotas for obtaining a visa for legal entrance into the United States.

If you are in this room, you fit one of the following categories: undocumented, non-immigrant, immigrant, or citizen. We pretty much know what an undocumented person is: a person who comes into the country without permission or who comes in with permission but stays longer than the permitted time. A non-immigrant is someone who comes to the U.S. with permission, as a student or a guest worker for instance, and is here for a period of time, but when the time is up, has to go home. Then we have immigrants and citizens.

I want you to listen to the news for the next six months and listen for the news to get it wrong. They always mess up the terms, and it will make you crazy. They make it seem as though if a law were passed today, all the undocumented people would wake up tomorrow and be citizens. In reality, if they were to change the law tomorrow, the journey from "undocumented" to "citizen" would probably take 15 years... If they are even allowed to undertake this journey. And 15 years is a pretty cautious estimate.

There are only four differences between legal permanent residents (a person with a green card) and citizens. They are:

- A green card holder may not vote
- If a green card holder commits a crime that is considered a felony by immigration (this is different from a state felony; immigration has its own law system), they can be deported.
- If a country, such as Peru, were to commit an act of terrorism, the U.S. could go around and collect all the Peruvians in the country and hold them on secret evidence (this happened with Arab Americans after 9/11/2001).
- You have to live in the U.S. (this is not required of citizens).

There are four ways to get a green card:

The first two apply to relatively small numbers of people:

- Winning the “diversity lottery” (being “in line” to come to the U.S. before quotas from various parts of the world are met).
- Entering the U.S. as a refugee or entering the U.S. and requesting – and being granted – political asylum. (There is no allowance for “economic” asylum, which many migrants would claim if it were possible to do so.)

The majority of immigration issues, however, are based on the other two:

- Employment-based immigration, and
- Family-based immigration.

Each month the State Department website issues what they call the *Visa Bulletin* ([http://www.travel.state.gov/visa/bulletin\\_5172.html](http://www.travel.state.gov/visa/bulletin_5172.html)), which tells us how many people the U.S. will allow to come into the country in various categories. There are two charts. One is for employers to sponsor employees, and the other is for people to apply to bring family members into the country.

We have quotas on how many people can come into the United States in certain categories. The first category is for people with extraordinary abilities in their field. The second is for persons with exceptional abilities in their field. The third category is for people who have Bachelor degrees (e.g., teachers, engineers). The fourth category is for entrepreneurs. (If you have half a million dollars and want to come to the U.S. to invest in or start a new business, you can come in under that category.) The final category is for unskilled labor. A “C” in the boxes means the quota is not yet met, so your employer could file papers for you, and you could come into the United States and do that job. Right now, to do the paperwork, it’s taking about \$5000 for attorney fees, and it’s taking about 18 months to get an approval.

“Other workers” refers to unskilled labor. Every year the U.S. allows only 5000 unskilled workers into the country from all over the world: to work in restaurants, to clean hotel rooms, to do construction, to do agricultural work, to muck stalls on Kentucky horse farms. Kentucky alone can use 5000! You can imagine Florida and California... Imagine I’m an employer, and I need an employee, and I’m having a difficult time finding an American to fill the position.... If I want to hire someone from overseas to do this unskilled labor, *they are working on cases filed in June 2001*. In other words, it’s a nine year wait at this point, and this doesn’t include the time it has taken up to this point.

There are similar waits for persons applying to bring family members into the country. Again there are several categories: for children of American citizens who are over 21; for family members of green card holders, who may have gone home to marry and then have to wait a long time to bring their spouse into the U.S.; for brothers and sisters of American citizens.... You get the picture.

We could spend several hours going through all this, but this is one of the most important things people don’t understand. If Congress ever decides to discuss immigration, and you hear them say we’re going to have “touchback” – or we are going to make them “go home and come back legally” – this is the

system for doing that. So for virtually everyone, it's not worth the paper it's written on because no one believes that will happen. No one will go back home and then face long years of waiting in the hope of being reunited with their family legally.

#### The "State Of The Union" on Immigration.

The FBI has reported a more than 40% rise in hate crimes against Latinos since 2003.

Immigrants are now heading to smaller cities such as Colorado Springs, Minneapolis, Detroit, and Sarasota, rather than large metropolitan areas.

More Hispanic workers are injured on the job than any other worker group in the U.S.

The U.S. spent \$1.4 billion in tax dollars for a "virtual fence" system, built by Boeing, that did not work, so the government has now frozen funding.

This year, Arizona will deport or "repatriate" 22,000 Central Americans. There is going to be a new Immigration and Customs Enforcement (ICE) facility built out at the Phoenix airport. They are going to have 79 employees, and on any given day 150 detainees will be deported to Central America. This is going to be called the Arizona Removals and Operations Coordination Center.

The mayor of Phoenix has called SB1070, the bill passed today, racist, and if you are in immigration court here in Phoenix, they are now scheduling hearings for 2014. Until your case is called, you are likely to be held in a detention facility. You may recall the scandal at the end of the Bush years about the judges who were appointed for political reasons; many of the judges who were caught up in that were immigration judges.

In the next few months, 65,000 undocumented students will be graduating from high school with no hope of going to college or getting a legal job. In California, 40-44% of the undocumented students in the University of California system are Asian, so it this is not a "Hispanic" issue.

In the Presbyterian Church, we have congregations of undocumented Hungarians. We have undocumented Indonesian congregations. We have undocumented African congregations.

Each day, 30,000 people are held in immigration detention centers; about 10% of them are held here in Arizona. Many have never committed a crime; some don't even have a parking ticket. The American Bar Association has asked the Department of Homeland Security to come up with enforceable detention standards, but so far there are none. We are finding that detention centers, especially the for-profit prisons that are serving as detention centers, are making money by keeping the centers too hot or too cold, that they don't give people enough food, or the food is poor quality. In Albuquerque, they found maggots in detention center food. They don't give people exercise. There are no jobs and few legal resources. Phone calls are 89 cents a minute. They move people from facility to facility, making it difficult for family members or legal representation to locate them, let alone visit. Medical care is substandard. A lot of sex, when it is exposed, is called "consensual" by the guards, but to me that is the same kind of consensual sex that was going on in the plantations. People are put in isolation for minor

issues such as wanting to wear a headscarf if they are Muslim. In the late 1990s, private for-profit prisons were on the verge of bankruptcy until the federal government bailed them out by turning them into detention centers. In Maricopa County, an undocumented woman was shackled to her bed for two days after giving birth to her baby boy by Caesarian section; she was not allowed to nurse her baby, and when she was released from the hospital, in handcuffs, she did not know where her child had been taken. Worse, this is not an isolated situation.

Let me talk about the children. Of all the children in the U.S., 22% are Hispanic or Latino. Four million U.S.-born, American citizen children have undocumented parents. According to the immigration website, 400,000 families a year are separated due to deportation.

In January 2009, in Coachella Valley, California, children were waiting with their parents at a school bus stop when a Border Patrol vehicle pulled up and took the parents away.

WHERE DO WE GO FROM HERE?

I have an African-American friend who tells me that when she was a child her mother used to tell her to run as fast as she could through “Crackertown” ( a white part of town), on the way home from school. We live today with the justified anger of African Americans who grew up not being able to count on their own country for safety and protection from the legal system . Do we believe that Latino children will not have residual anger from the ways they are seeing their families being treated today?

The broken system cannot be fixed by *enforcing* that broken system.

You all took time to come here; you are probably already, to some extent, working for change. Can you commit this weekend to recruit two other people who aren't already involved to help you?

My hope is that we will end this weekend with a strong commitment to work on this issue. You don't need to know a whole lot of begin work. As you get involved, the learning will follow.

They say that 25% of the country wants to get rid of all immigrants; 25% is working for change in the immigration system. That leaves 50%, and until that 50% is encouraged to make a difference, we are stuck. Nothing will happen.

### QUESTION AND ANSWER PERIOD

**Question:** It's my understanding that entering this country the first time without documents is a civil misdemeanor and not a criminal offense, but that it gets more serious after that. Is that right?

**Answer:** Yes, the second time it becomes criminal. The recent raids on the meatpacking plants in the Midwest were called Operation Wagon Train. The idea was to criminalize the undocumented, precisely because being here without documents is just a civil offense now. For instance, in the Midwest raids, they were saying that using a false Social Security number is now identity theft, which makes it a crime, even if the number belongs to a person long-deceased or no one.

**Question:** How is the lack of due process and human rights in the detention system justified under the Constitution?

**Answer:** First of all, no one is watching! Many people don't even know where detention centers are, so I go online and show them. There is a map of detention centers; you can get the addresses. There are no detention standards, and immigrants simply do not have the same due process as U.S. citizens. Under the Geneva Convention, you are not supposed to house detainees (people who are being held for civil violations) along with criminals. But I went on a tour of my local jail recently, and at the end, I asked, "do you treat everyone the same, do you treat detainees the same as a criminal?" And I was told, "Oh yes.... "

**Question:** Are there differences state by state regarding the strictness of enforcement?

**Answer:** Arizona is really loud and noisy about what they're doing, but other states (Alabama, Georgia...) don't feel that same need; they just go about doing the same things without so much noise. Even within states, however, there are variations. In Kentucky, for instance, Louisville is very open to immigrants. They have meetings and try to make immigrants welcome in the community, but half an hour away in Shelbyville, KY there is a sheriff doing apartment raids whenever he can. Every community is different. Some police chiefs are very opposed to immigration enforcement by local police, while others are signing up as quickly as they can.

**Question:** If I were to advocate for detention standards, what would be most effective way to do so? What would be the place to begin? At what level would such standards be put into law?

**Answer:** The Department of Homeland Security is the agency that would write the standards. There are some things that agencies can create as a rule and other things that Congress would need to sign off on. I'm not sure which is the case here, but I could check on that. John Morton, the head of ICE, is the one who makes these decisions. He is actually going around the country right now and may come to a community near you. I have with me 50 copies of a new packet from an ecumenical group about how to start a visitation program in a detention center. Churches have been doing prison ministries for years, so it is not a big stretch to move in this direction. We have some presbyteries and congregations that are doing amazing things; information on this is on our office website.

**Question:** Is there a Department of Civil Rights within the Department of Homeland Security? Are there standards for deportation?

**Answer:** What happens to a person varies depending on how they leave the country and what the charges against them are. It is statutory, so there are various specifics depending on whether the person left by voluntary departure or deportation or various other things. Each scenario has its certain time limit. Under current law, if you leave, you are prohibited from coming back. If you are undocumented and have been in the U.S. for one year or more, the minute you leave you cannot come back for ten years. So the "Touchback" system is worthless, for no one believes they will be able to come back any time soon. If you come across the border without permission, get married to a U.S. citizen, have three kids ... and get picked up and deported, you're not coming back for ten years.

**Question:** As I read about the new Arizona legislation, it looks unconstitutional...

**Answer:** I'm sure there will be a lawsuit about it. A few years ago, one of the first really ugly situations was in Hazleton, PA. They passed a law making it impossible to get a marriage license without a Social Security number. They passed all kinds of laws, but they were all overturned. The mayor of that community then ran for Senate and lost. I got a call from a pastor who had been counseling a couple for six months, and their wedding was a week away, and they went in for a marriage license and couldn't get one. He didn't know what to do. Should he tell them to live in sin? Should he do the marriage, even though it wouldn't be legal in the eyes of the state? He was having a hard time with that. There is similar legislation in others places, e.g. the requirement to have a Social Security number in order to get a driver's license.

**Question:** When people are deported from a detention center, are they returned to their own country or simply dumped across the Mexican border?

**Answer:** Sometimes they just sit for a long time if their home country won't accept them back. Cambodia and Viet Nam, for instance, wouldn't take people back. Recently, the tactic has been to say we'll hold you in a detention center – and, by the way, it's \$95-\$125 a day of taxpayer money to put somebody in detention – but we'll make your life so miserable that once you get out of detention, you won't try to come back. They were actually taking people off buses, just before they reached the Mexican/U.S. border, and putting them into detention centers as a punishment. For many years they were just taking people and dumping them in Mexico; I think they are getting a little bit better now about getting Central Americans back to their own countries. The crisis now is with getting Chinese migrants back to China.

**Question:** Where is the light at the end of the tunnel? Or is there any?

**Answer:** I have been doing advocacy for comprehensive immigration reform for ten years. I can't tell you how many times I thought surely the vote would soon come for some kind of reform. A vote was scheduled for Sept 12, 2001. That got canned, obviously. Bush was interested in immigration reform, then we had McCain/Kennedy, then McCain abandoned his own bill.... Then Obama got elected. And here we wait... When I talk with senators and representatives, they tell me that of ten calls to their offices about immigration, one of those ten is in support of reform; but for each one of them there are another nine people who are very angry. Until that changes....

I want to talk with people who were part of the Civil Rights Movement and ask them what it was/who it was that turned that around. What do we need to turn *this* around?

**Comment from audience:** The thing that turned the Civil Rights movement around was that scene at the bridge on the way to Montgomery and the influx of religious people to stand with us in Selma.

**Julia Thorne:** I know that the religious community is having an effect on this. I have a stack of letters I have received from Presbyterians who are unhappy with our church's call for immigration reform. Religious bodies have been calling for reform for years, but folks have generally ignored us. Then the

National Association of Evangelicals took a position in favor of reform, and the anti-immigration groups went wild. That's when I started to get those letters. I don't know of any religious group at the national level that has said they do not support reform. So yes, the faith community will be critical, but we will have to mobilize people to make that support visible and effective.

Edited from transcription of recorded presentation and other sources