

NISKANEN C E N T E R

Essay Series

Redefining Immigration Reform: How Immigration Supports American Ideals



The Niskanen Center is a 501(c)3 issue advocacy organization that works to change public policy through direct engagement in the policymaking process.

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Foreword by Suzette Brooks Masters

When I first began working on immigration issues 20 years ago, immigration was explicitly linked to the national interest. Now, immigrants and refugees have been so demonized, enforcement so prioritized, and the border so mythologized that the very belief in immigration as a vital foreign and economic policy tool has been undermined. Further, the way we talk about these issues has become disconnected from how those policies will help Americans and further the national interest. That must change.

One reason the current administration's anti-immigrant message resonated with so many Americans is that proponents of more open immigration and more generous humanitarian policies may have taken for granted the public's understanding of how immigration policies contribute to their lived experience. In making a case for more generous immigration policies, have its proponents neglected receiving communities' reactions to the changes taking place around them?

The post-2016 period isn't our first nativist convulsion, and it won't be our last. One hundred years ago, America shut the door to immigration for 40 years after the last great immigration wave. Today, America is home to about 45 million foreign-born individuals—14 percent of the U.S. population—approaching the peak levels reached at the turn of the 20th century. Demographic change of this magnitude can be destabilizing, and trigger anxiety and fear, especially when it's not managed. That was true 100 years ago, and it's true today.

I spent most of 2017 and 2018 thinking about how an explicit anti-immigrant agenda could gain traction and be electorally successful in a diverse nation like ours. I honed recommendations for how to defend against grievance politics.¹ My main takeaway is this: since immigration is a culture and identity issue, we need narrative and culture change strategies to promote norms, values, and behaviors—and undergird policy changes—that affirm our pluralistic ideals, interdependence, and our shared fates.

Narratives that affirm unity, create space for complexity, and connect immigration to the wellbeing of *all* Americans are critical right now. Policy matters too, of course, as this paper's 15 great ideas demonstrate. They would represent significant improvements in our current laws and regulatory regime. But it's hard to persuade the public and the politicians we need to reach with policy arguments alone.

We should deploy an inclusive narrative that does not alienate. That means avoiding depicting immigrants and refugees as superheroes or super-victims—what I call immigrant

¹ Suzette Brooks Masters, "Change is Hard: Managing Fear and Anxiety about Demographic Change and Immigration in Polarized Times," *Welcoming America*, January 2020.

“exceptionalism”—to uplift their contributions and challenges. We must also be careful to plant immigrants firmly in our social fabric and communities, not elevate them above ordinary Americans. Finally, we need to emphasize how immigration supports American ideals and speak to how it will improve Americans’ lives, in conjunction with other policies and interventions.

This paper highlights a few creative policy proposals. It explains how they benefit immigrant communities and American communities, uphold American values like freedom and opportunity, and advance American foreign policy and national security goals. In short, they serve the national interest.

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Introduction by Kristie De Peña

Immigration policy is not *just* about how we treat others. It has direct implications for Americans. Done well, immigration can protect family values, strengthen national security, reduce unemployment, spur innovation, stimulate competition, increase public safety, enhance the U.S. economy, reinforce international relations, and provide help to those most in need.

Behind this collection of essays is a set of implicit assumptions built on the series of principles² Niskanen published last year that we believe should guide our nation's immigration reform. These assumptions are that innovation and entrepreneurship are good for America; supporting flexible immigration policies and creating opportunities for both immigrants and Americans is fundamental to our success as a nation, and our humanitarian policies are a cornerstone of the heart of our nation. Perhaps most importantly, we believe that with very few exceptions, the immigrants coming to America do so for the right reasons, and we benefit by welcoming them.

It is often said that for over thirty years, there have been no “meaningful” reforms to the U.S. immigration system. But that is not accurate; *many* meaningful changes happened through the executive. In the marked absence of Congressional action, administrations have filled the legislative void left gaping by Democratic and Republican lawmakers alike.

For its part, Congress loudly bemoans (or celebrates) the substantial changes made by administrations through the rulemaking process but does nothing to upset the status quo. What is left in the wake of disparate administrations are unpredictable policies that disrupt businesses, families, and government, and fuel global anxiety.

We can no longer allow our lawmakers to hide behind the veil of paralysis. We must obligate lawmakers to create a space to consider and weigh-in on purposeful, pragmatic immigration reform. Neither can we rest on the ideas of past immigration reform proposals. We must be bold in our efforts to redefine reform. Although we are eager to reverse many of the Trump administration's changes, it is pivotal that we refuse to accept the status quo as “good enough.” We can—and should—demand better policy.

Our issue selection for this piece, and the authors invited to contribute, were deliberately and thoughtfully considered. The 15 academics, scholars, entrepreneurs, lawmakers, lawyers, advocates, and immigrant contributors are experts in their fields, experienced advocates, or have first-hand experience with our system. They represent a broad spectrum of political ideologies and—almost assuredly—have different ideas about what fundamental reforms to our immigration system for the 21st century should look like.

² Kristie De Peña, “[Principles of Immigration Reform](#),” *Niskanen Center*, December 2019.

In the marked absence of Congressional action, administrations have filled the legislative void left gaping by Democratic and Republican lawmakers alike...what is left in the wake of disparate administrations are unpredictable policies that disrupt businesses, families, and government, and fuel global anxiety.

There are notable policy gaps—low-skilled immigration, temporary protected status, asylum policy—that are not addressed in this series. It is not because they lack urgency or reform opportunities. Quite the contrary, Niskanen and many of the authors and organizations here have written extensively about these topics. I urge you to explore the additional reading section pieces for substantive analysis on these and many other critical topics.

These essays demonstrate how even the most seemingly immigrant-focused policies benefit Americans. In this collection, Professor Idean Salehyan explores why resettling Venezuelan asylum seekers will improve our national security. Attorney Greg Siskind advocates for allowing international physicians to treat patients in rural areas of America. Representative John Curtis (R-UT) makes a case for strengthening support for democracies worldwide by welcoming Hong Kong refugees. Dreamer Kai Martin highlights the past contributions of her fellow Dreamers to the COVID-19 response and envisions opportunities for a promising future. For each essay, Suzette Brooks Masters authors the red pull-out quotes to illustrate the precise benefits of each policy reform for Americans and immigrants.

The downside to presenting a handful of ideas in an accessible way is that it is light on the details immigration reformers crave, and does not present the entire scope of changes that must happen simultaneously to create lasting reforms with bipartisan support. But targeted and narrow reform proposals like those included in this collection are meaningful pieces of the broader reform puzzle that lawmakers must explore and pursue.

Although historically rife with controversy, immigration reform does not have to continue to be hopeless. We just need to empower Congress to get back in the game of good governance.

Kristie De Peña is the Vice President for Policy and Director of Immigration at the Niskanen Center.

I. Fueling America's Growth

High-skill immigrants' role in spurring American innovation is obvious and boosting aggregate immigration across all skill levels is also a boon for productivity growth. It is becoming increasingly clear that the slowdown in population (and labor force) growth and the aging of the population are awful for innovation and productivity.³

Supporting a dynamic economy requires policies that encourage growth at both the cutting edge of innovation and increasing inputs available to the American economic engine. We must strategically encourage those most likely to develop the valuable new ideas that drive modern economic growth to come to America. And we must use the power of migration to address the different labor needs of sectors and regions and relieve the pressures of demographic decline.

Supporting an Economy That Creates Jobs, Not Loopholes

Manan Mehta and Maria Salamanca

We have spent the past five years on the ground understanding high skilled immigrants' impact on innovation—both the good and the bad. As we recover from a global pandemic and a shaky economy, we know this population sector is key to sustained job growth and creation.

Our expertise stems from our personal and professional lives—we are immigrants, future, and first-generation Americans. We've worked for global corporations, small startups, and have started our own companies. We also know the complications and limitations of our current high-skilled immigration policies because we run our venture capital fund, Unshackled Ventures, that invests in ideas from entrepreneurs coming to the U.S. from nearly every continent.

By focusing on the immigrant entrepreneurs, we inadvertently concentrate on individuals who add to the U.S. economy through their research, development, and job creation. We believe we can create an immigration system that can unite Americans, not divide them.

First, the H-1B system should support those creating, not outsourcing jobs. When 12 of the top 15 H-1B visa filers are services or consulting companies, who pay lower than market rate wages, the H-1B's purpose is in jeopardy. We cannot overstate *how damaging this is*, not just for bright immigrant entrepreneurs but also for all American workers. Any reform must close these

³ Brink Lindsey and Sam Hammond, "Faster Growth, Fairer Growth," *Reviving Innovation and Dynamism*, Niskanen Center, October 2020, https://www.niskanencenter.org/faster_fairer/reviving_innovation_and_dynamism.html#Fuel_Growth_with_Expanded_Immigration

loopholes. Wider distribution of work visas and higher wage requirements will further protect against abuses.

“International students and immigrant entrepreneurs help fuel America’s innovation economy. Creating new visa programs—as well as reforming existing programs—can assure that our immigration program supports entrepreneurs creating jobs in America, protects visa holders and American workers from exploitation and unfair competition, and enables immigrant talent to contribute to America.”

Startup and priority visas are necessary to retain top university talent, especially entrepreneurs. Our universities are educating nearly one million international students, from undergraduate through to doctorate programs. Foreign STEM students make up an increasing share of total students receiving STEM degrees in the U.S., doubling from 11 percent to 22 percent in 2017. The percentage of post-graduate STEM degrees is even higher, as international students accounted for 54 percent of total master’s degrees and 44 percent of doctorate degrees issued in the U.S. in 2017.

To ensure these bright minds stay in the U.S., we must create a preference for U.S.-educated students to secure work authorization and a startup visa for aspiring entrepreneurs.

Our current system lags behind market realities. The technology industry has changed significantly in the last two decades. What used to be high-skill, value-add work is no longer a specialty, and our policies should acknowledge this modernization. We must ensure that those who receive *visas are genuinely irreplaceable*, instead of just cheaper labor competing with U.S. talent. To keep pace with changing landscapes, high-skilled immigration policies must review specialty occupation definitions every five years.

Finally, to tap job-creating potential, reforms should also create a wage scale that works for our innovation economy and new foreign graduates. If businesses with less than 50 full-time U.S. employees could hire foreign talent at 75 percent of the prevailing wages, it would make an enormous impact in supporting our innovation economy. Additionally, a business looking to hire a recent foreign graduate of a U.S. university should utilize this lower wage scale. At the same time, we train this talent into our workforce.

As we look to modernize the U.S. immigration system, we encourage our policymakers to drive reforms inclusive of both American workers and U.S.-educated talent and foster our innovation

economy. By helping these immigrants succeed faster, we can help our country grow faster. This is how we keep America strong.

Manan Mehta is a founding partner of Unshackled Ventures, which focuses on sponsoring visas, providing full immigration support and resources, and removing obstacles to help immigrant entrepreneurs succeed in the U.S. Follow Manan on Twitter @mananm.

Maria Salamanca is a Principal at Unshackled Ventures and is deeply involved in supporting the Latino entrepreneurship ecosystem. Maria immigrated from Columbia and grew up in Florida. She has been named to Forbes 30 under 30 for VC and Business Insider's Under 30 Rising Stars. Follow her on Twitter @MariaSalamancaM.

H-1B Visas for High Human Capital Workers: A Reform Proposal

Alessandra Casella and Adam B. Cox

This summer, President Trump issued a proclamation temporarily blocking H-1B workers from entering the United States. The decision disrupted access to international human capital, a source of essential benefits for the United States, and highlighted the urgent need to reform the rules regulating H-1B visas and other temporary labor migration forms.

The H-1B system for admitting high-skilled workers delegates the initiative to employers: an employer requests a specific foreign worker visa and self-certifies that no equivalent domestic worker can be hired for the job. Because employer requests greatly surpass the number of available visas, the visas are then allocated by lottery.

There are three big problems with the status quo. First, the lottery is random; there is no effort to favor the allocation of visas to firms with the highest social value. Second, because the request for a visa entails little cost and the self-certification is, in practice, unverifiable, employers benefit from foreign workers' willingness to accept low wages, creating severe competition for domestic workers. Third, because it is hard for temporary foreign workers to leave their sponsoring firm without forfeiting their right to reside in the country, noncitizens on temporary labor visas have little bargaining power and are exposed to possible abuses.

“Creating a competitive market for H-1B visas pushes firms to target workers who bring the most benefit to the American economy. And untethering the right to work from a specific employer will not only protect foreign workers from potential abuse but also keep labor markets competitive. Together with the cost of the visa, this will ensure that H1B visas are not being used to undercut domestic workers.”

In our view, all three problems can be solved. And most importantly, this can be done without radically changing the system. The essential step is to recognize that visas are valuable property rights. There are two distinct rights: the firm has the right to employ a qualified foreign worker temporarily, and the foreign worker has the right to reside and work in the country.

We propose two modifications to the current system. First, the visa can exist separately from the specific worker eventually employed, as the abstract right to hire a qualified foreign citizen for the specified length of time. As such a right, the visa is an asset that can be saved and traded among firms. New visas will be given to firms, as in the current system. However, firms will be asked to pay for them, encouraging the most productive employment of foreign workers and reducing the competition for domestic workers. Visas will be sold to firms by auction, and a secondary market will encourage re-trading.

Second, the visa will change nature upon the signing of a personalized labor contract. The two rights that were implicitly bundled (to employment and residence) become separate: for the visa duration, the firm maintains ownership of the right to hire a qualified foreign worker, but the worker acquires the right to reside in the country. If the worker continues to work at the firm, nothing changes relative to current practice. The crucial difference is that, as the owner of the residence right, the foreign worker can change jobs freely without losing her right to reside in the country. As a result, the migrant is better protected from possible abuses and enjoys higher bargaining power, improving their working conditions. If the employer of the migrant changes, the price of pre-contract visas on the secondary market, prorated to the remaining time on the work permit, determines the appropriate compensation that the new employer needs to pay to acquire the right of employment from the previous firm.

Our proposal's components work together and reinforce each other, answering the current system's criticisms. The cost of the visa for the firms makes the foreign workers' allocation less arbitrary and more productive. Both the visa price and the transfer of the right of residence to the migrant reduce the cost advantage firms currently enjoy when they hire foreign workers, thereby protecting domestic workers. Finally, the right to change employers shields the foreign

worker from abuses. Our proposal's main burden falls on the firms but is mitigated by the increase in predictability and, in the aggregate, of productivity. Because visas generate government revenues, firms may also become more successful in lobbying for higher ceilings on the number of available visas.

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Capitalizing on the Potential of EB-5 Immigrant Investors

Laura Reiff

The U.S. Congress created the EB-5 Regional Center Program in 1992 to encourage new U.S. economic growth and job creation through increased capital investment.⁴ A 2019 study, prepared by Economic & Policy Resources, Inc. estimated the economic benefits and job creation using data from EB-5 Project capital investment during the key 2014-15 federal fiscal years, found significant economic benefits and job creation contributions to the U.S. economy. Approximately \$10.98 billion was invested during that period in the EB-5 Regional Center Program throughout the U.S. economy, and more than 355,000 jobs were created for U.S. workers. The study found that the regional center program also resulted in nearly \$55 billion added to U.S. economic output during that same time.

“Immigrants take risks coming to America—studying here, planting roots here, and starting businesses here. The EB-5 immigrant investor program should be made a better investment capital to fuel U.S. job growth and provide valuable new capital to shore up our infrastructure, real estate, and manufacturing sectors.”

The EB-5 Program is a unique immigration/investment program that captures foreign “at-risk” investment and uses it for significant capital activity and U.S. job creation. A robust program

⁴ “EB-5 Immigrant Investor Regional Centers”, USCIS, <https://www.uscis.gov/working-in-the-united-states/permanent-workers/employment-based-immigration-fifth-preference-eb-5/eb-5-immigrant-investor-regional-centers>

that can fund necessary projects without taxpayer dollars would generate capital, support infrastructure, and create jobs for U.S. workers. This type of stimulus to the economy as the U.S. emerges from the COVID-19 downturn would seem to be a non-partisan “non-brainer.” Unfortunately, the program has been idled by new regulations finalized in late 2019 and Congress’s failure to act on much needed EB-5 reform.

Legislative reform is needed to take the success of the 2014-2015 EB-5 program to new heights. This program could ultimately provide the immigrant investor a platform to support expanded job creation and investment in traditional real estate development and manufacturing projects as well as public-private partnerships focused on U.S. infrastructure projects. EB-5 presents an opportunity for the Administration and Congress to have “a win” on immigration policy.

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How America Can Win the Global AI Race

Doug Rand and Lindsay Milliken

The rise of artificial intelligence (AI) has set off a high-stakes global power competition with major national security and economic implications. The Chinese military is prioritizing autonomous and AI-enabled weapons systems to obtain a strategic advantage over the United States. Meanwhile, many nations are racing to lead the integration of AI across industries, adding \$13 trillion to global economic output by 2030.⁵

Talent is the scarcest resource in this global race for AI predominance. Tsinghua University estimated the worldwide AI talent pool to include just over 200,000 individuals (14% in the U.S. and 9% in China), with a much smaller “top AI talent pool” of scarcely over 20,000 individuals (25% in the U.S. and 5% in China).⁶

⁵ International Telecommunications Union, “Assessing the Economic Impact of Artificial Intelligence,” ITUTrends, September 2018, https://www.itu.int/dms_pub/itu-s/opb/gen/S-GEN-ISSUEPAPER-2018-1-PDF-E.pdf

⁶ “China AI Development Report 2018,” China Institute for Science and Technology Policy at Tsinghua University, July 2018, http://www.sppm.tsinghua.edu.cn/eWebEditor/UploadFile/China_AI_development_report_2018.pdf

“Historically, the U.S. has enjoyed a competitive edge in attracting global talent. But recent restrictive immigration policies have squandered this advantage. To ensure we retain and expand dominance in artificial intelligence, as is essential to our national interest, we must use our available policy tools to attract world-class AI experts.”

Yet the United States is squandering this advantage. While Canada, the United Kingdom, and other nations are adapting their immigration systems to make it easier for AI experts to study, work, and stay permanently, the United States is putting up new barriers. International student enrollment at U.S. universities has declined by over 10% since 2015.⁷ The denial rate for H-1B work visas has also skyrocketed, reaching 30% in 2020.⁸ Even approvals for the so-called “genius visa” (EB-1), reserved for the world’s most extraordinary scientists and engineers, have gone down 26 percentage points since 2017.⁹

Beyond reversing a raft of policies that deter legal immigration,¹⁰ it is vital to welcome global AI talent through a series of straightforward actions, which are all authorized under current statute:

- ▶ U.S. Citizenship and Immigration Services (USCIS) should update its Policy Manual, making clear to its adjudicators that certain academic and professional achievements in AI are *per se* evidence of “extraordinary ability” (O-1 visas and EB-1A green cards), “outstanding professors and researchers” (EB-1B green cards), and “exceptional ability” (EB-2 green cards).
- ▶ USCIS should also update its Policy Manual to clarify that AI expertise creates presumptive eligibility for a National Interest Waiver, allowing EB-2 green card applicants to self-petition.

⁷ Stuart Anderson, “New International Student Enrollment In U.S. Has Fallen 10% Since 2015,” *Forbes*, November 19, 2019, <https://www.forbes.com/sites/stuartanderson/2019/11/19/new-international-student-enrollment-in-us-has-fallen-10-since-2015/#15496a71ae95>

⁸ Niall McCarthy, “H-1B Visa Denials Have Been Rising Steadily Under Trump,” *Statista*, June 23, 2020, <https://www.statista.com/chart/22079/denial-rate-for-h1b-visa-petitions/>

⁹ Sinduja Rangarajan, “Melania Trump Got an ‘Einstein Visa.’ Why Was It So Hard for This Nobel Prize Winner?,” *Mother Jones*, February 27, 2020, <https://www.motherjones.com/politics/2020/02/genius-green-card-visa-nobel-prize-trump/>

¹⁰ Sarah Pierce and Jessica Bolter, “Dismantling and Reconstructing the U.S. Immigration System: A Catalog of Changes under the Trump Presidency,” *Migration Policy Institute*, July 2020, <https://www.migrationpolicy.org/research/us-immigration-system-changes-trump-presidency>

- ▶ The Labor Department should add AI professionals to its Schedule A list of shortage occupations, allowing EB-3 green card applicants to go through a streamlined labor certification process.

Congress can best ensure American AI predominance by allowing U.S. employers to sponsor global talent for permanent residency (“green cards”) across all science and technology fields, without relying on temporary and scarce H-1B visas. Permanent residence allows professionals to work for any U.S. company—or start their own—and ultimately leads to U.S. citizenship.

On a population-adjusted basis, Canada and Australia offer permanent residency to over twice as many immigrants as the United States. To truly emulate these nations’ immigration systems—as leaders across the U.S. political spectrum have often suggested—Congress needs to increase the annual number of green cards. Liberated from the self-destructive zero-sum dynamics of green card scarcity, the United States could finally welcome family members of U.S. citizens, families fleeing humanitarian crises, *and* the full measure of global talent that will make America unbeatable in AI.

Figure 1: New lawful permanent residents (LPRs) by country in 2016

New lawful permanent residents (LPRs) by country in 2016

Country	New LPRs	Population	New LPRs per 100,000 inhabitants	Multiplier vs U.S.
Luxembourg	19,500	582,014	3,350	9
Switzerland	125,000	8,373,338	1,493	4
Sweden	138,200	9,923,085	1,393	4
Germany	1,051,000	82,348,669	1,276	3
Austria	105,600	8,736,668	1,209	3
New Zealand	55,700	4,693,200	1,187	3
Norway	58,100	5,234,519	1,110	3
Denmark	60,800	5,728,010	1,061	3
Australia	223,500	24,190,907	924	3
Belgium	100,200	11,331,422	884	2
Ireland	41,900	4,755,335	881	2
Canada	296,400	36,264,604	817	2
Netherlands	138,500	17,030,314	813	2
United Kingdom	350,100	65,595,565	534	1
Finland	27,300	5,495,303	497	1
Spain	215,000	46,483,569	463	1
France	258,900	66,859,768	387	1
Israel	31,400	8,546,000	367	1
United States	1,183,500	323,071,342	366	1
Italy	212,100	60,627,498	350	1
Czech Republic	34,800	10,566,332	329	1
Portugal	34,000	10,325,452	329	1
South Korea	88,500	51,245,707	173	0
Japan	95,200	126,994,511	75	0
Mexico	34,900	127,540,423	27	0

Created with Datawrapper

Source: “Canada and Australia Issue Twice the Number of Permanent Resident Visas Compared to U.S.” Boundless, November 26, 2019, <https://www.boundless.com/blog/canada-australia-green-cards/>

Doug Rand is the co-founder of Boundless, a technology company that empowers families to navigate the immigration system more confidently, rapidly, and affordably. Doug served in the Obama White House for over six years as Assistant Director for Entrepreneurship in the Office of Science and Technology Policy, where he focused on high-skilled immigration and other areas of expertise. He is currently a Senior Fellow at the Federation of American Scientists. Follow Doug on Twitter @doug_rand.

Lindsay Milliken is a Research Assistant for Science, Technology, and Innovation Policy at the Federation of American Scientists. Previously, she worked as a Legislative Research Assistant at Lewis-Burke Associates, a government relations firm specializing in science policy and higher education. Her research interests include artificial intelligence, high skilled immigration policy, and finding creative ways to support evidence-based policymaking on Capitol Hill. Follow on Twitter Lindsay at @LK_Miliken

Heartland Visas

Adam Ozimek

There has been a growing focus on place-based economic policy in the U.S. to help address the country's vast swathes that have fallen behind. However, a key challenge is that much of what ails struggling places is demographic: the population is declining, those with the most education are leaving, and the workforce is aging rapidly. A demographic challenge begs for a demographic policy, and few are better targeted to this than skilled immigration. To that end, Heartland Visas are a vital immigration policy that should be considered.¹¹

“Imagine if you could devise an immigration pathway that would remedy the demographic decline in a targeted way, enabling specific places suffering population loss and in search of youth and talent to attract immigrants to strengthen their communities. Heartland visas can make that possible.”

Heartland Visas would be a temporary work visa for skilled immigrants to work in a location undergoing demographic decline. The program would not restrict freedom of movement or travel throughout the U.S. in any way: Heartland Visa holders can still go to Disneyland without having their visas checked. Instead, the policy simply permits an immigrant to only work in a specific labor market for a designated amount of time. While this may strike some as radical, today, temporary visas like the H-1B and H-2A already restrict workers to one employer. For many, the choice between numerous employers within a single labor market would be vastly preferable to the status quo that restricts them to a single employer.

At the end of the temporary period, Heartland Visa holders would be allowed to apply for unrestricted green cards and live wherever they want within the U.S. While some may choose

¹¹ Adam Ozimek, Kenan Fikri, and John Lettieri, “America’s Demographic Challenge,” Economic Innovation Group, April 2019, <https://eig.org/heartland-visa>

new places to live after applying for a green card, data from a similar Canadian program show that many will opt to remain in the area of first entry.

Other details remain for further discussion, including whether metro areas, groups of counties, or even states are the appropriate labor market area. But a final important feature of this policy is that it is dual opt-in: places would have to choose to participate in this program, and immigrants would choose which location they wish to live. As such, Heartland Visas would represent a choice for communities who want to pursue an alternative to demographic decline and for skilled immigrants who are looking for a new door into the U.S. And it should indeed be a new door, not replacing other immigration pathways.

Demographic decline is a serious problem in many places, wreaking havoc on housing markets, local government revenues, and overall dynamism for many skilled immigrants worldwide. Small, rural U.S. cities would offer a significant and life-changing improvement in standards of living.¹² Skilled immigrants would help these places, and we should let them.

Adam Ozimek is a senior economist and assistant director at Moody's Analytics. He is an economist and writer who has researched and published articles in Forbes' Modeled Behavior blog, the Philadelphia Inquirer, and the Atlantic and has been cited in a wide variety of publications, including The Washington Post and Wall Street Journal. Follow him on Twitter @ModeledBehavior.

Physician Immigration Policy Solutions for the American Physician Shortage

Greg Siskind

The COVID-19 pandemic has highlighted the persistent shortage of physicians in the U.S. growing for years. The Association of American Medical Colleges estimates that the doctors' shortage could grow to an astounding 139,000 by 2033.¹³ While this is an urgent problem, there is no instant solution. It will cost a massive amount of money for states to build or expand medical schools and recruit faculty. The process of increasing this capacity and then educating MDs, putting them through residency training, and then having those new doctors treat patients will likely take about 15 years.

¹² Adam Ozimek, Kenan Fikri, and John Lettieri, "From Managing Decline to Building the Future," Economic Innovation Group, April 2019, <https://eig.org/wp-content/uploads/2019/04/Heartland-Visas-Report.pdf>

¹³ Stuart Heiser, "New AAMC Report Confirms Growing Physician Shortage," American Association of Medical Colleges, June 26, 2020, <https://www.aamc.org/news-insights/press-releases/new-aamc-report-confirms-growing-physician-shortage>

We need to explore three individual solutions. First, we must expand programs for international students, eliminate country caps and increase green cards for medical professionals, and finally, expand licensing requirements.

“America needs foreign doctors to fill growing shortages, provide culturally sensitive care to a diverse population, and work in underserved areas, especially in rural parts of the country. There are several immigration and licensing reforms that would make it easier for foreign doctors to practice medicine in the U.S., which would benefit Americans, who have come to rely on the care provided by these professionals.”

About a quarter of all doctors who train at America’s teaching hospitals are international medical graduates. Many of them stay due to immigration programs, such as the Conrad-30 program, that reward these doctors if they work in medically underserved communities. Unfortunately, these programs are limited in size and create hurdles for potential doctors. Expanding these programs could supplement the workforce, especially in underserved areas that desperately need support.

Additionally, a large portion of doctors training in U.S. hospitals are from international medical schools. This includes approximately 30 percent of the doctors in training from India who come from many of the world’s best medical schools and are highly sought after by residency and fellowship programs worldwide. However, antiquated country green card quotes force many of these doctors to leave the U.S. after training or face waiting in limbo for 10 to 20 years to obtain permanent residency. This highlights the need to eliminate country caps and increase green card numbers for skilled workers who could supplement the medical workforce.

Because they require U.S.-based residency training, physician immigration rules and state medical licensing rules prevent many highly qualified international physicians’ entry. While the U.S. medical training system is superb, we’re not the only country with world-class training programs. We should accept training in countries like the U.K., Australia, Germany, Israel, and other countries that are deemed to be comparable to the U.S.

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II. Strengthening America's Foreign Policy

When Americans think of U.S. foreign power, they may envision the “big stick” power of our military and our economic might. But there are more subtle policies that maintain diplomatic relationships, cultivate and protect communication channels, and build partnerships abroad. One of the most obvious ways to ensure that American foreign officers who travel across the world can build collaborative relationships is to protect those that serve with American forces, especially those who do so at the risk of their lives and their families' safety. Allowing individuals to flee authoritarian regimes—to vote with their feet—is another well-established means of promoting democracy globally and thumbing our noses at our adversaries.

Admitting international students into U.S. colleges and universities is an immigration program with myriad benefits. For one, international students bring back an understanding of the U.S. to their home countries. They take their newly acquired skills and education to improve their respective homelands, foster collaboration opportunities as future leaders, and import a strengthened appreciation for democracy.

The Need for a Permanent Special Immigrant Visa

Betsy Fisher

Between 2006 and 2009, Congress created three special immigrant visa (SIV) programs for Iraqis and Afghans who risked their lives to assist the United States military and government agencies. The SIV programs complement U.S. refugee resettlement, providing a separate path to safety for at-risk employees without drawing on the president's annual resettlement target set each year.

But the SIV programs have fallen short of their promise to protect U.S. government employees.¹⁴ These failures also harm the U.S. citizens who work overseas as diplomats, aid workers, and soldiers, who rely on local partners for mission-critical functions.¹⁵ Reflecting on the shortcomings of the Iraqi and Afghan programs, Congress should enact a new, flexible program for international government employees who are threatened because of their work.

¹⁴ J.P. Lawrence, “Understaffed, uncoordinated: IG outlines flaws in visa program for war zone interpreters,” Stars and Stripes, June 19, 2020, <https://www.stripes.com/visa-program-for-war-zone-interpreters-1.634409>

¹⁵ “Recommendations on the Reform of the Special Immigrant Visa Program for U.S. Wartime Partners,” International Refugee Assistance Project, June 2020, https://refugeerights.org/SIV_Report_2020.pdf

“Protecting foreign nationals who work with the U.S. government abroad is critical to our work in executing our foreign policy and national security goals and supporting American personnel overseas. The special immigrant visa programs allow Iraqi and Afghan nationals who helped the U.S. military and government agencies to seek refuge in our country when they are in danger. We should improve this visa program by making it permanent, more flexible, and more available to persons from other countries.”

This new program should be permanent and allocate visas annually. The two most extensive Iraqi and Afghan SIV programs were each authorized for only five years. To extend the programs, Congress intervenes on an annual and ad hoc basis to extend deadlines and allow more visas. This makes the programs vulnerable to attacks from anti-immigrant legislators as well as broader political disputes.¹⁶ In turn, visa shortages have twice¹⁷ imposed delays¹⁸ on applicants who are living in danger. Permanent visa allocations would avoid these uncertainties and delays.

Second, this new program should adapt to new situations where local partners face danger. Current SIV programs benefit Iraqi and Afghan citizens—for a good reason. But no program provides a pathway to safety, for example, for a Syrian Kurd¹⁹ who works for USAID, the family of a translator killed²⁰ working with U.S. troops in Niger, or any stateless person working to support U.S. humanitarians in Iraq or Afghanistan. The new program should allow government agencies to designate eligible populations, using existing visa allocations to cover new situations without legislation, in addition to those mandated by Congress. It should provide eligibility for stateless people who are otherwise eligible.

Third, the program should address processing concerns that have been endemic in the Iraqi and Afghan SIV programs. The Iraqi and Afghan programs have always been plagued by extensive

¹⁶ Elise Blanchard, “Waiting for a U.S. Visa in the Taliban Heartland,” *The New Humanitarian*, June 16, 2020, <https://www.newsdeeply.com/refugees/articles/2017/06/16/waiting-for-a-u-s-visa-in-the-taliban-heartland>

¹⁷ John Kerry, “Op-Ed: From John Kerry: We need more visas, now, for our Afghan allies,” *LA Times*, June 3, 2020, <https://www.latimes.com/opinion/op-ed/la-oe-0602-kerry-afghan-withdrawal-20140603-story.html>

¹⁸ Rebecca Hersher, “Afghans Who Worked With U.S. Forces Told They Can No Longer Apply For Special Visas,” *NPR*, March 10, 2017, <https://www.npr.org/afghans-who-worked-with-u-s-forces-told-they-can-no-longer-apply-for-special-vis>

¹⁹ Mike Giglio, “The Deadly End of American Policy in Syria,” *The Atlantic*, October 25, 2019, <https://www.theatlantic.com/international/archive/2019/10/america-policy-syria-deadly-end/600682/>

²⁰ Thomas Gibbons-Neff and Eric Schmidt, “After Deadly Raid, Pentagon Weighs Withdrawing Almost All Commandos From Niger,” *New York Times*, 2018, <https://www.nytimes.com/2018/09/02/world/africa/pentagon-commandos-niger.html>

delays, even after Congress legislated a maximum nine-month processing period.²¹ The delays and limitations leave SIV applicants in danger for long periods. Many employers, including some U.S. government agencies, have refused to provide documents that an applicant needs to prove their eligibility.²² The new program should provide a straightforward method for employees to document their employment, retain procedural rights from the Iraqi and Afghan programs, and set a maximum processing time.

A more flexible and durable SIV program will protect people who face danger for their work on behalf of the U.S. government. It will also improve accountability for the harm experienced by partners overseas while promoting the work and safety of the U.S. government personnel whom they serve alongside.

***Betsy L. Fisher** is the International Refugee Assistance Project (IRAP) Director of Strategy. She coordinates IRAP's referral and legal information teams, represents refugees in resettlement processes, and formerly managed IRAP's government relations work. Follow her on Twitter @betsylfisher.*

Welcoming Hong Kong Refugees

Representative John R Curtis (R-UT-3)

After China implemented a law punishing freedom of speech and freedom of assembly against the will of Hong Kongers, I enlisted colleagues of both political parties and chambers of Congress to join me in introducing the “Hong Kong Safe Harbor Act” to designate Hong Kongers as Priority 2 refugees and streamline their refugee admission process. The legislation ensures Hong Kongers seeking refugee status do not compete for slots with those fleeing oppressive regimes elsewhere in the world.

“Welcoming refugees from Hong Kong would signal prioritization of democratic values, enrich American communities where they settle, and align with our foreign policy goals.”

²¹ Ron Synovitz, “Dying While Waiting: U.S. Government Ordered To Resolve Visa Issues For Afghan, Iraqi Allies,” RFERL, October 15, 2019 <https://www.rferl.org/a/afghan-iraq-u-s-visas-allies-court-order-/30218321.html>

²² Jacob Resneck, “An Iraqi translator for the US military is now stuck in Greece,” The World, March 24, 2016, <https://www.pri.org/stories/2016-03-24/iraqi-translator-us-military-now-stuck-greece>

The bill also creates an asylum path for Hong Kong residents who are in immediate danger from the Chinese Communist Party and need to flee immediately. This includes frontline activists, journalists, first-aid responders, those who provided legal services to protesters, and anyone arrested during the demonstrations since the start of the Hong Kong protests on June 9, 2019.

Hong Kongers have fought for the same freedoms and values we cherish in America, which every human deserves, and that preexist government. Over the past year and a half of protests, many have risked brutality at authorities' hands and even potential jail time. Should Hong Kongers be allowed to come to the U.S., we will find them to be strong defenders of these principles here as well.

The people of Hong Kong are dynamic, well-educated, and innovative. In addition to being hard workers, innovators, and job creators, an influx of Hong Kongers fleeing Chinese oppression for America signals to the world that the U.S. will always stand on the side of freedom and liberty.

Bringing Hong Kongers who currently fear for their safety to the U.S. is the humanitarian thing to do and massively benefits the United States. It is a win-win.

John R. Curtis represents Utah's 3rd Congressional District, serving on the House Natural Resources and Foreign Affairs Committees. This year, in response to China's national security law, Representative Curtis led a bipartisan coalition to introduce the Hong Kong Safe Harbor Act, which would designate the people of Hong Kong as Priority 2 refugees, streamline their admission process to the U.S., and open an asylum route for frontline activists in immediate danger. Follow him on Twitter @RepJohnCurtis.

Addressing the Venezuelan Migration Crisis

Professor Idean Salehyan

With Venezuela suffering under the brutal regime of Nicolás Maduro, Latin America is experiencing one of the biggest migration crises in history. The International Organization for Migration estimates that 5 million people have been forced to flee their homes due to political turmoil, repression, and mismanagement of the economy.²³ Key U.S. partners and allies, including Colombia, Peru, and Chile, have displayed considerable generosity toward these vulnerable migrants. They are, however, facing severe strain in coping with such a rapid influx.²⁴

²³ "Venezuelan Refugee and Migrant Crisis", IOM, March 20, 2020, <https://www.iom.int/venezuela-refugee-and-migrant-crisis>

²⁴ Michael Stott, "Venezuela: Refugee Crisis Tests Colombia's Stability", Financial Times, February 19, 2020, <https://www.ft.com/content/bfede7a4-4f44-11ea-95a0-43d18ec715f5>

“A large-scale humanitarian and political crisis has been unfolding for years in Venezuela. Millions have fled, but very few have been welcomed to the U.S. We must do more to provide refuge to Venezuelans seeking to leave, grant temporary protected status to Venezuelans already in the U.S. and, working in concert with our Latin American allies, develop regional solutions to address this crisis. We have the tools to provide humanitarian relief and advance our foreign policy goals. We need to use them.”

Despite this humanitarian disaster, the United States’ response has been one of indifference, at best. While rhetorically condemning the Maduro regime, the Trump administration has failed to extend protection to people fleeing it. According to the State Department, thus far in 2020, only 14 Venezuelan nationals were resettled in the U.S. as refugees. Last year, that number was zero.²⁵ This has prompted people in distress to risk perilous journeys north to the U.S. to apply for asylum border; for the last several years, Venezuelans have been the leading source of affirmative asylum applications.²⁶ Rather than extending a helping hand, the administration has responded by tightening asylum regulations, deporting Venezuelans back to a failing state, and refusing to grant Temporary Protected Status (TPS).²⁷

Senate Republicans have offered a similarly callous response. Despite a bill co-sponsored last year by Sen. Marco Rubio (R-FL) to offer TPS to Venezuelans, most GOP Senators failed to act to protect the thousands of Venezuelans already in the country.²⁸ Deporting Venezuelans to a nation with a collapsed healthcare system and limited infrastructure to deal with the COVID-19 pandemic leaves many lives at risk.²⁹ If the President and Members of Congress are serious about promoting human rights and democracy in Latin America, then protecting Venezuelans from a failed, authoritarian government should be high on their agenda.

²⁵ “Admissions & Arrivals”, Refugee Processing Center, <https://www.wrapsnet.org/admissions-and-arrivals/>

²⁶ Jeanne Batalova, Brittany Blizzard, and Jessica Bolter, “Frequently Requested Statistics on Immigrants and Immigration in the United States”, Migration Policy Institute, February 14, 2020, <https://www.migrationpolicy.org/article/frequently-requested-statistics-immigrants-and-immigration-united-states#Refugees%20and%20Asylum%20Seekers>

²⁷ Stuart Anderson, “Protecting Venezuelans At Odds With Trump Immigration Agenda”, Forbes, February 6, 2020, <https://www.forbes.com/sites/stuartanderson/2020/02/06/protecting-venezuelans-at-odds-with-trump-immigration-agenda/#21063fd84eb8>

²⁸ Alex Daugherty, “Democrats Tried to Pass TPS For Venezuelans. Senate Republicans Blocked It”, Miami Herald, August 2, 2019, <https://www.miamiherald.com/news/local/immigration/article233275349.html>

²⁹ Tamara Taraciuk Broner, “Now Is Not The Time For the U.S. To Deport Venezuelans”, Human Rights Watch, April 23, 2020, <https://www.hrw.org/news/2020/04/23/now-not-time-us-deport-venezuelans>

The way forward is clear. First, Congress must pass the Venezuela Temporary Protected Status Act to offer peace of mind to Venezuelans residing in the United States and eliminate the threat of deportation.³⁰ Second, the U.S. should establish an in-country processing program to adjudicate Venezuelans' asylum claims remaining in the country. The U.S. has processed refugees in their country of origin before, including in Vietnam, Cuba, and Central America.³¹ This step would alleviate the need for people to make risky journeys trying to reach the United States.

Finally, the United States should host a regional summit of countries and stakeholders across the region to craft a coordinated, multinational response to the Venezuelan crisis.³² The expanded refugee definition offered by the Cartagena Declaration of 1984 certainly applies to Venezuelan emigrants and should be used fully.³³ Moreover, as many countries in the region struggle to care for such a large number of refugees, the United States can play a critical role by providing significant financial assistance and resettlement opportunities.³⁴

Offering robust protection for Venezuelans is not only a humanitarian gesture but is sound foreign policy. Failing to act quickly would needlessly prolong the region's worst migration crisis in decades.

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International Students

Anuska Jain

My journey as an international student started in the fall of 2015, when I arrived at the Boston Airport with six (yes, six) suitcases. I was the first person in my family to study in the States; not knowing what to expect, I came prepared with everything: from packets of *Maggi* (Indian

³⁰ "Venezuela Temporary Protected Status Act," S.636 - 116th Congress, 2019, <https://www.foreign.senate.gov/imo/media/doc/MDM19310.pdf>

³¹ Faye Hipsman and Doris Meissner, "In-Country Processing in Central America: A Piece of the Puzzle," Migration Policy Institute, August 2015, <https://www.migrationpolicy.org/research/country-processing-central-america-piece-puzzle>

³² María Isabel Rivero, "Joint Statement for the development of a regional response to the massive arrival of Venezuelans to the Americas of the Inter-American Commission on Human Rights, and committees, organs and special procedures of the United Nations," Organization of American States, September 5, 2018, https://www.oas.org/en/iachr/media_center/PReleases/2018/197.asp

³³ Cécile Blouin, Isabel Berganza and Luisa Feline Freier, "The spirit of Cartagena? Applying the extended refugee definition to Venezuelans in Latin America," FMR Review, February 2020, <https://www.fmreview.org/cities/blouin-berganza-freier>

³⁴ Anika Borachi, "The Venezuela displacement crisis: A Shift From Regional to International in Scope," Relief Web, December 20, 2019, <https://reliefweb.int/report/venezuela-bolivarian-republic/venezuela-displacement-crisis-shift-regional-international>

instant noodles) to bedsheets. This was not a persistent trend, thankfully, and the number of bags decreased as years passed and as I grew more comfortable with being in the States.

“The U.S. has significantly benefited from being a magnet for international college students. International students are part of the rich tapestry that sparks curiosity and shape college students’ formative experiences. Whether international students stay on post-college, bringing valuable perspectives with them to the workplace, or return to their home countries, with the cultural sensitivity and relationships gained during their time in America, their presence in the U.S. serves a significant cultural, economic and diplomatic function.”

While there is no one international student experience, I think most students would agree that some common themes exist. First, of course, there is the culture shock. I am still not sure if this is an American trait or a New England trait, but I remember somebody greeting me with a “Hello, how are you?” when our paths crossed on campus. I stopped to tell them how I was and had a full-fledged conversation with them only to realize later that the more appropriate response would have been to say, “Good, how are you?” and keep walking. The culture shock is usually followed by adjustment. I became an initiator of the *how are you’s* in the following semesters.

Another place where I found myself adjusting was in classes. This was not just because the American education system was new to me. Being in a class with both Americans and other international students who were not from India constantly challenged me. The diversity of views and experiences presented in class during discussions forced me to question my own beliefs. I could even see my classmates wrestle with their own beliefs upon hearing my perspective since my vantage point was unique.

I distinctly remember a moment from one of my English courses. While reading South Asian literature, I contributed to the discussion by talking about my experiences, having come from India. In another class, an international student brought up cultural reasons behind patterns in movement within her own country when discussing migration. Hearing the issues brought up by these students, who had come from different backgrounds than our own, allowed us to form well-informed opinions, and I am genuinely grateful for that.

This exchange was not just limited to the classroom. My non-Indian friends now enjoy *Maggi* just as much and have even visited me in India. It is quite heartening to think that you might

end up with friends in so many different parts of the world because of college. Unfortunately, I have noticed a growing worry among the international student body over the last few years concerning their status and employment in the United States. This worry reached its peak during the pandemic when a series of policies negatively affecting them were announced.

I have had conversations with friends and peers who are beginning to consider universities in Europe and Canada as alternatives, despite having spent several years of their lives in the States. Some have chosen to go to these colleges despite being admitted into American universities. Many seeking employment have decided to return home because of difficulties finding jobs and concerns regarding visa status and sponsorship.

Despite growing restrictions, international students have made outsized contributions to American innovation, education, and economic revitalization. U.S. lawmakers should recognize these contributions and enact reforms that allow international students to fully realize their potential for the good of the U.S. economy.

A starting point for staying ahead in the global competition for student talent and bolstering the American economy is to lengthen the employment duration for STEM OPT participants, comparable to H-1B holders, and expand OPT extensions to other high-value fields. By creating a visa for foreign graduates and entrepreneurs — as seen in more than a dozen other advanced economies — we could offer work authorization and a potential path to residents to create, invest in, and grow business projects.

Additionally, offering international Ph.D. students an immediate path to a green card encourages the best and the brightest, who have spent extended time in the United States and are masters of their fields, to stay in American and create job opportunities.

If this apprehension worsens, it would truly be unfortunate for colleges and its students. Most domestic students would agree when I say that I could never imagine my own college life without my fellow international peers.

Anuska Jain is an international student, former Niskanen Center intern, and recent graduate of Smith College, where she graduated with a bachelor's degree in Economics and Psychology. Follow her on Twitter @Anuska_Jain.

III. Capitalizing on America's Capacity

The United States can also improve its standing as a place of opportunity for those wanting to build better lives for themselves and their families. Those born in the United States are lucky to have opportunities not available to most people globally. These are opportunities made possible by their forebears—who themselves sought out ways to eke out a better life here, thanks to policies that allowed them to do so. Being a destination for opportunity enables people to work to be more productive, benefiting immigrants as one of the most effective measures against global poverty and Americans by situating them in a more productive world.

Offering a Pathway to Permanent Residence to Dreamers

Kai Martin

At the peak of the COVID-19 pandemic, states relied heavily on its essential workers' commitment and strength—especially health care workers. This deadly virus has led to hundreds of thousands of confirmed deaths. Even during lockdowns, Americans have been held up by the support of more than 200,000 Dreamers who stood alongside American health care workers as essential workers.³⁵ In universities nationwide, faculty members and staff worked together to find the most effective learning approaches for undergraduates and professional students.

At my school, George Washington University, technical support was immediately extended to more than 2,000 students with disabilities to provide remote learning support for students with hearing and visual impairments. As a university employee, this work tapped into my desire to see all students receive equal learning opportunities. And while communities continue to struggle amid the pandemic, it is uniquely difficult for Dreamers. We must cope with increased work pressure, limited (if any) unemployment support, no federal student aid, and little to no medical coverage available to combat COVID-19, disproportionately impacting minorities.³⁶

³⁵ Nicole Prchal Svajlenka, "A Demographic Profile of DACA Recipients on the Frontlines of the Coronavirus Response", Center for American Progress, April 6, 2020, <https://www.americanprogress.org/issues/immigration/news/2020/04/06/482708/demographic-profile-daca-recipients-frontlines-coronavirus-response/>

³⁶ Tania Wilcox, "In Their Own Words: The Impact of Covid19 on DREAMers", TheDream.US, March 26, 2020. <https://www.thedream.us/wp-content/uploads/2020/04/TheDream.US-In-Their-Own-Words-Impact-of-Covid-19-on-DREAMers.pdf>

“America has failed to offer the American Dream to its Dreamers, the millions of young people who came to America as children with their undocumented parents. Americans in all but immigration status, they eagerly await the opportunity to contribute fully to their communities and realize the possibilities America offers.”

These forgotten members of society, those whose households contribute over \$5 billion in federal taxes and over \$3 billion in state taxes, are relentless in their efforts to remain in good standing with the government in hopes that after DACA, more may be done. The COVID-19 pandemic has highlighted that Dreamers are students, small business owners, support staff members, and frontline workers who support the U.S. in the best and worst of times and deserve the opportunity to become permanent residents.

Over the last nineteen years, at least ten versions of bills that would protect Dreamers have been introduced in Congress.³⁷ As Dreamers remain hopeful for legislative change, there is no denying that after the tragedies caused by COVID-19, the American public can rely on the support of Dreamers nationwide as they continue to stand with their fellow Americans.

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³⁷ “The Dream Act, DACA, and Other Policies Designed to Protect Dreamers”, American Immigration Council, August 27, 2020. <https://www.americanimmigrationcouncil.org/research/dream-act-daca-and-other-policies-designed-protect-dreamers>

Urgent Reforms Needed in the U Visa Program

Leslye Orloff

The Violence Against Women Act (VAWA) of 2000 created the U visa to fight crime and stop perpetrators who could elude prosecution by targeting, threatening, and silencing immigrant victims. Congress understood that the public safety of all citizens and immigrants is enhanced when immigrant victims of domestic violence, child abuse, sexual assault, human trafficking, and other crimes are “able to report these crimes...fully participate in the investigation of the crimes committed against them and the prosecution of perpetrators.”³⁸ Congress recognized that perpetrators were “virtually immune from prosecution because their victims can be deported as a result of action by their abusers and the [Department of Homeland Security]³⁹ cannot offer them protection no matter how compelling their case.”⁴⁰

The U visa program helps “strengthen the ability of law enforcement agencies to detect, investigate and prosecute cases ... while offering protection to victims ... [and] encourage law enforcement officials to better serve immigrant crime victims and to prosecute crimes.”⁴¹ With 96,713 approved U visa cases (2009-2018) and an approval average of 83.4 percent per year⁴², law enforcement, prosecutors, and courts that signed U visa certifications strengthened the access to justice for immigrant crime victims even in times of increased immigration enforcement and anti-immigrant sentiment.⁴³

³⁸ “Violence Against Women Act of 2000 Section 1513(a)(1)(B),” H.B. 1248, 106th Congress, 2000, <https://www.congress.gov/bill/106th-congress/house-bill/1248>

³⁹ The Department of Homeland Security was created in 2002 and included all functions of the former Immigration and Naturalization Service.

⁴⁰ “Violence Against Women Act of 2000 Section 1502(a)(3),” H.B. 1248, 106th Congress, 2000, <https://www.congress.gov/bill/106th-congress/house-bill/1248>

⁴¹ “Violence Against Women Act of 2000 Section 1513(a)(2)(A),” H.B. 1248, 106th Congress, 2000, <https://www.congress.gov/bill/106th-congress/house-bill/1248>

⁴² “U.S. Citizenship and Immigration Services, U Visa Report - Technical Appendix 3”, USCIS, 2020, https://www.uscis.gov/reports/Technical_Appendix_for_Mini_U_Study_Report.pdf. The efficacy of the U visas program and the numbers of victims and criminal cases it helps is supported by the fact that between 2012 and 2018 67,730 U visas were approved at a rate of 83.4%; “U.S. Citizenship and Immigration Services, Petition for U Nonimmigrant Status Visa - Service-wide Receipts, Approvals, and Denials, Fiscal Years: 2002 Through 2013,” USCIS, 2013, https://www.uscis.gov/visastatistics_2012-nov.pdf. USCIS started granting U visas in 2009, and issued 25,986 U visas 2009-2011.

⁴³ Raphaela Rodrigues, “Promoting Access to Justice For Immigrant and Limited English Proficient Crime Victims In An Age of Increased Immigration Enforcement,” USCIS, 2018, <https://niwaplibrary.edu/immigrant-access-to-justice-national-report>

“The U Visa, created by the Violence Against Women’s Act in 2000, has for 20 years strengthened law enforcement, helped reduce crime in communities around the country, and protected immigrant crime victims. It should be reformed to fight crime better and afford even more protection for the brave victims willing to stand up despite their vulnerability.”

U visas substantially increase justice system participation.⁴⁴ U visa applicants (73.1 percent) often cooperate with law enforcement in their criminal cases,⁴⁵ 22 percent are willing to participate once their perpetrator is identified and located,⁴⁶ and 50.3 percent file police reports when they are victims of subsequent crimes.⁴⁷ U visa victims played a crucial role in helping secure convictions in their and other criminal cases that thwarted the attempted actions of human traffickers, serial domestic violence perpetrators, child sexual predators, and terrorists that plague our communities.⁴⁸

The U visa needs reforms to address the threats to the effectiveness of the program, including:

Permanently eliminating the U visa 10,000 per year statutory cap. It will enable USCIS to eliminate the U visa 4-6-year adjudication backlog, the 142,000 case U visa waitlist,⁴⁹ and any future waitlist by dramatically reducing the number of times each case must be fully adjudicated; with cases adjudicated in the order received;

Provide work authorization based on INA Section 214(p)(6) and deferred action within six months of filing (instead of 4-6 years) for U visa victims with pending bona fide/prima facie applications severing victims’ economic dependence on abusers.

⁴⁴ Krisztina E. Szabo, “Early Access to Work Authorization for VAWA Self-Petitioners and U Visa Applicants,” NIWAP, 2014, https://niwaplibrary.wcl.american.edu/pubs/final_report-on-early-access-to-ead_02-12.

⁴⁵ Krisztina E. Szabo, “Early Access to Work Authorization for VAWA Self-Petitioners and U Visa Applicants,” NIWAP, 2014, https://niwaplibrary.wcl.american.edu/pubs/final_report-on-early-access-to-ead_02-12.

⁴⁶ U.S. Citizenship and Immigration Service, “Trends in U Visa Law Enforcement Certifications, Qualifying Crimes, and Evidence of Helpfulness”, USCIS, July 2020, https://www.uscis.gov/U_Visa_Report.pdf; Leslye Orloff, “U Visa Victims and Lawful Permanent Residency,” USCIS, September 6, 2012, <https://niwaplibrary.wcl.american.edu/uvisalawfulpermanentresidency>. 29.5% of U visa victims were willing, but not asked to cooperate due to a plea, inability to identify or locate the perpetrator.

⁴⁷ Krisztina E. Szabo, “Early Access to Work Authorization for VAWA Self-Petitioners and U Visa Applicants,” NIWAP, 2014, https://niwaplibrary.wcl.american.edu/pubs/final_report-on-early-access-to-ead_02-12.

⁴⁸ Corrin Chow. “Stories from the Field: The Crime Fighting Effectiveness of the U visa,” NIWAP, August 28, 2020, <https://niwaplibrary.wcl.american.edu/pubs/u-visa-crime-fighting-stories>

⁴⁹ U.S. Citizenship and Immigration Services, “U Visa Report 4,” USCIS, 2020, https://www.uscis.gov/U_Reportpdf

Prohibit arrest, detention, and deportation of victims with pending and waitlist approved U visa applications using deferred action, stays of removal, reinstating continuances and administrative closures in immigration proceedings, and halting reinstatement of removal of U visa victims.⁵⁰ Despite approvals for the vast majority of U visa applicants (83.4 percent), they must endure long waits; protections are needed in the meantime to provide stability, protection against perpetrators' efforts to have victims deported,⁵¹ and to keep victims available to help with criminal investigations and prosecutions.

End policies designed to increase U visa denials, and removal of U visa victims, including blank space application/certification rejections, notices to appear in immigration court, and restrictive fee waiver policies to ensure that all U visa applicants, regardless of income, can access and receive protections of VAWA confidentiality,⁵² VAWA any credible evidence⁵³ and request for further evidence rules.

Increase staffing and reinstate training programs for all VAWA, T, and U visa USCIS adjudicators like training held between 1997-2015 involving USCIS and outside subject matter experts ensuring adjudication by specially trained staff.⁵⁴ Increase USCIS VAWA unit staffing and then maintain staffing at least at 85% of its capacity at all times.

Amend law enforcement, prosecution, and courts federal funding programs (e.g., COPS, OVW, DOJ) to authorize funding for U visa training⁵⁵ and to create incentives (extra points on applications) to U visa-certifying agencies, and requirements that all grant recipients have active certification practices that are entirely consistent with U visa statutes and federal regulations by 2022.

Leslye Orloff is the Director of the National Immigrant Women's Advocacy Project (NIWAP) at American University Washington College of Law, which advocates for laws, policies, and practices that enhance legal options for immigrant women and immigrant victims of domestic violence, sexual assault, and human trafficking. She founded and directed the Immigrant Women Program and Legal Momentum, and the National Network to End Violence Against Immigrant Women.

⁵⁰ Congress urged DHS to exercise its discretion to stop reinstatement of removal against VAWA, T visa and U visa victims in Section 813(b) of the Violence Against Women Act of 2005.

⁵¹ Krisztina E. Szabo, "Early Access to Work Authorization for VAWA Self-Petitioners and U Visa Applicants," NIWAP, 2014, https://niwaplibrary.wcl.american.edu/pubs/final_report-on-early-access-to-ead_02-12. 26.7% of victims with pending U visa cases have perpetrators who are actively involved in efforts to trigger their removal.

⁵² 8 U.S.C. 1367.

⁵³ 8 U.S.C. 1184(p)(4).

⁵⁴ House Committee on the Judiciary. "Department of Justice Appropriation Authorization Act, Fiscal Years 2006-2009," 109th Congress, 2005.

⁵⁵ International Association of Chiefs of Police, "Resolution on Education and Awareness of U and T Visa Certifications," NIWAP, November 2018, <https://niwaplibrary.edu/u-t-visa2018>



IV. Revitalizing America’s Humanitarianism

The U.S. has a tradition of offering refuge and opportunity to those escaping war, oppression, persecution, and poverty. It is based on our founding ideals of universal equality and freedom of religion and speech. It’s a tradition to which we’ve committed ourselves in domestic law and international obligations, but which can be reaffirmed and revitalized by reforms to our humanitarian immigration programs.

Humanitarian interests require robust refugee and asylee resettlement. Congress was right when it declared in 1980 that “it is the historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands.” That policy has benefited the lives of millions of refugees, not only directly through resettlement in the United States, but also indirectly by furthering our foreign policy initiatives abroad and by encouraging other countries to follow America’s example.

Modernize the Diversity Visa Program

By Jeremy L. Neufeld

Twenty-five years after the inauguration of the Diversity Visa (DV) program, the modest program boasts an impressive track record. It has aided U.S. diplomacy, helped gain allies and goodwill;⁵⁶ fostered the exchange of ideas and perspectives, and increased productivity and growth.⁵⁷ It has seeded new immigrant networks—notably in sub-Saharan Africa—thereby expanding the pool of talent for recruitment into the U.S. labor force⁵⁸ and promoting the integration of immigrants.⁵⁹ Additionally, it has proved an extremely useful tool for promoting international development by significantly improving the living standards of lottery winners and by improving the conditions and health of those left behind.⁶⁰ One economist has suggested

⁵⁶ Testimony of Ambassador Johnny Young on the Diversity Immigrant Visa Program before the House Judiciary Subcommittee on Immigration Policy and Enforcement, April 5, 2011. Available at <https://www.hsdl.org/?abstract&did=713985>. See also Jeremy L. Neufeld, “In Defense of the Diversity Visa After NYC’s Terror Attack,” Niskanen Center, November 1, 2017. Available at: https://www.niskanencenter.org/defense_diversity_visa/

⁵⁷ Jeremy L. Neufeld, “The Diversity Visa: Part of a Merit-Based Immigration System,” Niskanen Center, October 2018, 6-7. Available at: https://www.niskanencenter.org/wp-content/uploads/old_uploads/2018/10/Diversity-Visa-and-Skills.pdf.

⁵⁸ Neufeld, “The Diversity Visa,” 5-6. See also Patrick Kennedy, “The Labor Economics Case for the Diversity Visa Lottery,” *Stanford Law Review*, 71, October 2018. Available at: <https://www.stanfordlawreview.org/online/the-labor-economics-case-for-the-diversity-visa-lottery/>

⁵⁹ Lyman Stone, “Could Reducing Immigration Really Boost Immigrant Integration?,” January 15, 2016. Available at: <https://medium.com/migration-issues/could-reducing-immigration-really-boost-immigrant-integration-b65c8b66dff9>

⁶⁰ Teferi Mergo, “The Effects of International Migration on Migrant-Source Households: Evidence from Ethiopian Diversity-Visa Lottery Migrants,” *World Development*, 84, 69–81. See also Jeremy L. Neufeld, “The International Pursuit of Happiness: A Policymaker’s Guide to Migration and Subjective Well-being,” Niskanen Center, July 2020, 13-15. Available at: <https://www.niskanencenter.org/wp-content/uploads/2020/07/The-International-Pursuit-of-Happiness.pdf>

that it could very well “be one of the most successful foreign aid policies used by the United States.”⁶¹

“For 25 years, the diversity visa has provided a boon to the immigrants who win the diversity lottery and the countries they hail from, and benefited America with a steady flow of immigrants from countries that have had low levels of past immigration to the U.S. By making a few changes to how the eligible countries are chosen, this program could enrich the U.S. with a greater diversity of immigrants and to contribute more to the development of sending countries.”

For all its successes so far, modernizing the DV could reinvigorate the program and better capitalize on its potential.

A first step would simply be to expand the program by, say, 65,000 visas per year to start. In 25 years, while the U.S. population has grown by over 60 million, the DV has been effectively reduced. At its current size, the program has been far from reaching diminishing returns. And there’s no shortage of interest, with less than 1% of applicants winning a visa each year.

A second step would be to replace the clunky and outdated allotment system.

The current system designates each of six regions to either a high-admissions or low-admissions group, based on the total number of recent immigrants to the U.S., irrespective of the region’s size. This inflates the likelihood of winning the lottery for applicants from low population regions while depressing the chances for applicants from higher population regions. For example, the North American region contains only 50 million people and consists only of the Bahamas, which is eligible for the DV, and Canada, which is not. By comparison, Asia, which comprises billions of people from Israel to Indonesia, is a high-admission region. It’s difficult to see what possible purpose it serves to give applicants from the Bahamas special treatment at the expense of immigrants from, say, Mongolia or Timor-Leste. Weighting regional admissions by regional population for high vs. low admissions designation would better accomplish the goals of the DV.

⁶¹ Teferi Mergo, “America’s Best Aid Program?” Development Impact, December 13, 2011. Available at: <https://blogs.worldbank.org/impactevaluations/america-s-best-aid-program-impacts-of-green-card-lottery-on-ethiopian-households-guest-post-by-tefer>

Also, within each of the two main groups, the current system allocates visas to regions in proportion to the population of eligible countries within that region. Yet again, this makes visa allocation bizarrely sensitive to a rather arbitrary and seemingly unimportant regional classification. How much value can come from keeping applicants from Kyrgyzstan and France together in one lottery and separated from the lottery for applicants from Japan and Yemen? Instead, a modernized DV could allocate visas within the two groups not to regions, but in some statutory or regulatory proportion to high, upper-middle, lower-middle, and low-income country categories, following the World Bank classification. This would multiply the DV's pro-development effects of the DV, and allow lawmakers to make targeted adjustments as needed.

Finally, updating the country's eligible requirements could better promote immigrant integration and improve how well the DV actually diversifies immigrant flows. Presently, a country is eligible if it has sent under 50,000 immigrants through family sponsorship or employment-based immigration in the previous five years. Only considering five years of immigration through select categories would make the U.S. immigrant population less diverse, slowing integration and the diffusion of ideas. Instead, the eligibility criterion could require that the number of immigrants born in a given country represents less than a certain percentage of the U.S. immigrant population. In addition, the per-country DV cap could be eliminated since the broadened country eligibility criteria would make the program self-correct over time if it awards a high number of visas to a given country.

The DV program's many virtues are underappreciated, and all-too-often overlooked. But that doesn't mean there's no room for improvement. Modernizing the DV can make good on 25 years of experience to get still more from a remarkable program.

Jeremy L. Neufeld is an Immigration Policy Analyst at the Niskanen Center, where he focuses on immigration policy, specifically on temporary and immigrant visas. Jeremy's work has been published in The Hill, Morning Consult, and RealClearPolicy. His research has been cited by many outlets, including Bloomberg, Slate, Vice, MSNBC, The Washington Examiner, The Hill, and McClatchy. Follow him on Twitter @JeremyLNeufeld.

Strengthen the American Refugee Program through Community Resettlement

Chris George

Events of the past four years have convinced me, and my refugee resettlement colleagues, that the best way to protect our noble American tradition of welcoming refugees is to build grass-roots public support.

Based on my 15 years of resettling refugees, I've learned that the best way to build this public support is to invite American citizens to have a hands-on role in refugee resettlement.

And the best way to engage millions of Americans is for the roughly 200 U.S. refugee agencies to train community groups across the country and place refugee families with them.

Engaging community groups to resettle refugees, commonly called "community sponsorship," is not only the most effective way to build public understanding and support for refugees, it diversifies communities. It also strengthens the nonprofit resettlement agencies by connecting them deeply with their surrounding communities and stimulating private support. The refugee families become integrated into American society. And, as we look to the future, community sponsorship can increase an agency's capacity to accept larger numbers of refugees.

Community sponsorship is not a new idea. For hundreds of years, our citizens, often through houses of worship, have welcomed and helped refugees. But since 1980, when the federal government took control of refugee resettlement and contracted a dozen or so private voluntary organizations to do the actual work, community participation has decreased.

Strict federal regulations and limited government funding led resettlement agencies to focus almost exclusively on providing required services: housing, healthcare referrals, school enrollment, English language training, and employment. Little time or funding remained for outreach. We feared talking with the press and kept a low profile to avoid the heated immigration debate. No wonder most Americans have never heard of the refugee program.

"Refugee resettlement has become increasingly politicized and refugees are now all-too-often viewed with suspicion and fear. Community-based resettlement offers an opportunity to engage community sponsors more actively and directly in the resettlement process, ease the integration of refugees into local communities, foster greater contact between community members and refugees, and improve public support for the program."

Over the past 40 years, the 200 U.S. refugee agencies, operating in almost every state, have welcomed more than three million refugees. We have done a good job of providing the basic services to refugees. But we have not educated or engaged Americans in the process. Some of my colleagues believe that resettling refugees is too sensitive and difficult for volunteers. But I have learned that with training and ongoing oversight from professional refugee resettlement staff, volunteers do an excellent job.

Nearly every refugee agency uses volunteers in various ways. Community sponsorship takes volunteering to a higher level. Full sponsorship involves an application process and training to prepare a group to do virtually all of the tasks normally done by the agency's professional staff. Close ongoing agency oversight ensures compliance with federal regulations.

Community volunteers come from all walks of life. They are usually retired or semi-retired, experienced, dedicated, and skilled people who know their community, school system, and potential employers; they are also excellent fundraisers. We have found that when you give a lot of responsibilities to a group of people, they take it seriously, do a great job, and find it very rewarding. As they help a family resettle in their community, they forge deep friendships, empathize with refugees' plight, and strongly support the U.S. refugee resettlement program.

Refugee outcomes are impressive. Regarding the U.S. refugee program's two main goals—self-sufficiency and integration—the sponsorship model excels. In Connecticut, where we've resettled 333 refugees with 49 community groups, sponsored refugees get jobs sooner than other refugees, and they integrate into their local communities faster.

In Canada—which is the world's leader in community-based resettlement—two million Canadians were directly involved in welcoming Syrian refugees in 2015 and 2016. Had the U.S. posted proportional numbers, we would enjoy so much public support for refugees that no elected official would dare dismantle the resettlement program.

We need to act now. Refugee organizations need to train their staff in community-based resettlement, promote the model to the public, and begin to recruit and train community groups. The State Department should require agencies to adopt this approach and use it with at least five percent of their cases.

The great American tradition of welcoming refugees—symbolized by the Statue of Liberty—is a joy to be shared by many and not limited to a handful of professionals. We can build strong public support by offering nearly every American an opportunity to welcome and resettle refugees if all refugee resettlement organizations adopt the model of community-based resettlement.

Chris George has been the executive director of IRIS – Integrated Refugee & Immigrant Services since 2005. Based in New Haven and operating state-wide, IRIS is Connecticut's largest refugee agency.

Unaccompanied Minors

Ashley Feasley

Since 2013, Americans have seen images on the nightly news of immigrant children waiting alone in Border Patrol stations or at the U.S./Mexico border with messages that their presence represents chaos, disorder, or a possible threat to the security of the U.S./Mexico border. The reality is that many of these children peacefully approach Border Patrol officers after fleeing their home countries seeking protection in the United States and that the U.S. government has an established and sophisticated program set up for their custody, care, family reunification, and repatriation.

“Unaccompanied alien children have been crossing into the U.S. for decades. Their visible arrival in larger numbers in the mid-2010s politicized their presence. Policy reforms are needed to strengthen this humanitarian program, improve the experience of the children and their sponsors, ease their integration into American communities, and improve the processes that permit and facilitate their arrival.”

Unaccompanied children are not a new migration phenomenon. Rather, they have been coming to the U.S. for over 20 years. The formal term “unaccompanied alien children” (UAC) was defined in the Homeland Security Act of 2002.⁶² The Department of Homeland Security (DHS) typically apprehends most UAC. They are then transferred into the custody of the Department of Health and Human Services’ (HHS) Office of Refugee Resettlement (ORR), placed in removal proceedings, and issued a “Notice to Appear” in immigration court. HHS/ORR custody provides UAC with food, shelter, clothing, and educational, medical, mental health, and case management services.⁶³ During their time with HHS/ORR, UAC often reunite with family members and other caregivers in the U.S. (“sponsors”) while they undergo immigration proceedings.

When talking about UAC, it is impossible not to address why these children—in particularly large numbers from El Salvador, Guatemala, and Honduras—are making the arduous journey alone to come to the U.S. UAC are overwhelmingly fleeing violence and other root causes of instability in their home country.⁶⁴ While poverty and desire to reunify with family are ongoing motivations to migrate, violence at home and at the community and state levels is a primary factor driving migration. Additionally, a lack of state protection as certain governments fail to

⁶² “Homeland Security Act of 2002,” H.R. 5005, 107th Congress, 2002, https://www.dhs.gov/sites/default/files/publications/hr_5005_enr.pdf

⁶³ “Overview of Existing Protections for Unaccompanied Children,” Justice For Immigrants, March 2017, <https://justiceforimmigrants.org/wp-content/uploads/2017/03/Overview-existing-protections-UAC-1.pdf>

⁶⁴ “Children on the Run,” UNHCR, 2012, <https://www.unhcr.org/children-on-the-run.html>

adequately protect children due to corrupt or inadequate law enforcement legal systems and limited child protection infrastructure is a large factor.

Policy experts looking to improve the care and safety for UAC and the cost of their care should consider the following recommendations:

Reinstate the Central American Minors Program and Address Root Causes of Violence: Implemented in 2014, the CAM program offered a refugee pathway for certain children who had family legally living in the United States.⁶⁵ This program was a step in the right direction in addressing the root causes driving UAC to the U.S.

Increase Home Studies and Post Release Services to Increase Child Safety: Some UAC receive home studies and post-release services by social services providers to ensure UAC are released into safe placements and facilitate family and community integration.⁶⁶ These practices promote child safety and help reduce the need for involvement with the public child welfare system and reduce human trafficking and exploitation vulnerability.

Ensure Legal Representation Where Pro Bono Is Not Available: Non-detained immigrants (such as most UAC) who have counsel are 5x more likely than those without representation to obtain immigration relief.⁶⁷ UAC are not entitled to court-appointed counsel and often have to navigate the complex legal system alone. Increasing legal representation will help to streamline our overwhelmed immigration courts.

Look to Uphold and Return to Implementing Existing Protections in the Trafficking Victims Protection Act: Very few UAC are being admitted to the United States due to the CDC order that prevents them from accessing protection.⁶⁸ Although service providers have noticed that COVID-19 precautions can be taken to ensure children don't lose protection, over 8,000 children have been denied protection that exists under U.S. laws.⁶⁹

Ashley Feasley is director of policy for Migration and Refugee Services at the U.S. Conference of Catholic Bishops (USCCB). Before USCCB, Ashley worked as the director of advocacy for the Catholic Legal Immigration Network

⁶⁵ "In-Country Refugee/Parole Program for Minors in El Salvador, Guatemala, and Honduras With Parents Lawfully Present in the United States", Bureau of Population, Refugees, and Migration, November 14, 2014, <https://2009-2017.state.gov/j/prm/releases/factsheets/2014/234067.htm>

⁶⁶ William Canny, "The Implications of the Reinterpretation of the Flores Settlement Agreement for Border Security and Illegal Immigration Incentives," September 18, 2018, <https://justiceformigrants.org/wp-content/uploads/2018/09/Final-USCCB-Written-Statement-Senate-HSGAC-9.18.18.pdf>

⁶⁷ Ingrid Eagly and Steven Shafer, "Access to Counsel in Immigration Court," American Immigration Council, September 2016, https://www.americanimmigrationcouncil.org/sites/default/files/research/access_to_counsel_in_immigration_court.pdf

⁶⁸ "Order Suspending Introduction of Certain Persons From Countries Where A Communicable Disease Exists," CDC and DHHS, March 2020, https://www.cdc.gov/quarantine/pdf/CDC-Order-Prohibiting-Introduction-of-Persons_Final_3-20-20_3-p.pdf

⁶⁹ Associated Press, "About 8,800 unaccompanied children are expelled at US border," ABC News, September 11, 2020, <https://abcnews.go.com/US/wireStory/8800-unaccompanied-children-expelled-us-border-72962135>

(CLINIC). She has taught at Fordham University School of Law and the Columbus School of Law at the Catholic University of America. Follow her on Twitter @ashleyfeasley.

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