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**VEPACHEDU EDUCATIONAL FOUNDATION**

**మన సంస్కృతి**

Mana Sanskriti (Our Culture)

Chief Editor: Dr. Sreenivasarao Vepachedu, Esq.

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## IMMIGRATION (Part I)

### Introduction



Animals and plants migrate, traveling to avoid bad weather, to find food, or to reproduce. As the old proverb goes, “birds of a feather flock together,” clusters of immigrant communities - people who share a language, origin, history, culture etc - are a characteristic of these migrations.

It's only natural for people with similar interests and backgrounds to hang out together.



When individuals self-organize into smaller groups of communities with a hierarchical structure, they are called tribes, castes or nationalities, depending upon the size of such communities. These groups allow repeated interaction, and the hierarchical structure provides incentives for loyalty and trust to

do business within the community, with punishments for defectors or traitors of the community. Entry barriers based upon “cultural” distinction such as prohibition of inter-marriages, sustain the cultural integrity of the community, as well as sustain cooperation among the members of the group.



However, these cultural entities must interact with other entities in a modern society, and



compete for the limited resources. This naturally results in conflicts and alliances, resulting in the control of the society or state by a successful community or a coalition of groups, while those communities

that are not in power wait for their opportunities to grab the power. Even if all groups acknowledge that all individuals are equal, the differences among the groups result in certain inequalities, however small they may be, which contribute to the emergence of elites in a group and elite



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groups in a society or state, naturally. Once such tribal entities and states are formed, newcomers to that entity or state form a separate group, the immigrants, which by nature will be diverse. Each of these new immigrant groups retain their culture and yet try to assimilate in the larger society or state<sup>(2)</sup>, bringing their rich and diverse cultures to their new homes.

Thus, migration<sup>(3)</sup> has contributed to the richness in diversity of cultures, ethnicities and races around the world. This is true for the Old World as well as for the New World. Due to the past colonial rules of empires, similar diversities are observed in the Old World countries such as the UK and France, along with discrimination against certain communities, e.g., Jewish, Romano and other immigrants to these countries faced discrimination in the past, and many continue to face such discrimination in the 21<sup>st</sup> century. In the new world, America presents an amazing diversity of cultures, enrichment and increase in population, but with many discriminatory practices and exploitations, naturally.

### **Immigration and Emigration**

Migration has two components or sides, i.e., immigration and emigration, depending upon the perspective of the observer. Immigration is an influx of non-citizens into a country across the borders, while emigration is outflow of citizens of a country across the borders. For example the Mexican immigrants into the US are the emigrants from Mexico, the Indian immigrants into the US are emigrants from the Indian Continent, and so on. The country into which immigration takes place gains population, mostly able bodied, hard working and in some case educated labor, in all services and industries, while the country from which emigration takes place loses the same.

Motivations of immigrants are as varied as the diversity of the groups. In general, migrations are a result of certain aspirations of individual that are not met effectively their native places. This is akin to urbanization within a country, as the migrant rural laborers seek better life in the cities. Natural calamities such as draught or floods, and manmade calamities such as wars and persecutions also cause migrations.

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Immigration is supported by various countries that have natural resources and are in need of labor force, and emigration is supported by various countries that have a surplus of such labor force and scant natural resources. Governments of these countries develop policies to encourage a certain types of migrants that suit their national interests and political agendas.

For example, the United States of America provides a wide variety of permits to enter the country, which can be classified into two major categories, non-immigrant visa<sup>(5)</sup> and immigrant visas. Each of these categories has numerous visas with different eligibilities for the prospective applicants. Certain visas are very limited to certain countries and it is very difficult for the citizens of these countries to enter the US.

Nowadays, it has become fashionable to talk about “illegal immigrants” in the United States. It appears as if the immigration has two categories, legal and illegal immigration. However, this is based on the ignorance and entrenched stereotypes. Legal and illegal immigration are the two sides of the same coin, because a legal immigrant, i.e., an alien who has proper authorization to enter the US, can become the so-called “illegal immigrant” overnight by certain commissions or omissions, such as failing to file the required documents on or before the deadline or it could be as simple as “lost documentation” in the immigration office, whereby no record of required papers exists with the immigration office resulting in the “loss of status,” until reinstated by the office.

Sometimes the cultural differences may contribute to confusion resulting in breaking certain laws, leading to loss of status. For example, many newcomers to the US do not realize that seemingly minor crimes can have very serious immigration, as well as criminal, consequences. Open displays of merchandise in the United States, monitored by hidden video cameras, presents a tempting opportunity to pick up a few small items, which may prove fatal to the thief if caught. Shoplifting may result in criminal penalties along with the potential loss of ability to stay in or enter the US. Once such record exists, the thief of an item worth only few dollars will lose the status and become the so-called “illegal immigrant.”

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Another example is the loss of job, in the cyclical economy with booms and busts, through a lay off or for any other reason. For a citizen, it is very distressing, but a non-citizen's loss of a job not only results in the distress and depression, but also results in the loss of status if the individual fails to procure another job to file proper documentation within the allowed time for such opportunity. The loss of status "through no fault of their own"<sup>(4)</sup>, non-citizens become not only jobless, but also become the so-called "illegal immigrant." For example, an H1 worker must be working for the employer who sponsored the H1 visa and must be earning full salary as per the LCA to maintain H1 status. The employer has no obligation to keep the H1 worker employed per agreement, and free to terminate. H1 workers should get legally the same benefits as US citizens, in terms of severance package, and in addition, the employer must pay return flight expenses to send the employee and dependents back to their native country. There is no grace period for the H1 status, because the H1 visa terminates along with the job. Therefore, a H1 worker must obtain another visa such as a visitor visa so that the worker maintains legal status and not become the so-called "illegal immigrant." Many so-called illegal immigrants are such workers brought into the US and become illegal through no fault of their own. In 2012, there were about 1,364,453 workers or 14% of the total undocumented workers with a bachelor's degree or higher<sup>(6)</sup>. About 40 per cent (i.e., about 5 million workers) of the so-called illegal immigrants in the US are those workers who lost their status, and stayed looking for jobs<sup>(7)</sup>. They did not enter the US "illegally." They were legal immigrants who lost their status in the complicated and convoluted immigration process.

### **The Illegal Immigrant, the Victim of One of the Most Heinous Crime**

Who are really "the illegal immigrants?" The illegal immigrants are the victims of one of the most heinous crime, "the human trafficking," which is akin to modern-day slavery, in its worst manifestation. Victims pay to be illegally transported into the United States only to find themselves in the thrall of traffickers. They are forced into prostitution, involuntary labor and other forms of servitude to repay debts – often incurred during entry into the United States. In certain cases, the victims are mere children. They find themselves surrounded by an unfamiliar culture and language without identification documents, fearing for their lives and the lives of their families.

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Trafficking in Persons is defined as sex trafficking in which a commercial sex act is induced by force, fraud or coercion, or in which the person induced to perform such act has not attained 18 years of age; or the recruitment, harboring, transportation, provision or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery.

Therefore, “the illegal immigrants” are the victims of the most heinous crime. Punishing such victims is worse than the crime itself, and is the most inhumane and heinous crime. Therefore, the US Immigration and Customs Enforcement (ICE) recognizes that severe consequences of human trafficking continue even after the perpetrators have been arrested and held accountable. ICE’s Victim Assistance Program <sup>(8)</sup> helps coordinate services to help human trafficking victims, such as crisis intervention, counseling and emotional support.

According to 18 U.S.C. § 2421, the punishment for knowingly transporting or attempting to transport any person in U.S. territory with intent to engage such person in prostitution is fine or imprisonment for not more than 10 years or both<sup>(9)</sup>.

Human smuggling is the importation of people into a country via the deliberate evasion of immigration laws. This includes bringing illegal aliens into a country, as well as the unlawful transportation and harboring of aliens already in a country illegally. Some smuggling situations may involve murder, rape and assault.

The Intelligence Reform and Terrorism Prevention Act of 2004 established the Human Smuggling and Trafficking Center. The Center serves as a clearinghouse for all information related to human smuggling and trafficking. Subject-matter experts with expertise in intelligence analysis, law enforcement collaboration and support and diplomacy staff the Center<sup>(10)</sup>.



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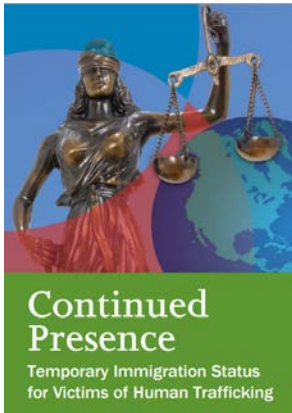
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Trafficking victims are eligible to self-petition to USCIS for T and U nonimmigrant status which permits them to remain in the U.S. for up to four years and can lead to lawful permanent residence. These applications may require a law enforcement certification. Federal, state and local law enforcement should, upon request, provide law enforcement certifications for human trafficking victims. USCIS will complete a comprehensive review of these applications prior to adjudication.

Human traffickers may employ a range of non-violent forms of coercion to hold victims against their will such as threats of deportation, document control and psychological coercion. ICE is the lead DHS law enforcement agency that investigates human trafficking crimes. ICE places a priority on human trafficking investigations, recognizes victims of human trafficking as crime victims and secures access for victims to the rights and benefits afforded them under the Trafficking Victims Protection Act (TVPA).

Continued Presence (CP)<sup>(11)</sup> is a temporary immigration status provided to individuals identified by law enforcement as victims of human trafficking. This status allows victims



of human trafficking to remain in the U.S. temporarily during the ongoing investigation into the human trafficking-related crimes committed against them. CP is initially granted for one year and may be renewed in one-year increments. CP is authorized under provisions of section 107(c)(3) of the TVPA, which has since been reauthorized, and is codified at 22 U.S.C. § 7105(c)(3). CP is an important tool for federal, state and local law enforcement in their investigation of human trafficking related crimes. Victims of human trafficking often play a central role in building a case against a trafficker. CP affords victims a legal means to temporarily live and work in the U.S., providing them a sense of stability and protection. These conditions

improve victim cooperation with law enforcement, which leads to more successful prosecutions and the potential to identify and rescue more victims.

Project STAMP<sup>(12)</sup> shuts down human smuggling/trafficking organizations by identifying and seizing assets, monies and proceeds derived or used in support of criminal activity.

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Federal laws permit law enforcement to charge individuals involved in smuggling, peonage, slavery and human trafficking with money laundering violations. These enhanced penalties can be an important determining factor for an assistant U.S. attorney when deciding whether or not to federally prosecute human trafficking/smuggling violators.

Human smuggling and trafficking have become a world-wide industry that ‘employs’ every year millions of people and leads to the annual turnover of billions of dollars. Many of the routes and enclaves used by the smugglers have become institutionalized; for instance, from Mexico and Central America to the United States, from West Asia through Greece and Turkey to Western Europe, and within East and Southeast Asia. More often than not flourishing smuggling routes are made possible by weak legislation, lax border controls, corrupted police officers, and the power of the organized crime. Naturally, poverty and warfare contribute to the rising tide of migration, both legal and illegal. In general, *illegal migration seems to be increasing due to the strict border controls combined with the expansion of the areas of free mobility, and the growing demographic imbalance in the world.*

### Punishment and Victimization of Victims

*Secondary victimization refers to behaviors and attitudes of social service providers that are "victim-blaming" and insensitive, and which traumatize victims of violence and crime.*

Protecting America is more than just a responsibility for government agencies; it’s a shared mission for all Americans. The importance of private sector partnership in this shared mission cannot be overstated. There are several ways individuals and businesses can help. It is important to understand that illegal immigration and human trafficking are two sides of the same coin – human rights violation. Trafficking through illegal immigration of victims by the perpetrators is associated with exploitation and slavery at the destination, usually the United States of America, accompanied by serious human rights



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violations. Punishing<sup>(13)</sup> the victims of the modern-day slavery - human trafficking is nothing but forgetting the roots, tradition and history of this immigrant nation, and definitely is not a way to help.

### Immigrants and Jobs

Total undocumented immigrant population is estimated to be about 12 m, 3.75 % of the total population of 320 m. Both legal and the *so-called illegal* or undocumented immigrants is about 13 percent, i.e., about 41 m. Immigrant workers per Census Bureau data collected from 2005 to 2007<sup>(14)</sup>:

- Maids and housekeepers: 45 percent
- Taxi drivers and chauffeurs: 42 percent
- Butchers and meat processors: 37 percent
- Grounds maintenance workers: 45 percent
- Construction laborers: 45 percent
- Porters, bellhops, and concierges: 29 percent
- Janitors: 25 percent

The above data clearly indicates that the immigrants take up the above jobs disproportionately higher than their percentage in the total population, proving the often-made argument that immigrants only do jobs natives don't want.

(To be continued)

### REFERENCES AND NOTES

<sup>(1)</sup> Dr. Rao Vepachedu is the Managing Director at Cardinal Risk Management and registered patent attorney with extensive experience in the management of intellectual property and extensive experience in research and teaching. He currently works for Cardinal Intellectual Property (CIP), Cardinal Risk Management (CRM), and Cardinal Law Group (CLG). In addition, he is the president of Vepachedu Educational Foundation Inc. ([www.vepachedu.org](http://www.vepachedu.org)), a 501(c) (3) educational foundation. For more information visit: [www.linkedin.com/in/vepachedu](http://www.linkedin.com/in/vepachedu); <http://www.avvo.com/attorneys/60201-il-sreenivasarao-vepachedu-764535.html>, and <http://www.crm-ip.com/vepachedu.html>. Contact: [svepachedu@yahoo.com](mailto:svepachedu@yahoo.com) or [rao.vepachedu@cardinal-ip.com](mailto:rao.vepachedu@cardinal-ip.com); [www.linkedin.com/in/vepachedu](http://www.linkedin.com/in/vepachedu) and <http://www.crm-ip.com/vepachedu.html>;

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(7) 40 per cent of illegal immigrants in the US are overstayers: <http://www.workpermit.com/news/2015-08-04/40-per-cent-of-illegal-immigrants-in-the-us-are-overstayers>  
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(11) Continued Presence: <https://www.ice.gov/doclib/human-trafficking/pdf/continued-presence.pdf>  
(12) Project STAMP: <https://www.ice.gov/stamp>  
(13) Denied admission into US:

| Title                               | Citation                                    | Excerpt  | Punishment               |
|-------------------------------------|---|--|--------------------------|
| <a href="#">Inadmissible aliens</a> | Title 8 Ch. 12 Sub Ch. II Part II Sec. 1182 | "Any alien who-- (i) is coming to the United States solely, principally, or incidentally to engage in prostitution, or has engaged in prostitution within 10 years of the date of application for a visa, admission, or adjustment of status...is inadmissible." | Denied admission into US |

In all states where prostitution is illegal, the intentions of the would-be client are irrelevant—the alleged prostitute can be convicted even if that client doesn't actually intend to participate in any sexual contact. <http://www.criminaldefenselawyer.com/crime-penalties/federal/Prostitution.htm>

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It's not just Donald Trump: Half of Republicans share his views on immigrants and refugees:

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Mana Sanskriti (Our Culture)

Chief Editor: Dr. Sreenivasarao Vepachedu, Esq.

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*Om! Asatoma Satgamaya, Tamasoma Jyotirgamaya, Mrityorma Amritamgamaya, Om Shantih, Shantih, Shantih! (Aum! Lead the world from wrong path to the right path, from ignorance to knowledge, from mortality to immortality, and peace!)*

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