



Why Don't They Just Get In Line? There Is No Line for Many Unauthorized Immigrants

Many Americans wonder why all immigrants do not just come to the United States legally or simply “get in line” if they are unauthorized. These suggestions miss the point: There is no line available for unauthorized immigrants and the “regular channels” do not include them.

No “line” is available for the vast majority of unauthorized immigrants.

Immigration to the United States on a temporary or permanent basis is generally limited to three different routes: employment, family reunification, or humanitarian protection.¹ While the U.S. immigration system is generous, each of these possibilities is highly regulated and subject to numerical limitations and eligibility requirements. Most unauthorized immigrants do not have the necessary family or employment relationships and often cannot access humanitarian protection, such as refugee or asylum status.

Employment-based immigration requires a U.S. employer to request specific foreign workers.

To come to the United States for employment purposes—either temporarily or permanently—foreign workers must generally have a job lined up with an eligible employer who will sponsor them.² An employer can request permission to bring in specific qualified foreign workers, but only if they meet the requirements, such as job skills and education level, and if the employer cannot find a qualified U.S. worker to take the job first. Most of the qualifying professions for permanent immigration require high levels of education and professional experience, such as scientists, professors, and multinational executives.³ There is a limited number of temporary visas for highly skilled or internationally recognized workers. There are also temporary, seasonal opportunities for agricultural workers and certain other “less skilled” workers.⁴ In most of these cases, an employer must petition for the worker.

Family-based immigration is limited to certain close family relationships and is numerically restricted.

Qualified family members in the United States can seek permission to bring in certain eligible foreign-born family members. U.S. citizens can petition for their spouses, parents, children, and siblings.⁵ Lawful Permanent Residents (LPRs, or “green card” holders) can petition for their spouses and unmarried children.⁶ There are always visas available for the spouses, parents, and minor children of U.S. citizens, but for all other family

categories there are annual numerical limits. In all cases, the petitioning family member in the United States must demonstrate an income level above the poverty line and must commit to support the family member they are seeking to bring to the United States. The foreign-born persons wishing to immigrate must meet eligibility requirements as well.⁷

Most people fleeing their home countries cannot access humanitarian protection.

Each year the United States sets a numerical limit on how many refugees will be admitted for humanitarian reasons.⁸ To be admitted as refugees, individuals must be screened by multiple international and U.S. agencies and prove that they have a “well-founded fear of persecution based on race, religion, membership in a particular social group, political opinion, or national origin.”⁹ Asylum seekers are individuals already in the United States who fear returning to their home countries, and they must prove they meet the definition of a refugee.¹⁰ An immigrant does not qualify as a refugee or an asylee because of poverty or difficult economic conditions in their home country. There are limited forms of temporary humanitarian protection available, but these are rare.¹¹

Even those who can get in line are subject to long backlogs and waits.

The demand from both family members and workers who want to immigrate to the United States is typically higher than the number of slots available each year. In addition, there is a maximum number of employment-based and family-sponsored preference visas that can be issued to citizens of any one country in a single fiscal year.¹² No country can receive more than seven percent of the visas available for the year.¹³ This results in significant backlogs for most family members and some workers hoping to enter the United States legally, with some immigrants from certain countries waiting decades.

As of May 2016, for most countries, unmarried children of U.S. citizens must wait more than five years and siblings of U.S. citizens must wait more than 10 years. People from countries with high levels of immigration to the United States—Mexico, China, India, and the Philippines—generally have longer waiting times. For example, married children of U.S. citizens from Mexico must wait more than 20 years for a visa to become available, and Filipino siblings of U.S. citizens currently wait about 25 years.¹⁴

There is a limited lottery for certain countries.

If a person who wishes to immigrate to the United States does not qualify under the family, employment, or humanitarian systems, there may be one more legal path. The annual Diversity Visa program makes 55,000 green cards available to persons from countries with low rates of immigration to the United States. People from Mexico, China, the Philippines, India, and other countries with higher levels of immigration to the United States are not eligible.¹⁵ To qualify, applicants must have a high school education and two years of job experience. Since millions of people around the world apply each year, the chances of obtaining a visa through the lottery are extremely low.¹⁶

Conclusion

Unauthorized immigrants who want to regularize their status in this country cannot just “get in line.” There are lines, but a large number of aspiring immigrants are not eligible to be in any of them. Even if a prospective immigrant does meet the formal requirements to immigrate, the wait can be very long if she or he is applying from countries that are currently oversubscribed.

Endnotes

1. American Immigration Council, “How the U.S. Immigration System Works: A Fact Sheet,” updated March 1, 2014, <http://www.immigrationpolicy.org/just-facts/how-united-states-immigration-system-works-fact-sheet>.
2. U.S. Citizenship and Immigration Services, “Working in the U.S.,” updated September 11, 2015, <https://www.uscis.gov/working-united-states/working-us>.
3. U.S. Citizenship and Immigration Services, “Permanent Workers,” updated July 15, 2013, <https://www.uscis.gov/working-united-states/permanent-workers>.
4. U.S. Citizenship and Immigration Services, “Temporary (Nonimmigrant) Workers,” updated September 7, 2011, <https://www.uscis.gov/working-united-states/temporary-nonimmigrant-workers>.
5. U.S. Citizenship and Immigration Services, “Green Card Through Family,” updated May 13, 2011, <https://www.uscis.gov/green-card/green-card-through-family>.
6. Ibid.
7. American Immigration Council, “How the U.S. Immigration System Works: A Fact Sheet,” updated March 1, 2014, <http://www.immigrationpolicy.org/just-facts/how-united-states-immigration-system-works-fact-sheet>.
8. Andorra Bruno, *Refugee Admissions and Resettlement Policy*, (CRS Report No. RL31269) (Washington, DC: Congressional Research Service, February 18, 2015), <https://www.fas.org/sgp/crs/misc/RL31269.pdf>.
9. U.S. Department of State, “U.S. Refugee Admissions Program FAQs,” May 31, 2013, <http://www.state.gov/j/prm/releases/factsheets/2013/210135.htm>.
10. U.S. Citizenship and Immigration Services, “Asylum,” updated August 6, 2015, <https://www.uscis.gov/humanitarian/refugees-asylum/asylum>.
11. American Immigration Council, “How the U.S. Immigration System Works: A Fact Sheet,” updated March 1, 2014, <http://www.immigrationpolicy.org/just-facts/how-united-states-immigration-system-works-fact-sheet>.
12. Ruth Ellen Wasem, *U.S. Immigration Policy on Permanent Admissions*, (CRS Report No. RL32235) (Washington, DC: Congressional Research Service, March 13, 2012), 3, <https://www.fas.org/sgp/crs/homesecc/RL32235.pdf>.
13. INA § 202(a)(2), 8 U.S.C. § 1152(a)(2). There are exceptions to this limit, mainly in the area of family-based immigration. For example, 75% of the second family preference immigrants are exempt from the per-country limit. See Ibid.
14. U.S. Department of State, “Visa Bulletin for July 2016,” June 8, 2016, <https://travel.state.gov/content/visas/en/law-and-policy/bulletin/2016/visa-bulletin-for-july-2016.html>.
15. U.S. Citizenship and Immigration Services, “Green Card Through the Diversity Immigrant Visa Program,” updated February 14, 2014, <https://www.uscis.gov/green-card/other-ways-get-green-card/green-card-through-diversity-immigration-visa-program/green-card-through-diversity-immigrant-visa-program>.
16. Ibid.