



**CALIFORNIA RURAL LEGAL
ASSISTANCE FOUNDATION**

Advocates for Justice

Impact of Immigration Status on Legal Rights

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CRLAF's Priority Areas



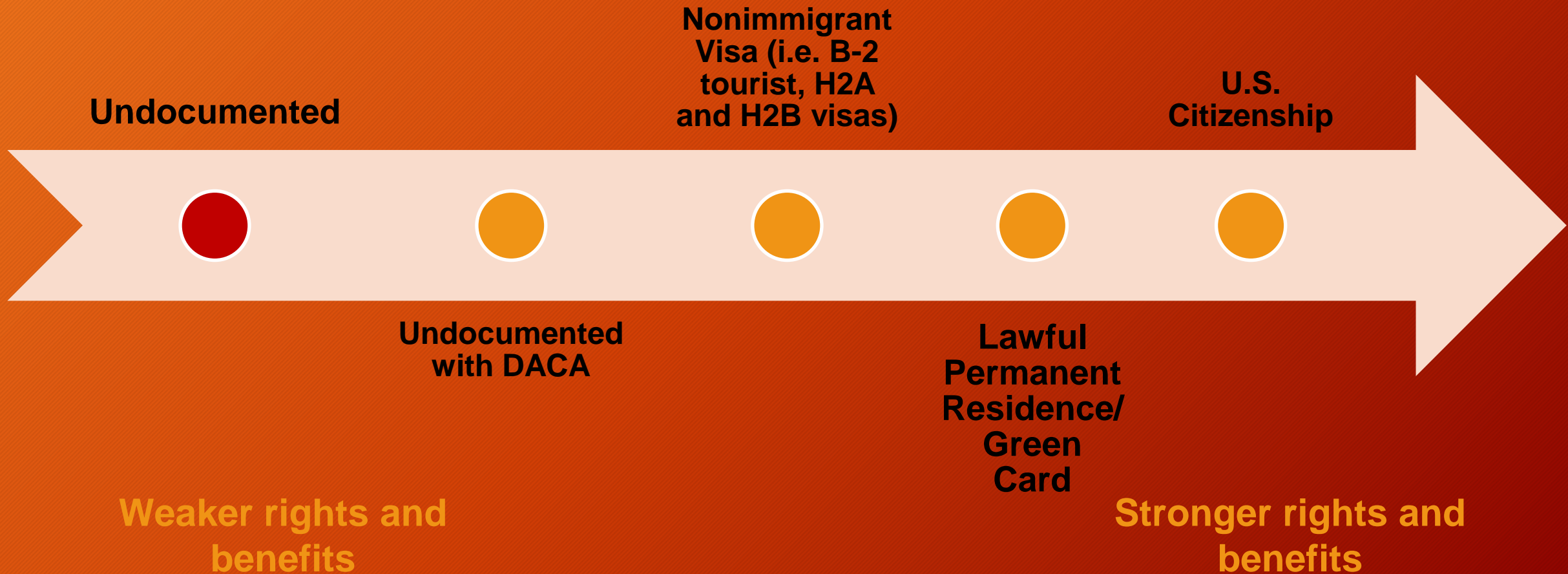
- Border and Human Rights
- Citizenship & Immigration
- Education Equity
- Environmental Justice
- Labor & Employment
- Pesticides & Work Health and Safety
- Rural Health
- Rural Housing
- Worker Rights

CRLAF's Projects



- Labor & Employment
- Legal Support
- Legislative Advocacy
- Litigation
- Pesticides, Work Health & Safety
- Special Projects
- Sustainable Rural Communities Project
- Citizenship & Immigration
- Family Unity, Education and Legal Network (FUEL)
- Removal Defense
- Immigrant Health Equity Project

Immigration Status: A Spectrum



Defining “Undocumented”



- An undocumented individual is a non-U.S. citizen living in the U.S. without authorization
 - no current immigration status issued by the federal government.
 - (1) entered without lawful status/without inspection or
 - (2) entered with a valid visa or other status and overstayed the authorized duration of that status
 - (3) includes childhood arrivals (DACA) and
 - (4) individuals currently in the process of regularizing immigration status

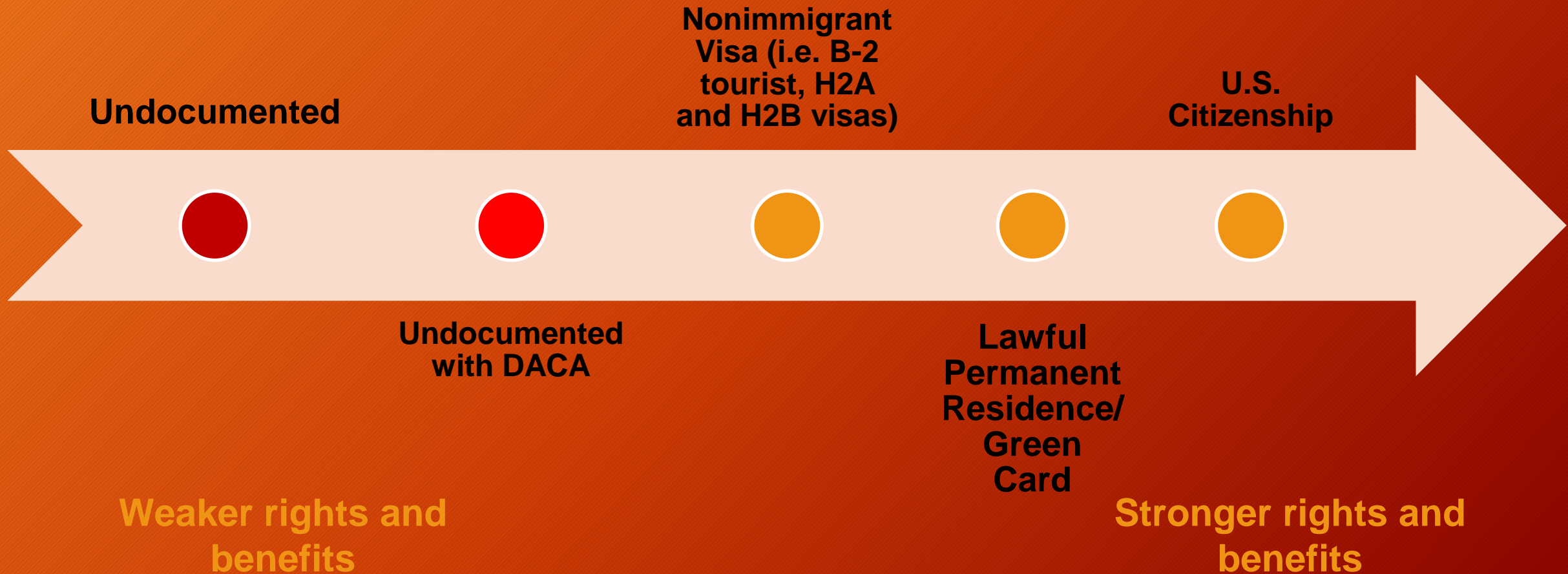
Undocumented Status



Generally, undocumented individuals:

- Are vulnerable to being detained and/or deported
- Do not have permission to work
- Cannot leave the United States and return
- Cannot obtain Social Security numbers
- Cannot obtain driver licenses in most states
- Are ineligible for most public benefits

Immigration Status: A Spectrum



Derred Action for Childhood Arrivals (DACA)



- Program started in 2012 to provide protection and benefits to childhood arrivals and that provides:
 - Temporary relief from deportation
 - Work authorization
 - Social security card
 - Regular driver license in California
- Government is NOT approving DACA initial applications
- Renewals applications continued to be accepted for those with DACA
 - DACA must be renewed every two years
 - \$495 application fee

Employment-Related Protections for DACA Recipients



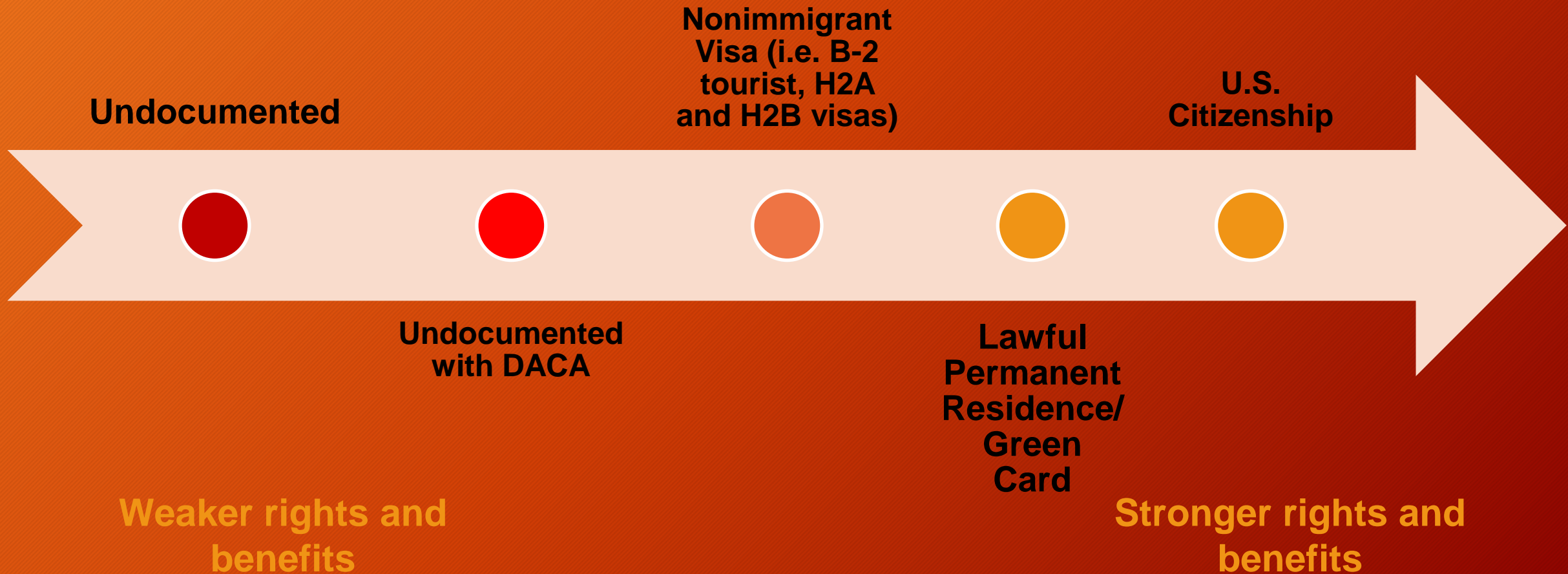
- Work authorization is valid until DACA expiration
- An individual's Social Security Number will always remain theirs, regardless of what happens to DACA or their immigration situation.
- DACA recipients do not have an affirmative obligation to tell their employer about changes to DACA.
- An employee's supervisor does not have the right to ask whether they have DACA or how they received their work authorization.
- An employer does not have the right to fire an employee just because they have DACA or because of changes to DACA.

DACA Status



- DACA is not immigration status. It is prosecutorial discretion.
- DACA does NOT provide a pathway to LPR status or U.S. citizenship.
- NOT guaranteed, even when an applicant meets all the requirements.
- NOT permanent; it can be terminated at any time at the agency's discretion.

Immigration Status: A Spectrum



Non-Immigrant Visas

Non-immigrant visas (lawful status in the US):

- B-1 visitor for business
- B-2 visitor for pleasure
- F-1 student visa
- H-2A
- H-2B
- T
- U



Possible Immigration Remedies That Can Lead To Lawful Permanent Resident Status



If you are undocumented, there are few immigration remedies, even if you have been in the U.S. for a long time.

Some remedies are:

- Family Petition
- VAWA
- Asylum
- Temporary Protected Status
- SIJS
- Employment Based Visas
- Cancellation of removal (a defense to removal, not an affirmative benefit)

Family-Based Visa



- Requires a qualifying relative to petition for you
- Visa must be immediately available
- Must prove you are admissible to the United States
- If entered the United States without inspection, you are generally not eligible to apply for adjustment of status in the United States unless you qualify under 245 (i). If depart, can be subject to inadmissibility bars:
 - 3 year bar
 - 10 year bar
 - Permanent bar

Family-Based Visa Priority Dates



FAMILY-SPONSORED PREFERENCES

First: (F1) Unmarried Sons and Daughters of U.S. Citizens

Second: Spouses and Children, and Unmarried Sons and Daughters of Permanent Residents

A. (F2A) Spouses and Children of Permanent Residents

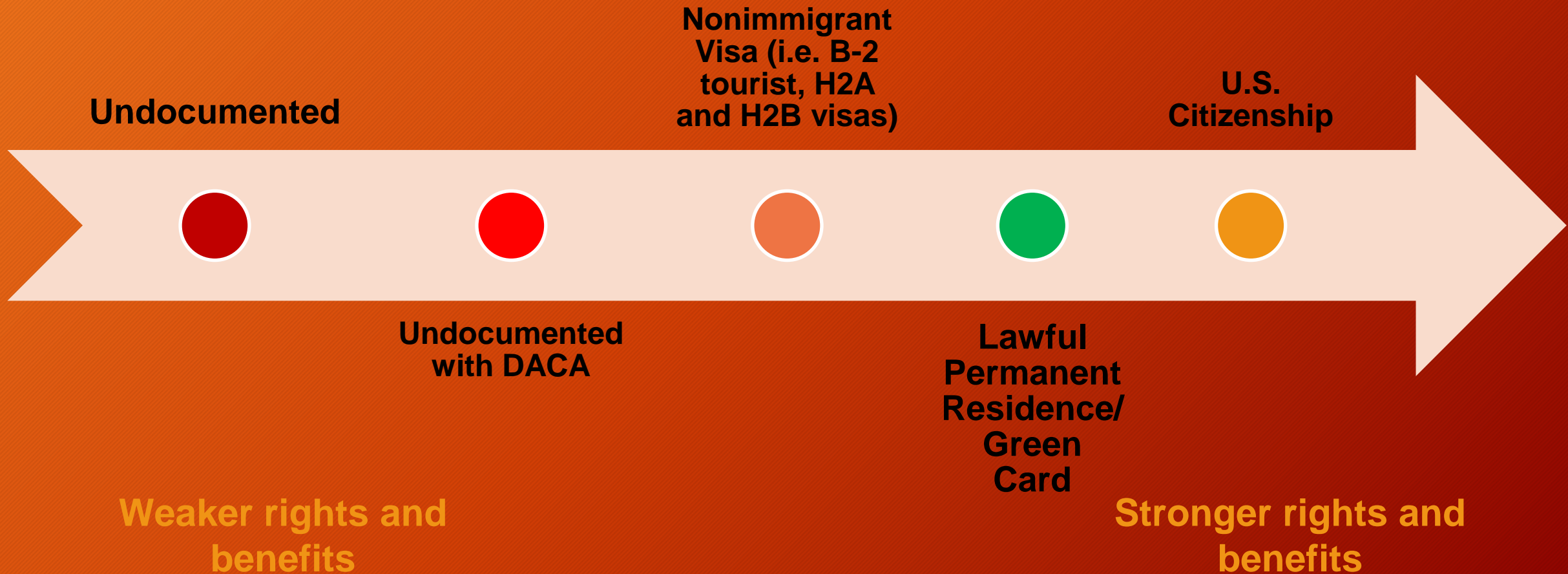
B. (F2B) Unmarried Sons and Daughters (21 years of age or older) of Permanent Residents

Third: (F3) Married Sons and Daughters of U.S. Citizens

Fourth: (F4) Brothers and Sisters of Adult U.S. Citizens

Family-Sponsored	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
F1	15DEC14 9 yr. wait	15DEC14 9 yr. wait	15DEC14 9 yr. wait	01APR01 22 yr. wait	01MAR12 11 yr. wait
F2A	08SEP20 3 yr. wait	08SEP20 3 yr. wait	08SEP20 3 yr. wait	01NOV18 5 yr. wait	08SEP20 3 yr. wait
F2B	22SEP15 8 yr. wait	22SEP15 8 yr. wait	22SEP15 8 yr. wait	01JUN01 22 yr. wait	22OCT11 12 yr. wait
F3	08DEC08 15 yr. wait	08DEC08 15 yr. wait	08DEC08 15 yr. wait	01NOV97 26 yr. wait	08JUN02 21 yr. wait
F4	08APR07 16 yr. wait	08APR07 16 yr. wait	12SEP05 18 yr. wait	01AUG00 23 yr. wait	22AUG02 21 yr. wait

Immigration Status: A Spectrum



Lawful Permanent Residents

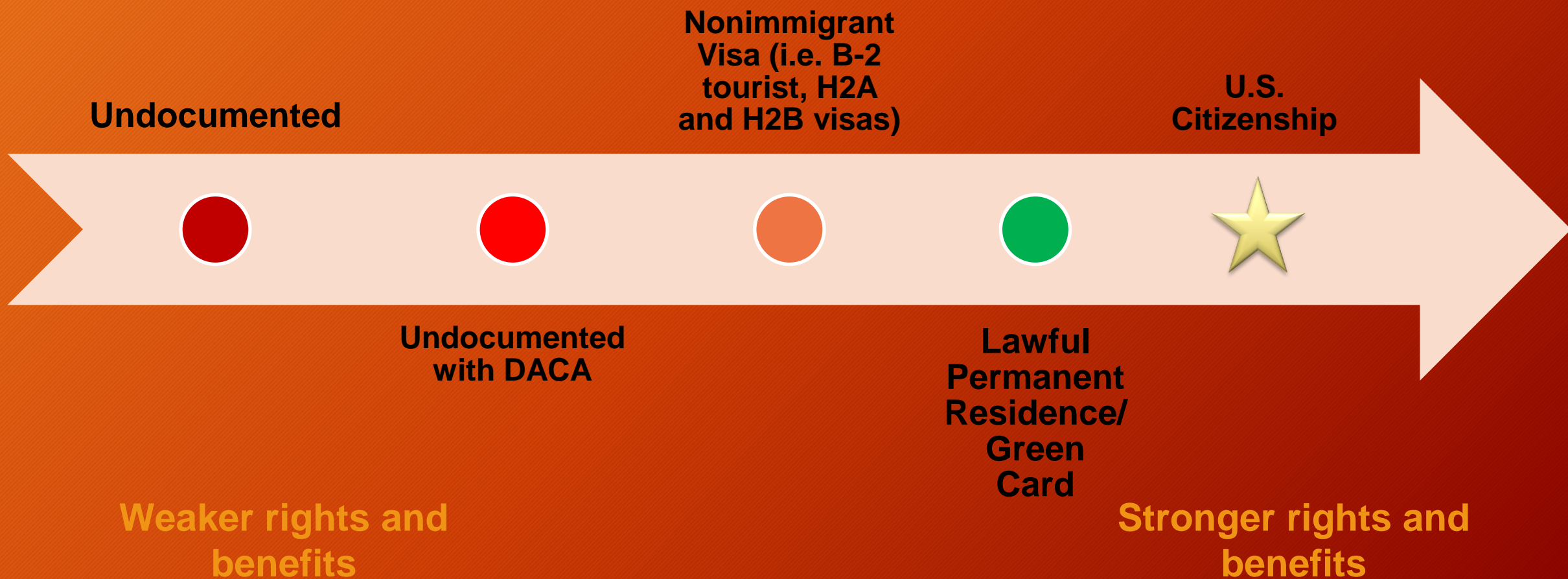


Benefits of LPR status

- Pathway to US citizenship within 3 to 5 years
- Work authorization
- Federal financial aid and other benefits
- Travel abroad (best if less than 6 months at one time)
- Petition for spouse and unmarried children
- Status does not expire but must renew LPR card every 10 years
- Note: LPR status can be lost if violate conditions of LPR status



Immigration Status: A Spectrum



Citizenship is the Best Form of Protection



- Benefits to U.S. Citizenship
 - Cannot be deported
 - Right to vote
 - Right to travel indefinitely
 - Right to apply for government jobs
 - Apply for immigrant visas for certain relatives
 - Access to unrestricted public benefits

Rights & Benefits of U.S. Citizens



- Authorization to work
- Eligibility for federal financial aid
- Free, public K-12 education
- Can leave the U.S. and return
 - Without time restrictions
- Can petition certain family members to immigrate
 - Including immediate relatives without much delay
- Eligibility for public assistance
 - Without waiting periods
- Authorization to be in the U.S.
 - Permanently
 - Not subject to potential detention and/or deportation by ICE
- Can vote in U.S. elections and serve on juries

Rights & Benefits of Lawful Permanent Residents



- Authorization to work
- Eligibility for federal financial aid
- Free, public K-12 education
- Can leave the U.S. and return
 - ~~Without time restrictions~~
- Can petition certain family members to immigrate
 - ~~Including immediate relatives without much delay~~
- Eligibility for public assistance
 - ~~Without waiting periods~~
- Authorization to be in the U.S.
 - Permanently
 - ~~Not subject to potential detention and/or deportation by ICE~~
- ~~Can vote in U.S. elections and serve on juries~~
- Pathway to citizenship

Rights & Benefits of Undocumented Immigrants



- ~~• Permission to work~~
- ~~• Eligibility for federal financial aid~~
- **Free, public K-12 education**
- ~~• Can leave the U.S. and return~~
 - ~~• Without time restrictions~~
- ~~• Can petition certain family members to immigrate~~
 - ~~• Including immediate relatives without much delay~~
- ~~• Eligibility for most forms of public assistance~~
 - ~~• Without waiting periods~~
- ~~• Authorization to be in the U.S.~~
 - ~~• Permanently~~
 - ~~• Not subject to potential detention and/or deportation by ICE~~
- ~~• Can vote in U.S. elections and serve on juries~~
- ~~• Pathway to citizenship~~

Noncitizens and Legalized Marijuana



- As of May 2021, 36 states and the District of Columbia have legalized medical marijuana.
 - 18 states and the District of Columbia also have legalized recreational marijuana for adults (over the age of 21).
- For immigration purposes, it is federal law that controls, and it remains a federal offense to possess marijuana.
- A noncitizen who admits to an immigration official that they possessed marijuana can be found inadmissible, denied entry into the United States, or have their application for lawful status or naturalization denied.
- Depending on the circumstances, it can make a lawful permanent resident deportable.

Noncitizens and Legalized Marijuana, cont.



- Employment in the legitimate cannabis industry can result in the following penalties:
 - Inadmissible because the government has reason to believe the person participates in drug trafficking, INA § 212(a)(2)(C)
 - Since the company's goal is to sell a controlled substance, employment provides reason to believe that any employee - even one with no contact with marijuana - aids and abets trafficking.
 - Inadmissible for admitting a controlled substance offense, such as handling or preparing marijuana. INA § 212(a)(2)(I)(ii)
 - According to the USCIS Policy Manual, employment in the cannabis industry (like admission of conduct) is a bar to establishing good moral character required for naturalization, even if it is legal under state law.

Noncitizens and Legalized Marijuana, cont.



- Federal law has no marijuana exceptions for medical use.
- It is a federal offense to possess, give away, sell, cultivate, import or export marijuana.
- A conviction relating to marijuana can make a noncitizen deportable, inadmissible, temporarily barred from establishing good moral character, and/or an aggravated felon.
 - There is one exception: possession of 30 grams or less for personal use does not cause deportability but can cause inadmissibility under the controlled substance ground.
- Under INA § 101(f)(3), a person cannot establish good moral character (GMC) if, during the time for which GMC must be shown, they admit to or are convicted of a controlled substance violation.
- Sale and possession for sale of marijuana is considered “drug trafficking” and if convicted, is considered an aggravated felony.

Noncitizens and Legalized Marijuana, cont.



- Advice to noncitizens:
 - Don't use or work in the cannabis industry until you are a U.S. citizen.



Questions?

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