

An Open Letter to President Obama and to All Members of Congress

We urge you to create a humane and just immigration process that provides a clear roadmap to citizenship for the 11 million aspiring citizens and dignifies the individual and our nation by ensuring access to affordable health care and needed nutrition assistance. We believe that reform of our immigration system is a moral and economic imperative. This is true for the millions of aspiring citizens caught in the morass of a broken system; for those of us whose family, friends, neighbors, schools, congregations and communities include these individuals; and for achieving a stronger, more prosperous nation.

It is well established that immigrants help fuel the U.S. economy with their hard work and entrepreneurship. They contribute to the national treasury and are needed to shore up Social Security and Medicare. Our population is aging and our labor force increasingly depends upon immigrants and their children.

A new immigration system with a roadmap to citizenship will bring aspiring citizens out of the shadows so that they and their families may fully and equally participate in the life of our nation. Doing so not only will help immigrants but will profoundly benefit the community at large. It will enable economic growth and ground our national policy in the values we cherish. This is our opportunity to live up to our nation's promise of the unalienable rights of "Life, Liberty and the pursuit of Happiness."

To acknowledge the inherent value and dignity of all human beings and to invest in our future, we must commit to ensuring their health and wellbeing. We ask our leaders to pass a national immigration law grounded in our most cherished principles. Such a policy will provide equal responsibility, and an equal opportunity to meet that responsibility, to all individuals living in the U.S.

Immigration reform that reflects America's values and priorities will provide equality and dignity and will:

- ☐ Help lift families out of poverty and promote economic security for all low-income families. This investment in human capital will make for a stronger, more secure nation.
- ☐ Reaffirm our nation's long-standing tradition of providing a core safety net for citizens and immigrants residing in the U.S. which will reinforce efforts to achieve national progress in health and nutrition.
- ☐ Ensure access to key programs and public services that meet basic human needs, including health services and insurance, education, nutrition assistance, and working family tax credits.
- ☐ Invest in robust efforts to integrate immigrants into their communities.
- ☐ Ensure that all individuals have access to and pay their fair share for quality, affordable health care and receive medical care when they need it.

National Groups

Asian & Pacific Islander American Health Forum
Church World Service
CLASP
Coalition on Human Needs
First Focus
National Immigration Law Center
National Latina Institute for Reproductive Health

Advocacy and Training Center
Advocates for Youth
AFL-CIO
AIDS Community Research Initiative of America
AIDS United
Alliance for a Just Society
Alliance for Children and Families
Alliance of Baptists
American Federation of State, County and Municipal Employees (AFSCME)
American Federation of Teachers
American Medical Student Association
American Sexual Health Association
America's Voice
Anti-Defamation League
Arab American Institute
Asian & Pacific Islander American Health Forum
Asian American Justice Center, Member of Asian American Center for Advancing Justice
Asian Pacific American Medical Student Association (APAMSA)
Association of Asian Pacific Community Health Organizations
Black Alliance for Just Immigration (BAJI)
Bread for the World
Breakthrough
The CA Endowment
Campaign for America's Future
Campaign for Community Change
Campaign to End AIDS
CANN -Community Access National Network
The Center for APA Women
Center for Medicare Advocacy, Inc.
Change Matrix LLC
Children's Advocacy Institute
Children's Health Fund
Children's HealthWatch
The Children's Partnership
Church World Service
Civil Liberties and Public Policy Program
CLASP
Coalition on Human Needs
Committee of Interns and Residents - SEIU Healthcare
Community Action Partnership
Community Catalyst
Congregation of St. Joseph
David Ostrow & Associates
Democratic Socialists of America
Dignity Health
The Episcopal Church
The Episcopal Network for Economic Justice
First Focus
Food Research and Action Center
Gilbert Law Office
Health Care for America Now
Hispanic Federation
HIV Prevention Justice Alliance (HIV PJA)
Hmong National Development

Immigrant Legal Resource Center
Immigration Equality
International Union, UAW
Jewish Council for Public Affairs
Justice and Peace Center- A Ministry of the Sisters of St. Joseph-Concordia
Keshet
Khmer Health Advocates, In.
Labor Council for Latin American Advancement (LCLAA)
The Leadership Conference on Civil and Human Rights
Leadership Conference of Women Religious
Legion of Mary
LULAC
Lutheran Immigration and Refugee Service
Main Street Alliance
Migrant Clinicians Network
National Asian American Pacific Islander Mental Health Association
National Asian Pacific American Women's Forum
National Association of Council for Children
National Association of Public Hospitals and Health Systems
National Association of Social Workers
National Black Gay Men's Advocacy Coalition
National Center for Law and Economic Justice
National Center for Transgender Equality
National Community Tax Coalition
National Council of Jewish Women
National Council on Aging
The National Crittenton Foundation
National Education Association
National Gay and Lesbian Task Force
National Health Law Program
National Hispanic Media Coalition
National Immigration Law Center
National Korean American Service and Education Consortium
National Latina Institute for Reproductive Health
National Law Center on Homelessness & Poverty
National Minority AIDS Council
National Senior Citizens Law Center
National Women and AIDS Collective (NWAC)
National Women's Health Network
NETWORK, a National Catholic Social Justice Lobby
Office of Immigration and Refugee Resettlement (ABHMS)
Office of Social Justice, Christian Reformed Church in North America
Positive Women's Network- United States of America
Project Inform
Provincial Council of the Clerics of St. Viator (Viatorians)
Raising Women's Voices for the Health Care We Need
Research Institute Without Walls
RESULTS
Sargent Shriver National Center on Poverty Law
Service Employees International Union (SEIU)
SFNewsfeed.us
Single Stop USA
Sisters of St. Francis of Philadelphia
Sisters of the Holy Cross - Congregation Justice Committee

South Asian Americans Leading Together (SAALT)
Southeast Asia Resource Action Center (SEARAC)
Treatment Action Group
U.S.-El Salvador Sister Cities
UAW
Union of Reform Judaism
United for a Fair Economy
United Mine Workers of America
United Neighborhood Centers of America
United Steelworkers
United We Dream
Viatorians
Voices for America's Children
World Education, Inc.

State/Local Groups

9to5 Atlanta
9to5 California
9to5 Colorado
9to5 Milwaukee
Action for Children North Carolina
Advocacy for Justice and Peace Committee of the Sisters of St. Francis of Philadelphia
Advocates for Children and Youth
Advocates for Women
African Services Committee
AFSCME3299
AIDS Foundation of Chicago
AIDS Legal Council of Chicago
AIDS Resource Center Ohio
Alameda Health Consortium
Alianza del Pueblo
Alivio Medical Center
All Saints Episcopal Church, Pasadena, CA
Alliance of Californians for Community Empowerment
Alliance of Filipinos for Immigrant Rights and Empowerment
American Citizens for Justice/Asian American Center for Justice
American Friends Service Committee of Western Massachusetts
Arkansas Advocates for Children and Families
Arkansas Marshallese Community
Asian American Community Services
Asian Counseling & Referral Service
Asian Health Coalition
Asian Human Services Family Health Center
Asian Law Alliance
Asian Law Caucus, member of Asian American Center for Advancing Justice
Asian Pacific American Legal Center
Asian Services In Action, Inc.
Asian-American Community Service Council

Association for Latino American Studies (ALAS)
Bay Area Immigration Taskforce
Bay Clinic, Inc.
Berkshire Immigrant Center
California Church IMPACT
California Immigrant Policy Center
California Latinas for Reproductive Justice
California Pan-Ethnic Health Network
California Primary Care Association
Cal-Islanders Humanitarian Association
Canal Alliance
CASA de Maryland
Casa Latina
Cascade AIDS Project
Catholic Charities of the Archdiocese of Chicago
Center for Advocacy, Rights and Engagement
Center for Civil Justice
Center for Independent Living of South Florida, Inc.
Center for Interfaith Encounter
Center for Latino Progress - CPRF
Center for Public Policy Priorities
Central Ohio Immigrant Justice
CEO Pipe Organs/Golden Ponds Farm
Children Now
Children's Alliance
Christie's Place
CIR NOW- Comprehensive Immigration Reform
Citizen Action of New York
City of Hope
Cleveland Chinese students and professional group
CLUE Santa Barbara
Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA)
CodePink - Wichita
Collaborative Center for Justice
Colorado Center on Law and Policy
Colorado Immigrant Rights Coalition
Colorado Organization for Latina Opportunity and Reproductive Rights
Communications Workers of America
Communities Creating Opportunity
Community Action Partnership of Utah
Community Legal Services, Inc.
Community Of Friends In Action
Community Service Society of New York
Comunidad Liberación/Liberation Community
Connecticut Multicultural Health Partnership
CT Asian Pacific American Affairs Commission

Dallas Fort Worth Pride Movement
Denali Family Services
Developing & Empowering Latinos In America
Dominican Development Center
Dominican Sisters of Houston
DRUM - Desis Rising Up & Moving
Earth Mama Healing, Inc,
East Central Illinois Refugee Mutual Assistance Center
El CENTRO de Igualdad y Derechos
El Quinto Sol De America
Elba Central School
Empire Justice Center
Encuentro
Entre Hermanos
Episcopal Church of Our Saviour/Iglesia de Nuestro Salvador
Faith Caucus - IL CBHC
Farmworker Association of Florida
Filipino Advocates for Justice
First Mexican Baptist Ch.
Florida Legal Services, Inc.
GALAEI
Georgia Immigrant and Refugee Rights Coalition
Georgia Rural Urban Summit
Grace Lutheran Church
Gray Panthers of San Francisco
Greater Rochester Coalition for Immigration Justice
Guam Communications Network
The Hat Project
Health Care For All New York
HIAS Chicago
HIAS Pennsylvania
Hispanic Alliance of Tampa Bay
Hispanic Community Dialogue Organization
Hispanic Ministry Office
HIV Law Project
Housing Works
Houston Community Services
Iglesia Bautista
Illinois Coalition for Immigrant and Refugee Rights
Illinois Conference UCC Immigration Task Force
Immigrant Law Center of Minnesota
Immigrant Service Providers Group/Health
Immigration Advocacy Matters
Immigration Rights Task Force of the Unitarian Society of New Haven
Immigration Service and Aid Center (ISAAC)
Iowa Citizens for Community Improvement

Jewish Community Action
Jones and Chao, P.C.
Kentucky Coalition for Immigrant and Refugee Rights
Kentucky Equal Justice Center
Kentucky Youth Advocates
Kitsap Immigrant Assistance Center
Kokua Kalihi Valley
Ko'olauloa Community Health and Wellness Center
Korean Community Center of the East Bay
Korean Resource Center
L.A Community Legal Center and Educational
La Esperanza
Las Americas Immigrant Advocacy Center
Latin American Association
Latino Coalition for a Healthy California
Latino Community Roundtable
Latino Education & Training Institute
Libreria Del Pueblo, Inc.
Lifelong AIDS Alliance
Lifting Latina Voices Initiative
Little Sisters of the Assumption Family Health Service
Lowcountry Immigration Coalition
LULAC Council # 7226
LULAC- TAMPA
Lupus Foundation of Northern California
Make the Road New York
Maria Sanchez-Ley Law Office
Massachusetts Immigrant and Refugee Advocacy Coalition
Massachusetts Law Reform Institute
Maxwell Street Legal Clinic
Migrant Support Services of Wayne Co. NY
Minnesota AIDS Project
Mississippi Immigrants Rights Alliance
Modesto Peace/Life Center
My Language link
National Council of Jewish Women, Concordia Section
National Council of Jewish Women, Los Angeles Section
National Council of Jewish Women, Cleveland Section
National Council of Jewish Women, Greater Houston Section
National Council of Jewish Women, Illinois State Policy Advocacy Chair
National Council of Jewish Women, Long Beach Section
National Council of Jewish Women, Missouri State Policy Advocacy Chair
National Council of Jewish Women, Peninsula Section
National Council of Jewish Women, Rhode Island Section
National Council of Jewish Women, Texas State Policy Advocacy Co-Chair
National Council of Jewish Women, Utah Section

National Council of Jewish Women, Valencia Shores Section
National Council of Jewish Women, Greater Detroit Section
National Council of Jewish Women, California
National Council of Jewish Women, St. Louis Section
National Immigration Reform Advocates
National Latino AIDS Action Network
National Tongan American Society
Nations of Micronesia Committee
New Haven Peoples Center
New Mexico Center on Law and Poverty
New York Immigration Coalition
New York Lawyers for the Public Interest
New Yorkers for Accessible Health Coverage
NH Alliance for Immigrants and Refugees
NM Asian Family Center (NMAFC)
NOELA Community Health Center
North Carolina Council of Churches
Northwest Immigrant Rights Project
Ohio AIDS Coalition
Ohio Asian American Health Coalition
OneAmerica
Open Door Clinic
Oregon New Sanctuary Movement
Pacific Islander Cancer Survivors Network
Pacific Islander Health Partnership
Pax Christi DuPage County
Pennsylvania Council of Churches
PICO California
Pilgrim Congregational UCC
Prevention Point Philadelphia
Reformed Church of Highland Park, NJ
The River Fund
San Diego Hunger Coalition
San Ysidro Health Center
Services for the Advancement of Women-SEPA Mujer
Servicios de La Raza
Sierra Italia, Inc.
Silicon Valley Alliance for Immigration Reform
Sisters of Mercy West Midwest Justice Team
Skagit Immigrant Rights Council
Social Justice Ministry of Sacred Heart Catholic Church
St Louis Inter-Faith Committee on Latin America
Street Level Health Project
Tennessee Immigrant and Refugee Rights Coalition
Triumph Treatment Services
Unitarian Universalist Congregation of the Lowcountry

United Church of Christ
Unity Fellowship of Christ Church NYC in Brooklyn
University of Colorado
University of Hawaii
UNO Federation Community Services
Virginia Organizing
Vision y Compromiso
Voces de la Frontera
Waimanalo Health Center
Washington Community Action Network!
Washtenaw Interfaith Coalition for Immigrant Rights
Wayne Action for Racial Equality
Weber County Democrats
Westchester for Change
Western Center on Law and Poverty
Wisconsin Council on Children and Families
WV FREE Advocates for Reproductive Health, Rights and Justice
Xaverian Brothers
Yakutat Healthy Community Coalition
YWCA Tulsa-Immigrant Program

**ACCESS Women's Health Justice
Senate Judiciary Committee Hearing Testimony
“How Comprehensive Immigration Reform
Should Address the Needs of Women and Families”**

March 21, 2013

Dear Members of the Senate Judiciary Committee:

We write today to thank you for holding a hearing on “How Comprehensive Immigration Reform Should Address the Needs of Women and Families,” and to share with you our recommendations on this important issue. **ACCESS Women's Health Justice is a nonprofit grassroots organization that removes barriers to sexual and reproductive healthcare and builds the power of California women and girls to demand equity and dignity.**

For women to be completely free and able to chart the course of their own lives, they must be able to determine not just whether and when to create family, but *where* to create family.

Furthermore, they must have access to the resources they need in order to care for their own reproductive health and raise their families with dignity and respect. Women who are aspiring citizens are excluded from public health benefits, and thus face barriers to caring for their own reproductive health and to plan their families. All legal immigrants are barred from eligibility for Medicaid, SCHIP, and other means-tested federal benefits for the first five years that they live in the United States. This arbitrary and harmful restriction denies women access to critical reproductive health care, including contraception, cervical cancer screening, and prenatal care. Moreover, while the landmark health reform law will give many women increased access to contraception and other reproductive health care, a significant portion of those who will remain uninsured are immigrant women, due to restrictions on immigrant eligibility for new or expanded coverage options. Women should also be able to care as best they can for the health and wellbeing of their children, with the comfort of knowing that they will be not be torn away from their children and that they can afford to take their sons and daughters to doctor's visits.

ACCESS Women's Health Justice knows it is not about what you look like or where you were born, but how you live your life and what you do that defines you here in America. The contributions of immigrant women have always been vital for our society to grow and flourish. We know our country is strongest when women are healthy, safe, and able to care for their children and families. Truly effective immigration policy reform should value and honor women and their contributions.

We call on legislators to support immigration reform that ensures women have the resources they need to make their own personal decisions about their reproductive health, their families, and their lives. To that end, the following are our recommendations for how comprehensive immigration policy reform can address the needs of women and families.

I. Immigrant women need a fair and equitable roadmap to citizenship.

Any roadmap to citizenship and integration must be open, affordable, safe, and accessible to all immigrant women, including those whose work is in the home and those who are employed in the informal economy. A roadmap to citizenship that conditions eligibility on participation in the formal labor market disadvantages immigrant women, who are more likely to work in the informal sector. For example, many immigrant women are domestic workers¹, farm laborers, nail salon workers, and homemakers. Immigrant women must be afforded equal employment-based migration opportunities and workplace protections so that they may safely pursue economic opportunity and support their families with dignity and pride. Our immigration system has historically been unfair to women, but now we have an opportunity to change it into one that recognizes the unique realities and contributions of women's lives. A truly equitable system will place just as much value on women as it does on men. Any proposed pathway to citizenship must place equal value on the contributions of women.

II. We need to keep immigrant women and their families together.

Immigration reform must protect the right of all families to stay together, regardless of immigration status, family structure, sexual orientation, gender identity, or marital status. In addition, immigration policies must be modernized to provide sufficient family-based channels for migration in the future. Enforcement, detention, and deportation programs that compromise immigrant women's safety, violate their civil, human, and due process rights, and tear families apart must be replaced by sensible and sufficient legal channels for migration that adequately meet family and labor demands and respect women and their families.

Millions of families are at risk of being torn apart. Currently, 5.1 million children live in mixed-legal status families. Four million of these children are U.S. citizens.² The growth of mixed-status families, combined with a lack of sufficient legal channels for migration, means that more families than ever are at risk of being separated for years or even permanently. In fact, between July 2010 and September 2012, the U.S. deported more than 205,000 parents of U.S. citizen children.³

Family separation burdens local government. When parents are detained or deported, children are at risk of ending up in the child welfare system. The Applied Research Center in November 2011 conservatively estimated that 5,100 children in foster care had parents who had been detained or deported. That number is expected to grow to 15,000 over the next five years.⁴ We must alleviate the unnecessary burden on states by permitting parents to care for their children.

The lack of legal opportunities for families to be together incentivizes unlawful migration and encourages deported parents to return and reunite with their children. A smart immigration

¹ Domestic Workers United. *Home is Where the Work Is: Inside New York's Domestic Work Industry*, Domestic Workers United and DataCenter. July 2006. Available at <http://www.domesticworkersunited.org/index.php/en/component/jdownloads/finish/3/4>.

² Passel J, Taylor P. *Unauthorized Immigrants and Their U.S.-Born Children*. Pew Hispanic Center. August 2010. Available at <http://www.pewhispanic.org/2010/08/11/unauthorized-immigrants-and-their-us-born-children/> Accessed March 13, 2013.

³ Wessler SR. Primary Data: Deportations of Parents of U.S. Citizen Kids. *Colorlines*. December 17, 2012. Available at http://colorlines.com/archives/2012/12/deportations_of_parents_of_us-born_citizens_122012.html. Accessed February 4, 2013.

⁴ Applied Research Center. *Shattered Families: The Perilous Intersection of Immigration Enforcement and the Child Welfare System*. November 2011. Available at <http://arc.org/shatteredfamilies>. Accessed February 4, 2013.

system is one that values and prioritizes family unity. When parents get involved with the immigration enforcement system, they often lose any say in how their children are cared for. Detained parents are held far from their children. They may be unable to participate in the reunification plans necessary to regain custody of children who end up in foster care, and they are often denied meaningful access to child custody hearings. A humane and cost-effective immigration system would protect parents' constitutionally-protected rights to determine the care and custody of their children.

Children are better off with their parents. Being undocumented does not make someone an unfit parent, and parental rights should only be terminated in cases of verified abuse and neglect. Judges need discretion to keep families together. Heavy-handed detention and deportation policies have tied the hands of immigration judges. Judges should be able to exercise discretion so that parents do not have to be deported unnecessarily.

III. We need to advance health equity for immigrant women.

Immigration reform must advance all immigrant women's access to health care and other family economic support. Such services and benefits include comprehensive health coverage and care and legal and social services that promote equality of opportunity, integration, and the ability to make decisions regarding reproductive and sexual health and the well-being of the family. Immigrant women and families work hard, pay taxes, and are committed to being in America. They should be able to pay their fair share for health care and should be included in our health care system, just like everyone else. They should not be excluded from health care simply because of their immigration status. When our families and our workforce are healthy, we all benefit.

Investing in health is common sense — and makes good fiscal sense. By and large, immigrants are younger and healthier than the American population as a whole⁵ — allowing them to participate in our health insurance systems and risk pools makes is a good economic decision for the country. When immigrant women and families do not have health care, the need for medical attention does not go away. Immigrant families without health insurance may either delay treatment for preventable disease, leading to higher costs and greater suffering, or seek care through under-resourced and expensive emergency systems. A healthy workforce means a stronger economy. Good health care is essential to workers' productivity and the opportunity for women and families to realize their full potential. If immigrant women are healthy, they are better able to support their family economically and contribute to the success of their children.

For an immigrant woman, being able to protect her health and care for her family is the first step to full social, economic, and civic integration into the American community. When moms are healthy, their families benefit.

Restrictions and other arbitrary delays that are often imposed on immigrants' access to benefits are also costly and inhumane. Many immigrant women are unable to obtain affordable health due to limitations resulting from their immigration status, such as the current 5-year bar on Medicare and Medicaid for lawful permanent residents, and the exclusion of undocumented immigrants in

⁵ Leighton Ku. *Health Insurance Coverage and Medical Expenditures of Immigrants and Native-Born Citizens in the United States*. American Journal of Public Health. July 2009; Vol 99 (7): pp. 1322-1328.

health insurance exchanges. Women and families should not be forced to wait five years for health care: five years is a lifetime to a child, and may make the difference between life and death for a woman suffering from breast or cervical cancer. Health coverage can mean the difference between preventing or treating conditions that can affect development throughout life, and leaving those conditions undetected and untreated. Removing the five-year bar for lawful permanent residents and those on the roadmap to citizenship will give them the same opportunity to pay their share and access health care as their friends and neighbors.

Today's laws are overly complex, confusing, and restrictive. A patchwork of state and federal policies limiting access to health care and family economic support creates confusion. For example, a single family could have members with five different kinds of eligibility for health care depending on their immigration status. As a result, this "chilling effect" discourages even qualified recipients from accessing support.⁶ No mother should have to navigate different health insurance systems for every single child, or choose which of her children gets health care. We need a system that works for families and ensures that women and kids get the care they need.

Anyone could get hurt or sick, and so everyone should have access to basic health care. No one should live in fear that because they lack health coverage or live in world where one accident or illness could threaten their entire family's economic security. Access to affordable, quality health care is a widely-shared goal. Medical coverage plays a crucial role in health and well-being, and all Americans should have access.

IV. Conclusion and Recommendations

As Congress considers proposals to reform current immigration laws, it is vital that the experiences of immigrant women are part of the equation. There is no doubt that the patchwork system that is now in place has hindered our progress as a country. The contributions of immigrant women have been and should continue to be allowed to grow – it is good for communities and it is good for the country.

In order to address the unique challenges that immigrant women face on the path to become full citizens of the U.S., ACCESS Women's Health Justice urges Congress to adopt a holistic approach through the following recommendations:

- (1) Provide a fair, accessible, and affordable pathway to citizenship to all immigrants and, in particular, ensure that those who work in informal sectors of the economy can participate in this process.
- (2) Promote keeping immigrant families and children together, specifically by increasing family-based immigrant visas; alleviating current family-based immigrant visa backlogs; ending discrimination against same-sex partners under family immigration laws; allow Immigration Judges to exercise discretion in deportation cases that will result in family separation; and protect constitutionally-protected rights to determine the care and custody of their children for parents facing deportation.

⁶ Huang P. *Anchor Babies, Over-Breeders and the Population Bomb: The Reemergence of Nativism and Population Control in Anti-Immigration Policies*. Harvard Law and Policy Review. 2008; Vol 2. Available at http://www.hlponline.com/Huang_HLPR.pdf / Accessed January 12, 2013.

- (3) Advance health equity for immigrant women, including ensuring full access to the Affordable Care Act regardless of immigration status and lifting the five-year bar on Medicare and other means-tested federal benefits for legal permanent residents.

Again, thank you for taking the time to hear from advocates for women on this issue. We hope you will take into consideration our recommendations as the dialogue continues around how to fix our broken immigration system.



WRITTEN STATEMENT OF
THE AMERICAN CIVIL LIBERTIES UNION

For a Hearing on

**“How Comprehensive Immigration Reform Should Address the Needs of Women
and Families”**

Submitted to the U.S. Senate Committee on the Judiciary

March 18, 2013

ACLU Washington Legislative Office
Laura W. Murphy, Director
Joanne Lin, Legislative Counsel
Ian S. Thompson, Legislative Representative

I. Introduction

The American Civil Liberties Union (ACLU) is a nationwide, non-partisan organization of more than a half-million members, countless additional activists and supporters, and 53 affiliates nationwide dedicated to preserving and defending the fundamental rights of individuals under the Constitution and laws of the United States. The ACLU's Washington Legislative Office (WLO) conducts legislative and administrative advocacy to advance the organization's goal to protect immigrants' rights.

The ACLU submits this statement to the U.S. Senate Committee on the Judiciary on the occasion of its hearing addressing the needs of women and families in the immigration system. Reforming our immigration laws is urgently needed to ensure that women, children, and families do not continue to be deported in unprecedented numbers by the Department of Homeland Security ("DHS"). During President Obama's first term, over 1.5 million people were deported – the highest number of deportations in any single presidential term. These historic-level deportations have torn asunder untold numbers of families, leaving U.S. citizen children alone and many placed in the child welfare system. As Congress drafts and considers immigration reform legislation, we urge Congress to address the impact of DHS immigration policies on women and families, with special attention to women who are detained and deported, to the U.S. citizen children who lose their mothers to deportation, and to LGBT couples who are not protected under family immigration laws.

II. U.S. Immigration Policies Have Produced Record-Level Deportations and Shattered Untold Numbers of American Families.

According to 2012 data obtained through the Freedom of Information Act ("FOIA") by Colorlines.com, between July 2010 and September 2012, DHS conducted nearly 205,000 deportations of parents who said their children are U.S. citizens. These figures represent the longest view to date of the national scale of parental deportation. During this two-year period, the near 205,000 deportations of parents with U.S. citizen children accounted for nearly one quarter of all deportations.¹

Every day American families are torn apart, and U.S. citizen children are forced to say goodbye, many forever, to their parents who are deported. What happens to the children of deportees? A 2011 Applied Research Center study estimated that at least 5,100 children in foster care faced significant barriers to reunifying with their detained or deported parents. The Applied Research Center projected that if deportation and child welfare policies remained unchanged, another 15,000 kids could face a similar fate over the three years between 2012 and 2014.

Amy Cruz is one such child. Born in the U.S., the now 18-year-old is set to graduate from high school this spring and to attend San Diego State University in the fall of 2013. Her academic achievement is particularly notable because she lost her mother to

¹ Seth Freed Wessler, *Primary Data: Deportations of Parents of U.S. Citizen Kids*, Colorlines, Dec. 17, 2012, available at http://colorlines.com/archives/2012/12/deportations_of_parents_of_us-born_citizens_122012.html.

deportation eight years ago and has spent her teen years growing up in the child welfare system. Eight years ago following a traffic stop in San Diego, Amy's mother, who was undocumented, was deported to Mexico -- leaving Amy and her eight siblings on their own. All the children were placed in foster care. Due to the large family size, Amy and her siblings could not remain together and were instead placed in different foster placements. After losing their mother to deportation, Amy and her siblings then lost each other – the only family they ever knew. Their family was permanently shattered.

Amy is just one of many children, born and bred in the U.S., who lose their parents to deportation and are then faced with overwhelming odds – fending on their own as they try to grow up without their parents. Amy's story begs the question, "Whose interests were served by the deportation of Amy's mother? What has happened to Amy and her siblings who were robbed of any family stability? What impact do our nation's deportation policies have on our state child welfare systems, already strapped for resources and stretched thin by urgent demands?"

The annual deportation of 100,000 parents of U.S. citizens is a trend that must cease. In considering immigration reform legislation in 2013, Congress should rescind the punitive deportation laws that tear apart American children from their parents each and every day.

III. Immigration Detention Laws Lack Due Process, Thereby Sweeping in Women, Mothers, and Grandmothers Who Are Imprisoned by DHS for Years.

Over the last 15 years, immigration detention levels have more than tripled—from 85,730 detainees in 1995² to an all-time high of 429,247 individuals in FY 2011.³ In FY 2011 DHS held an average daily population of 33,034 individuals in more than 250 immigration prison facilities nationwide.⁴ The people locked up by DHS include survivors of torture, asylum-seekers, victims of trafficking, families with small children, the elderly, individuals with serious medical and mental health conditions, and lawful permanent residents with longstanding family and community ties who are facing deportation because of old or minor crimes for which they have already served their sentences.

The steep rise in ICE detention expenditures corresponds to two key shifts that effectively guarantee tens or hundreds of thousands of individuals will be unnecessarily detained every year. First, mandatory custody provisions enacted by Congress in 1996 have been interpreted by DHS to require incarceration without bond for virtually all

² Doris Meissner et al., *Immigration Enforcement in the United States: The Rise of a Formidable Machinery*, Migration Policy Institute, (Jan. 2013), 126, available at <http://www.migrationpolicy.org/pubs/enforcementpillars.pdf>

³ John Simanski & Lesley M. Sapp, DHS Office of Immigration Statistics, *Immigration Enforcement Actions: 2011*, 4, available at http://www.dhs.gov/sites/default/files/publications/immigration-statistics/enforcement_ar_2011.pdf

⁴ ICE Office of Enforcement and Removal Operations, *ERO Facts and Statistics* (Dec. 12, 2011), available at www.ice.gov/doclib/foia/reports/ero-facts-and-statistics.pdf

noncitizens who are removable because of criminal convictions—including nonviolent misdemeanor convictions for which they may have received no jail sentence.⁵ As a result, thousands of people—including many longtime lawful permanent residents—are held without ever being afforded the basic due process of a bond hearing before an independent adjudicator while their deportation cases are being decided.

Moreover, because of DHS’s overly expansive interpretation, mandatory detention is being improperly applied to, among others, individuals who have substantial challenges to removal on which they ultimately prevail; individuals who have old convictions and have subsequently demonstrated rehabilitation;⁶ and individuals who are detained for prolonged periods of time—sometimes years—far beyond the “brief” period of detention contemplated both by Congress and the Supreme Court in *Demore v Kim*.⁷

For example, the ACLU is currently representing Bertha Mejia, a grandmother who has been detained without due process by DHS for nearly 1.5 years. Ms. Mejia has deep family ties in California and no violent criminal history. Yet DHS classified her as a “mandatory detainee” because of misdemeanor convictions for stealing groceries. That classification made her ineligible for a hearing before an immigration judge, where she could present evidence that she posed no danger to the community or risk of flight—even as her immigration case dragged on for months with no end in sight.

Because of DHS’s unlawful policies, Ms. Mejia has languished in a county jail for the past year and a half. Her lengthy detention has caused great hardship for her loved ones, especially for her 9-year-old grandchild whom she was raising. Meanwhile, U.S. taxpayers funded Ms. Mejia’s unnecessary detention at the rate of \$164 per day, to a total cost of nearly \$90,000.

Last week a federal judge ordered a bond hearing for Ms. Mejia. The judge held that Congress did not intend to strip immigrants of their due process rights based on old convictions—including for minor, nonviolent offenses like petty theft. The ruling recognizes that Ms. Mejia never should have been in mandatory lock-up in the first place, and should have received a prompt bond hearing to determine if she needed to be detained.⁸

⁵ See 8 U.S.C. § 1226(c).

⁶ Although section 1226(c) limits the application of mandatory custody to persons who are arrested by ICE “when released” from criminal custody, the agency insists that it applies *any time* after an individual’s release. See *Matter of Rojas*, 23 I. & N. Dec. 117 (BIA 2001). As a result, ICE applies mandatory detention to individuals who have been leading law-abiding lives in the community for years following completion of their criminal sentences. See *Saysana v. Gillen*, 590 F.3d 7, 17-18 (1st Cir. 2009) (“By any logic, it stands to reason that the more remote in time a conviction becomes and the more time after a conviction an individual spends in a community, the lower his bail risk is likely to be.”).

⁷ See *Demore v. Kim*, 538 U.S. 510, 513 (2003) (authorizing mandatory detention for a “brief period”); *Diop v. ICE/Homeland Sec.*, 656 F.3d 221, 233 (3d Cir. 2011) (due process requires a hearing once the duration of mandatory detention becomes unreasonable); *Tijani v. Willis*, 430 F.3d 1241, 1242 (9th Cir. 2005) (8 U.S.C. § 1226(c) only authorizes mandatory detention if removal proceedings are “expeditious”).

⁸ Jenny Zhao, *VICTORY: Grandmother in Immigration Detention Finally Receives Fair Hearing*, ACLU Blog of Rights, Mar. 15, 2013, <http://www.aclu.org/blog/immigrants-rights/victory-grandmother-immigration-detention-finally-receives-fair-hearing>.

Unfortunately Ms. Mejia's case is just the tip of the iceberg. DHS routinely subjects immigrants nationwide to unlawful mandatory detention. Another grandmother detained without due process is Melida Ruiz, who was detained for seven months at Monmouth County Jail in New Jersey before she was finally released after winning her case. A longtime lawful permanent resident with three U.S. citizen children and two U.S. citizen grandchildren, Ms. Ruiz was arrested by DHS at her home in 2011. She was placed into mandatory immigration detention based on a misdemeanor drug possession offense from nine years earlier for which she had not even been required to serve any jail time, and which was her sole conviction during 30 years of living in the United States.

Although Ms. Ruiz was eligible for various forms of discretionary relief from removal, and posed no danger or flight risk, and although she was the primary support for her U.S. citizen mother who suffers from Alzheimer's disease, her 17-year-old and 11-year-old daughters, and her 5-year-old granddaughter, she was nevertheless forced to endure seven months of immigration incarceration. While she was in detention, her 17-year-old daughter gave birth to a boy.

In granting her application for cancellation of removal, the Immigration Judge emphasized the "substantial equities in [her] favor" including her "work history, tax history and property ownership" as well as the fact that her family "would suffer significant hardship if she were deported." The Immigration Judge also found that, despite the one conviction from 2002 which was "out of character," Ms. Ruiz has been "a law abiding resident of the United States and a stalwart positive force for her family and friends." DHS chose not to appeal the decision. Ms. Ruiz is now once again reunited with her family but at considerable emotional and financial cost.

As reflected in the examples of Ms. Mejia and Ms. Ruiz, DHS routinely incarcerates people who pose no flight risk or danger. Effective alternatives to incarceration—such as ankle monitors, curfews, and reporting requirements—are available at a fraction of the cost of detention. The question Congress should be asking is -- why did DHS spend taxpayers' monies to incarcerate these two grandmothers? As Congress considers immigration reform legislation in 2013, the ACLU urges Congress to remember cases like Ms. Mejia and Ms. Ruiz, and to take concrete steps to end mandatory detention and to provide bond hearings for all detainees in DHS custody.

IV. Immigration Reform Must Include Equality for LGBT Couples and Their Children.

Family unity – including for those who are LGBT – is a critical component of immigration reform. A recent study by the Williams Institute at the UCLA School of Law estimates that there are 32,300 same-sex bi-national (one U.S. citizen and one non-citizen) couples raising more than 11,000 children living in the U.S. today.⁹ These couples, due to senseless and unconstitutional discrimination enacted in the so-called

⁹ Gary Gates, *LGBT Adult Immigrants in the United States*, The Williams Institute (2013), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBTImmigrants-Gates-Mar-2013.pdf>

Defense of Marriage Act, are unable to sponsor their spouse or permanent partner in the same way opposite-sex couples have long been able to under current immigration law.

The President's January 29, 2013, announcement on immigration reform rightly noted that it is important to treat same-sex families as what they are – families.¹⁰ There are at least 31 countries around the world that allow residents to sponsor same-sex permanent partners for legal immigration.¹¹ To that end, U.S. citizens and lawful permanent residents must be given the ability to apply for an immigrant visa on the basis of a permanent relationship with a same-sex partner.

V. Recommendations

As Congress considers immigration reform legislation in 2013, the ACLU urges it to adopt the following recommendations to address the special concerns of women, children, and families including LGBT families:

- Congress should rescind punitive provisions of the 1996 immigration laws that lead to family separation. Congress should tighten the “aggravated felony” definition so as to limit mandatory deportation to those convicted of serious, violent felonies with significant jail time served. Specifically Congress should amend the “aggravated felony” definition to ensure that it applies to “convictions” only, to felonies and not misdemeanors, and not retroactively.
- Congress should give DHS and immigration judges broad discretion to consider a range of factors in deciding whether to detain or deport an individual. Special consideration should be given to situations where detention or deportation would cause hardship to the individual or her family, or for other humanitarian or public interest reasons. DHS and immigration judges should have the ability to consider extenuating circumstances such as the nature of the offense, when it occurred, rehabilitation, family ties, military service, and other equities.
- Congress should end mandatory detention and instead instruct immigration judges to conduct prompt bond hearings for all DHS detainees.
- Congress should authorize and expand community-based alternative to detention (“ATD”) programs that employ case-management services. All DHS detainees should be screened for placement in ATDs.

¹⁰ Press Release, The White House, Office of the Press Secretary, *FACT SHEET: Fixing our Broken Immigration System so Everyone Plays by the Rules*, (January 29, 2013), <http://www.whitehouse.gov/the-press-office/2013/01/29/fact-sheet-fixing-our-broken-immigration-system-so-everyone-plays-rules>.

¹¹ Andorra, Argentina, Australia, Austria, Belgium, Brazil, Canada, Colombia, Croatia, the Czech Republic, Denmark, Finland, France, Germany, Hungary, Iceland, Ireland, Israel, Japan, Liechtenstein, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Slovenia, South Africa, Spain, Sweden, Switzerland, and the United Kingdom.

- Congress should amend the family immigration laws to give U.S. citizens and permanent residents the ability to apply for an immigrant visa on the basis of a permanent relationship with a same-sex partner.

We look forward to working with the members of the Committee to address these and other issues at stake in the current discussion over immigration reform. For comments or questions, please contact Legislative Counsel Joanne Lin at (202) 675-2338 and by email at jlin@dcacul.org.



**TESTIMONY BEFORE THE UNITED STATES SENATE COMMITTEE ON THE
JUDICIARY**

**FOR THE HEARING ENTITLED “HOW COMPREHENSIVE IMMIGRATION REFORM
SHOULD ADDRESS THE NEEDS OF WOMEN AND FAMILIES”**

March 18, 2013

BY THE

ASIAN & PACIFIC ISLANDER AMERICAN HEALTH FORUM

The Asian & Pacific Islander American Health Forum (APIAHF) submits this written testimony for the record for the March 20, 2013 hearing before the Senate Committee on the Judiciary entitled “Building an Immigration System Worthy of American Values.” APIAHF is a national health justice organization that influences policy, mobilizes communities, and strengthens programs and organizations to improve the health of Asian Americans, Native Hawaiians, and Pacific Islanders (AAs and NHPs). For 27 years, APIAHF has dedicated itself to improving the health and well-being of AA and NHP communities living in the United States and its jurisdictions. We work at the federal, state, and local levels to advance sensible policies that decrease health disparities and promote health equity.

Immigration policy is an issue that touches the lives of almost every Asian American and Pacific Islander (AAPI), and in particular, AAPI women. Nationally, women make up over half of all immigrants in the U.S. Despite these large numbers, AAPI women and many other immigrant women are ill-served by the complex system of archaic immigration laws that separate families, put women at risk and prevent immigrant families from being able to fully integrate into their new home.

Women need fair and commonsense immigration policies that support women and their families. We already recognize women as being the backbone of families and communities, and immigrant women are no different. Immigrant women lead the charge, keeping their families healthy, making sure their children are educated, contributing to the economy and making hard sacrifices each day to improve their children’s lives.

Women—and indeed a majority of Americans—are ready to quickly move forward with immigration system reforms that work for both Americans and aspiring Americans alike. As both Democratic and Republican members of Congress have stated, now is the time to align our immigration policies with our American values. For far too long, our immigration policies have done a disservice to many immigrants, kept families apart, stood in the way of full integration and threatened our nation’s future and health.

Immigration policies must improve the lives of aspiring citizens, not make it more difficult. Our laws must carry a theme of American values of shared responsibility, fairness and unity. The guiding principle behind any improvements to our immigration laws must be unity for immigrants, unity for families and unity for the entire nation.

The following testimony addresses one of the most critical areas of disparity in this country: access to health care. The issue is significant, because as this Committee works to better understand the nation’s needs and craft solutions to our immigration system, federal agencies and states are rapidly implementing the Affordable Care Act and other initiatives to combat uninsurance and mitigate the massive toll that uninsurance takes on the nation. While these initiatives have the potential to drastically reduce uninsurance, current federal policies and proposals being debated in the Senate and House will undermine these efforts and threaten the nation’s long term health.

Immigrant women are more likely than U.S. born women to live in poverty, be unemployed and lack health insurance. They are also twice as likely as their male counterparts to be widowed, divorced or separated. These demographic characteristics show an acute need for health care, however immigrant women face a number of barriers to accessing care. Complex federal eligibility restrictions deter many immigrant women from critical health programs and has resulted in thousands being unable to access programs they are eligible for.¹ In addition, “public charge” fears, sponsor deeming and liability requirements, language barriers and increased local immigration enforcement have created a chilling effect on immigrant use of health care services and other public benefits. As a result, immigrant women are less likely than U.S. born women to receive preventive care, reproductive and sexual health care and prenatal and maternal health care.

I. Barriers to Health Care and Resulting Health Disparities are One of the Most Egregious Forms of Inequality

¹ “Anchor Babies, Over-Breeders, and the Population Bomb: The Reemergence of Nativism and Population Control in Anti-Immigrant Policies,” Harvard Law & Policy Review, Priscilla Huang, Vol. 2 385-406, *available at* http://www.hlpronline.com/Huang_HLPR.pdf.

Every American must have the opportunity to grow up healthy, see the doctor when they are sick, and have a chance at reaching their optimal health and well-being. Being healthy is a basic need and right. Individuals with health coverage, including Medicaid, report better physical and mental health.² They are more likely to have routine access to medical care, less likely to rely on expensive emergency room visits and have better access to essential preventive services, reducing the incidence of chronic diseases that take a major toll on the U.S. health care system. In contrast, research shows that the uninsured have significantly worse health outcomes across a number of chronic diseases including cancer and diabetes.³

Women and racial and ethnic minorities and other underserved populations pay a high price. Women are more likely than men to be uninsured and the limited data available estimates that there are over 1.5 million Asian American women who are uninsured, though the number is likely higher.⁴ Asian Americans and Pacific Islanders as a whole are overwhelmingly immigrant and account for 40% of recent immigrants to the United States. As of 2011, there are over 17.6 million Asian Americans living in the United States, and over 1.2 million Native Hawaiians and Pacific Islanders. These communities, like many other racial and ethnic minorities, are disproportionately uninsured for a number of reasons, including cost, challenges navigating enrollment and eligibility processes, and importantly for this Committee—the intersection of immigration-based eligibility restrictions on access to health insurance and health programs.

II. Immigrants Want the Same Opportunity to take Responsibility for their Health as All Americans, and a Majority of Americans Agree

Immigration reform proponents often argue that immigrants must be responsible for their actions. The primary reason most immigrants come to the U.S. is to better their lives and that of their children through hard work and sacrifice. Those two principles are one of the many reasons the U.S. is seen as a nation built by immigrants.

Yet, America's laws do not match these principles. While the Affordable Care Act offers the most significant opportunity to advance the nation's health in the last 50 years by drastically reducing the number of uninsured, improving access to preventive care and putting the nation on a more sustainable path to health, current federal policies threaten to undercut this advance. The ACA maintains existing immigration-based restrictions and goes even further and affirmatively bars many immigrants from the new coverage options. Undocumented immigrant

² "What is the link between having health insurance and enjoying better health and finance?" Robert Wood Johnson Foundation, January 2012, *available at* http://www.rwjf.org/content/dam/farm/reports/issue_briefs/2012/rwjf72145.

³ "American's Uninsured Crisis: Consequences for Health and Health Care," Institute of Medicine, February 2009, *available at* <http://www.iom.edu/~media/Files/Report%20Files/2009/Americas-Uninsured-Crisis-Consequences-for-Health-and-Health-Care/Americas%20Uninsured%20Crisis%202009%20Report%20Brief.pdf>.

⁴ US Census Bureau, Current Population Survey, 2012 Annual Social and Economic Supplement.

women are completely prohibited from purchasing private health insurance coverage in the newly created insurance marketplaces, even at full price and with their own funds.

In addition, the Department of Health and Human Services (HHS) recently created new exclusions on a population of lawfully present immigrants, a move that undermines the goals and values of the ACA. An Interim Final Rule issued last August excludes youth and young adults granted deferred status under the Deferred Action for Childhood Arrivals (DACA) program from key features of the health reform law and prevents children and pregnant women approved for DACA from enrolling in health insurance under the state option available in Medicaid and the Children's Health Insurance Program (CHIP). These are young immigrants, commonly known as DREAMers, who are finishing their education or serving in the military and trying to better their lives and communities, and yet are barred from the new affordable health insurance options their citizen counterparts have access to.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA, also known as the "welfare reform" law), created arbitrary and inhumane time limits and other restrictions for lawfully present immigrants to become eligible for federal means-tested public programs. As a result, these aspiring citizens are barred from critical safety net programs for five years and longer, a barrier their native-born counterparts do not have to face. This five year wait can be a lifetime for an immigrant woman or child falling on hard times.

PRWORA also bars citizens from the freely associated states of Micronesia, Republic of the Marshall Islands and Republic of Palau from the Medicaid program. These individuals, known as COFA (Compact of Free Association) migrants, are persons who are free to enter and work in the U.S. without restriction under long-standing agreements between the U.S. and Pacific jurisdictions. COFA migrants suffer from a number of serious health disparities caused by America's militarization of the Pacific islands, nuclear test bombing and lack of economic supports, including high rates of cervical cancer and other chronic diseases. The 1996 law revoked Medicaid coverage for COFA migrants, and, coupled with existing disparities and failure on the part of the U.S. to provide required supports, has created serious economic consequences for states like Hawaii and the territory of Guam, who have shouldered the burden of providing health care to this population.

These federal policies undermine America's values, further health disparities and put the entire nation's health at risk. These disparities will only worsen in 2014, when the ACA is fully implemented and the gap between the health of immigrants and those who qualify for new coverage options widens. As a result, immigration status will become one of the leading social determinants of health—affecting everything from whether or not a person can buy health

insurance, whether a sick child can see the doctor, and whether a low-income worker can afford the treatment they need.

Despite the politicization of health reform, recent polling conducted by the Kaiser Family Foundation found that most Americans support offering the same opportunities for accessing affordable health care and insurance to aspiring Americans.⁵ The poll found that six out of ten Americans surveyed believed that immigrants on the path to legalization should be able to fully participate in health reform and qualify for Medicaid coverage. Overwhelming majorities of Blacks and Latinos surveyed agreed with providing equal access to health care.

While the Kaiser survey did not provide disaggregated data on the views of Asian Americans surveyed, the 2012 National Asian American Survey found that one in six Asian American voters placed health care as a top issue and Asian Americans overwhelmingly supported the Affordable Care Act.⁶ These numbers are telling as Asian Americans and Latinos supported progressive policies during the 2012 election by substantial margins. As Asian Americans continue to be the fastest growing racial group in the nation, Asian American voters will continue to demand policies that serve their communities.

III. Access to Health Care for All is an Economic Imperative.

The U.S. cannot afford to continue the unsustainable health care path the nation is currently on. This was one of the reasons lawmakers and President Obama prioritized the Affordable Care Act (ACA). While the ACA provides new, affordable insurance options for many of the currently 50 million uninsured individuals in the U.S., America will continue to have a population of uninsured workers, children and families even after full implementation of the law.

Uninsurance leads to poor health outcomes. The nonpartisan Institute of Medicine (IOM) has studied the issue extensively and their report, *America's Uninsured Crisis: Consequences for Health and Health Care*, outlines the resulting lack of access to routine preventive care. In addition to the physical toll, there are major economic costs. Shorter lifespans and worse health outcomes result in a loss of \$65 - 130 billion annually⁷ and translate into lost economic productivity and threaten economic security as families live in fear of what might happen if they get sick.

⁵ "Kaiser Health Tracking Poll: Public Opinion on Health Care Issues," Kaiser Family Foundation, February 2013, available at <http://www.kff.org/kaiserpolls/upload/8418-F.pdf>.

⁶ "The Policy Priorities and Issue Preferences of Asian Americans and Pacific Islanders," National Asian American Survey, September 2012, available at <http://www.naasurvey.com/>.

⁷ "Hidden Costs, Value Lost: Uninsurance in America," National Academies Press, 2003, available at http://www.nap.edu/openbook.php?record_id=10719&page=1.

The consequences are not limited to the individual, but impact communities and state economics and put America's security at risk. Expanding access to affordable health insurance would help to relieve overburdened safety net hospitals and clinics and reduce uncompensated care costs, which often falls to states and the federal government to pick up the tab. In total, eighty-five percent of the costs for uncompensated care fall on the government.⁸

IV. Offering Immigrants the Same Opportunities for Affordable Health Care and Coverage is Fiscally Responsible and Promotes Full Integration

Providing equal access to affordable, quality care and insurance for immigrants is sound fiscal policy. Immigrants are often younger, healthier and have lower health care expenses than native-born Americans.⁹ A recent report by leading health researcher Leighton Ku and Brian Bruen found that, analyzing the Census Bureau's March 2012 Current Population Survey, immigrants have lower utilization rates for public benefits and the value of those benefits received is less than that for native-born individuals.¹⁰ In addition, the report found that analysis of the 2010 Medical Expenditure Panel Survey (MEPS), costs for immigrants under Medicaid were substantially lower compared to native-born adults and for immigrant children, costs were less than half that of native-born children. Prior analysis has conclusively shown that immigrants as a whole underutilize health care compared to the U.S. born and, when they participate in federal and state funded health programs; use fewer resources.¹¹

America needs commonsense immigration policies that align with our values, protect all families and communities, and put the nation on a path to a better, healthier future. Our laws should make health care more affordable and accessible for both Americans and aspiring Americans alike. Immigrants already feel the pain when archaic eligibility laws, language barriers and access challenges converge. We cannot afford to create new barriers to good health for anyone.

⁸ "The Cost of Care for the Uninsured: What do We Spend, Who Pays and What Would Full Coverage Add to Medical Spending?" Kaiser Family Foundation, May 2004, *available at* <http://www.kff.org/uninsured/upload/the-cost-of-care-for-the-uninsured-what-do-we-spend-who-pays-and-what-would-full-coverage-add-to-medical-spending.pdf>.

⁹ "Health Insurance Coverage and Medical Expenditures of Immigrants and Native-Born Citizens in the United States," *Am J Public Health*, Leighton Ku, 2009 July; 99(7):1322-1328, *available at* <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2696660/>.

¹⁰ "The Use of Public Assistance Benefits by Citizens and Non-Citizen Immigrants in the United States," CATO Institute, Leighton Ku and Brian Bruen, February 2013, *available at* http://www.cato.org/sites/cato.org/files/pubs/pdf/workingpaper-13_1.pdf.

¹¹ "Health Insurance Coverage and Medical Expenditures of Immigrants and Native-Born Citizens in the United States," *Am J Public Health*, Leighton Ku, 2009 July; 99(7):1322-1328, *available at* <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2696660/>.

APIAHF recommends the following four reforms to ensure that immigration policies support the full integration of immigrants and encourage all Americans to take responsibility for their health.

a. Young Adults Granted Deferred Action Must be Allowed Access to Health Reform

Including DACA-eligible youth and young adults in health reform is sound policy and fiscally responsible. DACA-eligible youth, commonly known as DREAMers, are a sizable population, with recent estimates suggesting that as many as 1.76 million young adults could be eligible for administrative relief.¹² An estimated 9% of these youth come from Asian countries, comprising over 170,000 individuals. These young adults are already part of America's fabric, having lived in the country for years, and share the same hopes and aspirations as all young Americans.

There is no principled reason to treat young people who receive deferred action through DACA differently from any other person who has received deferred action. In fact, until HHS decided to carve out DACA beneficiaries, they were covered by the ACA like all other persons who have been granted deferred action. Restoring eligibility for DACA-eligible young adults in health reform would allow these individuals to purchase coverage in the new health insurance marketplaces, pay their fair share of health care costs and see a doctor on a regular basis, instead of remaining uninsured. Including this population of overall younger and healthier individuals in the marketplace creates a more sustainable and robust risk pool and ensures that these young people are able to continue to work, pay taxes and build the nation's economy.

Shutting them out could increase costs for everyone. Excluding a large population of relatively healthy young adults from the insurance marketplaces increases the risk of adverse selection and ultimately drives up premiums for everyone. Even more worrisome is the fact that if premiums rise, citizens and lawfully present individuals alike may find it too costly to purchase coverage through the marketplace and instead choose to remain uninsured, further reducing the marketplace population and in turn driving up costs.

Finally, including DACA-eligible youth and young adults in health reform supports administrative efficiency. As states develop processes to facilitate seamless eligibility determinations and enrollment for individuals in private insurance plans, Medicaid and CHIP, they are faced with yet another complicated process. Treating DACA-eligible youth like all other immigrants granted deferred status would ease this process.

¹² "Relief from Deportation: Demographic Profile of the DREAMers Eligible Under the Deferred Action Policy," Migration Policy Institute, August 2012, *available at* http://www.migrationpolicy.org/pubs/fs24_deferredaction.pdf.

b. All Immigrants Must be Allowed the Same Opportunity to Take Responsibility for their Health by Being Able to Purchase Coverage in the Insurance Marketplaces

Federal law currently excludes undocumented immigrants from purchasing private health insurance in the newly created insurance marketplaces. This policy undermines our country's efforts to reduce the number of uninsured and prevents a large population of mostly healthy, working adults from being included in state insurance risk pools. It is also the first known statutory prohibition on a private market transaction based on an individual's immigration status. It's good fiscal policy to offer health coverage to the largest number of people. Allowing everyone to pay in increases competition and spreads risks and costs across a larger population. As these immigrants continue to contribute to the U.S. economy, support their families and work toward a path of obtaining legal status, they must be able to take responsibility for their health by having the same opportunity to purchase affordable insurance.

c. End Arbitrary and Inhumane Time Limits that Put Legal Aspiring Citizens at Risk

Congress should remove the arbitrary time limits imposed on lawfully present immigrants whose taxes help support the social safety net programs they are barred from participating in. The arbitrary time limits currently in place create substantial barriers for low-income immigrants from being able to benefit from the same support systems critical to preventing needy individuals and families from slipping into poverty. As a result, eligible immigrants have lower rates of enrollment in federally supported programs than their citizen counterparts. This disparity is also true among citizen children living in immigrant households, putting these low-income children at risk of food insecurity and poor health outcomes.

States already recognize the importance of keeping women, children and families healthy. Four states and the District of Columbia use their own funds to provide health care for children regardless of their immigration status, and twenty states use the option under the Children's Health Insurance Program Reauthorization Act of 2009 to provide health coverage for lawfully present children subject to the five-year bar. Fourteen states and the District of Columbia provide CHIP or other medical coverage for pregnant immigrant women, regardless of immigration status, and an additional thirteen states provide Medicaid coverage for lawfully present pregnant women through the CHIPRA option.

It is important to note that Medicaid is a critical lifeline for women, providing coverage for essential health care, including reproductive health care. For every dollar invested in family

planning, the federal government gets a return of nearly \$4, making investing in preventive care fiscally sound.¹³

We urge Congress to act again to permanently eliminate this arbitrary restriction for all lawfully present immigrants.

a. America Must Uphold its Commitment to the Freely Associated States and Provide Parity in Health Care

Migrants from the Compact territories should be able to access the federal health programs they pay into. COFA migrants are part of the fabric of America and share a complex relationship with the U.S. government, one in which the U.S. government has certain responsibilities. They contribute to the economy and pay taxes and therefore should be eligible for state funded programs. Lifting the current bar on eligibility will provide needed fiscal relief for states like Hawaii and the territory of Guam, which, as a result of the federal government's failure to provide economic supports for this population, have shouldered a disproportionate burden of this population's health care expenses.

V. Conclusion

Every individual, regardless of immigration status, should have a fair opportunity to attain optimal health and well-being. Any fix to the nation's immigration system must include access to health care. The alternative risks putting recent reforms and advances at risk, potentially shifts costs to states and safety net providers, and could create generations of health disparities.

For more information or questions, please contact Priscilla Huang, APIAHF Policy Director at phuang@apiahf.org or (202) 466-3550.

¹³ "Every Dollar Invested in Title X Family Planning Program Saves \$3.80," Guttmacher Institute, November 16, 2006, available at <http://www.guttmacher.org/media/nr/2006/11/16/index.html>.

Colorado Organization for Latina Opportunity and Reproductive Rights
Senate Judiciary Committee Hearing Testimony
“How Comprehensive Immigration Reform
Should Address the Needs of Women and Families”

March 21, 2013

Dear Members of the Senate Judiciary Committee:

We write today to thank you for holding a hearing on “How Comprehensive Immigration Reform Should Address the Needs of Women and Families,” and to share with you our recommendations on this important issue. The Colorado Organization for Latina Opportunity and Reproductive Rights (COLOR) is a sisterhood of Latinas, dedicated to building a movement of Latinas, their families, and allies through leadership development, organizing and advocacy to create opportunity and achieve reproductive justice.

COLOR believes that women are the backbones of all families including immigrant families. For women to be completely free and able to chart the course of their own lives, they must be able to determine not just whether and when to create family, but *where* to create family. Latinas already have barriers that prevent them from receiving access to essential services affecting their reproductive health and lives. All women should have access to quality, affordable health care and services, education, and equal pay for their employment; without these basic needs, women are at greater risk of discrimination and oppression.

Furthermore, they must have access to the resources they need in order to care for their own reproductive health and raise their families with dignity and respect. Women who are aspiring citizens are excluded from public health benefits, and thus face barriers to caring for their own reproductive health and to plan their families. All legal immigrants are barred from eligibility for Medicaid, SCHIP, and other means-tested federal benefits for the first five years that they live in the United States. This arbitrary and harmful restriction denies women access to critical reproductive health care, including contraception, cervical cancer screening, and prenatal care. Moreover, while the landmark health reform law will give many women increased access to contraception and other reproductive health care, a significant portion of those who will remain uninsured are immigrant women, due to restrictions on immigrant eligibility for new or expanded coverage options. Women should also be able to care as best they can for the health and wellbeing of their children, with the comfort of knowing that they will be not be torn away from their children and that they can afford to take their sons and daughters to doctor’s visits.

Colorado Organization for Latina Opportunity and Reproductive Rights knows it is not about what you look like or where you were born, but how you live your life and what you do that defines you here in America. The contributions of immigrant women have always been vital for our society to grow and flourish. We know our country is strongest when women are healthy, safe, and able to care for their children and families. Truly effective immigration policy reform should value and honor women and their contributions.

We call on legislators to support immigration reform that ensures women have the resources they need to make their own personal decisions about their reproductive health, their families, and

their lives. To that end, the following are our recommendations for how comprehensive immigration policy reform can address the needs of women and families.

I. Immigrant women need a fair and equitable roadmap to citizenship.

Any roadmap to citizenship and integration must be open, affordable, safe, and accessible to all immigrant women, including those whose work is in the home and those who are employed in the informal economy. A roadmap to citizenship that conditions eligibility on participation in the formal labor market disadvantages immigrant women, who are more likely to work in the informal sector. For example, many immigrant women are domestic workers¹, farm laborers, nail salon workers, and homemakers. Immigrant women must be afforded equal employment-based migration opportunities and workplace protections so that they may safely pursue economic opportunity and support their families with dignity and pride. Our immigration system has historically been unfair to women, but now we have an opportunity to change it into one that recognizes the unique realities and contributions of women's lives. A truly equitable system will place just as much value on women as it does on men. Any proposed pathway to citizenship must place equal value on the contributions of women.

II. We need to keep immigrant women and their families together.

Immigration reform must protect the right of all families to stay together, regardless of immigration status, family structure, sexual orientation, gender identity, or marital status. In addition, immigration policies must be modernized to provide sufficient family-based channels for migration in the future. Enforcement, detention, and deportation programs that compromise immigrant women's safety, violate their civil, human, and due process rights, and tear families apart must be replaced by sensible and sufficient legal channels for migration that adequately meet family and labor demands and respect women and their families.

Millions of families are at risk of being torn apart. Currently, 5.1 million children live in mixed-legal status families. Four million of these children are U.S. citizens.² The growth of mixed-status families, combined with a lack of sufficient legal channels for migration, means that more families than ever are at risk of being separated for years or even permanently. In fact, between July 2010 and September 2012, the U.S. deported more than 205,000 parents of U.S. citizen children.³

Family separation burdens local government. When parents are detained or deported, children are at risk of ending up in the child welfare system. The Applied Research Center in November 2011 conservatively estimated that 5,100 children in foster care had parents who had been detained or deported. That number is expected to grow to 15,000 over the next five years.⁴ We must alleviate the unnecessary burden on states by permitting parents to care for their children.

¹ Domestic Workers United. *Home is Where the Work Is: Inside New York's Domestic Work Industry*, Domestic Workers United and DataCenter. July 2006. Available at <http://www.domesticworkersunited.org/index.php/en/component/jdownloads/finish/3/4>.

² Passel J, Taylor P. *Unauthorized Immigrants and Their U.S.-Born Children*. Pew Hispanic Center. August 2010. Available at <http://www.pewhispanic.org/2010/08/11/unauthorized-immigrants-and-their-us-born-children/> Accessed March 13, 2013.

³ Wessler SR. Primary Data: Deportations of Parents of U.S. Citizen Kids. *Colorlines*. December 17, 2012. Available at http://colorlines.com/archives/2012/12/deportations_of_parents_of_us-born_citizens_122012.html. Accessed February 4, 2013.

⁴ Applied Research Center. *Shattered Families: The Perilous Intersection of Immigration Enforcement and the Child Welfare System*. November 2011. Available at <http://arc.org/shatteredfamilies>. Accessed February 4, 2013.

The lack of legal opportunities for families to be together incentivizes unlawful migration and encourages deported parents to return and reunite with their children. A smart immigration system is one that values and prioritizes family unity. When parents get involved with the immigration enforcement system, they often lose any say in how their children are cared for. Detained parents are held far from their children. They may be unable to participate in the reunification plans necessary to regain custody of children who end up in foster care, and they are often denied meaningful access to child custody hearings. A humane and cost-effective immigration system would protect parents' constitutionally-protected rights to determine the care and custody of their children.

Children are better off with their parents. Being undocumented does not make someone an unfit parent, and parental rights should only be terminated in cases of verified abuse and neglect. Judges need discretion to keep families together. Heavy-handed detention and deportation policies have tied the hands of immigration judges. Judges should be able to exercise discretion so that parents do not have to be deported unnecessarily.

III. We need to advance health equity for immigrant women.

Immigration reform must advance all immigrant women's access to health care and other family economic support. Such services and benefits include comprehensive health coverage and care and legal and social services that promote equality of opportunity, integration, and the ability to make decisions regarding reproductive and sexual health and the well-being of the family. Immigrant women and families work hard, pay taxes, and are committed to being in America. They should be able to pay their fair share for health care and should be included in our health care system, just like everyone else. They should not be excluded from health care simply because of their immigration status. When our families and our workforce are healthy, we all benefit.

Investing in health is common sense — and makes good fiscal sense. By and large, immigrants are younger and healthier than the American population as a whole⁵ — allowing them to participate in our health insurance systems and risk pools makes is a good economic decision for the country. When immigrant women and families do not have health care, the need for medical attention does not go away. Immigrant families without health insurance may either delay treatment for preventable disease, leading to higher costs and greater suffering, or seek care through under-resourced and expensive emergency systems. A healthy workforce means a stronger economy. Good health care is essential to workers' productivity and the opportunity for women and families to realize their full potential. If immigrant women are healthy, they are better able to support their family economically and contribute to the success of their children.

For an immigrant woman, being able to protect her health and care for her family is the first step to full social, economic, and civic integration into the American community. When moms are healthy, their families benefit.

Restrictions and other arbitrary delays that are often imposed on immigrants' access to benefits are also costly and inhumane. Many immigrant women are unable to obtain affordable health due

⁵ Leighton Ku. *Health Insurance Coverage and Medical Expenditures of Immigrants and Native-Born Citizens in the United States*. American Journal of Public Health. July 2009; Vol 99 (7): pp. 1322-1328.

to limitations resulting from their immigration status, such as the current 5-year bar on Medicare and Medicaid for lawful permanent residents, and the exclusion of undocumented immigrants in health insurance exchanges. Women and families should not be forced to wait five years for health care: five years is a lifetime to a child, and may make the difference between life and death for a woman suffering from breast or cervical cancer. Health coverage can mean the difference between preventing or treating conditions that can affect development throughout life, and leaving those conditions undetected and untreated. Removing the five-year bar for lawful permanent residents and those on the roadmap to citizenship will give them the same opportunity to pay their share and access health care as their friends and neighbors.

Today's laws are overly complex, confusing, and restrictive. A patchwork of state and federal policies limiting access to health care and family economic support creates confusion. For example, a single family could have members with five different kinds of eligibility for health care depending on their immigration status. As a result, this "chilling effect" discourages even qualified recipients from accessing support.⁶ No mother should have to navigate different health insurance systems for every single child, or choose which of her children gets health care. We need a system that works for families and ensures that women and kids get the care they need.

Anyone could get hurt or sick, and so everyone should have access to basic health care. No one should live in fear that because they lack health coverage or live in world where one accident or illness could threaten their entire family's economic security. Access to affordable, quality health care is a widely-shared goal. Medical coverage plays a crucial role in health and well-being, and all Americans should have access.

IV. Conclusion and Recommendations

As Congress considers proposals to reform current immigration laws, it is vital that the experiences of immigrant women are part of the equation. There is no doubt that the patchwork system that is now in place has hindered our progress as a country. The contributions of immigrant women have been and should continue to be allowed to grow – it is good for communities and it is good for the country.

In order to address the unique challenges that immigrant women face on the path to become full citizens of the U.S., the Colorado Organization for Latina Opportunity and Reproductive Rights urges Congress to adopt a holistic approach through the following recommendations:

- (1) Provide a fair, accessible, and affordable pathway to citizenship to all immigrants and, in particular, ensure that those who work in informal sectors of the economy can participate in this process.
- (2) Promote keeping immigrant families and children together, specifically by increasing family-based immigrant visas; alleviating current family-based immigrant visa backlogs; ending discrimination against same-sex partners under family immigration laws; allow Immigration Judges to exercise discretion in deportation cases that will result in family separation; and

⁶ Huang P. *Anchor Babies, Over-Breeders and the Population Bomb: The Reemergence of Nativism and Population Control in Anti-Immigration Policies*. Harvard Law and Policy Review. 2008; Vol 2. Available at http://www.hlpronline.com/Huang_HLPR.pdf / Accessed January 12, 2013.

protect constitutionally-protected rights to determine the care and custody of their children for parents facing deportation.

- (3) Advance health equity for immigrant women, including ensuring full access to the Affordable Care Act regardless of immigration status and lifting the five-year bar on Medicare and other means-tested federal benefits for legal permanent residents.

Again, thank you for taking the time to hear from advocates for women on this issue. We hope you will take into consideration our recommendations as the dialogue continues around how to fix our broken immigration system.

Colorado Organization for Latina Opportunity and Reproductive Rights
March 21, 2013



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STATEMENT OF
NATIONAL LATINA INSTITUTE FOR REPRODUCTIVE HEALTH
FOR HEARING, “HOW COMPREHENSIVE IMMIGRATION REFORM SHOULD
ADDRESS THE NEEDS OF WOMEN AND FAMILIES”

SENATE COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

March 18, 2013

Chairman Leahy, Ranking Member Grassley and members of the Senate Judiciary Committee: We are honored to submit this statement for the record on behalf of the National Latina Institute for Reproductive Health (NLIRH) regarding today’s hearing on “How Comprehensive Immigration Reform Should Address the Needs of Women and Families.” We would like to extend a special thanks to Senator Hirono for calling this hearing and for her leadership on immigration reform and support for immigrant women and families. NLIRH is the only national organization advancing reproductive health, rights, and justice for 24 million U.S. Latinas, their families, and their communities. Through policy advocacy, community mobilization, research, and public education, we work to ensure the fundamental human right to reproductive justice for Latinas, including immigrant Latinas, who face additional barriers to achieving reproductive health.

NLIRH is a founder and Steering Committee member of the National Coalition for Immigrant Women’s Rights (NCIWR), the leading national collaboration to assert a gender and women’s rights analysis to immigration law, policy, and practices. The Coalition now represents over 80 grassroots and national advocacy organizations working together for immigration reform, fair

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and non-discriminatory implementation of our immigration and enforcement policies, and reproductive and economic justice for immigrant women in the United States. As organizations representing immigrant women, we write today out to commend members of the Senate Judiciary committee for their commitment to improving our immigration laws. We also seek to highlight opportunities for improving policies for immigrant women and families through the bipartisan framework for immigration reform put forth by Senators Schumer, McCain, Durbin, Graham, Menendez, Rubio, Bennet, and Flake.

Immigrant Women are the Backbones of Our Families, Communities

Immigrant women are integral to the rich social, cultural, intellectual, and economic fabric of the United States. Immigrant women are the drivers of integration by encouraging their families to learn English, succeed in school and business, pursue naturalization, and fulfill their civic responsibilities. Immigrant women are more likely to start businesses than their U.S.-born counterparts and now account for 40% of all immigrant business owners.¹ Yet, despite their many contributions to our families and communities, issues of concern to women continue to be left out of conversations about immigration reform, and women continue to suffer injustice, discrimination, family separation, disparities in health care access and outcomes, and fear because of our nation's immigration policies.

The face of the immigrant in the United States is increasingly that of a woman. Women now make up 51% of the immigrant population² and 55% of all green card recipients in 2010.³ The

¹ Pearce S, Clifford E, Tandon R. *Our American Immigrant Entrepreneurs*. Immigration Policy Center. December 2011. Available at

http://www.immigrationpolicy.org/sites/default/files/docs/Women_Immigrant_Entrepreneurs_120811.pdf/
Accessed March 13, 2013

²United States Census Bureau. 2011 American Community Survey 1-Year Estimates. Selected Characteristics of the Native and Foreign-Born Populations. Available at

<http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>. Accessed on January 15, 2013.

³ Motel S, Patten E. *Statistical Portrait of the Foreign-Born Population in the United States: 2011, Table #1*. Pew Hispanic Center. January 2013. Available at <http://www.pewhispanic.org/2013/01/29/statistical-portrait-of-the-foreign-born-population-in-the-united-states-2011/#1/> Accessed March 13, 2013; Department of Homeland Security. *2011 Yearbook of Immigration Statistics*. Washington, D.C: U.S. Department of Homeland Security; 2011.

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majority of women migrate to reunite with family, to make a better life for their children, or to escape oppression, discrimination, and violence that prevent them from living full and free lives in their home countries. Yet, current immigration laws, policies, and programs disproportionately disadvantage women. In the absence of sufficient legal channels for migration, more than 5 million women in the United States today are undocumented and living on the margins of our society.⁴

Instead of honoring the contributions of immigrant women to the United States, past efforts at immigration reform have failed to provide for equitable citizenship, adequate protection, and full integration for all women. A reasonable and sustainable solution to current and future immigration needs must take into account gender specific perspectives. In addition, the path forward on immigration must ensure equality for all immigrants, protect and promote their civil and human rights, and empower aspiring citizens to fully participate in and contribute to our economy and society.

Statement of Principles on Women and Immigration Reform

The National Coalition for Immigrant Women's Rights (NCIWR) has issued a Statement of Principles for Women and Immigration Reform, which advances a vision of immigration reform that is inclusive and responsive to the needs and concerns of immigrant women. The Statement of Principles, endorsed by more than 230 local, state, and national organizations representing immigrant rights, reproductive health and justice, children's health and rights, labor and workers' rights, civil rights, faith, and LGBT rights, calls for the inclusion of women in all aspects of immigration reform. For the full statement, please see **Addendum A**. The principles are:

Available at http://www.dhs.gov/sites/default/files/publications/immigration-statistics/yearbook/2011/ois_yb_2011.pdf /Accessed March 13, 2013.

⁴ Hoefer M, Rytina N, and Baker B. U.S. Department of Homeland Security. Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2011. March 2012. Available at http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2011.pdf . Accessed on January 15, 2013.

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- Any pathway to citizenship and integration must be open, affordable, safe, and accessible to all immigrant women, including those whose work is in the home and those who are employed in the informal economy;
- Immigrant women must be afforded equal employment-based migration opportunities and workplace protections so that they may safely pursue economic opportunity and support their families with dignity and pride;
- Immigration reform must protect the right of all families to stay together, regardless of immigration status, family structure, sexual orientation, gender identity, or marital status, and provide sufficient family-based channels for migration in the future;
- Immigration reform must advance all immigrant women's access to public services and family economic support, including comprehensive health coverage and care, and legal and social services that promote equality of opportunity, integration, and the ability to make decisions regarding reproductive and sexual health and the well-being of the family;
- Enforcement, detention, and deportation programs that compromise immigrant women's safety, violate their civil, human, and due process rights, and tear families apart must be replaced by sensible and sufficient legal channels for migration that adequately meet family and labor demands and respect our obligations under international law; and
- Reforms to our immigration policies must bring an end to programs that disproportionately impact women by discouraging reporting of crimes to law enforcement and compromising the safety of communities, and must advance protections for women fleeing state and interpersonal violence and victims of trafficking or exploitation.

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Gaps for Immigrant Women Identified in Senate Bipartisan Framework for Comprehensive Immigration Reform

While NLIRH and NCIWR applaud the Senate's commitment to improving our nation's immigration laws and establishing consensus on creating a roadmap to citizenship for the 11 million aspiring citizens currently undocumented, we have identified gaps for immigrant women's health and rights in the framework put forth by the bipartisan committee in the U.S. Senate.

As currently written, the framework would preserve existing gender inequalities in our immigration system by failing to provide women an equal opportunity to apply for citizenship, and favoring employment-based migration over expanded opportunities for family unity. Additionally, the policies laid out in the bipartisan framework may endanger immigrant women's health, safety, and well-being by requiring increased immigration enforcement and denying access to federal health and family economic support for those granted provisional status.

We know that improving the health of immigrant women and families makes for stronger communities and makes good fiscal sense, and would urge the Committee to consider these issues as the work to reform our immigration system proceeds.

The Impact of Health Care Restrictions on Immigrant Women

Immigrant women face additional barriers, including financial, legal, and language barriers, to accessing the health care they need. Of these barriers, lack of access to health insurance remains one of the most harmful and persistent. Despite high participation in the labor force,⁵ immigrant

⁵ In 2011, the labor force participation rate for foreign-born women was 54.6% compared to 58.7% for U.S. born women. In 2011, the jobless rate for immigrant women was 9.5% compared to 8.3% for U.S. born women. United States Department of Labor Bureau of Labor Statistics. Labor Force Characteristics of Foreign-Born Workers Summary. May 24, 2012. Available at <http://www.bls.gov/news.release/forbrn.nr0.htm> . Accessed on February 3, 2013. Of the 11.9 million undocumented in 2008, 8.3 million were in the workforce. See Passel J, Cohn D. *A Portrait of Unauthorized Immigrants in the United States*. Pew Hispanic Center. April 2009. Available at: <http://www.pewhispanic.org/2009/04/14/a-portrait-of-unauthorized-immigrants-in-the-united-states/> Accessed February 20, 2013.



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women are less likely to have access to employer-sponsored health care compared to U.S.-born individuals.⁶ In 2011, only 34% of non-citizen immigrant Latinas had access to their employer's health care.⁷ This stands in stark contrast to the U.S. citizen population, of which approximately 64% have access to health coverage through their employment.⁸ Immigrant Latinas are over-represented in industries that typically do not offer health coverage to its employees, including agriculture and the service sector.⁹ Additionally, immigrant Latinas are more likely to work in professions where employment is informal, as caretakers and domestic workers for example, where they do not have access to employer-sponsored coverage. Moreover, these same jobs are often dangerous and subject the employee to higher risk of injury or illness, exacerbating the situation. Additionally, immigrant Latinas are more likely to be low-wage workers and live in poverty,¹⁰ putting costly private plans out of reach for many. As such, immigrant Latinas have less access to employment-sponsored and private health insurance, compared to the U.S.-born population.

On top of these barriers, existing federal policies undermine access to health insurance for immigrant Latinas. The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), or the 1996 welfare reform law, eliminated or restricted immigrants' participation in federal health care programs. The law imposes a five-year bar for access to Medicaid and other means-tested benefits for long-standing immigrants. These federal restrictions also impact immigrants' eligibility for state and local government health programs, including the State

⁶ Kaiser Family Foundation. The Role of Employer-Sponsored Coverage For Immigrants: A Primer. June 2006. Available at <http://www.kff.org/uninsured/upload/7524.pdf>. Accessed on October 5, 2012.

⁷ Labor Council for Latin American Advancement. Trabajadoras: Challenges and Conditions of Latina Workers in the United States. March 2012. Available at http://www.lclaa.org/images/pdf/Trabajadoras_Report.pdf. Accessed on February 28, 2013.

⁸ Kaiser Family Foundation. Kaiser Commission on Medicaid and the Uninsured. Connecting Eligible Immigrant Families to health Coverage and Care: Key lessons from Outreach and Enrollment Workers. October 2011. Available at <http://www.kff.org/medicaid/8249.cfm>. Accessed on October 12, 2012.

⁹ Ibid.

¹⁰ In 2011, immigrant women earned 64 cents for every dollar U.S.-born women earned and nearly half (49.3%) of women-headed immigrant households lived in poverty. United States Census Bureau. 2011 American Community Survey 1-Year Estimates. Selected Characteristics of the Native and Foreign-Born Populations. Available at <http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>. Accessed on January 15, 2013.



Children's Health Insurance Programs (SCHIP). Both Medicaid and SCHIP provide access to important sexual and reproductive health care, and the changes due to welfare reform have had a dramatic impact on all immigrants' participation in these programs.¹¹ Additionally, the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), also of 1996, further restricted immigrant women's access to health and economic supports by making it more difficult for immigrants to establish eligibility for public programs.¹² The barriers put in place by the 1996 laws continue to have a harmful impact on the health and lives of immigrant women.

Recently-enacted federal legislation, which gives states more options to cover immigrants, have represented a tremendous step forward, yet many gaps remain. With the Children's Health Insurance Program Reauthorization of 2009, states were given the option to receive federal funds to cover "lawfully present" children under 21 years of age and/or pregnant women without the five-year waiting period. Yet approximately half of states, including states with high immigrant populations like Texas and Florida, have not taken up this option to provide coverage to pregnant women.¹³ Additionally, undocumented immigrant women have never been eligible for federal health care programs.¹⁴

And gaps for immigrant women remain after the enactment of the health reform law, the Affordable Care Act (ACA). Despite advances for immigrant health through the ACA, federal restrictions on immigrant's access to health care were not addressed by the law and immigrants were restricted or excluded from new and expanded coverage options, including the expanded

¹¹ Sonfield A. The Impact of Anti-Immigrant Policy on Publicly Subsidized Reproductive Health Care. Guttmacher Institute. *Guttmacher Policy Review*. Winter 2007; 10(1). Available at <http://www.guttmacher.org/pubs/gpr/10/1/gpr100107.html>. Accessed on October 12, 2012.

¹² Huang P. Anchor Babies, Over-Breeders and the Population Bomb: The Reemergence of Nativism and Population Control in Anti-Immigration Policies. *Harvard Law and Policy Review*. Vol 2: 2008. Available at http://www.hlpronline.com/Huang_HLPR.pdf. Accessed on January 12, 2013.

¹³ In fact, Texas, a state with a large immigrant population, denies federal Medicaid coverage to most qualified immigrant adults who entered the country on or after August 22, 1996 even after they complete the federally-imposed 5-year bar. See National Immigration Law Center. Table: Medical Assistance Programs for Immigrants in Various States. July 2012. Available at <http://nilc.org/document.html?id=159>. Accessed on October 11, 2012.

¹⁴ Huang P. Anchor Babies, Over-Breeders and the Population Bomb: The Reemergence of Nativism and Population Control in Anti-Immigration Policies. *Harvard Law and Policy Review*. Vol 2: 2008. Available at http://www.hlpronline.com/Huang_HLPR.pdf. Accessed on January 12, 2013.



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Medicaid program, full price plans offered on the new health insurance exchanges, and premium tax credits and subsidies to help afford plans on the exchanges.¹⁵

Due to these barriers to both public and private health insurance, 55% of non-citizen immigrant Latinas in 2011 lived without any form of health insurance.¹⁶ And immigrants are greatly over-represented in the uninsured population: while immigrants represent 13% of the total U.S. population, they represent 29% of the uninsured.¹⁷

Barriers to health insurance have had a dramatic impact on the lives of immigrant Latinas. Laws enacted over recent decades restricting immigrants' access to vital health care and economic supports have disproportionately impacted women, who are more likely to seek health care and family economic supports for themselves and their children.¹⁸ Moreover, laws allowing public benefits administrations to report immigration status of applicants to immigration enforcement authorities have created a climate of fear. Women do not come forward to participate in family economic security programs, even when they and their children are eligible, because they are afraid of being detained or deported.¹⁹ Additionally, the patchwork of state and federal policies limiting access to health care and family economic supports also create confusion and a "chilling effect" discouraging all immigrant participation in health care and family economic supports.²⁰ For example, eligible immigrant women's participation in Medicaid dropped significantly after the enactment of federal legislation restricting immigrant women's access to vital health and

¹⁵ Henry J. Kaiser Family Foundation. Kaiser Commission on Medicaid and the Uninsured: Key Facts. Immigration Reform and Access to Health Coverage: Key Issues to Consider. February 2013. Available at <http://www.kff.org/uninsured/upload/8420.pdf>. Accessed on March 14, 2013.

¹⁶ Labor Council for Latin American Advancement. Trabajadoras: Challenges and Conditions of Latina Workers in the United States. March 2012. Available at http://www.lclaa.org/images/pdf/Trabajadoras_Report.pdf. Accessed on February 28, 2013.

¹⁷ United States Census Bureau. 2011 American Community Survey 1-Year Estimates. Selected Characteristics of the Native and Foreign-Born Populations. Available at <http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>. Accessed on January 15, 2013.

¹⁸ Huang P. Anchor Babies, Over-Breeders and the Population Bomb: The Reemergence of Nativism and Population Control in Anti-Immigration Policies. Harvard Law and Policy Review. Vol 2: 2008. Available at Accessed on January 12, 2013.

¹⁹ Ibid.

²⁰ Ibid.

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family economic security programs.²¹ And despite the partial restoration of immigrant access to Supplemental Nutrition Assistance Program (SNAP) after 1996, eligible immigrants represent a disproportionately low share of SNAP enrollees.²²

Barriers to health insurance and health care programs contribute to widened health disparities, poorer health outcomes, and increased health care costs. For instance, while cervical cancer (which is preventable in most cases and can be treated if caught early) has been on the decline for U.S. born women, rates for immigrant women have been on the rise.²³ Studies point to lack of health insurance as a significant barrier for immigrant women in accessing the routine gynecological care necessary to prevent cervical cancer.²⁴ Additionally, research has demonstrated that undocumented women without access to prenatal care are four times more likely to deliver low-weight infants and more than 7 times more likely to deliver prematurely than undocumented women with access to prenatal care.²⁵ And every dollar cut from prenatal care in California has been associated with a \$3.33 increase in post-natal care costs and \$4.68 in incremental long-term care costs, ultimately leading to increased costs to taxpayers over the long-run.²⁶ As such, federal policies restricting immigrant Latinas' access to health care have enacted a high human toll—by contributing to widened reproductive health disparities – and have defied sound public health policies.

²¹ Gold RB. Immigrants and Medicaid after Welfare Reform. Guttmacher Report on Public Policy. March May 2003, Volume 6, Number 2. Available at <http://www.guttmacher.org/pubs/tgr/06/2/gr060206.html>. Accessed on January 13, 2013.

²² Barrett A, Poikolainen A. Food Stamp Program Participation rates: 2004. U.S. Department of Agriculture, Food and Nutrition Service. 2006. Available at <http://www.fns.usda.gov/ora/MENU/published/snap/FILES/Participation/FSPPart2004.pdf> Accessed on January 16, 2013.

²³ American Congress of Obstetricians and Gynecologists. Health Care for Undocumented Women. January 2009. Available at http://www.acog.org/Resources_And_Publications/Committee_Opinions/Committee_on_Health_Care_for_Underrepresented_Women/Health_Care_for_Undocumented_Immigrants. Accessed on October 8, 2012.

²⁴ Rodriguez MA, Ward LM, Perez-Stable EJ. Breast and cervical cancer screening: impact of health insurance status, ethnicity, and nativity of Latinas. *Annual of Fam Med*. 2005; 3:235–41.

²⁵ Lu MC, Lin Y, Prietto N, Garite T. Elimination of Public Funding of Prenatal Care for Undocumented Immigrants in California: A Cost/Benefit Analysis. *American Journal of Obstetrics and Gynecology*. 2000; 182(1): 233-239.

²⁶ Ibid.

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There is Broad Support for Advancing Immigrant Health in Immigration Reform

A recent poll by the Kaiser Family Foundation demonstrated that there is high public support for advancing immigrant equity in health through immigration reform. According to the survey, 63% of people believed that immigrants currently without status who will obtain provisional status through immigration reform should be eligible for Medicaid coverage.²⁷ And 59% believed immigrants with provisional status should be eligible for federal assistance to purchase a health plan on the new health insurance exchanges if they do not have access to health insurance through their employer. Support for both proposals was higher among Black and Latino respondents. The study also found that many people underestimate the extent to which immigrants are excluded from affordable and quality health care options.

Investing in Health is Common Sense—and Makes Good Fiscal Sense

By and large, immigrants are younger and healthier than the American population as a whole—allowing them to participate in our health insurance systems and risk pools makes good fiscal sense. When immigrant women and families don't have health care, the need for medical attention doesn't go away. Immigrant families without health insurance may either delay treatment for preventable disease, leading to higher costs and greater suffering, or seek care through under-resourced and expensive emergency systems.

A Healthy Workforce Means a Stronger Economy

Good health care is essential to workers' productivity and the opportunity for women and families to realize their full potential. If immigrant women are healthy, they are better able to support their family economically and contribute to the success of their children. For an immigrant woman, being able to protect her health and care for her family is the first step to full

²⁷ Henry J. Kaiser Family Foundation. Kaiser Health Tracking Poll: Public Opinion on Health Care Issues. February 2013. Available at <http://www.kff.org/kaiserpolls/upload/8418-F.pdf> . Accessed on March 14, 2013.



social, economic, and civic integration into the American community. When mom is healthy, the whole family benefits.

The 5-Year Bar and other Arbitrary Delays are Costly and Inhumane

Women and families should not be forced to wait five years for health care: five years is a lifetime to a child, and may make the difference between life and death for a woman suffering from breast or cervical cancer. Health coverage can mean the difference between preventing or treating conditions that can affect development throughout life, and leaving those conditions undetected and untreated. Removing the five-year bar for legal immigrants and those on the roadmap to citizenship will give them the same opportunity to pay their share and access health care as their friends and neighbors.

Today's Laws are Overly Complex, Confusing, and Restrictive

A patchwork of state and federal policies limiting access to health care and family economic supports creates confusion and a “chilling effect” discouraging qualified recipients from accessing support.²⁸ A single family could have members with 5 different kinds of eligibility for health care depending on their immigration status. No mother should have to navigate different health insurance systems for every single child, or choose which of her children gets health care. We need a system that works for families and ensures that women and kids get the care they need.

Anyone Could Get Hurt or Sick, and So Everyone Should Have Access to Basic Health Care

No one should live in fear that because they lack health coverage, one accident or illness could threaten their family's economic security. Access to affordable, quality health care is a widely-

²⁸ Huang P. *Anchor Babies, Over-Breeders and the Population Bomb: The Reemergence of Nativism and Population Control in Anti-Immigration Policies*. Harvard Law and Policy Review. Vol 2: 2008. Available at http://www.hlpronline.com/Huang_HLPR.pdf / Accessed January 12, 2013.



NATIONAL LATINA INSTITUTE FOR REPRODUCTIVE HEALTH

shared goal. Medical coverage plays a crucial role in health and well-being, and all Americans should have access.

Conclusion

The National Latina Institute for Reproductive Health urges the Committee to consider the needs and perspectives of immigrant women and families, as well as the unique challenges these groups face, as the work to reform our immigration policies proceeds. NLIRH recommends that the committee consider the Statement of Principles for Women and Immigration Reform as immigration reform proposals are vetted and developed, including the urgent needs to expand access to health care and family economic supports for all immigrant women and families, regardless of their status pre- or post-reform. We are grateful for the opportunity to present this testimony, and thank the Committee for your ongoing work on these important issues.

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FIRST FOCUS CAMPAIGN FOR CHILDREN STATEMENT FOR THE RECORD

SENATE JUDICIARY COMMITTEE HEARING: “HOW COMPREHENSIVE IMMIGRATION REFORM SHOULD ADDRESS THE NEEDS OF WOMEN AND FAMILIES”

March 18, 2013

Chairman Leahy, Ranking Member Grassley, and Member of the Senate Judiciary Committee, thank you for the opportunity to submit this statement on addressing the needs of women and families in immigration reform.

The First Focus Campaign for Children (FFCC) is a bipartisan children’s advocacy organization dedicated to making children and families a priority in federal policy and budget decisions. Our organization is committed to ensuring that U.S. immigration policies promote the health and safety of our nation’s children. We firmly believe that passage of federal immigration reform that duly considers the unique needs of women and children is critical to build a stronger America.

Current statistics on the U.S. immigrant population point to the urgent need for immigration reform to specifically address the interests of women and children. Women now comprise 51% of all immigrants in the U.S., and children of immigrants represent 1 in 4 of all U.S. children.¹ Over 5 million children, the vast majority of whom are U.S.-born citizens, live in mixed legal status families with at least one undocumented parent. Therefore it is essential that efforts are made to protect the rights of women and children as Congress moves forward on immigration reform, such as ensuring that women and children are able to benefit from a pathway to citizenship, keeping families together, and protecting immigrant access to critical safety net programs and income supports.

Key Components of Immigration Reform that Prioritizes Women, Children and Families

The FFCC co-lead an effort to develop a set of [children’s principles for immigration reform](#) which have received support from over 200 organizations representing children, immigrants, academia, civil rights and faith-based communities. These principles include:

A Pathway to Citizenship

A critical component of immigration reform is establishing citizenship for the millions of undocumented immigrants, including women and families, who play an active role in our schools, churches, and communities. Citizenship is the only absolute way to ensure that families will no longer be torn apart at record-setting numbers and that parents will have the ability to come out of the shadows, work legally, and adequately provide for their

families. In order to be inclusive and to reflect the immigrant woman experience, a pathway to citizenship must be open all immigrant women, including those who work in the home and those who are employed in the informal economy. There must also be a distinct pathway for young people who were brought to United States as children and call this country home, such as the pathway specified in the Development, Relief and Education for Alien Minors (DREAM) Act.

Keeping Families Together

Immigration enforcement policies as well as the legal immigration system must be reformed to keep families together. Our immigration laws often undermine family unity, and increased immigration enforcement measures in recent years has had devastating outcomes for women and families. According to the Department of Homeland Security, nearly 205,000 parents of U.S. citizen children were deported in the 26 months between July 1, 2010 and September 31, 2012.² As a result, thousands of U.S. citizen children have moved abroad to be with deported parents, and an estimated 5,100 children are consequently in the U.S. child welfare system.³ FFCC has done extensive advocacy work to raise awareness about the conflicting policies within the immigration enforcement and child welfare systems that put children in foster care at increased risk of being permanently separated from their detained or deported parents. It is important to note that many parents, particularly women, may not qualify for citizenship under immigration reform; therefore, it is critical that immigration enforcement policies minimize instances of family separation and duly consider the well-being of children. Other critical areas of immigration law, such as policies regarding waivers of inadmissibility and cancellations of removal, must also be revised to ensure that the best interests of children are considered in critical decisions regarding a child or parent's ability to enter or stay in the United States.⁴ The family-based immigration system must also be modernized to ensure that families are no longer forced to wait as long as 20 years to reunify through family-based channels.

Protecting Access to Critical Services and Income Supports

Immigration reform should ensure that all newly legalized women and children have access to income supports as well as affordable healthcare, nutrition assistance, and other important services without any additional waiting periods. Safety net programs such as the Supplemental Nutrition Assistance Program (SNAP), Medicaid, and the Children's Health Insurance Program (CHIP) play a critical role in ensuring the health and well-being of women and children in low-income families. The Child Tax Credit (CTC), a proven bipartisan, anti-poverty tool that kept 1.5 million children from poverty in 2011 alone, helps families meet their children's basic needs and can be a lifeline for children in immigrant families with low earnings.⁵ Yet, despite the fact that children of immigrants account for 30% of all U.S. children living in low-income families, research shows that immigrant families are less likely to use income-based safety net programs.⁶ For example, according to the Urban Institute, 27% of children of immigrants in low-income families accessed SNAP compared to 44% of children in low-income native-born families in 2008.⁷ Confusing eligibility rules as well as fears regarding becoming a "public charge" have deterred many lawfully present and undocumented immigrants alike from applying for services for themselves or on behalf of their children. As a result, even U.S. citizen children living in mixed-legal status families often fail to receive the medical and nutritional benefits to which they are entitled. Furthermore, changes in the 1996 welfare reform laws created a five-year waiting period for lawfully present immigrants to receive federal means-tested benefits designed to prevent and alleviate poverty, further complicating eligibility rules and delaying access to critical services for immigrant women and children.

Recommendations

To ensure that our immigration system addresses the needs of women and children, FFCC strongly recommends that the following provisions be included in immigration reform:

- A direct, clear, and reasonable pathway to citizenship that reflects the needs of immigrant women, including a distinct pathway for immigrants brought to the U.S. as children. (DREAM Act, S 952/HR 1842, 112th Congress)
- Ensure that immigration judges are able to consider hardship to U.S. citizen children in decisions regarding a parent's admissibility, detention, or removal by reforming laws regarding cancellations of removal and waivers of inadmissibility. (HR 406, 113th Congress)
- Reform immigration enforcement policies to prevent the detention of parents whenever possible and in cases when a parent must be detained or removed, ensure that parents are granted due process rights and are able to make decisions regarding their child's care. (S 1399, 112th Congress; HR 2607, 112th Congress)
- Require state and local child welfare agencies to adopt policies that promote the reunification of system-involved children with parents who are involved in immigration proceedings. (HR 6128, 112th Congress)
- Ensure that newly legalized immigrants have equal access to affordable healthcare, nutrition assistance, and income supports without additional waiting periods.
- Ensure that family tax credits that keep children out of poverty remain available.

Thank you again for the opportunity to submit this statement. Should you have any further questions, please contact Wendy Cervantes, Vice President of Immigration and Child Rights Policy at wendyc@firstfocus.net.

¹ Fortuny, K., Hernandez, D., Chaudry, A. The Urban Institute (2010). *Young Children of Immigrants: The leading edge of America's future*. <http://www.urban.org/publications/412203.html>.

² U.S. Immigration and Customs Enforcement. Deportation of Parents of U.S. Citizen Children July 1, 2010- September 30, 2012. Accessed by Colorlines.com on December 12, 2012. http://colorlines.com/archives/2012/12/deportations_of_parents_of_us-born_citizens_122012.html

³ Wessler, S. Applied Research Center (2011). *Shattered Families: The perilous intersection of immigration enforcement and the child welfare system*. <http://arc.org/shatteredfamilies>.

⁴ Thronson, D.C. (2013). Immigration enforcement and family courts. In Phillips, S.D., Cervantes, W., Lincroft, Y., Dettlaff, A.J., & Bruce, L. (Eds.). *Children in Harm's Way: Criminal Justice, Immigration Enforcement, and Child Welfare*. Washington, D.C.: Jointly published by The Sentencing Project and First Focus.

⁵ Center on Budget and Policy Priorities (2013). *Policy Basics: The Child Tax Credit*. <http://www.cbpp.org/cms/index.cfm?fa=view&id=2989>

⁶ Chaudry, A., Fortuny, K. The Urban Institute (2010). *Children of Immigrants: Economic Well-being*. <http://www.urban.org/publications/412270.html>

⁷ *Ibid.*

Forward Together
Senate Judiciary Committee Hearing Testimony
“How Comprehensive Immigration Reform
Should Address the Needs of Women and Families”

March 21, 2013

Dear Members of the Senate Judiciary Committee:

We write today to thank you for holding a hearing on “How Comprehensive Immigration Reform Should Address the Needs of Women and Families,” and to share with you our recommendations on this important issue. Forward Together is a national, multi-racial organization that works with community leaders and organizations to transform culture and policy to catalyze social change. We work to ensure that women, youth and families have the power and resources they need to reach their full potential.

For women to be completely free and able to chart the course of their own lives, they must be able to determine not just whether and when to create family, but *where* to create family.

Furthermore, they must have access to the resources they need in order to care for their own reproductive health and raise their families with dignity and respect. Women who are aspiring citizens are excluded from public health benefits, and thus face barriers to caring for their own reproductive health and to plan their families. All legal immigrants are barred from eligibility for Medicaid, SCHIP, and other means-tested federal benefits for the first five years that they live in the United States. This arbitrary and harmful restriction denies women access to critical reproductive health care, including contraception, cervical cancer screening, and prenatal care. Moreover, while the landmark health reform law will give many women increased access to contraception and other reproductive health care, a significant portion of those who will remain uninsured are immigrant women, due to restrictions on immigrant eligibility for new or expanded coverage options. Women should also be able to care as best they can for the health and wellbeing of their children, with the comfort of knowing that they will be not be torn away from their children and that they can afford to take their sons and daughters to doctor’s visits.

Forward Together knows it is not about what you look like or where you were born, but how you live your life and what you do that defines you here in America. The contributions of immigrant women have always been vital for our society to grow and flourish. We know our country is strongest when women are healthy, safe, and able to care for their children and families. Truly effective immigration policy reform should value and honor women and their contributions.

We call on legislators to support immigration reform that ensures women have the resources they need to make their own personal decisions about their reproductive health, their families, and their lives. To that end, the following are our recommendations for how comprehensive immigration policy reform can address the needs of women and families.

I. Immigrant women need a fair and equitable roadmap to citizenship.

Any roadmap to citizenship and integration must be open, affordable, safe, and accessible to all immigrant women, including those whose work is in the home and those who are employed in the informal economy. A roadmap to citizenship that conditions eligibility on participation in the formal labor market disadvantages immigrant women, who are more likely to work in the informal sector. For example, many immigrant women are domestic workers¹, farm laborers, nail salon workers, and homemakers. Immigrant women must be afforded equal employment-based migration opportunities and workplace protections so that they may safely pursue economic opportunity and support their families with dignity and pride. Our immigration system has historically been unfair to women, but now we have an opportunity to change it into one that recognizes the unique realities and contributions of women's lives. A truly equitable system will place just as much value on women as it does on men. Any proposed pathway to citizenship must place equal value on the contributions of women.

II. We need to keep immigrant women and their families together.

Immigration reform must protect the right of all families to stay together, regardless of immigration status, family structure, sexual orientation, gender identity, or marital status. In addition, immigration policies must be modernized to provide sufficient family-based channels for migration in the future. Enforcement, detention, and deportation programs that compromise immigrant women's safety, violate their civil, human, and due process rights, and tear families apart must be replaced by sensible and sufficient legal channels for migration that adequately meet family and labor demands and respect women and their families.

Millions of families are at risk of being torn apart. Currently, 5.1 million children live in mixed-legal status families. Four million of these children are U.S. citizens.² The growth of mixed-status families, combined with a lack of sufficient legal channels for migration, means that more families than ever are at risk of being separated for years or even permanently. In fact, between July 2010 and September 2012, the U.S. deported more than 205,000 parents of U.S. citizen children.³

Family separation burdens local government. When parents are detained or deported, children are at risk of ending up in the child welfare system. The Applied Research Center in November 2011 conservatively estimated that 5,100 children in foster care had parents who had been detained or deported. That number is expected to grow to 15,000 over the next five years.⁴ We must alleviate the unnecessary burden on states by permitting parents to care for their children.

The lack of legal opportunities for families to be together incentivizes unlawful migration and encourages deported parents to return and reunite with their children. A smart immigration system is one that values and prioritizes family unity. When parents get involved with the

¹ Domestic Workers United. *Home is Where the Work Is: Inside New York's Domestic Work Industry*, Domestic Workers United and DataCenter. July 2006. Available at <http://www.domesticworkersunited.org/index.php/en/component/jdownloads/finish/3/4>.

² Passel J, Taylor P. *Unauthorized Immigrants and Their U.S.-Born Children*. Pew Hispanic Center. August 2010. Available at <http://www.pewhispanic.org/2010/08/11/unauthorized-immigrants-and-their-us-born-children/> Accessed March 13, 2013.

³ Wessler SR. Primary Data: Deportations of Parents of U.S. Citizen Kids. *Colorlines*. December 17, 2012. Available at http://colorlines.com/archives/2012/12/deportations_of_parents_of_us-born_citizens_122012.html. Accessed February 4, 2013.

⁴ Applied Research Center. *Shattered Families: The Perilous Intersection of Immigration Enforcement and the Child Welfare System*. November 2011. Available at <http://arc.org/shatteredfamilies>. Accessed February 4, 2013.

immigration enforcement system, they often lose any say in how their children are cared for. Detained parents are held far from their children. They may be unable to participate in the reunification plans necessary to regain custody of children who end up in foster care, and they are often denied meaningful access to child custody hearings. A humane and cost-effective immigration system would protect parents' constitutionally-protected rights to determine the care and custody of their children.

Children are better off with their parents. Being undocumented does not make someone an unfit parent, and parental rights should only be terminated in cases of verified abuse and neglect. Judges need discretion to keep families together. Heavy-handed detention and deportation policies have tied the hands of immigration judges. Judges should be able to exercise discretion so that parents do not have to be deported unnecessarily.

III. We need to advance health equity for immigrant women.

Immigration reform must advance all immigrant women's access to health care and other family economic support. Such services and benefits include comprehensive health coverage and care and legal and social services that promote equality of opportunity, integration, and the ability to make decisions regarding reproductive and sexual health and the well-being of the family. Immigrant women and families work hard, pay taxes, and are committed to being in America. They should be able to pay their fair share for health care and should be included in our health care system, just like everyone else. They should not be excluded from health care simply because of their immigration status. When our families and our workforce are healthy, we all benefit.

Investing in health is common sense — and makes good fiscal sense. By and large, immigrants are younger and healthier than the American population as a whole⁵ — allowing them to participate in our health insurance systems and risk pools makes is a good economic decision for the country. When immigrant women and families do not have health care, the need for medical attention does not go away. Immigrant families without health insurance may either delay treatment for preventable disease, leading to higher costs and greater suffering, or seek care through under-resourced and expensive emergency systems. A healthy workforce means a stronger economy. Good health care is essential to workers' productivity and the opportunity for women and families to realize their full potential. If immigrant women are healthy, they are better able to support their family economically and contribute to the success of their children.

For an immigrant woman, being able to protect her health and care for her family is the first step to full social, economic, and civic integration into the American community. When moms are healthy, their families benefit.

Restrictions and other arbitrary delays that are often imposed on immigrants' access to benefits are also costly and inhumane. Many immigrant women are unable to obtain affordable health due to limitations resulting from their immigration status, such as the current 5-year bar on Medicare and Medicaid for lawful permanent residents, and the exclusion of undocumented immigrants in

⁵ Leighton Ku. *Health Insurance Coverage and Medical Expenditures of Immigrants and Native-Born Citizens in the United States*. American Journal of Public Health. July 2009; Vol 99 (7): pp. 1322-1328.

health insurance exchanges. Women and families should not be forced to wait five years for health care: five years is a lifetime to a child, and may make the difference between life and death for a woman suffering from breast or cervical cancer. Health coverage can mean the difference between preventing or treating conditions that can affect development throughout life, and leaving those conditions undetected and untreated. Removing the five-year bar for lawful permanent residents and those on the roadmap to citizenship will give them the same opportunity to pay their share and access health care as their friends and neighbors.

Today's laws are overly complex, confusing, and restrictive. A patchwork of state and federal policies limiting access to health care and family economic support creates confusion. For example, a single family could have members with five different kinds of eligibility for health care depending on their immigration status. As a result, this "chilling effect" discourages even qualified recipients from accessing support.⁶ No mother should have to navigate different health insurance systems for every single child, or choose which of her children gets health care. We need a system that works for families and ensures that women and kids get the care they need.

Anyone could get hurt or sick, and so everyone should have access to basic health care. No one should live in fear that because they lack health coverage or live in world where one accident or illness could threaten their entire family's economic security. Access to affordable, quality health care is a widely-shared goal. Medical coverage plays a crucial role in health and well-being, and all Americans should have access.

IV. Conclusion and Recommendations

As Congress considers proposals to reform current immigration laws, it is vital that the experiences of immigrant women are part of the equation. There is no doubt that the patchwork system that is now in place has hindered our progress as a country. The contributions of immigrant women have been and should continue to be allowed to grow – it is good for communities and it is good for the country.

In order to address the unique challenges that immigrant women face on the path to become full citizens of the U.S., Forward Together urges Congress to adopt a holistic approach through the following recommendations:

- (1) Provide a fair, accessible, and affordable pathway to citizenship to all immigrants and, in particular, ensure that those who work in informal sectors of the economy can participate in this process.
- (2) Promote keeping immigrant families and children together, specifically by increasing family-based immigrant visas; alleviating current family-based immigrant visa backlogs; ending discrimination against same-sex partners under family immigration laws; allow Immigration Judges to exercise discretion in deportation cases that will result in family separation; and protect constitutionally-protected rights to determine the care and custody of their children for parents facing deportation.

⁶ Huang P. *Anchor Babies, Over-Breeders and the Population Bomb: The Reemergence of Nativism and Population Control in Anti-Immigration Policies*. Harvard Law and Policy Review. 2008; Vol 2. Available at http://www.hlpronline.com/Huang_HLPR.pdf / Accessed January 12, 2013.

- (3) Advance health equity for immigrant women, including ensuring full access to the Affordable Care Act regardless of immigration status and lifting the five-year bar on Medicare and other means-tested federal benefits for legal permanent residents.

Again, thank you for taking the time to hear from advocates for women on this issue. We hope you will take into consideration our recommendations as the dialogue continues around how to fix our broken immigration system.



Written Statement of Antonio M. Ginatta

Advocacy Director, US Program,

Human Rights Watch

to

the United States Senate, Committee on the Judiciary

Hearing on “How Comprehensive Immigration Reform Should

Address the Needs of Women and Families”

March 18, 2013

Mr. Chairman, Members of the Committee, thank you for the opportunity to submit a statement on today's hearing on how comprehensive immigration reform should address the needs of women and families. Human Rights Watch is an independent organization dedicated to promoting and protecting human rights around the globe. We have been reporting on abuses in the US immigration system, including violations of the right to family unity, for over 20 years. On February 1, we issued a briefing paper entitled ["Within Reach: A Roadmap for US Immigration Reform that Respects the Rights of All People,"](#) which we wish to submit for the record.¹ Our testimony will discuss a number of the recommendations that are developed in greater detail in the briefing paper, and which we think should guide any effort to reform our current, deeply flawed, immigration system.

The Universal Declaration of Human Rights states that "[t]he family is the natural and fundamental group unit of society and is entitled to protection by society and the State."² Family unification has rightly been at the heart of discussions about US immigration policy for over 50 years. A commission appointed by Congress to study immigration policies in 1981 concluded, "Reunification of families serves the national interest not only through the humaneness of the policy itself, but also through the promotion of the public order and well-being of the nation. Psychologically and socially, the reunion of family members ... promotes the health and welfare of the United States."³

Yet for years, the current US immigration system has split up countless families and left others to live under the constant threat of separation.

The United States is home to 40 million immigrants—11 million of whom are unauthorized.⁴ Nearly 17 million people live in families in which at least one member is an unauthorized

¹ "Within Reach" can also be downloaded at <http://www.hrw.org/news/2013/02/01/us-immigration-reform-should-uphold-rights>.

² Universal Declaration of Human Rights, adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948), art. 16(3).

³ US Select Committee on Immigration and Refugee Policy, "U.S. Immigration Policy and the National Interest," 1981, p. 112, quoted in Chris Duenas, "Coming to America: The Immigration Obstacle Facing Binational Same-Sex Couples," *Southern California Law Review*, vol. 73 (2000), pp. 811–841.

⁴ Pew Hispanic Center, "Unauthorized Immigrant Population: National and State Trends, 2010," February 1, 2011, <http://www.pewhispanic.org/files/reports/133.pdf> (accessed January 8, 2013). The Pew Hispanic Center updated its estimate of the unauthorized immigrant population more recently to 11.1 million in 2011. Pew Hispanic Center, "Unauthorized Immigrants: 11.1 Million in 2011," December 6, 2012, <http://www.pewhispanic.org/2012/12/06/unauthorized-immigrants-11-1-million-in-2011> (accessed January 8, 2013).

immigrant.⁵ Despite these family relationships, most unauthorized immigrants have no realistic way to gain legal status under existing law. Some of these immigrants have valid applications for legal status filed by their US citizen or permanent resident family members, but low numerical limits for family visas and processing inefficiencies have led to a massive backlog. An adult son or daughter from Mexico, for example, may wait almost 20 years after a petition is filed by a US citizen parent. This backlog creates tremendous pressure throughout the immigration system, leading to increased illegal immigration and visa overstay.

Others are ineligible to apply for legal status, despite their family relationships, because of the length of time they have been in the US without status or because of the way in which they entered the country. Even spouses of US citizens, if they entered unlawfully, cannot gain legal status without leaving the country—and that can trigger a 10-year bar to returning. A common misconception is that having a US citizen child can enable an unauthorized immigrant to immediately gain legal status. A US citizen can apply for a parent to gain permanent resident status only once he or she turns 21, and even then a parent who has been in the US without status for over a year will have to leave the country and wait 10 years to apply for legal status. A recent change in administrative policy will allow some relatives (excluding parents of US citizens) to apply for a waiver of the 10-year bar, which requires proof of extreme hardship to a US citizen relative, before leaving the country. But this change only gives people the option of applying for the waiver in advance and is limited to a small number of unauthorized immigrant family members. It does not eliminate the general bar most relatives face to gaining legal status.

Moreover, some immigrants are completely barred from getting a visa through their US citizen spouse or partner due to the Defense of Marriage Act (DOMA), which excludes lesbian and gay couples from the US government's definition of "spouse."⁶ Thousands of US citizens and their foreign same-sex spouses or partners face enormous hardships, separation, and even exile because this discriminatory policy deprives these couples of the basic right of family unity. This policy not only separates loving partners from one another, it also splits parents from children (many of whom are US citizens). Data from the 2000 census showed that almost 16,000 binational, same-sex couples (46 percent of the total) reported having children in their

⁵ Ibid.

⁶ Human Rights Watch, *Family Unvalued: Discrimination, Denial, and the Fate of Binational Same-Sex Couples Under U.S. Law*, May 2, 2006, <http://www.hrw.org/reports/2006/05/01/family-unvalued-o>.

household.⁷ Each of these households represents a real family, whose lives are made difficult and uncertain by discriminatory US immigration policy.

This policy violates the basic human rights of freedom from discrimination and respect for family life. To disregard same-sex relationships for immigration purposes sends a message, as the South African Constitutional Court put it, “that gays and lesbians lack the inherent humanity to have their families and family lives in such same-sex relationships respected or protected.... The impact constitutes a crass, blunt, cruel and serious invasion of their dignity.”⁸

Under current immigration law, most unauthorized immigrants with US citizen family members are under a constant threat of deportation. In most cases, immigration judges are not even empowered to take family unity into account. Non-permanent residents who have resided in the US for 10 years, have good moral character, and can demonstrate a US citizen or permanent resident spouse, child, or parent, would suffer “exceptional and unusual hardship” in the event of deportation are eligible to apply for “cancellation of removal” and receive permanent resident status. But such cancellation is capped at only 4,000 per year and the “exceptional and unusual hardship” standard, instituted in the 1996 amendments, is meant to encompass hardship that is substantially beyond what would normally result from family separation. Even under the existing standard, grant rates vary widely across the country, and Congress has severely limited judicial review of these decisions, which would help maintain greater consistency.

The limits of existing law are evident in the fact that in just the past two years, the US government has carried out over 200,000 deportations of people who said they had US citizen children.⁹ These parents have almost no way to return legally. Immigrants can be barred from the US for 10 years, or for life, if they leave after having been in the country for at least a year without authorization.

Immigration law is particularly harsh on people who face deportation after criminal convictions, even for lawful permanent residents convicted of minor or old offenses. Amendments that went into effect in 1996 stripped immigration judges of much of the discretion they once had to balance

⁷ Ibid., p. 176.

⁸ *National Coalition for Gay and Lesbian Equality and others v Ministry of Home Affairs and Others*, Constitutional Court of South Africa, CCT 10/99, at 54 and 42.

⁹ Seth Freed Wessler, “Nearly 205K Deportations of Parents of US Citizens in Just Over Two Years,” *Colorlines*, December 17, 2012, http://colorlines.com/archives/2012/12/us_deports_more_than_200k_parents.html (accessed January 22, 2013).

family unity against the seriousness of the crime. As a result, many lawful permanent residents, after serving whatever sentence is imposed by the criminal justice system, feel they are further punished with exile. If they return without permission to the US, they are often charged with the federal crime of illegal reentry, punishable by up to 20 years in prison.

Recommendations:

- Adjust the country quotas and number of family-based preference visas available to reduce the current backlog.
- Allow non-citizens eligible for a family visa to apply for adjustment without having to leave the country and triggering unlawful presence bars, and expand the waiver provisions to allow waiver of the unlawful presence bars if a person can prove extreme hardship to a US citizen child.
- End the discrimination against binational same-sex couples and ensure that they receive the same recognition and treatment afforded to binational opposite-sex couples in US immigration policies providing for family unification.
 - In particular, allow foreign, same-sex permanent partners or spouses of US citizens to be recognized as “spouses” under US immigration law.
- Restore and expand the power of judges to consider family unity in any removal decision by removing the cap on cancellation of removal for non-permanent residents and by returning to the pre-1996 standard of “extreme hardship” to the non-citizen or to the non-citizen’s spouse, parent, or child.
- Restore discretion to immigration judges to weigh evidence of rehabilitation, family ties, and other equities against a criminal conviction in deciding whether to deport lawful permanent residents.
- Allow for judicial review of decisions involving waivers based on hardship to families.
- Create avenues for immigrants who are currently inadmissible to apply for permission to gain legal status if they have lawfully present family in the US and can currently demonstrate good moral character.
- Ensure that unauthorized immigrants who under existing law may be barred from the United States, such as for immigration offenses or criminal convictions, are given the opportunity to overcome these bars and apply for legalization if they are able to offer evidence of current good moral character, long residence in the United States, family ties, military service, and similar factors in their favor.

**Immigrant Law Center of Minnesota
Senate Judiciary Committee Hearing Testimony
“How Comprehensive Immigration Reform
Should Address the Needs of Women and Families”**

March 21, 2013

Dear Members of the Senate Judiciary Committee:

The Immigrant Law Center of Minnesota (ILCM) was founded in 1976 as *Oficina Legal*, a program of Southern Minnesota Regional Legal Services (SMRLS). *Oficina Legal* established itself as a separate 501(c)(3) nonprofit in 1996 due to federal restrictions on legal aid offices. The agency was later renamed to reflect the increasing diversity of the immigrant population it served. Over the last decade ILCM has established itself as Minnesota’s premier provider of comprehensive immigration legal services to low-income clients of all nationalities.

We write today to thank you for holding a hearing on “How Comprehensive Immigration Reform Should Address the Needs of Women and Families,” and to share with you our recommendations on this important issue.

For women to be completely free and able to chart the course of their own lives, they must be able to determine not just whether and when to create family, but *where* to create family.

Furthermore, they must have access to the resources they need in order to care for their own reproductive health and raise their families with dignity and respect. Women who are aspiring citizens are excluded from public health benefits, and thus face barriers to caring for their own reproductive health and to plan their families. All legal immigrants are barred from eligibility for Medicaid, SCHIP, and other means-tested federal benefits for the first five years that they live in the United States. This arbitrary and harmful restriction denies women access to critical reproductive health care, including contraception, cervical cancer screening, and prenatal care. Moreover, while the landmark health reform law will give many women increased access to contraception and other reproductive health care, a significant portion of those who will remain uninsured are immigrant women, due to restrictions on immigrant eligibility for new or expanded coverage options. Women should also be able to care as best they can for the health and wellbeing of their children, with the comfort of knowing that they will be not be torn away from their children and that they can afford to take their sons and daughters to doctor’s visits.

The Immigrant Law Center of Minnesota knows it is not about what you look like or where you were born, but how you live your life and what you do that defines you here in America. The contributions of immigrant women have always been vital for our society to grow and flourish. We know our country is strongest when women are healthy, safe, and able to care for their children and families. Truly effective immigration policy reform should value and honor women and their contributions.

We call on legislators to support immigration reform that ensures women have the resources they need to make their own personal decisions about their reproductive health, their families, and

their lives. To that end, the following are our recommendations for how comprehensive immigration policy reform can address the needs of women and families.

I. Immigrant women need a fair and equitable roadmap to citizenship.

Any roadmap to citizenship and integration must be open, affordable, safe, and accessible to all immigrant women, including those whose work is in the home and those who are employed in the informal economy. A roadmap to citizenship that conditions eligibility on participation in the formal labor market disadvantages immigrant women, who are more likely to work in the informal sector. For example, many immigrant women are domestic workers¹, farm laborers, nail salon workers, and homemakers. Immigrant women must be afforded equal employment-based migration opportunities and workplace protections so that they may safely pursue economic opportunity and support their families with dignity and pride. Our immigration system has historically been unfair to women, but now we have an opportunity to change it into one that recognizes the unique realities and contributions of women's lives. A truly equitable system will place just as much value on women as it does on men. Any proposed pathway to citizenship must place equal value on the contributions of women.

II. We need to keep immigrant women and their families together.

Immigration reform must protect the right of all families to stay together, regardless of immigration status, family structure, sexual orientation, gender identity, or marital status. In addition, immigration policies must be modernized to provide sufficient family-based channels for migration in the future. Enforcement, detention, and deportation programs that compromise immigrant women's safety, violate their civil, human, and due process rights, and tear families apart must be replaced by sensible and sufficient legal channels for migration that adequately meet family and labor demands and respect women and their families.

Millions of families are at risk of being torn apart. Currently, 5.1 million children live in mixed-legal status families. Four million of these children are U.S. citizens.² The growth of mixed-status families, combined with a lack of sufficient legal channels for migration, means that more families than ever are at risk of being separated for years or even permanently. In fact, between July 2010 and September 2012, the U.S. deported more than 205,000 parents of U.S. citizen children.³

Family separation burdens local government. When parents are detained or deported, children are at risk of ending up in the child welfare system. The Applied Research Center in November 2011 conservatively estimated that 5,100 children in foster care had parents who had been detained or deported. That number is expected to grow to 15,000 over the next five years.⁴ We must alleviate the unnecessary burden on states by permitting parents to care for their children.

¹ Domestic Workers United. *Home is Where the Work Is: Inside New York's Domestic Work Industry*, Domestic Workers United and DataCenter. July 2006. Available at <http://www.domesticworkersunited.org/index.php/en/component/jdownloads/finish/3/4>.

² Passel J, Taylor P. *Unauthorized Immigrants and Their U.S.-Born Children*. Pew Hispanic Center. August 2010. Available at <http://www.pewhispanic.org/2010/08/11/unauthorized-immigrants-and-their-us-born-children/> Accessed March 13, 2013.

³ Wessler SR. Primary Data: Deportations of Parents of U.S. Citizen Kids. *Colorlines*. December 17, 2012. Available at http://colorlines.com/archives/2012/12/deportations_of_parents_of_us-born_citizens_122012.html. Accessed February 4, 2013.

⁴ Applied Research Center. *Shattered Families: The Perilous Intersection of Immigration Enforcement and the Child Welfare System*. November 2011. Available at <http://arc.org/shatteredfamilies>. Accessed February 4, 2013.

The lack of legal opportunities for families to be together incentivizes unlawful migration and encourages deported parents to return and reunite with their children. A smart immigration system is one that values and prioritizes family unity. When parents get involved with the immigration enforcement system, they often lose any say in how their children are cared for. Detained parents are held far from their children. They may be unable to participate in the reunification plans necessary to regain custody of children who end up in foster care, and they are often denied meaningful access to child custody hearings. A humane and cost-effective immigration system would protect parents' constitutionally-protected rights to determine the care and custody of their children.

Children are better off with their parents. Being undocumented does not make someone an unfit parent, and parental rights should only be terminated in cases of verified abuse and neglect. Judges need discretion to keep families together. Heavy-handed detention and deportation policies have tied the hands of immigration judges. Judges should be able to exercise discretion so that parents do not have to be deported unnecessarily.

III. We need to advance health equity for immigrant women.

Immigration reform must advance all immigrant women's access to health care and other family economic support. Such services and benefits include comprehensive health coverage and care and legal and social services that promote equality of opportunity, integration, and the ability to make decisions regarding reproductive and sexual health and the well-being of the family. Immigrant women and families work hard, pay taxes, and are committed to being in America. They should be able to pay their fair share for health care and should be included in our health care system, just like everyone else. They should not be excluded from health care simply because of their immigration status. When our families and our workforce are healthy, we all benefit.

Investing in health is common sense — and makes good fiscal sense. By and large, immigrants are younger and healthier than the American population as a whole⁵ — allowing them to participate in our health insurance systems and risk pools makes is a good economic decision for the country. When immigrant women and families do not have health care, the need for medical attention does not go away. Immigrant families without health insurance may either delay treatment for preventable disease, leading to higher costs and greater suffering, or seek care through under-resourced and expensive emergency systems. A healthy workforce means a stronger economy. Good health care is essential to workers' productivity and the opportunity for women and families to realize their full potential. If immigrant women are healthy, they are better able to support their family economically and contribute to the success of their children.

For an immigrant woman, being able to protect her health and care for her family is the first step to full social, economic, and civic integration into the American community. When moms are healthy, their families benefit.

Restrictions and other arbitrary delays that are often imposed on immigrants' access to benefits are also costly and inhumane. Many immigrant women are unable to obtain affordable health due

⁵ Leighton Ku. *Health Insurance Coverage and Medical Expenditures of Immigrants and Native-Born Citizens in the United States*. American Journal of Public Health. July 2009; Vol 99 (7): pp. 1322-1328.

to limitations resulting from their immigration status, such as the current 5-year bar on Medicare and Medicaid for lawful permanent residents, and the exclusion of undocumented immigrants in health insurance exchanges. Women and families should not be forced to wait five years for health care: five years is a lifetime to a child, and may make the difference between life and death for a woman suffering from breast or cervical cancer. Health coverage can mean the difference between preventing or treating conditions that can affect development throughout life, and leaving those conditions undetected and untreated. Removing the five-year bar for lawful permanent residents and those on the roadmap to citizenship will give them the same opportunity to pay their share and access health care as their friends and neighbors.

Today's laws are overly complex, confusing, and restrictive. A patchwork of state and federal policies limiting access to health care and family economic support creates confusion. For example, a single family could have members with five different kinds of eligibility for health care depending on their immigration status. As a result, this "chilling effect" discourages even qualified recipients from accessing support.⁶ No mother should have to navigate different health insurance systems for every single child, or choose which of her children gets health care. We need a system that works for families and ensures that women and kids get the care they need.

Anyone could get hurt or sick, and so everyone should have access to basic health care. No one should live in fear that because they lack health coverage or live in world where one accident or illness could threaten their entire family's economic security. Access to affordable, quality health care is a widely-shared goal. Medical coverage plays a crucial role in health and well-being, and all Americans should have access.

IV. Conclusion and Recommendations

As Congress considers proposals to reform current immigration laws, it is vital that the experiences of immigrant women are part of the equation. There is no doubt that the patchwork system that is now in place has hindered our progress as a country. The contributions of immigrant women have been and should continue to be allowed to grow – it is good for communities and it is good for the country.

In order to address the unique challenges that immigrant women face on the path to become full citizens of the U.S., The Immigrant Law Center of Minnesota urges Congress to adopt a holistic approach through the following recommendations:

- (1) Provide a fair, accessible, and affordable pathway to citizenship to all immigrants and, in particular, ensure that those who work in informal sectors of the economy can participate in this process.
- (2) Promote keeping immigrant families and children together, specifically by increasing family-based immigrant visas; alleviating current family-based immigrant visa backlogs; ending discrimination against same-sex partners under family immigration laws; allow Immigration Judges to exercise discretion in deportation cases that will result in family separation; and

⁶ Huang P. *Anchor Babies, Over-Breeders and the Population Bomb: The Reemergence of Nativism and Population Control in Anti-Immigration Policies*. Harvard Law and Policy Review. 2008; Vol 2. Available at http://www.hlpronline.com/Huang_HLPR.pdf / Accessed January 12, 2013.

- (3) Protect constitutionally-protected rights to determine the care and custody of their children for parents facing deportation.
- (4) Advance health equity for immigrant women, including ensuring full access to the Affordable Care Act regardless of immigration status and lifting the five-year bar on Medicare and other means-tested federal benefits for legal permanent residents.

Again, thank you for taking the time to hear from advocates for women on this issue. We hope you will take into consideration our recommendations as the dialogue continues around how to fix our broken immigration system.

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Sauti Yetu
CENTER FOR AFRICAN WOMEN AND FAMILIES

TO: Senator Hirono
FROM: Sauti Yetu Center for African Women and Families
DATE: March 15, 2013

RE: Senate Hearing on “How Comprehensive Immigration Reform Should Address the Needs of Women and Families”

Sauti Yetu Center for African Women and Families, whose name means “Our Voice” in Swahili, is an African immigrant community-based organization that provides services to families, youth and victims of domestic and sexual violence. Sauti Yetu is based in the Bronx, where roughly a third of the city’s African immigrant population lives.

According to the U.S. Census, New York City is home to the largest population (over 100,000) of African immigrants in the United States. These newest New Yorkers represent a mosaic of ethnic, religious and cultural diversity and speak an array of languages such as French, Wolof, Mandinke, Soninke, Fulani, Pulaar or Arabic. Because of their rich diversity, African immigrants are a tremendous cultural and economic resource for the city however, they face many immigration related challenges that affect their ability to provide for their families and contribute to their communities. Comprehensive immigration reform is important to the women and families we serve because a pathway to citizenship will provide economic security that will allow women to provide for their families and integration in communities that they have long been part of. We urge that any pathway to citizenship and integration must be open, affordable, safe and accessible to ALL immigrant women and their families. Specifically, we urge that comprehensive immigration reform must:

Keep families together. Too many women and children unfairly bear the brunt of detention and deportation. In the recent two-year period, 23% of all deportations were issued for parents with U.S. citizen children. Sauti Yetu clients come from multi-status families where undocumented parents raise their U.S. born children working as hard as they can to provide for their families. However, fears of being deported keep many parents from actively participating in their children’s lives. In a nation that values liberty and justice for all, we cannot continue to enforce laws that harm families and punish aspiring Americans. Immigration reform must protect parental rights and increase alternatives to detention.

Promote civil and human rights. Immigration remedies must have requirements that are realistic to the challenges that immigrants encounter when first coming to the United States. This

is most evidence in the 1-year deadline for asylum applicants. This needs to be changed to either no deadline or a 5-year deadline. Some Sauti Yetu clients are eligible for asylum relief because of a well-founded fear of future persecution based on gender-based violence however, the burden of meeting the 1-year deadline is unrealistic to the reality of being a new immigrant. Most immigrants arrive to the US and are not aware of the 1 year deadline for applying for asylum, due to isolation, language barriers, and a focus on obtaining their concrete needs of housing, enrolling their children in school, and public benefits for food.

Keep Women safe. Many of the African immigrant women we work with who are victims of abuse do not have proof of abuse such as a police report, Order of Protection, or medical report of injuries sustained by the abuse. They are adamant to cooperate in the prosecution of their abusers because of fear of the shame/blame that would accompany being the cause of her husband being arrested, feeling indebted to her husband because he is sending money to her family in her home country, or fear of the police due to corrupt practices by legal authorities in her home country. Reforms to our immigration policies must bring an end to programs that disproportionately impact women by discouraging reporting of crimes to law enforcement and compromising the safety of communities. Policies must consider the cultural and social factors that affect a victim's decisions.

A reasonable and sustainable discussion about comprehensive immigration reform must take into account gender specific perspectives. Sauti Yetu urges members of Congress to work towards immigration reform that ensures families are kept together, promotes women's safety and provides remedies where women can unite all of their many contributions to strengthen our culture and communities.

Thank you for giving us this opportunity to share our comments with the Senate Hearing Committee. We hope to continue to be part of this important discussion.

March 18, 2013

TO: The Honorable Mazie Hirono; Members of the US Senate Judiciary Committee

RE: Testimony of IMPRINT to US Senate Judiciary Committee hearing on “How Comprehensive Immigration Reform Should Address the Needs of Women and Families.”

FROM: Nikki Cicerani, spokesperson for IMPRINT (contact@imprintproject.org, 212-219-8828); and executive director of Upwardly Global

IMPRINT appreciates the opportunity to provide testimony to the Senate Judiciary Committee on the topic of “**How Comprehensive Immigration Reform Should Address the Needs of Women and Families.**”

IMPRINT is a national coalition of nonprofits working to support the successful integration of skilled immigrants into American society. Our member organizations provide a range of education and workforce services to internationally educated, skilled immigrants who are un- or under-employed.

It is vital that Comprehensive Immigration Reform be truly comprehensive. That means ensuring that mechanisms are in place to economically integrate immigrants who are already present in the US, as well as those who may arrive in the future.

It is in our nation’s interest to fully incorporate immigrant women who have brought with them a wealth of skill and experience gained in their home countries. Yet today, women who were educated abroad as doctors, scientists, engineers and other professionals are too often working as cashiers, housekeepers and nannies.

This so-called “mal-employment” has been extensively documented by the eminent labor economists Dr. Paul Harrington and Dr. Neeta Fogg of Drexel University.¹

More than simply a labor-market phenomenon, mal-employment (also called skill under-utilization) **has consequences for real people.** People like Alba, a psychologist from Mexico, and Celina, an information technology professional from Colombia.²

These women are bright, talented – and too often limited by the challenges of navigating complex and hard-to-find pathways back to their professional careers. Alba spent years working

¹ *Mal-Employment Problems Among College-Educated Immigrants in the United States*. Fogg, Neeta, and P. Harrington. 2012: Drexel University Center for Labor Markets & Policy. Viewable at: <http://lincs.ed.gov/professional-development/resource-collections/profile-153>

² First names used for privacy.

as a house cleaner after she came to the U.S.; Celina struggled to obtain even a first American job.

When women like Alba and Celina are effectively forced to take employment in lower-wage positions, the consequences are felt far beyond their own families. Our society loses the opportunity to benefit from their full talents, women workers lose the chance to reclaim their professional identities and contribute at the highest levels, and families lose vital income (and often health benefits) as mothers are trapped in low-level jobs.

It doesn't have to be this way. There are proven strategies that can help women immigrants to lift themselves and their families out of poverty and establish themselves in the middle class.

These “immigrant integration” services have been honed over the past decade by organizations such as IMPRINT member Upwardly Global, which helps skilled immigrants to prepare for the US professional labor market through activities such as mock interviewing, workforce acculturation, and more.

IMPRINT members have seen firsthand what a difference it can make when skilled immigrants receive the right intervention. Brief, targeted services helped Celinda learn how to present her skills to a US employer. Today she is employed as a Systems Integration Consultant at Accenture.

A similarly focused process helped Alba move from cleaning houses back into the field of psychology. Today she works as a counselor for survivors of domestic violence.

These two success stories are powerful examples of how immigrant women – and the employers and communities that welcome them – can benefit from appropriate “immigrant integration” services. (Learn more about promising practices in this area from the IMPRINT publication *Talent is Ready*, available at www.imprintproject.org.)

But IMPRINT and its member organizations are only able to reach a fraction of the over 1 million college-educated immigrants nationwide³ who are underutilized. We can't do it alone – and the good news is, we don't have to. **There is strong interest from public and private partners around the country** who want to institute these vital services in their communities.

More than 1,000 people have registered for IMPRINT's webinars in the last five months alone – including strong representation from refugee resettlement agencies, community colleges, local workforce investment boards, and other service providers.

These leaders recognize what IMPRINT knows well: **Enabling skilled immigrant women to find jobs commensurate with their abilities** not only elevates their own financial status and

³ Migration Policy Institute

allows their families to enter the middle class, but also benefits our nation as a whole. They add to the tax base; create additional, indirect jobs; and fill shortages in needed areas such as health care, engineering and IT.

There is solid research documenting the scope of this problem and the value of potential solutions. Here are just a few relevant facts:

- More than 1 million college-educated immigrants residing in the US are unemployed or underemployed in low- or semi-skilled jobs that fail to draw on their education and expertise.
- Those immigrants who have earned their college degree abroad are twice as likely to be under-employed than their US-educated counterparts.
- Yet many of these immigrants are trained in areas that are in demand here in this country, such as Science, Technology, Engineering and Math (STEM), Health Care and IT.
- Each 100 immigrant workers with an advanced degree are associated with an *additional* 44 new jobs for other workers; in STEM fields this rises to 86 jobs.
- With appropriate guidance and targeted interventions, under-employed skilled immigrants typically increase their annual income by 215% to 900%.⁴

Employing skilled immigrants in more appropriate positions also adds to our economy by increasing tax revenue and consumer spending.

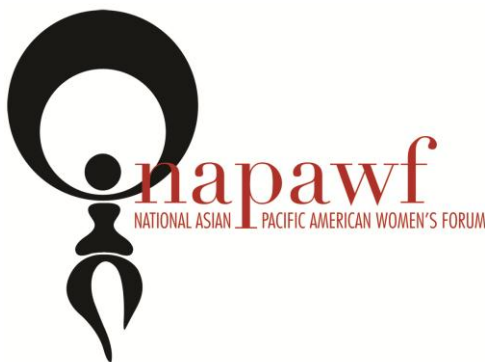
Three pieces of the puzzle are in place: Talented women immigrants continue to choose the United States as their home. Promising practices exist to help them establish professional careers. And momentum is building among American communities eager to ensure that they can benefit from the ambitious newcomers in their midst.

The final piece is up to Congress. We respectfully request that this committee recognize the importance of including the integration of skilled immigrants as part of a Comprehensive Immigration Reform package. Such inclusion will help raise thousands of immigrant women and families into the ranks of the middle class and support our country's overall economic growth.

IMPRINT would be pleased to work with this committee and its staff to develop specific language around this proposal, as appropriate.

On behalf of IMPRINT, and especially on behalf of the women and men served by our member organizations, thank you.

⁴ Sources for this entire section: Migration Policy Institute; Drexel University Center for Labor Markets and Policy; Partnership for a New American Economy; IMPRINT member organization client data.



**National Asian Pacific American Women's Forum (NAPAWF)
Senate Judiciary Committee Hearing Testimony
"How Comprehensive Immigration Reform
Should Address the Needs of Women and Families"**

March 21, 2013

Dear Members of the Senate Judiciary Committee:

We write today to thank you for holding a hearing on "How Comprehensive Immigration Reform Should Address the Needs of Women and Families," and to share with you our recommendations on this important issue. The National Asian Pacific American Women's Forum (NAPAWF) is the only national, multi-issue Asian and Pacific Islander (API) women's organization in the country. Our mission is to build a movement to advance social justice and human rights for API women and girls, and one of our primary areas of expertise is organizing and advocating for the inclusion of women's concerns in immigration policy reform.

Asians and Pacific Islanders (APIs) constitute 27.7% of the country's immigrant population¹ and are the fastest growing racial group in the nation. In fact, 60% of Asians and 14% of Native Hawaiians and Pacific Islanders are foreign-born.² There are currently 9 million women of Asian descent in the U.S.³ Four Asian countries— China, the Philippines, India, and Korea—rank among the top ten countries that undocumented immigrants in the U.S. migrate from.⁴

Our organization knows it is not about what you look like or where you were born, but how you live your life and what you do that defines you here in America. The contributions of women — mothers, sisters, daughters, and coworkers — have always been vital for our society to grow and flourish. We know our country is strongest when women are healthy, safe, and able to care for their children and families. Truly effective immigration policy reform should value and honor women and their contributions.

¹ Jeanne Batalova. Migration Policy Institute *Asian Immigrants in the United States*. May 2011. Available at

<http://www.migrationinformation.org/usfocus/display.cfm?ID=841>

² U.S. Census Bureau, 2007-2009 American Community Survey, 3-Year Estimates. See also Asian American Center for Advancing Justice, *A Community of Contrasts – Asian Americans in the United States: 2011*. Available at

http://www.advancingjustice.org/pdf/Community_of_Contrast.pdf.

³ This figure is based on data "Asian alone or in combination" figures. U.S. Census Bureau, 2010 Census Summary File 2, Age Groups and Sex: 2010 (QT-P1).

⁴ Hoffer, Retyna, and Baker. *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2011*. March 2012, Available at http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2011.pdf.

If we want to have a fair, effective, and holistic conversation about immigration policy change, we need to include immigrant women. We must ensure that how we treat API women upholds our country's values and commitment to freedom and justice for all, and that these women can fully contribute to the U.S.

NAPAWF's core values in immigration policy reform are: *a roadmap to citizenship*; *family unity*; *health equity*; and *freedom from violence*. To that end, the following are our recommendations for how comprehensive immigration policy reform can address the needs of women and families.

I. Immigrant women need a fair and equitable roadmap to citizenship.

Any roadmap to citizenship and integration must be open, affordable, safe, and accessible to *all* immigrant women, including those whose work is in the home and who are employed in the informal economy. A roadmap to citizenship that conditions eligibility on participation in the formal labor market disadvantages immigrant women, who are more likely to work in the informal sector. For example, many immigrant women are domestic workers⁵, farm laborers, nail salon workers, and homemakers. Immigrant women must be afforded equal employment-based migration opportunities and workplace protections so that they may safely pursue economic opportunity and support their families with dignity and pride. Our immigration system has historically been unfair to women, but now we have an opportunity to change it into one that recognizes the unique realities and contributions of women's lives. A truly equitable system will place just as much value on women as it does on men. Any proposed pathway to citizenship must place equal value on women's work.

II. We need to keep immigrant women and their families together.

Immigration reform must protect the right of all families to stay together, regardless of immigration status, family structure, sexual orientation, gender identity, or marital status. In addition, immigration policies must be modernized to provide sufficient family-based channels for migration in the future. Enforcement, detention, and deportation programs that compromise immigrant women's safety, violate their civil, human, and due process rights, and tear families apart must be replaced by sensible and sufficient legal channels for migration that adequately meet family and labor demands and respect women and their families.

Millions of families are at risk of being torn apart. Currently, 5.1 million children live in mixed-legal status families. Four million of these children are U.S. citizens.⁶ The growth of mixed-status families, combined with a lack of sufficient legal channels for migration, means that, as a result of deportation, more families than ever are at risk of being separated for years or even permanently. In fact, between July 2010 and September 2012, the U.S. deported more than 205,000 parents of U.S. citizen children.⁷

⁵ In fact, one survey showed that 20% of domestic workers surveyed in New York City were Asian. See Domestic Workers United, *Home is Where the Work Is: Inside New York's Domestic Work Industry*, Domestic Workers United and DataCenter, July 2006. Available at <http://www.domesticworkersunited.org/index.php/en/component/jdownloads/finish/3/4>.

⁶ Passel J, Taylor P. *Unauthorized Immigrants and Their U.S.-Born Children*. Pew Hispanic Center. August 2010. Available at <http://www.pewhispanic.org/2010/08/11/unauthorized-immigrants-and-their-us-born-children/> Accessed March 13, 2013.

⁷ Wessler SR. Primary Data: Deportations of Parents of U.S. Citizen Kids. *Colorlines*. December 17, 2012. Available at http://colorlines.com/archives/2012/12/deportations_of_parents_of_us-born_citizens_122012.html. Accessed February 4, 2013.

Family separation burdens local government. When parents are detained or deported, children are at risk of ending up in the child welfare system. The Applied Research Center in November of 2011 conservatively estimated that 5,100 children in foster care had parents who had been detained or deported. That number is expected to grow to 15,000 over the next five years.⁸ We must alleviate the unnecessary burden on states by permitting parents to care for their children.

The lack of legal opportunities for families to be together incentivizes unlawful migration and encourages deported parents to return and reunite with their children. A smart immigration system is one that values and prioritizes family unity. When parents get involved with the immigration enforcement system, they often lose any say in how their children are cared for. Detained parents are often held far away from their children. They may be unable to participate in the reunification plans necessary to regain custody of children who end up in foster care, and they are often denied meaningful access to child custody hearings. A humane and cost-effective immigration system would protect parents' constitutional right to determine the care and custody of their children.

Children are better off with their parents. Being undocumented does not make someone an unfit parent, and parental rights should only be terminated in cases of verified abuse and neglect. Judges need discretion to keep families together. Heavy-handed detention and deportation policies have tied the hands of immigration judges. Judges should be able to exercise discretion so that parents do not have to be deported unnecessarily.

III. We need to provide health equity for immigrant women.

Immigration reform must advance *all* immigrant women's access to public services and economic support. Such services and benefits include comprehensive health coverage and care, legal and social services that promote equality of opportunity, integration, and the ability to make decisions regarding reproductive and sexual health and the well-being of the family. Immigrant women and families work hard, pay taxes, and are committed to being in America. They should be able to pay their fair share for health care and should be included in our health care system, just like everyone else. They should not be excluded from health care simply because of their immigration status. When our families and our workforce are healthy, we all benefit.

Investing in health is common sense — and makes good fiscal sense. By and large, immigrants are younger and healthier than the American population as a whole.⁹ Allowing them to participate in our health insurance systems and risk pools is a good economic decision for the country. When immigrant women and families do not have health care, the need for medical attention does not go away. Immigrant families without health insurance may either delay treatment for preventable disease, leading to higher costs and greater suffering, or seek care through under-resourced and expensive emergency systems. A healthy workforce means a stronger economy. Good health care is essential to workers' productivity and the opportunity for

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⁹ Leighton Ku. *Health Insurance Coverage and Medical Expenditures of Immigrants and Native-Born Citizens in the United States*. American Journal of Public Health: July 2009, Vol. 99, No. 7, pp. 1322-1328. doi: 10.2105/AJPH.2008.144733

women and families to realize their full potential. If immigrant women are healthy, they are better able to support their family economically and contribute to the success of their children. When moms are healthy, their families benefit.

Restrictions and other arbitrary delays that are often imposed on immigrants' access to benefits are costly and inhumane. Many immigrant women are unable to obtain affordable health due to limitations resulting from their immigration status, such as the current 5-year bar on Medicare and Medicaid for lawful permanent residents, and the exclusion of undocumented immigrants in health insurance exchanges. Women and families should not be forced to wait five years for health care: five years is a lifetime to a child, and may make the difference between life and death for a woman suffering from breast or cervical cancer. Health coverage can mean the difference between preventing or treating conditions that can affect development throughout life, and leaving those conditions undetected and untreated. Removing the five-year bar for lawful permanent residents and those on the roadmap to citizenship will give them the same opportunity to pay their share and access health care as their friends and neighbors.

Today's laws are overly complex, confusing, and restrictive. A patchwork of state and federal policies limiting access to health care and family economic support creates confusion. For example, a single family could have members with five different kinds of eligibility for health care depending on their immigration status. As a result, this "chilling effect" discourages even qualified recipients from accessing support.¹⁰ No mother should have to navigate different health insurance systems for every single child, or choose which of her children gets health care. We need a system that works for families and ensures that women and kids get the care they need.

Anyone could get hurt or sick, and so everyone should have access to basic health care. No one should live in fear that because they lack health coverage or live in world where one accident or illness could threaten their entire family's economic security. Access to affordable, quality health care is a widely-shared goal. Medical coverage plays a crucial role in health and well-being, and all Americans should have access.

IV. Comprehensive immigration policy will advance freedom from violence for women.

Reforms to our immigration policies must bring an end to programs that disproportionately impact women by discouraging reporting of crimes to law enforcement. Existing immigration enforcement measures often compromise the safety of communities rather than advancing protections for women fleeing state and interpersonal violence, trafficking, or exploitation.

Many immigrant women are granted lawful entry to the United States through their husband, but are not legally allowed to work. In fact, the majority of temporary worker visas – such as the H-1B visa heavily used by Chinese and Indian immigrants – deny dependent spouses employment authorization. The result is that women become wholly dependent on male sponsors and can exacerbate situations for those facing abuse and domestic violence. Women need an independent way to immigrate lawfully, be economically empowered, and access a roadmap to citizenship.

¹⁰ Huang P. *Anchor Babies, Over-Breeders and the Population Bomb: The Reemergence of Nativism and Population Control in Anti-Immigration Policies*. Harvard Law and Policy Review. Vol 2: 2008. Available at http://www.hlpronline.com/Huang_HLPR.pdf / Accessed January 12, 2013.

Growing partnerships between local law enforcement and Immigration and Customs Enforcement are increasingly turning local police into immigration officers. This often makes women reluctant to report crimes and abuse for fear of deportation. Abusive spouses and exploitative employers are given a powerful weapon of control, and can effectively silence their victims by threatening to call the police. Instead of endangering women with these local law enforcement partnerships, we should empower women with smart enforcement that protects communities and rebuilds trust.

While most women come to the U.S. in search of a better life, some come in search of safety from violence and persecution at home. Others come unwillingly as the victims of traffickers. All of these women are deserving of protection, and a humane immigration system that is consistent with American values must stand up for the vulnerable. This means identifying vulnerable women who come into contact with the immigration system; providing access to asylum and other forms of humanitarian relief; reducing the use of immigration detention; ensuring that those who must be detained are afforded basic standards of care; and putting survivors on a roadmap to citizenship.

V. Conclusion and Recommendations

As Congress considers proposals to reform current immigration laws, it is vital that the experiences of API women are part of the equation. There is no doubt that the patchwork system that is now in place has hindered our progress as a country. The contributions of API immigrant women should be allowed to grow – it is good for communities and it is good for the country.

In order to address the unique challenges immigrant women face on the path to becoming full citizens, NAPAWF urges Congress to adopt a holistic approach through the following recommendations:

(1) Provide a fair, accessible, and affordable roadmap to citizenship for all immigrants.

This means a process that is affordable, doesn't entail long waiting periods, offers support systems for navigating the immigration processes, includes language learning mechanisms; grants immediate access to citizenship for young people who are waiting to contribute to the economy, achieve educational goals and skill building visions – the DREAMers; and recognizes the work of women employed in informal sectors of the economy and at home providing care for their own families.

(2) Promote keeping immigrant families and children together. This means increasing family-based visas; alleviating current family-based immigrant visa backlogs; ending discrimination against same-sex partners under family immigration laws; allowing judges to exercise discretion in deportation cases that would result in family separation; and protecting the due process rights of parents facing deportation who want to retain custody over their children.

(3) Provide health equity for immigrant women. This means reversing the decision to exclude Deferred Action for Childhood Arrival (DACA)-eligible immigrants from health programs, lifting the five-year ban on access to public health benefits for Lawful Permanent Residents

(LPRs) and Lawful Prospective Immigrants (LPIs), and giving all aspiring citizens the right to purchase insurance through the exchanges. We believe that in order to have a healthy, productive, and contributing community, the basic needs of all individuals should be taken into account.

- (4) **Advance freedom from violence for immigrant women.** This means terminating programs that allow state and local law enforcement to carry out immigration laws that create a sense of fear that forces women to choose between her own safety and fear of deportation; expediting current family-based sponsorships, granting dependent visa holders access to self-sufficiency independent of primary visa holder; expanding protections and relief for asylum seekers and survivors of trafficking, including increasing the number of U-visas for survivors of domestic and sexual violence; supporting women's independence by recognizing their work in employment categories; and creating better channels of protection for immigrant women workers on the job.

Again, thank you for taking the time to hear from advocates for women on this issue. We hope you will take into consideration our recommendations as the dialogue continues around how to fix our broken immigration system.

For further information about how comprehensive immigration reform affects API women, please contact Wida Amir at wamir@napawf.org.

**National Center for Lesbian Rights
Senate Judiciary Committee Hearing Testimony
“How Comprehensive Immigration Reform
Should Address the Needs of Women and Families”**

March 21, 2013

Dear Members of the Senate Judiciary Committee:

We write today to thank you for holding a hearing on “How Comprehensive Immigration Reform Should Address the Needs of Women and Families,” and to share with you our recommendations on this important issue. The National Center for Lesbian Rights is a legal organization dedicated to advancing the rights of lesbian, gay, bisexual, and transgender (LGBT) people and their families.

For women to be completely free and able to chart the course of their own lives, they must be able to determine not just whether and when to create family, but *where* to create family.

Furthermore, they must have access to the resources they need in order to care for their own reproductive health and raise their families with dignity and respect. Women who are aspiring citizens are excluded from public health benefits, and thus face barriers to caring for their own reproductive health and to plan their families. All legal immigrants are barred from eligibility for Medicaid, SCHIP, and other means-tested federal benefits for the first five years that they live in the United States. This arbitrary and harmful restriction denies women access to critical reproductive health care, including contraception, cervical cancer screening, and prenatal care. Moreover, while the landmark health reform law will give many women increased access to contraception and other reproductive health care, a significant portion of those who will remain uninsured are immigrant women, due to restrictions on immigrant eligibility for new or expanded coverage options. Women should also be able to care as best they can for the health and wellbeing of their children, with the comfort of knowing that they will be not be torn away from their children and that they can afford to take their sons and daughters to doctor’s visits.

The National Center for Lesbian Rights knows it is not about what you look like or where you were born, but how you live your life and what you do that defines you here in America. The contributions of immigrant women have always been vital for our society to grow and flourish. We know our country is strongest when women are healthy, safe, and able to care for their children and families. Truly effective immigration policy reform should value and honor women and their contributions.

We call on legislators to support immigration reform that ensures women have the resources they need to make their own personal decisions about their reproductive health, their families, and their lives. To that end, the following are our recommendations for how comprehensive immigration policy reform can address the needs of women and families.

I. Immigrant women need a fair and equitable roadmap to citizenship.

Any roadmap to citizenship and integration must be open, affordable, safe, and accessible to all immigrant women, including those whose work is in the home and those who are employed in the informal economy. A roadmap to citizenship that conditions eligibility on participation in the

formal labor market disadvantages immigrant women, who are more likely to work in the informal sector. For example, many immigrant women are domestic workers¹, farm laborers, nail salon workers, and homemakers. Immigrant women must be afforded equal employment-based migration opportunities and workplace protections so that they may safely pursue economic opportunity and support their families with dignity and pride. Our immigration system has historically been unfair to women, but now we have an opportunity to change it into one that recognizes the unique realities and contributions of women's lives. A truly equitable system will place just as much value on women as it does on men. Any proposed pathway to citizenship must place equal value on the contributions of women.

II. We need to keep immigrant women and their families together.

Immigration reform must protect the right of all families to stay together, regardless of immigration status, family structure, sexual orientation, gender identity, or marital status. In addition, immigration policies must be modernized to provide sufficient family-based channels for migration in the future. Enforcement, detention, and deportation programs that compromise immigrant women's safety, violate their civil, human, and due process rights, and tear families apart must be replaced by sensible and sufficient legal channels for migration that adequately meet family and labor demands and respect women and their families.

Millions of families are at risk of being torn apart. Currently, 5.1 million children live in mixed-legal status families. Four million of these children are U.S. citizens.² The growth of mixed-status families, combined with a lack of sufficient legal channels for migration, means that more families than ever are at risk of being separated for years or even permanently. In fact, between July 2010 and September 2012, the U.S. deported more than 205,000 parents of U.S. citizen children.³

Family separation burdens local government. When parents are detained or deported, children are at risk of ending up in the child welfare system. The Applied Research Center in November 2011 conservatively estimated that 5,100 children in foster care had parents who had been detained or deported. That number is expected to grow to 15,000 over the next five years.⁴ We must alleviate the unnecessary burden on states by permitting parents to care for their children.

The lack of legal opportunities for families to be together incentivizes unlawful migration and encourages deported parents to return and reunite with their children. A smart immigration system is one that values and prioritizes family unity. When parents get involved with the immigration enforcement system, they often lose any say in how their children are cared for. Detained parents are held far from their children. They may be unable to participate in the reunification plans necessary to regain custody of children who end up in foster care, and they are often denied meaningful access to child custody hearings. A humane and cost-effective

¹ Domestic Workers United. *Home is Where the Work Is: Inside New York's Domestic Work Industry*, Domestic Workers United and DataCenter. July 2006. Available at <http://www.domesticworkersunited.org/index.php/en/component/jdownloads/finish/3/4>.

² Passel J, Taylor P. *Unauthorized Immigrants and Their U.S.-Born Children*. Pew Hispanic Center. August 2010. Available at <http://www.pewhispanic.org/2010/08/11/unauthorized-immigrants-and-their-us-born-children/> Accessed March 13, 2013.

³ Wessler SR. Primary Data: Deportations of Parents of U.S. Citizen Kids. *Colorlines*. December 17, 2012. Available at http://colorlines.com/archives/2012/12/deportations_of_parents_of_us-born_citizens_122012.html. Accessed February 4, 2013.

⁴ Applied Research Center. *Shattered Families: The Perilous Intersection of Immigration Enforcement and the Child Welfare System*. November 2011. Available at <http://arc.org/shatteredfamilies>. Accessed February 4, 2013.

immigration system would protect parents' constitutionally-protected rights to determine the care and custody of their children.

Children are better off with their parents. Being undocumented does not make someone an unfit parent, and parental rights should only be terminated in cases of verified abuse and neglect. Judges need discretion to keep families together. Heavy-handed detention and deportation policies have tied the hands of immigration judges. Judges should be able to exercise discretion so that parents do not have to be deported unnecessarily.

III. We need to advance health equity for immigrant women.

Immigration reform must advance all immigrant women's access to health care and other family economic support. Such services and benefits include comprehensive health coverage and care and legal and social services that promote equality of opportunity, integration, and the ability to make decisions regarding reproductive and sexual health and the well-being of the family. Immigrant women and families work hard, pay taxes, and are committed to being in America. They should be able to pay their fair share for health care and should be included in our health care system, just like everyone else. They should not be excluded from health care simply because of their immigration status. When our families and our workforce are healthy, we all benefit.

Investing in health is common sense — and makes good fiscal sense. By and large, immigrants are younger and healthier than the American population as a whole⁵ — allowing them to participate in our health insurance systems and risk pools makes is a good economic decision for the country. When immigrant women and families do not have health care, the need for medical attention does not go away. Immigrant families without health insurance may either delay treatment for preventable disease, leading to higher costs and greater suffering, or seek care through under-resourced and expensive emergency systems. A healthy workforce means a stronger economy. Good health care is essential to workers' productivity and the opportunity for women and families to realize their full potential. If immigrant women are healthy, they are better able to support their family economically and contribute to the success of their children.

For an immigrant woman, being able to protect her health and care for her family is the first step to full social, economic, and civic integration into the American community. When moms are healthy, their families benefit.

Restrictions and other arbitrary delays that are often imposed on immigrants' access to benefits are also costly and inhumane. Many immigrant women are unable to obtain affordable health due to limitations resulting from their immigration status, such as the current 5-year bar on Medicare and Medicaid for lawful permanent residents, and the exclusion of undocumented immigrants in health insurance exchanges. Women and families should not be forced to wait five years for health care: five years is a lifetime to a child, and may make the difference between life and death for a woman suffering from breast or cervical cancer. Health coverage can mean the

⁵ Leighton Ku. *Health Insurance Coverage and Medical Expenditures of Immigrants and Native-Born Citizens in the United States*. American Journal of Public Health. July 2009; Vol 99 (7): pp. 1322-1328.

difference between preventing or treating conditions that can affect development throughout life, and leaving those conditions undetected and untreated. Removing the five-year bar for lawful permanent residents and those on the roadmap to citizenship will give them the same opportunity to pay their share and access health care as their friends and neighbors.

Today's laws are overly complex, confusing, and restrictive. A patchwork of state and federal policies limiting access to health care and family economic support creates confusion. For example, a single family could have members with five different kinds of eligibility for health care depending on their immigration status. As a result, this "chilling effect" discourages even qualified recipients from accessing support.⁶ No mother should have to navigate different health insurance systems for every single child, or choose which of her children gets health care. We need a system that works for families and ensures that women and kids get the care they need.

Anyone could get hurt or sick, and so everyone should have access to basic health care. No one should live in fear that because they lack health coverage or live in world where one accident or illness could threaten their entire family's economic security. Access to affordable, quality health care is a widely-shared goal. Medical coverage plays a crucial role in health and well-being, and all Americans should have access.

IV. Conclusion and Recommendations

As Congress considers proposals to reform current immigration laws, it is vital that the experiences of immigrant women are part of the equation. There is no doubt that the patchwork system that is now in place has hindered our progress as a country. The contributions of immigrant women have been and should continue to be allowed to grow – it is good for communities and it is good for the country.

In order to address the unique challenges that immigrant women face on the path to become full citizens of the U.S., the National Center for Lesbian Rights urges Congress to adopt a holistic approach through the following recommendations:

- (1) Provide a fair, accessible, and affordable pathway to citizenship to all immigrants and, in particular, ensure that those who work in informal sectors of the economy can participate in this process.
- (2) Promote keeping immigrant families and children together, specifically by increasing family-based immigrant visas; alleviating current family-based immigrant visa backlogs; ending discrimination against same-sex partners under family immigration laws; allow Immigration Judges to exercise discretion in deportation cases that will result in family separation; and protect constitutionally-protected rights to determine the care and custody of their children for parents facing deportation.

⁶ Huang P. *Anchor Babies, Over-Breeders and the Population Bomb: The Reemergence of Nativism and Population Control in Anti-Immigration Policies*. Harvard Law and Policy Review. 2008; Vol 2. Available at http://www.hlpsonline.com/Huang_HLPR.pdf / Accessed January 12, 2013.

- (3) Advance health equity for immigrant women, including ensuring full access to the Affordable Care Act regardless of immigration status and lifting the five-year bar on Medicare and other means-tested federal benefits for legal permanent residents.

Again, thank you for taking the time to hear from advocates for women on this issue. We hope you will take into consideration our recommendations as the dialogue continues around how to fix our broken immigration system.

Statement of National Immigration Law Center

Senate Judiciary Committee

Hearing: Immigration Revision and Needs of Women and Families

March 18, 2013

The National Immigration Law Center (NILC) is a nonpartisan organization exclusively dedicated to defending and advancing the rights of low-income immigrants and their families. We conduct policy analysis, advocacy, and impact litigation, as well as provide training, publications, and technical assistance for a broad range of groups throughout the U.S.

Since its inception in 1979, NILC has earned a national reputation as a leading expert on the intersection of immigration law, health care and economic supports, and the employment rights of low-income immigrants. NILC works in collaboration with health care advocacy and anti-poverty groups, state immigrant rights coalitions, legal aid attorneys, workers' rights advocates, labor unions, health care and social service providers, and faith and community-based organizations. NILC is a key resource for federal and state policymakers, government agencies, as well as the media due to our in-depth policy expertise which is informed by on-the-ground experiences and emerging issues.

NILC advocates for passage of broad and humane immigration reform legislation that provides a clear roadmap to full citizenship for the 11 million aspiring citizens. This would make it possible for immigrants to fully integrate into the nation's social and economic fabric, with all the rights and responsibilities entailed in full integration. Full citizenship should ensure that everyone living in the U.S. has access to economic supports, affordable health care, workers' rights, and the freedom to live free from fear of detention and deportation.

Immigrant families face barriers that keep them disproportionately in poverty

Immigration reform will not only affect those currently without a road to citizenship, but their family members as well. There are an estimated 5.5 million children living in mixed-status immigrant households, three-quarters of whom are U.S. citizens.¹ Of the 11 million individuals currently without status, one million are children and of the remaining ten million adults, nearly one-half are parents of children. As a result, it is critical that Congress not consider the 11 million aspiring citizens as a monolithic group and recognizes that immigration reform will have an exponential effect on the lives of millions of low-income individuals, citizens as well as immigrants, residing in the U.S.

Children in immigrant families make up nearly one in four of all children in the U.S. and account for almost a third of all children in U.S. low-income families.² In 2010, the median annual household income

¹ Passel, Jeffrey, Cohn, D., *A Portrait of Unauthorized Immigrants in the United States*, April 14, 2009, Pew Hispanic Center, available at <http://www.pewhispanic.org/reports/report.php?ReportID=107>. See also S. McMorrow, G.M. Kenney, & C. Coyer, *Addressing Coverage Challenges for Children under the Affordable Care Act*, Urban Institute, May 2011, available at http://www.urban.org/uploaded_pdf/412341-Affordable-Care-Act.pdf.

² 2011 American Community Survey and Census Data on the Foreign Born by State, Migration Policy Institute, available at: <http://www.migrationinformation.org/datahub/acscensus.cfm>

for non-U.S. citizens was \$25,000, roughly half the median income of citizen households.³ In the United States, a child should not face hunger or a lack of a sense of security, or be unable to see a doctor when ill; yet children with immigrant parents disproportionately experience these barriers as compared to children with native-born parents. Although all parents strive to provide for their children and ensure that they have the opportunities afforded to every child and be able to succeed in life, immigrant parents face barriers to do so consistently, which stem primarily from their immigration status rather than lack of effort. For instance, despite immigrants' high levels of participation in the nation's workforce, a disproportionate number of immigrants and their family members are uninsured.⁴ Currently, more than one-third of children in immigrant families do not have health insurance.⁵ Thus, while the majority of Americans receive affordable coverage for themselves and their families through their employer, immigrants often lack health insurance because they work in low-wage industries that do not offer strong worker protections or benefits.⁶ This lack of affordable health insurance puts these immigrants at grave risk – both physically and financially – and makes the working conditions of immigrant workers even more egregious.⁷ Compounding this dynamic, many immigrant workers face retaliation, over-verification, and retaliation in the workplace, necessitating serious reforms of electronic employment verification,⁸ particularly for women,⁹ and protection from retaliation.¹⁰

Since immigrant families tend to work in low-wage industries, and the majority of children in immigrant families are U.S. citizens, many children in immigrant families are eligible for government-sponsored health insurance, such as Medicaid, as well as anti-hunger programs such as the Supplemental Nutrition Assistance Program (SNAP).¹¹ Unfortunately, their participation rates in these programs are consistently lower than children in native-born households.¹² For example, while participation rates for children in SNAP have been historically nearly 90%, U.S. citizen children in mixed-status households participated at only 55%.¹³ These discrepancies between access to health care and nutrition programs among children in immigrant and native-born citizen households are most often a result of a complicated set of eligibility

³ Id.

⁴ *Key Facts on Health Coverage for Low-Income Immigrants Today and Under the Affordable Care Act*, Kaiser Family Foundation, March 2013, available at: <http://www.kff.org/uninsured/8279.cfm>

⁵ *2011 American Community Survey and Census Data on the Foreign Born by State*, Migration Policy Institute, available at: <http://www.migrationinformation.org/datahub/acscensus.cfm>

⁶ *Key Facts on Health Coverage for Low-Income Immigrants Today and Under the Affordable Care Act*, Kaiser Family Foundation, March 2013, available at: <http://www.kff.org/uninsured/8279.cfm>

⁷ For more information on the mistreatment of immigrant workers, see Statement of Emily Tulli, House Committee on the Judiciary, January 26, 2011, available at <https://nilc.org/document.html?id=360>.

⁸ See NILC's *E-Verify & Immigration Reform*, February 2013 available at: <https://nilc.org/document.html?id=855>

⁹ See NILC's *E-Verify Errors: A Women's Issue*, March 2013 available at: <https://nilc.org/everifyimpactonwomen.html>

¹⁰ See NILC's *The POWER Act: Protect Our Workers from Exploitation and Retaliation Act*, June 2011 available at: <https://nilc.org/power-act-2011-06-08.html>

¹¹ See NILC's *Overview of Immigrant Eligibility for Federal Programs* available at: http://www.nilc.org/table_ovrw_fedprogs.html

¹² See e.g., Victoria Lynch, Samantha Phong, Genevieve Kenney, and Juliana Macri, *Uninsured Children: Who are They and Where Do They Live?*, Urban Institute, August 2010, accessible at: <http://www.rwjf.org/content/dam/web-assets/2010/08/uninsured-children> (providing analysis of participation rates of children in Medicaid and the Children's Health Insurance Program (CHIP)).

¹³ *Supplemental Nutrition Assistance Program: Guidance on Non-Citizen Eligibility*, Food and Nutrition Service, U.S. Dept. of Agriculture, June 2011, available at: www.fns.usda.gov/snap/government/pdf/Non-Citizen_Guidance_063011.pdf

rules based on immigration status that lead to confusion and enrollment errors.¹⁴ For example, a parent who is a lawful permanent resident (also referred to as an “LPR” or “green-card holder”) who obtains her status today must wait an arbitrary five years to enroll in SNAP, Medicaid, as well as Temporary Assistance to Needy Families (TANF), even if she meets all other eligibility criteria today. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) created a web of complicated, arbitrary, and burdensome eligibility rules that deny opportunities to low-income immigrants and their families, who include individuals with lawful status or are U.S. citizens, from escaping poverty.¹⁵ Moreover, immigrants who are barred from federal affordable health care and anti-hunger programs pay taxes that help support these programs now as well as in the future.¹⁶

Yet access to health and nutrition programs for low-income immigrants has very little to do with the fact our immigration laws are outdated and that our immigration system must be reformed. Individuals immigrate to the United States for three key reasons – to reunite with family members, to seek better education and employment opportunities, or for humanitarian reasons (e.g. fleeing violence due to war or internal conflicts, fleeing persecution for religious beliefs, etc.). The failure of our current immigration system to adequately address these needs and the economic needs of the nation is one reason why our immigration system is broken and that there is “no line” for millions of individuals to stand in. Even for those who do have a line to stand in, punitive provisions from the 1996 laws such as the 3 and 10 year bars, stand as arbitrary barriers to re-unification.¹⁷

It is critical that future efforts to repair this broken system address the actual causes of migration rather than myths based in fear, not fact. Access to affordable health care, anti-hunger or anti-poverty programs does not cause migration; in fact, immigration increased in the 1990’s as a result of economic growth in the U.S. and despite federal restrictions to these key programs.¹⁸ During this most recent recession, immigration declined.¹⁹ However, denying access to these programs to the most vulnerable among us has resulted in increased health disparities, learning difficulties for children who are hungry, ill, or unable to see the blackboard for instance, and a generation of parents who are struggling to provide for their families and give them an opportunity for a better life.

Congress must not perpetuate this harmful mistake. An immigration system for the 21st century must recognize our nation’s current economic needs as well as create the opportunities that will help spur economic growth in the future by investing, rather than punishing, aspiring citizens so they can contribute to their fullest potential.

¹⁴ See NILC’s *Overview of Immigrant Eligibility for Federal Programs* available at: http://www.nilc.org/table_ovrw_fedprogs.html. Also see e.g., *Connecting Eligible Immigrant Families to Health Coverage and Care: Key Lessons from Outreach and Enrollment Workers*, Kaiser Family Foundation, October 2011, available at: <http://www.kff.org/medicaid/8249.cfm>

¹⁵ See NILC’s *Overview of Immigrant Eligibility for Federal Programs* available at: http://www.nilc.org/table_ovrw_fedprogs.html

¹⁶ See e.g., *Strength in Diversity: The Economic and Political Power of Immigrants, Latinos, and Asians*, Immigration Policy Center, January 2012, available at: <http://www.immigrationpolicy.org/just-facts/strength-diversity-economic-and-political-power-immigrants-latinos-and-asians>

¹⁷ Even the waiver that exists to overcome the 3 and 10 year bars does not even consider whether a U.S. citizen child would suffer hardship if denied reunification with her parents. See INA §212(a)(9)(B)(v).

¹⁸ Passel, Jeffrey and Cohn, D., *U.S. Population Projections: 2005-2050*, Pew Hispanic Center, February 11, 2008, available at: <http://www.pewhispanic.org/2008/02/11/us-population-projections-2005-2050/>

¹⁹ Passel, Jeffrey and Cohn, D., *Unauthorized Immigrant Population: National and State Trends, 2010*, Pew Hispanic Center, February 1, 2011, <http://www.pewhispanic.org/2011/02/01/unauthorized-immigrant-population-national-and-state-trends-2010/>

Recommendations for addressing the needs of low-income families in immigration reform

Immigration reform must provide a roadmap to full citizenship, reunite family members who have been separated due to family visa backlogs and harmful immigration enforcement policies, and enact strong worker protections that will improve the working conditions for everyone.²⁰ The majority of Americans support a pathway to citizenship and modernizing our immigration system.²¹

In addition, there is strong support that aspiring citizens on a road to citizenship have access to affordable health care and nutrition assistance. More than 360 state and national organizations, representing a diverse group of stakeholders – including health care providers, labor, children’s and women’s rights organizations, immigrant rights groups, and the faith community – joined together to ask Congress and President Obama to pass immigration reform legislation that entails not only responsibilities, but the opportunities to meet those responsibilities, through fair access to health and anti-hunger programs.²² Access to these programs would provide only a level playing field for these individuals, rather than a special benefit. For example, allowing aspiring citizens to be able to purchase affordable health insurance through the Affordable Care Act, along with millions of other Americans, allows them to pay their fair share and help bring down the cost of health care for everyone.²³ In fact, there is already strong support – especially among voters of color - for providing aspiring citizens access to affordable health care through Medicaid or private insurance under the Affordable Care Act of 2010.²⁴

The National Immigration Law Center recently launched the *Healthy New Americans* campaign to provide an opportunity for a diverse and growing number of supporters and voices to advocate for access to affordable health care and nutrition assistance for millions of low-income aspiring citizens, who include children, women, as well as parents. The long-term consequences of excluding aspiring citizens and other immigrants from full participation in society denies not only them, but all of us, a more economically secure future and a stronger nation that lives up to and demonstrates its most cherished values.

²⁰ See e.g., *Shattered Families: The perilous Intersection of Immigration Enforcement and the Child Welfare System*, The Applied Research Center (ARC), November 2011, available at: <http://arc.org/shatteredfamilies>

²¹ See a compilation of public polling from January and February 2013 including from Quinnipiac, Washington Post/ABC News, Public Policy Polling, AP-GFK, Hart Research Associates/Public Opinion Strategies, and Fox News. Available at: <http://americasvoiceonline.org/polls/poll-roundup-americans-support-full-citizenship-for-undocumented-immigrants/>

²² *An Open Letter to President Obama and to All Members of Congress*, March 2013, available at: <http://www.nilc.org/document.html?id=845>

²³ *How Immigrants Are Covered in Health Care Reform*, National Immigration Law Center, April 2010, available at: <http://www.nilc.org/immigrantsshr.html>

²⁴ See Kaiser Family Foundation, *February Kaiser Health Tracking Poll*, February 2013 available at: <http://www.kff.org/kaiserpolls/8418.cfm>

**Senate Judiciary Committee Hearing Testimony
“How Comprehensive Immigration Reform
Should Address the Needs of Women and Families”**

March 21, 2013

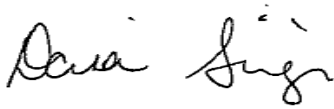
Planned Parenthood Federation of America (“Planned Parenthood”) and Planned Parenthood Action Fund (“the Action Fund”) are pleased to submit these comments on immigration reform before the United States Senate Judiciary Committee. Planned Parenthood is the nation’s leading women’s health care provider and advocate and a trusted, nonprofit source of primary and preventative care for women, men, and young people in communities across the United States. Every year, Planned Parenthood health centers provide affordable birth control, lifesaving cancer screenings, testing and treatments for STD’s and other essential care to nearly three million patients. The vast majority of Planned Parenthood patients have incomes at or below 150 percent of the federal poverty level, and in 2010, 23 percent (more than 630,000 people) of Planned Parenthood clients were Latinos.

We thank you for holding an important hearing, “How Comprehensive Immigration Reform Should Address the Needs of Women and Families.” In addition to expressing our appreciation to the Committee for addressing such an important topic, we would like to provide our unique perspective as a health care provider and elaborate on the specific question posed by Senator Hirono regarding the five year waiting period for Medicaid coverage

As a health care provider, we urge Congress to lift the current five year waiting period for legal immigrants to access essential health care programs, including Medicaid and the Children’s Health Insurance Program (CHIP). The five year waiting period is an arbitrary and harmful restriction that has resulted in women being unable to access vital preventive care that they would otherwise qualify for, including cancer screenings, pap smears, and birth control. As a result, immigrant women are more likely to develop preventable illnesses and delay obtaining medical treatment. We know that access to affordable and reliable contraception is critical for women and is directly linked to improved maternal and infant health. When women plan their pregnancies, they are more likely to access prenatal care – improving their own health and the health of their children. By lifting the five year waiting period, immigrant women will be able to access contraception and pre and post-natal care that helps keep them and their families healthy. Indeed, refusing to allow access to this type of coverage, for any amount of time, will only further contribute to poor health outcomes—exacerbating health disparities for a large section of the American population today and for generations to come. In addition to lifting the five year waiting period, we also urge Congress to allow all immigrants to access health care via private insurance Marketplaces (formerly called Exchanges). The Affordable Care Act already allows lawfully present immigrants to access coverage in the Exchange; however, undocumented immigrants cannot access health plans in the Marketplace even at full cost. Although undocumented individuals are able to access health care coverage outside of the Marketplace, it is very likely that the coverage will be cost prohibitive. This means that many undocumented women will not be able to access coverage – coverage that would include critical women’s health services, such as birth control and maternity coverage.

As our nation looks towards building a brighter future, it's important to recognize that there are significant gains to be made for our country by making health care more accessible for all people. We strongly urge for the removal of the five year waiting period so that all legal immigrants have access to essential programs, including Medicaid and CHIP. In addition, as efforts move forward with comprehensive immigration reform, we ask that you ensure the pathway to citizenship leads to full and equal rights, including access to private and public health care coverage.

Sincerely,

A handwritten signature in black ink, appearing to read "Dana Singiser". The signature is fluid and cursive, with the first name "Dana" and last name "Singiser" clearly distinguishable.

Dana Singiser
Vice President of Policy and Government Relations
Planned Parenthood Action Fund
Planned Parenthood Federation of America
1110 Vermont Avenue NW, Suite 300
Washington, DC 20005

**Senate Judiciary Committee Hearing Testimony
“How Comprehensive Immigration Reform
Should Address the Needs of Women and Families”**

March 21, 2013

Dear Members of the Senate Judiciary Committee:

Thank you for holding a hearing on this critical issue, which—like the lives and needs of marginalized people in general—is too often overlooked. We write to share our faith-based perspective.

The Religious Coalition for Reproductive Choice, an interfaith coalition of 32 religious organizations dedicated to reproductive justice, believes strongly that reform legislation should do three things: (1) provide a fair, accessible, and affordable pathway to citizenship; (2) keep families and children together, including an end to discrimination against same-sex partners; and (3) advance health equity for all immigrant women.

There are countless scriptures, stories, and principles across faith traditions which speak to the importance of offering at least fair treatment—if not generous hospitality—to immigrants. For example, the plight of the Israelites in Egypt, and the lessons learned from it, are clearly and powerfully articulated in these words from the Hebrew Bible:

*The stranger who dwells among you shall be to you as one born among you,
and you shall love him as yourself; for you were strangers in the land of Egypt.*

Leviticus 19:34

Restricting immigrant’s access to healthcare, whether through time-based restrictions to Medicaid eligibility or other measures, utterly fails our basic religious imperative to welcome the stranger—to provide vulnerable women and their families with exactly the kind of compassionate support that we, in their situation, would hope to have.

We ask you to support immigration reform that ensures women have the resources they need to make decisions about their reproductive health, their families, and their lives according to their own values and religious beliefs. To that end, the following are our recommendations for how comprehensive immigration policy reform can address the needs of women and families.

I. Immigrant women need a fair and equitable roadmap to citizenship.

Any roadmap to citizenship and integration must be open, affordable, safe, and accessible to all immigrant women, including those whose work is in the home and those who are employed in the informal economy. A roadmap to citizenship that conditions eligibility on participation in the formal labor market disadvantages immigrant women, who are more likely to work in the informal sector. For example, many immigrant women are domestic workers¹, farm laborers, nail salon workers, and homemakers. Immigrant women must be afforded equal employment-based migration opportunities and workplace protections so that they may safely pursue economic opportunity and support their families with dignity and pride. Our immigration system has historically been unfair to women, but now we have an opportunity to change it into one that recognizes the unique realities and contributions of women's lives. A truly equitable system will place just as much value on women as it does on men. Any proposed pathway to citizenship must place equal value on the contributions of women.

II. We need to keep immigrant women and their families together.

Immigration reform must protect the right of all families to stay together, regardless of immigration status, family structure, sexual orientation, gender identity, or marital status. In addition, immigration policies must be modernized to provide sufficient family-based channels for migration in the future. Enforcement, detention, and deportation programs that compromise immigrant women's safety, violate their civil, human, and due process rights, and tear families apart must be replaced by sensible and sufficient legal channels for migration that adequately meet family and labor demands and respect women and their families.

Millions of families are at risk of being torn apart. Currently, 5.1 million children live in mixed-legal status families. Four million of these children are U.S. citizens.² The growth of mixed-status families, combined with a lack of sufficient legal channels for migration, means that more families than ever are at risk of being separated for years or even permanently. In fact, between July 2010 and September 2012, the U.S. deported more than 205,000 parents of U.S. citizen children.³

Family separation burdens local government. When parents are detained or deported, children are at risk of ending up in the child welfare system. The Applied Research Center in November 2011 conservatively estimated that 5,100 children in foster care had parents

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who had been detained or deported. That number is expected to grow to 15,000 over the next five years.⁴ We must alleviate the unnecessary burden on states by permitting parents to care for their children.

The lack of legal opportunities for families to be together incentivizes unlawful migration and encourages deported parents to return and reunite with their children. A smart immigration system is one that values and prioritizes family unity. When parents get involved with the immigration enforcement system, they often lose any say in how their children are cared for. Detained parents are held far from their children. They may be unable to participate in the reunification plans necessary to regain custody of children who end up in foster care, and they are often denied meaningful access to child custody hearings. A humane and cost-effective immigration system would protect parents' constitutionally-protected rights to determine the care and custody of their children.

Children are better off with their parents. Being undocumented does not make someone an unfit parent, and parental rights should only be terminated in cases of verified abuse and neglect. Judges need discretion to keep families together. Heavy-handed detention and deportation policies have tied the hands of immigration judges. Judges should be able to exercise discretion so that parents do not have to be deported unnecessarily.

III. We need to advance health equity for immigrant women.

Immigration reform must advance all immigrant women's access to health care and other family economic support. Such services and benefits include comprehensive health coverage and care and legal and social services that promote equality of opportunity, integration, and the ability to make decisions regarding reproductive and sexual health and the well-being of the family. Immigrant women and families work hard, pay taxes, and are committed to being in America. They should be able to pay their fair share for health care and should be included in our health care system, just like everyone else. They should not be excluded from health care simply because of their immigration status. When our families and our workforce are healthy, we all benefit.

Investing in health is common sense — and makes good fiscal sense. By and large, immigrants are younger and healthier than the American population as a whole⁵ — allowing them to participate in our health insurance systems and risk pools makes is a good economic decision for the country. When immigrant women and families do not have health care, the need for medical attention does not go away. Immigrant families without health insurance may either delay treatment for preventable disease, leading to higher costs and greater suffering, or seek care through under-resourced and expensive emergency systems. A healthy workforce means a stronger economy. Good health care is

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essential to workers' productivity and the opportunity for women and families to realize their full potential. If immigrant women are healthy, they are better able to support their family economically and contribute to the success of their children.

For an immigrant woman, being able to protect her health and care for her family is the first step to full social, economic, and civic integration into the American community. When moms are healthy, their families benefit.

Restrictions and other arbitrary delays that are often imposed on immigrants' access to benefits are also costly and inhumane. Many immigrant women are unable to obtain affordable health due to limitations resulting from their immigration status, such as the current 5-year bar on Medicare and Medicaid for lawful permanent residents, and the exclusion of undocumented immigrants in health insurance exchanges. Women and families should not be forced to wait five years for health care: five years is a lifetime to a child, and may make the difference between life and death for a woman suffering from breast or cervical cancer. Health coverage can mean the difference between preventing or treating conditions that can affect development throughout life, and leaving those conditions undetected and untreated. Removing the five-year bar for lawful permanent residents and those on the roadmap to citizenship will give them the same opportunity to pay their share and access health care as their friends and neighbors.

Today's laws are overly complex, confusing, and restrictive. A patchwork of state and federal policies limiting access to health care and family economic support creates confusion. For example, a single family could have members with five different kinds of eligibility for health care depending on their immigration status. As a result, this "chilling effect" discourages even qualified recipients from accessing support.⁶ No mother should have to navigate different health insurance systems for every single child, or choose which of her children gets health care. We need a system that works for families and ensures that women and kids get the care they need.

Anyone could get hurt or sick, and so everyone should have access to basic health care. No one should live in fear that because they lack health coverage or live in world where one accident or illness could threaten their entire family's economic security. Access to affordable, quality health care is a widely-shared goal. Medical coverage plays a crucial role in health and well-being, and all Americans should have access.

IV. Conclusion and Recommendations

As Congress considers proposals to reform current immigration laws, it is vital that the experiences of immigrant women are part of the equation. There is no doubt that the patchwork system that is now in place has hindered our progress as a country. The

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contributions of immigrant women have been and should continue to be allowed to grow – it is good for communities and it is good for the country.

In order to address the unique challenges that immigrant women face on the path to become full citizens of the U.S., the Religious Coalition for Reproductive Choice urges Congress to adopt a holistic approach through the following recommendations:

- (1) Provide a fair, accessible, and affordable pathway to citizenship to all immigrants and, in particular, ensure that those who work in informal sectors of the economy can participate in this process.
- (2) Promote keeping immigrant families and children together, specifically by increasing family-based immigrant visas; alleviating current family-based immigrant visa backlogs; ending discrimination against same-sex partners under family immigration laws; allow Immigration Judges to exercise discretion in deportation cases that will result in family separation; and protect constitutionally-protected rights to determine the care and custody of their children for parents facing deportation.
- (3) Advance health equity for immigrant women, including ensuring full access to the Affordable Care Act regardless of immigration status and lifting the five-year bar on Medicare and other means-tested federal benefits for legal permanent residents.

Again, thank you for taking the time to hear from advocates for women on this issue. In the name of compassion, conscience, and justice, we ask you to please ensure that the needs of women and families are fully included in the critical process of fixing our broken immigration system.

**Reproductive Health Access Project
Senate Judiciary Committee Hearing Testimony
“How Comprehensive Immigration Reform
Should Address the Needs of Women and Families”**

March 21, 2013

Dear Members of the Senate Judiciary Committee:

We write today to thank you for holding a hearing on “How Comprehensive Immigration Reform Should Address the Needs of Women and Families,” and to share with you our recommendations on this important issue. The Reproductive Health Access Project (RHAP) seeks to ensure that women and teens at every socioeconomic level can readily obtain birth control and abortion from their own primary care clinician. RHAP is guided by the principle that women of all socioeconomic levels have the right to access birth control and abortion services in safe, secure settings. We believe that reproductive health choices are highly individual and must be made by individual families in consultation with caregivers for whom women’s ability to meet their full potential is of paramount importance. We believe that these choices must be supported by health care policies that ensure women have fair and equal access to the means to control their reproductive futures.

For women to be completely free and able to chart the course of their own lives, they must be able to determine not just whether and when to create family, but *where* to create family.

Furthermore, they must have access to the resources they need in order to care for their own reproductive health and raise their families with dignity and respect. Women who are aspiring citizens are excluded from public health benefits, and thus face barriers to caring for their own reproductive health and to plan their families. All legal immigrants are barred from eligibility for Medicaid, SCHIP, and other means-tested federal benefits for the first five years that they live in the United States. This arbitrary and harmful restriction denies women access to critical reproductive health care, including contraception, cervical cancer screening, and prenatal care. Moreover, while the landmark health reform law will give many women increased access to contraception and other reproductive health care, a significant portion of those who will remain uninsured are immigrant women, due to restrictions on immigrant eligibility for new or expanded coverage options. Women should also be able to care as best they can for the health and wellbeing of their children, with the comfort of knowing that they will be not be torn away from their children and that they can afford to take their sons and daughters to doctor’s visits.

The Reproductive Health Access Project knows it is not about what you look like or where you were born, but how you live your life and what you do that defines you here in America. The contributions of immigrant women have always been vital for our society to grow and flourish. We know our country is strongest when women are healthy, safe, and able to care for their children and families. Truly effective immigration policy reform should value and honor women and their contributions.

We call on legislators to support immigration reform that ensures women have the resources they need to make their own personal decisions about their reproductive health, their families, and their lives. To that end, the following are our recommendations for how comprehensive

immigration policy reform can address the needs of women and families.

I. Immigrant women need a fair and equitable roadmap to citizenship.

Any roadmap to citizenship and integration must be open, affordable, safe, and accessible to all immigrant women, including those whose work is in the home and those who are employed in the informal economy. A roadmap to citizenship that conditions eligibility on participation in the formal labor market disadvantages immigrant women, who are more likely to work in the informal sector. For example, many immigrant women are domestic workers¹, farm laborers, nail salon workers, and homemakers. Immigrant women must be afforded equal employment-based migration opportunities and workplace protections so that they may safely pursue economic opportunity and support their families with dignity and pride. Our immigration system has historically been unfair to women, but now we have an opportunity to change it into one that recognizes the unique realities and contributions of women's lives. A truly equitable system will place just as much value on women as it does on men. Any proposed pathway to citizenship must place equal value on the contributions of women.

II. We need to keep immigrant women and their families together.

Immigration reform must protect the right of all families to stay together, regardless of immigration status, family structure, sexual orientation, gender identity, or marital status. In addition, immigration policies must be modernized to provide sufficient family-based channels for migration in the future. Enforcement, detention, and deportation programs that compromise immigrant women's safety, violate their civil, human, and due process rights, and tear families apart must be replaced by sensible and sufficient legal channels for migration that adequately meet family and labor demands and respect women and their families.

Millions of families are at risk of being torn apart. Currently, 5.1 million children live in mixed-legal status families. Four million of these children are U.S. citizens.² The growth of mixed-status families, combined with a lack of sufficient legal channels for migration, means that more families than ever are at risk of being separated for years or even permanently. In fact, between July 2010 and September 2012, the U.S. deported more than 205,000 parents of U.S. citizen children.³

Family separation burdens local government. When parents are detained or deported, children are at risk of ending up in the child welfare system. The Applied Research Center in November 2011 conservatively estimated that 5,100 children in foster care had parents who had been detained or deported. That number is expected to grow to 15,000 over the next five years.⁴ We must alleviate the unnecessary burden on states by permitting parents to care for their children.

The lack of legal opportunities for families to be together incentivizes unlawful migration and encourages deported parents to return and reunite with their children. A smart immigration

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system is one that values and prioritizes family unity. When parents get involved with the immigration enforcement system, they often lose any say in how their children are cared for. Detained parents are held far from their children. They may be unable to participate in the reunification plans necessary to regain custody of children who end up in foster care, and they are often denied meaningful access to child custody hearings. A humane and cost-effective immigration system would protect parents' constitutionally-protected rights to determine the care and custody of their children.

Children are better off with their parents. Being undocumented does not make someone an unfit parent, and parental rights should only be terminated in cases of verified abuse and neglect. Judges need discretion to keep families together. Heavy-handed detention and deportation policies have tied the hands of immigration judges. Judges should be able to exercise discretion so that parents do not have to be deported unnecessarily.

III. We need to advance health equity for immigrant women.

Immigration reform must advance all immigrant women's access to health care and other family economic support. Such services and benefits include comprehensive health coverage and care and legal and social services that promote equality of opportunity, integration, and the ability to make decisions regarding reproductive and sexual health and the well-being of the family. Immigrant women and families work hard, pay taxes, and are committed to being in America. They should be able to pay their fair share for health care and should be included in our health care system, just like everyone else. They should not be excluded from health care simply because of their immigration status. When our families and our workforce are healthy, we all benefit.

Investing in health is common sense — and makes good fiscal sense. By and large, immigrants are younger and healthier than the American population as a whole⁵ — allowing them to participate in our health insurance systems and risk pools makes is a good economic decision for the country. When immigrant women and families do not have health care, the need for medical attention does not go away. Immigrant families without health insurance may either delay treatment for preventable disease, leading to higher costs and greater suffering, or seek care through under-resourced and expensive emergency systems. A healthy workforce means a stronger economy. Good health care is essential to workers' productivity and the opportunity for women and families to realize their full potential. If immigrant women are healthy, they are better able to support their family economically and contribute to the success of their children.

For an immigrant woman, being able to protect her health and care for her family is the first step to full social, economic, and civic integration into the American community. When moms are healthy, their families benefit.

Restrictions and other arbitrary delays that are often imposed on immigrants' access to benefits are also costly and inhumane. Many immigrant women are unable to obtain affordable health due to limitations resulting from their immigration status, such as the current 5-year bar on Medicare

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and Medicaid for lawful permanent residents, and the exclusion of undocumented immigrants in health insurance exchanges. Women and families should not be forced to wait five years for health care: five years is a lifetime to a child, and may make the difference between life and death for a woman suffering from breast or cervical cancer. Health coverage can mean the difference between preventing or treating conditions that can affect development throughout life, and leaving those conditions undetected and untreated. Removing the five-year bar for lawful permanent residents and those on the roadmap to citizenship will give them the same opportunity to pay their share and access health care as their friends and neighbors.

Today's laws are overly complex, confusing, and restrictive. A patchwork of state and federal policies limiting access to health care and family economic support creates confusion. For example, a single family could have members with five different kinds of eligibility for health care depending on their immigration status. As a result, this "chilling effect" discourages even qualified recipients from accessing support.⁶ No mother should have to navigate different health insurance systems for every single child, or choose which of her children gets health care. We need a system that works for families and ensures that women and kids get the care they need.

Anyone could get hurt or sick, and so everyone should have access to basic health care. No one should live in fear that because they lack health coverage or live in world where one accident or illness could threaten their entire family's economic security. Access to affordable, quality health care is a widely-shared goal. Medical coverage plays a crucial role in health and well-being, and all Americans should have access.

IV. Conclusion and Recommendations

As Congress considers proposals to reform current immigration laws, it is vital that the experiences of immigrant women are part of the equation. There is no doubt that the patchwork system that is now in place has hindered our progress as a country. The contributions of immigrant women have been and should continue to be allowed to grow – it is good for communities and it is good for the country.

In order to address the unique challenges that immigrant women face on the path to become full citizens of the U.S., the Reproductive Health Access Project urges Congress to adopt a holistic approach through the following recommendations:

- (1) Provide a fair, accessible, and affordable pathway to citizenship to all immigrants and, in particular, ensure that those who work in informal sectors of the economy can participate in this process.
- (2) Promote keeping immigrant families and children together, specifically by increasing family-based immigrant visas; alleviating current family-based immigrant visa backlogs; ending discrimination against same-sex partners under family immigration laws; allow Immigration Judges to exercise discretion in deportation cases that will result in family separation; and

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- (3) protect constitutionally-protected rights to determine the care and custody of their children for parents facing deportation.
- (4) Advance health equity for immigrant women, including ensuring full access to the Affordable Care Act regardless of immigration status and lifting the five-year bar on Medicare and other means-tested federal benefits for legal permanent residents.

Again, thank you for taking the time to hear from advocates for women on this issue. We hope you will take into consideration our recommendations as the dialogue continues around how to fix our broken immigration system.

Choice USA
Senate Judiciary Committee Hearing Testimony
“How Comprehensive Immigration Reform
Should Address the Needs of Women and Families”

March 21, 2013

Dear Members of the Senate Judiciary Committee:

We write today to thank you for holding a hearing on “How Comprehensive Immigration Reform Should Address the Needs of Women and Families,” and to share with you our recommendations on this important issue. Choice USA is a national youth focused reproductive justice organization. Our mission is to provide young people with the tools, information and resources to advocate for sexual and reproductive justice for all. Our dedication to young people in this country, particularly those as marginalized in our society as most immigrant youth, has led us to submit this comment.

For women to be completely free and able to chart the course of their own lives, they must be able to determine not just whether and when to create family, but *where* to create family.

Furthermore, they must have access to the resources they need in order to care for their own reproductive health and raise their families with dignity and respect. Women who are aspiring citizens are excluded from public health benefits, and thus face barriers to caring for their own reproductive health and to plan their families. All legal immigrants are barred from eligibility for Medicaid, SCHIP, and other means-tested federal benefits for the first five years that they live in the United States. This arbitrary and harmful restriction denies women access to critical reproductive health care, including contraception, cervical cancer screening, and prenatal care. Moreover, while the landmark health reform law will give many women increased access to contraception and other reproductive health care, a significant portion of those who will remain uninsured are immigrant women, due to restrictions on immigrant eligibility for new or expanded coverage options. Women should also be able to care as best they can for the health and wellbeing of their children, with the comfort of knowing that they will be not be torn away from their children and that they can afford to take their sons and daughters to doctor’s visits.

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We call on legislators to support immigration reform that ensures women have the resources they need to make their own personal decisions about their reproductive health, their families, and their lives. To that end, the following are our recommendations for how comprehensive immigration policy reform can address the needs of women and families.

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Restrictions and other arbitrary delays that are often imposed on immigrants' access to benefits are also costly and inhumane. Many immigrant women are unable to obtain affordable health due to limitations resulting from their immigration status, such as the current 5-year bar on Medicare and Medicaid for lawful permanent residents, and the exclusion of undocumented immigrants in health insurance exchanges. Women and families should not be forced to wait five years for health care: five years is a lifetime to a child, and may make the difference between life and death for a woman suffering from breast or cervical cancer. Health coverage can mean the difference between preventing or treating conditions that can affect development throughout life, and leaving those conditions undetected and untreated. Removing the five-year bar for lawful permanent residents and those on the roadmap to citizenship will give them the same opportunity to pay their share and access health care as their friends and neighbors.

Today's laws are overly complex, confusing, and restrictive. A patchwork of state and federal policies limiting access to health care and family economic support creates confusion. For example, a single family could have members with five different kinds of eligibility for health care depending on their immigration status. As a result, this "chilling effect" discourages even qualified recipients from accessing support.⁶ No mother should have to navigate different health insurance systems for every single child, or choose which of her children gets health care. We need a system that works for families and ensures that women and kids get the care they need.

Anyone could get hurt or sick, and so everyone should have access to basic health care. No one should live in fear that because they lack health coverage or live in world where one accident or illness could threaten their entire family's economic security. Access to affordable, quality health care is a widely-shared goal. Medical coverage plays a crucial role in health and well-being, and all Americans should have access.

IV. Conclusion and Recommendations

As Congress considers proposals to reform current immigration laws, it is vital that the experiences of immigrant women are part of the equation. There is no doubt that the patchwork system that is now in place has hindered our progress as a country. The contributions of immigrant women have been and should continue to be allowed to grow – it is good for communities and it is good for the country.

In order to address the unique challenges that immigrant women face on the path to become full citizens of the U.S., Choice USA Congress to adopt a holistic approach through the following recommendations:

- (1) Provide a fair, accessible, and affordable pathway to citizenship to all immigrants and, in particular, ensure that those who work in informal sectors of the economy can participate in this process.
- (2) Promote keeping immigrant families and children together, specifically by increasing family-based immigrant visas; alleviating current family-based immigrant visa backlogs; ending

⁶ Huang P. *Anchor Babies, Over-Breeders and the Population Bomb: The Reemergence of Nativism and Population Control in Anti-Immigration Policies*. Harvard Law and Policy Review. 2008; Vol 2. Available at http://www.hlpronline.com/Huang_HLPR.pdf / Accessed January 12, 2013.

discrimination against same-sex partners under family immigration laws; allow Immigration Judges to exercise discretion in deportation cases that will result in family separation; and protect constitutionally-protected rights to determine the care and custody of their children for parents facing deportation.

- (3) Advance health equity for immigrant women, including ensuring full access to the Affordable Care Act regardless of immigration status and lifting the five-year bar on Medicare and other means-tested federal benefits for legal permanent residents.

Again, thank you for taking the time to hear from advocates for women on this issue. We hope you will take into consideration our recommendations as the dialogue continues around how to fix our broken immigration system.

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STATEMENT OF
RICH STOLZ, EXECUTIVE DIRECTOR &
ADA WILLIAMS PRINCE, DIRECTOR OF POLICY
ONEAMERICA

HEARING ON: "How Immigration Reform Impacts Women and Families."
SENATE COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
March 18, 2013

Chairman Leahy and members of the Committee: I am honored to submit this testimony for the record on behalf of OneAmerica regarding today's hearing on how immigration reform impacts women and families.

OneAmerica is the largest immigrant advocacy organization in Washington State. Our mission is to advance fundamental principles of democracy and justice at the local, state and national level by building power and capacity in immigrant communities with key allies.

We thank you for holding this critical and timely hearing on this issue. Our statement focuses on Supporting Gender Equity in Immigration Reform. It is critical to ensure that any new immigration process recognizes the unique challenges facing immigrant women, including protections for survivors of violence and human trafficking. A legalization program must value the contributions immigrant women make as workers, entrepreneurs, and mothers.

Keep Families Together through a Roadmap to Citizenship

Any pathway to citizenship and integration must be open, affordable, safe, and accessible to ALL immigrant women, including those whose work is in the home and those who are employed in the informal economy.

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5.1 million children in the United States live in mixed-legal status families. Four million of these children are U.S. citizens. ⁷ The growth of mixed-status families – combined with a lack of sufficient legal channels for migration – means that more families than ever are at risk of being separated for years or even permanently. In fact, between July 2010 and September 2012, the United States deported more than 205,000 parents of U.S. citizen children. ⁸

When parents are detained or deported, children are at risk of ending up in the child welfare system. The Applied Research Center in November 2011 conservatively estimated that 5,100 children in foster care had parents who had been detained or deported. That number is expected to grow to 15,000 over the next five years. ⁹ We must alleviate the unnecessary burden on states by permitting parents to care for their children.

Immigration reform must protect the right of all families to stay together, regardless of immigration status, family structure, sexual orientation, gender identity, or marital status, and provide sufficient family-based channels for migration in the future.

We also recommend that family members who have been deported be given the opportunity to return to the United States to be with their loved ones. Such a proposal would be pragmatic and reasonable, since one primary driver of illegal immigration (particularly in recent years) has been the desire to be re-united with loved ones. Such actions, called in most cases illegal re-entry, could render these individuals unable to return to the United States in the future and disqualify them from being able to adjust their status. In addition, the 3 and 10-year bars to re-entry must be eliminated, so that no individuals who are eligible for an immigrant visa are punished by being separated from their family for many years.

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Create a sensible worker program with protections

We are united by a deep respect for those who work hard for a living and share our commitment to country. We must develop a worker program that honors hard work and the contributions immigrants and their families make to our economy. Visas should be tied to workers, not to an employer, to ensure worker protections. There should be more funding for enforcement of standards and for health and safety and protections against discrimination. In addition, we recommend access to whistleblower protections for women workers who are victims of labor trafficking and workplace crimes.

Access to Benefits

Immigration reform must advance ALL immigrant women's access to public services and economic support, including comprehensive health coverage and care, and legal and social services that promote equality of opportunity, integration, and the ability to make decisions regarding reproductive and sexual health and the well-being of the family. Yet, immigrant women are less likely to receive adequate reproductive health care, including cervical and breast cancer screening and treatment, family planning services, HIV/AIDS testing and treatment, accurate sex education and culturally and linguistically competent services.

A healthy workforce means a stronger economy. Good health care is essential to workers' productivity and the opportunity for women and families to realize their full potential. If immigrant women are healthy, they are better able to support their family economically and contribute to the success of their children. For an immigrant woman, being able to protect her health and care for her family is the first step to full social, economic, and civic integration into the American community.

Uphold the Principle of Family Unity

Currently, families are divided by visa waiting periods and processing delays that can last decades and the majority of those waiting in backlogs are women. Immigration reform must strengthen the family preference system and keep families together by increasing

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the number of visas available both overall and within each category. OneAmerica is concerned that the Senate proposal may open the door to significant changes to the family visa program, including shifting away from a family preference system. Our current family preference system, despite bureaucratic flaws that have led to excessive backlogs, is an important aspect of our nation's success in ensuring the effective integration of immigrants into our society.

Immigration reform must also ensure that immigration status alone does not disqualify a parent, legal guardian, or relative from caring for a foster child. This would prohibit a State, county, or other political subdivision of a State from filing for termination of parental rights in foster care cases in which an otherwise fit and willing parent or legal guardian has been deported or detained. Immigration reform should also allow judges to decline to order the removal of the parent of a US citizen child if the judge determines that removal would not be in the child's best interests, and to extend opportunities for immigrant visas to permanent partners of US citizens and permanent residents.

Immigrant Integration

Opportunities for immigrants to receive English Literacy, Civic Education and Continuing Education must be a part of Immigration Reform. English language skills represent one of the keys to educational and employment opportunity for immigrants, as well as to their full social and civic participation in U.S. life. Yet in 2010, more than half the immigrants in the United States ages five and older were limited English proficient (LEP). Federal and state funding for ESOL programs has shrunk even as demand has increased; waiting lists for classes can be months and even years. English language learning should encompass all levels of learning, including support for digital literacy, with contextualized content leading to employment opportunities, improved access to continuing education, and stronger pathways to citizenship. Support for workplace, community-based, and community college instruction is essential. Quality and access should both be prioritized, with opportunities for diverse learners in the community, at

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the workplace, at schools and early learning centers, and at the community college level.

Restore Due Process and Civil Liberties

In the last decade, immigration enforcement resources and activity has escalated at an astounding pace. In the last four years alone, more than 1 million undocumented immigrants have been removed from the United States.

We must uphold American values by ensuring that all people, no matter where they come from, are afforded fundamental rights, including the right to a fair day in court before being separated from family and community and deprived of liberty and the right to be free from inhumane conditions of confinement.

Enforcement, detention, and deportation programs that compromise immigrant women's safety, violate their civil, human, and due process rights, and tear families apart must be replaced by sensible and sufficient legal channels for migration that adequately meet family and labor demands and respect our obligations under international law.

Reforms to our immigration policies must bring an end to programs that disproportionately impact women by discouraging reporting of crimes to law enforcement and compromising the safety of communities, and must advance protections for women fleeing state and interpersonal violence and victims of trafficking or exploitation.

Partnerships between local law enforcement and the Department of Homeland Security are increasingly turning local police into immigration officers. This makes women reluctant to report crimes and abuse for fear of deportation. Abusive spouses and exploitative employers are given a powerful weapon of control, and can effectively silence their victims by threatening to call the police. Instead of

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endangering women with these local law enforcement partnerships, we should empower women with smart enforcement that protects communities.

Conclusion

A reasonable and sustainable solution to current and future immigration needs MUST take into account gender specific perspectives. In addition, the path forward on immigration MUST ensure equality for all immigrants, protect and promote their civil and human rights, and empower aspiring Americans to fully participate in and contribute to our economy and society.

Thank you again for this opportunity to express the views of OneAmerica. We welcome the opportunity for further dialogue and discussion about these important issues.

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OneAmerica's Principles for Just and Humane Immigration Reform

Keep all families together by creating a roadmap to citizenship. The current immigration system separates hundreds of thousands of children, parents, and families through policies that have not been updated in 25 years. America deserves a common sense immigration process, one that includes a roadmap for New Americans who aspire to be citizens, including LGBT families.

Reunite families. An immigration process that values family unity must include family preference and enough visas to reunite all families separated by bureaucracy and discriminatory quotas. Family unification must also include the opportunity for family members who have been deported to return and join their families.

Create a sensible worker program with protections. We are united by a deep respect for those who work hard for a living and share our commitment to country. We must develop a worker program that honors hard work and the contributions immigrants and their families to our economy. Visas should be tied to workers, not to an employer, to ensure full labor rights.

Ensure humane treatment. We will continue to aggressively push for accountability, humane treatment, and due process in the violent and abusive border and detention systems that have grown exponentially and wastefully in the last decade.

Restore a Fair Day In Court. Immigrants should not be treated only as the sum of their mistakes in a nation that values second chances. Immigration judges must be given back the power to cancel a person's deportation after looking at other aspects of her life, like family ties, length of time in the U.S., rehabilitation, and acceptance of responsibility.

Respect safety in immigration enforcement. Border enforcement – which has been made worse by increased collaboration between Federal agencies and local law enforcement – must reflect American values, prioritizing the safety and security of border communities and consulting with these communities in the process. We demand an end to failed immigration enforcement programs, including Secure Communities.

Promote Immigrant Integration. Comprehensive legislation should include forward-thinking strategies for how the United States will embrace immigrants and immigration,

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including adequate resources for local communities to support individuals seeking to legalize their status and a national office of immigrant integration to develop and support policies that help immigrants fully contribute to America's social, economic, and civic fabric. Ensure that taxpaying immigrants working to adjust their status have access to public benefits.

Support Gender Equity. Ensure that any new immigration process recognizes the unique challenges facing immigrant women, including protections for survivors of violence and human trafficking. A legalization program must value the contributions immigrant women make as workers, entrepreneurs, and mothers.



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The Need for LGBT-Inclusive Comprehensive Immigration Reform

Testimony Submitted to U.S. Senate Judiciary Committee

Hearing: “How Comprehensive Immigration Reform Should Address the Needs of Women and Families”

Monday, March 18, 2013

Statement of Rachel B. Tiven, Esq., Executive Director, Immigration Equality

Immigration Equality is a national organization that works to end discrimination in U.S. immigration law, to reduce the negative impact of that law on the lives of lesbian, gay, bisexual, transgender (“LGBT”) and HIV-positive people, and to help obtain asylum for those persecuted in their home country based on their sexual orientation, transgender identity or HIV-status. Immigration Equality was founded in 1994 as the Lesbian and Gay Immigration Rights Task Force. Since then we have grown to be a fully staffed organization with offices in New York and Washington, D.C. We are the only national organization dedicated exclusively to immigration issues for the LGBT and HIV-positive communities. More than 38,000 activists, attorneys, faith leaders, and other constituents subscribe to Immigration Equality’s emails and action alerts, and our website has over 380,000 unique visitors per year. The legal staff fields over 3,700 inquiries a year from individuals throughout the entire U.S. and abroad via telephone, email and in-person consultations.

We applaud the Senate Judiciary Committee for convening this hearing today. Family unity has been at the heart of U.S. immigration law for more than half a century and we believe that it should remain at the heart of Comprehensive Immigration Reform (“CIR”). Under the current family preference immigration system, many family members have to wait years or even decades for their priority dates to become current so that they can join their American family members in the United States. We support efforts to reduce this unconscionable backlog that keeps families apart.

Under the current immigration system, LGBT families are systematically excluded. No matter how long a same-sex couple has been together, regardless of whether they are raising children together, and even if they are legally married, these families are completely shut out of the U.S. immigration system. No immigration reform can be considered comprehensive if it leaves out this entire class of families.

CIR Must Include the Uniting American Families Act

Although Immigration Equality works on many issues affecting the LGBT immigrant community, no issue is more central to our mission than ending the discrimination that gay and lesbian binational couples face. Because there is no recognition of the central relationship in the lives of LGBT

Americans, they are faced with a heart-rending choice that no one should have to make: separation from the person they love or exile from their own country. Inclusion of the Uniting American Families Act (“UFAA”)¹ within CIR would provide a pathway to legalization to LGBT families.

Family unification is central to American immigration policy because Congress has recognized that the fundamental fabric of our society is family. Family-based immigration accounts for roughly 65% of all legal immigration to the United States.² Family ties transcend borders, and in recognition of this core value, the American immigration system gives special preference for the spouses of American citizens to obtain lawful permanent resident status without any limit on the number of visas available annually. Lesbian and gay citizens are completely excluded from this benefit.

An analysis of data from the 2000 Decennial Census estimated that approximately 36,000 same-sex binational couples live in the United States.³ This number is miniscule compared to overall immigration levels: in 2011, a total of 1,062,040 individuals obtained lawful permanent resident status in the United States.⁴ Thus, if every permanent partner currently in the U.S. were granted lawful permanent residence in the U.S., these applications would account for .03% of all grants of lawful permanent residence.

The couples reported in the census are, on average, in their late 30s, with around one-third of the individuals holding college degrees.⁵ The average income level is \$40,359 for male couples and just over \$28,000 for females. Each of these statistics represents a real family, with real fears and real dreams, the most fundamental of which is to remain together.

One of the striking features of the statistical analysis performed of the 2000 census is how many same-sex binational couples are raising children together. Almost 16,000 of the couples counted in the census – 46% of all same-sex binational couples – report children in the household.⁶ Among female couples, the figure is even more striking, 58% of female binational households include children. The vast majority of children in these households are U.S. citizens.⁷ Behind each of these statistics is a real family, with real children who have grown up knowing two loving parents. In each of these households, there is daily uncertainty about whether the family can remain together, or whether they will have to move abroad to new schools, new friends, and even a new language.

Every day Immigration Equality hears from lesbian and gay couples who tell us painful tales of trying to maintain their families despite almost impossible odds. For example:

Adi Lavy and Tzila Levy are a loving, married couple, living in Brooklyn, New York. Adi is a U.S. citizen and Tzila a citizen of Israel. The couple met in 2010 and recently married in Brooklyn, New York. Adi has suffered from chronic kidney disease since the age of seventeen. Tzila is Adi's primary source of care and emotional support, and she entered the U.S. on a visitor's visa in order to care for her wife while Adi receives life-saving treatment from a respected expert in her illness. Because their marriage is unrecognized by the federal government, no other visa was available to Tzila.

*Adi's health has continued to deteriorate and she has been placed on the kidney transplant list. Tzila extended her visitor visa to remain at Adi's side, but as the end of Tzila's authorized stay approached, Adi and Tzila were left without a permanent solution for their family. In November 2012, the couple submitted a spousal petition for a green card. In January 2013, the family's request was denied because Adi and Tzila's family ties are not recognized under U.S. immigration law. Adi fears that she and her wife could be torn apart. She fears being left alone to face her chronic health issues without her primary caregiver and emotional support. Without a lasting immigration solution, this family will continue to face a life filled with uncertainty and fear.*⁸

Adi and Tzila want nothing more or less than any other family; they want to live together, secure in the knowledge that they will not be separated.

The inability to sponsor a partner or spouse is even more devastating to women who are forming families. Many couples delay having children in the hope that the family can first stabilize its immigration status. For those who do have children, the uncertainty and stress of whether their family can remain together is multiplied exponentially.

*Kelly Costello and Fabiola Morales married in Washington DC in the summer of 2011. Fabiola, a citizen of Peru, has been living in the United States for six years, where she has been earning a degree in nursing. Fabiola also suffers from multiple sclerosis and is receiving experimental treatment at Georgetown University. Kelly is an elementary school teacher. In what should be a joyous time for their family, Kelly is pregnant with twins. But every day the couple must live with the knowledge that when Fabiola's student visa expires later this year, she could have to leave the country and leave her family behind.*⁹

The lack of recognition of same-sex relationships affects not only the individual family, but the larger community as well. In many instances, large companies are unable to retain talented workers who are forced to leave the United States to maintain their relationships. That is why a growing number of businesses have endorsed the Uniting American Families Act. On January 1, 2013, a diverse group of businesses signed onto a letter to the House and Senate supporting passage of UAFA or CIR that includes UAFA stating:

“We have each worked to help American employees whose families are split apart because they cannot sponsor their committed, permanent partners for immigration benefits. We have lost productivity when those families are separated; we have borne the costs of transferring and retraining talented employees so they may live abroad with their loved ones; and we have missed opportunities to bring the best and the brightest to the United States when their sexual orientation means they cannot bring their family with them.”¹⁰

The coalition includes over 30 businesses, such as American Airlines, Dow Chemicals, Intel, Nike, and Goldman Sachs. To these companies it is clear that respecting relationships across international boundaries is not only the right thing to do, it also makes economic sense and helps to recruit and retain the most talented employees in their companies. There are currently at least two dozen countries that allow their citizens to sponsor long-term, same-sex partners for immigration benefits.¹¹

No Comprehensive Immigration Reform can be truly comprehensive if it leaves out thousands of LGBT families. We urge the House to include UAFA language in any CIR bill.

CIR Must Increase the Numbers of Family Visas Available

One of the many failings of the current immigration system is the absurdly long wait to sponsor some family members under the current family preference system. Some of those waiting in the backlogs are LGBT individuals, waiting for a parent or sibling's petition to become current.¹² Those parents and siblings are also the grandparents, aunts, and uncles of many LGBT young people. For LGBT youth – many of whom are vulnerable to bullying in their schools – the support of extended family is crucial. All of the family preferences must remain intact in immigration reform. The impact of decade-long waiting periods can have a cascading effect on families, and change is needed. LGBT immigrants are rightly and proudly included in the Reuniting Families Act, to be introduced by Congressman Mike Honda this month. That bill makes sensible, necessary changes to the family visa system: changes that must be incorporated in CIR.

Conclusion

We applaud the House for convening this hearing and for considering needed reforms to the family unification system. Too many individuals in the United States – lesbian, gay, bisexual, transgender, and straight – cannot fully access the American dream because of our antiquated immigration system. For LGBT families with young children, undocumented youth, and asylum seekers, it is time to pass rational, humane, *comprehensive* immigration reform that fully respects the unique needs and contributions of LGBT immigrants.

¹ UAFA would add “permanent partner” as a category of “immediate relative” to the INA. “Permanent partner” is defined as any person 18 or older who is:

1. In a committed, intimate relationship with an adult U.S. citizen or legal permanent resident 18 years or older in which both parties intend a lifelong commitment;

-
2. Financially interdependent with that other person;
 3. Not married to, or in a permanent partnership with, anyone other than that other person;
 4. Unable to contract with that person a marriage cognizable under the Immigration and Nationality Act; and
 5. Not a first, second, or third degree blood relation of that other individual.

As with current marriage-based petitions, permanent partners would be required to prove the bona fides of their relationships and would be subject to strict criminal sanctions and fines for committing fraud.

² In 2011 family-based immigration accounted for 688,089 grants of lawful permanent resident status, Department of Homeland Security, Annual Flow Report, April 2012, Table 2, at 3 available at http://www.dhs.gov/xlibrary/assets/statistics/publications/lpr_fr_2011.pdf

³ Family, Unvalued: Discrimination, Denial, and the Fate of Binational Same-Sex Couples Under U.S. Law, joint report by Human Rights Watch and Immigration Equality, 2006, at 17, 3 available at <http://www.hrw.org/en/reports/2006/05/01/family-unvalued>.

⁴ Department of Homeland Security, Annual Flow Report, March 2009, available at http://www.dhs.gov/xlibrary/assets/statistics/publications/lpr_fr_2008.pdf.

⁵ Family, Unvalued, at 176.

⁶ *Id.*

⁷ *Id.* In female binational households, 87% of the children were U.S. citizens; in male households, 83% were U.S. citizens

⁸ See Erica Pearson, "Newlywed lesbians from Brooklyn hope feds decide on green-card bid after Supreme Court weighs in on DOMA," NY Daily News, December 12, 2012 available at <http://www.nydailynews.com/new-york/lesbian-couple-waiting-doma-decision-article-1.1218693>.

⁹ See Pamela Constable, "Federal marriage law may force deportation of many immigrant gay spouses," Washington Post, December 29, 2012, available at http://articles.washingtonpost.com/2012-12-29/local/36071393_1_gay-spouses-binational-gay-couples-doma.

¹⁰ Available at http://immigrationequalityactionfund.org/images/BusinessCoalition_signonletter.pdf.

¹¹ These countries include Australia, Belgium, Brazil, Canada, Denmark, Finland, France, Germany, Iceland, Israel, the Netherlands, New Zealand, Norway, Portugal, South Africa, Spain, Sweden Switzerland, and the United Kingdom. See Family, Unvalued.

¹² Department of State Visa Bulletin, available at http://www.travel.state.gov/visa/bulletin/bulletin_5856.html.

Testimony Submitted to U.S. Senate Committee on the Judiciary

Hearing: How Comprehensive Immigration Reform Should Address the Needs of Women and Families

Monday, March 18, 2013

Statement of Lorella Praeli, Director of Policy and Advocacy, United We Dream

United We Dream is the largest national network of youth-led immigrant organizations in the country, with 57 affiliates in 26 states. We aim to address the inequities and obstacles faced by immigrant youth and to develop a sustainable, grassroots movement, led by undocumented immigrant youth—Dreamers—and their allies.

We applaud the Senate Judiciary Committee for convening this hearing about the needs of women and families in comprehensive immigration reform (“CIR”). United We Dream is deeply concerned about family unity and the inclusion of LGBTQ families in comprehensive immigration reform. Family unity has long been a bedrock principle of immigration law and we as a nation should renew our commitment to that principle by adopting reforms that will keep families together and reunite families that have been torn apart by detention and deportation.

Promote family unity by eliminating the 3- and 10-year inadmissibility bars

The 3- and 10-year bars prevent people from re-entering the country for 3 years if they accrued more than 180 days of unlawful presence, and left the United States, or 10 years if they accrued more than one year of unlawful presence. INA § 212(a)(9)(B), 8 U.S.C. § 1182(a)(9)(B). These bars trap many noncitizens in their undocumented status in the United States because leaving will separate them from family, including U.S.-citizen or lawful permanent resident (“LPR”) spouses and children, for years. Immigrants who entered without inspection, for instance, are ineligible to adjust to LPR status even if a visa becomes available. INA § 245(a), 8 U.S.C. § 1255(a). If these immigrants leave in order to attempt to re-enter through the consular visa process, however, they will trigger the bars and be separated from their families in the United States for 3 or 10 years. Likewise, these bars prevent people who voluntarily leave the United States after overstaying their visas from reuniting with their families, even though they initially entered with inspection.

The 3- and 10-year bars should be eliminated because they do little to deter unlawful presence and have the perverse consequence of forcing immigrants to choose between staying undocumented in the United States in order to stay with their families or separating themselves from their families for many years in order to pursue a visa through the uncertain consular process. A successful legalization program must promote family unity by waiving the 3- and 10-year bars for immigrants who are themselves applying for legalization as well as for their spouses, children, and parents abroad. At a minimum, the eligibility criteria for a waiver to the 3- and 10-year bars should be relaxed so that immigrants who are spouses or children of U.S. citizens or LPRs only have to show that refusal of admission would be a “hardship” rather than

an “extreme hardship” to their immediate relative. INA § 212(a)(9)(B)(v), 8 U.S.C. § 1182(a)(9)(B)(v).¹

Ensure parents’ and children’s rights in all immigration enforcement actions

The immigration enforcement system often has tragic, permanent consequences for immigrant families. At least 5,000 children of immigrants in the United States currently live in the U.S. foster care system because their parents were placed in immigration detention or deported². When parents are placed in detention, they are often not given the opportunity to make appropriate care-taking arrangements for their children. They may lose contact with their children and with their state’s family court system, sometimes causing the state to wrongfully terminate their parental rights. United We Dream believes that Congress must put an end to the tragic consequences that result from the dysfunctional intersection of the child welfare and immigration systems in states across the country. Moreover, we believe that all families’ rights, including those LGBTQ families, must be respected and protected by U.S. immigration law.

Therefore, United We Dream calls on Congress to pass the Help Separated Families Act and Help Separated Children Act. The proposed legislation would make it far more difficult for states to terminate parental rights or deny placement into caring adult homes due to a parent or caretaker’s undocumented status. It would also require ICE to consider the best interests of children in detention, release and transfer decisions, and would provide for greater and more effective cooperation between federal immigration enforcement and state child welfare agencies. Moreover, United We Dream strongly believes that any version of these acts that Congress ultimately includes in the bill must also protect LGBTQ parents by ensuring that both child welfare systems and the immigration enforcement system recognize these family relationships in such situations.

Include the Uniting American Families Act in immigration reform

U.S. immigration law facilitates family-based immigration in many ways, with family-based immigration accounting for roughly 65% of all authorized immigration to the United States.³ However, LGBTQ families continue to face discrimination in the legal immigration system, forcing families to either remain in the shadows without legal status, flee the United States, or be separated from their loved ones. United We Dream’s entire membership has stood

¹ The Department of Homeland Security recently established a new provisional unlawful presence waiver program, effective March 4, 2013, that would allow noncitizens to apply for a provisional waiver of the 3- or 10-year bars from within the United States. 8 C.F.R. § 212.7(e). The purpose of the program is to provide noncitizens with some more certainty about whether the 3- and 10-year bars will be waived for them before they leave the country to try to re-enter through the consular visa process. This program, while a step in the right direction, has limited applicability to many in the undocumented community. The “extreme hardship” standard remains a difficult one to meet, and, the provisional waiver is only available to those who have a U.S.-citizen spouse or parent, not those who have LPR spouses or parents.

² Applied Research Center. “Shattered Families: The Perilous Intersection of Immigration Enforcement and the Child Welfare System.” November 2011.

³ Dep’t of Homeland Security, Annual Flow Report, April 2012, http://www.dhs.gov/xlibrary/assets/statistics/publications/lpr_fr_2011.pdf.

consistently behind its LGBTQ members and strongly opposes this egregious form of discrimination. We will continue to stand in solidarity with LGBTQ immigrants throughout this legislative debate to demand the inclusion of the Uniting American Families Act in immigration reform.

The Uniting American Families Act (UAFAs) would grant long-term, committed same-sex partners the same rights that married heterosexual couples have under immigration law. Thus, for example, UAFAs would permit U.S. citizens in same-sex relationships to petition for their partner to become a legal permanent resident, and would permit an undocumented partner of a U.S. citizen to be considered for cancellation of removal. Although some of these partners may currently reside abroad, UAFAs would also affect some mixed-status families living in the United States. These families are currently pushed into the shadows by discriminatory immigration laws and live in fear of being separated.

Conclusion

United We Dream commends the Senate Judiciary Committee for holding this hearing on the needs of women and families in comprehensive immigration reform. The current immigration system cruelly and separates families. A comprehensive immigration reform bill must include reforms that promote family unity and include LGBTQ families.



Women's Refugee Commission
Statement on "How Comprehensive Immigration Reform Should Address the Needs of Women and Families"

Hearing before the Senate Judiciary Committee

March 18, 2013

The Women's Refugee Commission thanks the Senate Judiciary Committee for convening today's hearing on "How Comprehensive Immigration Reform Should Address the Needs of Women and Families." Historically, immigration law has disproportionately disadvantaged women, and by extension their families. As Congress works to bring our immigration laws into alignment with the realities of modern migration flows, it is critical that the needs and lived realities of women, children, and families are fully, fairly, and equitably addressed. This hearing represents an historic, and essential, first step in that process.

Immigrant women are integral building blocks of thriving and successful communities in the United States, and have been over this country's long history. They are vital to the American economy and contribute significantly to its growth. Immigrant women also serve as the backbone of strong families and work hard so that their children can get a fair shot at the American dream.

Family is a core value for women, and the desire to be with family, and to make a better life for their family, is one of the primary reasons why women come to the United States. Historically, our immigration laws placed great value on family unity, and this focus on family contributed to the development of strong communities and a successful and diverse country. Yet family unity has been eroded in recent years by inefficiencies in the family-based visa system and overly zealous immigration enforcement that is tearing families apart.

It is paramount that efforts to reform our immigration laws restore the primacy of family unity and provide women and their families with opportunities to contribute to the common good now and in the future. We urge Congress to act quickly to enact legislation that will establish fair, accessible, and equitable roadmaps to full citizenship for women and children, and that will keep families together.

Roadmaps to Citizenship must encourage and allow for full participation by women.

Historically, women have been disadvantaged by legalization and citizenship programs. A comprehensive study of the 1986 Immigration Reform and Control Act (IRCA) found that women faced significant difficulty proving their physical presence in the country because many worked in the informal economy or only had documents in their husband's name.ⁱ In addition, 95 percent of domestic workers nationwide are women, and in major cities more than three-fourths of domestic workers are foreign born.ⁱⁱ Yet many past immigration reform proposals excluded domestic workers who could not provide proof of employment. Furthermore, immigrant women are more than three times as likely to stay at home to raise their children, and onerous documentation requirements could deny these homemakers a fair chance at legalization.ⁱⁱⁱ As past failures to fully include women demonstrate, immigration reform can only be successful when women can come forward and participate. Applicants, including women and children, must have a range of ways to demonstrate their physical presence in the country and their contributions to our communities and society.

The family based immigration system must provide sufficient and expedient lawful channels for women to reunite with their families. Women rely more heavily on the family-based immigration system than men. Seventy percent of all immigrant women attain legal status through family-based visas, compared to sixty-one percent of men. Meanwhile, men are four times as likely to be the principal recipients of employment-based visas.^{iv} Women's disproportionate dependence on family-based visas, as opposed to employment-based visas, means that women have fewer lawful channels to come to the United States. In addition, decades-long backlogs in the family-based immigration system means that many women spend an unacceptably long time separated from their families. Any reductions or restrictions to the family-based visa system will hurt women more than men, and will further incentivize their unlawful entry into the United States. As Congress works to pass immigration reform, the focus must be on improving efficiencies in the family-based system and on ensuring sufficient legal mechanisms for family members to be together.

To restore our historical commitment to family unity, we must reduce the collateral consequences of immigration enforcement for children and families. Some 5.1 million children in the United States live in fear of being separated from a parent because their family has mixed legal status. Four million of these children are U.S. citizens.^v While child welfare and legal principles agree that it is generally in the best interest of a child to be with his or her family, the complications that arise at the intersection of immigration and child welfare law often result in the permanent separation of families. Detained and deported parents are routinely denied the ability to make basic decisions about their children's care and well-being. For example, detained parents are not even guaranteed a phone call to find someone to care for their children. That means children are left uncared for, and are often placed in foster care. Currently over 5,100 children are in the child welfare system because of a parent's detention or deportation. That number is expected to triple over the next five years.^{vi} Detained and deported parents are also denied meaningful opportunities to participate in child custody hearings, and family reunification plans. The heartbreaking result is that families are being separated on a staggering scale. Between July 2010 and September 2012, over 200,000 orders of removal were issued for parents of United States citizen children.^{vii}

This broken system encourages a revolving door at the border. Parents who are deported without their children are incentivized to use any means necessary to return to the United States so that they may see their children again. It also means that a parent simply trying to reunite with his or her child can be caught up in criminal prosecution through Operation Streamline when they re-enter the United States after removal. Not only does this result in a long jail sentence for the parent, it also prevents them from legally migrating in the future to be with their child. We can enforce the rule of law without harming children and families, but we must ensure that immigration enforcement is carried out in a smart and humane manner.

Our long-held commitment to protecting all children, especially the most vulnerable, must be reflected in our immigration laws. Children are also at risk of being left out of the roadmap to citizenship. While the DREAM Act provides important opportunities to undocumented children here in the U.S., it leaves a significant population of children out, including very young children and those that were over 15 when they came to join their parents. Unaccompanied children often immigrate to reunify with their parents who are already here. Because our immigration system lacks sufficient legal channels for family re-unification, they are compelled to make the risky journey by themselves or with smugglers who often exploit them. Other times, children are trying to reunite with their non-traditional families. For example a child raised by an elderly grandparent, who seeks to join an Aunt who is in the U.S. legally, is often forced to come to the country alone because there is no lawful mechanism in place for them. Our immigration system must reflect our Constitutional definition of family^{viii} and permit children to immigrate in order to reunify with their care-takers. To do this, Congress must act to reduce backlogs in the family-based system and to provide a roadmap to citizenship that includes all children.

Under current immigration law, children who come to this country without a parent or guardian have no right to an attorney or the assistance of a child advocate. We must reform our immigration laws to ensure that no unaccompanied child has to appear in immigration court alone. In addition, while many children come to this country fleeing violence at home, our policies for identifying and protecting children seeking asylum fall woefully short of our obligations under domestic and international law. All children should be afforded the opportunity to first make an asylum claim before an asylum officer. We must ensure that best interest of the child is reflected in our immigration laws; judges should be able to use discretion in cases where children are at risk of abuse, neglect and trafficking if they are sent back to their country of origin. Without affording appropriate due process protections to all children, true access to immigration relief is thwarted.

Conclusion

Immigration reform is not comprehensive unless it addresses the needs and lived realities of immigrant women and families. The Women's Refugee Commission urges the Senate Judiciary Committee to consider the deleterious impact of current immigration policy on the safety and success of women and families, and to work towards the development of legislation that honors and encourages their contributions and puts them on an expedient roadmap to becoming full citizens of the United States.

ⁱ The study by the Urban Institute and Rand Corporation found that women without documents were forced to rely on affidavits to prove their residence, resulting in higher levels of scrutiny, denials and extensive litigation. Susan Gonzalez Baker. *The Cautious Welcome: The Legalization Programs of the Immigration Reform and Control Act*. Washington, DC: The Urban Institute Press and the Rand Corporation (1990) at 137-8.

ⁱⁱ Linda Burnham and Nik Theodore. *Home Economics. The Invisible and Unregulated World of Domestic Work*. National Domestic Worker's Alliance. [Center for Urban Economic Development, University of Illinois at Chicago](http://www.domesticworkers.org/homeeconomics/). Data Center. Available at <http://www.domesticworkers.org/homeeconomics/> Accessed on January 16, 2013.

ⁱⁱⁱ Jeffrey Pasel and D'Vera Cohn, Pew Research Hispanic Center, A Portrait of Unauthorized Immigrants in the United States (April 14, 2009) Available at <http://www.pewhispanic.org/2009/04/14/a-portrait-of-unauthorized-immigrants-in-the-united-states/> Accessed March 13, 2013.

^{iv} Kelly Jefferys, DHS Office of Immigration Statistics, Characteristic of Employment--Sponsored Legal Permanent Residents: 2004 (October 2005)

^v Jeffrey Passel and Paul Taylor. *Unauthorized Immigrants and Their U.S.-Born Children*. Washington, DC: Pew Hispanic Center (August 2010). Available at <http://www.pewhispanic.org/2010/08/11/unauthorized-immigrants-and-their-us-born-children/> Accessed March 13, 2013.

^{vi} Applied Research Center, *Shattered Families*. Available at <http://arc.org/shatteredfamilies>. Accessed on March 11, 2013.

^{vii} Immigration Policy Center. *Falling Through the Cracks*. Available at <http://www.immigrationpolicy.org/just-facts/falling-through-cracks>. Accessed on February 11, 2013.

^{viii} [Moore v. East Cleveland, 431 U.S. 494, 504-506 \(U.S. 1977\)](#) ("Ours is by no means a tradition limited to respect for the bonds uniting the members of the nuclear family... By the same token the Constitution prevents East Cleveland from standardizing its children - and its adults - by forcing all to live in certain narrowly defined family patterns."); Shani M. King, *U.S. Immigration Law and the Traditional Definition of Nuclear Family, Toward a Functional Definition of Family that Protects Children's Fundamental Interests*, 41 COLUM. H. RTS. L. REV. 509 (2010)

Statement Submitted by 192 Immigrant and Victim Advocacy Organizations

Hearing of the Senate Judiciary Committee, March 18, 2013:

“How Comprehensive Immigration Reform Should Address the Needs of Women and Families”

March 15, 2013

We, the undersigned 192 national, regional, state and local organizations that assist and advocate on behalf of immigrant survivors of domestic violence, sexual assault, and human trafficking in the United States, as well as refugee and immigrant women fleeing violence in other countries and seeking safe haven in the United States, write in support of the Senate Judiciary Committee’s focus on concerns of women and families in comprehensive immigration reform (CIR), and to urge particular attention to key issues of vital concern to the courageous survivors we represent. At this moment, Congress has a unique opportunity to enact meaningful reforms to a broken immigration system and provide essential protections for those immigrants who are most vulnerable. Indeed, many immigrants find themselves in abusive or exploitative situations in their homes and workplaces due to their lack of immigration status. Abusive partners, opportunistic predators, and manipulative employers often exploit a victim’s lack of immigration status, or dependent immigration status, as a way to maintain power and control and to keep victims silent. While immigration remedies provided under the Violence Against Women Act (VAWA), the Trafficking Victims Protection Act, and US asylum laws may help some, clarifying and strengthening these forms of protection so that no survivor falls through the cracks is urgently needed. Additionally, comprehensive immigration reform is needed to help prevent this vulnerability to abuse and exploitation in the first place. Reforms are also imperative to enable the United States to live up to its domestic and international protection obligations, and to reassert our country’s leadership globally as a nation of compassionate, well-reasoned, and above all, just, laws.

As advocacy organizations and victim services providers, we believe that any comprehensive immigration reform effort must be particularly mindful of the needs of survivors of domestic violence, sexual assault, human trafficking and other gender-based human rights abuses. There continue to be obstacles and barriers to access immigration relief and other protections and assistance for immigrant survivors that we urge Congress to address through comprehensive immigration reform, most notably through expanding opportunities for law enforcement to enlist help from immigrant victims of crimes, supporting immigrant survivors in their efforts to achieve self-sufficiency, clarifying the availability of asylum protection for those who flee gender-based persecution, and ensuring that immigration enforcement reforms do not impede the access of survivors of violence to life-saving protections. Increased attention to preventing violence and exploitation is also needed, including greater access to vital information about rights and resources for all immigrants, as well as greater regulation of foreign labor recruiters and other systems responsible for labor migration.

We preview below just a few of the important priorities for refugee and immigrant women facing violence that we urge the Senate Judiciary Committee to take up in the context of comprehensive immigration reform, and look forward to working further with you to address additional acute concerns:

1. Enhancing Law Enforcement's Ability to Enlist Help from Crime Victims.

For the third year in a row, 10,000 crime victims and their children have received U visas, exhausting the annual cap (set by Congress in 2000) before the end of the fiscal year.¹ Tens of thousands of law enforcement officials across the country in the years since the U visa was established have been helped by noncitizen victims of crimes who bravely came out of the shadows to report crimes and assist in investigations and prosecutions, helping enhance victim and community safety and hold all perpetrators accountable. These victims have risked brutal retaliation from abusers and perpetrators, but have been reassured by the U visa that they at least might be protected from deportation. USCIS Director Alejandro Mayorkas has stated that, “the U-visa is an important tool aiding law enforcement to bring criminals to justice. At the same time, we are able to provide immigration protection to victims of crime and their families. Both benefits are in the interest of the public we serve.”²

The U visa and T visa (for victims of trafficking) are essential tools for combating crime and improving community outreach and policing, getting perpetrators off the streets and making not only the immigrant victims upon whom they prey, but also the whole community, safer.³ For this reason, Congress should strengthen the U and T visa programs through comprehensive immigration reform, empowering more victims to come forward by encouraging law enforcement in their use of T and U visa certifications and expanding the number of U visas available on an annual basis. More visas are needed, precisely because the program is working as intended, to encourage immigrant help-seeking and crime-reporting, and perpetrator-accountability. In the T-visa context, too few visas are being granted to this vulnerable population, and Congress needs to look seriously at reforming the T-visa application system to ensure that trafficking survivors are able to access and receive this important form of relief.⁴

2. Supporting Survivors' Self-Sufficiency; Removing Dependence on Abusers and Other Vulnerabilities to Further Victimization

Currently, survivors of domestic violence, sexual assault and human trafficking are experiencing significant delays in the processing of their VAWA, U visa and T visa applications. For example, it can take upwards of 15-18 months for U.S. Citizenship and Immigration Services (USCIS) to adjudicate a VAWA self-petition.⁵ Such long waits for the adjudication of their cases, coupled with other debilitating constraints (a lack of access to work authorization or other financial supports, and lack of adequate access to public assistance, including public housing) can be devastating to survivors who face dire personal and economic hardship, and may possibly place them in the unconscionable position of having to return to violent homes. In fact, domestic violence is a leading cause of homelessness for women, as abusers are often the ones in control of financial resources.⁶ This issue is compounded for immigrant survivors who may not be eligible for financial supports or other resources

¹ On August 21, 2012, USCIS recently announced that the agency approved the statutory maximum of 10,000 petitions for U nonimmigrant status. USCIS. Press Release. USCIS Reaches Milestone for Third Straight Year: 10,000 U Visas Approved in Fiscal Year 2012, available at <http://www.uscis.gov/news>

² *Id.*

³ USCIS. “Information for Law Enforcement Officials-Immigration Relief for Victims of Trafficking and other Individuals” available at: [http://www.uscis.gov/USCIS/Resources/Humanitarian Based Benefits and Resources/TU_QAforLawEnforcement.pdf](http://www.uscis.gov/USCIS/Resources/Humanitarian%20Based%20Benefits%20and%20Resources/TU_QAforLawEnforcement.pdf)

⁴ For example in 2011, USCIS granted 557 T-visas were granted to survivors although 5,000 are available annually. See 2012 U.S. Department of State Trafficking in Persons Report, pg 362, available at: <http://www.state.gov/documents/organization/192598.pdf>

⁵ The processing time listed on USCIS website for I-360 VAWA self-petition at the Vermont Service Center is June 5, 2011, over a 1.5 year wait for adjudication of the application. <https://egov.uscis.gov/cris/processTimesDisplayInit.do>. Advocates among the signatories to this letter report VAWA self-petitions filed as early as December 2010 that are still pending.

⁶ Futures without Violence. “The Facts on Housing and Violence,” available at: http://www.futureswithoutviolence.org/userfiles/file/Children_and_Families/facts_housing_dv.pdf

to assist them and are economically dependent on abusers if they are ineligible for work authorization because of their lack of immigration status.

The profound ripple effects of processing delays and the inability to achieve self-sufficiency or access social safety-net supports can subject victims of crime to additional risks of violence, exploitation, and manipulation, including the loss of custody of their children,

For this reason, we urge Congress to address the lack of access to work authorization and other financial supports for VAWA, U and T visa applicants whose applications may be pending for a year or longer, and to remove other barriers to accessing critical resources to enable battered immigrants to escape violent homes.

3. Protection for Survivors of Gender-Based Violence Seeking Refuge in the United States

The availability of asylum in the United States for women fleeing gender-based persecution – such fundamental human rights abuses as domestic violence (severe, sustained and unaddressed by the authorities in their home countries), rape (including as a weapon of war), human trafficking, female genital mutilation, “honor” crimes, and forced marriage – urgently needs to be affirmed and the legal standards clarified. Women fleeing such human rights violations should have access to refugee protection.

Without clarity around gender-based asylum, women and girls around the country face inconsistent and adverse decisions on their applications, or lengthy adjudication delays and appeals – in fact, some of the women and their children whose very lives hang in the balance of the critical clarity we urgently seek have been left in limbo *for well over a decade*. Women and girls seeking asylum have often rejected cultural norms or practices (such as female genital mutilation or forced marriage) that make them unable to access help from their own families and communities, isolating them from the most common support and guidance systems available to other refugees or immigrants seeking protection in the United States and making their survival during prolonged adjudications that much more difficult and dangerous. Immigration reform must address this long-languishing field of law and ensure obstacles are removed to give women and girls the meaningful ability to access protection.

4. Survivors and Enforcement Efforts

We urge Congress to reject enforcement-related proposals that would create new obstacles, or exacerbate existing hurdles, for survivors of domestic violence, sexual assault, human trafficking and other violent abuses. Without adequate protections and supports for victims of crime, there will be a “chilling effect” on survivors, preventing them from accessing protections to keep themselves and their families safe and to seek justice for crimes committed against them.

Conclusion

We strongly support the Senate Judiciary Committee’s efforts to seek comprehensive immigration reform, and urge you to prioritize the need to protect immigrant women and their families from violence and exploitation.

SIGNED

National Coalitions and Organizations

9to5

Advocates for Youth

America's Voice Education Fund

American Association of University Women (AAUW)

Americans for Immigrant Justice

Asian Pacific Islander Institute on Domestic Violence

ASISTA Immigration Assistance

Break the Cycle

Breakthrough

Casa de Esperanza: National Latin@ Network for Healthy Families and Communities

Center for Gender and Refugee Studies

Center for Women Policy Studies

Centro de los Derechos del Migrante, Inc.

Coalition to Abolish Slavery and Trafficking

Domestic Abuse Intervention Programs

FaithTrust Institute

First Focus

Forward Together

Futures Without Violence

Immigration Equality Action Fund

Institute for Science and Human Values

Institute on Domestic Violence in the African American Community

Jewish Women International

Kids In Needs of Defense (KIND)

League of United Latin American Citizens (LULAC)

Legal Momentum

Media Equity Collaborative

Mil Mujeres

National Alliance to End Sexual Violence

National Association of Commissions for Women

National Center for Victims of Crime

National Clearinghouse for the Defense of Battered Women

National Coalition Against Domestic Violence

National Coalition of Anti-Violence Programs

National Congress of Black Women, Inc.

National Council of Jewish Women

National Council of Women's Organizations

National Gay and Lesbian Task Force Action Fund

National Immigrant Justice Center

National Latina Institute for Reproductive Health

National Legal Aid and Defender Association

National Network to End Domestic Violence

National Organization for Women

National Organization of API Ending Sexual Violence

National Resource Center on Domestic Violence

National Task Force to End Sexual and Domestic Violence
OneAmerica
Raising Women's Voices for the Health Care We Need
Tahirih Justice Center
The Advocates for Human Rights
U.S. Committee for Refugees and Immigrants
UltraViolet
United Methodist Women
V-Day
Women of Color Network
Women's Refugee Commission
YWCA USA

Regional Organizations

Asian Pacific Islander Legal Outreach
East Bay Sanctuary Covenant
I AMCHOICE
Kansas City Anti-Violence Project
Lutheran Social Services of New England
Lydia's House
Massachusetts Immigrant and Refugee Advocacy Coalition
Pisgah Legal Services- Mountain Violence Prevention Project
Southern Poverty Law Center
Turning Anger into Change
Women's Law Project

State Organizations

ACCESS Women's Health Justice
Advocates for Women
Arizona Coalition Against Domestic Violence
Arkansas Coalition Against Sexual Assault
Arkansas National Organization for Women
Asian/Pacific Islander Domestic Violence Resource Project
California National Organization for Women
California Partnership to End Domestic Violence
Colorado Coalition Against Sexual Assault
Connecticut Sexual Assault Crisis Services
Consejo- Mi Casa Transitional Housing Program
Connecticut Coalition Against Domestic Violence
Delaware Coalition Against Domestic Violence
Delaware Department of Justice
Florida Council Against Sexual Violence
Hawaii State Coalition Against Domestic Violence
Idaho Coalition Against Sexual & Domestic Violence
Illinois Coalition Against Domestic Violence
Illinois Coalition Against Sexual Assault
Illinois National Organization for Women

Immigration Center for Women and Children
Iowa Coalition Against Sexual Assault
Justice For Our Neighbors - Nebraska
Kansas Coalition Against Sexual and Domestic Violence
Kathlynn Ramirez, Esq. LLC
Kentucky Coalition for Immigrant and Refugee Rights
Kentucky Domestic Violence Association
La Esperanza Health Counseling Services
Latinas Unidas por un Nuevo Amanecer (L.U.N.A.)
Maryland National Organization for Women
Michigan National Organization for Women
MMG Law, Wisconsin
Maryland Network Against Domestic Violence
Monsoon United Asian Women of Iowa
Montana National Organization for Women
Network for Victim Recovery of DC
Nevada Network Against Domestic Violence
New Jersey Coalition Against Sexual Assault
New York State Coalition Against Sexual Assault
Nisaa African Women's Program
No More Deaths
North Carolina Coalition Against Sexual Assault
Ohio Domestic Violence Network
Ohio National Organization for Women
Project S.A.R.A.H.
Rhode Island Coalition Against Domestic Violence
South Carolina Victim Assistance Network
Students Working for Equal Rights
The Texas Council on Family Violence
UNIDOS Against Domestic Violence
Vermont Network Against Domestic and Sexual Violence
Virginia National Organization for Women
Virginia Poverty Law Center
Virginia Sexual and Domestic Violence Action Alliance (VSDVAA)
Washington Coalition of Sexual Assault Programs
Washington Defender Association's Immigration Project
Washington State Coalition Against Domestic Violence
WEAVER
West Virginia Foundation for Rape Information and Services
Wisconsin Coalition Against Domestic Violence
Women Watch Afrika, Inc.
Women's Law Center of Maryland
Worker Justice Center of New York
Wyoming Coalition Against DV/SA

Local Organizations

African Services Committee
Alexandra House, Inc.
Alternatives to Domestic Violence

Anna Marie's Alliance
Bluff Country Family Resources, Inc.
Capstone Counseling Center
Casa de Esperanza
Catholic Charities on North East Kansas
Community Solutions
Crisis Intervention Center
Dady & Hoffmann LLC
Domestic Abuse Project
Durham Immigrant Solidarity Committee
East End National Organization for Women
Enlace Comunicario
Family Counseling Center of St. Paul's
Family Crisis Center, Inc.
Family Service Madison
First Pittsburgh Chapter, National Organization for Women
Freeborn County Crime Victims Crisis Center
GaDuGi SafeCenter
Human Rights Initiative of North Texas
Just Neighbors
Lakes Crisis and Resource Center
Liberal Area Rape Crisis and Domestic Violence
Montgomery County Commission for Women
Mosaic Family Services
MUJER
My Sister's House
National Asian Pacific American Women's Forum-DC Chapter
New York City Gay and Lesbian Anti-Violence Project
Ni-Ta-Nee National Organization for Women
North Dallas Chapter of National Organization for Women
Northern Manhattan Improvement Corporation
Options: Domestic and Sexual Violence Services
Pauli Murray Project
Palm Beach County National Organization for Women
Public Counsel
SAFEHOME
SafeHouse Center
SCSU Women's Center
SEPA Mujer Inc
Services, Immigrant Rights and Education Network
Sexual Assault Recovery Program
Sojourner House
Squirrel Hill National Organization for Women
The Aurora Center
The Nurtured Parent Support Group for Survivors of Domestic Abuse Tri-
City Community Action Program, Inc.
Victim Resource Center of the Finger Lakes, Inc.
Violence Intervention Program
Voices Against Violence
Washtenaw Interfaith Coalition for Immigrant Rights

Waypoint
Wild Iris
WOMAN Inc
Women's Resource Center, Pennsylvania
Womenspace
YWCA Domestic Violence Shelter and Sexual Assault Program, Iowa
YWCA of Binghamton and Broome County, New York

This statement was prepared by a national committee of leading experts on existing protections – and protection gaps – in US laws affecting refugee and immigrant women survivors of domestic violence, sexual assault, human trafficking, and gender-based persecution, including ASISTA Immigration Assistance, Casa de Esperanza: National Latin@ Network for Healthy Families and Communities, The Center for Gender and Refugee Studies, The Coalition to Abolish Slavery and Trafficking (CAST), National Immigrant Justice Center, National Immigration Project of the National Lawyers Guild, Tahirih Justice Center and the Washington State Coalition Against Domestic Violence.

For more information, please contact Cecelia Levin with ASISTA Immigration Assistance at cecelia@asistahelp.org or Jeanne Smoot with the Tahirih Justice Center at jeanne@tahirih.org.



NATIONAL LATINA INSTITUTE FOR REPRODUCTIVE HEALTH

**STATEMENT OF
NATIONAL LATINA INSTITUTE FOR REPRODUCTIVE HEALTH
FOR HEARING, “HOW COMPREHENSIVE IMMIGRATION REFORM SHOULD
ADDRESS THE NEEDS OF WOMEN AND FAMILIES”**

**SENATE COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE**

March 18, 2013

Chairman Leahy, Ranking Member Grassley and members of the Senate Judiciary Committee: We are honored to submit this statement for the record on behalf of the National Latina Institute for Reproductive Health (NLIRH) regarding today’s hearing on “How Comprehensive Immigration Reform Should Address the Needs of Women and Families.” We would like to extend a special thanks to Senator Hirono for calling this hearing and for her leadership on immigration reform and support for immigrant women and families. NLIRH is the only national organization advancing reproductive health, rights, and justice for 24 million U.S. Latinas, their families, and their communities. Through policy advocacy, community mobilization, research, and public education, we work to ensure the fundamental human right to reproductive justice for Latinas, including immigrant Latinas, who face additional barriers to achieving reproductive health.

NLIRH is a founder and Steering Committee member of the National Coalition for Immigrant Women’s Rights (NCIWR), the leading national collaboration to assert a gender and women’s rights analysis to immigration law, policy, and practices. The Coalition now represents over 80 grassroots and national advocacy organizations working together for immigration reform, fair and non-discriminatory implementation of our immigration and enforcement policies, and reproductive and economic justice for immigrant women in the United States. As organizations representing immigrant women, we write today out to commend members of the Senate Judiciary committee for their commitment to improving our immigration laws. We also seek to highlight opportunities for improving policies for immigrant women and families through the bipartisan framework for immigration reform put forth by Senators Schumer, McCain, Durbin, Graham, Menendez, Rubio, Bennet, and Flake.

Immigrant Women are the Backbones of Our Families, Communities

Immigrant women are integral to the rich social, cultural, intellectual, and economic fabric of the United States. Immigrant women are the drivers of integration by encouraging their families to learn English, succeed in school and business, pursue naturalization, and fulfill their civic

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responsibilities. Immigrant women are more likely to start businesses than their U.S.-born counterparts and now account for 40% of all immigrant business owners.¹ Yet, despite their many contributions to our families and communities, issues of concern to women continue to be left out of conversations about immigration reform, and women continue to suffer injustice, discrimination, family separation, disparities in health care access and outcomes, and fear because of our nation's immigration policies.

The face of the immigrant in the United States is increasingly that of a woman. Women now make up 51% of the immigrant population² and 55% of all green card recipients in 2010.³ The majority of women migrate to reunite with family, to make a better life for their children, or to escape oppression, discrimination, and violence that prevent them from living full and free lives in their home countries. Yet, current immigration laws, policies, and programs disproportionately disadvantage women. In the absence of sufficient legal channels for migration, more than 5 million women in the United States today are undocumented and living on the margins of our society.⁴

Instead of honoring the contributions of immigrant women to the United States, past efforts at immigration reform have failed to provide for equitable citizenship, adequate protection, and full integration for all women. A reasonable and sustainable solution to current and future immigration needs must take into account gender specific perspectives. In addition, the path forward on immigration must ensure equality for all immigrants, protect and promote their civil and human rights, and empower aspiring citizens to fully participate in and contribute to our economy and society.

Statement of Principles on Women and Immigration Reform

¹ Pearce S, Clifford E, Tandon R. *Our American Immigrant Entrepreneurs*. Immigration Policy Center. December 2011. Available at

http://www.immigrationpolicy.org/sites/default/files/docs/Women_Immigrant_Entrepreneurs_120811.pdf / Accessed March 13, 2013

² United States Census Bureau. 2011 American Community Survey 1-Year Estimates. Selected Characteristics of the Native and Foreign-Born Populations. Available at

<http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>. Accessed on January 15, 2013.

³ Motel S, Patten E. *Statistical Portrait of the Foreign-Born Population in the United States: 2011, Table #1*. Pew Hispanic Center. January 2013. Available at <http://www.pewhispanic.org/2013/01/29/statistical-portrait-of-the-foreign-born-population-in-the-united-states-2011/#1/> Accessed March 13, 2013; Department of Homeland Security. *2011 Yearbook of Immigration Statistics*. Washington, D.C: U.S. Department of Homeland Security; 2011. Available at http://www.dhs.gov/sites/default/files/publications/immigration-statistics/yearbook/2011/ois_yb_2011.pdf / Accessed March 13, 2013.

⁴ Hoefer M, Rytina N, and Baker B. U.S. Department of Homeland Security. Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2011. March 2012. Available at http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2011.pdf . Accessed on January 15, 2013.

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The National Coalition for Immigrant Women's Rights (NCIWR) has issued a Statement of Principles for Women and Immigration Reform, which advances a vision of immigration reform that is inclusive and responsive to the needs and concerns of immigrant women. The Statement of Principles, endorsed by more than 230 local, state, and national organizations representing immigrant rights, reproductive health and justice, children's health and rights, labor and workers' rights, civil rights, faith, and LGBT rights, calls for the inclusion of women in all aspects of immigration reform. The principles are:

- Any pathway to citizenship and integration must be open, affordable, safe, and accessible to all immigrant women, including those whose work is in the home and those who are employed in the informal economy;
- Immigrant women must be afforded equal employment-based migration opportunities and workplace protections so that they may safely pursue economic opportunity and support their families with dignity and pride;
- Immigration reform must protect the right of all families to stay together, regardless of immigration status, family structure, sexual orientation, gender identity, or marital status, and provide sufficient family-based channels for migration in the future;
- Immigration reform must advance all immigrant women's access to public services and family economic support, including comprehensive health coverage and care, and legal and social services that promote equality of opportunity, integration, and the ability to make decisions regarding reproductive and sexual health and the well-being of the family;
- Enforcement, detention, and deportation programs that compromise immigrant women's safety, violate their civil, human, and due process rights, and tear families apart must be replaced by sensible and sufficient legal channels for migration that adequately meet family and labor demands and respect our obligations under international law; and
- Reforms to our immigration policies must bring an end to programs that disproportionately impact women by discouraging reporting of crimes to law enforcement and compromising the safety of communities, and must advance protections for women fleeing state and interpersonal violence and victims of trafficking or exploitation.

Gaps for Immigrant Women Identified in Senate Bipartisan Framework for Comprehensive Immigration Reform

While NLIRH and NCIWR applaud the Senate's commitment to improving our nation's immigration laws and establishing consensus on creating a roadmap to citizenship for the 11 million aspiring citizens currently undocumented, we have identified gaps for immigrant women's health and rights in the framework put forth by the bipartisan committee in the U.S. Senate.

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As currently written, the framework would preserve existing gender inequalities in our immigration system by failing to provide women an equal opportunity to apply for citizenship, and favoring employment-based migration over expanded opportunities for family unity. Additionally, the policies laid out in the bipartisan framework may endanger immigrant women's health, safety, and well-being by requiring increased immigration enforcement and denying access to federal health and family economic support for those granted provisional status.

We know that improving the health of immigrant women and families makes for stronger communities and makes good fiscal sense, and would urge the Committee to consider these issues as the work to reform our immigration system proceeds.

The Impact of Health Care Restrictions on Immigrant Women

Immigrant women face additional barriers, including financial, legal, and language barriers, to accessing the health care they need. Of these barriers, lack of access to health insurance remains one of the most harmful and persistent. Despite high participation in the labor force,⁵ immigrant women are less likely to have access to employer-sponsored health care compared to U.S.-born individuals.⁶ In 2011, only 34% of non-citizen immigrant Latinas had access to their employer's health care.⁷ This stands in stark contrast to the U.S. citizen population, of which approximately 64% have access to health coverage through their employment.⁸ Immigrant Latinas are over-represented in industries that typically do not offer health coverage to its employees, including agriculture and the service sector.⁹ Additionally, immigrant Latinas are more likely to work in professions where employment is informal, as caretakers and domestic workers for example, where they do not have access to employer-sponsored coverage. Moreover, these same jobs are often dangerous and subject the employee to higher risk of injury or illness, exacerbating the situation. Additionally, immigrant Latinas are more likely to be low-wage workers and live in

⁵ In 2011, the labor force participation rate for foreign-born women was 54.6% compared to 58.7% for U.S. born women. In 2011, the jobless rate for immigrant women was 9.5% compared to 8.3% for U.S. born women. United States Department of Labor Bureau of Labor Statistics. Labor Force Characteristics of Foreign-Born Workers Summary. May 24, 2012. Available at <http://www.bls.gov/news.release/forbrn.nr0.htm> . Accessed on February 3, 2013. Of the 11.9 million undocumented in 2008, 8.3 million were in the workforce. See Passel J, Cohn D. A *Portrait of Unauthorized Immigrations in the United States*. Pew Hispanic Center. April 2009. Available at: <http://www.pewhispanic.org/2009/04/14/a-portrait-of-unauthorized-immigrants-in-the-united-states/> Accessed February 20, 2013.

⁶ Kaiser Family Foundation. The Role of Employer-Sponsored Coverage For Immigrants: A Primer. June 2006. Available at <http://www.kff.org/uninsured/upload/7524.pdf>. Accessed on October 5, 2012.

⁷ Labor Council for Latin American Advancement. *Trabajadoras: Challenges and Conditions of Latina Workers in the United States*. March 2012. Available at http://www.lclaa.org/images/pdf/Trabajadoras_Report.pdf . Accessed on February 28, 2013.

⁸ Kaiser Family Foundation. Kaiser Commission on Medicaid and the Uninsured. Connecting Eligible Immigrant Families to health Coverage and Care: Key lessons from Outreach and Enrollment Workers. October 2011. Available at <http://www.kff.org/medicaid/8249.cfm>. Accessed on October 12, 2012.

⁹ Ibid.



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poverty,¹⁰ putting costly private plans out of reach for many. As such, immigrant Latinas have less access to employment-sponsored and private health insurance, compared to the U.S.-born population.

On top of these barriers, existing federal policies undermine access to health insurance for immigrant Latinas. The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), or the 1996 welfare reform law, eliminated or restricted immigrants' participation in federal health care programs. The law imposes a five-year bar for access to Medicaid and other means-tested benefits for long-standing immigrants. These federal restrictions also impact immigrants' eligibility for state and local government health programs, including the State Children's Health Insurance Programs (SCHIP). Both Medicaid and SCHIP provide access to important sexual and reproductive health care, and the changes due to welfare reform have had a dramatic impact on all immigrants' participation in these programs.¹¹ Additionally, the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), also of 1996, further restricted immigrant women's access to health and economic supports by making it more difficult for immigrants to establish eligibility for public programs.¹² The barriers put in place by the 1996 laws continue to have a harmful impact on the health and lives of immigrant women.

Recently-enacted federal legislation, which gives states more options to cover immigrants, have represented a tremendous step forward, yet many gaps remain. With the Children's Health Insurance Program Reauthorization of 2009, states were given the option to receive federal funds to cover "lawfully present" children under 21 years of age and/or pregnant women without the five-year waiting period. Yet approximately half of states, including states with high immigrant populations like Texas and Florida, have not taken up this option to provide coverage to pregnant women.¹³ Additionally, undocumented immigrant women have never been eligible for federal health care programs.¹⁴

¹⁰ In 2011, immigrant women earned 64 cents for every dollar U.S.-born women earned and nearly half (49.3%) of women-headed immigrant households lived in poverty. United States Census Bureau. 2011 American Community Survey 1-Year Estimates. Selected Characteristics of the Native and Foreign-Born Populations. Available at <http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>. Accessed on January 15, 2013.

¹¹ Sonfield A. The Impact of Anti-Immigrant Policy on Publicly Subsidized Reproductive Health Care. Guttmacher Institute. *Guttmacher Policy Review*. Winter 2007; 10(1). Available at <http://www.guttmacher.org/pubs/gpr/10/1/gpr100107.html>. Accessed on October 12, 2012.

¹² Huang P. Anchor Babies, Over-Breeders and the Population Bomb: The Reemergence of Nativism and Population Control in Anti-Immigration Policies. *Harvard Law and Policy Review*. Vol 2: 2008. Available at http://www.hlpronline.com/Huang_HLPR.pdf. Accessed on January 12, 2013.

¹³ In fact, Texas, a state with a large immigrant population, denies federal Medicaid coverage to most qualified immigrant adults who entered the country on or after August 22, 1996 even after they complete the federally-imposed 5-year bar. See National Immigration Law Center. Table: Medical Assistance Programs for Immigrants in Various States. July 2012. Available at <http://nilc.org/document.html?id=159>. Accessed on October 11, 2012.

¹⁴ Huang P. Anchor Babies, Over-Breeders and the Population Bomb: The Reemergence of Nativism and Population Control in Anti-Immigration Policies. *Harvard Law and Policy Review*. Vol 2: 2008. Available at http://www.hlpronline.com/Huang_HLPR.pdf. Accessed on January 12, 2013.

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And gaps for immigrant women remain after the enactment of the health reform law, the Affordable Care Act (ACA). Despite advances for immigrant health through the ACA, federal restrictions on immigrant's access to health care were not addressed by the law and immigrants were restricted or excluded from new and expanded coverage options, including the expanded Medicaid program, full price plans offered on the new health insurance exchanges, and premium tax credits and subsidies to help afford plans on the exchanges.¹⁵

Due to these barriers to both public and private health insurance, 55% of non-citizen immigrant Latinas in 2011 lived without any form of health insurance.¹⁶ And immigrants are greatly over-represented in the uninsured population: while immigrants represent 13% of the total U.S. population, they represent 29% of the uninsured.¹⁷

Barriers to health insurance have had a dramatic impact on the lives of immigrant Latinas. Laws enacted over recent decades restricting immigrants' access to vital health care and economic supports have disproportionately impacted women, who are more likely to seek health care and family economic supports for themselves and their children.¹⁸ Moreover, laws allowing public benefits administrations to report immigration status of applicants to immigration enforcement authorities have created a climate of fear. Women do not come forward to participate in family economic security programs, even when they and their children are eligible, because they are afraid of being detained or deported.¹⁹ Additionally, the patchwork of state and federal policies limiting access to health care and family economic supports also create confusion and a "chilling effect" discouraging all immigrant participation in health care and family economic supports.²⁰ For example, eligible immigrant women's participation in Medicaid dropped significantly after the enactment of federal legislation restricting immigrant women's access to vital health and family economic security programs.²¹ And despite the partial restoration of immigrant access to

¹⁵ Henry J. Kaiser Family Foundation. Kaiser Commission on Medicaid and the Uninsured: Key Facts. Immigration Reform and Access to Health Coverage: Key Issues to Consider. February 2013. Available at <http://www.kff.org/uninsured/upload/8420.pdf>. Accessed on March 14, 2013.

¹⁶ Labor Council for Latin American Advancement. Trabajadoras: Challenges and Conditions of Latina Workers in the United States. March 2012. Available at http://www.lclaa.org/images/pdf/Trabajadoras_Report.pdf. Accessed on February 28, 2013.

¹⁷ United States Census Bureau. 2011 American Community Survey 1-Year Estimates. Selected Characteristics of the Native and Foreign-Born Populations. Available at <http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>. Accessed on January 15, 2013.

¹⁸ Huang P. Anchor Babies, Over-Breeders and the Population Bomb: The Reemergence of Nativism and Population Control in Anti-Immigration Policies. Harvard Law and Policy Review. Vol 2: 2008. Available at Accessed on January 12, 2013.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Gold RB. Immigrants and Medicaid after Welfare Reform. Guttmacher Report on Public Policy. March May 2003, Volume 6, Number 2. Available at <http://www.guttmacher.org/pubs/tgr/06/2/gr060206.html>. Accessed on January 13, 2013.



Supplemental Nutrition Assistance Program (SNAP) after 1996, eligible immigrants represent a disproportionately low share of SNAP enrollees.²²

Barriers to health insurance and health care programs contribute to widened health disparities, poorer health outcomes, and increased health care costs. For instance, while cervical cancer (which is preventable in most cases and can be treated if caught early) has been on the decline for U.S. born women, rates for immigrant women have been on the rise.²³ Studies point to lack of health insurance as a significant barrier for immigrant women in accessing the routine gynecological care necessary to prevent cervical cancer.²⁴ Additionally, research has demonstrated that undocumented women without access to prenatal care are four times more likely to deliver low-weight infants and more than 7 times more likely to deliver prematurely than undocumented women with access to prenatal care.²⁵ And every dollar cut from prenatal care in California has been associated with a \$3.33 increase in post-natal care costs and \$4.68 in incremental long-term care costs, ultimately leading to increased costs to taxpayers over the long-run.²⁶ As such, federal policies restricting immigrant Latinas' access to health care have enacted a high human toll—by contributing to widened reproductive health disparities – and have defied sound public health policies.

There is Broad Support for Advancing Immigrant Health in Immigration Reform

A recent poll by the Kaiser Family Foundation demonstrated that there is high public support for advancing immigrant equity in health through immigration reform. According to the survey, 63% of people believed that immigrants currently without status who will obtain provisional status through immigration reform should be eligible for Medicaid coverage.²⁷ And 59% believed immigrants with provisional status should be eligible for federal assistance to purchase a health plan on the new health insurance exchanges if they do not have access to health insurance through their employer. Support for both proposals was higher among Black and Latino

²² Barrett A, Poikolainen A. Food Stamp Program Participation rates: 2004. U.S. Department of Agriculture, Food and Nutrition Service. 2006. Available at <http://www.fns.usda.gov/ora/MENU/published/snap/FILES/Participation/FSPPart2004.pdf> Accessed on January 16, 2013.

²³ American Congress of Obstetricians and Gynecologists. Health Care for Undocumented Women. January 2009. Available at http://www.acog.org/Resources_And_Publications/Committee_Opinions/Committee_on_Health_Care_for_Underrepresented_Women/Health_Care_for_Undocumented_Immigrants. Accessed on October 8, 2012.

²⁴ Rodriguez MA, Ward LM, Perez-Stable EJ. Breast and cervical cancer screening: impact of health insurance status, ethnicity, and nativity of Latinas. *Annual of Fam Med*. 2005; 3:235–41.

²⁵ Lu MC, Lin Y, Prietto N, Garite T. Elimination of Public Funding of Prenatal Care for Undocumented Immigrants in California: A Cost/Benefit Analysis. *American Journal of Obstetrics and Gynecology*. 2000; 182(1): 233-239.

²⁶ Ibid.

²⁷ Henry J. Kaiser Family Foundation. Kaiser Health Tracking Poll: Public Opinion on Health Care Issues. February 2013. Available at <http://www.kff.org/kaiserpolls/upload/8418-F.pdf> . Accessed on March 14, 2013.



respondents. The study also found that many people underestimate the extent to which immigrants are excluded from affordable and quality health care options.

Investing in Health is Common Sense—and Makes Good Fiscal Sense

By and large, immigrants are younger and healthier than the American population as a whole—allowing them to participate in our health insurance systems and risk pools makes good fiscal sense. When immigrant women and families don't have health care, the need for medical attention doesn't go away. Immigrant families without health insurance may either delay treatment for preventable disease, leading to higher costs and greater suffering, or seek care through under-resourced and expensive emergency systems.

A Healthy Workforce Means a Stronger Economy

Good health care is essential to workers' productivity and the opportunity for women and families to realize their full potential. If immigrant women are healthy, they are better able to support their family economically and contribute to the success of their children. For an immigrant woman, being able to protect her health and care for her family is the first step to full social, economic, and civic integration into the American community. When mom is healthy, the whole family benefits.

The 5-Year Bar and other Arbitrary Delays are Costly and Inhumane

Women and families should not be forced to wait five years for health care: five years is a lifetime to a child, and may make the difference between life and death for a woman suffering from breast or cervical cancer. Health coverage can mean the difference between preventing or treating conditions that can affect development throughout life, and leaving those conditions undetected and untreated. Removing the five-year bar for legal immigrants and those on the roadmap to citizenship will give them the same opportunity to pay their share and access health care as their friends and neighbors.

Today's Laws are Overly Complex, Confusing, and Restrictive

A patchwork of state and federal policies limiting access to health care and family economic supports creates confusion and a “chilling effect” discouraging qualified recipients from accessing support.²⁸ A single family could have members with 5 different kinds of eligibility for health care depending on their immigration status. No mother should have to navigate different health insurance systems for every single child, or choose which of her children gets health care. We need a system that works for families and ensures that women and kids get the care they need.

²⁸ Huang P. *Anchor Babies, Over-Breeders and the Population Bomb: The Reemergence of Nativism and Population Control in Anti-Immigration Policies*. Harvard Law and Policy Review. Vol 2: 2008. Available at http://www.hlpronline.com/Huang_HLPR.pdf / Accessed January 12, 2013.



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Anyone Could Get Hurt or Sick, and So Everyone Should Have Access to Basic Health Care

No one should live in fear that because they lack health coverage, one accident or illness could threaten their family's economic security. Access to affordable, quality health care is a widely-shared goal. Medical coverage plays a crucial role in health and well-being, and all Americans should have access.

Conclusion

The National Latina Institute for Reproductive Health urges the Committee to consider the needs and perspectives of immigrant women and families, as well as the unique challenges these groups face, as the work to reform our immigration policies proceeds. NLIRH recommends that the committee consider the Statement of Principles for Women and Immigration Reform as immigration reform proposals are vetted and developed, including the urgent needs to expand access to health care and family economic supports for all immigrant women and families, regardless of their status pre- or post-reform. We are grateful for the opportunity to present this testimony, and thank the Committee for your ongoing work on these important issues.

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