S. HRG. 113–45

HOW COMPREHENSIVE IMMIGRATION REFORM SHOULD ADDRESS THE NEEDS OF WOMEN AND FAMILIES

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

MARCH 18, 2013

Serial No. J–113–8

Printed for the use of the Committee on the Judiciary

U.S. GOVERNMENT PRINTING OFFICE
81–734 PDF WASHINGTON : 2013

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
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MONDAY, MARCH 18, 2013

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC

The Committee met, pursuant to notice, at 2:01 p.m., in room SD–226, Dirksen Senate Office Building, Hon. Mazie Hirono, presiding.

Present: Senators Hirono, Franken, Grassley, and Sessions.

OPENING STATEMENT OF HON. MAZIE HIRONO, A U.S. SENATOR FROM THE STATE OF HAWAII

Senator HIRONO. Good afternoon, everyone. I am pleased to call to order this hearing of the Senate Judiciary Committee. This hearing is titled, "How Comprehensive Immigration Reform Should Address the Needs of Women and Families." It will be an opportunity to learn about how immigration impacts women and families as we begin to consider the ways in which we will reform our immigration laws.

I want to welcome each of the witnesses and Senator Grassley and Senator Franken for joining us.

I would like to thank Chairman Leahy and Ranking Member Grassley, and their staffs, for making this hearing possible.

Now I know that we have folks here that some of us know very well, and I would like to give Senator Franken the opportunity to say a few words about his good friend who is on the panel today.

Senator FRANKEN. Thank you, Madam Chair. It is so great to have Mee here.

[Laughter.]

Senator FRANKEN. This confusion, by the way, with Mee's name is a running joke in Minnesota, but it is great to have Mee here.

It is a really distinct pleasure to introduce Mee Moua, currently president and executive director of the Asian American Justice Center. Ms. Moua was a State senator in Minnesota, chair of the Judiciary Committee in our State Senate; but not only was she a State senator, she was the first Hmong American State legislator in United States history.

I read Ms. Moua's testimony. It will be about uniting families and how important that is. And no one is better able to talk about families than Mee. She has just the most wonderful family. She is a pillar—was a pillar, now she is living here in D.C. in her new

role, but just a pillar of St. Paul, of the Hmong Minnesotan community, and has the warmest home that I have ever been in. No warmer home than the Mouas', than Mee's.

It is great to have you here, Mee.

Thank you, Madam Chair.

Senator HIRONO. Thank you, Senator Franken.

The debate on immigration reform has often focused on the needs of the business community. And despite the fact that immigrant women are about as likely to have a bachelor's degree as immigrant men, and women make up 51 percent of migrants in the U.S., employment-based visas go to men over women by a ration of 3:1. As a result, women are far more likely to immigrate to this country under the family based system. But this often means that they are here as dependent spouses without the ability to work legally.

As we look to reform our immigration laws, we must consider how women and families will be affected. Historically, women have been treated as unequal in our immigration system, with citizenship tied to their husbands. In fact, 100 years ago, if a U.S. citizen woman married a non-citizen, she would lose her citizenship.

I know firsthand that immigration is a women's issue and a family issue.

My mother brought my brother and me to this country when I was a young girl to escape a terrible marriage at the hands of my father. He was an alcoholic and a compulsive gambler, and I did not get to know him much.

Instead of watching our family continue to suffer, my mother made the courageous decision to seek a better life for us. So she plotted and planned in secret, and when I was nearly 8 years old, we literally—my brother, my mom, and me, later my younger brother and grandparents—escaped to this place called Hawaii and this country called America.

It is from my own experience as an immigrant that I believe immigration reform should make the family immigration system stronger, not weaker. And we should not ignore the challenges immigrant women face.

The purpose of this hearing is to look at these challenges and how we should correct these problems in the debate on comprehensive immigration reform.

We will hear about immigrant women in the workplace and the problems of exploitation that they often suffer. We will hear about the importance of family immigration to our communities and our economy. And we will hear about how comprehensive immigration reform should address the integration of undocumented women and children to fully participate in society. I look forward to a great discussion.

Before I turn to introductions and witness statements and questions, I will first offer the opportunity to Senator Grassley to make an opening statement. Senator.

STATEMENT OF HON. CHUCK GRASSLEY, A U.S. SENATOR FROM THE STATE OF IOWA

Senator GRASSLEY. Thank you, Madam Chair. This is a very important hearing because immigration is something that is going to

be worked on, I think, in both Houses of Congress. It is a long time in coming, and it needs to be worked on even though there are still big differences of opinion about exactly what should be done.

We have a distinguished panel to testify. All of you have a passion for changing our immigration system and improving it for generations of families to come. This Congress has an opportunity to enact real reform, an opportunity to ensure that our welcome mat remains on display while upholding our longstanding dedication to the rule of law.

Today people in foreign lands want to be a part of our Nation. In fact, almost a million people every year come to this country legally because we are a very welcoming country and always have been, and people will go to great lengths to be a part of our great society. We should feel privileged that people love our country and want to become Americans.

Immigration reform is not an easy undertaking. I know this from 32 years of experience on this Committee. That is why Congress in 1990 authorized a bipartisan commission to review and evaluate the immigration system.

In 1997, with the help of our witnesses, the United States Commission on Immigration Reform presented their findings and recommendations. They are just as important today as they were 15 years ago. The Commission stated, "A properly regulated system of legal immigration is in the national interests of the United States. Such a system enhances the benefits of immigration while protecting against potential harms."

The Commission also noted: "Immigration contributes in many ways to the United States: to a vibrant and diverse community, to a lively and participatory democracy, to its vital intellectual and cultural life, to its renowned job-creating entrepreneurship and marketplaces, and to its family values and work ethic." Yet they knew then what we know now: that there are costs as well as benefits from today's immigration.

The Commission found many flaws in our immigration policies, and we have a long ways to go to make it perfect. It is in our Nation's best interest for future generations and future families to begin a serious discussion on how we can enact real reform that will sustain for years to come.

All the witnesses before us are very important. I would like to talk about the witnesses that my side of the aisle was able to have on the panel.

Ms. Martin will provide insight on how we should enhance our family immigration system, including the fact that Congress must set priorities and determine which type of immigration will serve the national interest.

Dr. Panetta will bring a different perspective to the hearing, discussing how American engineers, particularly women, are being skipped over for high-skilled and high-paying jobs in the United States. She will discuss how the H–1 Visa Program is harming American engineers and how women may fall behind even more if we do not fix the program. Her testimony sheds light on the reasons why we need legislation in this area.

I plan to introduce a bill today to ensure that American workers are given first opportunity at jobs in science, technology, engineer-

ing, and math. In fact, my bill would close loopholes in the program, reduce fraud and abuse, provide protection for American workers and for visa holders, and require more transparency in the recruitment of foreign workers.

All of our witnesses are distinguished witnesses, and I thank all of you for participating in today's hearing.

Thank you.

Senator HIRONO. Thank you, Senator Grassley.

This afternoon, we are joined on the panel by Ai-Jen Poo, director of the National Domestic Workers Alliance and co-director of the Caring Across Generations Campaign. Founded in 2007, NDWA is the Nation's leading voice for the millions of domestic workers in the United States, most of whom are women. Ms. Poo has been organizing immigrant women workers since 1996. In 2000, she co-founded Domestic Workers United, the New York organization that spearheaded the successful passage of that State's historic Domestic Workers Bill of Rights in 2010. Ms. Poo serves on the board of directors of Moms Rising, National Jobs with Justice, Working America, the National Committee for Responsive Philanthropy, and the National Council on Aging. She has been recognized with the Ms. Foundation Woman of Vision Award, the Independent Sector American Express Engine Leadership Award, Newsweek's 150 Fearless Women's list, and Time's List of the 100 Most Influential People in the world. Impressive.

Next is—you are all impressive, by the way.

Next is Dr. Karen Panetta, professor of electrical and computer engineering at Tufts University and director of the Simulation Research Laboratory at Tufts University. She is also a fellow at the Institute of Electrical and Electronics Engineers and is the worldwide director of IEEE Women in Engineering. IEEE is the world's largest professional association dedicated to advancing technological innovation and excellence for the benefit of humanity. Dr. Panetta received a B.S. in computer engineering from Boston University and an M.S. and Ph.D. in electrical engineering from Northeastern University. She was also the first female electrical engineer given tenure in the Electrical and Computer Engineering Department at Tufts. Before joining the faculty at Tufts, Dr. Panetta was employed as a computer engineer at Digital Equipment Corporation. Her research in simulation and modeling has won her research team five awards from NASA for outstanding contributions to NASA research and excellence in research. She is a NASA Langley Research Scientist JOVE Fellow, is a recipient of the NSF Career Award, and won the 2003 Madeline and Henry Fischer Best Engineering Teacher Award.

We are also joined by Mee Moua, president and executive director of the Asian American Justice Center. The AAJC is one of the Nation's premier civil rights advocacy organizations. AAJC works to advance the human and civil rights of Asian Americans and to build and promote a fair and equitable society for all. Ms. Moua leads AAJC's efforts to promote civic engagement, forge strong and safe communities, create an inclusive society, and empower Asian Americans and other underserved communities. Ms. Moua was a three-term Minnesota State senator, where she chaired the Senate Judiciary Committee. Born in Laos, Ms. Moua immigrated to the

U.S. in 1978. Mee Moua and I have been friends, and she certainly has a story to tell. She attended Brown University as an undergraduate, earned a master's degree in public affairs from the University of Texas, Austin, and earned a law degree from the University of Minnesota.

Also on the panel is Professor Susan Martin, the Donald Herzberg Professor of International Migration at Georgetown University Law School—my alma mater, by the way. Professor Martin also serves as the executive director of the Institute for the Study of International Migration in the School of Foreign Service at Georgetown University. The institute provides balanced, multidisciplinary analysis of the complicated issues raised by immigration policy and law. A long-time expert on immigration and refugee policy, she came to Georgetown after having served as the executive director of the U.S. Commission on Immigration Reform, which made its final report to Congress in September 1997. Prior to joining the Commission staff, Professor Martin was the director of research and programs at the Refugee Policy Group, a Washington-based center for analysis of U.S. and international refugee policy and programs. She was assistant professor in the American Studies Department at Brandeis University and lecturer for the History of American Civilization at the University of Pennsylvania. Professor Martin holds a B.A. from Rutgers and an M.A. and Ph.D. from the University of Pennsylvania.

Finally, we have Jennifer Ng'andu, the deputy director of the Health Policy Project of the National Council of La Raza. NCLR is the largest national Hispanic civil rights and advocacy organization in the United States and works to improve conditions and opportunities for Hispanic Americans. At NCLR, Ms. Ng'andu is responsible for the oversight of development and advancement of Federal policies aimed at improving the health status of Latinos and creating parity for immigrants in the health system. She provides expertise on health and nutrition policy, Affordable Care Act and health reform, access in health disparities for racial and ethnic populations, immigrant eligibility for health programs and public benefits, hunger, and obesity. Ms. Ng'andu holds a bachelor's degree in psychology from Duke University.

At this point I would like to ask all of the witnesses to stand and raise your right hands as I administer the oath. Do you solemnly swear or affirm that the testimony you are about to give to this Committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Ms. POO. I do.

Ms. PANETTA. I do.

Ms. MOUA. I do.

Ms. MARTIN. I do.

Ms. Ng'andu. I do.

Senator HIRONO. Thank you. Please be seated. Let the record show that the nominees have answered in the affirmative.

I have a statement that I would like to read portions of from Senator Amy Klobuchar. She says:

"I want to thank all the witnesses for being here today. I had hoped to join you, but prior obligations in Minnesota and a snowstorm in Minneapolis have prevented me from making it back in

time. I want to give a special welcome to my friend and fellow Minnesotan, Mee Moua."

You have a lot of fans here today, Mee.

"Mee has been an incredible advocate over the years on many, many issues. Most of the talk about immigration has centered on the plight of the undocumented, border security, and economic motivations for changing our laws. But family concerns are just as important, and we must ensure that our policies reflect family reunification as a top priority."

If there are no objections, I would like to enter Senator Klobuchar's full remarks into the record. Seeing no objections, we will proceed.

[The prepared statement of Senator Klobuchar appears as a submission for the record.]

Senator HIRONO. Welcome once again to all of you.

I would like to recognize each of the witnesses, starting from my left, so, Ms. Poo, if you would provide us with your testimony.

STATEMENT OF AI-JEN POO, DIRECTOR, NATIONAL DOMESTIC WORKERS ALLIANCE, NEW YORK, NEW YORK

Ms. POO. Thank you, Chairwoman Hirono, and thank you, Senator Grassley and Senator Franken, for this opportunity. My name is Ai-jen Poo, and I am the director of the National Domestic Workers Alliance. We represent a growing work force of mainly immigrant women who take care of our children, our aging loved ones, and our homes. And I bring their spirit, passion, and hopes with me today.

Women like Pat Francois, who is sitting behind me, a nanny in New York City for many years, Pat takes great pride in her role: arranging play dates, taking the children to the children's museum and the library, reading stories, playing in the park, and most importantly, keeping them safe. She makes it possible for her employers to go to work every day knowing that the most precious parts of their lives are cared for while they are gone. Millions of working moms and dads count on women like Pat in order to participate fully in today's workplace. But Pat is undocumented and cannot participate fully in our country that she now calls home.

Today, women and children represent two-thirds of all immigrants in the United States. Unfortunately, past rounds of immigration reform debates have excluded women's experiences, which is why this Committee should be truly commended for holding this hearing.

To move us to solutions, here are three basic conditions to ensure that millions of women are not left behind on the road to citizenship.

First, the road to citizenship must be wide. Pat, like most domestic workers, does not have pay stubs to prove she worked for her employer. Her world, like much of the informal economy, is a paperless world. If the road to citizenship requires proof of employment at any stage, domestic and informal sector workers will be run off, along with the estimated 40 percent of undocumented women who are stay-at-home moms, which we also know is work. Instead, we can use proof of presence to determine eligibility both broadly and accurately.

Second, the road to citizenship must have on ramps. Undocumented women like Pat are particularly vulnerable to abuse, sexual harassment, and severe exploitation, including trafficking. One of Pat's employers was verbally abusive for years while threatening to have her deported if she challenged him, until 1 day he physically assaulted her.

Common-sense reform must include provisions like those—our current policies allow unscrupulous employers to wield the threat of deportation like a weapon. Common-sense reform must include provisions like those in the POWER Act, to ensure that women suffering serious workplace violations are protected and eligible for U visas.

Third, the road to citizenship must take us into the future, acknowledging the increasingly critical role of immigrant women in the American economy. Currently less than one-third of all employment visas are given to women as principal holders. Yet 2011 marked the first year of the "age wave," when the baby-boom generation has begun to turn 65 at a rate of a person every 8 seconds. That means that the demand for care workers, who are mostly women, is projected to increase by 48 percent over the next decade. But the population of U.S.-born workers who could fill this need is only growing by about 1 percent.

We must create a highway into the future so that the workers we need, especially women, can come to work in the United States with their families, with full worker's rights, portability between employers, and the ability to obtain green cards and citizenship.

Senators, many of you have relied upon babysitters or nannies to care for your kids, and many of you have housekeepers, and 1 day many of you may need elder care assistance. Who is going to take care of America as we age?

In fact, it is hard to find anyone in America today whose life has not been touched by the care of immigrant women. Because we as a Nation count on them, we are counting on you. Women need reform, and we cannot wait. Hundreds of women have come to Washington this week to urge you to act swiftly, with full inclusion of women and their families, including LGBT families, because immigration reform is a women's issue. It is about women's equality, it is about keeping families together and strengthening families, and it is an economic issue key to the well-being of the entire Nation.

Thank you.

[The prepared statement of Ms. Poo appears as a submission for the record.]

Senator HIRONO. Dr. Panetta.

STATEMENT OF KAREN PANETTA, PH.D., PROFESSOR OF ELECTRICAL AND COMPUTER ENGINEERING, TUFTS UNIVERSITY, MEDFORD, MASSACHUSETTS, AND VICE PRESIDENT, COMMUNICATIONS AND PUBLIC AWARENESS, THE INSTITUTE OF ELECTRICAL & ELECTRONICS ENGINEERS-UNITED STATES OF AMERICA (IEEE–USA)

Ms. PANETTA. Thank you, Chairman Hirono, Ranking Republican Member Grassley, and Senator Franken and the other members of this panel. I am honored to be here today to testify on your theme:

"How Comprehensive Immigration Reform Should Address the Needs of Women and Families."

I represent IEEE–USA, the 206,000 members of the Institute of Electrical and Electronic Engineers in the United States. We are a professional society, the largest organization of technologists in the world, founded by Alexander Graham Bell, who was an immigrant, and Thomas Edison, who was not. That global perspective has always been a part of the IEEE–USA.

We know innovation comes diversity of talents, and we seek the world's brightest individuals to work with as equals. IEEE knows that one of the world's most valuable resources that has been underutilized is women. That is why IEEE created the Women in Engineering Program and why I started a Nerd Girls program. So today's subject is critical.

On behalf of the largest representative of America's high-tech workers, let me get right to the point. If we truly want to help women and families, do not increase the H–1B Visa Program. Increase STEM green cards instead.

As an engineer, I use data to identify how things break so we can prevent catastrophic failures. I am here today to tell you that the H–1B Visa Program is a place where our immigration system is broken. Who wants to double the number of outsourcing visas for companies who take American jobs, give them to temporary foreign workers, and then ship those jobs overseas? Yet that is what some in the Senate propose doing through the I-Squared bill.

The IEEE–USA view is simple: we favor green cards, not guest worker visas. The greatest damage clearly results from offshore outsourcing. The official data from the Department of Homeland Security shows that all of the top 10 users of the H–1B program and 15 of the top 20 are outsourcing companies. My written testimony documents this for each State.

For all the talk about H–1Bs helping to create American jobs, the facts show something else. Look at Nielsen in Florida, Pfizer in Connecticut, the gaming industry in Nevada, just to name a few well-documented cases where American jobs were replaced by outsourcing.

In my written testimony, I review the four primary arguments made in favor of H–1B and show how in each case the arguments do not match the data.

For example, employers will argue that it takes too long to get a green card. Absolutely correct. But it is not an argument for the H–1B. It is an argument for enabling employers to get green cards for workers when they are hired. We strongly endorse Microsoft's recent proposal to pay a total of $25,000 in fees to take foreign STEM graduates from their student visa to a green card. No need for an H–1B. It is a principle. If an employer is willing to pay a substantial fee for a worker who supposedly possesses skills that the employer cannot find in American applicants, then that company should be eager to sponsor that worker for a green card immediately. This would be a solid proof that that employer actually needs that person's skills.

But we are talking about the impact of comprehensive immigration reform on women and children. The contrasting treatment of families in the H–1B program compared to green cards actually

mocks our values. Most of the 220,000 nuclear family backlog counted by the State Department are spouses and children of employment-based permanent immigrants, separated because they received their green cards and then got married.

As software consultant Matt Arivalan testified to the House Judiciary Committee last week, he said: "I was shocked to find that because I had made a commitment to America, my wife must wait in another country for years. If I was just a temporary worker, my wife would not be 12,000 miles away."

Finally, let me warn the Committee about the obstacles which the H–1B creates for American women in STEM fields. It is hard to get promoted when you do not get hired in the first place. The existence of this preferred pipeline for new hires has hugely discouraging effects on independent American women considering the STEM fields. Why? Because my own experience tells me that the vast majority of H–1B workers are men, and this does not make for a diverse work force or work environment.

IEEE–USA represents more high-tech workers than anybody else. One from inside the industry, looking at the offshoring companies that dominate the H–1B program, tells us that their global hiring is 70 percent. But in the U.S., where outsourcing companies get more than half of the capped H–1B visas, the ratio is more like 85 percent men. Shouldn't this raise a red flag?

But as an engineer, I do not like making decisions without hard data. IEEE–USA has been trying for months to get the actual data from DHS. It is a simple question: How many women get H–1B visas?

So we urge this Committee to include this data in their investigation to better understand the effect the legislation will have on women and families. More green cards for advanced STEM students, men and women, is the way to go, as IEEE and so many others have urged?

Green cards do not create a disincentive to hire Americans—including American women—the way H–1B does. That is because the green card means the new American is treated as an equal. Isn't that what our immigration system is supposed to do—help our economy and new families?

Let me conclude by thanking the Committee for the honor of being asked to testify. I want to particularly thank Senator Grassley for his leadership on the issue and for his H–1B legislation to be introduced this week. I will be happy to answer any questions in my areas of expertise.

Thank you.

[The prepared statement of Ms. Panetta appears as a submission for the record.]

Senator HIRONO. Thank you.

Ms. Moua.

STATEMENT OF MEE MOUA, PRESIDENT AND EXECUTIVE DIRECTOR, ASIAN AMERICAN JUSTICE CENTER, WASHINGTON, DC

Ms. MOUA. Madam Chair, Senator Grassley, and Senator Franken, thank you so much for the opportunity to be here with all of you on behalf of the millions of Asian Americans and Pacific

Islanders all across this country. It is a pleasure to be in this historic hearing highlighting how comprehensive immigration reform should address the needs of women and families.

When I was 9 years old, my family came to the United States as political refugees. Our people's role as special guerilla unit fighters for the United States during the secret war in Laos rendered us displaced and homeless after the U.S. Government left Southeast Asia. To save our lives, we were forced to flee in secrecy, leaving behind our home and our loved ones.

When we arrived in the United States, my grandfather, my uncle, and our only aunt remained trapped in Laos. One uncle was at a refugee camp in Thailand, and another uncle was resettled in France. When they were eligible, my parents studied hard for their citizenship exams in the hope that they would be able to bring my grandfather and my uncle and his families to the United States.

Unfortunately, my grandfather passed away before my father could become naturalized. Shortly thereafter, my uncle also passed away while imprisoned in a political work camp.

In 1996, my parents tried to sponsor the one uncle in France, but the process took so long that by the time they were eligible to come to the United States, they decided to remain in France because their children were already married and had their own families.

The separation and hardship experienced by my father and his siblings underscored the heartache and disappointment many immigrant families endure in their search for family reunification. The lucky ones are able to overcome life circumstances and delays to eventually succeed, but far, far too many simply just give up.

The purpose of today's hearing is to dig deeper into the realities of our family based immigration system and understand how it affects women, children, and families. The principle of family unity has long been a core value of our immigration policies in the United States, and family based immigration has been a central pillar of our current legal immigration system.

Since our founding as a Nation, each wave of new immigrants and their families have strengthened our communities, enriched our culture, and the fruits of their entrepreneurial spirit have strengthened our middle class and invigorated our economy.

Unfortunately, the U.S. immigration system is badly broken and outdated with the unintended consequences of separating mothers from daughters, brothers from sisters, and wives from husbands.

As of November 2012, nearly 4.3 million close family members were waiting in the family visa backlogs. Latino and Asian American families are affected the most by these long backlogs, with over 1.3 million waiting in Mexico and over 1.8 million waiting in numerous Asian countries.

Like that experience by my family, many American families have been waiting years, even decades, to be reunited with their loved ones. For other families, our dysfunctional legal immigration system forces them to choose between remaining apart for years on end or remaining in the shadows as undocumented immigrants for the chance to be with their families.

In Pacifica, California, a committed and loving family of four faced separation under our current immigration system. Jay and Shirley—Jay is a U.S. citizen and Shirley is originally from the

Philippines—are the parents of twin sons. Shirley and Jay have been together for more than 20 years, but because Jay is unable to sponsor Shirley for residency, their family was nearly torn apart when, in 2009, ICE agents arrested Shirley in front of their children and attempted to deport her back to the Philippines. Shirley, Jay, and their twins, who were profiled in People magazine, are depending on Congress to include GLBT families in immigration reform to ensure that they have a permanent solution to remain together in this country.

While Jay and Shirley's story highlights how our current immigration system discriminates against GLBT families by prohibiting citizens and legal permanent residents from sponsoring their permanent partners for immigration purposes, the heartache and hardship they endured as they were forced to make hard choices is representative of the real experiences of many immigrant families across this country. This is simply unacceptable and does not live up to our ideals as a Nation that values families and fairness.

Given this broader picture as the backdrop, I want to now turn to the fact that women immigrants are disproportionately harmed by our broken system. We know that approximately 69.7 percent of all immigrant women attain their legal status through family based visas, compared to 60 percent of men. Since women are more often denied access to resources and education and face social constraints in their home countries, they are overrepresented among family based immigrants and underrepresented among employment-based immigrants.

In those circumstances where they are the dependents of a male visa holder, women are not legally allowed to work under our current system and, therefore, are completely tied to their spouse. This creates an imbalance of power, which renders women wholly dependent on their spouse and in some unfortunate cases particularly vulnerable to an abusive partner.

An immigration system that disadvantages women as an unintended consequence inevitably hurts families and communities. Immigrant women, like all women, keep their families together, invest in their children's education, engage in their communities, and contribute to the growth and to the prosperity of our economy.

In 2012, we witnessed a historic election. Immigrants, both Latinos and Asian Americans and Pacific Islanders, play a key role in our electoral outcomes. They vote in unprecedented numbers, and they overwhelmingly support a vision of inclusion and fairness while rejecting xenophobic policies that pit communities against one another. High-income earners versus low-income workers and new Americans versus the more established communities.

In the last 3 months, you, our elected representatives, have made it clear that you intend to keep the faith with the American people to deliver a common-sense fix to our broken system.

Today I stand with these panelists to urge you to ensure that women and their families remain at the core of your solutions, that the fix of our broken family immigration system addresses among other critical issues the inhumane backlogs for families and workers, and that it provides balance and flexibility for a comprehensive system that values all family members, including our brothers and sisters, children of all ages, and LGBT families.

Whether it was through the Mayflower, Ellis Island, Angel Island, or now all the ports of entry, most immigrants came to the U.S. with nothing but hope and their families. Regardless of the hardships they encountered or endured, hope and family permitted each successive generation of immigrants to muster the courage to survive, persevere, and make a deeply rooted life in this country. We may all come from different national origins, eat different foods, practice different religions, and even speak different languages, but the immigrant heart is what binds us as one people—united in hope and opportunity for a more prosperous future for all of our families. That is why we love this land, and for those who are working hard for our prosperous economy, let our policies also work hard for them.

Thank you.

[The prepared statement of Ms. Moua appears as a submission for the record.]

Senator HIRONO. Thank you.

Ms. Martin.

STATEMENT OF SUSAN F. MARTIN, DONALD G. HERZBERG PROFESSOR OF INTERNATIONAL MIGRATION, GEORGETOWN UNIVERSITY, WASHINGTON, DC

Ms. MARTIN. Thank you, Madam Chair, Senator Franken, thank you for providing this opportunity to testify this afternoon.

I have been asked to discuss relevant findings and recommendations of the Commission on Immigration Reform, which I served as executive director, as well as my own views on immigration issues. I am pleased to do so. Although the Commission's report was issued 15 years ago, many of its recommendations remain as relevant today as they were in 1997.

I should also note that the recommendations of the bipartisan Commission were adopted unanimously or in certain instances by a vote of 8–1, showing substantial bipartisan support for credible immigration policy.

Let me begin with the Commission's overall perspectives on legal immigration.

First, the Commission considered a robust legal immigration system to be in the national interest of the United States. It argued that immigration policy should serve three core interests and that all of these were equally important: maintaining family unity, encouraging economic competitiveness, and preserving U.S. humanitarian leadership in the world, and that these are served through family reunification, employment-based, and refugee admissions, respectively.

Second, the Commission did not believe that there is a magic, a priory number of immigrants that should be admitted to the United States. Rather, numbers should be readily adjusted to address changing circumstances in the country and the world. It is well to note that current family and employment-based admission numbers were set in 1990 and have not been changed in the intervening 23 years, despite major changes in the country and the composition of our population.

Third, the Commission believed that priorities should drive admission numbers and not the reverse. At present, our immigration

system is largely managed through backlogs and waiting lists. Ceilings have generally been assigned in an arbitrary manner, often as a result of political compromise rather than empirical evidence as to the likely demand for visas' different categories. The Commission instead recommended a true preference system in which all demand is met in the highest categories in a timely way.

Let me turn to how these principles translated into specific recommendations related to family reunification. The backlog of applications for all of the numerically limited family categories had expanded quite significantly at the time of the Commission's deliberations. The Commission recognized that all of these categories were important to segments of the population within the U.S. The members' judgment, however, was that there is a special bond between spouses and between parents and minor children that necessitates the most rapid family reunification in these instances, regardless of whether the sponsor in the U.S. is a U.S. citizen or a legal permanent resident. Not only is the immediate family the basic building block of society, but there is also a legal and fiduciary responsibility for spouses and minor children that do not exist in relationship to adult children or siblings of adult sponsors.

The Commission was fully supportive of maintaining the numerically unrestricted admissions categories for spouses, minor children, and parents of U.S. citizens and recommended that sufficient visas be allocated for the admission of all spouses and minor children of legal permanent residents within no more than 1 year of application. The Commission also recommended that adult children who were dependent on their parents because of physical or mental disability be included in these admission categories.

At present, according to the State Department Visa Bulletin, spouses and minor children who applied 2½ years ago are now eligible to enter the country, which seems to be a violation of that principle of very rapid family reunification.

The Commission, recognizing that there were concerns about an infinite number of visas being offered at any given time, recommended the elimination of the admission categories for adult children and siblings, despite recognizing that there are very good reasons to continue to have a very expansion family reunification process.

Currently we offer a few visas to many different family categories, however not enough visas to any one category.

If you look at the category for the brothers and sisters of U.S. citizens worldwide, there is now a delay of 12 years before admission. If you are applying from the Philippines, because of the per country limits, it is a 24-year wait. That does not appear to be rational, and particularly not to be bringing in people beyond their projected working years and toward the period in which they will be retiring.

The Commission did not address the phaseout of these categories, so I speak personally on this issue. Given that many U.S. citizens have petitioned for their adult children and siblings, assuming that the system would remain as it is, my recommendation would be to balance the interest in a more efficient system for family reunification with preserving enough visas to permit the admis-

sion of those already in the queue before changing our overall policies.

Changing these policies is particularly important in the event that the Congress will determine to regularize the status of those who are currently undocumented in order to ensure that we do not have a return of the very extensive backlogs that we had in the 1990s for the spouses and minor children of the IRCA-legalized population.

Let me finish with just three quick other points. I know I am running over.

One is that in addressing the needs of women, we need to be thinking very carefully with regard to ways of still increasing and improving the implementation of the Violence Against Women Act as it pertains to women. Fortunately, that Act was reauthorized recently. But we still have a problem ensuring that immigrant women and children who were abused have access to the information, legal, and economic resources that will permit them to benefit from the terms of the legislation.

Similarly, in terms of the Trafficking Victims Protection Act, also reauthorized this year, there is a disparity between the numbers granted the T visa for protection of trafficking survivors and the estimated total numbers of trafficking victims in the U.S. Between 2002 and 2012, DHS has only approved 3,269 applications.

We still lack the tools to identify trafficking victims and help the survivors gain access to the type of legal assistance as well as safe houses and other services that are needed to ensure their protection.

Then a final point is in relationship to long delayed legislation to remedy problems in our asylum, detention, and refugee resettlement programs as they apply to women and girls. The Refugee Protection Act, introduced by Senator Leahy, includes important provisions that would help facilitate family reunification for refugees and asylees; eliminate the 1-year filing deadline for asylum applications, which hinders the ability of women who have been raped and suffered other atrocities from coming forward; and changes in provisions that currently deny asylum and resettlement to those who provided material support to an insurgency, even if that support was coerced, as in many of the cases of rape.

To conclude, comprehensive immigration reform should recognize that family unity is a core value. Ensuring speedy reunification is in the national interest of the country. Strong families make strong communities, which in turn make for a strong nation. Setting priorities to accomplish this goal would immeasurably strengthen U.S. immigration.

[The prepared statement of Ms. Martin appears as a submission for the record.]

Senator HIRONO. Thank you.

Ms. Ng'andu.

STATEMENT OF JENNIFER NG'ANDU, DIRECTOR, HEALTH AND CIVIL RIGHTS POLICY PROJECTS, NATIONAL COUNCIL OF LA RAZA, ARLINGTON, VIRGINIA

Ms. NG'ANDU. Good afternoon, Chairman Hirono, Senator Franken. On behalf of the National Council of La Raza, I thank

you for the opportunity to be here today. I have been proud to work for NCLR for the past 9 years, where I direct their Health and Civil Rights Policy Projects. We have been engaged in key debates and legislative efforts to make sure that we improve and promote life opportunities but, most importantly, the health and well-being of Latino families. And as we represent some 300 affiliates, local community-based organizations around the country, we see first-hand how they are each day working to integrate these Latino families, some immigrants, some not, and ensure that they pursue the American dream.

It is important to elevate the role of women with any immigration reform conversation, and to that end, the fact is that family immigration has been the essential road map to citizenship for generations of Americans in pursuit of a better life. Immigrant families are among the most economically mobile within our country, and the women in these families are often the drivers of that success. Women urge their families to integrate, to learn English, engage in civic duties of all kind, and achieve citizenship.

On the whole, immigrant women and their families are net contributors to their country, and they come here willing to pay their fair share and take up the rights and responsibilities of their fellow Americans. But there are often gross misrepresentations of how they live within our country, including overinflated assessments of their use of benefits.

So I start by setting the record straight. Many people are largely unaware of the fact that all immigrants, lawfully present or not, face restriction to public benefits. And undocumented immigrants are almost entirely banned from most major public health coverage and safety net programs.

Lack of access is often buffered by their lower ages, strong presence in the work force, and positive health behaviors. Immigrants are not only less likely to use benefits, but when they actually do receive access to a program, they are also likely to use a lower value of them.

To be sure, lower utilization of benefits does have some negative consequences. Immigrants who are yet to be naturalized have very high uninsurance rates—in fact, it is almost 60 percent—and they and those within their families are likely to experience certain hardships, such as food insecurity.

NCLR's own focus groups conducted in 2009 provide warning of the tradeoffs that immigrants may take up without viable insurance options. Many participants, moms and dads, within mixed immigration status families noted that they had put their families at severe financial risk in order to make sure that their children had essential health care. When it came to their own health needs, the majority went without, compromising their own well-being while trying to preserve their children's.

The irony is that, despite immigrants' eagerness to take on shared responsibility, the system does not always let them in. Take, for instance, the recent changes to the health care law that created the first-ever statutory restriction to the private health insurance market. Beginning in January 2014, immigrants without legal status will no longer be able to purchase insurance in the private insurance marketplace that other uninsured Americans will

use. Despite the prohibitive costs of insurance, somehow 375,000 undocumented immigrants have found a way to purchase insurance on their own, and while the employer-based market has been a source of coverage to some 3 million undocumented immigrants, there is a question of whether that market will provide the same opportunities since it has been eroding.

I ask you, Does it make sense to prevent immigrants from buying insurance, an action that could bolster the market for millions of Americans?

Furthermore, the immigrant restrictions ensure a 5-year bar to public programs such as Medicaid and the Supplemental Nutrition Assistance Program, or SNAP. It can be devastating when someone falls on hard times. And I would give an example of an immigrant victim of domestic violence who is petitioning here under the Violence Against Women Act. She is barred from SNAP and other programs for 5 years, and many immigrant women have cited that those dangerous situations keep them—that leaving those dangerous situations actually creates additional economic challenges, including risk of hunger.

I end by emphasizing that Americans support the complete road map to citizenship and that the full opportunity to participate is one that they support as well. Health care and social services may not be a part of the core process to meet citizenship requirements, but many of these programs and services underpin this ultimate aim.

It is common sense that immigrant families who pay their fair share of contributions are allowed to take part in the systems that are fundamental to American life. We should also recognize that while some families will fall on hard times and need resources, so many of them will come out ahead if we just make a small investment in their well-being. Each policy investment in immigration reform must be mindful of America's pocketbook, and maximizing citizenship should be the primary focus.

By the same token, it comes down to a simple adage: "Penny wise or pound foolish." Giving immigrant women and families the tools for full integration now will pay off in their contributions later.

[The prepared statement of Ms. Ng'andu appears as a submission for the record.]

Senator HIRONO. Thank you very much to all the panelists.

Before we get to our 7-minute rounds of questions, I would like to ask unanimous consent that an open letter to the President and all Members of Congress on ensuring access to affordable health care and needed nutrition assistance and immigration reform, signed by 360 organizations from across the country, be entered into the record. Hearing no objections, I will be entered into the record.

[The letter appears as a submission for the record.]

Senator HIRONO. And I would also like to ask unanimous consent to put the statement of Chairman Leahy into the record. Without objection, so entered.

[The prepared statement of Chairman Leahy appears as a submission for the record.]

Senator HIRONO. We will now start on 7-minute rounds of questioning. I will begin.

First of all, once again I want to thank all of you for coming and testifying today.

Ms. Poo, you talked about how difficult it would be should we create a pathway to citizenship for people, particularly women, to have the kind of documentation that we might require of them, and we had this experience when we had so-called amnesty a couple of decades ago.

So, once again, to ensure that we learn from the past and allow mainly women to get on to the path, an earned path to citizenship, how would you want us to—what kind of requirements should we place on mainly women, domestic workers and others like them, to get on this path?

Ms. POO. Thank you, Chairwoman, for the question. I think that there are many solutions to this problem to ensure full inclusion. One is in terms of offering—allowing people to submit affidavits that prove their presence in the country, like past frameworks for immigration have in the past asked for, proofs of presence as opposed to proof of employment. This would allow people who work in the paperless informal economy to be able to prove that they have been in this country and contributing and building communities, which many have.

I think some level of flexibility that accounts for the many different kinds of institutions within the community that can vouch for presence. Community organizations, institutions like churches, many people can vouch for the presence.

Senator HIRONO. So the main thing is to allow some level of flexibility and ability to have multiple ways that one can prove that they have been in this country.

Ms. POO. Absolutely.

Senator HIRONO. Even if without documents.

Ms. POO. Exactly.

Senator HIRONO. Thank you.

Ms. Panetta, I take it that you are very much against the H–1B visas, and instead you would support something like the STAPLE Act, which Senator Flake introduced when he was a Member of the House.

How many women do you think would be able to come in through the STAPLE kind of legislation?

Ms. PANETTA. Well, first of all, let me say I am not against the H–1B or my organization is not against H–1Bs. We are against H–1Bs for use of permanent jobs that are supposed to be temporary positions. Right now the H–1B is being—we are against trying to use it as a purgatory to try and buy an individual for 6 years without a commitment to a green card. So that is what we are against. And we are against outsources, using it for that purpose. There are genuinely valid cases for using it for temporary workers, so we are not 100 percent against it.

Senator HIRONO. Thank you for that clarification.

Now, we have heard testimony that there really is a huge disparity in the women who get to come under a work visa program, and you are suggesting that we go with a STAPLE Act kind of

process. Do you have any sense as to how many women would be able to come in through that kind of visa?

Ms. PANETTA. Well, I can tell you, one of the problems that we have here in the United States is that 18.4 percent of all undergraduate degrees in engineering go to women, so it is a huge issue, and we know that in engineering, or all the STEM disciplines, that we just need more engineers total. So to get more women—and we know that in countries like India, some of the top graduates are women, and yet they do not get opportunities to come here.

So by providing STEM-educated people with the opportunity to come to the United States, men and women, we believe that that would be able to make an impact on the number of women and diversity in the work force, which has also huge cultural work environment implications. So we are hoping that we are not just addressing numbers but we are changing work cultures as well.

As for specific numbers, I could not give you a ballpark number since we—I could get back to you with that, though, from our organization if we could actually do some data mining for you.

Senator HIRONO. Thank you. I think you noted in your testimony that you were involved with creating the Women in Engineering Program, and I commend you for that because I am familiar with that program in Hawaii.

Ms. Moua, as we read in the Washington Post recently, there might be an idea to either limit dramatically or eliminate certain kinds of family visas, mainly for adult children or for siblings. What kind of impact do you think that would have on family reunification?

Ms. MOUA. Thank you, Madam Chair. As we know, the system is badly broken, and the evidence can be found in the long backlogs, visa backlogs that we are experiencing on a daily basis. It is concerning to us that there is a proposal on the table for consideration to eliminate married adult children as well as the brother-sister category.

We all know that as immigrants our families are part of our network, our family is what permits us to be able to set root and really build a life together in this country. And based on what I have just shared with you about my father's experience, you know, when you contemplate a long-term life, creating a new home, wanting to really set root, you want your families to be around you. And the idea of eliminating the third and fourth preference is concerning to, I think, all immigrant communities.

In particular, Madam Chair, I would like to really highlight the fact that if those categories were eliminated, unless some alternative provision was put on the table, I think that it would disproportionately affect women and their families, because as I had stated in my testimony, over 67, 68 percent of women come to this country through the family base and less through the employment base. And I think that if we were to eliminate those categories, brother-sister sponsorship, sister-sister sponsorship, it would have a pretty disproportionate impact on women.

Senator HIRONO. I recently heard the situation of a person whose parents—she is a naturalized U.S. citizen now, having come with a green card, and her only surviving family member is a brother, and so this person has been waiting for over 6 years for the brother

to come. And so there are those kinds of circumstances that perhaps we—that we should be aware of.

Ms. Ng'andu, you talked about the safety net and the access to various kinds of social programs, and the people who are here with visas have to wait 5 years before they can access certain kinds of programs. So let us assume that we do provide an earned path to citizenship. Knowing that the people here with the visas, they have to wait 5 years, what do you think would be an appropriate length of time for those who are on the path to citizenship, they do not have a visa, yet what would be a reasonable period of time, do you think, for them to wait before they can access social services? I know that we would want them from day one, but let us talk about if that is really not in the offing.

Ms. NG'ANDU. Thank you, Madam Chairwoman. Going back to the adage, "Penny wise and pound foolish," we do not want to see waiting periods for these legal immigrants to these programs because we recognize that there is a chance that they fall on hard times and that they may need access to these programs.

The other thing that I will say about that is that it is important that we provide opportunities for immigrants to pay their fair share and get into the system. So if we can provide access to things like private market coverage, encourage employers to provide health coverage to their employees, then we can bolster up the system, and that makes it better for Americans.

By and large, immigrants are using less health care services, and so what we would say is that it is important to create that structure for individuals who do fall on hard times to be able to access certain particular safety net services so that they are able to get the preventive types of care that they need.

And I will just give you one example of that. We have eliminated the 5-year bar as a State option for pregnant women and children for certain types of lawfully present immigrants, and for every $1 invested in prenatal care, we save $4 out of that. So we understand that that is going to be a really important savings across the system.

Senator HIRONO. So you would say that at the very least, for those people who are here undocumented, that at the very least they should not be having to wait longer than those who are here with green cards to access certain services?

Ms. NG'ANDU. What I would say is that Americans support actually providing health care to legalizing immigrants, to gain access to the health care services they need. And, actually, the Kaiser Family Foundation just did a poll, and a broad set of Americans across all sorts of backgrounds actually said that if someone cannot get coverage through their employer, then as part of the integration process, those with provisional status, using the lingo that is being used right now, should either be given access to Medicaid without the waiting periods or be given access to what are now the new health insurance exchanges that will be implemented in 2014.

So I think people back this idea that someone who is coming here and who says that they want to take on the responsibilities of Americans also gets the ability to have the rights and be integrated into that process.

Senator HIRONO. So with regard to health care, then, if we do, let us hope, comprehensive immigration reform, then we can take care of the prohibition in the Affordable Care Act that disallows non-citizens from even being able to purchase health insurance, that we need to address that in a very specific way to allow those on provisional status to be able to go to the health exchanges or to pay for their health care insurance.

Ms. NG'ANDU. Well, and I think it just makes sense. You know, if we have 375,000 undocumented immigrants today who now have to go into a virtual black market of health insurance to buy their insurance because they cannot be a part of the legitimate system, then that is a problem. And I think comprehensive immigration reform, it is all about making sure that we have a legitimate system, that we are fixing the broken mess within our system. And so that means that we need to actually revisit the other infrastructures that actually keep immigrants from participating in our society.

Senator HIRONO. Thank you.

Senator Grassley.

Senator GRASSLEY. Thank you, Madam Chairman.

I am going to start with Dr. Panetta. You talked about how many H–1B visa holders in the United States are male. Some researchers in this field suspect that 70 percent of an offshoring firm's work force is comprised of men.

First of all, an explanation from your point of view of such an imbalance, and why are more men than women coming into the country on H–1Bs?

Ms. PANETTA. Well, first of all, there are more men out there coming in because companies are hiring them, and companies decide who they want to hire. And in the case where you are offered somebody that you can put on trial and try out for 6 or 7 years, or 6 years without a promise of a green card, it is more in the benefit of a company to have this more "try them out before you buy," worth more investing in an American.

So I would say that one of the problems that we have to look at is why aren't women being allowed to come in, and that maybe the hiring types of things that are going on in companies is an issue.

These are supposed to be temporary work visas, and one company might argue, well, women do not want to come here on temporary work assignments. But, in fact, a lot of these visas are being used for permanent positions.

So to answer your question, Senator, I believe that more men are coming simply because companies prefer to hire the men over the women.

Senator GRASSLEY. OK. Professor Martin, and also to apologize to you and Ms. Moua, I missed your testimony because I had a meeting with our Lieutenant Governor for a short period of time. I am sorry.

Professor Martin, you discussed the Commission's recommendations to eliminate the admissions category for adult children and siblings. You said that the long waiting times in these categories undermined the credibility of the admissions system. I see your point about providing false hope to many people who may have to wait a dozen years or more to be eligible for a visa.

Could you tell us how Congress should change the system going forward? Should it be an immediate change or a phase-out approach?

Ms. MARTIN. Thank you, Mr. Grassley. As I said in my testimony, I am speaking here personally about the way in which the proposal should be implemented. In my view, it should be a phased-in process. I think that the very large number of Americans who have sponsored brothers and sisters and adult children—the very large number of U.S. citizens who have sponsored adult children and brothers and sisters who have gone by the rules, have followed the procedures that are in place, are owed a certain level of respect for that process. And my recommendation would be to provide additional visas for a transitional period that would allow the backlog to be cleared and do it in a very expeditious way, because it makes no sense to let it drag out for 12, 15, 20, 25 years, but that in the meantime, new applications not be accepted so that as we move forward, we will not be adding to the waiting list.

Senator GRASSLEY. I will continue asking you another question. What lessons can we learn from the 1986 legalization? I was on the Committee talking about the same issues back in the 1980s. We had the same problems then, and we thought that a legalization program would solve it once and for all. So when it comes to once and for all, I have to say we were wrong. The problem got worse, and backlogs continued.

So what can Congress learn from 1986? And, second, if we passed another legalization program for the 11 million undocumented people and the family-based preference system stayed the same, what would be the consequences?

Ms. MARTIN. Let me start with the first part of your question, which has not been the particular topic for this hearing, but I think the lessons of the 1986 law is that if you legalize without taking steps to address the future flow of undocumented migrants, you have a problem in terms of having to deal with that issue again a few years later.

I think that problem has to be dealt with through a combination of enforcement, particularly in the work site, but new channels for legal immigration to meet legitimate demand for workers. So it has to be some combination of work site enforcement plus new work site programs. And I tend to agree with Dr. Panetta that it makes no sense to use temporary programs for permanent jobs, but we do also have temporary jobs, and temporary programs do make some sense in that context.

I am very much supportive of an earned regularization program. In response also to Senator Hirono's question before about how to make sure that it operates properly, I think it should be as simple, as straightforward as possible. The more documentation that we require of people means that—part of what happened in IRCA was it became the full employment for counterfeiters bill, because if you make demands that are unattainable, people will find a way around them. So I think we should be quite straightforward and very simple in terms of our provisions.

With regard to family reunification, the IRCA legalization did not initially include a family unity provision. That was adopted in 1990. That would make it easier for families to come together. I

would hope that any new formulation takes into account from the very beginning that many of the legalized will have spouses and minor children still in their country of origin, and that that be taken into account, and that we have sufficient visa numbers to allow expeditious family reunification in those cases so we do not buildup the kind of backlogs that we saw in the 1990s.

Senator GRASSLEY. Dr. Panetta, you touched on the Optional Practical Training program, OPT. I am interested in knowing how students you have mentored have been treated as an OPT worker. There are no wage requirements or numerical limits. Last May, I asked the Government Accountability Office to review the programs, including the controls in place to prevent fraud and abuse. I am still waiting for the report. There is widespread belief that employers use the program to gain the expertise and labor of foreign students without having to pay for it. In Fiscal Year 2010, over 95,000 OPT applicants were granted; very few applications are denied. There are very few controls in place to ensure that these foreign workers are not mistreated. There is also no requirement that a company first recruit and hire an American student with the same skills.

Two questions: What has been your experience with the OPT program? And do you have any insight on how students are being treated on that program?

Ms. PANETTA. Thank you for that question, Senator, because the reason I am here before you today is because of my experience that I have seen over 18 years of my students being tortured by this process.

Students get hired on OPT and have up to 29 months to get promoted to an H–1B, which should not be a bridge to the green card. They come, we educate them here; sometimes our Government pays for their education, and then they want to stay and they want to be citizens of the United States.

What happens is they get their practical training certificate. They get to work for a company. That company then never gives them a definitive, honest offer of what they will see, and then they let that time elapse up until the point that the person gets very uncertain about what their future is. No one wants to know—with a month left on their OPT, whether they are going to have a job or whether they are going to be shipped off, and that has been the case.

The students that I have worked with have worked long hours, 16-hour days, never questioning, very complacent because they know that if they ask questions or if they make waves, even on their pay, a lot of them have come back and shown me the same person in the same job getting paid substantially magnitudes less, they are getting paid much less than those individuals. And when they bring it up—one of them was so bold to bring it up—they then postponed even giving him a decision on when they would be filing for a visa for him.

Since these students are so brilliant and they are wonderful contributors to our Nation's economy, I often step in and actually help them find new positions with companies that will treat them better and give them more of a commitment to citizenship.

So, yes, it is being abused terribly by companies in the United States, and it is used as an opportunity to hide the fact that they are being underpaid, that they are being overworked, and that they have no voice.

When it comes to women, this problem is even more further exacerbated because women most likely will have—I have here—a lot of my students have children, and they are afraid that they are going to be thrown out of the country and even though their children are U.S. citizens. They have no opportunity to be treated with the full rights as their children should be and as their children's neighbors and their parents are.

So it is a horrible flaw in the program, and that is why I am not in favor and my organization is not in favor of using OPT, then H–1B as a bridge. We think that if somebody is worthwhile for a company and has skills that you truly need, then send them directly to the green card. These people are very competitive, and if they know those opportunities are there, that is the incentive. So it has been a problem, and I thank you for asking that question.

Senator GRASSLEY. Thank you, Madam Chair.

Senator HIRONO. Thank you, Senator.

Senator Franken.

Senator FRANKEN. Thank you, Madam Chair.

Ms. Moua, I want to pick up where Ms. Martin was talking about backlogs, and maybe instead of picking up, go back to what the effect of these backlogs is on families.

In the first hearing we held this year on the subject of immigration reform, I highlighted the case of a Minnesota green card holder, a legal immigrant who filed to be reunited with his wife and four children in November 2010 and only got his application processed in February of this year. During that wait, his eldest son turned 21. That kicked him into a separate visa category with a 19-year backlog.

Our immigration system is broken when, if you play by the rules, you do not get to see your wife for 3 years and your son for 20.

Can you talk a little bit more about just what the impact of these backlogs is on families?

Ms. MOUA. Thank you, Senator Franken. I think that it is my mistake for not bringing the map to share with all of you about how complex the multiple systems we have in place are. I think that the family that you have talked about is a family that is caught in all the multiple backlogs that are implied in the current problem that we have. You can have a mixed status family where each family member is experiencing a different kind of backlog. Whether you come from—if you come from Mexico or any of the Asian countries, the wait times will differ, anywhere from 4, 6, 8 years to 23, 24 years, as we have seen in the Philippines.

What that does is that for families who are caught in that limbo, it does not permit them to be able to visit one another while they are caught in that limbo. And for some families, it is not just about children, particularly if you are a legal permanent resident and you are not able to bring your spouse or minor children with you, you are separating children from their parents, you are separating husbands and wives from each other.

In the situation involving our GLBT binational permanent partners couples, they are not able to be reunited with their families.

In situations like our Filipino vets, you know, we gave them things by giving them citizenship to live in this country, and yet we are making them wait 20, 25, 26 years to bring their adult married children to be with them in their golden years, to be able to take care of them.

You know, family immigration is good for our economy, and we know that our communities and all Americans benefit when we are able to provide immigrants with an opportunity to set roots.

We know that siblings provide immigrants an immediate social support system that is able to help them with child care or if they fall on hard times or in instances when they need some help to start a business. The family network is what has helped our immigrants, regardless of how you come to this country, survive and start a life in this country.

You know, Senator Franken, children will always be our children, whether they are over the age of 21 or not. And for us to start thinking about which piece of our family is expendable or is tradeable or should not be considered part of our long-held core value in our immigrant policies, which is family unit, for us to start to think about which members of our family we are going to trade away is a dramatic and drastic departure from the core values of what has been driving this country since our founding days, where families have come together and, through the network of families, be able to web together, a future together, dependent on each other.

Senator FRANKEN. And don't these backlogs sort of incentivize illegal immigration? I mean, if you are overseas and have no prospect of seeing your parents for over 20 years, you are going to—I know that I would like to think that my kids would do everything they could to be with me because they love me so much.

[Laughter.]

Ms. MOUA. Senator, in my remarks, I talked about the family where one of the moms is facing deportation, and it is in circumstances like that where families feel like, you know, the choices before them are long, inhumanely backlog and waits or to choose to make those hard decisions to live in the shadows or to live in fear and take that risk. And I think that we know far too many families who are oftentimes forced into those circumstances.

Senator FRANKEN. I am thrilled that you are working to protect families in the immigration reform process. I want to ask you some questions about how this debate affects children in Minnesota and around the country.

Even though undocumented immigration has gone down overall, the number of children arriving alone at our borders has doubled in recent years. The Federal Government is supposed to arrange for attorneys for these children, but only half of them are actually getting lawyers. Recently, the American Bar Association told me about a Minnesotan who was brought to the country as a 1-year-old and who attended four court hearings without a lawyer.

Now, obviously, a 1-year-old is a pretty dramatic case, but it is happening to all ages of children. At this point, Madam Chair, I would like to enter into the record the stories of three other young

Minnesotans who entered the country when they were either 11 or 13 years old, but who suffered because they had no attorney to help them.

Senator HIRONO. Without objection, so ordered.

Senator FRANKEN. Thank you.

[The information appears as a submission for the record.]

Senator FRANKEN. Ms. Moua, do you think this is a problem we need to address and to solve? And Ms. Martin, too.

Ms. MOUA. Thank you, Madam Chair and Senator. Senator Franken, let me take a small shot at them, and then any of our panelists should weigh in because this is an area that is close to many of our hearts.

I agree with you that children are children, are our children, and we all have an obligation to make sure that our children, regardless of their parentage, are able to navigate through our systems and that we take care of them.

The children that you talk about who arrive on our borders without their parents and who are living in this country as minors, is serious and we need to take care of them. You add that to the children who are U.S. citizens, whose parents have either been deported or are in the process of removal, many of whom may not have relatives here to care for them, who are also living in limbo without their families.

It does not make sense for us to create a system where we have got children living in this country and not have the opportunity to have their families and their parents here to help them take care of us, when in those situations we would take U.S. citizen children, deport their families, which is their core support, and then have the public system put them into a foster care system and pay for that when their parents are willing and able and capable of being here to take care of their children so that they can be a family together.

Senator FRANKEN. I have a piece of legislation, the Help Separated Children Act, which addresses when—we have had a situation in Minnesota where we had meat-packing plants raided, and the parents—you know, we would have an 8-year-old come back from school and see their brother, who is a year old, at home with no one taking care of him because the parents had been taken in. And this kid had to take care of the baby brother for a week while a grandmother came from Texas or something.

Ms. Poo.

Ms. POO. I would like to thank you for your leadership on this issue, and the bill that you have introduced is very important. There are a number of due process issues that we have to pay attention to, making sure that parents can actually see to the well-being of their children, which is what they were meant to do.

I had the opportunity recently to visit a shelter in Tijuana, Mexico, where women who have been deported end up as they try to figure out what happened to their children after they have been deported. And I met a woman who was still holding the shirt that she was trying to put on her 2-year-old son as she was separated, detained, and deported. And it took her weeks to figure out what happened to her child. And if you can imagine the pain that she felt and imagine what that child, that 2-year-old child felt as he

watched and witnessed as his mother was separated from him indefinitely.

So I think the issue—there are many due process issues. Families belong together, children need their parents, and families need one another. And I appreciate your question and your leadership.

Ms. MARTIN. If I could just add, there have been some improvements made in the last few years since the separated children are now under the custody of the Office of Refugee Resettlement rather than Homeland Security. But we still have a big gap in terms of there not being someone who is appointed as a guardian for the children whose principal responsibility is figuring out what is in the best interest of the child. And the fact that we do not have legal assistance paid for by the Government in these cases, we tend to see them as civil cases, but the consequences particularly for a separate child are certainly as extreme as they are in criminal cases.

So having the funds to be able to provide for legal assistance in these cases I think is absolutely essential.

Senator FRANKEN. Well, I hope the Justice Department can actually supervise this sometimes instead.

Thank you. Thank you all for your testimony. Thank you for this hearing, Madam Chair.

Senator HIRONO. Thank you, Senator Franken.

These are important issues, so we have been going over, and I want to thank Senator Sessions for your patience. Please go ahead.

Senator SESSIONS. Thank you, Madam Chairman.

Well, these are difficult issues. We need to work through them, and we need to create a system, I think, that serves our national interest. And I would repeat that. The goal of a good immigration system for the United States of America should serve the national interest of our Nation. It should includes systems that are readily enforceable and that are enforced, that are legitimate, creating a system that we can be proud of.

I am very impressed with the Canadian system. I think it is a very good system, and we can a learn a lot from that. So we are into the difficult problems today, and this hearing has taught us a lot about the human consequences of any decision process when somebody gets admitted and somebody else does not. Just because it is painful and you made a choice to come to amendment does not necessarily mean, I think, that you get to bring your aging parents or your brother and sister. It just may not mean that. It is up to the United States to decide that question about who legitimately should be entered as we establish a good system of immigration.

I think that is where the American people are. I think their instincts are good and decent. I think they are fundamentally correct. They are not anti-immigrant. We remain one of the most welcoming nations in the world for immigrants, and we are proud of that, and I want to stress that point. And no one is proposing that has any seriousness that we are going to restrict fundamentally the number of people who come into our country. We just need to decide how and what standards we will use for that and then how we can make sure it is accurately carried out.

Madam Chair, this is a valuable hearing, and I wish that the Committee had been moving stronger over time to confront the real

issues that presumably eight Senators are meeting somewhere, maybe this very minute, trying to decide. They might be under the table or down the hall or somewhere.

[Laughter.]

Senator SESSIONS. I do not know where they are, deciding the fate of millions. But I would suggest these are things that we need to be talking about.

I will ask you, Ms. Martin, you worked on the Jordan Commission, and that was an remarkable effort. It, I think, came close to providing the Nation a way to deal with our challenge.

Would you think that a good immigration policy should decide carefully who would be included in the future flow—skills, language, family, and those kind of things? Just yes or not. Should that be one of the decisions we would make?

Ms. MARTIN. Yes, of course.

Senator SESSIONS. And that is not always easy, is it? You have been through it. It is a tough thing.

What about the Temporary Guest Worker Program? It is kind of like some of these ideas that one person has one vision of a temporary guest worker and another one has an entirely different vision of it. It is not an easy thing, is it? It takes a lot of work to craft a legitimate Temporary Guest Worker Program?

Ms. MARTIN. Right.

Senator SESSIONS. And border security, that is a difficult challenge. We have made some progress, and we have not made some progress. But you would need to hear from experts and top personnel what kind of metrics to use, what kind of technology to use at the border, would you not?

Ms. MARTIN. Of course.

Senator SESSIONS. And what about the impact of very large numbers of immigrants that would have on—recent immigrants, women, who are working today and would like to get a pay raise or like to be able to think they could get a job, you would need to consider the impact of a large flow of immigrants on the ability of people to get jobs and maybe have an increase in their wage, would you not?

Ms. MARTIN. Yes.

Senator SESSIONS. And the biometrics, 40 percent, I understand now they say, that enter the country legally are—40 percent of the people that are here illegally now have entered legally but did not depart as required. So you would need some sort of system of entry and exit accounting, would you not?

Ms. MARTIN. Yes.

Senator SESSIONS. And workplace enforcement, I think you mentioned that earlier, that is something we have wrestled with for 20, 30 years and have not gotten it fixed yet. But that would need to be fixed, would it not?

Ms. MARTIN. Yes.

Senator SESSIONS. And a biometric identifying document, that is always controversial. But isn't it pretty much in this modern age a cornerstone of an effective immigration policy? And the ability of State law enforcement officers to help with the Federal Government and many, many other issues.

So let me ask you this: With the Jordan Commission, did you have public hearings?

Ms. MARTIN. Yes, we did.

Senator SESSIONS. Oh, you actually had public hearings?

Ms. MARTIN. Yes, we had public hearings. We had public consultations that involved experts, advocacy groups, immigrants coming in and talking about various different issues. We also had an open microphone so that every person who came to the hearings was given 1 minute, and sometimes we would stay for 3, 4, or 5 hours while we waited for everyone to take their turn.

Senator SESSIONS. Did you ever listen to experts like law enforcement officers and people who had done enforcement work for years and have experience in that? Were they invited?

Ms. MARTIN. Yes, they were invited, and we also went with them on their rounds. So I spent a lot of time and the Commissioners spent a lot of time on the border going out with the Border Patrol to see what they were actually doing.

Senator SESSIONS. Well, I think that is good because these issues are very complex. I talked with the Canadian leaders who helped craft their policy. They are proud of what they do. They have created a point system. They do not have the kind of family unification vision that many of you would favor, actually. And it strikes me—Ms. Moua, maybe you could comment, but do you think that a nation that decides that they can admit an individual is somehow making—somehow has no right to say that that person's brother would have to qualify independently rather than being given a guaranteed entry into the country? Do you think a country could legitimately make that decision?

Ms. MOUA. Senator Sessions, coming from the Asian American community here in the 1880s we were the first people to be excluded explicitly by the United States immigration policy, I am well aware that this country has never hesitated in terms of the way that it chooses to exercise its authority to permit people to either enter or depart its borders. And we know that the Asian American community in particular did not get to enjoy the benefit of immigration to this country until the 1960's when those restrictionist policies were lifted. So I know very well and am very aware that immigration——

Senator SESSIONS. Well, so you would just say, it seems to me, that it is perfectly logical to think that there are two individuals—let us say in a good, friendly country like Honduras, one is a valedictorian of his class, has 2 years of college, learned English, and very much has a vision to come to the United States, and another one who dropped out of high school, has minimal skills, both are 20 years of age, and that latter person has a brother here. What would be in the interest of the United States? Which one of those would be in the best interest of the United States to be allowed to have preference to enter the United States?

Ms. MOUA. Senator, I think that under your scenario people can conclude about which one would be in the best interest of the United States. I think the more realistic scenario is that in the second situation that individual would be female, would not have been permitted to get an education. And if we were to create a system where there was some kind of preference given to, say, education

or some other kind of metrics, I think that it would truly disadvantage specifically women and their opportunity to come into this country.

Senator SESSIONS. Well, that certainly is a problem around the world, and I would think the primary problem with education and the fact that women have been discriminated against should be focused on the countries that are doing that primarily.

Ms. Martin, it strikes me that there is a limited number of people that the United States can accept. We cannot accept everybody that would like to come, so we should set up standards that are fair and just and responsible and reasonable. Your Commission dealt with married adult children and brothers and sisters, and I suppose—I am not sure what you decided about aging parents, but when you admit those persons in preference over people with skills the country needs, people that are likely to be successful here, you are making a pretty significant policy decision, are you not?

Ms. MARTIN. The Commission recommended against continuing to accept applications for siblings and for adult married children largely because we thought that the types of backlogs and waiting lists that had been put in—that had ended up being in place for those categories made those two categories in particular almost farcical because, instead of providing a rapid way for people to be able to come in, join up with their family members, and work, contribute, whether they are uneducated or educated, they were instead outside of the country sometimes for 15, 20, 25 years. And we felt that it was more important to ensure that all spouses and minor children were able to enter quickly and be with their immediate relatives.

Frankly, if the Congress were willing to provide very large numbers of visas for family and could guarantee that brothers and sisters could enter within a reasonable period of time, that is a decision Congress can make. But to maintain a few visas and when the demand is so large that you end up with waiting times of 20, 25 years for certain nationalities, that seems to me to be a ridiculous way of managing the problem. So it is an issue for Congress.

You know, I started my testimony saying that there is no special magic number.

Senator SESSIONS. Well, thank you. I would say that this has been a good discussion. Professor Borjas at Harvard, who wrote the book, one of the primary books on this, thinks we already are admitting more people than the country can accept in terms of employment and their expectation that they could be successful. He said that in 2007 when we had 5-percent unemployment.

So I do think there is a limit to how many that can come. We have a pretty generous number now. I am not saying that should be reduced, but I do think that because a person chooses to leave their home country and come to the United States does not necessarily mean they have a right to demand that their brother or their other extended family members be allowed to come if they do not otherwise meet the standards.

Thank you, Madam Chair. You are very gracious. I am sorry to go over.

Senator HIRONO. Thank you, Senator Sessions, and I want to thank all of the members of the panel.

Our country is a country of immigrants, and the success of the immigrants in this country is often the success of immigrants and their families. And so I do not think that we should be setting up an either/or proposition because, of course, even those people who are the most highly educated and skilled immigrants, they have families, too. And so this is—you know, as a sovereign Nation, of course we can set whatever limits that we choose as to who can come into our country. But this is all about doing the kind of immigration reform that really supports the values that we have in this country. And one of the values we have in this country is family is important.

So, with that, I am going to adjourn this hearing, and the record will remain open for 1 week.

Thank you very much. We stand in adjournment.

[Whereupon, at 3:41 p.m., the Committee was adjourned.]

[Questions and answers and submissions for the record follow.]

QUESTIONS AND ANSWERS

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

Questions for the Record from Senator Klobuchar

For Mee Moua

1. In current law there is a requirement that all asylum applicants must apply for asylum within one-year of entering the United States. Many advocates believe that this rule is arbitrary and has needlessly prevented many deserving people from gaining asylum. What impact has this deadline had on asylum seekers and does it need to be amended?

Response: The one-year asylum filing deadline, enacted as part of the 1996 laws, has tremendously harmed asylum seekers and unnecessarily wasted government resources.

Human Rights First research has found that as a result of the filing requirement, many legitimate refugees with well-founded fears of persecution have been barred from receiving asylum in the United States.[1] "In the 12 years since the deadline began barring asylum requests, more than 53,400 applicants have had their requests for asylum denied, rejected or delayed due to the filing deadline."[2] Many of these applicants, who are from a multitude of countries, have indeed suffered persecution or have well-founded fears of persecution in their home countries. In fact, according to Physicians for Human Rights, the bar disproportionately harms asylum-seekers with the strongest claims as many fail to file in a timely manner due to Post-Traumatic Stress Disorder and women, who experience higher rates of sexual violence and domestic violence, and consequently, have a higher rate of untimely filing than men—by 13%.[3]

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[1] The Asylum Filing Deadline, Denying Protection to the Persecuted and Undermining Government Efficiency, *Human Rights First*, Retrieved April 8, from http://www.humanrightsfirst.org/wp-content/uploads/pdf/afd.pdf.

[2] *Id.*

[3] One Year Bar to Asylum (Fact Sheet), *Physicians for Human Rights*, Retrieved April 8, 2013, from https://s3.amazonaws.com/PHR_other/factsheets/One-Year-Bar.pdf

There are many legitimate reasons asylum seekers are unable to meet the one-year filing deadline. "Asylum seekers may understandably arrive in this country traumatized from persecution, unable to speak English and without any knowledge of the U.S. asylum system. Some do not know that they might be eligible for asylum. Many do not have the resources to retain legal counsel, and pro bono resources are scarce or simply not available in many parts of the country."[4] As a result, these asylum seekers are either returned back to the country where they were persecuted or only offered temporary forms of protection that leave them vulnerable to exploitation, detention and deportation.

The filing deadline also undermines the efficiency of the already over-burdened asylum and immigration court adjudication systems. As a result of the filing deadline, over 18,000 cases have been pushed to the immigration court system instead of being resolved at the more efficient asylum offices, delaying the adjudication of these cases and diverting resources from both the asylum offices and the court system.[5]

Rather than preventing abuse of the asylum system by individuals filing fraudulent claims, which was the purported purpose its enactment, the one-year filing deadline has prevented refugees with credible non-fraudulent asylum cases from receiving asylum in the United States, the very individuals the asylum system was meant to protect. Beginning in 1995, many major reforms to prevent fraud and abuse have already been implemented, including requirements to sign applications under penalty of perjury, permanent bars from immigration benefits for fraudulent applications, series of database checks with DHS, FBI and other federal databases and criminal prosecution of applicants, preparers and attorneys for fraudulent applications.

Legislative history shows that the one-year filing deadline was not intended to bar legitimate applicants, which it is indeed doing. Therefore, Congress should eliminate the wasteful and unfair asylum filing deadline that is barring refugees with well-founded fears of persecution from asylum and diverting overstretched

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[4] The Asylum Filing Deadline, Denying Protection to the Persecuted and Undermining Government Efficiency, *Human Rights First*.
[5] *Id.*

adjudication resources.[6] This change is included in Refugee Protection Act (RPA) of 2011 (S. 1202 and H.R. 2185) Section 3. In connection with this legislative change, Congress should also permit individuals who, due to the filing deadline, were granted withholding of removal but not asylum, to adjust their status to lawful permanent resident and petition to bring their spouses and children to safety.

2. Under current law parents cannot get asylum based on the fear that their children will be subject to persecution in their home country. This means that parents can be faced with the agonizing choice of whether to leave their children with other caretakers in the U.S. or bring them back to their home countries and face the threat of persecution. Can you speak to this problem and the current obstacles to family unity in asylum cases?

Answer: A report by the Women Refugee's Commission found that "[e]very year, thousands of unaccompanied alien children (UACs) risk harrowing journeys and travel alone to seek refuge in the United States. These children come from all over the world for many reasons, including to escape persecution in their home countries."[7] Children around the world are increasingly facing violent attacks by gangs and drug cartels and girls in particular face gender-based violence. "In recent years, the U.S. government has had roughly 6,000-8,000 of these children in its care and custody each year."[8] The majority of these children, approximately 70 percent, have been between the ages of 15 and 17.4.[9]

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[6] DHS confirmed that it concluded that the asylum filing deadline should be eliminated, confirming that it expends resources without helping uncover or deter fraud (UNHCR Washington Office, Reaffirming Protection, October 2011, Summary Report, p. 18, at http://www.unhcrwashington.org/atf/cf/%7BC07EDA5EAC71-4340-8570-194D98BDC139%7D/georgetown.pdf). The Administration has publicly pledged to work with Congress to eliminate the deadline (U.S. Department of State, PRM, *Fact Sheet: U.S. Commemorations Pledges*, 7 December 2011, available at http://www.state.gov/j/prm/releases/factsheets/2011/181020.htm). Several studies underscore this issue including Human Rights First, The Asylum Filing Deadline, (New York: 2010) available at http://www.humanrightsfirst.org/wpcontent/uploads/pdf/afd.pdf and P. Schrag, A. Schoenholtz, J. Ramji-Nogales, and J.P. Dombach, Rejecting Refugees: Homeland Security's Administration of the One-Year Bar to Asylum, William and Mary Law Review, (2010), available at http://wmlawreview.org/files/Schrag.pdf.

[7] Forced from Home: The Lost Boys and Girls from Central America, *Women's Refugee Commission*, Retrieved April 8, 2013, from http://womensrefugeecommission.org/press-room/1491-forced-from-home-the-lost-boys-and-girls-of-central-america.

[8] *Id.*

[9] *Id.*

Recently, many undocumented parents have brought asylum claims based on fear that if they and their children are deported, their daughters will undergo female genital mutilation (FGM).[10] In many cases where the daughter is a United States citizen and thus able to remain in the country without her parents, courts have often refused to allow derivative asylum claims absent a showing that the parent personally fears persecution or that the child will be constructively deported.[11]

By having a law that does not permit children seeking asylum to come with their parents, America is creating generations of orphaned asylees in the United States. The law forces thousands of children into the foster care system, which not only imposes emotional harm on thousands of children, but imposes tremendous costs on local, state and federal governments.[12] This law clearly contradicts the United States immigration tradition of valuing family unity, particularly between parents and children, and harms the most basic and essential unit of American society.

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[10] An Impossible Choice: Denial of Parents' Derivative Asylum Claims Based on their Citizen Daughter's Risk of Female Genital Mutilation, Washington University Global Studies Law Review, Retrieved April 8, 2013, from http://law.wustl.edu/WUGSLR/Issues/Volume8_3/Cahan.pdf.

[11] *Id.*

[12] *Id.*

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

Questions for the Record from Senator Klobuchar

For Jennifer Ng'andu

1. U-Visas are critically important tool for law enforcement. They also serve as a vital source of protection for victims of certain crimes, particularly women who face domestic violence. Should the comprehensive immigration reform proposal include a provision expanding the number of U-Visas authorized for each year? What other changes should we make to the U-Visa program?
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The National Council of La Raza (NCLR) agrees that the U-Visa is an essential resource for helping immigrant victims of serious crimes and abuse escape intolerable conditions and secure legal status. With access to the U-Visa, such victims, who are predominantly women, are also required to cooperate with law enforcement, providing an important mechanism for pursuing dangerous criminals and bringing justice to the nation as a whole.

There is broad consensus among national experts that the current annual cap on granted visas should be raised from 10,000 to 15,000. NCLR supports this recommendation and believes that the inclusion of this measure in an immigration reform package would not only help these individuals, but would also enhance law enforcement's ability to restore the rule of law. Additionally, while the U-Visa provides remedies for many victims of crime and abuse, victims of child abuse or elder abuse are not allowed to request this visa. The U-Visa category should be expanded to include these victims of abuse to allow law enforcement to prosecute perpetrators of these crimes.

Victims of abuse broadly cite economic challenges as the hardest to overcome after leaving their situation. U-Visa applicants and holders are prone to further exploitation given certain vulnerabilities to financial instability that are beyond their control. While U-Visa applicants wait for their cases to be adjudicated, they do not have the legal authority to work, something that can financially cripple their families. The process for adjudication can take nearly a year and a half. During that time, in addition to the prohibition against employment, U-Visa applicants may not have the documentation to secure additional basic needs, such as a

driver's license or other identification, or the documentation necessary to rent a home. In some cases, U-Visa victims lost custody of their children after leaving abusive situations because they could not prove that they could support their families. NCLR specifically recommends that laws be changed to provide U-Visa applicants with access to employment authorization documents (EADs), allowing them the fundamental capacity to enter the formal workforce and secure economic resources.

Furthermore, immigrants with a U-Visa are indefinitely barred from federal means-tested public benefits while in this status, including the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), Medicaid, Medicare, and the Children's Health Insurance Program (CHIP), even if they meet all other eligibility criteria. By comparison, immigrants who receive T-Visas after experiencing trafficking, often under very similar circumstances as U-Visa holders, are rightfully afforded a "qualified" status and can access public benefits without any waiting period.

One NCLR Affiliate, Congreso de Latinos Unidos, serving Philadelphia, Pennsylvania, cites restrictions to SNAP as one of the core reasons why immigrant women in their domestic violence programs choose to stay with their abusers; they would rather risk further personal harm than let their children go hungry. It is imperative that U-Visa holders can support themselves and their families, ensure their full ability to cooperate with law enforcement, and eliminate their risk for repeated victimization. Public benefits restrictions should be eliminated for U-Visa holders and other immigrant victims of domestic violence and abuse. Specifically, provisions under the "Women Immigrants Safe Harbor (WISH) Act" would eliminate the arcane eligibility restrictions in multiple public benefits programs that keep many victims of abuse and domestic violence in harm's way.

Finally, while the U-Visa is an important solution for some immigrant victims, it is also important to put additional measures in place that prevent victims of abuse from having to choose between deportation and leaving abusive situations, when their legal status is threatened. As members of congress construct a comprehensive immigration reform plan, they should be cognizant of the extent to which an immigrant's legal status—and, with higher frequency, women's legal status—is contingent on a partner, dependent, or employer. Immigration reform should provide assurance that the American standard is one in which no person must be bound to an abuser; this means empowering those who have the courage to come forward and return to the legal pathway that they were already on.

access WOMEN'S HEALTH JUSTICE SUBMISSIONS FOR THE RECORD

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 workers[1], 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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[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/idownloads/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 whole[5] — 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.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
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
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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 1995[2] 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

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[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]

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[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.

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[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@dcaclu.org.

American Friends Service Committee

American Friends Service Committee statement for the Congressional Record pertaining to the Senate Judiciary Committee Hearing
Monday, March 18, 2013

The American Friends Service Committee (AFSC) is an almost 100-year old faith-based organization grounded in the Quaker belief in the dignity and worth of every person. AFSC provides direct legal services and engages in organizing with immigrants and allies along with advocacy and movement building throughout the U.S. Our immigration policy recommendations are grounded in AFSC's history and values as a faith-based organization and in the voices of the impacted communities with whom we are deeply connected.

Not surprisingly, immigrants deported from the U.S. are members of their family units. The Department of Homeland Security released statistics stating that 204,810 parents of U.S. citizen children were removed from the U.S. between July 2010 and September 2012. What numbers cannot show is the life changing impact of family separation on children in particular, as well as on the family as a whole. Youth who have lost a parent due to deportation or detention exhibit dramatic behavioral changes such as heightened anxiety, anger, fear and frequent crying, as illustrated in a 2010 Urban Institute study. Sadly, upon the removal of their parent(s), some children are left without a loved one to care for them. According to the Applied Research Center over 5,000 children currently in foster care have parents who are detained or deported. Experts estimate that an additional 15,000 children may be placed in foster care over the next five years as a result of immigration enforcement.

Today, more than half of all documented and undocumented immigrants in the U.S. are women and an estimated 4.1 million women are undocumented. Women without legal status often live in the shadows out of fear of being separated from their families through deportation, rendering them extremely vulnerable to workplace exploitation and domestic abuse. This population's well-being is further eroded through denial of basic health care and social services.

AFSC offers the following policy recommendations:

- End arrests, detention, and deportation of immigrants.
- Pass legislation that allows people who reside in the U.S. to apply immediately for permanent residence and citizenship if they choose.
- Expedite the processing of pending visa applications.
- Ensure that positive factors are always balanced against any negative factors when determining eligibility for status.
- Ensure that children can immigrate with parents and eliminate harsh obstacles to immigrating.
- Extend access to quality, affordable health care and social services to everyone, regardless of immigration status.
- Eliminate rules that discriminate between immigrants and non-immigrants in determining eligibility for public benefits.

AFSC urges the Committee to exert visionary leadership and to support new immigration policies that respect the human rights and equal economic opportunity of all in our communities. Thank you for this opportunity to submit a statement to the Committee.

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American Jewish Committee (AJC)

Submitted on behalf of AJC to
The Senate Judiciary Committee

Hearing on
Immigration Revision and Needs of Women and Families

March 18, 2013

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Since its founding in 1906, AJC has been outspoken in support of fair and generous immigration policies. As American Jews, we recall how our parents and grandparents made their way to this country seeking a better life, and know that we have prospered in and contributed to this country. That same opportunity should be available for others. Comprehensive immigration reform will strengthen America's global competitiveness as well as allow hard-working immigrants an opportunity to succeed in the United States, for themselves and for future generations—and, at the same time, promote respect for the rule of law and protect our national security.

In advocating for fair, effective and humane immigration policies, AJC acts in accord with the American Jewish community's longstanding interest in, and commitment to, a United States immigration and refugee policy that represents our nation's best traditions. According to Jewish tradition, "strangers" are to be welcomed and valued, as we were once "strangers in the land of Egypt." The Torah tells us: "The strangers who sojourn with you shall be to you as the natives among you, and you shall love them as yourself; for you were strangers in the land of Egypt" (Leviticus 19:33-34).

AJC affirms our commitment to the passage of a common-sense comprehensive immigration reform bill that serves our nation's interests and upholds our Constitution. In providing a holistic approach to reforming our immigration system, this bill should include: a path to legalization and eventual earned citizenship for immigrants already in the U.S.; adjustment of quotas for future flows of immigrants, including high and low-skilled employment visas; facilitation and support for immigrant integration; smart and humane enforcement measures that bolster our national security; reform of detention policies, due process protections, and special

protection for asylum seekers, refugees and vulnerable populations; and, critically important, it is imperative that this bill include reforms that favor reuniting families.

Family is the cornerstone of American society. Allowing immigrant families to more easily reunite with their loved ones strengthens our economy and promotes a strong social fabric in our communities. Promoting family unity incentivizes integration and economic development, as families provide strong foundations for learning English, purchasing a home, pursuing job opportunities, starting a business, preparing children for college, and strengthening the foundation of our communities. When families are together, the money they earn fuels the U.S. economy through taxes, investments, and the purchasing of goods and services. Because of the strong economic and social value of family unity, enhancement of the family immigrant visa category must be a priority of immigration reform.

Right now, many immigrant families remain separated for years – sometimes even decades – because of bureaucratic visa delays. It is essential that—along with other measures directed at repairing our broken immigration system—we reform the immigration system to expedite the visa process in favor of family reunification. This includes making family-based visas more accessible, reducing the current backlog of family-based visas, increasing the per-country numerical limitation for family-sponsored immigrants from 7 percent to 15 percent of admissions, and generally reorienting the visa system to prioritize family unity. These reforms would help ensure that immigrant families reunite more quickly and protect families from being separated, thus promoting family stability and fostering economic growth. Further, we must ensure that family-based visas are not placed in competition with other visa categories, an approach that would be inimical to the goal of family unity and a better functioning immigration system.

In sum, AJC calls upon our elected officials to enact immigration reform legislation that provides an opportunity for hard-working immigrants who are already contributing to this country to come out of the shadows, regularize their status upon satisfaction of reasonable criteria and, over time, pursue an option to become lawful permanent residents and eventually United States citizens; reforms our family-based immigration system to significantly reduce waiting times for separated families who currently wait many years to be reunited; establishes new legal avenues for workers and their families who wish to migrate to the U.S. to enter our country and work in a safe, legal, and orderly manner with their rights fully protected; reduces the use of detention for immigrants, especially vulnerable groups and those seeking asylum; and ensures that border protection policies are consistent with humanitarian values and with the need to treat all individuals with respect, while allowing the authorities to carry out the critical task of identifying and preventing entry of terrorists and dangerous criminals, thereby bolstering our national security.

As a faith-based organization, we call attention to the moral dimensions of public policy and pursue policies that uphold the human dignity of each person, all of whom are made *b'tselem elohim*, in the image of G-d. We engage the immigration issue with the goal of fashioning an immigration system that facilitates legal status and family unity in the interest of serving the inherent dignity and rights of every individual, even as it enhances out national security and promotes respect for the rule of law. It is our collective prayer that the legislative process will produce a just immigration system of which our nation of immigrants can be proud.

AJC appreciates the opportunity to submit this statement and welcomes your questions and comments.

APIAHF
ASIAN & PACIFIC ISLANDER
AMERICAN HEALTH FORUM

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 NHPIs). For 27 years, APIAHF has dedicated itself to improving the health and well-being of AA and NHPI 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

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[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 annually[7] and translate into lost economic productivity and threaten economic security as families live in fear of what might happen if they get sick.

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[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.

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[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.

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[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.

THE Episcopal CHURCH

TESTIMONY OF ALEXANDER D. BAUMGARTEN AND KATIE CONWAY ON BEHALF OF THE EPISCOPAL CHURCH[1]

MARCH 18, 2013

We thank Senator Hirono of the Senate Judiciary Committee and Ranking Member Grassley for the opportunity to submit this testimony. We welcome this important hearing, "How Comprehensive Immigration Reform Should Address the Needs of Women and Families," and wish to voice our strong support for the protection of the rights of women and families in all of our nation's immigration laws. The Episcopal Church has been engaged in the ministry of welcoming immigrants and refugees for more than a century, walking with refugees and immigrants as they begin their new lives in our communities, and bearing daily witness to the human implications of our nation's immigration laws.

Rooted in our understanding of the Christian imperative to "welcome the stranger," the Episcopal Church's highest governing body, the General Convention, has passed multiple resolutions affirming the right to family unity, and the right of families to reunify without undue delay. In summer 2012 this commitment to family unity for all U.S. citizens and Legal Permanent Residents (LPR) was strengthened even further through resolution D011, "Reform Unequal Immigration Law," through which the Church pledged to support legislation that would expand our nation's definition of family under immigration law to include the same-sex permanent partners and spouses of U.S. citizens and LPRs. This resolution also committed our dioceses and congregations to renewed advocacy on behalf of families and individuals of all sexual orientations who are facing unwanted moves, deportation or separation due to our nation's immigration laws. There are an estimated 32, 300 binational, same-sex couples residing in the United States today, more than 45% of whom are raising children[2]. We believe that these families share the same right to dignity and fair treatment as other families, and therefore deserve to have their status as a family recognized and protected by our nation's immigration laws.

Through pastoral care to members of our congregations and our ministry to resettle refuges, we witness daily the profound joy of reunification for families long separated, as well as the devastation of families kept apart. Keeping families apart through per-country caps, decades-long backlogs, redistribution of family visas to the employment system, failure to recapture visas lost to bureaucratic delay, and failure to recognize the immigration claims of same-sex partners harms the U.S. economy, fractures our communities, and denies the legacy of family immigration that has defined our nation. Families have always served as the foundation for strong communities, and the role they play in creating healthy individuals and aiding integration should not be diminished or disregarded. Family members help one another integrate, pursue job opportunities, start their own businesses, and contribute economically, socially, and spiritually to our communities.

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[1] Alexander D. Baumgarten is the Director of Government Relations, and Katie Conway is the Immigration and Refugee Policy Analyst for the Episcopal Church, a multinational religious denomination based in the United States with members in 15 other sovereign nations.

[2] *By the Numbers* Immigration Equality http://immigrationequality.org/about/

THE
Episcopal
CHURCH

We believe that policies that uphold the unity of families and address the needs of migrant women are especially important in the context of our nation's commitment to welcoming and resettling refuges. Because of the violence and persecution refugees have faced in their countries of origin, especially refugee women and girls who are at elevated risk for sexual and gender-based violence in displacement situations, many refugee families do not fit our traditional definition of "nuclear" families. Refugee families have often experienced the loss of a spouse, the loss of parents, and decades-long separation from children and grandchildren. These divided families in particular could face permanent separation if our nation's definition of family were to be narrowed or family categories eliminated. For refugees who have resettled in the United States, a sibling or a married adult child could be the only remaining family member with whom they can reunite, yet this reunification under our current system would take decades. In cases where a principal refugee sponsors his or her child and that child has a child of his or her own (derivative of a derivative), that initial refugee's grandchild would not qualify for reunification, resulting in permanent separation.

Our immigration system must be transformed to into a just and humane system that discerns between those who enter without inspection to do us harm and those who enter because our system cannot provide them with a clear and timely path to reunification with their loved ones or legal employment. The Episcopal Church recognizes the necessity of enforcement policies and the responsibility of the government to protect its citizens, but we also believe we must work to change our nation's laws if they do not respect the dignity of human beings or respond to the needs of communities. This call to right relationship within human communities is a cornerstone of the Judeo-Christian scriptural and ethical tradition, and finds expression for Episcopalians in the promise each makes at baptism to "strive for justice and peace among all people and respect the dignity of every human being." Destructive enforcement programs like Secure Communities that encourage racial profiling and tear families apart at great fiscal and human cost should be terminated, and alternatives to detention that allow families to remain together throughout immigration proceedings should be prioritized.

Thank you for carrying the costly burden of public service, and for the opportunity to submit these views to the Committee.

Respectfully submitted,

Alexander D. Baumgarten and Katie Conway

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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.

Choice USA 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 workers[1], 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.

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[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 whole[5] — 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.

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[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.

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.

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 workers[1], 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.

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[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 economie 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 whole[5] — 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

Church World Service statement for the Congressional Record pertaining to the Senate Judiciary Committee Hearing on Monday, March 18th, 2013

As the Senate considers how to best fix the U.S. immigration system, Church World Service (CWS), a 67-year old humanitarian organization, urges all Senators to work together to enact immigration reforms that strengthens family unity and provides a pathway to citizenship for undocumented immigrants.

The CWS network of 37 protestant denominations and 36 refugee resettlement offices across the country welcomes newcomers by helping them integrate into their new communities. We advocate for immigration reform not only because it is the right thing to do to improve the lives of our immigrant brothers and sisters, but also because it is the smart thing to do for our economy and communities.

Immigration reform must prioritize family unity, which is integral to the economic contribution of immigrants and key to the function of our immigration system. When families are separated by visa backlogs, bars to re-entry, and no option to adjust status, our immigration system, by failing to function in a timely way, necessitates illegal entry. To reform the family-based visa system, we urge Congress to:

1. Protect and strengthen current family immigration categories (spouse, children, parents, and siblings)
2. Increase family-based visas, including a temporary increase to clear the backlog with integrity
3. Recapture unused visas for use in the following year
4. Increase the per-country cap from 7 percent to 15 percent to reduce backlogs
5. Reclassify the spouses and minor children of Lawful Permanent Residents (LPRs) as immediate relatives, and re-allocate the remaining visas available to the other existing family categories
6. Add to the list of family immigration categories permanent partners of U.S. Citizens and LPRs

To truly fix the immigration system, we must recognize and respond to the reasons why this country needs immigrants, and the reasons why people want to immigrate to the United States. There are two key factors that benefit the United States and simultaneously improve the lives of immigrants: family unity and economic opportunity. These are inseparable and co-joined factors that cannot exist without one another.

Family unity spurs integration, as families provide strong foundations for learning English, purchasing a home, pursuing job opportunities, starting a business, preparing children for college, and contributing to communities. When families are together, the money they earn fuels the U.S. economy through taxes, investments, and the purchasing of goods and services. A key example of this are immigrant-owned companies, many of which are run by families, contribute more than $775 billion dollars annually to U.S. gross domestic product, creating jobs that are essential to economic growth.[1]

Visa backlogs force LPRs to wait more than two years to be reunited with their spouse or minor child, and U.S. Citizens to wait as long as 24 years to be reunited with their sister or brother. CWS urges Congress to authorize additional visas so that families can be reunited in a timely manner. We are opposed to any reduction in family visas or proposals that claim a false-choice between family and employment visas.

CWS is committed to working with all members of the Senate and House to enact immigration reform that will keep families together and provide a pathway to citizenship for undocumented immigrants. Such reform would mark real progress. We need to make our immigration system work better for our economy and for the fabric of our communities – families. We urge all members of the Senate to strive toward this goal.

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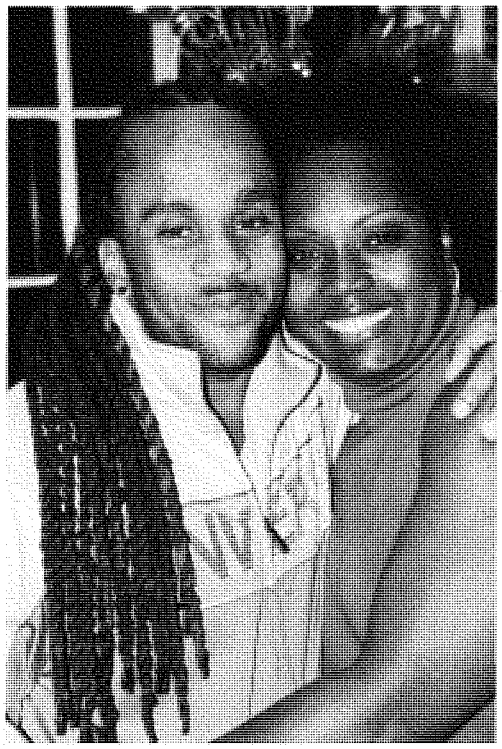
[1] *Open for Business.* The Partnership for a New American Economy. <http://www.renewoureconomy.org/sites/all/themes/pnae/openforbusiness.pdf>.

Family Unity – The Story of Nadine



(Nadine and her brother, New Year's 2013)
Photo credits: Cherrie-Ann Walters

Nadine, originally from Trinidad, came to the U.S. on a student visa in August 1988. She completed a graduate degree and was sponsored for an H-1B visa and later, a green card by a corporation. She became a permanent resident in 1993, worked, and paid taxes. In 1998, Nadine made a commitment to the United States, took the oath of allegiance, and became a naturalized citizen.

Once Nadine became a U.S. citizen, she filed a petition for her mother. While the case for her mother was quickly processed, Nadine's mother decided not to immigrate to the U.S. Nadine's mother was later diagnosed with breast cancer and died in 2007.

In February 2006, Nadine filed a sibling petition (I-130) for her youngest brother, who was 23 years old at the time. Though their dad was deceased and their mother was fighting cancer, Nadine's brother was a determined university student. Nadine was working long hours in the U.S. and trying to provide support to her brother and her mother from afar. The family determined that it would be best for Nadine and her brother to be together. The approval for the I-130 petition was received from USCIS on December 7, 2009. The case was sent to the U.S. State Department for visa processing on December 10, 2009. As of April 2013, green cards are available to brothers and sisters of U.S. citizens who began the process in April of 2001, five years before Nadine began the process for her brother. To date, a visa has not been made available and, during the almost decade-long wait, Nadine's brother finished a bachelor's degree. At age 30, he is currently residing in Barbados, where he attended college and remained after graduation.

Nadine and her brother are very close, and given the age difference between them, Nadine has always helped to take care of him. Once she settled in the U.S., Nadine would visit her family every year. She called her family weekly and wrote to her brother frequently. Each school year, she bought him a new supply of clothes, books, and educational toys. When Nadine's brother was 12 years old, he traveled to the U.S. to spend Christmas with her. The following year, he spent the summer with his sister. He has made many visits to the U.S. since that time, and when Nadine received her PhD, he was there for the ceremonies. In the past six years, Nadine and her brother have buried their mother, grandmother, and stepfather –it has been a difficult time for them to be apart. Nadine's brother last visited for Christmas in December of 2012. They maintain weekly contact through phone calls, Skype, or Facebook.

The Story of Sudhir

Sudhir, 44 years old, is an Indian national. When Mohan, Sudhir's mother, was pregnant with him, she developed eclampsia, resulting in a reduced level of oxygen to Sudhir during the pregnancy. Sudhir's development was slow; he was slow to walk and to learn, and only went to the third or fourth grade in school. He is developmentally disabled, with an IQ of 40. Sudhir has always lived with his parents who have cared for him as if he were a young child. Sudhir is a friendly, docile, and curious person with a strong sense of imagination. He also loves to play.

Sudhir and his elderly parents, Raj and Mohan, entered the U.S. in lawful nonimmigrant status in May 2012. Sudhir has two siblings in the U.S. His brother, Dinesh, arrived in the U.S. in 1995 on a J-1 visa and has been in the U.S. for about 17 years. He is a lawful permanent resident, has filed for citizenship, and his naturalization interview has been scheduled for March 2013. His sister, Anjali, arrived in the U.S. in 1998 on an H-1B and has been here for about 14 years. She is a U.S. citizen. Both Dinesh and Anjali are married to U.S. citizens – Anjali has two children. Both are physicians living in the Chicago area.

Anjali has filed a family petition for their elderly parents, Raj and Mohan, and for her brother Sudhir. Raj and Mohan's age and poor health make it vital that they have the support of their children, Dinesh and Anjali. As the parents of a U.S. citizen, there are visa numbers immediately available for them. Raj and Mohan have both applied for permanent residency, and it is likely that they will have their green cards soon. However, because of the long wait in the family-based immigration system for siblings, it will take approximately twelve years before Sudhir will be able to obtain permanent residency based on his sister's petition.

It is simply impossible for Sudhir to wait twelve years outside of the U.S. without his family. He requires assistance with everyday tasks of life, including shaving, bathing, and dressing. Sudhir requires constant care and cannot be on his own for even one day, much less twelve years. He cannot live on his own, and would be subject to physical abuse and exploitation in his home country because of his disability. Raj and Mohan's own poor health prevents their return to India, and in addition, the family has no relatives in India who can help care for Sudhir.

The Story of Lauren

Lauren, a British citizen, 21 years old, came to the U.S. when she was 4 years old. Her grandparents had immigrated to the U.S. earlier in 1983 to farm. After an accident where Lauren's grandmother had a stroke and lost her leg, her parents, Ian and Allison, brought their family to the U.S. in 1995. The parents arrived on an E-2 visa to manage a motel and restaurant.

Lauren's grandparents became U.S. citizens, and in September 2003, her grandmother filed a petition for Lauren's mom as an adult married child of a U.S. citizen (Family Third category). Lauren was a derivative on that petition. Because of the wait on the Family Third (F3) category, the family is still waiting for visas to be available that would allow them to become lawful permanent residents. From March 2013 to April 2013, the F3 category will only inch forward one week from July 15, 2002 to July 22, 2002. At that rate, it may take 5 more years for their priority date to come current.

Lauren's parents' E-2 visa status does not provide a path to permanent residency. And when Lauren turned 21, she was no longer covered under her parents' current nonimmigrant visa – and was left without a status. Furthermore, she may soon "age-out" of the F3 family-based petition filed in 2003, her eligibility for which the Child Status Protection Act is only extending past age 21 to the extent of the number of days the petition was pending. If the family's priority date does not come current before that calculation runs out, Lauren ages out and loses her eligibility. Lauren was granted deferred action in 2012, allowing her to stay in the U.S. temporarily, and is currently pursuing dance in New York.

Outside of the extraordinary relief of deferred action there are little options for Lauren to remain with her family. If Lauren ages out, she does not keep her place in line with a different petition due to the lack of permanent priority dates for family based cases. When her mother gets her own permanent resident status, she could file a new petition for Lauren as the adult child of a permanent resident (2B). And Lauren will have to start her wait over again. The wait in that category means that Lauren could wait another decade or longer to get her green card.

The Story of N

N is the daughter of M and J, from Thailand. After immigrating to the US in the 1990's based on M's skill as a traditional Thai chef, M and J opened their own Thai restaurant. In 2002, they filed a petition for their adult daughter, N, to immigrate and join them. N was over the age of 21 when M and J immigrated initially, and therefore, could not accompany them to the U.S. for M's job.

By the time the petition on N's behalf was approved in 2005, the "priority date" in the category for an unmarried daughter of a lawful permanent resident was backlogged to 1995. M and J considered naturalizing, but between the demands of running their own restaurant and the high cost of the application fees, did not do so until 2010.

In 2009, however, N decided to get married. As a married daughter of permanent residents, her parent's immigrant petitions became immediately void, and she lost her place in the immigrant visa quota backlog, losing 5 years of priority.

M and J have now become US citizens and have re-filed immigrant petitions for their married daughter, but their priority date of January 2013 is in a category that is backlogged to July of 2002, meaning that it will be at least a decade or more before their daughter can join them.

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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-led 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 a 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.

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[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=2089

[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 workers[1], 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

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[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 whole[5] — 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 Medicol 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.

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[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.

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FRIENDS COMMITTEE ON NATIONAL LEGISLATION
. . . a Quaker lobby in the public interest

March 15, 2013

Friends Committee on National Legislation Statement for the Congressional Record
Senate Judiciary Committee Hearing
Monday, March 18, 2013

The Friends Committee on National Legislation, founded in 1943, is guided by the spiritual values of the Religious Society of Friends (Quakers). Our work on immigration is led by the call for right relationships among people and between individuals and God. We believe that respect for human and civil rights is essential to safeguarding the integrity of our society and the inherent dignity of all human beings. We recognize that governments have an indispensable role in upholding these rights and citizens have the responsibility to make governments more responsive, open, and accountable.

Therefore, we call for humane comprehensive immigration reform. We have seen the degeneration of the U.S. immigration system over the last three decades. Overly punitive laws, in tandem with increased enforcement and an inefficient bureaucracy, have led to systemic violations of rights: indiscriminate raids, detention without due process, worker exploitation, and families separated for years or even decades. Humane immigration reform would restore integrity to the U.S. tradition of welcoming immigrants and provide real solutions to a broken immigration system. We believe that fundamental and comprehensive reform of U.S. immigration policy is needed in order to:

- Create an orderly, equitable, and efficient legal immigration system;
- Enforce employment and labor rights for all workers, regardless of immigration status;
- Protect human and civil rights for immigrants currently living in the United States;
- Support communities with large concentrations of immigrants and facilitate immigrant integration; and
- Align enforcement with humanitarian values.

Recognizing the critical role of family in the development of healthy individuals and communities, FCNL believes that immigration policies should make reunification of spouses, parents, children, and siblings a top priority, and should include families headed by same-sex couples as well as opposite-sex couples. Reform of the family immigration system should retain family preference categories at adequate levels, augment per-country caps, remove bars to

reentry and adjustment of status for those seeking to reunite with family, and eliminate lengthy visa backlogs by recapturing immigrant visas lost to bureaucratic delays and rolling them over to the next fiscal year. Family visas should not be placed in competition with employment visas. Spouses and minor children of lawful permanent residents should be reclassified as immediate relatives to ensure that these individuals are reunited as quickly as possible.

FCNL welcomes the Bipartisan Framework for Comprehensive Immigration Reform released on January 28 by eight U.S. senators. We congratulate the authors of the Framework, who reached across party lines to acknowledge the need to fix our broken immigration system, and to propose some practical solutions.

However, we are concerned at the news that the Senate bipartisan group is considering cutting family visa categories for siblings and adult married children of U.S. citizens. Cutting family visa categories increases pressures for illegal immigration, exacerbating the problems of the country's broken immigration system. Evidence indicates that many of the undocumented immigrants in the U.S. came here to be reunited with their families, when they had no legal means to immigrate. Congress will not fix the broken system by dividing families and reducing legal avenues for family migration. We look forward to working with Congress and members of the committee on the details of reform legislation.

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 overstays.

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 a10-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

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[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-0.

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

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[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.

Guttmacher Policy Review
Winter 2013 | Volume 16 | Number 1

Toward Equity and Access: Removing Legal Barriers To Health Insurance Coverage for Immigrants

By Kinsey Hasstedt

For nearly two decades, federal and state policies have piled atop one another to create barriers to health insurance coverage for millions of women, men and children residing in the United States with varying immigration statuses. These coverage restrictions foster harmful disparities in access to health care services generally, and to sexual and reproductive health services in particular. Inequitable access to coverage jeopardizes the health and well-being of immigrant women, families and communities into the next generation, and compromises the public health of the nation as a whole.

Following the 2012 elections, immigration reform has been back on the federal policy agenda, which presents a needed opportunity to raise awareness of and ultimately remove restrictions on immigrants' access to health coverage. Yet, those who hope for more equity for all individuals and families in the United States have cause to be wary; past attempts at bipartisan immigration reform have failed and left coverage gaps in place. Immigrants' health coverage needs were inadequately addressed in the landmark 2010 Patient Protection and Affordable Care Act (ACA). And millions of young immigrants newly eligible to lawfully reside in the United States as a result of a 2012 program unilaterally established by the Obama administration were denied most forms of health coverage under subsequent regulations. It is because of such past failings, however, that the best health and economic interests of immigrant women and their families—and the country they are part of—must be revisited.

A Patchwork of Policies

Since the mid-1990s, mounting anti-immigrant sentiment has left not only undocumented immigrants, but also recent, lawfully present immigrants with multiple barriers to and few options in accessing basic health coverage and services, including sexual and reproductive health care.

Prior to 1996, lawfully residing immigrants in the United States had the same eligibility as citizens for means-tested benefit programs under federal law. But, with the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act, or "welfare reform," only immigrants who were lawfully residing before August 1996 maintained that eligibility. Most who immigrated after 1996 were (and still are) deemed ineligible for the first five years during which they have lawful status. Among the most important programs restricted to immigrants under the "five-year ban" is Medicaid—the country's largest insurer of low-income individuals and families, and a crucial source of coverage for sexual and reproductive health services. Immigrant children (including teenagers) who have been lawfully present in the United States for fewer than five years were similarly denied coverage through the closely related Children's Health Insurance Program (CHIP), implemented the following year.

Medicaid does pay for services provided in emergency situations, including labor and delivery, to people regardless of immigration status. Beyond that, limited exceptions to the five-year ban were eventually made for pregnant women and children. The first of two exceptions for pregnant women was a 2002 rule issued by the Bush ad-

ministration that allows states to provide prenatal care to low-income immigrant women—both lawfully present and undocumented—by granting CHIP eligibility to their fetuses (see "New SCHIP Prenatal Care Rule Advances Fetal Rights at Low-Income Women's Expense," December 2002). As of January 2013, 15 states had taken up this coverage option (see table).[1,2] Subsequently, when the 2009 Children's Health Insurance Program Reauthorization Act (CHIPRA) was enacted, it authorized states to waive the five-year ban for immigrant pregnant women (in their own right, as opposed to via their fetuses) and immigrant children otherwise eligible for Medicaid or CHIP. As of January 2013, 20 states offer this coverage to pregnant women, and 25 to children.[1]

Meanwhile, in 2006, Congress passed a requirement that nearly all citizens provide detailed documentation of their citizenship to enroll in or renew Medicaid coverage. (Noncitizen immigrants eligible for Medicaid were already required to provide documentation of their lawful status.) A tiered list of documentation was prescribed, with passports topping the list, even though many low-income individuals do not possess one; providing a birth certificate along with a driver's license or similar photo identification qualified as second-tier documentation (see "The Impact of Anti-Immigrant Policy on Publicly Subsidized Reproductive Health Care," Winter 2007). This cumbersome policy led to delays and declines in coverage and care among qualified citizens, as well as increased government costs for its implementation, and in recent years, the burden has been somewhat eased.[3] For example, CHIPRA gave states the option of employing electronic databases to verify eligibility prior to burdening individuals. Expanding on that successful provision, state agencies and health insurance exchanges, beginning in 2014 under the ACA, will be required to utilize data from electronic databases before requiring individuals to provide documentation to verify their eligibility for public or private coverage.

Beyond alleviating the citizenship documentation burden, however, health care reform was largely a missed opportunity to put right so much of what had gone wrong regarding immigrants'

EXCEPTIONS TO THE FIVE-YEAR BAN

	% of population who are immigrants	Federally funded coverage expansions		
		Lawfully residing children without 5-year wait	Lawfully residing pregnant women without 5-year wait	Pregnant women regardless of status (fetus option)
U.S. TOTAL	**13.0**	**25**	**20**	**15**
Alabama	3.4			
Alaska	7.1			
Arizona	13.4			
Arkansas	4.4			X
California	27.0	X	X	X
Colorado	9.7		X	
Connecticut	13.4	X	X	
Delaware	8.4	X	X	
Dist. of Columbia	13.5	X	X	
Florida	19.4			
Georgia	9.6			
Hawaii	17.9	X	X	
Idaho	6.0			
Illinois	14.0	X		X
Indiana	4.7			
Iowa	4.4	X		
Kansas	6.9			
Kentucky	3.2			
Louisiana	2.8			X
Maine	3.2	X	X	
Maryland	13.9	X	X	
Massachusetts	14.9	X	X	X
Michigan	6.1			X
Minnesota	7.3	X	X	X
Mississippi	2.2			
Missouri	4.0			
Montana	2.0	X		
Nebraska	6.3	X	X	X
Nevada	19.2			
New Hampshire	5.6			
New Jersey	21.5	X	X	
New Mexico	10.1	X	X	
New York	22.2	X	X	
North Carolina	7.3	X	X	
North Dakota	2.4			
Ohio	4.0			
Oklahoma	5.5			X
Oregon	9.8	X		X
Pennsylvania	5.9	X	X	
Rhode Island	13.5	X		X
South Carolina	4.7			
South Dakota	2.7			
Tennessee	4.6			X
Texas	16.4	X		X
Utah	9.4			
Vermont	3.9	X	X	
Virginia	11.1	X	X	
Washington	13.3	X	X	X
West Virginia	1.3			
Wisconsin	4.7	X	X	X
Wyoming	3.2			

Notes: Immigrant population estimates are from 2011 and include naturalized citizens, lawful permanent residents, certain legal nonimmigrants (e.g., persons on student or work visas), those admitted under refugee or asylee status, and undocumented immigrants. States can use Medicaid and CHIP funds to cover lawfully residing children and pregnant women, regardless of their date of entry, and can use CHIP funds to cover prenatal care, labor and delivery for a pregnant woman, regardless of legal status, by covering her fetus. Coverage policies are as of January 2013. *Sources:* references 1 and 2.

access to health coverage and care. Despite the initial intentions of some policymakers that immigrants' health insurance and health care needs would be addressed, the coverage benefits of the ACA as enacted are disproportionately inaccessible to immigrants. Aside from the state options to cover lawfully present children and pregnant women discussed above, the five-year Medicaid ban remains in effect. In a kind of concession, the ACA does enable immigrants who are ineligible for Medicaid due to the five-year ban to purchase private coverage through the insurance exchanges that will become operational in 2014, and to receive subsidies to make this coverage affordable. The ACA, however, not only makes undocumented immigrants ineligible for subsidies, but also prohibits them from purchasing coverage through exchanges—even at full cost.

Finally, in 2012, the president established the Deferred Action for Childhood Arrivals (DACA) program, which although an important step forward in its own right, was a bitter disappointment for advocates of immigrants' health coverage and service access. The program allows for previously undocumented young people (ages 15–30) who immigrated as children with their families and who are engaged in school or work to remain in the United States for renewable two-year periods. But unlike other lawfully present immigrants, young people granted DACA status are barred from nearly every form of public and private health coverage. DACA grantees are expressly carved out of the population of lawfully present immigrant children and pregnant women whom states may cover under Medicaid or CHIP through the 2009 CHIPRA option (see above). And under current rules, the years individuals live in the United States with DACA status do not count toward their five-year path to Medicaid eligibility. Furthermore, those with DACA status are ineligible to purchase private coverage on the health insurance exchanges, with or without the federal subsidies.

In short, despite now being lawfully present, those with DACA status have essentially the same coverage options as the estimated 11.1 million undocumented immigrants residing in the United States: nearly none.[4] Ineligible for Medicaid and CHIP, low-income young people with DACA status and undocumented immigrants can obtain Medicaid coverage only if they are pregnant and living in a state with the 2002 CHIP option, or if they live in a state or locality that uses entirely nonfederal funds to cover health services usually under Medicaid to individuals regardless of immigration status. When it comes to private coverage options, these populations will only be allowed to obtain coverage outside the exchanges.

The Case for Coverage

As a result of this patchwork of policies, millions of immigrant women and their families who live, go to school and work in communities all around the country are effectively blocked from obtaining health insurance. This disparity in coverage hinders immigrants' ability to obtain health care, including sexual and reproductive health services, which puts them at disproportionately high risk of negative health outcomes.

The gaps in immigrants' health coverage are great. Even though they are more likely than the native-born to participate in the U.S. workforce, immigrants are overrepresented in low-wage jobs that are unlikely to offer employer-sponsored health coverage.[5] This, along with existing policy barriers to public and private insurance options, contributes to noncitizen immigrants being much more likely than native-born or naturalized citizens to be uninsured. Among women of reproductive age (15–44), 45% of the 6.6 million noncitizen immigrants are uninsured, compared with 24% of naturalized citizen immigrants and 18% of U.S.-born women (see chart).[6] Among poor reproductive-age women (a group in which immigrant women are disproportionately represented), 60% percent of noncitizen immigrant women lack health insurance—nearly twice the proportion of U.S.-born women. And only 27% of poor immigrant women of reproductive age have Medicaid coverage, compared with 44% of those who are U.S. born.

Although there is limited evidence specific to immigrant women's use of sexual and reproductive health services, lack of insurance is generally associated with a reduced use of health services, especially among low-income women.[7] Thus, it is

unsurprising that according to at least one recent report, immigrant women's health service utilization is constrained by their lack of insurance coverage and the high out-of-pocket costs they confront as a result.[8] Yet, immigrant women—especially those who are undocumented—have higher birth rates than native-born women, and so are more likely to need comprehensive maternal care.[9,10] Immigrant women are also particularly likely to be young, low-income and women of color—all demographic characteristics linked to particularly high risk of negative sexual and reproductive health outcomes, namely unintended pregnancy and STIs.[7,10-12]

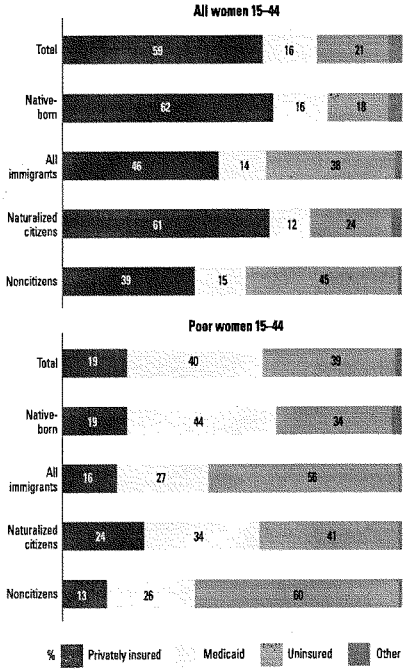
Comprehensive Maternity Care

The widely recognized positive benefits of appropriate preconception, prenatal and postpartum care include better chances of full-term pregnancies and healthy birth weights and a decreased likelihood of long-term health complications for mothers and infants.[13] Prenatal care is particularly beneficial among young and low-income women, groups that are particularly likely to be uninsured.[14,15] Indeed, the ACA takes numerous steps to address these issues by expanding coverage generally and specifically guaranteeing coverage for a broad package of maternity care services (see "The Potential of Health Care Reform to Improve Pregnancy-Related Services and Outcomes," Summer 2010).

Yet, millions of immigrant women remain ineligible for comprehensive maternity coverage. And while what limited evidence there is suggests immigrant women have relatively healthy pregnancies,[16,17] their need for comprehensive maternity care is no different than U.S.-born women's. This is especially true as children of immigrants comprise ever-larger proportions of the overall U.S. population: Although their birth rates have declined consistent with, even driving, broader U.S. trends, immigrant women continue to have higher birthrates than native-born women.[10,18] In 2008, an estimated 8% of the babies born in the United States (340,000)—all of whom are automatically citizens—had undocumented parents, comprising a disproportionately large share of the newborn population.[9] Given these statistics, accessible comprehensive maternity coverage could advance long-term health outcomes among immigrant women and their children, reducing systemic health disparities with each new generation of Americans.

COVERAGE GAPS

The 6.5 million women of reproductive age who are not U.S. citizens are particularly likely to be uninsured.



Notes: 2011 data. Poor women are those in families with incomes under the federal poverty level ($19,090 for a family of three in 2011). Data include some information on undocumented immigrants, although that information is generally acknowledged to be a considerable undercount of that population group. *Source:* reference 6.

Coverage obstacles to immigrant women's affordable access to prenatal care are also financially short-sighted. An Institute of Medicine committee estimated that every $1 invested in preventive prenatal care would save more than $3 by reducing the number of low-birth-weight infants and the costs associated with their care.[19] Additionally, in a 2013 analysis, annual Medicaid emergency expenditures were estimated at $2 billion.[20] The

majority of those were for labor and delivery care for immigrant women in emergency rooms.[21] In sum, barriers to immigrant women's ability to obtain health insurance are putting the long-term health of these mothers and their infants at risk, and creating inefficiencies in public expenditures.

Contraceptive Services and Supplies

Effective contraception helps women to avoid unintended pregnancy and the adverse maternal and child health outcomes associated with unplanned births.[13] Women's ability to plan and space their children has also been linked to advanced educational and employment opportunities and pursuits, and to the enhanced well-being of families (related article, page 8). Yet, cost is one important factor that interferes with women's use of the most effective contraceptive methods. Eliminating cost-sharing for the full range of methods can help them overcome this barrier.

Despite the fact that contraceptive coverage without cost-sharing has long been available to women enrolled in Medicaid, and will increasingly be so in private insurance under the coverage advances of the ACA, millions of immigrant women are cut off from those options. As a result, they may lack access to the full range of contraceptive options; the limited evidence available specific to immigrant women suggests they are less likely to use preventive reproductive health services, including contraception.[8] This is particularly problematic as women of color and low-income women are disproportionately affected by unintended pregnancies.[11] And, undocumented immigrants—including the nearly one million young people estimated to immediately qualify for DACA status—are particularly likely to be of reproductive age and Hispanic origin.[22-24]

The fiscal case for contraceptive coverage with no cost-sharing for all women—including immigrant women—is a strong one. Nationally, the public costs related to births resulting from unintended pregnancies were estimated at $11 billion in 2006;[25] the estimated cost to federal, state and local governments of teen childbearing in 2008 was also estimated to be nearly $11 billion.[26] These costs would be even higher in the absence of publicly subsidized family planning services. Every public dollar invested in helping women avoid pregnancies they do not want saves about $4 in Medicaid expenditures otherwise needed for pregnancy-related care and one year of infant medical care.[27] In the private sector, contraceptive coverage is at least cost-neutral, if not cost-saving. For instance, the federal government, in its role as the nation's largest employer, reported no cost increases after requiring coverage of contraceptives for its employees in the late 1990s.[28] Further, not covering contraceptives has been estimated to cost employers approximately 15% more than providing such coverage.[29] Importantly, none of these estimates take into account the broader health, social or economic benefits to women and families that come with being able to time, space and prepare for pregnancies—crucial considerations for immigrant women's full and productive integration into U.S. society.

Preventive Services

Finally, there are a number of other preventive sexual and reproductive health services important for all women of reproductive age, such as regular well-woman visits, STI testing and screening for reproductive health cancers. Without adequate health coverage, these preventive services can be costly and out of reach, particularly to teenagers and young adults with little disposable income.

As a group, the disproportionately young, low-income immigrant population is at heightened risk for STIs, notably HPV. According to a February 2013 report from the CDC, half of all new STI cases occur among 15–24-year-olds, and HPV accounts for 14 million of the 20 million new STI cases each year.[12] HPV is a particularly salient issue among immigrant women: Left unchecked, certain strains of HPV can occasionally lead to cervical cancer, which disproportionately afflicts and causes the deaths of foreign-born women, particularly those who are Latina and women in certain Asian communities.[30] This phenomenon is likely due in large part to the fact that many of these women go without timely Pap tests and screenings, which in turn stems from financial, cultural and linguistic barriers.[8]

Not extending coverage for STI testing to low-income immigrants is also fiscally questionable.

There are no cost estimates specific to immigrants, but the most recent CDC analysis estimates that $16 billion is spent in the United States each year on the direct medical costs of STIs; the majority is devoted to long-term treatment and care of HIV and of HPV and its resultant cancers.[12]

A Need for Action

In his 2013 State of the Union address, President Obama called for "comprehensive" immigration reform, and a draft of the administration's proposal was released shortly thereafter. Meanwhile, multiple congressional groupings—most notably the Senate "Gang of Eight"—have released their own bipartisan principles. Despite major differences over border security and whether reform should include a path to citizenship, there does seem to be an emerging consensus: If this federal legislation is enacted, it will likely grant some form of provisional status to undocumented immigrants currently living in the United States.

With that status, whatever it may be, should come access to affordable public and private health insurance options, and the increased access to sexual and reproductive health services that insurance coverage makes possible. Indeed, this principle already has broad public support: Most Americans believe upon obtaining provisional status, immigrants should be able to access Medicaid (63%) and subsidies to affordably buy insurance on the exchanges (59%).[31]

This principle should apply not only those with this provisional status, but also to those with DACA status and all other immigrant individuals and families lawfully present in the United States. They should all be eligible for Medicaid and CHIP without the five-year ban or any other waiting periods. Enabling immigrants—based solely on their income—to access Medicaid coverage instead of the more costly coverage available on the exchanges is sound health policy that also has the potential to save federal dollars. That said, private coverage should be made equally accessible. All lawfully present immigrant individuals and families—again including those with DACA status and those with any newly established status resulting from immigration reform—should be able to purchase coverage through the health insurance exchanges and to receive income-based subsidies to make this coverage affordable.

The recent immigration reform discussions to date continue a long-term trend of giving short shrift to the legitimate health insurance and health care needs of our nation's immigrants, including coverage and care related to sexual and reproductive health. The outcome of the immigration reform debate is uncertain and the stakes are high for immigrants and U.S.-born citizens alike, but the time has come to define "comprehensive" reform to include more than issues of border security and citizenship. The human needs—including health care—of immigrant women, men and children must also be embraced. The case for doing so—in the health and economic interests of immigrant families and in the shared public health and fiscal interest of the country—is compelling. www.guttmacher.org

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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.

<u>National Groups</u>
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

605 CITIZENSHIP PROJECT
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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 Chnicians 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

OPENING STATEMENT OF SENATOR HIRONO

Hearing before the Senate Committee on the Judiciary
"How Comprehensive Immigration Reform Should Address the Needs of Women and Families"
Monday, March 18, 2013

Good afternoon, everyone. I am pleased to call to order this hearing of the Senate Committee on the Judiciary. This hearing is titled, "How comprehensive Immigration Reform Should Address the Needs of Women and Families." It will be an opportunity to learn about how immigration impacts women and families, as we begin to consider the ways in which we will reform our immigration laws.

I'd like to welcome each of the witnesses, and Senator Franken for joining us today.

I would like to thank Chairman Leahy and Ranking Member Grassley, and their staffs, for making this hearing possible.

The debate on immigration reform has often focused on the needs of the business community. Despite the fact that immigrant women are about as likely to have a bachelor's degree as immigrant men, and women make up 51% of migrants in the U.S., employment based visas go to men over women 3-to-1. As a result, women are far more likely to immigrate to this country under the family-based system.

But this often means that they are here as dependent spouses without the ability to work legally.

As we look to reform our immigration laws, we must consider how women and families will be affected. Historically, women have been treated as unequal in our immigration system, with citizenship tied to their husbands. In fact, 100 years ago, if a U.S. citizen woman married a non-citizen she could lose her citizenship.

I know firsthand that immigration is a women's issue and a family issue.

My mother brought my brother and me to this country when I was a young girl to escape a terrible marriage at the hands of my father.

He was an alcoholic and compulsive gambler. I did not get to know him much.

Instead of watching our family continue to suffer, my mother made the courageous decision to seek a better life for us.

She plotted and planned in secret, and when I was nearly 8 years old…

We literally escaped to this place called Hawaii and this country called America.

It's from my own experience as an immigrant that I believe immigration reform should make the family immigration system stronger, not weaker.

And we should not ignore the challenges immigrant women face.

The purpose of this hearing is to look at these challenges, and how we should correct these problems in the debate on Comprehensive Immigration Reform.

We will hear about immigrant women in the workplace, and the problems of exploitation that they often suffer. We will hear about the importance of family immigration to our communities and our economy. And we will hear about how Comprehensive Immigration Reform should address the integration of undocumented women and children to fully participate in society. I look forward to a great discussion.

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

[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
Kathlynne 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.

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 workers[1], 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.

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[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 whole[5] — 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. *Heolth 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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IMPRINT Immigrant **Professional Integration**

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 nationwide[3] 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.

Statement by Senator Klobuchar

I want to thank all of the witnesses for being here today. I had hoped to join you, but prior obligations in Minnesota and a snow storm in Minneapolis have prevented me from making it back in time. I want to give a special welcome to my friend and fellow Minnesotan – Mee Moua. Mee has been an incredible advocate over the years on many, many issues.

I also want to thank Senator Hirono for chairing this hearing; it is extremely important. Most of the talk about immigration has centered on the plight of the undocumented, border security and economic motivations for changing our laws. But family concerns are just as important, and we must ensure that our policies reflect family reunification as a top priority.

Again, thank you to Senator Hirono and our witnesses, and I will be submitting some questions for the record.

Senate Judiciary Committee Hearing, March 18, 2013
"How Comprehensive Immigration Reform Should Address the Needs of Women and Families"

As women of faith we, the members of the Leadership Conference of Women Religious (LCWR), take seriously the gospel call to welcome the stranger and care for those in need. As Catholic sisters we are committed to the precepts of Catholic Social Teaching that remind us that the dignity of the person is at the core of our moral vision of society; that how we organize our society affects human dignity directly; and that any system that is deliberately cruel or inhumane needs to change. Because of these beliefs, at our 2012 national assembly, LCWR, "called on Congress to pass comprehensive immigration reform that includes the reunification of families and a path to citizenship for undocumented immigrants living in the United States."

Catholic sisters began coming to these shores 286 years ago as immigrants to serve immigrant populations. To this day they continue to minister to these aspiring citizens in schools and hospitals, in the fields and in the cities. They share the pain of mothers separated from their children and fathers who have risked their lives for love of their families. They know the sorrow of siblings who have not seen each other since their youth and grandparents who fear they will never know their grandchildren.

Families are the building blocks of our society. Our nation needs, and our people deserve, immigration reform that reflects the paramount importance and socio-economic necessity of family unity; reform that does not pit one group of aspiring Americans against another. We need not sacrifice family unity to meet the needs of business and workers.

Immigrant women, like all women, are the backbone of their families and communities. They contribute to the economy, keep their families together, and invest in our future by investing in their children's education. Immigrant women are the drivers of social integration, encouraging their families to learn English, succeed in school and business, pursue naturalization, and fulfill their civic duties.

We look forward to working with lawmakers as they develop legislation that expedites the reunification of families, preserves family-based visa categories, reduces current backlogs, provides humanitarian consideration for families torn apart by detention, and guarantees equal protection and equal opportunity for immigrant women.

LCWR is an association of leaders of congregations of Catholic sisters in the United States. The conference has nearly 1500 members, who represent more than 80 percent of the 57,000 women religious in the United States. Founded in 1956, the conference assists its members to collaboratively carry out their service of leadership to further the mission of the Gospel in today's world.

Sister Janet Mock, CSJ, Executive Director

Statement of Chairman Patrick Leahy (D-Vt.)
"How Comprehensive Immigration Reform
Should Address the Needs of Women and Families"
Senate Judiciary Committee
March 18, 2013

Today the Committee will examine ways comprehensive immigration reform can address the needs of women and families. For years, long visa backlogs in our immigration system have prevented families from being together. An estimated 4 million close family members of U.S. citizens and green card holders are waiting to join their relatives in America. Some of these families, predominantly from Mexico and the Philippines, have waited more than 20 years to be reunited. This is simply unacceptable. While preserving family unity is a core tenet of our immigration policy, our broken immigration system is instead hurting families. This has devastating consequences, especially for the women and children who bear the brunt of the unsettled environment our immigration system causes.

New immigrants often face the reality of spending prolonged periods of time without their loved ones because the broken immigration system has little to no flexibility. Beyond that, it is punitive to families seeking to lawfully enter the United States because lawful permanent residents must wait over two years to be reunited with their spouse or children. Newly naturalized citizens must wait over seven years to be reunited with their adult children and over ten years for their siblings.

I believe that families should be protected. Our immigration system must honor the love that binds spouses and children. It should come as no surprise when spouses, desperate to reunite with their loved ones, overstay a tourist visa or cross the border without authorization.

It is time for us to proceed in a comprehensive way that protects families. The "enforcement first" mentality that so often guides this debate must be met with the facts: The President and Secretary Napolitano have done more in the administration's first four years to enforce immigration laws and strengthen border security than in the previous administration's entire eight years. We have done enforcement first and sadly, enforcement only. It is time to capitalize on this progress and bring families out of the shadows to remove the cloud of uncertainty and fear that needlessly blankets their lives.

Changes to our family-based immigration policies are not just the right thing to do for moral reasons; they would also be good for the economy. Our policies too often provide a disincentive for immigrants to put down roots, establish stronger connections in their local communities, and become full-fledged Americans. We cannot continue to expect the best and brightest in the world to come to America and contribute if they cannot bring their families. Our system must catch up to the demands of a 21st century economy, and not remain a relic of the past.

And family unity in our immigration policy should include all families. Last month, for the fourth straight Congress, I introduced the Uniting American Families Act, which grants gay and lesbian binational couples immigration rights heterosexual spouses have long enjoyed. This bill would end a destructive policy that rips families apart and forces hardworking Americans to make the impossible choice to leave the country they love and start over in another country that

provides immigration protection for their relationship. Frances Herbert and Takako Ueda are two Vermonters who know first-hand the harm caused by this discriminatory Federal policy. Gordon Stewart is another Vermonter, who testified before this Committee about the heart wrenching decision to leave the country he loves to be with the person he loves. There are countless others in this same situation across the Nation. I will continue to fight on their behalf. No American should face such a choice.

We need to fix our broken immigration system. As we consider comprehensive reform, we must not pit visas for family-based immigrants against those sponsored by employers. We can and must find a way to balance these priorities to promote economic growth, strengthen the lives of individuals, protect families, and provide equal protection under the law for all people residing in America. We have an historic opportunity to get this right. It is time for intelligent, common sense reforms to our immigration system.

I thank Senator Hirono for chairing this important hearing today and focusing on how our current system tears families apart. I know her unique personal experience will contribute greatly to the debate next month as we consider comprehensive immigration reform in the Senate Judiciary Committee.

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Testimony
Susan F. Martin
Donald G. Herzberg Professor of International Migration
Georgetown University
At the Hearing on
How Comprehensive Immigration Reform Should
Address the Needs of Women and Families
Senate Judiciary Committee
March 18, 2013

Mr. Chairman, Members of the Committee, thank you for providing this opportunity to testify on how comprehensive immigration reform should address the needs of women and families. I hold the Donald G. Herzberg Chair in International Migration in the School of Foreign Service, Georgetown University. I also serve as the Director of the Institute for the Study of International Migration at the university. Prior to joining Georgetown's faculty, I was the Executive Director of the US Commission on Immigration Reform, which was chaired for most of the Commission's life by the late Barbara Jordan. I have been asked to discuss relevant findings and recommendations of the Commission as well as my own views on immigration reform. I am pleased to do so. Although the Commission's report was issued 15 years ago, many of its recommendations remain as relevant today as they did in 1997.

The Commission was mandated by the Immigration Act of 1990 to advise Congress and the President on all aspects of immigration policy. The Chair was appointed by the President, four members by the majority and minority leadership of the Senate and four by the majority and minority leadership of the House. The Commission issued four reports between 1994 and 1997, one of which dealt exclusively with legal immigration issues. The recommendations of this bipartisan Commission were adopted unanimously or, in certain instances, by a vote of 8-1.

Let me begin with the Commission's overall perspectives on legal immigration. First, the Commission considered a robust legal immigration system to be in the national interest of the United States. It argued that immigration policy should serve three core interests: maintaining family unity, encouraging economic competitiveness, and preserving US humanitarian leadership in the world. These interests are served through family reunification, employment, and refugee admissions, respectively.

Second, the Commission did not believe that there is a magic, a priori number of immigrants that should be admitted to the United States each year. The number of admissions within and across each of the core categories should be readily adjusted to address changing circumstances in the country and the world. The Commission recommended that Congress revisit admission numbers every three to five years, rather than set hard ceilings that are seldom adjusted upward or downward. It is well to note that current family and employment based admission numbers were set in 1990 and have not been changed in the intervening 23 years.

Third, the Commission believed that priorities should drive admission numbers and not the reverse. At present, our immigration policies are largely managed through backlogs and

waiting lists. There are a small number of visas, relative to demand, allocated in most of the admissions categories. Ceilings have generally been assigned in an arbitrary manner, often as a result of political compromises rather than empirical evidence as to the likely demand for visas. As a result, long waiting times for a green card persist for almost all categories. The Commission recommended a true preference system in which all demand is met in the highest categories in a timely way, rather than the allocation of some visas to all categories.

Let me turn to how these principles translated into specific recommendations related to family reunification. At the time of the Commission's investigations, the backlog of applications had grown significantly in all of the numerically limited family categories: unmarried adult children of US citizens (FB1); spouses and minor children (FB 2A) and unmarried adult children (FB2B) of legal permanent residents (LPRs); married adult children of US citizens (FB 3); and siblings of adult US citizens (FB 4). The Commission recognized that all of these categories were important to segments of the immigrant population in the United States. The members' judgment, however, was that there is a special bond between spouses and between parents and minor children that necessitates the most rapid family reunification in these instances. Not only is the immediate family the basic building block of society but there is also a legal and fiduciary responsibility for spouses and minor children that does not exist in relationship to adult children and siblings of adult sponsors.

The Commission was fully supportive of maintaining the numerically unrestricted admissions categories for the spouses, minor children and parents of US citizens and recommended that sufficient visas be allocated for the admission of all spouses and minor children of LPRs within one year of application. The Commission also recommended that adult children who were dependent on parents in the US because of physical or mental disability be included in these admission categories. To address the growing backlog of visa applications in the FB 2A category, the Commission recommended an additional 150,000 visas per year over the then limits until the backlog was cleared. The growth in that category was largely related to the legalization program implemented under the Immigration Reform and Control Act of 1986 (an issue to which I will return). The review of new applications for these family admissions indicated that 400,000 visas would thereafter be sufficient to meet demand, but as mentioned earlier, the Commission called on Congress to adjust the numbers if needed to avoid backlogs in the priority categories. At present, according to the State Department Visa Bulletin, spouses and minor children who applied prior to December 15, 2010 (priority date) will be eligible for visas as of April 2013 (a wait of at least 2 years and 4 months).

The Commission further recommended the elimination of the admission categories for adult children and siblings. The demand for visas in these categories consistently outstrips the statutory limits, leading to long waiting times that undermine the credibility of the admissions system. The Commission noted that credible immigration policy should not give false hopes to applicants of speedy admission. This situation has not improved significantly in the past 15 years. According to the April 2013 Visa Bulletin, applicants in FB 4 (siblings) category who applied prior to May 1, 2001 (about 12 years ago) are just now eligible for a visa. Because of per country limits, only those Filipinos who applied before August 15, 1989 are eligible for visas—a delay of 24 years. The worldwide priority dates for FB 1, FB 2B and FB 3 are March 6, 2006,

April 8, 2005, and July 22, 2002, respectively, with much longer waits for applicants from Mexico and the Philippines.

The Commission did not directly address the phase out of these categories. I speak personally on this issue. The many US citizens who have petitioned for their adult children and siblings to join them are deserving of consideration in determining how to transition from the current to any new system. One way to balance the interest in a more efficient system with the concerns of these families is to cease accepting new applications while preserving visas to permit the admission of those already in the queue. Given the large backlog, I would recommend allocating additional visas over a five year period so that the benefits derived from their ultimate admission—to both their families and the country as a whole—are derived in a shorter time. It makes little sense to keep out immigrants during their most productive years and then admit them as they get closer to retirement age—which is the end result of 24 year waiting periods.

As mentioned previously, the large backlogs in the 1990s in the FB 2A category were primarily a result of the IRCA legalization. Many of those who earned regularization were in the US on their own, with spouses and children in their country of origin. Once they became legal permanent residents, many of the legalized then petitioned for admission of their family members. By 1995, the backlog of IRCA family applications had grown to more than 800,000 and the total backlog in the FB 2A category was more than 1.1 million. With less than 90,000 visas available per year in this category, it would take more than ten years to get through these applications while new ones went to the back of the list. Mechanisms to avoid the development of similar backlogs in family reunification will be needed in any future regularization program. The principle of family unity for spouses and minor children should apply equally to the legalized as to other immigrants since there is a strong national interest in intact families.

As this hearing addresses ways immigration reform should address the needs of women as well as families, let me turn to a few additional issues. Here, I am speaking for myself, not the Commission. The United States has been a leader in protecting women and girls who immigrate to the United States through both legal and unauthorized channels. Provisions under the Violence against Women Act (VAWA) have been particularly important in ensuring that abused women do not become more vulnerable as a result of immigration provisions. Victims of domestic abuse should continue to be able to petition for themselves and their children if their abuser is the person who would otherwise be their immigration sponsor. The recent very welcome reauthorization of VAWA made some important improvements, including better regulation of marriage brokers, the addition of stalking to the forms of domestic abuse that warrant protection for immigrant women under VAWA, and new provisions to protect detained women from rape. A problem still remains, however, in ensuring that immigrant women and children who are abused have access to the information, legal and economic resources that permit them to benefit from the terms of the legislation.

Implementation is also an issue regarding the groundbreaking provisions of the Trafficking Victims Protection Act (TVPA) related to the survivors of human trafficking. The TVPA was reauthorized as part of the VAWA reauthorization of 2013. The United States has been a global leader in protecting the victims of international trafficking operations, as manifest in the T visa. Yet, the disparity between the numbers granted the T Visa (between FY2002 and

FY2012, DHS approved only 3,269 applications for T-1 status, according to the Congressional Research Service) and the number of trafficking victims estimated to be in the country remains troubling. Research might help determine if the estimates are inflated or the T visa is too restrictive in its application. What is certain, however, is that we still lack the tools to identify trafficking victims and to help the survivors gain access to the type of legal assistance as well as safe houses and other services needed to ensure their protection.

A final point is in reference to long delayed legislation to remedy problems in our asylum, detention and refugee resettlement programs as they apply to women and girls. The Refugee Protection Act, introduced by Senator Leahy, includes important provisions that would improve the protection of women who are fleeing persecution and serious human rights violations. These include clarification of what constitutes a particular social group for purposes of asylum adjudications, which is the category that encompasses many of the victims of gender based persecution; authorization of alternatives to detention for asylum seekers, including women and children; facilitating family reunification for refugees and asylees; elimination of the one year filing deadline for asylum applications, a barrier for many refugee women and girls who have experienced rape and other atrocities that often require lengthy recovery periods; and changes in provisions that currently deny asylum and resettlement to those who provided material support to an insurgency, even if that support was coerced, as is the case in many situations involving women forced by their abductors to provide sex, food and other support.

To conclude, comprehensive immigration reform should recognize that family unity is a core value of the United States. Ensuring the speedy reunification of families is in the national interest of the country. Strong families make strong communities, which in turn make for a strong nation. Setting priorities to accomplish this goal would immeasurably strengthen US immigration policy. I would be pleased to answer your questions.

ASIAN AMERICAN JUSTICE CENTER

MEMBER OF ASIAN AMERICAN CENTER FOR ADVANCING JUSTICE

Written Testimony of Mee Moua
President and Executive Director
Asian American Justice Center,
A Member of the Asian American Center for Advancing Justice

U.S. Senate Committee on the Judiciary

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

March 18, 2013

Chairman Leahy, Senator Grassley, and Members of the Committee, thank you for the opportunity to appear before the Committee today on behalf of the Asian American Justice Center (AAJC), a member of the Asian American Center for Advancing Justice. Founded in 1991, AAJC is a national organization whose mission is to advance the human and civil rights of Asian Americans, and build and promote a fair and equitable society for all. AAJC is one of the nation's leading experts on issues of importance to the Asian American and Pacific Islander community including: immigration and immigrants' rights, affirmative action, anti-Asian violence prevention/race relations, census, language access, media diversity, voting rights and civil and human rights.

Women and Children Need a Strong Family-Based Immigration System

The principle of family unity has long been a part of our immigration tradition in the United States and family-based immigration is a central pillar of current U.S. immigration law. Since our founding as a nation, each generation of immigrant families have strengthened our communities, enriched our culture, and invigorated our economy.

Unfortunately, the U.S. family immigration system is broken, outdated and failing to facilitate the full purpose of our family immigration policies. Our current system, which has not been updated in over two decades, works against families by separating mother from daughter, sister from brother and wife from husband. As of November 2012, nearly 4.3 million close family members were waiting in the family visa backlogs. Latino and Asian American families are impacted the most by these long backlogs. Of the nearly 4.3 million family members in the backlogs, more than 1.3 million are from Mexico alone. Over 1.8 million are from Asian countries. Other countries including the Dominican Republic and El Salvador also have significantly large numbers of family members waiting to join loved ones in the U.S. Some family members have been waiting years, even decades, to be reunited with their family in America.

Forcing families to live apart for years and even decades is simply un-American. Imagine living apart from your husband or wife or daughter or son for years, decades even. These lengthy separations are heart-breaking and strain familial ties. Moreover, our dysfunctional legal immigration system forces some families to choose between remaining apart for years on end and living in the shadows as undocumented immigrants just to be with their loved ones. Our current system also discriminates against LGBT families by prohibiting citizens and legal permanent residents from sponsoring their same-sex, foreign-born partners for immigration purposes. This is simply unacceptable and it does not live up to our ideals as a nation that values families and fairness.

To make matters worse, women immigrants are disproportionately harmed by our broken system. Approximately 69.7 percent of all immigrant women attain legal status through family-based visas, compared to 60.6 percent of men. Since women are more often denied access to resources and education and face social constraints in their home countries, they are both overrepresented among family-based immigrants and underrepresented among employment-

based immigrants.[1] A Department of Homeland Security examination of fiscal year 2011, for instance, showed women using 58% of all family sponsored visas.[2]

Due to the same issues of access to resources and education, principle employment-based visa holders are significantly more likely to be men. As dependents of the male principle visa holder, women are not legally allowed to work under our current immigration system and therefore, are completely tied to their spouse. This creates an imbalance of power, which renders women wholly dependent on their spouse and vulnerable to an abusive partner.

An immigration system that harms women inevitably hurts families and communities. Immigrant women, like all women, are the backbone of their families and communities. They keep their families together, invest in their children's education, acquire various needed roles in their communities and contribute to the U.S. economy. If America wants to uphold its value of women and the family unit, we need a stronger family-based immigration system that reflects our values as a society.

Immigrant Women Make Significant Economic Contributions

Immigrant women, like their native-born counterparts, are an integral part of our workforce and economy. They are business owners—both small and large, who create much-needed jobs for all Americans. Between 2000 and 2010, immigrant women's entrepreneurship rates had grown to over 9 percent, which exceeded rates for native-born women.[3] As of 2010, "40 percent of all immigrant business owners were women [and] 20 percent of all women business owners were foreign-born."[4]

As workers, immigrant women have a wide-range of skill levels and fill in gaps across the business sectors. In 2008, nearly 60 percent of foreign-born women were in the labor force.[5] Based on 2010 data, women who were naturalized U.S. citizens even had a slightly higher employment rate (92.4 percent) than native-born women (91.7 percent).[6] Immigrant women make up significant numbers in the management and professional occupations, service occupations, as well as retail and office occupations.[7] Educational attainment of immigrant women varies, but overall it is similar to native-born women. For example, in 2008, 26.4 percent of immigrant women had bachelor's degree compared to 27.1 percent of native-born women, and

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[1] A Devastating Wait: Family Unity and the Immigration Backlogs, *Asian Pacific American Legal Center*, Retrieved March 14, 2013, from http://www.advancingequality.org/attachments/files/117/APALC_family_report.pdf.
[2] 2011 Yearbook of Immigration Statistics, *Office of Immigration Statistics, Department of Homeland Security*. Retrieved March 14, 2013, from http://www.dhs.gov/sites/default/files/publications/immigration-statistics/yearbook/2011/ois_yb_2011.pdf.
[3] Pearce, Susan C., Clifford, Elizabeth J. & Tanden, Reena. Our American Immigrant Entrepreneurs: The Women, *Immigration Policy Center*. Retrieved March 17, 2013, from http://www.immigrationpolicy.org/special-reports/our-american-immigrant-entrepreneurs-women.
[4] *Id.*
[5] Immigrant Women in the United States: A Portrait of Demographic Diversity, *Immigration Policy Center*. Retrieved March 17, 2013, from http://www.immigrationpolicy.org/just-facts/immigrant-women-united-states-portrait-demographic-diversity.
[6] Employment Status of the Civilian Labor Force16 Years and Over by Sex, Nativity, and U.S. Citizenship Status, *U.S. Census Bureau*. Retrieved March 17, 2013, from http://www.census.gov/population/foreign/data/cps2010.html.
[7] *Id.*

9.5 percent of immigrant women had graduate degrees versus 9.6 percent of native-born women.[8]

We also know from our real world experiences that immigrant women make up a significant number of caregiver professionals. These are the women who day in and day out care for our children, our mothers and fathers, other loved ones with special needs, and our homes. For example, 95 percent of domestic workers nationwide are women–and in some large cities more than three-fourths of domestic workers are immigrant women.[9] A recent study found that 28 percent of personal care and home health aides "are foreign-born and of those, 60 percent are from Latin America and the Caribbean."[10] Because of limited legal immigration opportunities, many of the female immigrants who become in-home care workers came to the U.S. through the family system.[11]

We must fix our family-based immigration system, so that we can enhance our families, provide support and relief to women and children and rebuild our economy for a more prosperous nation. Family-based immigration has significant economic benefits, especially for long-term economic growth. Family-based immigrants foster innovation and development of new businesses, particularly small and medium-sized businesses that would not otherwise exist, creating jobs for American workers. Immigrant-owned businesses have surged in the last ten years. In 2010, small businesses owned by immigrants employed approximately 4.7 million people and generated an estimated $776 billion in revenues, according to the Fiscal Policy Institute.

Particularly, many Asian and Pacific Islanders family members come to the U.S., pool their resources together and work in their family-owned businesses. White and Asian immigrants are more likely to be small business owners. Our reforms should make it easier for families to reunite in the U.S. and contribute to our economy.

Families are critical in providing emotional, physical and mental to support to all workers. Research shows that workers who have the support and encouragement of their family members are more likely to be productive and successful as they strive to integrate into our communities. Lengthy family separations are stressful and take a personal toll on workers. It forces many immigrant workers who are separated from their families to send money overseas rather than being able to invest all of it in their local communities. A robust family-immigration is in the interest of all Americans.

Women Strengthen Families and Enable Successful Integration

Immigrant women are essential for the successful integration of their families. They provide stability for the family and help the family put down permanent roots for their families. They

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[8] Immigrant Women in the United States: A Portrait of Demographic Diversity, *Immigration Policy Center*.
[9] Women's Refugee Commission, "Women and Immigration Reform: Key Facts and Figures."
[10] Henrici, Jane (2013). *Improving Career Opportunities for Immigrant Women In-Home Care Workers*, Institute for Women's Policy Research (p. 5).
[11] Hess, Cynthia and Henrici, Jane. (2013). *Increasing Pathways to Legal Status for Immigrant In-Home Care Workers*, Institute for Women's Policy Research (p. 9).

invest in their children's education and send them to college. These women are instrumental in enabling the family to pool resources together to open a small business or buy a home. Critically, immigrant women are also more likely to initiate the citizenship process for their families. Immigrant women have higher propensity to naturalize. In 2008, nearly half (46.4 percent) of female immigrants were naturalized U.S. citizens compared to 39.7 percent of male immigrants.[12]

For these reasons, our immigration laws must promote immigrant integration that includes and empowers women. Among other provisions, naturalization should be financially accessible. The price of naturalization has risen very high and often the fee is a substantial hurdle to attain American citizenship. Congress should also create opportunities for immigrants to receive English Literacy, Civic Education and Continuing Education. Immigrants are well aware that English is a key to job security and advancement and integration into American society. However, the road to English language acquisition is long and difficult—something many in our monolingual society do not always recognize. Even with that, the demand for adult English language learning programs far exceeds the supply. There are currently long waits for existing adult English language learning programs.

With Congress's strong support of immigrant integration, we can ensure that the economic and social contributions of America's immigrants strengthen our nation to the fullest.

We Need Commonsense Solutions To Help Immigrant Women and Families

Our American values demand a strong family-based system, and the immigrant community voted for immigration reform in 2012. Latinos, Asian Americans and Pacific Islanders overwhelmingly supported a vision of inclusion and fairness, while rejecting xenophobic policies that pit communities against one another—high-income workers v. low-income workers and immigrant v. nonimmigrant communities.

Numerous surveys, conducted by nonpartisan organizations have shown that the American people support commonsense immigration reform. For example, in a survey conducted by AAJC, Asian Pacific Islander American Vote and the National Asian American Survey, 54 percent of Asian Americans polled indicated that visa backlogs are a significant problem for their families.

Congress must tackle these backlogs by crafting a family-based system that adequately addresses the wait times and can adapt to our ever-changing immigrant populations. Because women are overrepresented in our family-based system, addressing the family backlogs will ultimately help women. One potential solution is to reclassify spouses and minor children of legal permanent residents as "immediate relatives." We would also urge Congress to include the provisions in the Reuniting Families Act that has been introduced on the House side by Rep. Honda and has been supported by Senate leaders in the past.

Lastly, while Congress has the opportunity to develop a system that will work for families, we urge Congress to preserve the family categories for brothers and sisters and the married sons and

[12] *Immigrant Women in the United States: A Portrait of Demographic Diversity,* Immigration Policy Center.

daughters of U.S. citizens. Family is family. Arbitrarily drawing the line in the sand will only continue to kick the can down the road. Congress must construct a system that is flexible, easily accessible and encourages legal immigration. Policymakers will focus on what some call "future flow." We urge you and your colleagues to realize that eliminating categories, placing superficial caps and ignoring the human face on these backlogs will only make future flow an ongoing issue. It will force families back into the shadows and subject them to ongoing hardships. In 1996, we created this broken and unyielding system, and now it's time we fix it.

Whether it was through the Mayflower, Ellis Island, Angel Island or now all our ports of entry, most immigrants came to the U.S. with nothing but hope and their families. Regardless of the hardships they encountered or endured, hope and family permitted each successive generation of immigrants to muster the courage to survive, persevere and make a deeply rooted life in this country. We may all come from different national origins, eat different foods, practice different religions and even speak different languages, but the immigrant heart is what binds us as one people —united in hope and opportunity for a more prosperous future of our families. That is why we love this land. That is why we must work together to fix our broken immigration system.

Thank you and I look forward to answering your questions.

National Advocacy Center of the Sisters of the Good Shepherd statement for the Congressional Record pertaining to the Senate Judiciary Committee Hearing on Monday, March 18, 2013

Since the Order of the Sisters of the Good Shepherd was founded in France in 1835, the Order has dedicated itself to serving poor and marginal women and families. The work of the Sisters in 70 countries in 5 continents, 22 States, and 2 U.S. Territories is based on the belief in the unique value of the human person, regardless of age, sex, culture or religion. Each person has the right to a basic quality of life; adequate income, shelter, opportunities for education and employment, quality health care, and nutrition. As Catholics, our faith requires that everyone should be treated with the utmost dignity and respect.

As recently stated by Archbishop José H. Gomez, the Catholic Church has a long history of involvement in the immigration issue, both in the advocacy arena and in welcoming and assimilating waves of immigrants and refugees who have helped build our nation throughout her history. Family reunification, upon which much of the U.S. immigration system has been based for decades, should remain the cornerstone of U.S. immigration policy. Immigrant families contribute to our nation and help form new generations of Americans. Even while many migrants come to the United States to find employment, many come as families.

The U.S. family-based immigration system, which helps keep families together, is in urgent need of reform. The current visa quota system, last revised by Congress in 1990, established statutory ceilings for family immigration that are now inadequate to meet the needs of immigrant families wishing to reunite in a timely manner. The result has been waiting times of five years or more—and more than eight years for Mexican permanent residents—for husbands and wives to reunite with each other and for mothers and fathers to reunite with minor children. The waiting times for adult siblings to reunite can be twenty years or longer.

Such lengthy waiting times are unacceptable and actually provide unintentional incentive for some migrants to come to the United States illegally. Substantial changes must be made to the U.S. family-based immigration system so that it will meet the goal of facilitating, rather than hindering, family unity. Such changes can be made in several ways, but they should not alter the basic categories in the family preference system.

We oppose the imposition of such a point system, which we fear would place higher value on highly-educated and skilled immigrants than on family ties. We reject the premise that the family-based system has historically not worked in the best interest of this nation. Indeed, there is evidence that immigrant families represent the backbone of communities in this nation, especially in urban areas. They have started and maintained family businesses, from restaurants to dry cleaning stores and from auto mechanic businesses to pastry shops. Immigrant families also take care of each other and ensure that all members of the family are provided for, as well as contribute their talents to the strengthening of local neighborhoods.

Based upon our belief in the importance of family unity, the National Advocacy Center of the Sisters of the Good Shepherd urges Congress to:

1. Protect and strengthen current family immigration categories (spouse, children, parents, and siblings)
2. Increase family-based visas, including a temporary increase to clear the backlog with integrity
3. Recapture unused visas for use in the following year
4. Increase the per-country cap from 7 percent to 15 percent to reduce backlogs
5. Reclassify the spouses and minor children of Lawful Permanent Residents (LPRs) as immediate relatives, and re-allocate the remaining visas available to the other existing family categories
6. Add to the list of family immigration categories permanent partners of U.S. Citizens and LPRs

We look forward to continue working with members of Congress to achieve compassionate, comprehensive immigration reform that will give priority to family unity.

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 population[1] 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.

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[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 workers[5], 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]

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[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

[8] 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.

[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 Populatian Control in Anti-Immigration Palicies.* 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 workers[1], 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

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[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 whole[5] — 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 Medicol 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:

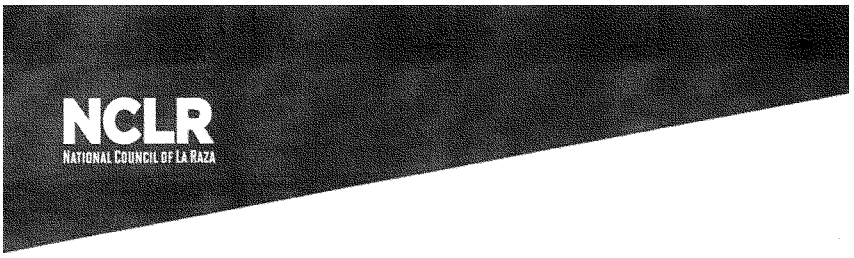
(1) Provide a fair, accessible, and affordable pathway to citizenship to all immigrants and, in particular, ensure that those who work in informal sectors of the economy can participate in this process.

(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.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.



THE PATHWAY TO FULL INTEGRATION AND SELF SUFFICIENCY: CRITICAL SUPPORTS FOR IMMIGRANT WOMEN AND FAMILIES

Presented at

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

Submitted to
U.S. Senate Committee on the Judiciary

Submitted by
Jennifer Ng'andu
Director, Health and Civil Rights Policy Projects
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March 18, 2013

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Senator Hirono, Ranking Member Grassley, and members of the Senate Judiciary Committee, on behalf of the National Council of La Raza (NCLR), I thank you for the opportunity to appear before you today and provide testimony. NCLR is the largest national Hispanic civil rights and advocacy organization in the United States, an American institution recognized in the book *Forces for Good* as one of the highest-impact nonprofits in the nation. We represent some 300 Affiliates—local, community-based organizations in 41 states, the District of Columbia, and Puerto Rico—that provide education, health programs and care, housing, workforce development, and other services to millions of Americans, including immigrants, annually.

NCLR has a long history of fighting for sensible immigration laws, evidenced through our work in the Hispanic community, in the states and in Washington, DC. Most of our Affiliates teach English, provide health services, promote financial literacy, and otherwise ease the integration of immigrants into the mainstream. We support and complement the work of our Affiliates in communities by advocating for public policies here in Washington and increasingly at the state level.

NCLR contributed to shaping the Immigration Reform and Control Act of 1986, the Immigration Act of 1990 to preserve family-based immigration, and the Nicaraguan Adjustment and Central American Relief Act (NACARA), and we led four successful efforts to restore safety net systems that promote immigrant integration. We have worked with multiple Administrations—including Presidents Reagan, both Bushes, and Clinton, to achieve the best results possible for our community and for the country. We know that working with both parties is the only way to get things done. We thank the U.S. Congress for making it an imperative to achieve immigration reform this year. It is clear that everyone—not just the Hispanic community and not just immigrants—has a stake in and stands to benefit from having well-functioning and fair immigration policies.

As the recent election clearly demonstrated, the issue of immigration is a galvanizing one for the nation's Hispanic community. There is opportunity to address it humanely and responsibly. Toxic rhetoric in public discourse on this issue has affected us deeply, regardless of immigration status, and getting this debate on the right course is a matter of fundamental respect for the presence and role of Latinos in the U.S. This community of voters generated the game-changing moment for immigration last November, creating an opening to finally achieve the solution to our broken immigration system. And Latinos' critical role in civic society continues to grow. An average of 878,000 Latino citizens will turn 18 each year between 2011 and 2028. Our community is engaged and watching this debate closely.

Congress has a unique, historic opportunity to pass immigration reform this year. Not only does fixing our broken immigration system benefit immigrants themselves, but it is in the interest of our country. Immigration to the United States should be orderly and legal, promote economic growth and family unity, and reflect our nation's values. The moral, economic, and political imperatives for action are aligned, and Congress has an opportunity and a responsibility to deliver immigration reform that:

- **Restores the rule of law** by creating a path to legalization and a roadmap to citizenship for the 11 million aspiring Americans, as well as smart enforcement that improves safety and security, supports legal immigration channels, prevents discrimination, and respects due process
- **Preserves the rule of law** by restoring integrity and confidence in workable legal immigration channels that uphold the principle of family unity for all of America's families, and strengthen our economy by responding to employment needs while upholding wages, labor rights, and protections for the American workforce
- **Strengthens the fabric of America** by adopting proactive measures that advance the successful integration of new immigrants

Investments in Women and Families Are at the Heart of Immigrant Integration

Keeping families together and strong is a core principle and a fundamental value of American life. It also promotes the economic stability of immigrants and their integration into our country, and we must continue our historic commitment to this idea. In every religion, every culture, and every wave of immigrants that have come to this country, the family unit has been critical both to the survival of immigrants in a strange land, as well as to their success in adapting and contributing to their newly adopted nation. We would be undermining ourselves as a nation if we walked away from family unity as a guiding principle for our immigration policy. These close relatives are able to make vital contributions to the U.S. economy as productive workers and entrepreneurs. Family-based immigrants have a higher mobility than employment-based immigrants and are able to fill gaps in our economy.

Immigrant families are also more likely to start small- and medium-sized businesses as they benefit from family networks and pooled resources. Research shows that immigrant families work together not only to accelerate the integration of new immigrants, but they also form businesses together. Prior testimony from conservative policy organizations notes "a large majority of immigrant-owned businesses in the United States are individual proprietorships relying heavily on family labor," and family-based immigration has contributed to reenergizing small business culture in the U.S.[1] Immigrant-owned family businesses are a driving force behind revitalization in cities across our country and spur job growth in nearly every major metropolis. Immigrant women, in particular, are helping the country produce economically as one of the fastest growing sectors of the small business community. Immigrant women now represent 40% of immigrant business owners in the United States, often while serving as the predominant caregivers within their families.

Immigrants who enter the U.S. through the family-based immigration system have social and economic advantages in that families act as a resource for integration. Families are powerful integrating institutions—serving as resources for employment, access to credit, and as a one-stop shop for support and information for newcomers. This allows immigrants to integrate into our society and become productive taxpayers more quickly. The instrumental role of women as the drivers of integration may go unnoticed; however, they often help their families achieve full

[1] Testimony of Stuart Anderson, on behalf of the National Foundation for American Policy, before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, May 2007.

participation in society by pushing them to naturalize, learn English, and take on many on civic responsibilities.

The Truth about Immigrants and Public Benefits

There are significant mischaracterizations of immigrants' access to public benefits. Many Americans are largely unaware of the fact that undocumented immigrants are almost entirely banned from most major health insurance and public safety net programs. Lack of access is often buffered by lower ages, strong presence in the work force, and positive health behaviors, ensuring that immigrants use fewer public resources. Immigrants are not only less likely to use public benefits systems, but when they actually do receive access to a program, they are also likely to use a lower value of benefits, making them cheaper to provide for when they are enrolled in programs. According to a recent Cato report, the total use of benefits such as SNAP and Medicaid was 25–50% lower for immigrants than citizens, when adjusting for characteristics like socioeconomic factors and age.[2] Health expenditure data drawn from more than twenty articles from peer-reviewed journals, scholars, and respected health researchers also indicate the same. Immigrants, uninsured or not, at any age, generally cost less to the system, though many pay more out of their own pockets to get fewer services.

These promising figures should not imply that the status quo is okay. One critical study published in the *American Journal of Public Health* in which immigrants were again found to have half the per capita health expenditures as U.S. citizens provides strong warning. The trade-off of immigrant restrictions was borne on the backs of their children. Immigrant children while having per capita expenditures that are overall 74% lower than children in fully citizen families, also had emergency room expenditures that were three times higher than citizen children.[3] In addition, programs such as Supplemental Nutrition Assistance Program (SNAP) have a small cost, but many studies demonstrate that these programs can lift people out of poverty and have lasting benefits on the nutritional status of children. In particular, Children's HealthWatch found that children of immigrants who received SNAP were healthier, less hungry, and more likely to have better nutrition outcomes than those in immigrant households without SNAP. General SNAP use among children closed the poverty gap by 21.3% from 2000–2009.

A Splintered Public Benefits System

The ultimate goal of any public benefits system should be to provide the support that enables American families—including immigrant families—to become self-sustaining. However, the irony in the treatment of immigrants is that the rules in place may actually make it harder for them to do so.

Very few would argue that health insurance is essential to health and well-being in the U.S. However, recent changes to the health care system put in place the first-ever statutory restriction to private market insurance. Beginning in January 2014, when state and federal health insurance

[2] Leighton Ku and Brian Bruen. "The Use of Public Assistance Benefits by Citizens and Non-Citizen Immigrants in the United States" Cato Institute: Washington, DC. (February 2013)
[3] Sarita Mohanty, et al. "Health Care Expenditures of Immigrants in the United States: A Nationally Representative Analysis." *American Journal of Public Health.* August 2005; 95(8): 1431—1438.

exchanges are implemented, immigrants without legal status will no longer be able to purchase insurance in the predominant marketplace, where an estimated 16 million Americans will eventually purchase their health insurance. There are approximately 375,000 undocumented immigrants who purchase insurance on their own who now will have to seek other alternatives in the equivalent of an insurance black market. While the employer-based market is a source of coverage for some three million undocumented immigrants, there is the question of whether or not that market will provide the same opportunities as it has been consistently eroding.

Most immigrants coming here through the family based immigration system must be sponsored by someone who demonstrates that they will financially support those immigrants. The penalties can be severe for those who do accept help. For instance, immigrants accepting any cash assistance such as those in the Temporary Assistance for Needy Families (TANF) or Supplemental Security Income (SSI) also face these restrictions and can be deemed "public charges" and made inadmissible to the country and potentially deportable.

Recognizing that any family can fall on hard times, immigrants are allowed to accept certain non-cash assistance. Even so, under the Personal Responsibility Work Opportunity Reconciliation Act (PRWORA), immigrant women and families face statutory restrictions to programs that could help with full integration and productivity. With rare exception, most legal immigrants face a minimum five-year bar to federal programs that are often central to health and well-being such Medicaid, Medicare, and the Supplemental Nutrition Assistance Program (SNAP). Anyone who is undocumented and even certain legal immigrants are barred indefinitely under those statuses.

The outcomes of these restrictions are can be brutal. Victims of domestic violence—immigrant or not—often cite economic challenges as the primary barrier to escape of abuse. An immigrant woman who is allowed to petition for immigration relief under the Violence Against Women Act (VAWA) is barred from SNAP and other programs for five years. U-Visas petitioners, victims of crime who are assisting in the prosecution of those criminals, are denied access to the SNAP program altogether while in that status. Many immigrant women experiencing domestic violence are held hostage to abusers by basic economics, and those who end up leaving put the rest of their family at risk of other serious problems, including hunger.

Due to the construction of these systems, which inhibits their participation even when they pay their fair share, the majority of immigrants go without coverage (58.9%) and their families may face difficulties and take longer to achieve well-being. Public benefits and health care restrictions reach well into immigrant families, even for those who are eligible. The most recent estimates reveal that the uninsurance levels of citizen children living in citizen-headed households is at 8% nationally. In households where at least one parent is a legal immigrant, uninsurance nearly doubles, with 14% of citizen children being uninsured. Finally, one-quarter (25%) of citizen children with at least one undocumented parent are uninsured. Children of noncitizens also experience double the food insecurity (22.1%) than children in naturalized immigrant families.

NCLR's own focus groups, conducted by Greenberg Quinlan Rosner Research in 2009, on uninsurance in mixed-immigration status families caused alarm. Uninsured moms and dads

understood the absolute necessity of good health care for their children. Many participants noted that they had put their families in severe financial risk, often accruing debt in order to make sure that their children had essential health care. When it came to their own health needs, the majority went without, compromising their own well-being while trying to preserve their children's.

The reality of NCLR Affiliates who are often on the frontlines of immigrant integration is equally concerning. San Ysidro Health Center is an NCLR Affiliate in the southernmost part of California. Of the 82,000 patients that they serve per year, more than half are uninsured. According to Ed Martinez, San Ysidro's President and CEO, doctors and health professionals experience high levels of stress—some even becoming demoralized—because of the care they can't give when a client is without an eligible immigration status and uninsured. As a group that believes their sole purpose is to heal, they provide critical primary and family care services regardless of status. But they often experience trouble when they need to provide health care beyond their capacity. A few weeks ago, a 40-year-old woman walked into their clinic with severe pain due to a mass that her doctor believes is cancerous. As a community health center, San Ysidro is not equipped for her necessary surgery or the chemotherapy that might follow. None of their outside partners have agreed to help. This woman, and patients like her, must be sent away with little more than a prescription to manage pain. San Ysidro believes that the only time this patient will be connected to a hospital is if she somehow finds insurance or ends up in emergency surgery when the condition worsens.

Moving Forward

Across the board, Americans back a complete roadmap to citizenship—one that allows for legalization—ensuring immigrants the opportunity to learn English, work at productive jobs, and perform the duties needed to earn their citizenship down the road. As recently as a month ago, the Kaiser Health Tracking Survey found that Americans supported health care for legalizing immigrants, with more than half agreeing that immigrants with proposed "provisional status" should be able to access Medicaid or receive financial supports for private insurance if their jobs did not allow for them to purchase insurance. This finding was supported by the majority of Americans from all racial and ethnic backgrounds. Health care and social services may not be a part of the core process to meet citizenship requirements, but many of these programs underpin this ultimate aim.

It is common sense that we allow immigrant families, who pay their fair share of contributions, to participate in the systems that are fundamental to the infrastructure of American society. Their future health and well-being will be important to sustain the vibrancy of our country. NCLR believes that policymakers should consider the following strategies as they develop legislation:

- Bolster the ability of employers to ensure that workers can support their families. Workers should have the ability to create strong households, invest in citizenship, and ultimately avoid hardships like hunger. This should be backed up with appropriate incentives to strengthen the eroding employer-based health care system and ensure that

workers and their families are provided opportunities to gain access to employer-based health insurance and wellness plans.

- Prevent the undermining of the private insurance market. Encourage immigrant families' participation in the private sector insurance market by extending coverage opportunities to legalizing immigrants in this area, supporting the systems where other Americans get their insurance.
- Remove statutory restrictions to federal "means-tested" health and nutrition programs for lawfully present immigrants, including those who are legalizing. Eliminating barriers to Medicaid, for currently lawfully present immigrants whose only options may be exchanges, may actually generate funding that can be reinvested in our nation's health priorities.
- Provide neighborhoods and communities with the resources needed to support integration at the ground level. Ultimately, these resources will be the closest partners of immigrant families who will help them thrive and contribute.

In previous legislative debates, members of Congress on both sides of the aisle and the President of the United States have touted immigration reform as vehicle to promote public policy that addresses the social well-being and health of immigrants. NCLR agrees that now is the time. We recognize that each policy investment in immigration reform must be mindful of America's pocketbook. By the same token, it comes down to a simple adage—penny wise or pound foolish. Giving immigrant women and families the tools for full integration now will pay off in their contributions later.

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. Kennye, & 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

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[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.

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[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-brnational-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.

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[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/immigrantshcr.html

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

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 population[2] 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 disproportionally 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

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[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.

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]

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[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.

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

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[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_Underserved_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.

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[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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Testimony of

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To the

Committee on the Judiciary
United States Senate

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

18 March 2013

Thank you, Chairman Hirono, ranking Republican member Grassley, and the other members of this panel. I am honored to be here to testify on your theme: "How Comprehensive Immigration Reform Should Address the Needs of Women and Families."

My name is Karen Panetta. I am a Professor of Electrical and Computer Engineering and Director of the Simulation Research Laboratory at Tufts University in Medford, Massachusetts. I was worldwide director of IEEE's Women in Engineering (WIE) Committee. I'm also editor-in-chief of the award winning IEEE WIE Magazine and creator of the "Nerd Girls" program. The mission of this nationally acclaimed program is to break down the many barriers that discourage young women from studying engineering and pursuing careers in engineering fields.

I represent the IEEE-USA, the 206,000 members of the Institute of Electrical and Electronics Engineers in the United States. We are a professional society, the largest organization of technologists in the world, founded by Alexander Graham Bell, who was an immigrant, and Thomas Edison, who was not. That global perspective has always been a part of the IEEE-USA.

It is fuel for America's economic engine.

We recognize that innovation comes from a diversity of talents, and we seek out the world's brightest individuals to work with. We not only want to work with them there, we also welcome them here - as equals.

IEEE has recognized that one of the world's most valuable resources has been underutilized. That resource is women. As part of the IEEE's commitment to promoting diversity, we have created the IEEE Women in Engineering program, which is now the world's largest professional organization where a community of both men and women support the advancement of women in the Science, Technology, Engineering and Mathematics (STEM) disciplines.

Comprehensive immigration reform is a multi-faceted issue, so in

this hearing I have been asked to focus on just one aspect: the impact of huge increases in H-1B visas, as proposed by the I-Squared bill, on women and families.

As an engineer, one of my talents lies in the ability to use data to identify how things "break". I do this so I can identify the pitfalls and failures in a system so that they can be fixed before any harm can be done. I am here today to tell you that the H1 B Visa Program is a place where our immigration system is broken. The American people are being harmed and it only requires us to look at facts to see why.

When companies replace American workers with lower-paid foreign workers, our economy suffers. And when companies move good, high-paying jobs out of our country permanently our nation's prosperity and long-term competitiveness suffers even more.

I don't know of anyone in this country who would want to defend doubling the number of outsourcing visas for companies who take American jobs, give them to temporary foreign workers, and then ship the jobs overseas. Yet that is what some in the Senate have proposed doing through the I-Squared bill.

The IEEE-USA view of skilled immigration is simple: we favor green cards, not guest worker visas. There are no problems for which green cards are not a better solution than temporary visas. And there are no problems with the H-1B program itself that a system built on green cards cannot fix.

The greatest damage that the H-1B visa program imposes on women and families clearly results from offshore outsourcing. A month ago, *Computerworld* analyzed official data from the Department of Homeland Security which show that ***all*** of the top 10 users of the H-1B program, and 15 of the top 20, are outsourcing companies. These fifteen companies used more than half of all the H-1Bs used by the private-sector in 2012, and they do not represent all the offshore outsourcing companies that are active in the U.S.

So for all the talk about H-1Bs helping to create American jobs, the facts show something else: As the Indian government itself has said, **the H-1B is the outsourcing visa.** This hurts American families – including women and children.

It not only harms the many H-1B workers who want green cards themselves, it also hurts their spouses and families by holding them in immigration purgatory for years. They are in this country, but don't have residency rights to stay here unless their employer allows him/her to stay. This lack of permanence and uncertainty makes it difficult to build the type of life expected by all Americans and it can be especially difficult for children, many of whom are US citizens, who can't understand why their parents do not have the same rights as their neighbors.

The offshoring phenomenon has been well documented and is easy to see in the H-1B data. We have numerous examples of the H-1B visa being used to replace Americans with lower-cost H-1B workers and to help companies move American jobs overseas: Nielsen in Florida. Pfizer in Connecticut. The gaming industry in Nevada, just to name a few well-documented cases.

There are essentially just four arguments used to justify the H-1B program.

The first, and most candid, is the one made by the government of India. They regard the H-1B program as trade in services. Contractors recruit in India to bid on jobs in the US, competing with American companies with lower labor costs. A Duke University survey found that 72% of companies which use outsourcers do so to save on labor – they don't want workers who are better, they want workers who are cheaper.

But it is one thing to ship jobs overseas to take advantage of lower wages and working conditions. It is another to import those lower wages and working conditions to the US.

I can see why India likes this model. I do not see why any American Senator or Representative would support increasing H-1B visas for this purpose.

The second argument is that there are some genuinely temporary jobs, for which there should be some genuinely temporary visas. Companies which use the H-1B for this purpose have a legitimate complaint that the demand for H-1B visas is so great that they cannot get what they need. The answer is simple: cut out the outsourcers. Without them in the program, there will be plenty of H-1B visas for

legitimate companies with a need for genuinely temporary workers.

The third argument is the Farm Team: the idea that an employer should be able to try a foreign student out – first on Optional Practical Training, OPT, then on an H-1B, for years on end, before finally going through an elaborate regulatory process to sponsor the worker for a green card. I am not sure that Senators appreciate what a huge disincentive this creates for high tech employers to hire Americans, particularly women.

When an employer offers a foreign STEM grad a job on OPT, they have no commitment to sponsor them for an H-1B. When they offer to hire them with an H-1B visa, good for three years, they have not committed even to sponsor them for a second three years, much less for a green card. The worker has until the 5th year of his H-1B visa to find an employer who will sponsor ***him*** – and they are nearly all men – for a green card and then, during the often years long process called labor certification, if the worker takes a new job with someone else, the employer simply withdraws the green card application and the worker has to start over.

The final argument that employers make for the H-1B is that it takes too long to get a green card. This argument is absolutely correct – but it is not an argument for the H-1B program. It is an argument for enabling employers to get green cards for STEM graduates as soon as they are hired.

Employers often cry crocodile tears that they cannot get enough green cards, and they cannot get them fast enough. But you can easily fix both problems. At the end of the last Congress, a substantial House majority twice voted to create 55,000 more STEM green cards. The path to increased high skilled immigration is clear before you.

As for enabling employers to get green cards for their new hires as soon as they are employed, well: shouldn't that be what the OPT term is for? Twenty-nine months is plenty of time for a transition.

The delays are caused not only by too few green cards, but also by the labor certification and petition process. The solution to this problem is also simple: replace Labor Certification with fees.

We strongly endorse Microsoft's proposal from last December to pay

a total of $25,000 in fees to take foreign STEM graduates from their student visa to green card – and we urge that this transition be completed promptly and directly, with no need for the intermediate step of an H-1B. The principle is very simple: if an employer is willing to pay a substantial fee -- Microsoft proposed $25,000 -- for a worker who can quit if they are underpaid or mistreated, that is solid proof that the employer actually needs the worker's skills because they are willing to pay for them. If there was an American with comparable skills, the employer would not need to pay $25,000 to sponsor someone for a green card.

But if an employer is only willing to pay a substantial fee for a worker who cannot easily quit if they are underpaid or unappreciated – as is true for the Farm Team H-1B model – that is also pretty solid proof that the employer isn't paying for the worker's skills, but for the indentured character of the visa.

So the H-1B gives companies enormous leverage over their workers, and that leverage creates a huge disincentive to hire Americans.

But that's not all. We are talking about the impact of comprehensive immigration reform on women and children. When the Senate looks at comprehensively fixing our immigration system, here are two problems to solve:

If someone gets married and then gets a green card, both spouses get green cards. That is a good thing. But when the green card comes before the marriage, the minimum wait for the new spouse to get their green card is more than two years, and has been more than 7.

While many can disagree on what the definition of family values are, no one can disagree that valuing families is the underlying fabric of our society. Separating families is tearing at the fabric of our nation.

It can also push devoted families into illegal immigration as they choose to commit to their marriage vows and responsibilities as parents.

So the contrasting treatment of families in the H-1B program compared to green cards actually mocks our values: it forces skilled STEM graduates who want to have real marriages to remain temporary workers, since it punishes those who make a commitment

to the United States before they are married.

While everyone acknowledges it is just the tip of the iceberg, most of the 220,000 backlog counted by the State Department are spouses and children of employment-based immigrants, ***permanent*** residents, separated by the lack of immediate visas for these nuclear family members.

As software consultant Mathi Mugilan Paguth Arivalan testified to the House Judiciary Committee last week:

> I was shocked to find that ***because*** I had made a commitment to America, my wife must wait in another country for years. If I was just a temporary worker, my wife would not be 12,000 miles away.

True, an H-1B spouse cannot work, but the I-Squared bill proposes to change that. So the Senate is actually considering creating incentives for STEM graduates to stay on H-1B visas longer, because the women -- and families -- of ***temporary*** workers are treated better than those who have made a commitment to the US by becoming legal ***permanent*** residents.

Let me warn the Committee about the obstacles which the H-1B visa program creates for American women in STEM fields.

We all know that there is a serious gender imbalance in science, technology, engineering and math. Some of this is outright discrimination. Some of it can be attributed to the hostile environment that develops when a professional field is closed off to women, or any other underrepresented group. Some can be directly traced to cultural pressures and negative social stereotypes of intelligent women, all of which we try to overcome through our Women in Engineering program.

But clearly, disincentives to hire an American woman for that first STEM job are a huge obstacle to moving up in the field. It is hard to get promoted when you don't get hired in the first place. The existence of this preferred pipeline for new hires has a hugely discouraging effect on independent American women considering STEM fields.

Why? Because H-1B workers are almost always foreign ***men*** held at a disadvantage by their employers as long as they are working at permanent jobs on temporary visas.

When those disincentives for hiring American women are created by the Congress, you have a powerful affirmative obligation to correct them. As Senator Hirono pointed out in her opening remarks, most women come as immigrants through family-based immigration, because men get most of the green cards in employment-based immigration. That is even more true for the H-1B program, and it is especially true for outsourcers.

How true? My own experience tells me that the vast majority of H-1B workers are men. ***Everybody knows this.*** The IEEE-USA represents more American high tech workers than anybody else, so we have sources. One from inside the industry, looking at the offshoring companies that dominate the H-1B program, is that their global hiring is 70% men. But in the U.S., where outsourcing companies get more than half the capped H-1B visas, the ratio is more like 85% men. That's outrageous.

As an engineer, I don't like making decisions without hard data. The IEEE-USA has been trying for months to get the actual data on this from DHS. **They have been stonewalling us**. It's a simple question: ***how many women get H-1B visas?***

We are still waiting on our Freedom of Information Request. But it's a scandal that we even had to file one. When you think about it -- why doesn't DHS already know exactly how many women get H-1B visas? **If a major immigration program effectively discriminated based on race or national origin, would that be okay?**

We urge this Committee to set aside any legislation proposing to increase H-1B visas until we have this data. Surely you would not want to have voted substantial increases in the H-1B program, only to discover that the data shows that not only is it mostly used by outsourcers whose business model is entirely about replacing American workers, but also that the H-1B visa program effectively pushes women out of the STEM fields.

Finally, let me turn from the controversies to what ought to be the easy part of comprehensive immigration reform where there is broad,

bipartisan agreement. Virtually everybody agrees that there ought to be more green cards for advanced degree STEM students in this country. This is the easiest and most effective way to welcome the graduates of our top universities into this country as Americans, empowering the immigrants to fully participate in our economy while not disadvantaging Americans who want successful careers and scientists and engineers.

Why is Congress jeopardizing comprehensive immigration legislation with the H-1B's controversies and conflicts?

Surely, this Committee will try to cut outsourcers out of the H-1B program before you even consider increasing H-1B numbers.

Why not first increase green cards for STEM graduates, as both Women in Engineering and the IEEE-USA and so many others have urged?

Green cards do not create a disincentive to hire Americans – including American women – that the H-1B does, because the green card means the immigrant worker is treated as an equal.

Let me conclude by thanking the Committee for the honor of being asked to testify. I want to particularly thank Senator Grassley for his leadership on the issue and for his H-1B legislation to be introduced this week.

I will be happy to answer any questions on my areas of expertise.

-30-

Supplementary Material

A. Dominance of the H-1B program by Outsourcing Companies

1) Analysis of US Department of Labor LCA (Labor Condition Applications) data by the IEEE-USA

Location	Total Applications	Applications approved for Outsourcing Companies	Percentage
Alabama	2070	669	32
Alaska	303	175	58
Arizona	9288	5488	59
Tempe	713	323	45
Arkansas	4051	2648	65
California	115841	42102	36
San Jose	14246	7395	52
Colorado	9598	5967	62
Connecticut	15534	9619	62
Delaware	4109	2431	59
Florida	24601	11680	47
Miami	3905	1690	43
Tampa	3307	2216	67
Georgia	19453	8862	46
Hawaii	613	143	23
Idaho	1112	594	53
Illinois	38993	20498	53
Indiana	6048	2601	43
Iowa	3783	1577	42
Kansas	3899	24121	62
Kentucky	3803	1934	51
Louisiana	1749	518	30
Maine	1253	740	59
Maryland	10745	2877	27
Massachusetts	25844	12853	50
Michigan	17317	9136	53
Minnesota	14994	9858	66
Duluth	164	137	84
Twin Cities			72
Mississippi	847	310	37

Missouri	9122	5436	60
Montana	164	64	40
Nebraska	2,282	1269	56
Nevada	1570	727	46
New Hampshire	2476	1425	58
New Jersey	47480	25955	55
New Mexico	919	228	25
New York	62528	22031	35
North Carolina	18808	11427	61
NC 13th District	2182	1266	58
North Dakota	917	549	60
Ohio	23,725	14,647	62
Oklahoma	2,110	935	44
Oregon	8907	6329	71
Pennsylvania	25051	13263	53
Rhode Island	2452	1603	65
South Carolina	3478	2017	58
SC 4th District	1678	1428	85
South Dakota	796	606	76
Tennessee	8575	5723	67
Texas	55421	23407	42
Utah	2268	1218	54
Vermont	813	545	67
Virginia	17541	6983	40
Washington	18992	8376	44
West Virginia	800	397	50
Wisconsin	10623	7173	68
Wyoming	91	1	0

2) *Computerworld* reports: the majority of H-1B visas actually issued go to outsourcing companies; the impact on companies, including contractors, that rely on American workers. [Highlights added.]

http://www.computerworld.com/s/article/9236732/The_data_shows_Top_H_1B_users_are_offshore_outsourcers?taxonomyId=70&pageNumber=1

The data shows: Top H-1B users are offshore outsourcers

U.S. government's H-1B visa list shows accelerating demand from offshore outsourcers

By Patrick Thibodeau and Sharon Machlis
February 14, 2013 03:28 PM ET

Computerworld - WASHINGTON -- The largest single users of H-1B visas are offshore outsourcers, many of which are based in India, or, if U.S. based, have most employees located overseas, according to government data obtained and analyzed by *Computerworld*.

Search the 2012 H-1B database by employer to see how many new H-1B visas were granted to a company.

The analysis comes as supporters of the skilled-worker visa program are trying to hike the H-1B cap to 300,000. Supporters of the raised cap, though, face opposition from critics who contend that H-1B visas undermine American tech workers and shouldn't be expanded.

Based on the U.S. Citizenship and Immigration Services (USCIS) data analyzed, the major beneficiaries of the proposed increase in the cap would be pure offshore outsourcing firms.

Year	Approved
FY12	134,780
FY11	99,591
FY10	69,266
FY09	80,283
FY08	98,014

Initial petition requests that were approved; does not include renewals. Source: U.S. Citizenship and Immigration Service

Most of the largest H-1B users easily account for more than 35,000 H-1B visas under the "initial" visa plan, which includes new H-1B visa holders or those who work second concurrent jobs with a different employer. H-1B visa holders who change employers altogether are not counted as new approvals. The government data could also include visa applications filed in 2011 but not approved until 2012.

"This is just affirmation that H-1B has become the outsourcing visa," said Ron Hira, a public policy professor at the Rochester Institute of Technology and researcher of tech immigration issues.

Company	2012	2011
Cognizant	9281	5095
Tata	7469	1659
Infosys	5600	3360
Wipro	4304	2803
Accenture	4037	1304
HCL America	2070	930
Mahindra Group (incl Satyam)	1963	404
IBM	1846	987
Larsen & Toubro	1832	1156
Deloitte	1668	798
Microsoft	1497	1384
Patni Americas	1260	164
Syntel	1161	363

Employers with the most new H-1B visa application approvals in fiscal year 2012.

Source: Computerworld analysis of U.S. Citizenship and Immigration Service data. Some company divisions were combined, such as IBM Corp. and IBM India, Tata consulting and engineering groups, etc.

Not all of the major H-1B users are India-based.

Microsoft ranked 11th and has largely been the public face of those supporting a U.S. H-1B cap increase. IBM is also a major visa user but its numbers also include the company's India-based operation. Global firms Accenture and Deloitte use the visa for IT services operations.

The U.S. currently makes 85,000 H-1B visas available annually, but more can be approved for operations with exemptions, such as universities and nonprofit research organizations.

A group of 10 bipartisan U.S. senators last month filed a bill, called the Immigration Innovation or I-Squared Act, that would hike the H-1B visa cap immediately to 115,000 and then allow it to gradually rise further to 300,000.

One of the bill's sponsors, Sen. Orrin Hatch, R-Utah, said the bill addresses "the shortage of high-skilled labor we face in this country. This shortage has reached a crisis level."

While the companies who testify in support of raising the visa cap are typically U.S.-based, like firms like Microsoft, the largest H-1B visa users are offshore providers, such as New Jersey-based Cognizant, which at 9,281 visas in 2012 led the list.

At the end of 2011, Cognizant employed 137,700 overall, according to its annual report. Of that number, 21,800 were

based in various locations throughout North America and Latin America. The balance was mostly in Asia-Pacific. Cognizant employed 156,700 at the end of last year, but has not yet released a new annual report yet with regional breakdowns.

Of its U.S. workers, Cognizant points out in securities filings that the "vast majority of our technical professionals in the United States and Europe are Indian nationals who are able to work in the United States and Europe only because they hold current visas and work permits."

Cognizant didn't want to comment on the data, but did raise a caution flag that it believes the 2012 government numbers are higher than the number of H-1B visas the company actually used. However, USCIS confirmed that the data in their list was accurate.

According to the USCIS data, initial H-1B approvals for all employers combined jumped 35% year over year.

The USCIS initial data includes some 134,000 entries. Some companies are entered multiple times because of variation in their identification due to multiple business units (IBM Corp. vs. IBM India, for example) and multiple versions of the same company name (such as Microsoft Corp. and Microsoft Corporation).

The different versions were consolidated in Computerworld's analysis but left in their original form in the searchable database above. It also includes institutions that are exempt from the cap, such as universities and research institutions. This data is for the 2012 federal fiscal year that ended on Sept. 30.

While the USCIS data shows a higher number of initial visa requests for all the outsourcing firms last year, the numbers have not changed the overall trend. The pattern of usage remains the same.

Offshore firms, including India-based Tata Consultancy Services, Infosys, Wipro, Mahindra Group (which includes Satyam) and Larsen & Toubro, have been among the largest users year after year.

Hira believes that more H-1B visas will lead to more offshore outsourcing.

"The failure of Congress and the Obama Administration to close loopholes in the H-1B program is reducing job opportunities for American high-tech workers and undermining their wages," said Hira.

Hira believes the H-1B usage data should give pause to the lawmakers who introduced the Immigration Innovation Act. "If that bill were to be passed we'd see a major hemorrhaging of American jobs and it would discourage American kids from studying high-tech fields," he said.

Microsoft would not comment on the USCIS data. The company is perhaps the leading industry advocate for tech immigration reform and increasing the "STEM pipeline," referring to science, technology, engineering and math jobs.

The large hike in H-1B visa use marks the first time that new-use approvals broke 100,000. When asked to double-check those surprising results, a USCIS spokesman said they were confident of the data.

Some sources who saw the numbers speculate that the higher H-1B count numbers may be result of a shift from the L-1 visa, which are used by companies with offices in the U.S. and abroad to transfer employees. Visa rejection rates have been rising, they noted.

Hong Kong-based CLSA Asia-Pacific Markets, an equity and financial services group, said visa rejection rates are exceeding 40%. But it believed the outlook for overseas firms is improving thanks to a shift in Congress on immigration.

Citing recent moving to liberalize access to work visas and permanent residency, CLSA sees Congress "taking a more reformist and accommodative stance moving away from the anti-business immigration rhetoric which dominated the U.S. immigration discourse through 2011-12."

Search the 2012 H-1B database by employer to see how many new H-1B visas were granted to a company.

Patrick Thibodeau *covers SaaS and enterprise applications, outsourcing, government IT policies, data centers and IT workforce issues for* Computerworld. *Follow Patrick on Twitter at @DCgov, or subscribe to Patrick's RSS feed . His email address is pthibodeau@computerworld.com.*

http://www.computerworld.com/s/article/9237639/Lawmakers_hear_from_CEO_opponents_of_H_1Bs?taxonomyId=72

Lawmakers hear from CEO opponents of H-1Bs

Domestic IT services providers believe U.S. visa policies put them at a competitive disadvantage

By Patrick Thibodeau
March 15, 2013 03:53 PM ET

Computerworld - WASHINGTON -- In a closed door meeting this week on Capitol Hill, lawmakers and staff took the H-1B visa debate in a different direction. They invited the heads of some U.S.-based IT services companies, competing directly with offshore outsourcing providers, for a frank discussion away from the public eye.

Among those invited to present at this meeting was Brian Keane, the CEO of a new IT services company, Ameritas Technologies. It opened its first services center in Baton Rouge, La., in July. At its opening, Louisiana Gov. Bobby Jindal said the center, with its average salary of $63,000, will "create more opportunities for our sons and daughters in Louisiana." It plans to have a staff of 300 by 2016.

Ameritas is hiring local college graduates, most of whom have a computer science degree and some with physics and programming skills. The company puts these new employees through a technical training boot camp to expose them to programming skills needed by businesses. It is very similar to the kind of training that occurred in the 1990s before offshore workers arrived, Keane said.

"The primary use of H-1B visas is to help companies move IT work offshore to countries like India, China and Russia," Keane said at the meeting. Overseas companies are also paying lower wages to H-1B workers in the U.S., "so they can charge lower prices than equivalent U.S. competitors using U.S. citizens as their workforce," he said.

Offshore providers are the major users of the H-1B visas, and last year they used about half of the available visas.

The H-1B visa is a competitive issue for Keane, and he has been in this business for years. He was the former CEO of Keane, a $1 billion IT services company that became a subsidiary of NTT Data Corp. in 2011.

For Keane, the H-1B visa is a competitive issue, but also one with broader implications for the workforce. The widespread use of this visa in the last decade has prompted U.S. firms to eliminate entry level training, which has also discouraged students from entering the field.

"If these outsourcing firms were not bringing in the entry level [workers], or they didn't have such a big pool of H-1B visa people available, then I think it opens the doors to making IT an attractive occupation once again, which I think is so important for an innovative economy," Keane said, in an interview.

The session was organized by U.S. Sen. Dick Durbin (D-Ill.), who, with Sen. Chuck Grassley (R-Iowa), are the Senate's two leading H-1B critics. The Senate is considering a bill to raise the 65,000 H-1B cap to 300,000 under a graduated increase formula, and eliminate a cap altogether for advanced degree STEM graduates, students with degrees

in science, technology, engineering and mathematics. That H-1B cap for STEM graduates is set at 20,000.

The Senate staffers also heard from Systems in Motion CEO Neeraj Gupta, a domestic IT services company with a development office in Ann Arbor, Mich.

"American IT jobs continue to be 'offshored," Gupta said, in his remarks. "While our H-1B and L1 visas make a valuable contribution to the U.S. economy, they are also "enabling" the offshore industry and creating a competitive disadvantage for domestic organizations."

Ron Hira, a public policy professor at the Rochester Institute of Technology who participated in the session, said the forum raised the H-1B visa as a competitive issue for U.S. companies.

"This is what's new -- it isn't just American workers criticizing the H-1B program. Now you have CEOs making the strong case that the government is tilting the playing field against them for hiring American workers," Hira said.

Durbin and Grassley have proposed a number of restrictions to the program, including limiting any company's use of the H-1B visa to half of its workforce. They have also been interested in changes that would end the lower tier of the prevailing wage rate.

Among the ideas Gupta suggested was to set higher pay for H-1B workers. Keane would like to see eliminating the H-1B visa for entry level workers.

Keane sees opportunity for a domestic IT services industry,

in part, because of the changing nature of development. Increasing reliance on development methodologies such as agile has created a need for real-time decision-making and close collaboration. But that also means increasing the supply of domestic IT workers by encouraging college enrollments and training, he said.

Keane said U.S. policy on visas should be changed in a way that encourages students to study software, "as opposed to going down a path, in essence, of suggesting that the only way to solve our problem is to raise the cap and ship more work offshore."

2) The impact S. 169 would have on creating a new and larger backlog for green cards.

(Analysis by former House Immigration Chairman Bruce A. Morrison, principal author of the Immigration Act of 1990, a practicing immigration lawyer and chairman of Morrison Public Affairs Group.)

ANALYSIS OF EB BACKLOGS AND EFFECT OF S. 169

The following analysis assumes the enactment of S. 169 provisions regarding green cards. It calculates backlogs and ongoing demand and supply using principals only. (For backlog data that includes dependents, the numbers are divided by 2.1, the prevailing average of 1.1 dependents per principal.) Per country quotas are assumed to be eliminated. The State Department publishes backlog data each month, but it is limited to cases at NVC (less than 10% of the EB demand) and I-485s approved at USCIS (which excludes I-140s that have never been current and for which no I-485 could have been filed). The chart below includes I-140 approvals since January 2007 from an inventory produced in July 2012 (and so does not include approvals since then but which is approximated by the January-July 2007 approvals that are included).

Current Backlog Estimate	EB-2 (Thousands)	EB-3 (Thousands)
DoS Chart (2/8/2013) (/2.1)	24	27
I-140 Approvals Since 8/07(India)	93	60
I-140 Approvals Since 1/08(China)	12	9
I-140 Approvals Since 8/07(Mexico)	0	23
I-140 Approvals Since 8/07(Philippines)	0	35
I-140 Approvals Since 8/07(Other Countries)	0	92

Total Backlog (Principals Only)	129	246

Supply and Demand in 2014	EB-2 (Thousands)	EB-3 (Thousands)
Recapture (Principal Only Usage)	139	81
Estimated EB-1 Fall Down	5	--
Estimated EB-4 & 5 Fall Down	5	--
Effect of STEM Exemption	30	0
Annual Allocation (36.9% of 140,000)	52	52
Supply for EB-2	231	--
Backlog	-129	-246
Annual Demand (Average from I-140 Approvals)	-39	-42
Net 2014 Supply (Fall Down to EB-3)	63	63
Net Unmet 2014 Demand (Carryover to 2015)	0	-92

Supply and Demand in 2015	EB-2 (Thousands)	EB-3 (Thousands)
Recapture (Principal Only Usage)	0	0
Estimated EB-1 Fall Down	5	--
Estimated EB-4 & 5 Fall Down	5	--
Effect of STEM Exemption	30	0
Annual Allocation (36.9% of 140,000)	52	52
Supply for EB-2	92	--
Backlog	0	-92
Annual Demand (Average from I-140 Approvals)	-39	-42
Net 2015 Supply (Fall Down to EB-3)	53	53
Net Unmet 2015 Demand (Carryover to 2016)	0	-29

Supply and Demand in 2016	EB-2 (Thousands)	EB-3 (Thousands)
Recapture (Principal Only Usage)	0	0
Estimated EB-1 Fall Down	5	--
Estimated EB-4 & 5 Fall Down	5	--
Effect of STEM Exemption	30	0
Annual Allocation (36.9% of 140,000)	52	52
Supply for EB-2	92	--
Backlog	0	-29
Annual Demand (Average from I-140 Approvals)	-39	-42
Net 2015 Supply (Fall Down to EB-3)	53	53
Net Unmet 2015 Demand (Carryover to 2016)	0	34

These estimates show that EB-2 clears in the first year, but EB-3 not till the third. Meanwhile, both categories will likely be current because USCIS will not keep up with the processing. Concurrent filings will be the rule again. Some increase in demand will occur due to the improving economy. But H-1B increases would be the main source of additional I-140s. Beginning in 2014, the H-1B usage would increase by a minimum of 50,000 (just the baseline increase) probably 70,000 (due to elimination of the master's cap). This overwhelms the 34,000 extra numbers by 2016 and the backlog grows as fast as the H-1B numbers do.

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Planned Parenthood Federation of America

Planned Parenthood Action Fund

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

March 21, 2013

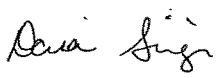
Planned Parenthood Federation of America ("Planned Parenthood") and Planned Parenthood Action Fund ("the Action Fund") are pleased to submit these comments on immigration reform before the United States Senate Judiciary Committee. Planned Parenthood is the nation's leading women's health care provider 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,



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Senate Judiciary Hearing
Women and Immigration Reform
Testimony of Ai-jen Poo
Director, National Domestic Workers Alliance
March 18, 2013

My name is Ai-jen Poo and I am the director of the National Domestic Workers Alliance. I lead an organization whose members are domestic care workers — a growing workforce of mainly immigrant women who take care of our children, our aging loved ones and our homes. Domestic care workers are aspiring Americans who work hard every day so America's families and economy can work too. Many of you listening to my testimony today benefit from the help of domestic workers. In our modern, demanding economy, domestic workers do the work that makes all other work possible. It's time we make our immigration policy work for domestic workers.

Today, I bring the spirit, passion and hopes of women domestic workers here with me. Women like Pat Francois, a nanny in New York City who has given many years of her life to raising and nurturing other people's children. Pat takes great pride in her role: arranging play dates, taking the children to the ballet and children's museum, reading stories, playing in the park and most importantly, keep them safe. Millions of working moms and dads count on women like Pat in order to participate fully in today's workplace. But Pat is undocumented and cannot participate fully in our country that she now calls home.

Pat, like most domestic workers, does not have pay stubs and tax forms to prove she worked for her employer. Her world, like much of the informal economy, is a paperless world.

In a survey of over 4000 low-wage workers in three largest cities in the US – New York, Chicago and Los Angeles—workers in occupations with high percentages of women did not receive pay stubs with their pay. Now, the fact is that New York, Illinois and California do require employers to provide a pay stub or a wage statement with pay. **But** 98% of surveyed undocumented nannies, 92 % of maids and housecleaners, 77 % of garment workers did not receive any pay stubs.[1] That's just the reality immigration reform must take into account.

In isolated and informal workplaces it is unrealistic to expect workers to ask their employers for documentation, especially immigrant workers with such little control over the terms and conditions of their work in the first place. And often, employers who are

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[1] National Employment Law Project, *Immigration Status and Pay Documentation*, 2008, *See* http://nelp.3cdn.net/56610295228b59f19a_1km6ibvof.pdf.

asked for documentation simply fire their workers fearing their own liability. Linking eligibility to proof of employment at any stage on the road to citizenship could exclude Pat and hundreds of thousands like her. And it would also exclude an estimated 40% of undocumented women work as stay at home moms, spending their days and nights caring for their own families.

I know a lot of you have children. Getting them to eat their vegetables and get to school on time and nursing them when they're sick and tucking them in at night — that's work. Trying to get a four-year-old to do anything is harder than getting a compromise between Democrats and Republicans. And I know many of you have aging parents or are looking to your own twilight years, when you might need more support. Maybe your kids will take care of you, but if they can't or don't want to, you'll rely on domestic workers too.

Any common-sense immigration reform legislation must include a roadmap to citizenship that acknowledges the contributions of the millions of mothers and women like Pat who are valued contributors to our communities. This road cannot put undue obstacles, roadblocks, dangers and detours in the way, such as requiring proof of employment in order to qualify. If immigration reform doesn't help Pat and domestic workers and undocumented moms throughout our country, then we can't really call it reform.

This week, hundreds of women—immigrant and non-immigrant and from all over the country—are here in Washington DC with the We Belong Together campaign because they want to make sure that women's priorities and issues are at the forefront of the immigration debate. So, we thank you for holding this hearing. Women are here because we understand that we must raise our voices and votes for immigration reform, an issue that is central to women's equality and opportunity. Some of my colleagues will talk about other priorities for women, including ensuring that family sponsorship backlogs are cleared and that women have access to essential health care and are protected from traffickers.

I am focusing on three pieces. One I have mentioned is an inclusive path to citizenship with no proof of employment requirement.

The second has to do with protections for women from violence and abuses of civil and labor violations on the job. Back to Pat... She loves the work she does and the children she cares for but she—like so many domestic workers and other women workers—has endured both verbal and physical abuse. One employer was verbally abusive to her for several years; she was afraid to challenge him because he often reminded her that he knew she was undocumented and could call immigration and have her deported at any moment. One day, in a fit of rage, he physically assaulted her, finally causing her to leave the job out of fear for her physical safety. Like survivors of domestic violence, domestic workers are hidden in private homes, behind the closed doors, and can suffer

extreme forms of abuse as a result. And by allowing the threat of deportation to be wielded by unscrupulous employers like a weapon, our current flawed immigration policies enable this abuse.

Unsurprisingly, undocumented workers experience almost double the rates of wage and hour violations than documented and US-born workers.[2] For example, 37% of undocumented workers experienced minimum wage violations, while 21% of documented workers and 15% of US born workers experienced minimum wage violations. Undocumented women experienced even higher rates of wage and hour violations (47%) than undocumented men (29.5%).[3] Finally, immigrant women are more likely to work in industries and occupations with significantly higher injury rates than U.S.-born women.[4]

Immigration reform should include language such as that which is in the POWER Act, to protect women from dangerous working conditions and serious labor and civil rights violations on the job, including sexual harassment, severe forms of exploitation, and labor trafficking. Common sense reform should ensure that workers suffering serious violations who are cooperating with federal, state, or local law enforcement would be eligible for U-visas.

Common sense immigration reform should also facilitate immigrant integration, including ensuring that fees are reasonable and payable over time. High application fees will limit the number of applications a family can afford, resulting in applications only being filed by male heads-of-households. Fee structures should incentivize families to apply for all eligible members of the family, and must be on a sliding scale in order to support the economic self-sufficiency of women, particularly low-wage women workers.

Immigrant women workers will only a play a *greater* role in America's economy going forward. 2011 marked the first year of the "age wave," when the baby boom generation has begun to turn sixty-five at a rate of a person every 8 seconds. In less than 20 years – 75 million Americans will have reached retirement age. The aging of America means the overall demand for direct-care workers, who are predominantly women, is projected to increase by 48 percent over the next decade. But the population of US-

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[2] National Employment Law Project, *Workplace Violations, Immigration Status, and Gender,* August 2011, http://www.nelp.org/page/-/Justice/2011/Fact_Sheet_Workplace_Violations_Immigration_Gender.pdf?nocdn=1.

[3] National Employment Law Project, *Workplace Violations, Immigration Status, and Gender,* August 2011, http://www.nelp.org/page/-/Justice/2011/Fact_Sheet_Workplace_Violations_Immigration_Gender.pdf?nocdn=1.

[4] Orrenius, P. & Zavodny, M. 2009, Do Immigrants Work in Riskier Jobs? *Demography*, 46(3), 535-551. Retrieved from: http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2831347/.

born workers is only growing by about 1%.[5]

Demand for these services is growing much faster than the labor pool. Immigrant women will be needed to fill the labor shortage[6]; we must increase the legal pathways for workers who will come in the future to come safely, with full worker protections, and the opportunity to bring their families with them from the outset. Today, only 27% of all employment visas are given to women as principle holders, even though many industries that project severe labor shortages are dominated by women workers. Three-quarters of dependent visa holders in the employment category are women but these women—even though they have the same level of education as native-born women—do not have the opportunity to work and contribute their skills to our country. This is a waste of their talents and leads to unhealthy dependency on husbands who can and do take advantage with emotional and physical violence.

My own mother came to this country from Taiwan on a STEM-like program to receive her PhD in chemistry. She was able to apply for legal permanent residency, and help build a life for us. Today, as a medical oncologist at MD Anderson in Texas, she conducts cutting edge clinical trials to develop a cure for melanoma. But just as my mother loves and cares for me *and* supports America's economy, so does Pat Francois. Undocumented immigrant care workers like Pat create positive ripple effects across our economy and yet remain almost invisible in our policies.

Immigration reform offers us a unique opportunity to help millions of women and families in America who benefit, every single day, from the work of undocumented immigrant women.

On behalf of the millions of undocumented immigrant women and the millions of US citizen women who depend on, are connected to and care about them, I urge you to act swiftly to enact immigration reform, with full inclusion and protections for women and families who are here and those who will come in the future. Immigrant women are deeply embedded in the fabric of our nation, contributing to our culture and our communities, strengthening our families, and growing our economy. Common sense immigration reform must put the priorities of women at the forefront. Immigration reform IS a women's issue, central to equality and opportunity for all American women, and central to the well-being of the nation as a whole. Thank you.

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[5] PHI, Fact Sheet: Occupational Projections for Direct Care Workers 2010-2020, February 2013, Retrieved from: http://phinational.org/sites/phinational.org/files/phi_factsheet1update_singles_2.pdf .

[6] Institute for Women's Policy Research, *Increasing Pathways to Legal Status for Immigrant In-Home Care Workers,* 2013, http://www.iwpr.org/publications/pubs/increasing-pathways-to-legal-status-for-immigrant-in-home-care-workers/.

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 deported[2]. 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 (UAFA) would grant long-term, committed same-sex partners the same rights that married heterosexual couples have under immigration law. Thus, for example, UAFA 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, UAFA 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.

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PRO-FAITH • PRO-FAMILY • PRO-CHOICE

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 workers[1], 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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[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.

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 whole[5] — 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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[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.
[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.

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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[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.

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.

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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.

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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 whole[5] — 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

[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.

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 holistie 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.

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

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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-found 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.

sojourners

March 18, 2013

In anticipation of the hearing being held on Monday, March 18th, by the Senate Judiciary Committee, Sojourners has released the following statement:

Families come in many shapes and sizes but all of them matter. As Christians and Americans, preservation and protection of family is a central value and family unity should be prioritized in any comprehensive immigration reform package. Each individual should be offered the option to reside close to their loved ones through a legitimate and transparent process which seeks to safeguard a family's wellbeing and security. It is family that sustains and fuels immigrant's efforts and enables them to be positive contributors to our communities and our economy.

Our current impractical system separates thousands of families leaving children and parents devastated as they are separated from their loved ones. The huge backlogs at U.S. Citizenship and Immigration Services (USCIS) and lack of legal avenues to migrate have separated families for prolonged periods of time burdening family members with difficult choices. Oftentimes, undocumented immigrants are forced to choose between being separated from their family members for an indefinite period of time or putting their lives a risk to reunite with relatives as they cross the border unauthorized.

A just immigration system must improve and strengthen the current immigration process by looking at the harmful issues that exist including huge backlogs, bars to re-entry and the lack of options to adjust status through immediate family members, all of which exacerbate lengthy waiting periods and make it unfeasible for those who want to apply legally. We urge all Senators to protect families as they develop a comprehensive package that provides a path towards citizenship for the 11 million aspiring Americans currently residing in the United States.

As Christians, we believe our immigration should respect the God given dignity of every person and that means not separating them from their families. Communities thrive when families who want to live together are able to. Creating an immigration system that promotes family unity shows the best of who we are as a nation.

Sojourners' mission is to articulate the biblical call to social justice, inspiring hope and building a movement to transform individuals, communities, the church, and the world. For more information about Sojourners or Jim Wallis, President and CEO of Sojourners, please visit www.sojo.net.

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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 ("UAFA")[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.

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[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 3available 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 .

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. 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)

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