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