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

UNITED STATES SENATE, COMMITTEE ON THE JUDICIARY

ONE HUNDRED THIRTEENTH CONGRESS, FIRST SESSION

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## 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 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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**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.<sup>1</sup> 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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<sup>1</sup> National Employment Law Project, *Immigration Status and Pay Documentation*, 2008, See [http://nelp.3cdn.net/56610295228b59f19a\\_1km6ibvof.pdf](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 who 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.<sup>2</sup> 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%).<sup>3</sup> Finally, immigrant women are more likely to work in industries and occupations with significantly higher injury rates than U.S.-born women.<sup>4</sup>

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 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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<sup>2</sup> 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](http://www.nelp.org/page/-/Justice/2011/Fact_Sheet_Workplace_Violations_Immigration_Gender.pdf?nocdn=1).

<sup>3</sup> 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](http://www.nelp.org/page/-/Justice/2011/Fact_Sheet_Workplace_Violations_Immigration_Gender.pdf?nocdn=1).

<sup>4</sup> 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%.<sup>5</sup>

Demand for these services is growing much faster than the labor pool. Immigrant women will be needed to fill the labor shortage<sup>6</sup>; 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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<sup>5</sup> 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](http://phinational.org/sites/phinational.org/files/phi_factsheet1update_singles_2.pdf).

<sup>6</sup> 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 of

Karen Panetta, Ph.D.

Vice President, Communications and Public Awareness  
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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 5<sup>th</sup> 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.

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

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

<b>Year</b>	<b>Approved</b>
<b>FY12</b>	134,780
<b>FY11</b>	99,591
<b>FY10</b>	69,266
<b>FY09</b>	80,283
<b>FY08</b>	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.

<b>Company</b>	<b>2012</b>	<b>2011</b>
<b>Cognizant</b>	9281	5095
<b>Tata</b>	7469	1659
<b>Infosys</b>	5600	3360
<b>Wipro</b>	4304	2803
<b>Accenture</b>	4037	1304
<b>HCL America</b>	2070	930
<b>Mahindra Group (incl Satyam)</b>	1963	404
<b>IBM</b>	1846	987
<b>Larsen &amp; Toubro</b>	1832	1156
<b>Deloitte</b>	1668	798
<b>Microsoft</b>	1497	1384
<b>Patni Americas</b>	1260	164
<b>Syntel</b>	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](mailto:pthibodeau@computerworld.com).*

[http://www.computerworld.com/s/article/9237639/Lawmakers\\_hear\\_from\\_CEO\\_opponents\\_of\\_H\\_1Bs?taxonomyId=72](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).

<b>Current Backlog Estimate</b>	<b>EB-2 (Thousands)</b>	<b>EB-3 (Thousands)</b>
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
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<b>Supply and Demand in 2014</b>	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

<b>Supply and Demand in 2015</b>	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

<b>Supply and Demand in 2016</b>	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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**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.<sup>1</sup> A Department of Homeland Security examination of fiscal year 2011, for instance, showed women using 58% of all family sponsored visas.<sup>2</sup>

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.<sup>3</sup> As of 2010, "40 percent of all immigrant business owners were women [and] 20 percent of all women business owners were foreign-born."<sup>4</sup>

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.<sup>5</sup> 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).<sup>6</sup> Immigrant women make up significant numbers in the management and professional occupations, service occupations, as well as retail and office occupations.<sup>7</sup> 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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<sup>1</sup> 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](http://www.advancingequality.org/attachments/files/117/APALC_family_report.pdf).

<sup>2</sup> 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](http://www.dhs.gov/sites/default/files/publications/immigration-statistics/yearbook/2011/ois_yb_2011.pdf).

<sup>3</sup> 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>.

<sup>4</sup> *Id.*

<sup>5</sup> 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>.

<sup>6</sup> Employment Status of the Civilian Labor Force 16 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>.

<sup>7</sup> *Id.*

9.5 percent of immigrant women had graduate degrees versus 9.6 percent of native-born women.<sup>8</sup>

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.<sup>9</sup> 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.”<sup>10</sup> 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.<sup>11</sup>

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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<sup>8</sup> Immigrant Women in the United States: A Portrait of Demographic Diversity, *Immigration Policy Center*.

<sup>9</sup> Women’s Refugee Commission, “Women and Immigration Reform: Key Facts and Figures.”

<sup>10</sup> Henrici, Jane (2013). *Improving Career Opportunities for Immigrant Women In-Home Care Workers*, Institute for Women’s Policy Research (p. 5).

<sup>11</sup> 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.<sup>12</sup>

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

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<sup>12</sup> *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.

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.

**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  
National Council of La Raza

March 18, 2013

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.<sup>1</sup> 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

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<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup> 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

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<sup>2</sup> 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)

<sup>3</sup> 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.