

**COMPREHENSIVE IMMIGRATION REFORM: PERSPECTIVES FROM FAITH-BASED AND IMMIGRANT COMMUNITIES**

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**HEARING**

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION,  
CITIZENSHIP, REFUGEES, BORDER SECURITY,  
AND INTERNATIONAL LAW

OF THE

COMMITTEE ON THE JUDICIARY  
HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

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MAY 22, 2007  
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# CONTENTS

MAY 22, 2007

	Page
OPENING REMARKS	
The Honorable Zoe Lofgren, a Representative in Congress from the State of California, and Chairwoman, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law .....	1
WITNESSES	
Reverend Luis Cortés, Jr., President, Esperanza USA	
Oral Testimony .....	2
Prepared Statement .....	4
Most Reverend Thomas G. Wenski, U.S. Conference of Catholic Bishops, Diocese of Orlando	
Oral Testimony .....	13
Prepared Statement .....	15
Reverend Charles G. Adams, Senior Pastor, Hartford Memorial Baptist Church	
Oral Testimony .....	25
Mr. Gideon Aronoff, President and CEO, Hebrew Immigrant Aid Society (HIAS)	
Oral Testimony .....	28
Prepared Statement .....	30
Reverend Derrick Harkins, D.Min., Pastor, Nineteenth Street Baptist Church	
Oral Testimony .....	33
Prepared Statement .....	34
Mr. Dan Kosten, Director, World Relief Refugee and Immigration Programs, National Association of Evangelicals	
Oral Testimony .....	36
Prepared Statement .....	38
Mr. Jim R. Edwards, Jr., Ph.D., Adjunct Fellow, Hudson Institute	
Oral Testimony .....	44
Prepared Statement .....	45
Mr. Stephen Steinlight, D.Phil., Center for Immigration Studies, former National Affairs Director at the American Jewish Committee (AJC)	
Oral Testimony .....	49
Prepared Statement .....	51
Ms. Marleine Bastien, Executive Director, Fanm Asyisyen Nan Miyami, Inc, Haitian Women of Miami	
Oral Testimony .....	57
Prepared Statement .....	59
Ms. Janet Murguía, President and CEO, National Council of La Raza	
Oral Testimony .....	62
Prepared Statement .....	65
Ms. Deepa Iyer, Executive Director, South Asian American Leaders of Tomorrow	
Oral Testimony .....	74
Prepared Statement .....	77
Ms. Karen K. Narasaki, President and Executive Director, Asian American Justice Center (AAJC)	
Oral Testimony .....	87
Prepared Statement .....	88

IV

	Page
Mr. Niall O'Dowd, Chairman, Irish Lobby for Immigration Reform	
Oral Testimony .....	93
Prepared Statement .....	95
Mr. Noel J. Saleh, President, Arab Community Center for Economic and Social Services (ACCESS) Board of Directors	
Oral Testimony .....	96
Prepared Statement .....	98
Ms. Rosanna Pulido, Illinois Spokesperson, "You Don't Speak for Me"	
Oral Testimony .....	99
Prepared Statement .....	100
Mr. Jan Ting, Professor of Law, Temple University Beasley School of Law	
Oral Testimony .....	103
Prepared Statement .....	105

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

Prepared Statement of the Honorable Zoe Lofgren, a Representative in Congress from the State of California, and Chairwoman, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law .....	119
Prepared Statement of the Honorable John Conyers, Jr., a Representative in Congress from the State of Michigan, and Chairman, Committee on the Judiciary .....	119
Prepared Statement of the Honorable Sheila Jackson Lee, a Representative in Congress from the State of Texas, and Member, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law .....	120
Letter from Richard T. Foltin, Legislative Director and Counsel, American Jewish Committee, to the Honorable Zoe Lofgren, Chairwoman, and the Honorable Steve King, Ranking Member, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law .....	122
Letter from the Christian Reformed Church in North America, <i>et al.</i> to President George W. Bush and Members of the United States Congress .....	123
Congressional Black Caucus Statement of Principles on Immigration Reform .	129
"The Fiscal Impact of Immigration Reform: The Real Story," by Daniel Griswold, Director, Center for Trade Policy Studies, Cato Institute, May 21, 2007 .....	130
Prepared Statement of the Conveners of the <i>Latino Congreso</i> .....	134
Letter from Eric M. Gutiérrez, Legislative Staff Attorney, Mexican American Legal Defense and Education Fund (MALDEF), to the Honorable Zoe Lofgren, Chairwoman, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law .....	140
Revised Prepared Statement of Ms. Karen K. Narasaki, President and Executive Director, Asian American Justice Center .....	143

**COMPREHENSIVE IMMIGRATION REFORM:  
PERSPECTIVES FROM FAITH-BASED AND  
IMMIGRANT COMMUNITIES**

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**TUESDAY, MAY 22, 2007**

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP,  
REFUGEES, BORDER SECURITY, AND INTERNATIONAL LAW  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 3:04 p.m., in Room 2237, Rayburn House Office Building, the Honorable Zoe Lofgren (Chairwoman of the Subcommittee) presiding.

Present: Representatives Lofgren, Gutierrez, Jackson Lee, Ellison, Conyers, Lungren, and Gohmert.

Staff present: Ur Mendoza Jaddou, Chief Counsel; David Shahoulian, Majority Counsel; George Fishman, Minority Counsel; and Benjamin Staub, Professional Staff Member.

Ms. LOFGREN. The Immigration Subcommittee will come to order about an hour late, with tremendous apologies to everyone. We had votes called just as our hearing was to begin, and we have been voting ever since.

And so, by unanimous consent, we will postpone opening statements. We will postpone the adoption of our rules, which we will do later. And we will go directly to our first panel.

Everyone has been waiting, but I understand that two of our witnesses actually must leave 4 minutes ago, and I am wondering if we could hear from them first and then go to the other witnesses in their turn.

And that would be Reverend Cortés, the Reverend Luis Cortés, Jr., the president and CEO of Esperanza USA, who also works with the Federal Home Loan Bank in Pittsburgh. He was appointed to the Pennsylvania Minority Business Development Association by Governor Rendell and has done numerous other impressive things.

And also, His Excellency Bishop Thomas G. Wenski of the Roman Catholic Diocese of Orlando, who has done many things, but I will not read the whole introduction, so that I can allow him to leave.

If we may, Reverend Cortés, first. Your written statement will be made part of the record. If we could ask you to briefly summarize before we go to the bishop to ask the same thing, and then we will go to the other panel.

**STATEMENT OF REVEREND LUIS CORTÉS, JR.,  
PRESIDENT, ESPERANZA USA**

Reverend CORTÉS. Thank you, Madam Chair, for the invitation to appear before you today and to share our thoughts on the essential components we need for a workable, compassionate, comprehensive immigration reform.

As faith leaders, we are called to ground our conduct and treatment of others in our reading and understanding of Scripture. So, too, for guidance on immigration policy, we turn first to Scripture. Our support for comprehensive immigration reform comes from the Biblical mandate to advocate on behalf of the stranger in one's land—a practice that we learn from the Old Testament.

It is written in Leviticus 19:33-34, "When an alien resides with you in your land, you shall not oppress him. The alien who resides with you shall be to you as the citizen among you. You shall love the alien as yourself, for you were aliens in the land of Egypt. I am the Lord, your God."

In Matthew, chapter 25, verses 35 and forward, Christ calls on all his followers to treat immigrants with fairness, justice and hospitality. "For I was hungry and you gave me something to eat. I was thirsty and you gave me something to drink. I was a stranger in your land and you invited me in."

Our call for Congress is to pass comprehensive immigration reform. It is to recognize our history as a nation of justice, mercy, and compassion. These are American principles, and they must not be abandoned in any new immigration reform.

I want to take a moment to congratulate your Senate colleagues of both parties, Senator Ted Kennedy and Senator Jon Kyl, for reaching a consensus on one of the most complicated and politically charged policy issues this Congress will face. While the deal, as we see it, is far from perfect, I am hopeful that their proposal could be the platform for the workable, compassionate, comprehensive solution we seek.

I had hoped that Senator Kyl's conservative credentials would have finally put to rest the continuing distortion of the word amnesty. As Christians, we understand amnesty. Amnesty is what Christ provided for us—a forgiveness for our sins when he paid for our sins with his life. True amnesty is unconditional and without penalty.

The dictionary defines amnesty as the act of an authority, as a government, by which pardon is granted to a large group of individuals. A pardon is defined as the excusing of an offense without exacting a penalty. Amnesty is a free pass. And what is being discussed in our country today is far from a free pass.

American people understand this. Both Republicans and Democrats have understood this. A Quinnipiac University poll last November, after all the campaign rhetoric before the election, had 66 percent of Republicans and 72 percent of Democrats supporting a temporary guest worker program with a path to citizenship.

Just recently, April 15 to 19, the Terrence Group and Lake Research survey showed once again the American people of all parties, of all demographic groups, are far ahead of their politicians. Seventy-five percent of likely voters favor passage of a legislation that would create a path to citizenship.

Support for this legislation crosses all racial and partisan ideological lines. Whites, African-Americans, Hispanic Americans and Asian Americans would support the legislation from 70 to 75 percent; Republicans and Democrats, 76 and 74 percent; very conservative voters, 74 percent; conservative Christians at 78 percent; and that famous group called “talk radio listeners,” 76 percent.

No one in these groups believes that what has been offered is amnesty.

There is a lot of good in the agreement that the Senate is discussing. Measurable efforts to secure our borders are sound policy. The creation of the Z visa is a workable solution. Revising the visitors’ visas to allow parents to come to the United States is a workable compromise that balances our pro-family values with the unfortunate and, I believe, irrational fear of chain migration.

Several of the compromises present real concerns. Not allowing access to Social Security contributions seems hypocritical, especially for conservatives, who, when arguing in support of tax cuts say, it is your money.

We are hopeful that adult children—always integral parts of families—can be included in the expanded visitor’s visa.

But by far, my biggest concern is a merit system that on its face seems to favor the wealthy and highly educated over low-skilled, low-wage workers who are essential to our workforce and to our communities.

We will withhold judgment until all details are known. But the idea of creating a meritocracy in America strikes of the reason we had a revolutionary war against the British.

Let me be clear. Although there are a number of pieces that cry out for revision and many more we wish were not in that compromise at all, we understand that, if we are going to see comprehensive immigration reform become law, if we are going to be able to finally bring 12 million hardworking, contributing members of our communities out of the shadows and away from the fear they have learned to live with, we must work in the political climate of the day and seek compromise.

No one wishes to isolate the dangerous elements of our society more than we do. Criminals prey on our people, and no one is more vulnerable than the undocumented.

The strident, obstructionist, often xenophobic voices of the “send them home” crowd are wearing thin on the American public. We have heard that they are wearing thin on the patience of many House Members and look to you for leadership to equip your colleagues of both parties with the information they seek to back down to these bullies.

The Hispanic Evangelical Church stands ready to be a full partner with the Federal Government to educate our people about this legislation, to offer greatly expanded English and citizenship classes and to be the place where people will come forward and move out of the shadows.

We look forward to working with you and your colleagues in the days and weeks ahead to see real, compassionate, workable, comprehensive immigration reform become law.

Thank you, Madam Chair.

[The prepared statement of Reverend Cortés follows:]

## PREPARED STATEMENT OF LUIS CORTÉS, JR.

2

Thank you, Madam Chair, for the invitation to appear before you today and to share our thoughts on the essential components for workable, compassionate, comprehensive immigration reform.

I will also use this opportunity to congratulate your Senate colleagues of both parties for having reached an important agreement, the consensus, although far from perfect, might just prove to be a workable platform for a compassionate solution to one of the most disastrous policy failures of our lifetime.

#### **Theology & Immigration Policy**

As faith leaders, we are called to ground our conduct and treatment of others in our reading and understanding of Scripture. So, too, for guidance on immigration policy we turn first to Scripture. Our support for comprehensive immigration reform comes from the biblical mandate to advocate on behalf of the stranger in one's land, a practice as ancient as the Old Testament.

As written in Leviticus 19:33-34, "When an alien resides with you in your land, you shall not oppress the alien. The alien who resides with you shall be to you as the citizen among you; you shall love the alien as yourself, for you were aliens in the land of Egypt: I am the Lord your God." In Matthew 25:35, Christ calls on all his followers to treat immigrants with fairness, justice and hospitality, "For I was hungry and you gave me something to eat, I was thirsty and you gave me something to drink. I was a stranger and you invited me in."

Our call for Congress to pass comprehensive immigration reform is our call for Congress to recognize our history as a nation of justice, mercy, and compassion. These genuinely American principles must not be abandoned in any new immigration reform.

One of the continuing distortions in this debate is the definition of "amnesty." I am frustrated that we must continue to deal with obstructionist Members of Congress who choose to distort the real meaning of amnesty. As Christians we understand amnesty: Amnesty is what Christ provided for us as forgiveness for our sins when he paid for our sins with his life. This is true amnesty--unconditional and without penalty.

The Merriam-Webster dictionary defines amnesty as "the act of an authority (as a government) by which pardon is granted to a large group of individuals." A pardon is defined as "the excusing of an offense *without exacting a penalty*" (emphasis added).

For politicians to distort the meaning of amnesty is a travesty. Those who persist should be ashamed. As religious leaders we call on the RNC and DNC to deal honestly and righteously with this issue. We ask the Chairmen of both parties to *publicly* ask their members to refrain from seeking political gain on the backs of the powerless and instead, work toward just solutions.

#### **Business Leaders & Faith Leaders Join Hands**

Immigration reform reaches far beyond Hispanic communities. American businesses need workers, and current American workforce projections fall significantly short of future requirements. American agriculture and landscape industries, building, trades, and construction, as well as the entire hotel, restaurant, resort, and most service industries are struggling today to find willing, capable workers. America's productivity tomorrow will be weakened without comprehensive immigration reform.

America's free trade policy failed to recognize that the free flow of labor must accompany the free flow of goods and services. Failure to adjust our immigration system to meet increasing labor requirements has created this badly broken system and unjust situation. Ironically, it is the same free trade conservatives who, failing to understand this economic reality, still call to deport 12 million undocumented workers.

We are joined in our efforts by an impressive cross section of business and industry, policy and religious organizations. The US Chamber of Commerce, the National Restaurant Association, the American Hotel and Lodging Association, the American Farm Bureaus, the Catholic Bishops, the American Health Care Association, and the National Association of Home Builders are a few of the national organizations working with us in our efforts.

So, with scripture and American business on our side, why is immigration reform this taking so long? What is behind the heated rhetoric that fuels talk radio, cable news shows, and campaign ads?

As with all other immigrant groups in America's history--the Irish, the Italians, the Germans, the Polish and the Jews--there are political voices that will not be silenced by anything less than sending all new immigrants "back where they came from." Unlike previous times, today we have 24/7 cable news and talk radio that thrives on conflict and controversy. The more hate-filled and outrageous the political voices, the larger the audience.

I have heard congressional and potential presidential candidates suggest that cutting off employment so families couldn't feed their children is a rational solution. Intentionally starving 12 million people in America as a matter of public policy? The Church of Jesus Christ will dedicate itself to not allow one person to starve on our American soil.

Genuine leadership was needed to respond to the rhetoric with reason and compassion. While Congressional Republicans were the ones shouting on TV and radio to "send them all home," Democrats were dealing with equally irrational labor unions. Republicans paid a very real political price as they lost not only the previously increasing support of Hispanic voters but also the all-important independent voters.

Fortunately for the future of our country, you don't win elections in America by beating up on the most vulnerable members of our society.

**The People, Once Again, Ahead of the Politicians**

The American people understand this; both Republicans and Democrats understand this. A Quinnipiac University poll taken following the election last November showed that 66 percent of Republicans and 72 percent of Democrats support a temporary/guest-worker program *with a path to citizenship*.

Just recently, on April 15-19, the bi-partisan polling team of The Tarrance Group and Lake Research conducted a survey of voter attitudes about immigration for the National Immigration Forum and the Manhattan Institute. Their dramatic findings show the American people of all parties, of all demographic groups are, once again, far ahead of their politicians. Quoting from their executive summary:

**Strong Support for Comprehensive Immigration Reform Includes a Path to Citizenship**

Likely voters are read a proposal for comprehensive immigration reform that is described as follows:

- Provide resources to greatly increase border security,
- Impose much tougher penalties on employers who hire illegal workers,
- Allow additional foreign workers to come to the United States to work for a temporary period,
- Create a system in which illegal immigrants could come forward and register, pay a fine, and receive a temporary worker permit
- Provide these temporary workers with a multi-year path to earned citizenship, if they get to the end of the line and meet certain requirements like living crime free, learning English, paying taxes

After this description, seventy-five percent (75%) of likely voters favor passage of this legislation. This represents a four point increase of support for this legislation since July 2006.

*Support for this legislation crosses all racial and partisan/ideological lines with whites (75%), African Americans (70%), and Hispanics (74%) all strong favoring passage and with strong Republicans (76%), very conservative voters (74%), strong Democrats (74%) and liberals (75%) ... There is also strong support ... among white conservative Christians (78%), born again Christians (75%), and weekly church attendees (76%). In fact, there is even strong support for passage among those who listen to talk radio on a daily basis (76%).*

In examining some likely criticisms of this legislation: a majority (52%) of likely voters do not ... this is .. amnesty for illegal immigrants. (When given) ... options of doing nothing ... or passage of legislation (with) ... a path to citizenship “that some will call amnesty,” a strong majority (64%) of likely voters select the passage of legislation that includes a path to citizenship.

**Esperanza’s Principles for Comprehensive Immigration Reform**

Over a year ago, March 15, 2006, Esperanza released “Principles for Comprehensive Immigration Reform,” against which all reform options are evaluated. These principles are as true today as they were a year ago and are attached to this testimony for the record.

**Crime & Punishment**

Most Americans--and most members of Congress--recognize that the vast majority of the 12 million are good people caught in a bad system, victims of one of the worst public-policy failures of our time. *Forty percent of those currently in the country illegally -- 4.8 million people -- entered legally.* Millions await review for legal status and are simply caught up in a bureaucratic nightmare. The legal system views their “crime” as

nothing more than a civil infraction, with penalties less severe than those for a misdemeanor.

Families throughout our community are composed of a patchwork of immigration status. Around the family dinner table, American citizens sit with green card applicants, student visas and undocumented workers:

- In 6.6 million families either the head of household or the spouse is undocumented.
- 3.1 million American children live in families with one undocumented parent.
- 64 percent of the children living in undocumented families were born here and are legal U.S. citizens. (Source: Pew Hispanic Center)

We are a nation of laws, and 12 million people live here illegally. For that there should be penalties. But just as we are a nation of laws, we are also a nation that believes the punishment should fit the crime.

Entering the country illegally is a federal misdemeanor. Should the penalty for misdemeanors and civil infractions be ruptured families, destroyed businesses, and lost homes? Are we prepared for the father next door, for the mother of our child's best friend, for those who pray with us in church every Sunday to be deported?

These are not violent crimes. These are not violent criminals. Their biggest "crime" is coming to America looking for available work. We should not inflict cruel and unusual punishment simply to rectify the policy failures of the past. At Esperanza, we suggest that the payment of fines and back taxes, together with background checks, English fluency and citizenship classes are rational responses to an emotional and difficult situation--responses that will meet our national security interests and workforce requirements while maintaining our history--as embodied in the Statue of Liberty--as a compassionate nation. These measures can work if their intention is to truly integrate our people into society and not to be hurdles created to intentionally trip individuals into deportation.

#### **What Christians can bring to the dialogue**

I commend Chuck Colson, Paul Crouch, Richard Land and Pat Robertson for standing with us early in this struggle. We have found support from the National Association of Evangelicals, Family Research Council and Dr. James Dobson, who wrestled with this issue internally, both within themselves and within their organizations. Facing intense emotions on both sides, they have worked hard to find consensus positions. I am thankful for their efforts and their response.

Last year at Esperanza's National Hispanic Prayer Breakfast, we witnessed President Bush and Senators Hillary Rodham Clinton, John McCain, Ted Kennedy, and Harry Reid agree that our nation needs comprehensive immigration reform pointing towards a potential bipartisan solution.

One of the great distortions this past year has been equating conservative philosophy with "send 'em home" immigration policies. Conservative Democrats and Republicans alike have made this mistake. Some have struggled genuinely on this issue but in too many cases we find that anti immigration folks are, quite simply, bullies.

#### **The Senate Proposal: Kudos and Concerns**

We congratulate Senators of both parties, especially Senator Ted Kennedy and Senator Jon Kyl for reaching consensus on one of the most complicated and politically charged policy issues of this Congress. I commend them both on their willingness to consider

new ideas and their openness to community perspectives. While this deal is far from perfect, I am hopeful that their proposal could be the platform for the workable, compassionate, comprehensive solution we seek.

There is a lot that is good in this agreement. A few of the highlights:

Measurable efforts to secure our borders are sound policy. Since there are many who would work to see that provisions allowing legal status for the undocumented are never enacted, I ask that consideration be given to a "time trigger." A time trigger would force enactment of the "Z" & "Y" visas by date certain, regardless of the status of the fence and border guard provisions.

The creation of the "Z" visa is a workable solution. "Z" visas will allow 12 million undocumented members of our communities come forward, be recognized as contributing members of our communities and no longer live in fear.

Revising the visitors' visas to allow parents to come to the United States is a workable compromise that balances our pro-family values with the unfortunate and, I believe, irrational fear of "chain migration."

Compromise is essential in true negotiations. However, several of the compromises present real concerns:

1) Social Security: Once gaining legal status, previously undocumented workers will not have access to Social Security contributions made under false documentation. The great irony in this provision is that it is the same conservatives who, when arguing in support of tax cuts say, "It's your money." This is their money --- theirs and their employers.

2) Family migration:

Provision: Limiting family immigration to spouse and minor children.

Policy: Families are families. Adult unmarried children, regardless of their age over 18 or 21 are still integral parts of their nuclear families. To separate them by un-crossable borders or oceans is simply not fair or good policy.

Suggestion: Allow adult children access to the revised visitors' visa

Since it is unclear how quickly the new system will process new green card applicants, allowing access to visitors' visas would allow them to come see their parents, brothers and sisters on a regular basis. They could then decide whether to apply for their own green card.

Suggestion: Consideration be given to a hardship exemption to the time limitation on the visitors' visa to accommodate severe illness and hardship.

Provision: Requiring proof of health insurance for temporary workers to bring spouses and children.

Policy: This provision unfairly disadvantages low-skilled low-wage workers who will, most likely not have access to health insurance through their employers.

Suggestion: Retain the economic support provision (150% of poverty) but remove the health insurance requirement. Allow family support to reach the provision.

I have concerns about the details of a number of other provisions of the agreement, such as the merit process and judicial review and will comment more fully once the details are known. On its face, the merit system raises many concerns --- such as creating a permanent unlevel playing field where PhD's from France are given preference over low-skilled workers with family ties in our communities. Underlying all my concerns about creation of a meritocracy, a system so abhorrent that we fought the King of England to declare our independence. We must be careful that our desire for border security not betray our history as a welcoming nation.

We must take care not to create a closed, homogenous society that exploits the low-skilled and less-educated among us, treating them more as a disposable commodity than as brothers and sisters. Rather, for their willingness to serve us by doing jobs we would not want our children to do, they earn the opportunity to grow and become Americans. This is the American dream --- that the grandchild of today's avocado picker could someday be a member of Congress of the United States.

#### **Essential Role for the Hispanic Faith Community**

Esperanza is the largest Hispanic evangelical organization with a national network of over 10,000 Hispanic congregations, faith and community based agencies. Throughout this process, we have engaged and informed this extraordinary community, assisting out constituency in understand nuances of this most important issue.

Since the President first announced his immigration policy in January 2004, Esperanza has worked closely with Members of Congress of both parties, the White House and the Administration to see comprehensive immigration reform become law. Every year, Esperanza sends 300-400 Hispanic pastors to Capitol Hill to meet with their Members of Congress. Since 2004, immigration has been a priority topic.

With me today are 30 Hispanic Christian broadcasters, owners, journalists and several of the largest and most influential Hispanic pastors in the nation. As the debate continues, so will our efforts both here in Washington and back home in your districts.

In order to be successful, all proposals, regardless of specific details, will require massive education efforts in Hispanic communities across the nation to educate folks about the new legislation, to provide greatly expanded English as a Second Language and citizenship classes.

The success of all proposals also depends on the willingness of the undocumented to come forward. Once we reach a just solution, the Hispanic faith community is prepared to partner with the federal government to serve as processing centers, the first place where the undocumented will come forward. All initial processing can take place at churches, faith and community-based agencies in coordination with other federal agencies, such as the FBI and Homeland Security, who will control all steps in processing background checks, employment verification, etc.

So many undocumented simply will not go to Federal offices. As the trusted voice and primary social infrastructure, the Hispanic church can reach deep into the community

and serve as safe harbors. We can work with the federal agencies not just on procedures and processes but also to ensure that those meeting with our people are culturally and linguistically sensitive, assuring smooth transitions from shadows and fear into the daylight of legal status.

Thank you, Madam Chair, for this opportunity. I look forward to working with you and your staff in the days and weeks ahead.

Respectfully submitted,  
The Reverend Luis Cortés, Jr.  
May 22, 2007

## ATTACHMENT

9



WEDNESDAY MARCH 15, 2006  
4:00 P.M.

FOR FURTHER INFORMATION CONTACT:  
KRISTA POPLAU  
(215) 324-0746

*Rev. Luis Cortés, Jr.*

*On behalf of Hispanic Evangelical and Protestant Churches  
To US Senators: Principles for Effective, Workable Immigration Reform*

Esperanza USA is the largest Hispanic faith-based community development corporation in the country. With a national network of 10,000 faith and community-based agencies, Esperanza is one of the leading voices for Hispanics in America.

Rev. Luis Cortés Jr., president of Esperanza USA, urges the Senate to incorporate the following principles for effective, comprehensive, workable immigration reform:

**BORDER SECURITY**

**America's Borders Must Be Secured.**

We are a nation of laws and we respect the rule of law. We are a peaceful people. The terrorist attacks of 9/11 unite us all in efforts to protect and secure the borders.

In our zealotness to be secure, however, we urge caution on two key points:

**Border Security Must Remain Solely a Federal Responsibility**

Hispanic clergy work closely with state and local law enforcement: on substance abuse, domestic violence, education and helping kids when they first get in trouble to make sure they stay out of trouble. Including state and local law enforcement in border security will instantly transform this cooperative relationship into an adversarial one.

**Avoid Criminalizing Clergy**

Efforts to shut down human trafficking and criminalize smuggling operations are critically important and we support them. However, language contained in H.R. 4437 assessing criminal penalties for those who "assist" those who are here illegally would instantly transform all Hispanic clergy and many non-Hispanic clergy from community leaders to federal criminals. All clergy must remain free to provide spiritual counsel, humanitarian aid and comfort based on their religious principles.

**TEMPORARY / GUEST/ RESIDENT WORKER PROGRAMS**

Millions arrived in America legally to unite with family and to seek a better life. To keep families together, they have remained here unknown and undocumented to federal authorities. Millions more risked everything to begin a new life. For people to come out of the shadows, if reforms are to work, they must have real, permanent advantages. Fixing this broken system for legal entry and residence must correct the flaws of the past and reflect current and future economic and workforce requirements.

Toward this end, we recommend three new categories for legal entry and residence:

- Temporary Worker Status for those who want to come and go frequently such as agricultural workers and day laborers.
- Guest Worker Status for those currently not living here who wish to come here to live and work for an extended period of time.
- Resident Worker Status for those who have lived here over an extended period of time and, although currently undocumented, have been steadily employed, paid taxes and have no criminal record.

#### "Send- Back" Provisions

If our national security objectives are to be met, if immigration reform is to facilitate the tracking of terrorists and those who would do us harm, it is imperative that immigration reforms result in having the millions of undocumented workers leading peaceful, productive lives come out of the shadows and counted as legal residents.

Provisions that require undocumented workers to return to their country of origin before being granted legal status simply will not work. Millions of hard-working heads of households risked everything to build a life in our country. They are working hard and living clean, productive lives as contributing members of society. They will not "come out of the shadows" for a weak, distant promise dependant on bureaucratic clearances.

The only type of "send-back" provision that could work is a requirement to return to the country of origin to file required paperwork and fulfill administrative requirements. Such provisions would require only short-term stays in country and allow for immediate return without loss of employment.

#### Path to Citizenship

Not all immigrants are interested in becoming American citizens. For those that do, once the requirements of legal residency have been met and fulfilled, they should be allowed to "get in line" --- apply for citizenship knowing their application will be considered only after all others who have previously filed.

Ms. LOFGREN. Thank you very, very much.

Bishop Wenski, if we could now hear from you?

And then I realize you both have to leave, and we appreciate your spending an hour waiting for us.

**TESTIMONY OF THE MOST REVEREND THOMAS G. WENSKI,  
U.S. CONFERENCE OF CATHOLIC BISHOPS, DIOCESE OF OR-  
LANDO**

Bishop WENSKI. Thank you.

I would like to thank you and Ranking Member Steve King for inviting me to testify today, and also to thank the full Committee Chairman, John Conyers, for his leadership in this issue, and, of course, Representative Gutierrez for his hard work over the years on this important issue and also for the STRIVE Act, which is a very good bill to look at and hopefully will educate the Senate.

Madam Chair, the issue of immigration has been widely debated in our country. It has been analyzed as an economic, cultural, social issue. But from the perspective of our church, immigration is ultimately a humanitarian issue with important moral implications.

In my oral statement, I would like to focus on the bishop's concern with the bill pending before the Senate. My complete testimony expands on these issues and goes on to comment more fully on the bishop's views on comprehensive immigration reform.

We are encouraged that the legislation that the Senate is considering contains a program that would permit many undocumented migrants currently in the United States to come out of the shadows, legalize their status and earn permanent residency.

We are also encouraged by provisions that would devote visas to reducing the backlog in the availability of some of the family preference visas.

However, we are deeply concerned with a number of the provisions in that legislation. We will be working to modify those provisions as the bill works its way through the Senate. And we strongly urge that you not replicate these problematic provisions in any legislation that the House takes up and passes.

While we appreciate the inclusion in Title IV of the Ag Jobs legislation, we strongly oppose the Title's adoption of a temporary worker program that does not provide workers with the option of pursuing a path to permanent residency.

We also have misgivings about workers having to return home after 2 years and remain outside of the country for a year. We think this will have the unintended consequence of continuing the problem of illegal stay in the country.

Also, families would only be allowed to be with the temporary worker for 2 years out of a potential 6 years while working in the United States.

We also have serious concerns about much of Title V of the bill that the Senate is currently considering. They include the elimination of the first, second, third and fourth family preference categories, the elimination of parents of U.S. citizens from the immediate relative category, capping parents of U.S. citizens at 40,000 visas a year.

Last year, 120,000 parents came to join their U.S. citizen children. That leaves out 80,000 of people that would not benefit under the current proposed legislation.

It eliminates more than 200,000 family-based visas each year. It dismisses the petitions of more than 800 petitioners who have filed their family preference petitions after May of 2005 from the family preference system.

The imposition of an untried and untested merit-based system that gives no weight to family ties is very problematic to us. And the reduction of more than 50 percent in special immigrant visas, including the reduction by more than 50 percent of the visas available to special immigrant religious workers and the elimination of the diversity visa program, is also quite troubling.

We urge your Subcommittee to protect family unity in our immigration system by replacing Title V in the Senate bill with Title 5 of the STRIVE Act. We should not abandon family unity as the cornerstone of our immigration system.

We have two major concerns with the legalization program contained in Title VI of the Senate legislation. We are troubled that legalizing aliens through the Z visa would—those Z visa holders would be unable to petition for their immediate family members, who live outside of the United States, until they obtain permanent residency.

This could take a minimum of 8 years and go up to 13 years before they could have family members join them. Again, I think that would have the unintended consequence of continuing illegal entry into the country and exacerbating the prison problem we are trying to solve.

A second concern that we have with Title VI is the requirement that Z visa holders return to their home country to apply for permanent residency. This requirement could place an undue burden on applicants who are either unable to afford a return home or unwilling to, for fear of not being allowed to return.

This could have an unintended chilling effect on participation in the legalization program, which would defeat the whole purpose of the program.

We urge the Subcommittee to examine this aspect of the program and eliminate it or amend it, replace it with the “touch back” provision contained in the STRIVE Act.

We also urge the Subcommittee to carefully consider our recommendations on implementation issues, which I have expanded upon in my written testimony, to ensure that legalizing immigrants will be able to better integrate in our society.

Finally, Madam Chair, we are concerned with the triggers in the Senate bill, which must occur prior to implementation of certain aspects of the legalization programs.

One trigger is the construction of 370 miles of wall along our southern border, the hiring of 18,000 Border Patrol agents and the implementation of some aspects of REAL ID. And this has to be done before the temporary worker program and the residency program can go into effect.

These programs should not be dependent on events which may or may not occur.

We are hopeful that the House of Representatives, as you debate this issue, you will assure that neither legal or undocumented immigrants will be made scapegoats of the challenges we face as a nation.

Rhetoric which attacks the human rights and dignities of the migrant does not serve a nation of immigrants. Xenophobic and anti-immigrant attitudes do not make us a better people. And we are better than that as a nation.

The U.S. bishops are hopeful that this debate will consider not only the negative impacts of illegal immigration, but also the many benefits that immigrants bring to our communities and our nation.

The problem is not the immigrants. The problem is the broken system. And rather than scapegoating the immigrants, we should fix the system.

And we look forward to working with you, the Subcommittee and the full Committee, in the months ahead to do just that.

Thank you very much.

[The prepared statement of Bishop Wenski follows:]

PREPARED STATEMENT OF THOMAS G. WENSKI

I am Bishop Thomas Wenski of Orlando, Florida, and am here today to testify on the issue of immigration reform on behalf of the U.S. Conference of Catholic Bishops (USCCB).

I would like to thank Representative Zoe Lofgren (D-CA), chairwoman of the House Subcommittee on Immigration, and Representative Steve King (R-IA), ranking member, for having me today and for holding a hearing on the faith-based views on immigration reform. I would also like to thank full Judiciary Committee Chairman John Conyers (D-MI) for his ongoing leadership and support for immigration reform.

Madam Chairman, the U.S. Senate is currently engaging in a historic debate on immigration reform. We are hopeful that the Senate will pass a fair and humane immigration bill and send it for consideration to the House of Representatives. We know that you have worked tirelessly since becoming Chair of this subcommittee to find a consensus in the House of Representatives on this important issue. We are hopeful that your leadership will produce comprehensive immigration reform legislation which comports with standards of fairness and justice.

My purpose in testifying today is to communicate the position of the Catholic Church in the United States on the best model for immigration reform and to comment on legislation currently being considered in the Senate and U.S. House of Representatives. My testimony will focus upon 1) the role of the Catholic Church in the immigration reform debate; 2) the position of the USCCB on S. 1348, the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, which is currently being considered by the Senate; 3) the position of the Catholic Church on comprehensive immigration reform; and 4) the position of the USCCB on H.R. 1645, the Security Through Regularized Immigration Act of 2007 (STRIVE), that has been referred to your full committee.

THE ROLE OF THE CATHOLIC CHURCH IN THE IMMIGRATION REFORM DEBATE

Madam Chairman, the issue of immigration is complex, and it elicits strong opinions and emotions from all sides of the public debate. The immigration issue touches upon our national economic, social, and cultural interests, and it has been analyzed and dissected predominately in those terms. From the perspective of the Catholic Church, immigration reform is ultimately a humanitarian issue because it impacts the basic human rights and dignity of the human person.

As providers of pastoral and social services to immigrants throughout the nation, we in the Catholic Church witness the human consequences of a broken immigration system every day in our parishes, social service programs, hospitals, and schools. Families are divided, migrant workers are exploited and abused, and human beings unnecessarily die in the American desert. As a participant in the public debate, the U.S. Conference of Catholic Bishops (USCCB) has attempted to point out the human suffering that occurs in our country each day as a result of

an immigration system that lacks due process protections and fails to provide the legal status and legal avenues needed to protect immigrants from exploitation.

As a moral matter, the United States cannot employ a system which accepts the toil, taxes, and other contributions undocumented immigrants make to our nation without providing them the protection of the law. I would also add that sending nations have an obligation as well to pursue policies that produce living wage jobs so that their citizens can remain in their country and support their families in dignity.

Madam Chairman, the Catholic Church also will play an instrumental role once a new immigration bill is implemented and thus has a strong interest in helping to pass legislation which is fair and humane. The Church is present in communities around the nation and throughout sending countries. Migrants and immigrants will come to us to ask us to shepherd them through the new system. They also will ask us whether they should “come out of the shadows” and participate in any new program. We want to be able to tell them with authority and credibility to come into the light of day.

### ***Catholic Social Teaching and Immigration***

The Catholic Church is an immigrant church. More than one-third of Catholics in the United States are of Hispanic origin. The Church in the United States is also made up of more than 58 ethnic groups from throughout the world, including Asia, Africa, the Near East, and Latin America.

The Catholic Church has a long history of involvement in the immigration issue, both in the advocacy arena and in welcoming and assimilating waves of immigrants and refugees who have helped build our nation throughout her history. Many Catholic immigration programs were involved in the implementation of the Immigration Reform and Control Act (IRCA) in the 1980s, and those programs continue to serve immigrants today. In fact, the USCCB was a national coordinating agency for the implementation of IRCA. We have a strong working relationship with the Department of Homeland Security (DHS) and with U.S. Citizenship and Immigration Services (USCIS), the agency that would be largely responsible for implementing any new legalization and temporary worker programs. There are currently 158 Catholic immigration programs throughout the country under the auspices of the U.S. bishops.

The Church’s work in assisting migrants stems from the belief that every person is created in God’s image. In the Old Testament, God calls upon his people to care for the alien because of their own alien experience: “So, you, too, must befriend the alien, for you were once aliens yourselves in the land of Egypt” (Deut. 10:17–19). In the New Testament, the image of the migrant is grounded in the life and teachings of Jesus Christ. In his own life and work, Jesus identified himself with newcomers and with other marginalized persons in a special way: “I was a stranger and you welcomed me.” (Mt. 25:35) Jesus himself was an itinerant preacher without a home of his own as well as a refugee fleeing the terror of Herod. (Mt. 2:15)

In modern times, popes over the last 100 years have developed Church teaching on migration. Pope Pius XII reaffirmed the Church’s commitment to caring for pilgrims, aliens, exiles, and migrants of every kind, affirming that all peoples have the right to conditions worthy of human life and, if these conditions are not present, the right to migrate.<sup>1</sup> Pope John Paul II stated that there is a need to balance the rights of nations to control their borders with basic human rights, including the right to work: “Interdependence must be transformed into solidarity based upon the principle that the goods of creation are meant for all.”<sup>2</sup> In his pastoral statement, *Ecclesia in America*, John Paul II reaffirms the rights of migrants and their families and the need for respecting human dignity, “even in cases of non-legal immigration.”<sup>3</sup>

In an address to the faithful on June 5, 2005, His Holiness Pope Benedict XVI referenced migration and migrant families; “. . . my thoughts go to those who are far from their homeland and often also from their families; I hope that they will always meet receptive friends and hearts on their path who are capable of supporting them in the difficulties of the day.”

In our recent joint pastoral letter, the U.S. and Mexican Catholic bishops further define Church teaching on migration, calling for nations to work toward a “globalization of solidarity:” “It is now time to harmonize policies on the movement

<sup>1</sup> Pope Pius XII, *Exsul Familia (On the Spiritual Care of Migrants)*, September, 1952.

<sup>2</sup> Pope John Paul II, *Sollicitudo Rei Socialis*, (On Social Concern) No. 39.

<sup>3</sup> Pope John Paul II, *Ecclesia in America (The Church in America)*, January 22, 1999, no. 65.

of people, particularly in a way that respects the human dignity of the migrant and recognizes the social consequences of globalization.”<sup>4</sup>

For these reasons, the Catholic Church holds a strong interest in the welfare of immigrants and the ways in which our nation welcomes newcomers from all lands. The current immigration system, which can lead to family separation, suffering, and even death, is morally unacceptable and must be reformed.

POSITION OF THE USCCB ON S. 1348, THE SECURE BORDERS, ECONOMIC OPPORTUNITY,  
AND IMMIGRATION REFORM ACT OF 2007

Much attention is being focused on legislative efforts underway in the other body, where the Senate is considering a bipartisan comprehensive reform proposal negotiated between the White House and several senators, including Senators Edward M. Kennedy (D-MA) and Jon Kyl (R-AZ).

The bishops are encouraged that the legislation that the Senate is considering contains a program that would permit many undocumented migrants currently in the United States to come out of the shadows, legalize their status, and earn permanent residency. The bishops also are encouraged by provisions that would devote visas to reducing the backlog in the availability of some of the family preference visas. However, we are deeply concerned with a number of the provisions in that legislation. We will be working to modify those provisions as the bill works its way through the Senate. And we strongly urge that you not replicate these problematic provisions in any legislation that the House takes up and passes.

In a statement released on May 17, 2007, Bishop Gerald Barnes, chairman of the USCCB Committee on Migration, stated that the U.S. bishops outlined three specific problem areas, including the legalization program in Title VI, the new worker visa program in Title IV, and the changes to the family preference system in Title V. While these areas do not represent the totality of our concerns, for purposes of this testimony I would like to focus upon them for the subcommittee.

*Title IV—Temporary Worker Program*

While we appreciate the inclusion in Title IV of AgJOBS legislation, we strongly oppose the Title’s adoption of a temporary worker program that does not provide workers with the option of pursuing a path to permanent residency. This could create an underclass of workers in our society who are easily exploitable and without full rights and privileges in the society. We also have misgivings about workers having to return home after two years and remain outside of the country for a year. We fear this may result in some workers choosing to stay illegally.

Other problems we have in Title IV include its unrealistic requirements for health insurance and minimum income levels, and the reliance on the unrealistic triggers found in Title I of the legislation before the temporary worker program can begin to operate.

*Title V—Reconfiguration of the Legal Immigration System*

We have serious concerns about much of Title V of the bill that the Senate is currently considering. These include opposition to the elimination of the 1st, 2b, 3rd, and 4th family preference categories; elimination of parents of U.S. citizens from the immediate relative category; capping parents of U.S. citizens at 40,000 visas per year; elimination of more than 200,000 family-based visas each year; dismissal of the petitions of more than 800,000 petitioners who filed their family preference petitions after May of 2005 from the family preference system; imposition of an untried and untested “merit-based” system that would give virtually no weight to family ties; a reduction by more than 50 percent in special immigrant visas, including a reduction by more than 50 percent in visas available to special immigrant religious workers; and elimination of the diversity visa program.

We urge the subcommittee to protect family unity in our immigration system by replacing Title V of the Senate bill with Title V of the STRIVE Act. This would maintain the family preference system as currently administered and clear up interminable family backlogs. From the church perspective, a family member from Central America, Africa, Asia, the Caribbean, or elsewhere could well offer the country as much as a computer software engineer. We should not abandon family unity as the cornerstone of our immigration system.

*Title VI—Legalization Program*

We have two major concerns with the legalization program contained in Title VI of the Senate legislation. First, we are troubled that legalizing aliens, known as Z

<sup>4</sup> *Strangers No Longer: Together on the Journey of Hope. A Pastoral Letter Concerning Migration from the Catholic Bishops of Mexico and the United States,* January 23, 2003, n. 57.

visa holders, would be unable to petition for their immediate family members who live outside the United States until they obtain permanent residency. Under this legislation, this process would take a minimum of eight-to-thirteen years but could take much longer. We urge the subcommittee to amend this aspect of the program and permit immediate family members to permanently reunite with a Z visa holder in a timely manner.

A second concern we have with Title VI is the requirement that Z visa holders return to their home country to apply for permanent residency. This requirement could place an undue burden on applicants who are either unable to afford a return home or unwilling to for fear of not being allowed to return. It could have an unintended “chilling” effect on participation in the permanent residency program, an effect which could defeat the purpose of the program. We urge the subcommittee to examine this aspect of the program and eliminate it or, at a minimum, replace it with the “touch back” provision contained in the STRIVE Act.

Other concerns we have with Title VI of the Senate bill includes what may well be excessive fees for persons attempting to legalize their status and inadequate funding for the infrastructure to shepherd the estimated 12 million migrants through the legalization process. We also are concerned that the unrealistic triggers found in Title I of the legislation could impede the ability of Z visa holders to adjust their status, thus relegating them to a permanent state of uncertainty.

We hope to work closely with you and other members of the Committee in coming weeks on these and other concerns we have with the Senate bill.

#### ***The Position of the USCCB on Comprehensive Immigration Reform***

Madam Chairman, the U.S. Catholic bishops believe that any comprehensive immigration reform bill should include 1) an earned legalization program that gives migrant workers and their families the opportunity to obtain permanent residency; 2) a new worker visa program that protects the labor rights of both U.S. and foreign-born workers and gives participants the opportunity to earn permanent residency; 3) reform of the family-based preference system to ensure that families are reunited in a timely fashion; 4) restoration of due process protections for immigrants; and 5) policies that address the root causes of migration, such as the lack of sustainable development in sending countries. We also urge Congress to ensure that provisions are included to facilitate the implementation of any bill in an efficient and fair manner.

**Earned Legalization Program.** A main feature of comprehensive immigration reform should be an earned legalization program which provides the more than 12 million undocumented persons in the nation legal status and an opportunity to earn the opportunity to apply for permanent residency. Such a program should be workable, achievable, and fair. For example, a program cannot be so complicated as to be ultimately unworkable, and it should not be so onerous as to discourage otherwise qualified applicants from “coming out of the shadows.” This program should include waivers so as to maximize those eligible for legalization. It should ensure confidentiality in the application and adjudication process and provide for meaningful judicial review for those who might be unfairly denied. The legalization program should allow immediate family members outside of the United States to join their loved one (spouse or parent) in the United States. Finally, it should not require eligible persons to travel back to their home country for processing.

The Agricultural Job Opportunity, Benefits, and Security Act of 2007 (S.340, H.R. 371) “AgJobs” represents a bipartisan initiative that would help protect both a vital industry and a labor force which is vulnerable to exploitation. Introduced in the House of Representatives by Representatives Howard Berman (D-CA) and Chris Cannon (R-UT), this measure represents a negotiated agreement between the agricultural employers and the United Farm Workers. In the terms of this agreement, the legislation would both stabilize the labor force in this important industry and ensure that employers have access to a work-authorized supply of labor, if necessary.

The Development, Relief, and Education for Alien Minors Act (DREAM Act) represents another bipartisan initiative that would allow some undocumented students to be eligible for in-state tuition and legal status as permanent legal residents. Having entered the United States as very young children, often through no fault of their own, these students have contributed to their schools and communities. Many have lived in the United States for years.

We urge Congress to enact both of these important pieces of legislation by including them in a comprehensive immigration reform measure.

**New Worker Visa Program.** Perhaps the most problematic aspect of immigration policy reform is the creation of a new worker program that protects the basic rights of all workers, both foreign and domestic. The history of “guest worker” pro-

grams in the United States has not been a proud one. Indeed, the *Bracero* program, the largest U.S. experiment with temporary laborers from abroad, ended abruptly in 1964 because of abuses in the program. The U.S. Catholic bishops have long been skeptical of large-scale “guest worker” programs. Nevertheless, the status quo, which features a large underclass of undocumented workers unprotected by the law, is unacceptable.

In this regard, the U.S. and Mexican bishops have proposed the following elements for a “new worker program.” From both sides of the border, the Catholic Bishops have agreed that these elements, if properly implemented, would help protect the rights of foreign and U.S. workers and ensure that legal avenues are provided for future migrants to enter the country in a safe, legal, and humane manner.

- **Wage and Benefit Levels.** Any worker program must feature wage levels and benefits given domestic workers in an industry. Overtime pay should be available. Benefits such as worker’s compensation, social security, housing, and health-care should be made available.
- **Worker Protections and Job Portability.** Workers should enjoy the same protections of U.S. labor law as U.S. workers, regardless of industry, including a right to redress grievances in federal court and a transparent arbitration system; safe and sanitary working conditions; and expressed terms of employment. Workers should be able to move to other employment within an industry and not be tied to one employer. Work accrued toward permanent residency should not be affected by changing jobs or employers.
- **Family Unity.** Workers should be able to be joined by spouse and children in the United States during the length of the worker’s visa. Either spouse should be eligible for work authorization, regardless of whether he or she works in the program. Spouses and children should be able to become eligible for permanent residency at the same time as the worker in the program.
- **Labor-Market Test.** A mechanism should be included to ascertain whether U.S. workers within an area are adversely impacted by the hiring of workers from abroad. Employers should be required to advertise job openings in the United States to the maximum extent practicable and make good-faith efforts to recruit U.S. workers for a sufficient amount of time.
- **Mobility.** Workers and their families should be able to travel throughout the United States, travel back and forth from the United States to their country of origin, as well as travel from work site to work site, regardless of location, for the duration of their visa. Visas should be renewable as long as workers meet the requirements of the program, and applicable waivers to bars to admission should apply.
- **Enforcement Mechanisms.** Resources should be appropriated to ensure proper enforcement of worker protections in the program. Workers should be given the right to sue in federal court for violation of rights.
- **Path to Residency.** Workers should have the option of working to earn permanent residency over time, similar to an earned legalization program, as outlined elsewhere in my testimony.

In our view, any new worker program must contain these elements in order to avoid the abuses of past such programs and to ensure that worker’s rights are protected. In addition, the new worker program should be enacted in conjunction with a legalization program for the undocumented so that groups of workers are not pitted against each other. A just worker program also will mitigate the amount and effects of undocumented migration, which can lead to the abuse, exploitation, or even death of migrants.

**Family Reunification.** Family reunification, upon which much of the U.S. immigration system has been based for the past 40 years, must remain the cornerstone of U.S. immigration policy. Immigrant families contribute to our nation and help form new generations of Americans. Even while many migrants come to the United States to find employment, many come as families.

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

for parents to reunite with minor children. The waiting times for adult siblings to reunite can be twenty years or longer.<sup>5</sup>

The family preference system should be reformed in the following manner:

- **Raising current world-wide numerical limitations.** Significantly raising the current world-wide numerical limitations on immigrant visas, as well as raising the ceiling on various family visa categories could dramatically reduce the current family backlog. Currently, the Immigration and Nationality Act (INA) sets an annual minimum family-sponsored preference limit of 480,000. In addition, the per-country limit for preference immigrants is set at seven percent of the total annual family-sponsored and employment-based preference limits. These limitations result in lengthy waits for family members abroad awaiting visas to immigrate to the United States. Raising these numbers significantly would reduce these waits.
- **Changing the treatment of “immediate relatives.”** The immediate relative category, which currently includes only the children, spouses, and parents of U.S. citizens is not subject to the family preference numerical limitations. However, the number of immediate relative visas granted is subtracted from the overall family immigration cap. Reducing the family backlog can be achieved by: 1) not counting immediate relatives of U.S. citizens against the family immigration cap and 2) placing the immediate relatives of lawful permanent residents into the same category as immediate relatives of U.S. citizens. This would help free up visas for other categories.

**Enforcement Regime and Due Process.** Madam Chairman, I would like to concentrate at this point in my testimony on how the enactment of comprehensive immigration reform would enhance, not undermine, our ability to protect our nation from terrorist threats. By enacting comprehensive immigration reform, the United States would better be able to identify who is already in the country and to identify and control who enters it. For example, a greater portion of the 11–12 million undocumented persons in the nation likely would emerge “from the shadows” and identify themselves to the government in order to participate in the earned legalization program. The establishment of additional employment-based and family-based visas for low-skilled workers and their families would provide legal avenues for those seeking to enter the United States, helping to better ensure that the government knows who is entering the country and for what purpose.

Madam Chairman, I am not alone in this assessment. Last year, nine former Homeland Security officials issued a statement which read, “enforcement alone will not do the job of securing our borders. Enforcement at the border will only be successful in the long-term if it is coupled with a more sensible approach to the 10–12 million illegal aliens in the country and the many more who will attempt to migrate to the United States for economic reasons.”

At this point, Madam Chairman, I would like to offer several principles which we believe should govern your deliberations and decisions on any new enforcement measures adopted in a comprehensive immigration reform bill:

**Any new enforcement measures are best implemented within comprehensive immigration reform.** We believe that any new enforcement measures are best applied within the context of comprehensive immigration reform. By creating legal avenues for immigration that meet our economic needs and help reunite families, and by legalizing the undocumented population who pass specific and rigorous security checks, enforcement personnel can more easily identify those who truly threaten our communities and nation: drug and human traffickers, human smugglers, and terrorists.

**Enforcement measures should not be overly punitive or undermine due process.** Legislation adopted by the House of Representatives in 2005 included provisions that criminalized undocumented persons and those providing them assistance. Other provisions removed due process protections for immigrants, including permanent residents and other legal immigrants. Such measures do not deter illegal immigration but instead undermine the fairness in our immigration laws.

**Enhanced protection should be respectful of human rights and human life.** Federal border enforcement personnel play a crucial role in protecting our nation and deserve our respect and support for their commitment to our security. We are grateful for their ongoing efforts to identify and rescue migrants who are in distress. We support more resources for infrastructure and staffing at ports-of-entry, which would help relieve an overburdened system, promote our security, and allow for more expeditious and humane treatment of immigrants. However, we oppose en-

<sup>5</sup>U.S. Citizenship and Immigration Service Fact Sheet, January, 2004.

forcement strategies which may lead migrants into remote areas of the desert, and, thereby, lead to more deaths.

**Immigrants should not be treated as criminals.** We do not believe that the large majority of undocumented immigrants are criminals and should not be treated as such. In cases where immigrants have engaged in criminal activity, they should be dealt with in our criminal justice system in a fair and balanced way. We are concerned with reports that these immigrants are being detained in substandard and crowded conditions, including in “tent cities” or local jails. Immigrants should not be detained on a mandatory or indefinite basis or without having their “day in court.” Enforcement measures should reflect these goals.

**Families and children deserve special care and attention.** Efforts should be made to keep families together through release or alternatives to detention, wherever possible. If detention is necessary, a family should be held in a non-penal setting. Children should be protected from dangerous conditions and, if unaccompanied by a parent or guardian, have access to counsel and be placed in the least restrictive setting.

**Asylum-seekers and refugees should be afforded protection.** Those who come to our shores in need of protection from persecution should be afforded an opportunity to assert their claim to a qualified adjudicator and should not be detained unnecessarily. The expansion of “expedited removal,” a practice that puts *bona fide* refugees and other vulnerable migrants at risk of wrongful deportation, should be halted. At a minimum, strong safeguards, such as those suggested by the U.S. Commission on International Religious Freedom, should be instituted to prevent the return of the persecuted to their persecutors.

Madam Chairman, the U.S. Catholic bishops reaffirm the right of our nation to secure our borders. The above principles will help guide this effort so that the basic human rights and dignity of persons are protected.

Finally, we urge the committee to reexamine the changes made by the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), which eviscerated due process protections for immigrants. We urge you to restore judicial discretion in removal proceedings so that families are not unnecessarily divided.

**Root Causes of Migration.** In our pastoral letter, the U.S. and Mexican Catholic bishops write, “the realities of migration between both nations require comprehensive policy responses implemented in unison by both countries. The current relationship is weakened by inconsistent and divergent policies that are not coordinated and, in many cases, address only the *symptoms* of migration and not its *root causes*.”<sup>6</sup>

It is critical that the Congress and the administration look at the immigration issue with Mexico and other governments as part and parcel of the entire bilateral relationship, including trade and economic considerations. Addressing the immigration systems of both nations, for example, will not control the forces that compel migrants to come to the United States.

In an ideal world for which we must all strive, migrants should have the opportunity to remain in their homelands and support themselves and their families. In this regard, we renew our call to both the U.S. and Mexican governments to resume bilateral migration negotiations so that all issues that impact migration to the United States are addressed.

**Implementation Issues.** It is important to understand that the manner in which comprehensive immigration reform is implemented is vital to its success. A public-private partnership is necessary so that immigrant communities are aware of the facts of the application process (thus eliminating the involvement of “notarios”) and are able to receive assistance in accessing the program.

It will be essential that Congress provide adequate resources for DHS to implement and execute any earned adjustment program. As passed by the Senate, the Comprehensive Immigration Reform Act (CIRA) of 2006 anticipated this by establishing fees that would generate approximately 66 billion dollars of revenue dedicated to processing applications for earned adjustment.

The fee-generated funds will not be adequate to meet the financial needs of this implementation program; Congress will also need to directly appropriate funds to get the program started. Additionally, Congress must be diligent in its oversight and to ensure that fee-generated funds are not diverted for other purposes, as has often been done in the past.

While some may quarrel with the use of appropriated funds for this purpose, I would suggest that the alternative would likely require the expenditure of far more funds and yield a less desirable result. The cost of properly implementing an earned

<sup>6</sup>*Strangers No Longer*, n. 56.

adjustment program is tiny when compared to the cost of deporting 12 million, which has been estimated as \$240 billion, or \$25,000 per immigrant.

Mr. Chairman, we believe that any comprehensive legislation can be implemented through a combination of reasonable fees imposed on applicants with some supplemental funding appropriated by Congress. Fees should not be imposed, however, which place the program out of the reach of qualified applicants.

We recommend the inclusion of the following elements in any legislation to ensure that a program is implemented appropriately:

- **Confidentiality.** Applicants for both the legalization and temporary worker program should be extended confidentiality and not be subject to arrest and deportation if they fail to qualify for the program. This would ensure maximum participation in the program and would prevent those who do qualify are not discouraged or intimidated from applying.
- **Qualified Designated Entities** Board of Immigration Appeals (BIA)-accredited Qualified designated entities (QDEs) should be created to assist in implementation of both programs.
- **Reasonable Implementation Period.** Sufficient time should be given between enactment and implementation so that regulations, procedures, and infrastructure are in place. Deportations of prospective applicants should be suspended between these two dates.
- **Creation of a Separate Entity.** A separate entity, similar to the asylum corps, should be created within the U.S. Bureau of Citizenship and Immigration Services (USCIS) to implement the legislation. Such an entity should be adequately funded through appropriations.
- **Derivative Benefits.** Immediate family members should receive the same immigration benefits under legalization/temporary worker program as the worker.
- **Generous Evidentiary Standards.** For purposes of verifying an alien's eligibility for legalization, evidentiary standards should be based upon "preponderance of the evidence" and should include a wide range of proof, including attestation.
- **One-Step Legalization.** A one-step legalization program would verify eligibility and security and background checks in one process up front and not in a two-step process, i.e. upon conditional status and then permanent status.
- **Operational Terms should be defined.** Operational terms in the bill, such as "continuous residence," "brief, casual, and innocent," and "known to the government," should be defined in the legislation to avoid later confusion.
- **Broad humanitarian waiver.** A broad waiver of bars to admissibility for legalized aliens, such as unlawful presence, fraud, or other minor offenses, should be included in the legislation.

The inclusion of these elements in any legislation would facilitate the implementation of any program.

In addition, the Congress and the Administration should take steps to reduce the current immigration adjudication backlogs so that immigrants receive benefits in a timely way, and so that the U.S. Citizenship and Immigration Service (USCIS) can successfully work towards implementing new programs.

Moreover, the government has just proposed an increase in fee applications by three times for green card applications, leaving these benefits financially out of reach of many applicants.<sup>7</sup>

Madam Chairman, reduction in the current backlogs in naturalization and adjustment of status applications as well as the maintenance of affordable fees should be part of our nation's efforts to reform our immigration system. We recommend that Congress evaluate the budget of the U.S. Citizenship and Immigration Service (USCIS) and provide more directly appropriated funding for infrastructure and backlog reduction. Without more efficiency in the system, a new comprehensive reform program of any type may be unworkable, absent the creation of a new entity to implement it.

THE POSITION OF THE USCCB ON THE SECURITY THROUGH REGULARIZED IMMIGRATION AND A VIBRANT ECONOMY ACT OF 2007 (STRIVE)

To date in the 110th Congress, H.R. 1645, the Security Through Regularized Immigration and a Vibrant Economy Act of 2007 (STRIVE), bipartisan legislation in-

<sup>7</sup> 69 Federal Register 5088 (February 2, 2007)

troduced by Representatives Luis Gutierrez (D-IL) and Jeff Flake (R-AZ), best comports with the principles needed for a just and humane immigration reform bill. The legislation contains a viable program for legalizing the undocumented population and giving them an opportunity for permanent residency, a new worker program with appropriate worker protections and wages, and reductions in family immigration backlogs. We believe that the STRIVE Act should be the vehicle for comprehensive reform in the House of Representatives.

We have some concerns, however, about several provisions in Title II of the legislation, which we hope will be addressed during the legislative process. For example, we believe that passport fraud provisions found in section 221 of the measure would place bona fide refugees at risk, many of whom must resort to the use of false travel documents obtained in their home country because they cannot obtain government documents from authorities that may be persecuting them. We also object to aspects of section 234c of the bill that seeks to deal with penalties for persons who harbor and smuggle aliens. Although the section would exempt religious organizations from some of its penalties, it would place other groups and individuals, including labor unions, at risk of prosecution for providing basic needs assistance to undocumented immigrants. We believe these and other provisions in Title II should be removed from the legislation or substantially modified.

We also have some concerns with the “triggers” contained in the STRIVE Act—goals which must be achieved prior to the implementation of the legalization programs. The legislation requires the implementation of the first phase of an electronic employer verification system and the creation of the infrastructure necessary to improve immigration document security for a tamper-resistant identification card. We urge a provision which allows the legalization programs to go forward if these goals are not met within the deadlines outlined in the legislation.

Despite these reservations, we believe the STRIVE Act contains the right structure and formula to effectively address our immigration crisis and should be the basis for any immigration reform legislation considered by the U.S. House of Representatives.

#### CONCLUSION

Madam Chairman, the U.S. House of Representatives, and specifically your subcommittee, will soon consider historic immigration reform legislation. We ask that you consider strongly our recommendations in this area and pass a fair, just, and workable bill.

We urge you and the House leadership to permit amendments to improve the final product of any legislation.

We are hopeful that, as the House of Representatives debates this issue, neither legal nor undocumented immigrants will be made scapegoats of the challenges we face as a nation. Rhetoric which attacks the human rights and dignity of the migrant does not serve a nation of immigrants; additionally, xenophobic and anti-immigrant attitudes will only serve to lessen us as a nation. The U.S. bishops are hopeful that this debate will consider not only the negative effects of illegal immigration but also the many benefits that immigrants bring to our communities and our nation.

Madam Chairman, the U.S. bishops look forward to working with you in the months ahead to fashion an immigration system which upholds the valuable contributions of immigrants and honors the rule of law.

Thank you for your consideration of our views.

Ms. LOFGREN. Thank you very much, Bishop. And we understand that you have to leave, but we do very much appreciate your patience and being here.

We will now introduce the rest of our panel. The voices of the faithful are very important as the nation considers the issue of immigration.

And I would like to turn to the Chairman of the full Committee to introduce Reverend Adams, because he has a close connection with Reverend Adams.

Mr. CONYERS. Thank you, Subcommittee Chairwoman Zoe Lofgren, and to my friends, Judge Gohmert and Luis Gutierrez and Congressman Ellison, our newest Member from Minnesota on the Judiciary Committee.

This is a pleasure, because I have worked with Dr. Charles Adams of Hartford Memorial Church in Detroit for more years than we care to recount. He went to Harvard School of Divinity.

And I just wanted you to know that the one thing on this long list of things that he accomplished is that he was one of the founders of the Progressive Baptist Convention, the Conference of Progressive Baptists in the United States, some 20 years or so ago.

He is still the senior pastor at Hartford Baptist Church in Detroit and currently teaches at the Ecumenical Theological Seminary in Detroit.

I am proud of the activism that follows Dr. Martin Luther King, that he and I have talked about many times. And he has become the chair—he was the president of the Detroit branch of the NAACP, which was then, and is still, the largest branch of its kind in the nation. It holds a 10,000-person dinner every year at Cobo Hall.

He speaks and lectures and preaches around the world, including before the United Nations on the South African apartheid. He has been with the World Council of Churches.

He is a member of the general board of Christian Ethics Committee of the Baptist World Alliance, the World Council of Churches' board of directors, general board of the National Council of Churches, board of trustees of Morehouse College in Atlanta, Morris College of Sumter, South Carolina, and an activist in the true spirit of the reason that brings one, two, three, four, five, six, seven, eight people to a panel. This Subcommittee never has more than four members on its panels.

But the question of what is the role of faith-based leaders in shaping a huge, comprehensive immigration policy is so important to us, that we have you all here.

Thank you very much, and welcome.

Ms. LOFGREN. Thank you very much, Chairman Conyers.

I would now like to introduce Mr. Gideon Aronoff, who is the president and CEO of the Hebrew Immigrant Aid Society. Prior to joining the Aid Society in 2000, he worked for nearly a dozen years in a number of leadership positions within Washington's and Boston's respective Jewish communities. He is a member of the board of directors of the National Immigration Forum and has worked tirelessly to build coalitions among community-oriented organizations. Mr. Aronoff earned his bachelor's degree from Brandeis and his law degree from Cornell.

We are also pleased to have the Reverend Derrick Harkins with us today, pastor of the Nineteenth Street Baptist Church right here in Washington, D.C. Prior to his pastorate in Washington, Dr. Harkins was the Senior Minister of the New Hope Baptist Church of Dallas, Texas. During his tenure there, he served as President of the Greater Dallas Community of Churches and was a founding board member of the Dallas Leadership Foundation and the Morals and Values Project. He is a member of the General Council of the Baptist World Alliance, the Association for Clinical Pastoral Education, and serves as a member of the board of directors for World Relief, where he has been instrumental in directing a significant amount of resources to rebuilding the Gulf Coast. Dr. Harkins received his bachelor's degree from Boston University, his Master of

Divinity from the Union Theological Seminary in New York City, and his Doctorate in Homiletics from the United Seminary in Dayton, Ohio.

I would also like to welcome Dan Kosten, the director of World Relief Refugee and Immigration Programs at the National Association of Evangelicals. Having worked with World Relief for over 5 years, Mr. Kosten provides technical support for a network of over 20 offices that offer a number of programs involving refugees, trafficking victims, and immigrants. Born in Taipei, Taiwan, Mr. Kosten worked for nearly 10 years in Central Africa, beginning as a member of the Peace Corps. He received his bachelor's degree from Calvin College and his master's degree in Missions and Intercultural Studies from Wheaton College. He is a member and deacon at Chapelgate Presbyterian Church.

Next, I am pleased to welcome the minority's two witnesses, the first of whom is Dr. Jim Edwards, an Adjunct Fellow at the Hudson Institute. Dr. Edwards co-authored the book, *The Congressional Politics of Immigration Reform*, which was nominated for the Hardeman Prize, and has contributed chapters to several published volumes, including *Debating Immigration*, edited by Carol M. Swain. Here on Capitol Hill, Dr. Edwards has served on the staffs of Congressman Ed Bryant, Congressman John Duncan, Jr., and Senator Strom Thurmond. He earned his bachelor's and master's degrees from the University of Georgia and his doctorate from the University of Tennessee.

And finally, I am pleased to welcome the minority's second witness, Dr. Stephen Steinlight, a senior policy analyst at the Center for Immigration Studies. Dr. Steinlight earned his bachelor's degree with honors from Columbia University and studied at Princeton University as a Woodrow Wilson Fellow; at Clare College, Cambridge University as a Kellett Fellow; and at the University of Sussex as a Marshall Scholar, where he earned his doctorate.

Again, thank you very much for your patience in waiting for us, but it was worth the wait for us to hear all of you. So, if we may begin.

As mentioned earlier, all of your written statements will be made a part of the record. We do ask that you summarize your statements in about 5 minutes, so that we will have a chance to ask some questions.

When this little machine has a yellow light, and when that yellow light goes on, it means that you have only got 1 minute left. And when the red light goes on, it means that the 5 minutes are up, and we would ask you to try and wind up so that the next witness can be heard.

So, we will begin with you, Reverend Adams. What an honor it is to have you here today.

**TESTIMONY OF REVEREND CHARLES G. ADAMS, SENIOR  
PASTOR, HARTFORD MEMORIAL BAPTIST CHURCH**

Reverend ADAMS. My name is Charles G. Adams, pastor of Hartford Memorial Baptist Church in Detroit, Michigan. I am a constituent and an admirer of Chairman John Conyers, to whom I am grateful for this privilege.

For the better part of my life, I have been a preacher and the pastor of Hartford Church, whose legendary leader was my predecessor, the late Reverend Dr. Charles A. Hill, Sr., who was active in the formation of organized labor in Detroit, the advancement of the civil rights movement and also the speaking of human rights for aliens and those who were not born in the United States, but found life in the United States.

I speak in opposition to some aspects of the pending comprehensive reform legislation. While I applaud the existence of the proposed legislation as significantly progressive, I find many flaws that are both puzzling and troubling.

My concerns are, one, if there is to be a border fence, it is ominously extended 370 miles, and 200 miles of vehicle barriers. And if such construction is to be a prerequisite to the immigration reform that is now before us, will such a prerequisite delay the needed immigration reforms indefinitely, since a long delay of barrier construction is to be expected?

And will such a fence, that is described in some plans as triple-layered metal fencing, prove to be a hindrance to the existence of wildlife and become an impervious barrier to many wild animals in the area that are needed for the balance of nature?

Many species of animals will not be able to fly over or to fight through the fence to get to the Rio Grande, their only available source of fresh water.

The New York Times reports, moreover, that the border fence might also prevent other animals from swimming across the river to mate with loved partners on the other side. Such an outcome would be deleterious, if not destructive, of the \$150 million a year tourist industry in that area.

Secondly, the proposal before us seems unnecessarily to complicate and frustrate an effective, fair and reasonable way of legalizing immigrants. They are charged too much money, they have to wait too long, and they have too many hoops to jump through in order to qualify for documentation.

In many respects, what is being proposed is inferior to the status quo.

Thirdly, the proposal creates a permanent underclass of temporary immigrant workers, who are taken to be good enough to work here, but not good enough to live here and thrive here.

The shift from family-based—and this is my fourth objection—the shift from family-based immigration to merit-based immigration will destroy millions of families on both sides of the border, in defiance of the fact that we are all a family-based, world community of marvelously diverse people who need each other in order to survive and to thrive.

It is a horror to imagine human civilization that is not family based. Without the family and the communities that are built by the family, life in America, according to 17th century philosopher Thomas Hobbes, would be “poor, solitary, nasty, brutish and short.” We must not allow this to happen. Motivated by faith, we know that we are better than that.

Saint Anselm used to say, *Fides quaerens intellectum*—“Faith seeks change and intelligence.” It also seeks ethical responsibility,

social equality and unfettered opportunity to rise higher. Faith perpetuates hope and generates love.

It was Harvard philosophy professor Josiah Royce who coined the phrase “beloved community” and inspired the intellectual consciousness of Martin King, Jr., who found in Royce’s writing a powerful social commentary, conceived from those Bible scriptures that articulate the demand of God for justice as a religious priority.

The God of the Hebrew Bible and of the Greek New Testament made justice, not personal piety, the ultimate priority. That God is love does not denigrate justice, but necessitates justice.

There is an old black spiritual that asks the question, “Is you got good religion?” Not just is you got religion, but is it good religion? There is a whole lot of dangerous, bad, sick religion in the world. Bad religion can make you hard, cold, mean, and insensitive. Bad religion is worse than no religion.

I heard Harvard New Testament scholar Krister Stendahl say, “There is not an evil cause in the world that has not been sponsored by somebody’s sick, perverted, bad, hateful religion.”

Bad religion spawned the medieval military crusades. Bad religion grabbed the enforcement of the State to destroy freedom of conscience. Bad religion set up the Inquisitions to enforce religious conformity. Bad religion murdered the Anabaptists, burned Joan of Arc at the stake, executed John Huss and Hans Denck, persecuted and banished Roger Williams.

Bad religion killed William Tindale for translating the Bible into the vernacular of the people. Bad religion took apartheid to South Africa, brought slavery to America, fostered segregation, bigotry, exploitation, organized the Ku Klux Klan, generated the Nazi Party, created the immoral majority, produced division and hostility, hatred and dislocation.

Bad religion assassinated Mahatma Gandhi, murdered Anwar Sadat, slew Indira Gandhi, cut up Lebanon, destroyed Iran, devastated Iraq, oppressed the poor, made September 11, 2001 a day of infamy, killed Martin Luther King, Jr., and devastated Yugoslavia.

Bad religion takes life; good religion gives life. Bad religion castigates; good religion liberates. Bad religion talks about national defense; good religion talks about national purpose. Bad religion divides; good religion unites. Bad religion hates; good religion loves. Bad religion segregates; good religion integrates. Bad religion stays in church; good religion works in the world. Bad religion hangs around the altar; good religion takes the Jericho road.

Bad religion builds fences; good religion builds bridges.

Let us build bridges and not fences, and we will be a stronger, greater, freer America and world.

Ms. LOFGREN. Thank you very much, Reverend.

Mr. Aronoff?

And when the red light goes on, your time is up. There was no way I was interrupting Reverend Adams.

Reverend ADAMS. I did not see the light. Where is the light?

Ms. LOFGREN. Oh, that is all right. [Laughter.]

You had me. You had me. I was not going to interrupt.

Mr. GOHMERT. I thought you had seen the light; that is why you are here.

Ms. LOFGREN. Mr. Aronoff?

**TESTIMONY OF GIDEON ARONOFF, PRESIDENT AND CEO,  
HEBREW IMMIGRANT AID SOCIETY (HIAS)**

Mr. ARONOFF. Thank you, Madam Chairwoman. Thank you for the opportunity to testify before the Subcommittee and to present the Jewish community's perspective on comprehensive immigration reform.

My name is Gideon Aronoff, and I am the president and CEO of the Hebrew Immigrant Aid Society. HIAS is the international migration arm of the American Jewish community, which for 126 years has assisted over 4.5 million refugees, vulnerable Jewish and non-Jewish migrants, to safety and security in the United States and elsewhere around the world.

HIAS, along with our national and local Jewish community partners, has been actively engaged in advocacy to support comprehensive immigration reform, to address our broken immigration system in a way that is both workable and humane.

On March 20, 2007, in a show of broad support, more than 30 prominent leaders in the American Jewish community sent a letter to congressional leadership urging passage of fair and workable, comprehensive immigration reform. Leaders of the American Jewish Committee, the Anti-Defamation League, United Jewish Communities, Jewish Council for Public Affairs and many, many other national and local leaders endorse this effort.

We believe that any immigration reform legislation to fix the current system must include the following: border protection and interior enforcement policies that are both effective and humane; an opportunity for hardworking immigrants who are already here to come out of the shadows, regularize their status, and after satisfaction of reasonable criteria, pursue a path to citizenship; reforms in our family-based immigration system that will significantly reduce waiting times for separated families; and finally, creation of legal channels for new immigrant workers with full worker protections.

Today, both Congress and the Administration are working to see that comprehensive immigration reform is enacted this year. The House took the first step by introducing the bipartisan STRIVE Act, and I commend Congressman Gutierrez and Congressman Flake and all of the co-sponsors of this important bill for getting the ball rolling on this year's effort.

Last week, the White House and Senate Democrats and Republicans appear to have reached a deal on immigration reform that will include a path to legalization for the estimated 12 million undocumented immigrants living and working in this country, as well as creating a new worker visa program.

Notwithstanding the imperative to proceed with the legislation, we are concerned about provisions of the new bill that appear to undercut family reunification, create a point system that undervalues the central role of family ties, and lacks a solid path to citizenship for temporary workers.

For our community, we are inspired by the central Jewish teaching that emphasizes welcome, protection, and love for the stranger. This principle is referenced 36 times in the Torah, more than any other principle.

And for us, this basic value frames our perspective on how we should analyze various policy proposals, and how they will influence our nation and our security and our communities' interests.

First, I would like to briefly discuss the role that immigration plays in the top national priority: improving security.

While there have been ugly and inaccurate attempts to create the false impression that our immigration problems and our terrorism problems are one and the same, there are legitimate concerns that a porous border and a shadow society of undocumented immigrants and false documents will provide access to the United States and places for terrorists and criminals to hide.

This should be acknowledged, because comprehensive immigration reform can play a positive role in improving security on our borders and in the interior of our country.

In this regard, efforts must be undertaken immediately to provide sufficient financial, human, and technological resources to help secure our borders and to create a workable employer verification system, so that unscrupulous employers who wish to circumvent the system cannot succeed in hiring unauthorized workers.

These attempts to tighten enforcement, while at the same time providing opportunities for the current undocumented immigrant population, will allow the best targeting of enforcement resources on migrants who pose the greatest danger of terrorist or criminal connections, rather than maintaining the current situation, where immigration agents are forced to waste valuable resources chasing after busboys and nannies.

Second, it is clearly in our interest that our immigration system continues to value family-based immigration and immigrants—a segment of our immigration system that honors both American interests and our country's multiple religious traditions.

Employment-based immigration need not be increased at the expense of family-based immigration, because family immigrants also work. They fill jobs that would otherwise go unfulfilled, and they contribute to our economy.

Proposals that restrict rather than enhance the ability of family members to reunite in fact will cause a great pressure to create new waves of illegal immigration. And that is the purpose of what we are trying to achieve through comprehensive immigration reform.

Ms. LOFGREN. Thank you——

Mr. ARONOFF. For the Jewish community—and I will complete—the issues around the current debate put forth a very clear alternative. We either can move forward this year to address the problems of undocumented migration, or we can accept the status quo, which means continued migrant deaths, sporadic raids that separate families, exploitation of immigrant workers through illegal immigration system, prolonged wait for family members, inconsistent policy at the local level, and a chaotic and wasteful border and interior enforcement scheme that places the United States' security in jeopardy.

This alternative is unacceptable, and I look forward to working with the Committee to move this forward.

[The prepared statement of Mr. Aronoff follows:]

## PREPARED STATEMENT OF GIDEON ARONOFF

Thank you for this opportunity to testify before the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law to share the Jewish community perspective on comprehensive immigration reform. My name is Gideon Aronoff and I am the president and CEO of the Hebrew Immigrant Aid Society (HIAS).

HIAS, the international migration arm of the American Jewish community for 126 years, has assisted over 4.5 million refugees and vulnerable Jewish and non-Jewish migrants around the world by providing overseas assistance, resettlement in communities across the United States, and citizenship and other services to immigrants and refugees.

HIAS, along with our national and local Jewish community partners, has been actively engaged in advocacy in support of comprehensive immigration reform legislation to address our broken immigration system in a way that is both workable and humane. We believe that for any immigration reform legislation to fix the current system, it must include: border protection and interior enforcement policies that are effective and consistent with American humanitarian values; an opportunity for hard-working immigrants who are already here and contributing to this country to come out of the shadows, regularize their status upon satisfaction of reasonable criteria and, over time, pursue a path to citizenship; reforms in our family-based immigration system to significantly reduce waiting times for separated families who often have to wait as many as twenty years to be reunited; the creation of legal channels for workers and their families who wish to migrate to the U.S. to enter our country in an orderly manner and to work in a safe environment with their rights fully protected; and programs to enhance citizenship and encourage integration of newcomers into American society.

Today, both Congress and the Administration are working to see that comprehensive immigration reform legislation is enacted this year. The House took the first step by introducing the STRIVE (Security Through Regularized Immigration and a Vibrant Economy) Act, H.R. 1645. Introduced by Representatives Luis Gutierrez (D-IL) and Jeff Flake (R-AZ), the STRIVE Act is a bipartisan bill that seeks to address issues surrounding unauthorized migration to the United States in a comprehensive, not piecemeal, fashion by including tougher border security and enforcement measures, a new worker program, visa reforms, an earned legalization program for the undocumented with a path to citizenship; the DREAM Act which will make undocumented students eligible for citizenship and allow states to grant them in-state college tuition; AgJobs; and the Strengthening American Citizenship Act.

We're especially pleased that the bill would hasten family reunification through the reduction of backlogs and includes protections for detained asylum seekers. The bill would enhance the family immigration system, and would implement many of the recommendations made two years ago by the United States Commission on International Religious Freedom (USCIRF) in its report on asylum seekers in expedited removal. For half a century, the principles of family unity and refugee protection have been the foundation of our immigration policy. This bill goes far in upholding these fundamental principles. HIAS commends Representatives Gutierrez and Flake, and all of the cosponsors, for proposing legislation that is both practical and humane.

Last week, Senators on both sides of the aisle reached a deal on immigration reform that provides a path to legalization for the estimated 12 million undocumented immigrants living and working in this country, and 400,000 visas for new workers to enter the country and fill jobs that would otherwise go unfilled. We are encouraged that Senate Republicans and Democrats, along with the White House, have come together to deal with the issue of legalization and a path to earned citizenship for immigrants working and contributing to our society. It is essential that this debate move forward to address our country's pressing need for real comprehensive immigration reform.

Notwithstanding the imperative to proceed with this legislation, we are extremely concerned about the provisions in the new bill that would undercut family reunification, create a point system that undervalues the central role of family ties, and lacks a solid path to citizenship for temporary workers which could lead to the creation of an underclass of exploited workers without basic rights. While this legislation is a positive step that moves the process forward, allowing the Senate to address current problems of undocumented migration, we want to be sure that in the end Congress enacts legislation that respects families, rewards work while protecting workers, restores the rule of law and strengthens our economy, borders, and our nation.

For the Jewish community, the struggle to convert our current illegal immigration system into a legal immigration system that serves our country's and our commu-

nity's social and economic interests and treats immigrants with dignity, humanity and care is an effort to fulfill the fundamental teachings of our tradition and the lessons of our history as a people of migration.

Central Jewish teachings emphasize offering welcome, protection and love for the Ger (stranger). This is referenced in the Torah 36 times—more than any other principle. The Jewish tradition also includes principles of Piddyon Shevuyim (redeeming the captive), Chesed (kindness), and Hachnasat Orchim (hospitality) that create a solid framework for a compassionate response to the needs of immigrants and refugees. The Jewish tradition however, has been understood to allow communities to exclude migrants from permanent settlement based on concern over adverse economic impact on the community and therefore cannot be seen as supporting an absolute right of settlement or complete open borders. Instead, the full scope of interests and community needs must be factored in to identify the “most Jewish” approach to any specific immigration question.

Along these lines, evidence continues to mount in favor of the conclusion that immigration is in our economic and national interest. The fact is that American employers need workers and are not finding them in the U.S. Between 2002 and 2012, according to the Bureau of Labor Statistics, the U.S. economy is expected to create some 56 million new jobs, half of which will require no more than a high school education. Yet at the same time, the American labor force is shrinking. More than 75 million baby boomers will retire during that same period. Also, declining native-born fertility rates will be approaching replacement level (stagnating), and native-born workers are becoming more educated with every decade.

Additionally, an independent task force on immigration last concluded that immigration augments and complements the workforce exceptionally well, helps the U.S. maintain a competitive edge and adapt to global market conditions, and gives our economy a particular dynamism. However, they also concluded that despite the positive net benefits of immigration, illegal immigration can have a negative impact on wages at the bottom of the pay scale.<sup>1</sup>

The best way to reduce the negative consequences of illegal immigration is to change the system into a legal system where low skilled workers can protect their rights. This change would both improve their standing and prevent their employment from undermining the standing of native born workers.

Now I'd like to briefly discuss the role that immigration plays in the top national priority of improving security in post 9/11 America. While there have been very ugly and inaccurate attempts made to create a false impression that our immigration problems and our terrorism problems are one and the same, there are legitimate concerns that a border that is porous and a shadow society of undocumented immigrants and false documents can provide access to the United States and places to hide for terrorists and criminals.

This should be acknowledged because smart immigration policy can play a positive role in improving security on the borders and in the interior of our country. Advocates of comprehensive immigration reform should not shy away from recognizing this as a significant benefit of reform. Efforts must be undertaken immediately to provide sufficient financial, human and technological resources to help secure our borders and to create a workable employer verification system so that unscrupulous employers who wish to circumvent a new legal immigration system are not able to hire unauthorized workers.

These attempts to tighten enforcement while providing legal opportunities for the current undocumented immigrant population and future flows of immigrant workers will allow the best targeting of enforcement resources on those migrants who pose the greatest danger of terrorist or criminal connections rather than maintaining the current situation where immigration agents are forced to waste resources chasing busboys and nannies. This will also help the authorities to fight against the smugglers and document forgers who have been enriched and empowered by our current illegal immigration system.

Finally, it is clearly in our interest that our immigration system continues to deeply value family-based immigrants—a segment of our immigration system that honors both American interests and our country's religious traditions. Employment-based immigration need not be increased at the expense of family-based immigration because family-based immigrants also work, they fill jobs that would go otherwise unfilled, and they contribute to our economy. Proposals that restrict, rather

<sup>1</sup> Convened by the Migration Policy Institute, the Independent Task Force on Immigration and America's Future was co-chaired by Spencer Abraham, a former Republican senator and President Bush's first energy secretary, and Lee Hamilton, president of the Woodrow Wilson International Center for Scholars and a former Democratic congressman from Indiana. The task force issue a report titled “Immigration and America's Future: A New Chapter.”

than enhance, the ability of family members to reunite ignore the reality that family reunification is one of several root causes of undocumented migration and therefore fail to provide the long-term solution that is intended by comprehensive immigration reform and that our nation deserves.

The emphasis we place in our immigration laws on the reunification of families also makes sense in terms of helping our newcomers adapt to their new home. Family members play a crucial role in one another's lives by providing an important safety net, and helping each other adjust to their new surroundings by pooling resources and sharing responsibilities, such as caring for children and elderly parents. They take care of one another in times of economic, physical, or emotional hardships, thereby decreasing reliance on government welfare or private charities. Furthermore, it is through these immigrant family networks that the spirit of entrepreneurship can thrive and that small family businesses are created.

The proposals that seek to restrict family reunification are born from the notion of "chain migration," just as restrictionists used the term "amnesty" last year to enfeeble an earned legalization program. Yet there is nothing inherently bad about chain migration. Much of today's American Jewish community would not be here today if it weren't for chain migration, and in fact, nearly all Americans owe their American ancestry to some sort of chain migration. For the Jewish community, which has been dispersed throughout the world, America's commitment to family reunification in its immigration policy has been a beacon of hope, allowing many Jewish families to be brought back together in a nation of opportunity and safety.

Today's newcomers have the same hope. Conjuring fear of the other and sensationalizing an onslaught of immigration does not contribute to sound and humane policy making. Immigrant families are good for our economy, good for our communities, and contribute to the overall development of our nation. Any reform proposal that seeks to serve our nation's moral, economic, and security interests must preserve the opportunity for family reunification as the cornerstone of American immigration.

America would not be the dynamic and prosperous nation that it is today were it not for the immigrants who came and continue to come to our shores seeking opportunity and freedom. Yet today we see an anti-immigrant backlash in our communities, and sadly this is not a new phenomenon. American Jews are especially familiar with the undercurrent of fear and suspicion of newcomers that exists in our country today. The wave of Jewish immigrants to America in the early 1880's who were fleeing grinding poverty and murderous pogroms, anti-Jewish uprisings in Russia and elsewhere in Eastern Europe, was eventually met with an anti-immigrant backlash that resulted in the National Origins Quota of 1924, which severely restricted immigration from Eastern Europe and Russia after that time.

The twentieth century's wave of immigration, followed by the Holocaust that destroyed most of the European Jewish community, made the United States the home of the largest Jewish population in the world during the 20th century. Yet again, Jews that were fortunate enough to reach America's shores were greeted with suspicion. In 1939 a Roper poll found that only thirty-nine percent of Americans felt that Jews should be treated like other people. Fifty-three percent believed that "Jews are different and should be restricted" and ten percent believed that Jews should be deported. The United States' tight immigration policies were not lifted during the Holocaust, and it has been estimated that 190,000-200,000 Jews could have been saved during the Second World War had it not been for the deliberately created bureaucratic obstacles to immigration. Yet despite the suspicion with which our community has been greeted throughout our history, Jews continue to make major contributions to the cultural, scientific, political, and economic life of the United States.

America is at a crossroads: as the new Congress tackles the pressing issues facing the country today, what happens regarding immigration policy will have effects lasting for generations to come. What is needed is a careful, considered, and compassionate approach to immigration policy that incorporates the pressing security concerns of all Americans, while maintaining America's historical essence as a welcoming haven.

Unlike many circumstances where American communities face difficult choices between their deepest values and immediate interests, taking a comprehensive approach to immigration reform fulfills both our humanitarian and other interests simultaneously. The American Jewish community has joined with our other faith and immigrant advocate partners in calling on Congress to pass a humane and workable comprehensive immigration reform bill that this nation not only wants, but also deserves. The status quo of insecurity, exploitation, separation, and suffering is unacceptable, and we cannot let another year pass us by without having solved this crisis.

I look forward to working with the Subcommittee as you move forward and would be happy to answer any questions.

Ms. LOFGREN. Mr. Aronoff, we appreciate this testimony. Reverend Harkins?

**TESTIMONY OF REVEREND DERRICK HARKINS, D.MIN.,  
PASTOR, NINETEENTH STREET BAPTIST CHURCH**

Reverend HARKINS. Good afternoon, Chairperson Lofgren and Members of the Subcommittee. I am the Reverend Dr. Derrick Harkins, pastor of the Nineteenth Street Baptist Church, founded in 1839 and with roots extending to 1802.

It was the first African-American Baptist congregation and is one of the most historic houses of worship here in the District of Columbia, with a stalwart history of enfranchising the disenfranchised in the embrace of the gospel.

In my capacity as a pastor, as well as because of my participation with Christians for comprehensive immigration reform, I have been able to assess and contribute to the discussion of one of the most imperative issues of our time: the status of the immigration system within the United States of America.

The immigration system in America is beyond being broken. It is in crisis.

Because this crisis is not simply one limited to issues of documentation and border enforcement but because it is a crisis that is tearing at the very fabric of individuals, families and communities, it is one that the church is, in my opinion, compelled to address.

The Hebrew prophet Micah declared that God's expectation of the faithful is to do justly, to love mercy, and to walk humbly with our God.

We take in part from that mandate the understanding of bringing both justice and compassion to circumstances of human need. And also we understand the need to soberly, humbly and prayerfully consider the response from the church to this crisis, in order that far more light and heat is added to the present dialogue and subsequent solutions.

I here must assert that it is fully appropriate for the church, the faith community, to take its place in the public square and, without regard for partisan politics, speak transformative, spiritual, and social change.

Contrary to the opinions of any given television commentators, this does not represent the conflation of religion and politics for political adventurism. It is one of the very things we must do to lay claim to our Biblical mandate and to the realization that faith without works is dead.

I commend Congress as you begin the heavy lifting of crafting legislation that is fair and comprehensive, that keeps our nation secure and that preserves family values, as well as strengthening the economic and social fabric of our society.

But I also come to you today with a pastor's heart and with the deeply held concern that any laws enacted consider the very American tradition of compassion.

The heart of what we teach, preach, and live is anchored in the good news of Christ's saving and liberating love, that has not built walls, but broken every barrier down.

Family, in its strongest and most stable structure, is an essential pillar of our society. Within the church, the institution of family is supported, encouraged and applauded.

In my own congregation, I see again and again, and am truly thankful for, the examples of family strength and values in the homes and lives of those who have immigrated to the United States.

The limitation of family-based immigration by the reduction of family reunification visas would impair that family structure in significant measure. Siblings, adult children and parents—those directly affected by any potential reduction—are, in many examples and cultural contexts, core and not merely extended family.

It is also important to note here that the idea of chain immigration is without basis. The concept asserting that immigrants sponsor an uncontrollable number of family members—the reality is that only immigrants who have already gained legal, permanent residency or U.S. citizenship are able to sponsor relatives. Within the present system, an average of 1.2 family members are sponsored.

It is within the structure of families that immigration reform can wield the most enduring benefits. Through a process of restitution, integration into the larger community and a pathway to earned citizenship, we will do away with what is now in great part a de facto amnesty, which has kept millions of hardworking individuals, who wish to become productive, law-abiding members of our society, in the shadows and has prevented numerous families from being fully intact and stable to society's benefit.

In addition, let me just say that many within the historically African-American church have made their voices heard in support of comprehensive immigration reform. Like the overwhelming majority of all Americans, African-American voters support immigration reform that includes enforcement and a path to citizenship.

It is the legitimate, continuing legacy of the civil rights struggle and part of the very nature of the African-American church that one should speak for those who have no voice, advocate for those who have no power and stand for those who are not represented.

But yet, with a fair and compassionate, earned pathway to citizenship, those who are now in the shadows will be able to speak, be empowered, stand for themselves.

Let me end with words far more enduring than my own. Exodus 23:9 says, "Do not oppress an alien. You yourselves know how it feels to be aliens, because you were aliens in Egypt."

I thank you.

[The prepared statement of Reverend Harkins follows:]

PREPARED STATEMENT OF DERRICK HARKINS

Chairperson Lofgren, Ranking Member King, and members of the Subcommittee: I am The Reverend Doctor Derrick Harkins, Pastor of the Nineteenth Street Baptist Church. Founded in 1839 and with roots extending to 1802, it was the first African-American Baptist congregation, and is one of the most historic houses of worship in the District of Columbia.

In my capacity as a pastor, as well as because of my participation with Christians for Comprehensive Immigration Reform, I have been able to assess and contribute to the discussion of one of the most imperative issues of our time, the status of the immigration system within the United States of America.

The immigration system in America is beyond being broken, it is in crisis. Because this crisis is not simply one limited to issues of documentation and border enforcement, but because it is a crisis that is tearing at the very fabric of individuals, families, and communities, it is one that the church is, in my opinion, compelled to address.

The Hebrew Prophet Micah declared that the Divine expectation of the faithful is to “do justly, to love mercy, and to walk humbly with our God.” We take in part, from that mandate, the understanding of bringing both justice and compassion to circumstances of human need. And also we understand the need to soberly, humbly, and prayerfully consider the response from the church to this crisis in order that far more light than heat is added to the present dialogue and subsequent solutions.

It is fully appropriate for the church, the faith community, to take its place in the public square, and without regard for partisan politics, seek transformative spiritual and social change. Contrary to the opinions of any given television commentators, this does not represent “the conflation of religion and politics for political adventurism,” it is one of the very things we must do to lay claim to our Biblical mandate.

I commend the Congress as you begin the “heavy lifting” of crafting legislation that is fair and comprehensive, that keeps our Nation secure, and that preserves family values as well as strengthening the economic and social fabric of our society.

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Family, in its strongest and most stable structure is an essential pillar of our society. Within the church the institution of family is supported, encouraged, and applauded. In my own congregation, I see again and again, and am truly thankful for the examples of family strength and values in the homes and lives of those who have immigrated to the United States.

The growing vitality of the church is due in large measure to the presence of the immigrant community. According to Dr. Todd Johnson of Gordon-Conwell Theological Seminary. “The immigrant Evangelical church is growing rapidly in the U.S. and around the world. Among Evangelicals in the United States, the fastest growing are found among the independent immigrant churches.”

The limitation of family based immigration, by the reduction of family reunification visas would impair that family structure in significant measure. Siblings, adult children, and parents (those directly affected by any potential reduction) are in many examples, and cultural contexts, core and not merely “extended” family. It is also important to note here the idea of “chain” immigration is without basis. The concept asserting that immigrants sponsor an uncontrollable number of family members. In reality, only immigrants who have already gained legal permanent residency or U.S. citizenship are able to sponsor relatives. Within the present system an average of 1.2 family members are sponsored.

It is within the structure of families that immigration reform can wield the most enduring benefits. Through a process of restitution, integration into the larger community, and a pathway to earned citizenship we will do away with what is now in great part, a de facto amnesty, which has kept millions of hard working individuals who wish to become productive law-abiding members of our society in the shadows, and has prevented numerous families from being fully intact and stable to society’s benefit.

In addition let me say that many within the historically African-American church have made their voices heard in support of comprehensive immigration reform. Like the overwhelming majority of all Americans, African-American voters support immigration reform that includes enforcement and a path to citizenship. It is the legitimate continuing legacy of the Civil Rights struggle and part of the very nature of the African American church that one should speak for those who have no voice, advocate for those who have no power, and stand for those who are not represented. But yet with a fair and compassionate earned pathway to citizenship, those who are now in the shadows will be able to speak, be empowered, and stand for themselves.

I thank you for the opportunity to speak before your Subcommittee today, and look forward to answering any questions you may have.

## ATTACHMENT

CHRISTIANS FOR COMPREHENSIVE IMMIGRATION REFORM  
JOINT STATEMENT OF PRINCIPLES

Christians for Comprehensive Immigration Reform represents a coalition of Christian organizations, churches, and leaders from across the theological and political spectrum united in support of comprehensive immigration reform. Despite our differences on other issues, we are working together to see comprehensive immigration reform enacted this year because we share a set of common moral and theological principles that compel us to love and care for the stranger among us, including the following:

- We believe that all people, regardless of national origin, are made in the “image of God” and deserve to be treated with dignity and respect (Genesis 1:26–27, 9:6).
- We believe there is an undeniable biblical responsibility to love and show compassion for the stranger among us (Deuteronomy 10:18–19, Leviticus 19:33–34, Matthew 25:31–46).
- We believe that immigrants are our neighbors, both literally and figuratively, and we are to love our neighbors as ourselves and show mercy to neighbors in need (Leviticus 19:18, Mark 12:31, Luke 10:25–37).
- We believe in the rule of law, but we also believe that we are to oppose unjust laws and systems that harm and oppress people made in God’s image, especially the vulnerable (Isaiah 10:1–4, Jeremiah 7:1–7, Acts 5:29, Romans 13:1–7).

The current U.S. immigration system is broken and now is the time for a fair and compassionate solution. We think it is entirely possible to protect our borders while establishing a viable, humane, and realistic immigration system, one that is consistent with our American values and increases national security while protecting the livelihood of Americans. The biblical principles above call us to support comprehensive immigration reform legislation that includes the following elements:

- Border enforcement and protection initiatives that are consistent with humanitarian values while allowing the authorities to enforce the law and implement American immigration policy;
- Reforms in our family-based immigration system that reduce the waiting time for separated families to be safely reunited and maintain the constitutionally guaranteed rights of birthright citizenship and the ability of immigrants to earn naturalization;
- An opportunity for all immigrant workers and their families already in the U.S. to come out of the shadows and pursue the option of an earned path towards permanent legal status and citizenship upon satisfaction of specific criteria;
- A viable guest worker program that creates legal avenues for workers and their families to enter our country and work in a safe, legal, and orderly manner with their rights and due process fully protected and provides an option for workers to maintain legal status independent of an employer sponsor; and
- A framework to examine and ascertain solutions to the root causes of migration, such as economic disparities between sending and receiving nations.

Immigration reform that incorporates these elements, rejects anti-immigrant and nativist measures, and strengthens our American values will enrich the vitality of America and advance the common good. We stand together in calling upon President Bush and Congress to seek humane and holistic immigration reform within this legislative year.

Ms. LOFGREN. Thank you, Reverend.  
Mr. KOSTEN?

**TESTIMONY OF DAN KOSTEN, DIRECTOR, WORLD RELIEF REFUGEE AND IMMIGRATION PROGRAMS, NATIONAL ASSOCIATION OF EVANGELICALS**

Mr. KOSTEN. Thank you very much.

In the course of human events in this nation's history, there have been times when courageous men and women have stepped forward to define the true character and unique values of this nation. Their words I cannot match in eloquence or power, so I will quote them as a reminder of our national heritage.

Their words are also reflective of many key Biblical principles—principles that apply to the immigration dialogue.

In 1863, President Lincoln in his Gettysburg address said, “Four score and 7 years ago, our fathers brought forth on this continent a new nation, conceived in liberty and dedicated to the proposition that all men are created equal.”

President Lincoln continued by saying, “Now we are engaged in a great civil war, testing whether that nation, or any nation so conceived and so dedicated can long endure.”

Our nation and our dedication and commitment to these principles have endured, only to be tested once again in this age by the war on terrorism. In the past, as in the present, the lives of many have been lost for such dedication.

Are we prepared to honor that loss and reaffirm the equality of mankind? Or will we justify the disenfranchisement and exploitation of a portion of this nation's population by labeling them illegal?

The issue for many undocumented immigrants is that there is no process for restitution to address the infraction of entering illegally or overstaying a visa. There are appropriate penalties for the crimes committed, and the penalty must match the offense.

Many immigrants do not currently have a means by which to receive lawful status in the United States, and they go undetected by living in the shadows. If they could apply for lawful status, they would much more likely come forward and the government could better target the small number of potential criminals and terrorists.

We often hear the concern that immigrants do not share our American values and are adding to the moral decay of our country. As an evangelical organization that has worked in serving the immigrant population over the past 25 years, I strongly object to this thinking, because the vast majority of immigrants are hard-working, family-loving, and willing to learn English and integrate into our communities.

Rather than saying that immigrants do not share our American values, we must teach them our American values. And the church must play an integral role in this.

Once again, and this time in 1963, 100 years later, we were reminded by Reverend Martin Luther King of the principles on which this nation was founded. He encouraged us that day to dream, to dream of a new day where we could—and what it could and should look like.

He said, “I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but the content of their character.”

We can still dream today. I have a dream that one day we will extend the right hand of fellowship to human beings that currently live in the shadows, and provide them, along with their family, with a means of restitution, as well as the opportunity to experi-

ence the life, liberty, and pursuit of happiness which they entered this nation to secure.

A cornerstone principle for evangelicals is the sanctity of life. The sanctity of life values the family. Families are the building block of an ordered and procreative society. By allowing immigrant families to be more quickly reunited, we allow for more stable and stronger communities.

Immigration through the family has been the cornerstone of our immigration system, and it must remain so. The sanctity of life values the family, celebrates diversity and does not end at birth or at the border.

Thank you, and may God lead you and this nation to respond to this critical need for comprehensive immigration reform.

[The prepared statement of Mr. Kosten follows:]

#### PREPARED STATEMENT OF DAN KOSTEN

Thank you Chairman Lofgren, Ranking Member King, and the members of the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law for providing me with the opportunity to testify before you on an Evangelical perspective on Comprehensive Immigration Reform. This is indeed a tough issue that requires good thought, frank discussion, and honest solutions, and I thank the Committee for tackling the issue of immigration reform from all angles, including the faith-based angle.

As the Director of Refugee and Immigration Programs for World Relief, I am responsible for the technical support for a network of 24 offices that have programs to serve refugees, trafficking victims, and immigrants. As the humanitarian arm of the National Association of Evangelicals (NAE), we have worked with Evangelical churches over the past 60 years to relieve human suffering, poverty and hunger worldwide in the name of Jesus Christ. The NAE is made up of 53 member denominations, representing 45,000 churches in the United States. World Relief's mission is to work with the poorest of the poor—and in the U.S. with foreign born populations including refugees and immigrants. World Relief has worked for over 60 years with local churches to create sustainable solutions that help the desperately poor in more than 30 countries. We feel it is a part of our Biblical mandate to reach out to those in need, our neighbors, and our communities. World Relief's programs include disaster relief, refugee assistance, immigrant assistance, trafficking victim protection, AIDS ministries, child survival and development, agricultural development, and micro-enterprise development.

Through our work with immigrants, we have seen the consequences of a broken system that has separated families for many years. We are compelled to speak from our experience by engaging the Evangelical community on the issue of immigration reform. Through our work with churches, we have seen the immigrant church as the fastest growing church in the Evangelical community. The issues of immigration policy and immigrants in our communities will always be with us, and Evangelicals must think carefully about their response to the trends and changes brought about by immigration. In this debate on Comprehensive Immigration Reform, we have heard concerns from church leaders and members about the need to secure our borders and stop illegal immigration but also the call to show compassion to the stranger in our midst. We as Evangelicals must look to the Bible as a guide for examining this issue closely and how we as Evangelicals should respond, through the lens of Scripture, to immigrants and immigration policy.

#### THE BIBLICAL REALITY AND GOD'S LOVE FOR THE FOREIGNER

God loves the stranger and foreigner, and equates our relationship with Him as strangers and aliens apart from the work of Christ. The Bible commands us to welcome the stranger. Modern reality also requires us to embrace the immigrant population, many of whom are our brothers and sisters in Christ, and a growing force in the church. Through immigration, God is bringing citizens of many closed and un-reached countries into contact with American Christians. We as Evangelicals therefore welcome the opportunity to share our faith with people who might otherwise have no opportunity to hear the Good News. The immigrant Evangelical church is growing rapidly in the U.S. and around the world. Among Evangelicals in the United States, "the fastest growing are found among the Independent immigrant

churches. . . . In 20 years, African, Asian, and Latin American Evangelicals . . . will likely be at the forefront of . . . global movements as well as their manifestations in the USA.”<sup>1</sup>

In the Bible, God repeatedly calls us to show love and compassion to “aliens,” or immigrants. In Deuteronomy 10:18–19,<sup>2</sup> we are told that “[God] defends the cause of the fatherless and the widow, and loves the alien, giving him food and clothing. And you are to love those who are aliens, for you yourselves were aliens in Egypt.” God also reminds us throughout the Old and New Testament that we ourselves, as Christians, are aliens on this Earth, not only physically in this world—which is not our home, but also spiritually estranged from God until Christ’s sacrifice. Leviticus 19:33–34 teaches us that, “[w]hen an alien lives with you in your land, do not mistreat him. The alien living with you must be treated as one of your native-born. Love him as yourself, for you were aliens in Egypt. I am the Lord your God.” Thus, we as Christians are called to identify with the plight of the stranger amongst us for we ourselves were once aliens in Egypt.

Love also in the Christian tradition requires specific acts of care and respect. In the Gospel of Luke, Jesus answers the question of “who is my neighbor?” with the parable of the Good Samaritan. (Luke 10:29–37) Part of what makes the Good Samaritan parable so compelling is that the Samaritan, who was a stranger or alien himself, was the one who stopped to help the Jewish man. This and other parables remind us that “we are all aliens sent out to help other aliens find a place of safety in this world.”<sup>3</sup> God does not distinguish among arbitrary divisions such as country of origin. Instead, God desires to include all people in His Kingdom, for “There is neither Jew nor Greek, slave nor free, male nor female, for you are all one in Christ Jesus.” (Galatians 3:28)

The Bible shows us that God moves people for a reason and migration is often reflective of His overall purpose for mankind. Mark 17:26 states that “From one man he made every nation of men, that they should inhabit the whole earth; and he determined the times set for them and the exact places where they should live.” For example, God called Abraham from Ur, called the Israelites out of Egypt and into the Promised Land, and even moved Jesus’ family from Bethlehem, then to Egypt and Nazareth. We must couch our current discussion of immigration reform within the fuller understanding of God’s purposes through the movement of people and the history of migration throughout the Bible and into current times.

#### SUPPORT FOR COMPREHENSIVE IMMIGRATION REFORM

As Congress continues debate on immigration reform, there will be specific policy prescriptions offered in various legislative proposals that will make us continuously reflect on our Biblical principles. As an Evangelical organization committed to the rule of law but also to acting compassionately to those in our midst, we call for legislation to include the following specific principles:

- Reforms in our family-based immigration system to significantly reduce waiting times for separated families who currently wait many years to be reunited;
- The creation of more responsive legal avenues for workers and their families who wish to migrate to the U.S. to enter our country and work in a safe, legal, and orderly manner that prevents their exploitation and assures them due process;
- The option for those individuals and families who are already living in the U.S. and working hard, to apply for permanent legal status and citizenship if they choose to do so, by meeting specific restitution and application criteria; and
- Border protection policies that are consistent with humanitarian values and with the need to treat all individuals with respect, while allowing the authorities to carry out the critical task of enforcing our laws.

World Relief believes that a comprehensive approach to immigration reform is required—one that addresses the root causes of why immigrants come to the U.S. in the first place and addresses the complex and outmoded immigration system that currently exists. For example, current law has created numerous barriers for legiti-

<sup>1</sup>Dr. Todd M. Johnson, Center for the Study of Global Christianity at Gordon-Conwell Theological Seminary, “USA Evangelicals/evangelicals in Global Context: Trends and Statistics.”

<sup>2</sup>All Scripture references are taken from The Holy Bible, New International Version.

<sup>3</sup>Jonathan Robert Nelson, Remarks for The American Bar Association’s, “Fortress America: The State and Future of U.S. Immigration Law and Policy,” held at the National Press Club, January 26, 2006.

mate refugees abroad and seekers of asylum in the U.S. to receive the protection they deserve. Additionally, approximately eleven million “undocumented” immigrants currently live in the United States,<sup>4</sup> and more than three million U.S. citizen children live in families headed by an undocumented immigrant.<sup>5</sup> An “undocumented” individual does not have permission to work or live in the U.S.

Many undocumented children are raised here but are unable to attend college or work legally. Individuals are risking their lives and literally dying to come to the United States. Families face inhumane waits of up to twenty years to reunify with family members. There are an inadequate number of visas for employers to hire the foreign workers necessary for jobs that they cannot find native-born Americans to fill. We have a growing black market characterized by widespread use of false documents, increasingly violent smuggling cartels, and exploitation of undocumented workers.

#### THE ISSUE OF LEGALITY AND THE PENALTY FOR BREAKING THE LAW

Evangelicals recognize that, “Everyone must submit himself to the governing authorities, for there is no authority except that which God has established.” (Romans 13:1) Therefore we support the importance of following and enforcing laws, while simultaneously recognizing that laws were created for the well-being of human beings and society. Ultimately the laws must answer to God’s higher law, which requires us to treat all human life with sanctity. All persons bear the image of Christ and thus should be treated with the dignity and respect that we would afford our Savior. Valuing persons includes doing what we can to preserve them, to care for them, and to create fair systems that lead to healthy societies.<sup>6</sup> We must from time to time ask if our human-made laws create a just and better existence for those who are created in God’s image.

We do not condone any violations of the law, such as living in the United States illegally, but we recognize that our complex and inadequate immigration system has made it nearly impossible for many of the hard-working people that our country needs, to enter or remain in the country legally and/or reunite with family members.

Despite the difficult immigration system, adherence to the rule of law is a non-negotiable, and as we consider immigration reform, we can look to the Bible to help inform our decisions about justice, restitution, redemption, restoration and integration into our communities. Immigrants are often hard-working, God-fearing individuals and if provided the opportunity, would want to admit wrong-doing and come out of the shadows as law-abiding, contributing members of our society. They should be provided an opportunity to admit their wrong-doing of maintaining undocumented presence in the U.S. but the punishment must be in line with the offense, and it must be recognized that not all offenses are one and the same. Our legal system has always recognized that the punitive and corrective measures must coincide with the crime committed. The Biblical concept of restoration into full fellowship is something we must consider in this debate as we seek to integrate those who are here as undocumented individuals into our communities. We feel they share our values of family and hard work and are willing to become productive, law-abiding members of our society if given the opportunity.

The issue for many undocumented immigrants is that there is no restorative measure to address the infraction of entering illegally or overstaying a visa. Unfortunately the term illegal is often used to justify the marginalization of the immigrant population. Such practice only compounds the problem and does not resolve it. The two ways to resolve this issue are to deport everyone here illegally, or create an immigration system with restitution and a path to legal status or citizenship. World Relief supports an opportunity for those who are law-abiding, hard-working immigrants to come out of the shadows and admit they broke the law, and start on the process of restitution whereby they can become fully integrated members of our society.

We must also address the issue of the word amnesty and its use in recent debate. Amnesty as defined in the dictionary is defined as “the act of an authority (as a government) by which pardon is granted to a large group of individuals.”<sup>7</sup> The word amnesty is often used by those opposing Comprehensive Immigration Reform because they believe that providing a path to earned legalization would be giving a blanket pardon to those who broke immigration law to be here illegally. We must

<sup>4</sup> <http://pewhispanic.org/files/reports/44.pdf>, stating that as of March 2005, there were nearly 11 million undocumented individuals in the U.S.

<sup>5</sup> <http://pewhispanic.org/files/reports/46.pdf>.

<sup>6</sup> Evangelical Project for Public Engagement. National Association of Evangelicals, *For the Health of the Nation: An Evangelical Call to Civic Responsibility*, 8, 10 (2004).

<sup>7</sup> Definition from Merriam-Webster OnLine, <http://www.m-w.com/>.

strongly reiterate that providing earned legalization is not a blanket pardon as immigrants would have to pay a penalty in addition to proving that they can be law-abiding and productive members of our society. The current debate surrounding immigration and the various legislative proposals being discussed do not in any way condone breaking of the law or provide a blanket pardon without some redress for the wrong that was committed by being here illegally. There are appropriate penalties for the crimes committed and the penalty must match the offense. Many immigrants do not currently have a means by which to receive lawful status in the United States, and they go undetected by living in the shadows. If they could apply for current lawful status, they would be much more likely to come forward, and the government could better target the small number of potential criminals and terrorists. World Relief has also encountered a catch-22 situation with individuals who entered the U.S. without inspection but who would now qualify for lawful permanent residence status. Under current law, they must return to their home country to be interviewed, but are often unwilling to do so because they face the 3 and 10 year bars to re-entry due to unlawful presence in the U.S. for more than 6 and 12 months respectively. Fixing some of these barriers would allow many individuals to move forward in the process of obtaining legal status.

#### CARING FOR THE STRANGER

We often hear the concern that immigrants do not share American values and are adding to the “moral decay” of our country. As an organization that has worked in serving the immigrant population over the past 25 years, I strongly object to this thinking because the vast majority of immigrants are hard-working, family-loving and willing to learn English and integrate into our communities. Rather than saying that immigrants do not share our American values, we must then teach them our American values, and churches must play an integral role in this.

The issue of immigration tends to play on our worst fears, because it confronts our sense of personal and national identity and because it alters our expectations concerning economic prosperity and security. We can choose to respond in fear, and let the instincts of “fight or flight” take over, or we can remind ourselves, as God’s people, of our true identity in Him. We can see the case of Egypt in Genesis, when Joseph was welcomed by the Egyptian Pharaoh but later on in Exodus, the Egyptians felt threatened by their foreigners which resulted in the enslavement and eventual mass exodus of the Israelites out of Egypt. While we need to address the realities of the impact of immigration on our economy and communities, we must do so in a way that is not held captive to fear, because we are first and foremost citizens of God’s kingdom. 1 John 4:18 states: “There is no fear in love. But perfect love drives out fear . . .” To create a society of fear is to create an unstable and broken society. As Franklin D. Roosevelt famously said in his first inaugural address to the nation in the midst of the Great Depression, “The only thing we have to fear is fear itself.”

God offers abundant grace to everyone and demonstrates this mostly clearly on the Cross. As the Body of Christ, our purpose is to imitate Him, by showing compassion and justice to everyone regardless of their individual situation and by investing in and valuing their lives. Grace motivates God’s people towards works of sacrificial compassion and justice. Just as God’s work of grace requires Christ’s sacrifice, so we are called to make sacrifices, both individually and corporately, in our lives for the sake of others. The power of God’s grace blurs the human distinction between giver and recipient, between neighbor and stranger, which in turn creates opportunities for unexpected mutual blessing as we realize that our material possession do not really belong to us. We are moved to show compassion to all people, regardless of ethnic and cultural boundaries, as our identity is rooted in Christ.

The pursuit of prosperity has been a powerful force in guiding migration throughout American history. In assessing public opinion towards immigrants, polls almost exclusively deal with immigration within an economic context: do immigrants help or hurt the economy, rather than seeking to uncover the cultural and personal contributions that immigrants make to our society? Do we only value immigrants who contribute to our nation’s wealth? God does not measure our value based upon what we have to offer or contribute to an earthly economy. As God’s people, we must resist the temptation to measure others’ value to our society on the basis of their contribution to our affluence. In the Biblical example of Ruth and Boaz, we see that Boaz married Ruth despite what many thought would be a marriage that would be a burden and detriment to Boaz’s personal wealth and affluence. However, because of Boaz’s compassion on Ruth, we see he was able to play an instrumental role in the lives of those in the genealogical line of David and Jesus, and participated in God’s plan for the world by not shunning immigrants as threats to his prosperity.

## THE ISSUE OF SECURITY

In light of recent terrorist activities aimed at the U.S., it is imperative that our government try everything possible to secure the well being of its citizens. However, allowing 10–12 million immigrants to remain in the country without a system to identify them, does nothing to assure us of our security. In fact by not addressing the undocumented population, many would indeed call the current situation as “de facto” amnesty.

In order to address the issue of immigration in a way that would add to our national security, our government must recognize two things about the current situation: First, we can assume that immigrants must not pose a significant security threat to the US or else we would be doing far more to address this current security dilemma than we are currently doing. Second, the legalization of this immigrant population would serve our security concerns because it would allow U.S. immigration enforcement officials to focus on those who may have intentions to harm our country.

As a measure of security, the creation of walls should only be considered as a last resort. The impacts of walls are detrimental to those who are living on both sides of the wall and have been purported by many to actually increase the number of undocumented in our country by preventing people from returning to their country of origin if they so desire. The United States has been a historic champion of bringing down such walls, and to now be a proponent of walls sends the wrong message to the world and does more to divide neighbors rather than resolve our current immigration problem. Building walls without creating legal avenues to address the reasons why they cross the border in the first place would only perpetuate the illegal immigration problem.

## THE ISSUE OF FAMILY

From Genesis onward, the Bible tells us that the family is central to God’s vision for human society. God has revealed himself to us in the language of family, adopting us as His children (Rom. 8:23, Gal. 4:5) and teaching us by the Holy Spirit to call him *Abba Father* (Rom. 8:15, Gal. 4:6).<sup>8</sup>

Government does not have the primary responsibility for guaranteeing wholesome family life. That is the job of families themselves and of other institutions, especially churches. But governments should understand that people are more than autonomous individuals; they live in families and many are married. While providing individuals with ways to remedy or escape abusive relationships, governments should promote laws and policies that strengthen the well-being of families.<sup>9</sup>

Families are the building blocks of an ordered and procreative society through which people are able to grow and experience the love of God. That value has been reflected in our immigration system which allows U.S. citizens and legal permanent residents to apply for certain relatives to immigrate to the U.S. Indeed, our country has been built on the backs of immigrant families and our American history is the story of the importance of family to the immigrant experience. Immigrants often rely on their family members to help create family businesses and family members are able to care for one another when here together. They are often able to give back to the community more as a family unit than they would as individuals as they work and live together to care for sick relatives, watch children, and provide each other with moral support and encouragement. We must continue to place priority on reunifying families as quickly as possible through immigration reform. The current backlog in which family members are separated for long periods of time creates undue hardship for the immigrants who are trying to work hard and contribute to their communities. By allowing immigrant families to be more quickly reunited, we allow for more stable and stronger communities. Immigration through family has been the cornerstone of our immigration system through the decades and we must continue to value and strengthen that which has made our country so great.

The issue of chain migration must also be addressed as we consider reforms in our family-immigration based system. Chain migration is a myth. This concept purports that immigrants sponsor an uncontrollable number of family members. In reality, only immigrants who have already gained legal permanent residency or U.S. citizenship can sponsor relatives for permanent residence. On average, they only

<sup>8</sup>Evangelical Project for Public Engagement. National Association of Evangelicals, *For the Health of the Nation: An Evangelical Call to Civic Responsibility*, 14 (2004).

<sup>9</sup>Evangelical Project for Public Engagement. National Association of Evangelicals, *For the Health of the Nation: An Evangelical Call to Civic Responsibility*, 14 (2004).

sponsor an average of 1.2 family members.<sup>10</sup> Since there are already highly restrictive caps on family reunification visas, and all admitted family members must qualify under one of the categories approved by Congress, there is no opportunity for “chain migration” to occur. Only children, spouses, parents, and siblings qualify for such sponsorship—cousins, aunts, uncles, grandparents, and other extended family members cannot come to the United States through the family system.<sup>11</sup> Also, to sponsor a family member, a U.S. citizen or LPR must prove they have a stable income and commit to financially support their family members, so they do not rely on public benefits.

#### CONCLUSION

In the recent debate in Congress, we appreciate that the recent legislative proposals have moved away from an enforcement-only approach and now seem to be comprehensive in nature. However, we have concerns with the following and hope that members of the Subcommittee will consider these important principles when formulating immigration reform legislation:

- Trigger provisions—Immigration reform legislation must be enacted as quickly as possible so families will be reunited, and the undocumented will come out of the shadows to pursue legal status. We have concerns that the setting of border enforcement triggers will result in comprehensive immigration reform being further postponed while we wait for certain ends that may never be achieved.
- Touch back provisions—Some legislative proposals would require immigrants to touch back to their country of origin before pursuing citizenship in the United States. This provision if implemented could prolong the separation of families for long periods of time, and could prevent a quick and easy way for immigrants to continue to work and be able to provide for their family members in the United States.
- Severe cut backs to family immigration—Family immigration is the cornerstone of our immigration system and has allowed immigrants in our communities to thrive in their new environment. Immigration reform must not cut the ability of immigrants to apply for their family members. The unity of family as a basis for immigration should qualify on that merit alone. Any means to undercut family reunification undermines the value of family to our country. We must also be careful that we do not eliminate certain family preference categories for those who have already applied and have been waiting patiently for their members to come to the U.S. This would undermine the fairness of our immigration system and disadvantage those who “played by the rules.”
- Adequate worker visas—Worker visas based on current and projected market demands must be included in immigration reform legislation. The lack of an adequate number of such visas is one of the reasons there is such a large undocumented population in our country today. An immigration bill must be reflective of our changing economic reality but also the rights and dignity of those who come here to work.
- Border security—any border security measure that is proposed must be carefully considered for their effectiveness in increasing our national security and not be used to overly penalize immigrants, or simply provide us with a false sense of security.

We believe that a comprehensive approach is required that goes beyond border protection alone and addresses the current problems of our immigration system, by looking at root causes of immigration, developing workable solutions, and providing dignified relief to the millions of immigrants who are contributing to our communities, despite their lack of legal status. We also advocate for reforms that better protect those seeking refugee and asylum status.

The Lord calls the church to speak prophetically to society and work for the renewal and reform of its structures. The Lord also calls the church to practice the righteous deeds of the kingdom which requires us to demonstrate God’s full love for

<sup>10</sup>Lowell, Lindsay and Micah Bump. *Projecting Immigrant Visas: Report on an Experts Meeting*. 2006. <<http://www12.georgetown.edu/sfs/isim/Event%20Summaries&Speeches/Lowell,%20ProjectionsWorkshop.pdf>>.

<sup>11</sup>*Immigration through a Family Member*. U.S. Citizenship and Immigration Services. <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=0775667706f7d010VgnVCM10000048f3d6a1RCRD&vgnnextchannel=4f719c7755cb9010VgnVCM10000045f3d6a1RCRD>

all, by crossing racial, ethnic, economic, and national boundaries. The issue of immigration reform is a tough issue but also a moral one that our leaders in Congress and the Administration must take up with compassion, not fear, and rational thought, not irrational racism, as the basis for positive dialogue. We must not forget that there is a faith angle to the immigration debate because people are bearers of the image of God and that all Americans, except Native Americans, are immigrants or descendants of immigrants. As Christians, we believe it is our calling to help government live up to its divine mandate to render justice (Rom. 13:1-7; 1Pet. 2:13-17). In the power of the Holy Spirit, we are compelled outward in service to God and neighbor. Comprehensive Immigration Reform is needed so that we can restore the rule of law yet act compassionately to those in our midst.

Our immigration system must reflect what has made America strong, namely its recognition that "all men are created equal, that they are endowed by their Creator with certain unalienable rights." As evangelicals we would add to it that we follow Jesus' example by suffering and living sacrificially for others.

I believe it is wholly possible to create a fair and just system for the immigrants in our country today, and for the future of those who will come; and that it is possible and imperative to do so in this session of the Congress.

Thank you.

Ms. LOFGREN. Thank you very, very much, Mr. Kosten.  
Dr. Edwards?

**TESTIMONY OF JIM R. EDWARDS, JR., PH.D.,  
ADJUNCT FELLOW, HUDSON INSTITUTE**

Mr. EDWARDS. Madam Chairman, Congressman Conyers and Members of the Subcommittee, thank you very much for inviting me here today. I commend you for giving a serious consideration to the faith perspective.

Now, I do not claim my conclusions are infallible, and I do not claim to be a theologian, but C.S. Lewis said you do not want theologians writing civil laws. That is not their calling.

On many subjects, we see that Scripture is clear, like proscribing murder. But on things like immigration, Scripture leaves to prudential judgment. So, Christians may come to different conclusions, as you have seen today.

I will touch on nine Biblical principles that I believe are most apt, and then briefly assess a couple of key immigration proposals.

First, the two cornerstone commandments: Love the Lord, your God, with all your heart, soul and mind, and love your neighbor as yourself.

Second, God has given both temporal and eternal obligations. "Give to Caesar what is Caesar's, and to God what is God's." Some commands apply to individuals, others to civil government.

Third, God's principles of justice and mercy are complementary. We must be acute in sorting out passages about favoritism, mercy, equality and whether they apply to the state. For instance, the state cannot turn the other cheek, while people can.

Fourth, God ordains earthly authorities as his agents to restrain evil, protect the innocent and punish the wrongdoer. We have been blessed with the rule of law and should safeguard it.

Fifth, God in his providence established particular governments for particular peoples in particular places at particular times, such as Daniel 2:21 tells us, "He changes times and seasons; he sets up kings and deposes them."

Sixth, Scripture passages often referenced in immigration discussions address immigrant policy more than they do immigration policy. They do not really speak to how immigrants are admitted.

Seventh, Old Testament laws reflect an assimilationist ethic. Resident aliens were to adopt Israel's customs and observe its laws.

Eighth, making immigration policy is a legitimate role of civil governments. Civil authorities are God's agents, and they may determine how many immigrants and the process for regulating immigration. Government's duty primarily is to protect its own citizens.

Finally, law has moral dimensions. Civil laws develop, regulating certain conduct for the public good, like whether we drive on the left or right side of the road. Regulating immigration and borders acquires moral dimensions. To rationalize or excuse the breaking or lax enforcement of them harms the larger principles of peace, the rule of law and justice.

Now, applying these principles to a couple of immigration proposals.

First, what about legalization? Well, there are other policy options besides the extremes of mass deportation or mass legalization. Legalization may end up abrogating love your neighbor and Biblical standards of justice. It may put the poorest Americans, law-abiding employers, citizens and lawful immigrants below those who broke our laws, including illegitimate employers.

We can all empathize with someone who aspires for a better life. But there are lawful ways to obtain it.

"What does it profit a man to gain the whole world and lose his soul?" Mass legalization would subject all our laws and the rule of law to contempt. That is a pretty high price.

Second, a guest worker program. The increase of foreign laborers by 400,000 to 600,000 a year could devastate the livelihoods of American workers. It shows favoritism to the rich, who will be able to use guest workers to depress wages and benefits.

The wealthy will pocket more money on the backs of the poor. James, chapter two, springs to mind.

American wages will fall, because the world is full of willing workers who would marginally improve their own earnings here. The average Mexican earns one-twelfth the average American's wages. Some 4.6 billion people earn less than the average Mexican.

So, guest worker will do the most harm to the most vulnerable Americans, including minorities, the disabled and recent lawful immigrants.

Thank you.

[The prepared statement of Mr. Edwards follows:]

PREPARED STATEMENT OF JAMES R. EDWARDS, JR.

Madam Chairman, Ranking Member King, members of the subcommittee, thank you for inviting me to present a faith perspective on the immigration issue. I commend you for giving serious consideration to this important aspect. My remarks represent the earnest, considered views of a lay Christian who has sought to honor the Lord God (as Colossians 3:23 instructs, to work heartily for the Lord's pleasure) as I have engaged in my calling to the public policy sphere.

I certainly don't claim that my conclusions are infallible because, like every other human being who has ever lived (except Jesus), I am imperfect. As Francis Schaefer said, "Having been made in the image of God, man is magnificent even in ruin. God made man to be responsible for his thoughts and actions. . . ." That wonderful description instills both humility and love.

I don't claim to be a theologian. But as C.S. Lewis said, you don't want theologians writing civil laws; that's outside their calling. Rather, you want faithful

believers whom God has called into the public policy field and equipped for that work.

On many subjects, Judeo-Christian Scripture is clear. It contains proscriptions on murder, theft, and perjury, for instance. But on immigration, as with other areas of public policy, Scripture isn't definitive. That would leave the specifics of immigration policy in the realm of prudential judgment.

In other words, one would need guidance from applicable biblical principles, to apply those principles according to the specific facts known from general revelation and particular circumstances, and to exercise sound judgment. This process would necessarily involve a fair reading of the Bible, taking passages in context, weighing various texts, and giving prayerful consideration to how those texts should be regarded here, now. It would require reason, logic, and dispassionate weighing of these factors. And, of course, a biblical approach would require removing, as much as humanly possible, ulterior motives.

Thus, while different Christians may arrive at different conclusions as to policy specifics on subjects like immigration where Scripture is silent or unclear, that fact would represent the freedom they have in the Lord as His creatures and His followers—not that the Lord is Himself of a divided mind. With many policy matters, more than one course of action that would pass muster with the Lord God exists, or fulfill His will. I believe this is the case with immigration.

#### NINE BIBLICAL PRINCIPLES

How might those seeking to exercise prudence approach the immigration issue? From what biblical guidance can we derive sound immigration policy? I submit that we might begin with five general principles from Scripture.

First, the two cornerstone commandments: Love the Lord with all your heart, soul, and mind; and love your neighbor as yourself. Jesus said these summarize God's moral law, the Ten Commandments (Matt. 22:37–40). They are timeless. They oblige each person, and that standard, exercised by individuals, would thereby be reflected in civil society.

Second, God has given both temporal and eternal obligations. In Matthew 22:21, Jesus says, "Give to Caesar what is Caesar's, and to God what is God's." This principle implies that some binding moral commands may apply differently to individuals and to civil government.

Third, God doesn't contradict Himself, and God's principles don't contradict one another. Thus, His principles of justice, fairness, and equality don't contradict, but are complementary to His principles of mercy. Also, both justice and mercy principles obligate us more to some people over others.

Elements of both sets of principles apply to us individually and as a body politic, but not always equally. For example, Exodus 23:2 warns us "not [to] show favoritism to a poor man in his lawsuit." But James 2:1 says "don't show favoritism [to the rich]." James 2:9 calls showing favoritism "sin."

In the context of the Golden Rule, the obligation to show mercy is greater for individuals than could rightly be expected of civil government. Luke 6:30–31 says, "Give to everyone who asks you, and if anyone takes what belongs to you, do not demand it back. Do to others as you would have them do to you." Obviously, that would be unjust for civil government to attempt, and such an attempt at mercy would result in injustice (as well as be unwise and profligate with public resources). The state can't turn the other cheek (Luke 6:29–30). The state can't give its tunic. The state can't turn a blind eye toward someone who has stolen. The state can't forgive someone 70 times seven times (Matthew 18:21–22).

Scripture indicates certain priorities in our personal and corporate obligations. I Timothy 5:8 says, "If anyone does not provide for his relatives, and especially for his immediate family, he has denied the faith and is worse than an unbeliever." Clearly, God organizes society around groups of people: families, communities, tribes, nations. Such verses imply priorities of duty and allegiance, for individuals and for the state.

Fourth, God ordains civil government. Earthly authorities are established as His agents to restrain evil, protect the innocent, and punish the wrongdoer. Notably, Romans 13:1–7 reads in part, "The authorities that exist have been established by God. Consequently, he who rebels against the authority is rebelling against what God has instituted. . . ." Civil governments are part of God's common grace to protect people in a world in which evil exists. Thus, people appropriately owe allegiance and duty to temporal governing authorities.

In the West (formerly known as Christendom), legislatures deliberate in a democratic process and enact civil laws. Courts of law assess punishment for lawbreaking, according to the rules established in those duly enacted laws, rather

than turning to mob rule or a tyrant's whim. This characteristic, the rule of law, has come to us under God's common grace. Or, as Democratic Senator Sam Ervin was fond of saying, ours is "a government of laws and not of men." The rule of law is our nation's greatest characteristic, and it should be safeguarded.

Fifth, God in His providence establishes particular governments for particular groups of people in particular places at particular times. That includes specific forms of government and specific rulers and officials. Daniel 2:21 says, "He changes times and seasons; he sets up kings and deposes them." Acts 17:26 says, "He determined the times set for them [every nation of men] and the exact places where they should live." Deuteronomy 32:8 confirms the same principle, making special reference to the Hebrews: "When the Most High gave the nations their inheritance, when he divided all mankind, he set up boundaries for the peoples according to the number of the sons of Israel."

These first five, general biblical principles provide right motive and attitude, balance and appropriate sophistication, understanding of civil government's role, and grounds for basing prudent judgments. Immigration policy can now be considered in light of four, more specific biblical principles.

First, a careful reading of the Scripture passages often referenced in connection with immigration shows that they really address immigrant policy rather than immigration policy. These passages address treatment of aliens once they are in a country. They say nothing about the criteria or the process by which aliens originally were admitted to the nation. We hear passages like Leviticus 19:33–34: "When an alien lives with you in your land, do not mistreat him. The alien living with you must be treated as one of your native-born. Love him as yourself, for you were aliens in Egypt. I am the Lord your God." Exodus 22:21 reads, "Do not mistreat an alien or oppress him, for you were aliens in Egypt." Such verses speak to fairness toward foreigners, just as related verses say to treat widows and orphans. It would be a flying leap in illogic to argue that the Bible says not to mistreat resident aliens; therefore, a nation must admit every foreigner who wishes to enter that country, on his own terms or otherwise.

Second, Old Testament laws reflect an assimilationist ethic. These laws required resident aliens to assimilate to Israel. The aliens were to adopt Israel's customs and observe its laws. For instance, Deuteronomy 16:9–15 requires all residents, including aliens, to observe the Feast of Weeks and the Feast of Booths. Those were significant, public events in that society.

Other laws accorded only Hebrews certain privileges. For instance, Deuteronomy 15:3 allows the exacting of credit loaned to a foreigner in the seventh year, when Hebrew debt was forgiven. In this, the Lord didn't contradict Himself, nor was He being unfair towards aliens. So, while God calls for fairness in general, He lets society make distinctions between citizens and noncitizens.

Third, making immigration policy is a legitimate role of civil government. Civil authorities, acting as God's agent, have the responsibility for determining how many people, on what basis, by what priorities, the process to regulate the visitation, permanent residence, and acquisition of citizenship of foreigners, etc. Those laws may differ from nation to nation, from period to period. Regulating immigration is the government's exercise of prudential judgment. It must assess the best, most valid, and reliable data to make its decisions. A government's primary duty is to protect its own citizens, as made clear by the above principle of why God invests authority to the state.

Fourth, a reasonable (or just) law, if not inherently moral (such as outlawing murder), possesses moral dimensions. This reflects the Judeo-Christian concept of the rule of law. Though some conduct is not inherently evil, laws develop regulating certain conduct for the public good. Scholar Paul Marshall has illustrated this principle regarding driving on the left or right side of the road. He says, "Only after the law is passed do these actions take on a whole new context and become matters of morality." Similarly, whether a hike across the plains has moral implications depends on whether that hike involves crossing onto private property and thus trespassing or crossing a national border.

Regarding immigration, Marshall notes that most illegal immigrants "simply desire a better life, and are willing to risk their lives in striving for it. . . . If there were no border then who could object to what they do? It is the fact of a border, a political invention, that makes their action wrong." Notably, even desperate circumstances don't justify a lawless act. Proverbs 6:30–31 says, "Men do not despise a thief if he steals to satisfy hunger when he is starving. Yet if he is caught, he must pay sevenfold, though it costs him all the wealth of his house." Despite quite understandable reasons behind an act of lawbreaking, the greater principles of preserving the peace, and law and order in society at large are at stake. In this example, the prosecutor has a duty to press charges and hold the person accountable for

his actions, while the person from whom food was stolen may choose not to bring a civil lawsuit.

These four principles indicate that a lot of factors are at play and many elements must be carefully weighed, along with the five general principles. What do they mean for individuals versus the state? What do they mean for both the receiving society and the immigrant? Is it consistent with the role of civil government and the rule of law to change the law to accommodate wholesale breaking of the law in question? Is amnesty an appropriate measure? By what standard is a law regarded as just or unjust? Is it possible to solve the complex problems intertwined in our immigration situation all at once, in one bill, without running an undue risk of unintended consequences that will only make matters worse? These are the questions and immense challenges facing Congress.

#### CONSIDERING "COMPREHENSIVE IMMIGRATION REFORM"

With respect to the approaches taken in H.R. 1645, the STRIVE Act, and the Senate immigration legislation that has been negotiated *ex parte*, allow me to speak generally and in light of the biblical principles I have laid out.

Concerning the *legalization* provisions, it has been suggested that all of the illegal aliens (12 to 20 million) cannot be deported, and so they all must be legalized. This approach sets up a false choice. Other policy options exist: continuing with the status quo; incentivizing attrition through steadily stepped-up enforcement; incentivizing aliens' voluntary exit through innovative financial programs; adopting qui tam rewards for citizens who report immigration benefits fraud, alien smuggling, employment of unlawful foreign workers, ID fraud; adding "constructive knowledge" to employer sanctions laws, withholding visas to source countries until they stop their people from unlawfully emigrating to the U.S.

The United States has tried the legalization route before; it has not only failed, but actually exacerbated the situation. Immigration amnesties have sparked more illegal immigration, for the simple reason that people conclude that the United States will not enforce its immigration laws very vigorously and, if they come on in, eventually they will be legalized.

The people hurt most by legalizations have been similarly situated native-born Americans and recent immigrants. These tend to be lower income and lower skilled people. The people who gain the most from such legalizations are the well-off: Employers who are let off the hook for having employed an illegal workforce and gaining an unfair competitive advantage over law-abiding employers, powerful business interests, and special interests that now in new ways can exploit those who are legalized. This sounds more like showing favoritism to the rich and to the alien, and failure by civil authorities to protect the innocent among the citizenry. It seems like injustice by grasping for "mercy."

Legalization would appear to risk abrogating "love your neighbor" and biblical standards of justice. It puts the poorest Americans, law-abiding employers, citizens crying out for their government to faithfully enforce the laws, and lawful immigrants beneath those who broke our laws to get here, owe our nation no allegiance, and have been (and will continue to be) grossly subsidized by middle-class taxpayers. We all can empathize with someone who aspires for a better life. We wish the same for ourselves and our children. But there are lawful ways and there are unlawful ways to achieve an improved life. The end doesn't justify the means; what does it profit a man to gain the whole world and yet lose his soul? (Mark 8:36)

Particularly in light of the utter failure of previous amnesties, the legalization route at this juncture would seem to constitute the government's failure to wield the sword for justice. The laws that have been broken are just, duly enacted laws that deserve to be enforced. To lead with mass legalization subjects all our laws, and the rule of law, to contempt. That course is a very high price to pay, sacrificing a treasure as precious as the rule of law. Though "mercy" may be the motive, injustice it would bring. Amnesty will most certainly leave us with illegal immigration three or four times greater in another decade or so than we have today.

With respect to a *guestworker* program, the increase of laborers by some 400,000 to 600,000 foreign workers each year—on top of the more than one million legal immigrants we already have annually, the escalated processing of 7 million chain migrants, and the 12–20 million legalization recipients—could devastate the livelihoods of American workers who will face head-to-head job competition. That kind of volume of imported labor would seem to show favoritism to the rich, who will be able to use the guestworker route to drive down wages, degrade working conditions, and drop fringe benefits they presently provide to attract and retain workers. In other words, the wealthy will pocket more money on the backs of the poor. The verses from James spring to mind.

It's easy to envision what will come about. The labor supply will be flooded. With more workers vying for jobs, they can command less generous wages and benefits. The requirements for first advertising for an American worker can be expected to be pretty lame. That was the case with last year's Senate bill, various "guestworker" measures such as for H2Bs, and will undoubtedly be the case here. Remember that the official unemployment statistics don't reflect the millions who've dropped out of the workforce.

When American middle-class wages not only continue to stagnate but fall, it will be attributable to increasing the labor supply via foreign guestworkers. A lot of "willing workers" would marginally improve their own earnings here relative to what they earn in their home countries. But what about the well-being of Americans who could and otherwise would do those jobs, for decent pay? Aren't they the government's first responsibility? The average Mexican worker earns 1/12th the average American's wages. Some 4.6 billion people in the rest of the world earn less than the average Mexican. The massive increase of foreign "willing workers" as is being proposed will most harm the most vulnerable Americans, including minorities, the disabled, and recent lawful immigrants.

So the balancing of justice and mercy, protecting the innocent citizen, and differentiating between what one should do as an individual versus what society through its government should do take on very weighty dimensions—moral concerns, in fact. I trust these moral principles will inform your decisions.

Thank you, and I look forward to your questions.

Ms. LOFGREN. Dr. Steinlight, you are next. And all of those buzzings and lights mean that they are calling us for still more votes, so we will listen to you, Dr. Steinlight, and then perhaps we can just limit ourselves to 2 minutes of questions each and we will run off and vote and come back for the second panel.

Dr. Steinlight?

**TESTIMONY OF STEPHEN STEINLIGHT, D.PHIL., CENTER FOR IMMIGRATION STUDIES, FORMER NATIONAL AFFAIRS DIRECTOR AT THE AMERICAN JEWISH COMMITTEE (AJC)**

Mr. STEINLIGHT. Good afternoon. I appreciate the opportunity to appear before this panel. It is a privilege for a first-generation American, the son of a refugee.

I am Stephen Steinlight, senior policy analyst at the Center for Immigration Studies. I am here in a different capacity, however, to share my understanding of my faith's teachings regarding the current immigration debate.

I am a proud American and a faithful Jew. My religious values are rooted in Judaism prophetic tradition that teaches redemption is achieved through pursuing justice.

As I understand it, justice is defined in part as the absolute pre-emptory connection between actions and consequences. Without individual accountability, justice means nothing.

The holiday of Shavuot, Pentecost, begins at sundown tonight. It commemorates God's giving of the law, the Torah, to the Israelites, and through them to all humanity.

Rabbinical commentators traditionally linked Pentecost to Passover, the exodus from Egyptian bondage, reflecting rabbinic understanding of freedom's dangers. Unrestrained liberty leads to anarchy.

At Mount Sinai, God bestowed the gift of law to educate, limit and ennoble freedom.

Katharine Bates echoed this union of principles in "America the Beautiful:" "Confirm thy soul in self-control, by liberty in law."

The millions that have entered America unlawfully and broken countless laws to remain produce these principles. So does sub-

stitute Senate 1348, by offering instant parole and the profligate Z visa to those that exhibit contempt for the rule of law.

We ignore history and justice at our peril. The 1986 amnesty multiplied illegal immigration five-fold.

Since anyone can quote scripture, it is not surprising how frequently faith representatives supporting the Bush-Senate immigration bill employ it—or rather, abuse it—obsessing on passages from the Hebrew Bible, especially Leviticus 19. This includes the Jewish establishment, which survey research shows does not reflect the opinions of most Jews.

Ordinary Jews, like most Americans, are not xenophobes, but draw a bright line between legal and illegal immigration. They oppose exponentially increased immigration, guest worker programs and amnestying illegal aliens.

Like most Americans, given, the option, they choose attrition of the illegal population through vigorous law enforcement. Supporters of the Senate-Bush bill fixate on Leviticus 19. We have heard it quoted many times: “When strangers sojourn with you in your land, you shall do them no harm. You shall love them as yourselves, for you were strangers in the land of Egypt.”

This is the routine rhetorical climax. It is presumably unassailable. Leviticus 19, they declare, supports Senate bill 2611, substitute 1348, end of story. Or is it?

It does not require much hermeneutical acumen to see the meaning of a key term, “sojourn,” has been misconstrued for political purposes.

The word in the Hebrew Bible for stranger is “ger v’toshav.” The precise English word is sojourner.

It first appears in Genesis 4:23, describing Abraham when he dwells briefly with the Hittites. It appears in Chronicles 29:15, when King David employs it metaphysically to contrast the transitory nature of human experience with the eternality of God, steward and creator of the universe, of the earth on which we dwell briefly as wanderers.

Richard Elliott Friedman, leading authority on Biblical Hebrew, translates it as “alien” and “visitor.” Every English dictionary defines sojourn as “temporary stay.”

Thus, this passage offers no scriptural sanction to argue 12 million illegal aliens should be permitted to remain permanently in the United States.

Terms for immigrant and immigration are absent in the Bible. Narratives of inclusion are rare. We know the rule by the exception—the Book of Ruth.

The Bible also addresses the inclusion of strangers in civil and legal terms. In Exodus 12:49, Leviticus 24:22 and in Numbers, it proclaims there shall be one law for citizens and strangers alike. This is anachronistically misread as a bill of rights for sojourners. The contrary is true.

Strangers are meant to conform to Israelite law. Strangers did have rights, but they earned them by an ancient form of naturalization: circumcision and abandonment of idolatry. Strangers were required to obey all Israelite laws strictly and not undermine the legal fabric of Israelite society.

Leviticus 19 commands us to love the stranger. Substitute bill 1348 is about greed, not love. And Leviticus 19 surely does not command us to exploit strangers as cheap labor or for partisan advantage.

The bill's reactionary, inhumane provision of 400,000 to 600,000 guest workers violates the Holiness Code of Leviticus that demands dignity for laborers, including the most humble. We are told to be holy, because "I, the Lord thy God, am holy." And our holiness is tested by our treatment of laborers.

Cherry-picking the Bible to exploit poor immigrants at the expense of working class and impoverished Americans, African-Americans most especially, to enrich wealthy employers is nothing less than sacrilege.

[The prepared statement of Mr. Steinlight follows:]

PREPARED STATEMENT OF STEPHEN STEINLIGHT

Good afternoon. I appreciate the opportunity to appear before this panel. It's a privilege for a first-generation American, the son of a refugee.

I'm Stephen Steinlight, Senior Policy Analyst at the Center for Immigration Studies. I'm here in a different capacity, however: to share my understanding of my faith's teachings regarding the current immigration debate. I'm a proud American and a faithful Jew.

My religious values are rooted in Judaism's prophetic tradition that teaches redemption is achieved through pursuing justice. As I understand it, justice is defined—in part—as the absolute, peremptory connection between actions and consequences. Without individual accountability, justice means nothing.

The holiday of Shavuot—Pentecost—begins at sundown today. It commemorates God's giving of the law, the Torah, to the Israelites and, through them, to humanity. Rabbinical commentators traditionally linked Pentecost to Passover, the Exodus from Egyptian bondage—reflecting rabbinic understanding of freedom's dangers. Unrestrained liberty leads to anarchy. At Mount Sinai, God bestowed the gift of law to educate, limit and ennoble freedom. Kathleen Bates echoed this union of principles in "America the Beautiful": "Confirm thy soul in self control by liberty in law."

The millions that have entered America unlawfully and broken countless laws to remain traduce these principles. So does S.1348 by offering the profligate Z-Visa to those that exhibit contempt for the rule of law. We ignore history and justice at our peril. The 1986 amnesty multiplied illegal immigration five-fold.

Since anyone can quote Scripture, it's not surprising how frequently faith representatives supporting the Bush-Senate immigration bills employ it—or, rather—abuse it—obsessing on passages from the Hebrew Bible, especially **Leviticus 19**. This includes the Jewish Establishment, which surveys show does not speak for America's Jews. Ordinary Jews, like most Americans, are not xenophobes, but draw a bright line between legal and illegal immigration. They oppose exponentially increased immigration, guest worker programs, and amnestying illegal aliens. Like most Americans—given the option—they choose attrition of the illegal population vigorous law enforcement.

Supporters of the Senate-Bush bills fixate on **Leviticus 19**: "When strangers sojourn with you in your land, you shall do them no wrong. The strangers who sojourn with you shall be as the natives among you, and you shall love them as yourself; for you were strangers in the land of Egypt."

This is their routine rhetorical climax. It's presumably unassailable. **Leviticus 19**, they declare, supports S.2611 cum S.1348. End of story.

Or is it?

It doesn't require much hermeneutical acumen to see the meaning of a key term—**sojourn**—has been misconstrued for political purposes.

The word in the Hebrew Bible for stranger is "Ger v'toshav." The *precise* English equivalent is **sojourner**. It first appears in **Genesis 4:23** describing Abraham when he dwells briefly with the Hittites in what is now Hebron. It last appears in **Chronicles 29:15** where King David employs it to contrast the transitory nature of human existence with the eternity of God, creator and steward of the earth on which we briefly dwell as wanderers.

Richard Elliot Friedman, a leading authority on biblical Hebrew, translates it as "alien" and "visitor." Every English dictionary defines **sojourn** as a *temporary*

*stay. Thus, this passage offers no scriptural sanction to argue some 12 million illegal aliens should be permitted to remain permanently in the United States.*

Terms for **immigrant** or **immigration** are absent in the Bible. Narratives of inclusion are rare. We know the rule by the exception—the **Book of Ruth**.

The Bible also addresses the inclusion of strangers in civil and legal terms. In **Exodus** 12:49, **Leviticus** 24:22 and in **Numbers** 15:14, it proclaims there shall be one law for citizens and strangers alike. This is often cynically misread as a bill of rights for sojourners. The contrary is true. Strangers must conform to Israelite law.

Strangers did have rights, but they earned them by an ancient form of naturalization: circumcision and abandoning idolatry. Strangers were required to obey all Israelite laws **strictly** and not undermine the legal fabric of Israelite society.

**Leviticus** 19 commands us to love the stranger. S.1348 is about greed, not love, and **Leviticus** 19 surely does not command us to exploit strangers as cheap labor or for partisan advantage. S.1348's reactionary, inhumane provision for 400,000–600,000 "Guest workers" violates the Holiness Code of **Leviticus** that demands dignity for laborers, including the most humble. We are told to be "holy because I the Lord am holy." Our holiness is tested by how justly we treat laborers.

Cherry-picking the Bible to exploit poor immigrants at the expense of working-class and impoverished Americans—African Americans especially—to enrich wealthy employers is nothing less than sacrilege.

Thank you.

Ms. LOFGREN. Thank you, Dr. Steinlight. We have about 8 minutes before we have to be on the floor. Usually it is—because they carry on the first.

So we are, by unanimous consent, are going to limit ourselves to about a minute-and-a-half of questions apiece, so that we can at least each ask you one question before we rush to the floor.

The bad news is, we have got to go vote. The good news is, it is the last today, so the second panel will not be interrupted.

I am going to turn first to Chairman Conyers.

Mr. CONYERS. Thank you.

Of all the times that we need more time, we get less time, because this, to me, is the most important and interesting hearing we have had on immigration.

Dr. Adams, in my brief time, please discuss what you have heard from our good friends Dr. Edwards and Dr. Steinlight, in terms of where faith comes into this. Should you even be here to begin with? I mean, are we to exclude faith-based opinion?

Reverend ADAMS. I believe that the separation between church and state in the United States is not meant to suppress either side of our reality as human beings, of both civil law and eschatological compulsion.

I think eschatological compulsion, or faith, belief in the ultimate, and a belief in the temporal and the temporary, not the final, not the perfect, but we just do the best we can as human beings, realizing that, as citizens we exercise our right to vote, to make laws, to change laws, to correct laws.

And as believers in God, or in some ultimate being, we recognize our freedom to participate out of that motivation. But that does not give us domination over people who have a different definition of the ultimate.

So, I would think that we have a right to speak, but we do not have a right to dictate or to dominate. And what I hear is free speech on the part of people who come out of a religious motivation, who are participating in the public square as equal partners.

Ms. LOFGREN. Thank you, Reverend Adams.

Mr. Gohmert?

Mr. GOHMERT. Thank you.

And, Reverend Adams, I really appreciate your comments and I appreciate your faith. Obviously, you are a man who lives what he preaches, a heart as big as all outdoors.

I do agree—you know, I have concerns about merit-based versus family-based. One of the great hopes that I have with the immigrants that I see coming in from other countries, be it from Mexico, Latin America, Asia, even Irish, different groups, they have such strong families. And we have lost that in America. And I am hopeful that that is something immigration will revive in America. So, that is a concern of mine.

But, sir, when you talked about bad religion, talks about national defense—I believe Jesus is the way, the truth and the life. I do. But I also believe, if people like me did not commit time like I did to serve for the national defense, there would be no one allowed in this country to talk about national purpose.

I also believe that when you get to Romans 13, you know, God allows governments to exist. And there are supposed to be laws. And some of us have committed our lives, either as prosecutors, as my 4 years in the Army—many different ways, as a judge. And so many times I have to come down on laws I did not like, I did not agree with.

But the rule of law seems to be the one thing that separates us from countries who have been impoverishing their people, like Mexico.

We ought to be demanding a better nation to take care of people, so they would not have to break up families and come here. We ought to be demanding better neighbors.

And so, that is something I think the thrust ought to be, not that we are evil because we want to provide for the common defense, as the Constitution says, that we took an oath to uphold, but that we need to be vigilant and protecting people, like all of you here who care so deeply for humanity.

And I do appreciate your time.

Ms. LOFGREN. Thank you.

Mr. Gutierrez for a minute?

Mr. GUTIERREZ. Thank you.

Number one, I want to thank all of you for coming here this afternoon. I know that we are all very inspired by your words and by your testimony here.

I think that church-based organizations have played a critical role in the development of this nation, from the first Pilgrims getting off the boat to today.

I know that I want to particularly thank my friends in the Jewish community for all of the hard work that they have done to advocate for comprehensive immigration reform.

I want to thank the black ministers that are here for bringing the historical context of the church in your own struggle for civil and human rights here, and for standing up for immigrants today.

We have heard here—if there was anybody that should be able to be assimilated, it should be African-Americans, mostly Protestant and English speaking. And yet we know about the prejudice and the segregation that you have confronted and continue to confront, but that together we will tear those barriers down.

And I just want to say, lastly, that I guess it all depends on the eyes that you see a community. Some people see someone from Ireland that does not have documents and sees someone that has overstayed their visa illegally. I see somebody who wants to go back home and see their parents.

I see somebody from Haiti, and they see a black man. I see somebody, if he were only one country over in the Antilles, would have permanent residency and citizenship here, if he were from Cuba.

So, I only make those comments to say that our laws are both fair and unfair, are wise and unwise, and are laws that are good and bad laws. And I think that you have spoken to that issue here today. And sometimes laws are bad and men have to correct them.

Thank you so much.

Ms. LOFGREN. Thank you.

Mr. ELLISON?

Mr. ELLISON. Let me join my colleagues in thanking all of you for sharing your views.

I do believe that, while the sacred needs to inform the secular government, that it should not dominate it, as the reverend said. But for me, it is very important to hear the voices from the faith community as we go through this debate.

I believe that our laws should be just and should be good. And I think it was Saint Augustine who said that an unjust law is not really law at all.

Is that right, Reverend? Yes? I got that one right. [Laughter.]

So, the thing is, is that I want to thank you all for talking about what is justice, what is charity, what is generosity. I think America should be a nation that stands for open doors and generosity. At the same time, I do not think that negates the rule of law.

And so, I really just want to demonstrate and express my appreciation, and I wish we had time for more questions. Unfortunately, we really do not.

But if we have more time later, I would like to do this. If we could open up the record to include information on Muslim American communities—

Ms. LOFGREN. Can we do all the insertions when we come back?

Mr. ELLISON. Okay.

Ms. LOFGREN. And that will be without objection. But I want to—

Mr. ELLISON. Yes.

Ms. LOFGREN. And we will certainly do that when we come back.

Mr. ELLISON. And if I did have time to ask a question, I would ask if you all think that it would be important to include Muslim voices in this debate.

Ms. LOFGREN. Luckily, we—

Mr. ELLISON. It looks like we are saying yes.

Ms. LOFGREN. Luckily, we will have some of those voices in our next panel.

And I have not used my 2 minutes of time, because we have to rush to the floor.

I would just like to say that, like Reverend Adams has said, no religious voice in our community can dominate what the civil legislature does. But I also feel that the voices of the faithful will inform our decision, or should inform our decision.

And so, I appreciate your willingness to be here, to give us your comments and to open your hearts to us.

And with that, we will recess this hearing.

And the second panel, we will be back in about half an hour without further interruptions.

So this hearing is recessed till after the last vote.

[Recess.]

Ms. LOFGREN. The Immigration Subcommittee will resume.

And the good news is that the votes are over for the day. And the second piece of information is to once again apologize. We have no control over when votes are called on the floor, and we do apologize for disrupting this hearing so severely.

I would like to introduce the second panel who is with us today. And I understand Ms. Murguía has to leave at 5:30. I think we will have time for her testimony, but Cecilia Muñoz will sit in for her, without objection, if there are questions.

I would like to introduce Marleine Bastien, the founder, former president, and current executive director of Fanm Ayisyen Nan Miyami, Haitian Women of Miami, founded in 1991. Ms. Bastien and her organization have created a host of vital service programs for women in southern Florida. She is additionally one of the founders of the Haitian-American Grassroots Coalition and the Justice Coalition for the Haitian Children of Guantanamo. She has received Amnesty International's Human Rights Award, a Ms. Woman of the Year Award, and a Leadership for a Changing World Award from the Ford Foundation.

We are also pleased to have Deepa Iyer with us, the Executive Director of South Asian American Leaders of Tomorrow (SAALT). Ms. Iyer began her public interest career at the Asian Pacific American Justice Consortium and later served as a trial attorney with the Civil Rights Division of the United States Department of Justice. Ms. Iyer most recently served as the Legal Director of the Asian-Pacific American Legal Resource Center. Born in India, Ms. Iyer came to the United States at the age of 12. She has taught courses on legal issues facing Asian-Americans at Columbia University and Hunter College in New York. She earned her bachelor's degree with honors from Vanderbilt University and her law degree from the University of Notre Dame Law School.

I am next honored to welcome Janet Murguía, the president and CEO of the National Council La Raza, or NCLR, the nation's largest national Hispanic civil rights and advocacy organization. She began her career in Washington as the legislative counsel to former Kansas Congressman Jim Slattery and later worked from 1994 to 2000 at the White House. She became former President Clinton's deputy of legislative affairs. She returned home to her home-State of Kansas to serve as the Executive Vice Chancellor for University Relations at the University of Kansas before returning to the nation's capital. Ms. Murguía currently sits on the board of the Independent Sector and the board of the Hispanic Association on Corporate Responsibility, the National Hispanic Leadership Agenda, and the Merrill Lynch Diversity and Inclusion Council. A member of the executive committee on the Leadership Council on Civil Rights, Ms. Murguía received three degrees from Kansas University: two bachelor's degrees and a law degree.

I am next pleased to introduce Karen Narasaki, president and executive director of the Asian American Justice Center, or AAJC. Ms. Narasaki serves as the Vice Chair of the Leadership Conference on Civil Rights and Vice President of the Coalition for Comprehensive Immigration Reform. She additionally chairs the Rights Working Group and the Asian Pacific American Media Coalition. And she serves on the boards of the Lawyers Committee for Civil Rights Under Law and the National Commission on Adult Literacy. Among her numerous awards, Ms. Narasaki was named one of the 100 Most Powerful Women in Washington by *Washingtonian Magazine* in 2001 and 2006, and the Congressional Black Caucus Chair's Award in 2003. She graduated with honors from Yale University and the Order of the Coif from the University of California School of Law at UCLA.

Next I am pleased to introduce Niall O'Dowd, chairman of the Irish Lobby of Immigration Reform. Mr. O'Dowd is the founder of *Irish America* magazine and the *Irish Voice* newspaper in New York. In addition to his distinguished career as an immigrant advocate, Mr. O'Dowd initiated the Irish American Peace Delegation in 1992 that played a key role in bringing about the Irish Republican Army ceasefire and the Irish peace process. His recent book, *Fire in the Morning*, accounting the September 11 terrorist attacks, has become a bestseller in Ireland.

We are also pleased—oh, I am going to allow Mr. Conyers to introduce Mr. Saleh.

Is Ms. Pulido—will be here later.

Ms. Pulido is one of the minority witnesses, Illinois spokeswoman for You Don't Speak For Me. Born and raised in Chicago, she worked for 3 years as a police dispatcher, completed two tours of duty with the Minuteman Project as an original minuteman in April 2005 and 2006, and she manages her own errand and escort service for senior citizens, and created and produced a talk show for seniors called "Caregivers Radio."

The minority's second witness is Jan Ting, a Professor of law at Temple University. A Temple professor, Ting served as director of the Graduate Tax Program from 1994 to 2001 and specialized in tax law as an attorney at the Philadelphia law firm of Pepper Hamilton and Scheetz. He was appointed Assistant Commissioner of the Immigration and Naturalization Service in 1990, and served with the Justice Department through 1993. The National Asian Pacific American Law Students Association named him 2003 Asian American Law Professor of the Year, and he has served as a Senior Fellow at the Foreign Policy Research Institute, among many other honors. His B.A. is from Oberlin, his master's from the University of Hawaii, and law degree from Harvard University.

And now I will ask the Chairman of the Committee to introduce Noel Saleh, a member of the panel from his State and someone well-known to him.

Mr. CONYERS. Thank you, Chairwoman Lofgren, and my colleague, Luis Gutierrez.

My old friend, attorney Noel Saleh is here, and I just wanted for the record to have the pleasure of introducing him.

He is the President of the board of directors of an organization called ACCESS, Arab Community Center for Economic and Social

Service. It is one of the nationally premier Arab-American organizations that does social services for the community.

And they distinguish themselves by working in the community for everybody. You do not have to be Arab-American to go to the Arab-American Center for help. And they have been honored in many ways, and we are delighted to have him here.

He has 25 years or more of immigration litigation experience. And until 3 years ago, he was also a Staff Director for the American Civil Liberties Union of Michigan.

He sits on the board of National Immigration Forum, the Rights Working Group, and the executive board of the Fair Housing Center of Metropolitan Detroit. He is also on the Michigan Advisory Committee to the United States Civil Rights Commission.

And we welcome you, Noel.

Ms. LOFGREN. Thank you, Mr. Chairman.

And thanks to all of the witnesses.

We will make your written statements part of the record. We ask that each of you summarize in about 5 minutes. And these little machines are—hopefully you can see them—they turn yellow when you have 1 minute left. And I will do a little tapping noise so you know.

And I hope that you will summarize so that we will have a chance, even at this late hour, to ask you questions.

As you know, this hearing is on comprehensive immigration reform. And you, as leaders in the communities of the United States are important voices for us to hear, especially in light of the Senate's action and hopefully actions here in the House that will follow.

So let me turn first to you, Ms. Bastien.

**TESTIMONY OF MARLEINE BASTIEN, EXECUTIVE DIRECTOR, FANM ASYISYEN NAN MIYAMI, INC, HAITIAN WOMEN OF MIAMI**

Ms. BASTIEN. Thank you, Madam Chair, for the opportunity to speak to you today.

I was here 3 weeks ago with a delegation from Miami-Dade County. Little did I know that I would be back this afternoon, testifying in front of you in favor of comprehensive immigration reform. And I repeat: comprehensive immigration reform.

Madam Chair, as you know, Haitians have suffered discrimination in this country for years. Even under the worst dictatorships of the Duvaliers in the early 1980's, Haitians have been forcibly repatriated, in complete denial of their rights of due process.

You may know that for years now, we have been fighting for TPS, temporary protective status, for Haitians. Recently, 3 weeks ago, as you know, Hondurans, Salvadorans, Nicaraguans were awarded TPS once more, and Haitians have been denied TPS over and over again.

So, we know the meaning of discrimination. We know the meaning of suffering.

So, as many immigrants in this country, working hard, sometimes two and three jobs, contributing to the social, political and economic fabric of this nation, we were waiting with open hearts for this new comprehensive immigration reform.

And I must say that what we have in front of us has us greatly concerned. And you have heard the consensus among all the people who testified today about some of the problems that we have with the proposal.

It seems to me that there was good intention in crafting this proposal. However, what I see missing is a lack of empathy. If it were not for a lack of empathy, how could it deny so gravely the importance of family values?

We need a fair legislation that understands and respects family values, that keeps families together. Families are the core of our society. Strong families make strong communities, make better for communities. And this proposal ignores that fact, and it aims at dividing families once more.

Many of the provisions in this proposal are expensive, unreasonable, unnecessary, and unworkable.

These include the "touch back" requirements, which, in itself, is really, really, really, really, really, really neglectful of families' unity.

How can we be serious about comprehensive immigration reform, if we are asking the head of families to go back to their home countries, which oftentimes is so unsafe, like in the case of Haiti, where there is now an advisory preventing Americans and others from visiting, because of the turmoil and kidnappers that occur there on a daily basis? And this is true for other lands around the world.

How else could it be to deny workers the path to citizenship? We value their work. We value their labor. And yet, we want them to come here, work, and then when we are tired of them, we want to ask them to go back to their nation, without giving them a chance to become U.S. citizens.

Legalization must include persons with final orders of removal. Haitians, as you may know, fall a lot in this category, because for over the years, Haitians have been denied their rights of due process.

Haitian political asylum claims have been denied, despite proof of repression and instability in Haiti.

If there is no criminal record, persons with final orders of deportation should not have to seek waivers to be able to stay. And they should be included in any—I mean in any—comprehensive immigration reform.

My colleagues who came previously spoke overwhelmingly about some of these concerns. But I would be remiss if I were not to talk to you about a specific position, which it is not included, will really create more concerns for us in the immigrant community, especially the Haitian immigrant community.

If the omission of Haitian improvement act, it was included in the Senate proposal last year, but for one reason or the other, it was excluded in this proposal this year.

What is HRIFA? Haitian Immigration Fairness Act of 1998 was signed into law by President Clinton in 1998, to address refugees and immigrants who have been living here since before 1995.

Because of a technicality in this law, many Haitians were unable to address their status, and they are all facing deportations right now. We are talking about 5,000 or more people, including 3,000 U.S.-born citizens.

In order for us to really show our strong support behind comprehensive reform, Haitian improvement act must be included in this proposal.

Immigrants are a huge asset to our State, and we need to do more to remove the barriers of their integration. Economic common sense and basic human decency dictate the shift in the way that immigrants are treated in our country.

Comprehensive immigration reform on a Federal level is a first step toward recognizing that immigrants are not a threat, but an asset. We need to be humane and fair about this.

Thank you.

[The prepared statement of Ms. Bastien follows:]

PREPARED STATEMENT OF MARLEINE BASTIEN

Madame Chairwoman, members of the subcommittee, thank you for inviting me to testify before you. Haitian communities are comprised of decent, hard-working, tax-paying refugees and immigrants, seeking the American dream, whose U.S.-born children are our future, and whose remittances sustain their relatives in Haiti. Haitians have suffered from discriminatory U.S. immigration policies for decades. Despite fleeing harsh dictatorships, they have been interdicted at sea and summarily repatriated without asylum screenings, indefinitely detained often for years, and repeatedly denied fair asylum proceedings and determinations.<sup>1</sup> Three weeks ago, Temporary Protected Status was again properly renewed for 18 months for affected Honduran, Nicaraguan, and Salvadoran nationals, extending a halt of their deportations, due to still-incomplete recovery from Hurricane Mitch in 1998 and earthquakes in 2001. But Haitians, despite broad recognition that they fully qualify, have never been granted such protection.<sup>2</sup>

The failure to grant Haitians TPS, continuing to deport good people who have been here for years, endangers U.S. borders. Haitians in the United States remit \$1.17 billion annually which supports nearly a million adults in Haiti.<sup>3</sup> When long-resident hard-working people are deported to this hemisphere's poorest country, it not only rips them away from their U.S.-born children, forcing those children to make the wrenching choice between the only parents they have ever known and the only country they have ever known—the United States—it also instantly cuts off the flow of money which sustains their relatives in Haiti, thereby causing the very desperation which a sound Haiti policy should seek to prevent and leading many Haitians, all of whom love their country, to attempt dangerous, often deadly 700 mile sea voyages which so unnecessarily tax U.S. Coast Guard, Border Patrol, de-

<sup>1</sup>See "Successes and Challenges for U.S. Policy to Haiti," Hearing Before the Committee on Foreign Relations, United States Senate, 108th Congress First Session, July 15, 2003, Testimony of Steven David Forester, Esq., Senior Policy Advocate, Haitian Women of Miami, which I incorporate herein by reference. That testimony describes this history of discrimination in detail, citing statistics, federal court cases, and facts, and thoroughly outlines the pressing need for legislation to correct or "fix" flaws in the Haitian Refugee Immigration Fairness Act of 1998 (HRIFA). As discussed infra, such HRIFA Improvement legislation has been introduced thrice in the House of Representatives since 2003 and currently comprises Section 519 of the STRIVE Act. Although it was included in S. 2611, the comprehensive immigration reform bill which passed the Senate last May, one glaring defect of the current Senate proposal is that it does not currently contain such HRIFA Improvement legislation, a defect which should be remedied.

<sup>2</sup>See "If only they had a golden arm," Carl Hiaasen, *Miami Herald*, April 8, 2007; editorial, "Haitians in America Meet Requirements for TPS," *South Florida Sun-Sentinel*, August 25, 2006; editorial, "Straight to the Point: TPS for Haitians," *Miami Herald*, January 25, 2006; "Haitians deserve protected status," Steven David Forester, *South Florida Sun-Sentinel*, September 25, 2006; "Policy is 'white foot, black foot,'" Carl Hiaasen, *Miami Herald*, February 5, 2006; "Thousands march for Haitian rights," *Miami Herald*, April 23, 2006; Haitian Protection Act of 2007, H.R. 522; press release and letter to President Bush of Rep. Alcee L. Hastings, May 3, 2007, "The continuation of unfair and discriminatory immigration policies toward Haitians has not allowed Haiti to obtain the sense of normalcy that its Central American counterparts are being given the opportunity to achieve."

<sup>3</sup>See "Remittances to Haiti topped \$1.65 billion in 2006, says IDB fund," press release, Inter-American Development Bank, March 5, 2007. "About 1.1 million adults in Haiti receive remittances, typically 10 times a year, at an average of \$150 at a time. About half the families that receive money from abroad have incomes of less than \$500 a year. . . . Most Haitians who receive remittances use the money to cover basic expenses. However, many families manage to save a portion of their money or invest it in small businesses, home improvements or the education of their children." Id.

tention, and judicial resources. To protect our children and our borders, we should keep these parents with their children and their remittances flowing to their relatives.<sup>4</sup>

This year the deportations of good people with no criminal record have accelerated: Joseme Charles, here since 2000, leaving two asthmatic U.S.-born children behind; Alexandre Nicolas, here since 1994, despite an approved I-130, U.S.-citizen wife, and U.S.-born daughter; Marie Thelusma, here since 2000, deported despite U.S.-citizen husband and son and a *scheduled adjustment interview to actually become a legal permanent resident*.<sup>5</sup> This isn't right or sensible. And it's the tip of the iceberg; most cases we don't even hear about. ICE took these parents away from their spouses and children in about five minutes during unannounced pre-dawn raids on their apartments, leaving no time even for goodbyes.

We need a fair and workable path to legalization but have serious misgivings about the Senate proposal, which in many ways is much worse than what the Senate passed last year. The historic principle of family reunification must remain a core value of our immigration laws. The proposal's elimination of four of five family-based categories, and its arbitrary slashing of the number of visas available for parents of U.S. citizens, is radically inconsistent with American history and traditions and undermines the hopes of millions. Whatever happened to family values? Skilled or unskilled, all human beings are of equal worth and dignity in the sight of God. Have we forgotten what it means to be an American? Haitians, like all immigrants, work very hard, two and even three jobs, and the child of today's waitress or taxi driver may be tomorrow's brain surgeon or president of a major corporation. Have we forgotten "rags to riches", "only in America", and where Abe Lincoln came from?

Many provisions are onerous, unreasonable, unnecessary, or unworkable. These include the touch-back requirement; the prohibitively high fees and penalties which discriminate against the poor and may bar millions for lack of funds from even attempting to legalize, defeating the plan's purpose and keeping families living in fear and hiding; and the 8 to 15 year wait to become a legal permanent resident. The touchback provision serves no purpose except to penalize and endanger people, who shouldn't have to pay the added cost nor be forced to go back to unsafe conditions. The State Department, for example, has issued an advisory warning Americans that it is unsafe to travel to Haiti, given the kidnappings and other turmoil. This is true of other lands from which refugees have fled.

The temporary worker program's restrictions against regularizing one's status devalues the worker and will result in a new undocumented population.

Legalization must include persons with final orders of removal. Haitians disproportionately fall into this category, as they usually were paroled into the country or came forward soon after arrival in compliance with the law. Especially given a well-documented history of discrimination in denying Haitian asylum claims, it would be unfair to exclude persons with final orders, and devastating to long-established, hard-working families with U.S.-born children. If there is no criminal record, persons with final orders should not have to seek waivers of any kind which, unless a pure formality—in which case they are unnecessary—may bar deserving applicants.

My colleagues will expand on these and other fundamentally flawed provisions in the Senate proposal. Permit me to focus on an omission which must be remedied if Haitian-American needs are even minimally to be met. This is the Senate proposal's omission of a HRIFA Improvement provision to fix unintended flaws in the Haitian Refugee Immigration Fairness Act of 1998, referred to by its acronym, HRIFA.

In contrast to the Senate proposal, HRIFA Improvement is included in the STRIVE Act as Section 519; was part of S. 2611, the immigration bill which passed the Senate last year; and was previously introduced in the Senate in 2004 and thrice in the House since 2003 by Representative Kendrick Meek.

<sup>4</sup>See "Sweat, generosity of emigrants Haiti's lifeline," op-ed by Ana Menendez, *Miami Herald*, April 8, 2007. See also the IDB report cited in footnote 3 and many of the items cited in footnote 2.

<sup>5</sup>See "She's the face of immigration policy," by Ana Menendez, *Miami Herald* (front page), April 11, 2007; "Immigration chaos tears a family apart," by Ana Menendez, *Miami Herald*, March 7, 2007; "Split decision: Deportation redefines families. As more longtime residents are deported, many are forced to choose whether to leave their U.S.-born children behind," by Ruth Morris, *South Florida Sun-Sentinel*, February 25, 2007; "U.S. adding fugitive squads that target immigrants who ignore expulsion orders," by Ruth Morris, *South Florida Sun-Sentinel*, February 26, 2007; "Increased deportations targeting all illegal immigrants," by Victor Ramos, *Orlando Sentinel*, May 14, 2007 (focusing on Alexandre Nicolas); "Family apart as immigration debate goes on," by Ana Menendez, *Miami Herald*, December 14, 2005; "A father is gone, guilty of being Haitian," by Ana Menendez, *Miami Herald*, September 10, 2005.

The need for this specific corrective legislation to protect unquestionably deserving families and children has received extensive national media coverage and editorial support from 1999 to the present. This includes a top-of-the-front-page *New York Times* expose; a Ted Koppel Nightline half-hour; ABC and NBC national news segments; repeated editorial and op-ed support, etc.<sup>6</sup>

HRIFA's sponsor, former Senator Bob Graham, praising one of the *Miami Herald's* many editorials urging such relief, wrote in a letter to the paper's editor on May 13, 2000, "We shouldn't punish Haitians who fled tyranny and came here seeking refuge, freedom, and justice. To ensure that they have the opportunity to embrace these protections, Congress passed HRIFA in 1998. . . . We should do everything possible to fulfill our commitment and keep families from being torn apart."<sup>7</sup> Senator Graham introduced a HRIFA Improvement bill in 2004.

Miami-Dade County's mayor and commissioners have urged enactment of HRIFA Improvement legislation in repeated delegations to Washington since 2003, most recently just three weeks ago.

Despite the equities and support, those the Senate meant to protect by including and passing such a provision in last year's bill are still being deported. These include children placed in removal proceedings after having aged out of derivative eligibility due to unconscionable, years-long government delays in processing their parents' eventually-successful HRIFA applications, and otherwise-HRIFA-eligible "airplane refugees" who escaped murderous repression<sup>8</sup> during the 1991–1994 coup

<sup>6</sup>See e.g., three CBS local South Florida reports by Jennifer Santiago, 2005–2006; editorial, "Immigration Issue: A loophole leaves Haitians eligible for safe harbor facing deportation," *South Florida Sun-Sentinel*, October 16, 2005; editorial, "Haitian immigrants merit fair relief Our opinion: Congress should approve law to end mistreatment," *Miami Herald*, October 10, 2005; "Unintended Consequences: After thirteen years in Miami, Omila Foufoune Cesaire faces deportation to the Haiti she fled in fear," by Tristram Korten, *Miami New Times*, September 15, 2005; "Dividing Families: Approximately 3,000 Haitians who have been living, working, and raising families in the United States for more than 10 years face deportation because of a legislative oversight," by Paige Stein, *Boca Raton News*, July 19, 2004; editorial, "A remedy for Haitians Our opinion: Press for approval of Rep. Meek's bill," *Miami Herald*, January 13, 2004; "Flaw in immigration law threatens deportation for some Haitian refugees," by Ken Thomas, *Associated Press*, *San Francisco Chronicle*, December 29, 2003, *Naples Daily News*, December 30, 2003, and many other papers; "Haitian Immigrants in U. S. Face a Wrenching Choice," *New York Times* (top of front page), March 29, 2000; lead editorial, "No room for 5,000 Elians," *San Francisco Chronicle*, April 3, 2000; *NBC Nightly News with Tom Brokaw* segment, April 6, 2000; ABC Evening News segment, July 4, 2000; ABC's *Nightline with Ted Koppel* (program, "Equal Justice?"), May 25, 2000; ABC's *Nightline with Ted Koppel* (segment of Miami townhall meeting), April 7, 2000; editorial, "A cruel choice for Haitian parents," *Tampa Tribune*, April 10, 2000; op-ed, "Elian's Case Should Shed New Light on Haitians' Plight," by Mike Harden, *Columbus Dispatch*, April 12, 2000; "Haitian parents facing deportation fearful for U.S.-born children," by Jody Benjamin, *South Florida Sun-Sentinel* (front page, local), April 16, 2000; *The Tavis Smiley Show*, Black Entertainment Television (hour program), April 24, 2000; lead editorial, "Haitian Parents of U.S. Kids Deserve to Remain Here Together," *Miami Herald*, May 4, 2000; op-ed, "Protect 5,000 American Children, Don't Deport Parents", by Steven Forester, *Miami Herald*, May 5, 2000; editorial, "The harassment of Haitian refugees," *Tampa Tribune*, August 16, 1999; and see previous footnotes.

<sup>7</sup>HRIFA's intent and purpose was to end "two decades of discrimination against the Haitians," 144 Cong. Rec. S 13003 (Nov. 12, 1998), and to provide a semblance of equal treatment for Haitians following the previous year's enactment of the Nicaraguan Adjustment and Central American Relief Act ("NACARA").

<sup>8</sup>In 1994 President Clinton accurately said, "They're chopping people's faces off, killing and mutilating innocent civilians, people not even directly involved in politics." He referred to them in his September 1994 television address justifying U.S. intervention. Secretary of State Christopher on July 10, 1994 said Haiti's military was raping the wives of Aristide supporters, and respected human rights groups documented the regime's use of rape as an instrument of political terror. Assistant Secretary of State John Shattuck wrote:

Beginning last summer, politically motivated killings in Port-au-Prince rose sharply. . . .

Human rights abuses have qualitatively and quantitatively worsened in recent months. Soldiers and armed thugs stage almost nightly raids on neighborhoods where many Aristide supporters, live, raping the wives and children of political activists and critics of the regime, abducting young people, and disfiguring victims' faces.

Raids have been conducted on clergy, fires set in private homes, and the bodies of men shot with their hands tied behind their backs are appearing on the streets of Port-au-Prince, part of a new practice designed to terrorize the people.

A delegation from the IACHR [Inter-American Commission on Human Rights] has identified 133 cases of extrajudicial killings between February and May alone, and attributed full responsibility for those and other atrocities to the de facto authorities, i.e. the military and their supporters. The US government fully shares this conclusion.

Continued

years in Haiti but who were excluded from HRIFA coverage by a technical flaw in the original legislation.<sup>9</sup> All were paroled into the United States by INS in 1995 or earlier and have always been law-abiding citizens.

The merits of the case were thoroughly reviewed in the July 15, 2003 Senate Foreign Relations Committee testimony of Steven David Forester, my organization's Senior Policy Director, and I respectfully ask permission for his testimony to be included in the record at this time.

These deportations of long-resident deserving refugees devastate their lives and those of their spouses and U.S.-born children, and endanger our borders by drying up the remittances which sustain their relatives in Haiti.

As a community spokesperson who is privileged to serve not only as Executive Director of Haitian Women of Miami but as President of the Florida Immigrant Coalition and Vice-Chair of the Haitian-American Grassroots Coalition, we cannot support legislation which does not contain a HRIFA Improvement provision.

Separately, there are also a small number, at most a few hundred, HIV-positive Haitians who were paroled into the United States from Guantanamo Bay, Cuba before 1996 who also need protection. So many of them now lead healthy and productive lives through life-giving treatment available in the United States, but not in Haiti. Unless they are covered, their deportation will amount to a death sentence.

In sum, permit me to express my thanks for the honor of addressing this august subcommittee. We share the prayer that Congress shall enact comprehensive immigration reform legislation which will provide a fair and workable path to legalization for all immigrants, without the Senate proposal's unwise jettisoning of family reunification values in favor of an untested and discriminatory theory and its prohibitively and unnecessarily costly, delayed, and onerous legalization provisions. Those aspects of the Senate proposal would embody a radical departure from humane American principles and may hurt or exclude millions of immigrants and their families, many of whom live in the Haitian-American community I represent here today.

Thank you very much.

Ms. LOFGREN. Thank you very much.

I am going to leap to Ms. Murguía, because she does have to leave. And then Cecilia Muñoz will fill in for the questions.

Ms. Murguía?

**TESTIMONY OF JANET MURGUÍA, PRESIDENT AND CEO,  
NATIONAL COUNCIL OF LA RAZA**

Ms. MURGUÍA. Thank you, Madam Chairwoman, and thanks to all of you.

I commend you, the Chair, the full Committee on the Judiciary in here, John Conyers, and, of course, Congressman Luis Gutierrez. You have all demonstrated incredible leadership and commitment and dedication.

I do appreciate the opportunity to be here today, and note that any of our sister organizations in the Latino community could have been here speaking for all of us. We work very closely together, and are very much in agreement on our views about the need for a debate on comprehensive immigration reform, to result in the best possible legislation for our community and the country.

I have some brief points to emphasize, but request that my full statement be included in the record.

I would like to begin by making it as clear as possible that for Hispanic Americans it is critically important that this debate produce a result that will serve our nation's best interests and our community's concerns.

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Haiti today presents a picture of brutality and lawlessness—in the unaccountability of the regime and its wide scale violations of human rights. . . .

"Human rights abuses in Haiti worsen," op-ed, *Miami Herald*, July 14, 1994. See also contemporary human rights and media reports, e.g. "How U.S. error sent Haitian to his death," by Susan Benesch, *Miami Herald*, April 18, 1994.

<sup>9</sup>See footnote 6 and former Senator Bob Graham's letter above.

Latinos have a lot of urgency around this debate, as you saw during last year's marches, as well as during the elections. All over the country, as tension builds around this issue, local governments are passing ordinances and laws aimed at dealing with immigration.

These laws have two things in common. They do absolutely nothing to control immigration and they harm many people, including those of us who are not immigrants at all.

In Georgia, local police have set up road blocks for the purpose of singling out anyone who looks like an immigrant. In dozens of communities across the country, landlords are being asked to do the same.

Madam Chair, I am guessing that you do not carry documents in your wallet that would satisfy the Georgia police that you belong here. As a native-born American, neither do I. But one of us is more likely than the other to be challenged to prove that we belong in our own country.

This is the result of the heated debate on this issue, and explains why, for us, immigration policy is a civil rights issue.

You will find in my testimony a full explanation of the policy proposals that NCLR believes would be best to bring order and fairness to our system.

I will highlight a few and raise a few concerns about the way the debate is moving forward in the Senate.

First, it is essential that immigration reform provide a path to citizenship for 12 million undocumented immigrants living and working in the U.S. While there are a number of very loud voices raising concerns and mischaracterizing this proposal by calling it amnesty, it is by now well established that the majority of the public does support a path to citizenship that immigrants have to earn through working hard, paying taxes, learning English, and playing by the rules.

NCLR's particular concern is that such a program be workable. If we implement a legalization program whose requirements are so burdensome that immigrants cannot or will not apply, the immigration reform effort will have failed.

We believe that the Senate is poised to make a good start, though we have a significant concern about some of the details, which may undercut the workability of the program.

Our second major concern has to do with the temporary worker program, which is being proposed in the Senate.

The White House has framed the debate by insisting that temporary must mean temporary.

The program they propose does not provide a meaningful path to citizenship for temporary workers. This will result in the creation of a permanent second class work force.

This is an enormous departure from who we are as a nation of immigrants. Historically, what America does well is invite newcomers to put down roots and become Americans. By saying that this group of workers, and saying to them, we want your labor, but we do not want you to stay, we will be creating a program which is doomed to fail, because many of these immigrants will stay.

We should not pass a policy that we know will result in the next undocumented population. If we do this, the U.S. will have aban-

done the successful American model of assimilation with the failed model that has created so much unrest in Europe.

This would be a profound mistake, and I urge you to do it differently when the House takes up this issue.

Finally, we are deeply concerned that the Senate bill dismantles the family-and employment-based preference system in favor of a radical change, an untested point system which would open our legal immigration system up to anyone in the world who might desire to come here, regardless of their connection to the United States.

We are particularly offended by the argument that the family categories being eliminated are for extended families. I do not believe that most Americans believe that their children become extended family when they turn 21, nor do they see their parents or their siblings as extended family.

These categories are being eliminated in the name of our nation's purported economic need. And in spite of the evidence, most immigrants who are performing successfully in our economy came through the family preference system. So, we must preserve family as a core principle.

In conclusion, Madam Chairwoman, we are working diligently to move the Senate debate in a more positive direction. We hope that this Subcommittee will have a transparent and thoughtful process.

We do believe that the STRIVE Act proposed by Congressman Gutierrez and Representative Flake is a right starting point in this debate, and we urge you to move it forward expeditiously.

We understand the Senate compromise is a political one, and we recognize the urgency of moving this process forward. The current system is broken and must be fixed. But political compromises often produce mistakes that we all pay for. We urge you to take a different road and produce the best possible legislation to serve our country's needs.

Thank you.

[The prepared statement of Ms. Murguía follows:]

## PREPARED STATEMENT OF JANET MURGUÍA

**Introduction**

Madam Chairwoman and subcommittee members, thank you for this opportunity to testify before you today about the importance of comprehensive immigration reform for the Latino community.

The National Council of La Raza (NCLR) – the largest national Hispanic civil rights and advocacy organization in the United States – is a private, nonprofit, nonpartisan, tax-exempt organization established in 1968 to reduce poverty and discrimination and improve opportunities for Hispanic Americans.

You will not be surprised to hear that immigration is a critical issue for the Latino community, though the reasons for this go well beyond what most Americans understand. The majority of Hispanic Americans are not immigrants; 60% of our community are natives of the United States. Immigration policy obviously has a deep impact on those of us who are foreign born, but it also affects the rest of us in multiple ways. It directly affects those of us with immigrant family members and those who wish to reunite with their closest family members abroad. It also has an enormous impact on public perceptions of Latinos as Americans. NCLR receives an awful lot of mail from people telling us to go back to where we came from. In my case, that would be Kansas, and I'm guessing that would come as a surprise to the people who write to me. In more extreme cases, which are taking place alarmingly frequently across the country, the debate on immigration is inspiring local laws and ordinances which are aimed at restricting immigrants' ability to rent homes, seek jobs, and even use public parks. Implementing these ordinances inevitably leads to discrimination against anyone mistaken for an immigrant; this tends to affect all of us, whether we were born in this country or not. For us, immigration policy is a civil rights issue, and that is why our community engages so deeply in this policy debate.

We very much appreciate the opportunity to be part of this hearing on comprehensive immigration reform and hope that a reasonable, respectful dialogue on immigration policy will move forward in the House very soon.

**The current immigration system is badly broken.**

While the current immigration system appears generous and reasonable on paper, it is not in tune with current economic or social realities. Immigrants with work or family needs feel pressure to enter the U.S. without visas for several reasons: employers continue to hire undocumented labor, there are few legal channels for needed workers who do not fit into the employment-based immigration preference system to come to the U.S., and the system separates close family members for long periods of time. As a result, there are approximately 12 million undocumented immigrants living in the U.S. today. Despite years of increased immigration enforcement both at the border and in the interior of the country, immigrants are paying large sums to smugglers and risking their lives to work and be reunited with their families in the U.S. Operation Blockade and Operation Gatekeeper, initiated in 1993 and 1994, respectively, and other enhanced border enforcement measures have succeeded in closing off the traditional ports of entry and have diverted migrants into more dangerous crossing areas. Because the number of immigrants attempting to enter the U.S. has not decreased, the probability of death or injury as the result of drowning, heat exhaustion, suffocation, and exposure has increased. Data show that the number

of border deaths has increased dramatically in recent years, now reaching an average of more than one death per day.

Those lucky enough to make it to the U.S. are living and working in the U.S., filling essential gaps in the labor market while enduring low wages and poor working conditions. These workers are particularly vulnerable to abuse in the workplace, and are less likely to be able to address dangerous, unhealthy, or exploitive job conditions because of the fear that employers will retaliate by contacting immigration authorities. This results in some alarming trends. In the mid-1990s, Mexican workers in the U.S. were about 30% more likely to die on the job than native-born workers; now they are about 80% more likely.<sup>1</sup> The annual death rate for Mexicans in the workforce is now one in 16,000 workers, while the rate for the average U.S.-born worker is one in 28,000. While Mexicans represent one in 24 workers in the U.S., they constitute one in 14 workplace deaths. Furthermore, Mexicans are nearly twice as likely as the rest of the immigrant population to die at work.<sup>2</sup>

The broken immigration system also has negative ramifications on the security of our neighborhoods and nation. Undocumented workers live in the shadows of society, often using false identification documents, and fearful of reporting crimes to the police. In the post-9/11 world, the public is understandably concerned about national security, yet as a result of the broken immigration system, there are 12 million people in the U.S. who cannot obtain valid government-issued identification documents and rely upon fraudulent documents on the black market or misuse the documents of others. Americans cannot be secure under a system in which smugglers and traffickers, rather than the U.S. government, decide who enters the country.

As for the legal immigration system, millions of close family members remain in visa backlogs for years, waiting to be reunited with their families. U.S. citizens who petition for unmarried children over 21 years old from Mexico must wait as long as nine years to be reunited. Legal permanent residents from Mexico who petition for their immediate family members (spouses and minor unmarried children) may wait as long as seven years. Because of the strict laws regarding issuance of temporary visas, many spouses and children do not qualify for tourist visas to the U.S. because immigration officials fear they will overstay the visa and remain in the U.S. Rather than endure long waiting periods, some family members choose to risk their lives and come to the U.S. without a visa to be reunited with loved ones, thereby adding to the undocumented population. The current allocation of visas in the family preference system is clearly inadequate to account for the millions of immigrants attempting to play by the rules to enter the U.S. legally.

**Effective and workable comprehensive immigration reform is urgently needed.**

NCLR is deeply aware of the continuing impact of the broken immigration system. Each day that passes another person dies on the U.S.-Mexico border, another American child is separated from her immigrant parents due to workplace raids, another worker is exploited in the workplace, and another Hispanic American encounters hostility or worse as a result of tension over this

<sup>1</sup> Pritchard, Justin, "Mexican-Born Workers More Likely to Die on Job," *Associated Press*, March 14, 2004.

<sup>2</sup> *Ibid.*

issue. We have 12 million undocumented immigrants living and working in the United States – this number will only increase unless Congress acts. An effective solution is urgently needed.

For this reason, we have been working for nearly a decade on formulating a policy that can effectively bring order and fairness to our nation's immigration laws. We understand that such a formulation must include enforcement at the border and in the interior, but we will insist that such enforcement be conducted in a way which respects human and civil rights. We believe that for an enforcement regime to be workable, it must be accompanied with a policy that provides a path to citizenship for the 12 million undocumented immigrants now living and working in the United States. In addition, over many years, we reached the conclusion that in order for our immigration system to work it should include a new pathway for migrants who come in the future.

We did not come to this conclusion lightly; much has been made of the possibility of creating a guestworker program to meet this particular need. NCLR opposes guestworker programs because of their long history of abuse and exploitation against vulnerable workers. We are, however, willing to consider creating a new kind of temporary worker program to replace the undocumented stream with an equivalent number of workers who would be able to enter legally, have full job portability once they get here, be fully covered under labor laws including prevailing wage protections, and have the ability to earn their way to permanent residence and citizenship over time. These conditions are extremely important; while we acknowledge that such a program might be a successful alternative to undocumented migration, we will not consent to a program which legislates exploitation for workers, particularly one which forbids them the ability to put down roots and become Americans if they choose.

We have been as clear as possible with policy-makers: our desire for immigration reform does not mean that our community will accept any legislation. Last year, the House of Representatives passed an enforcement-focused piece of legislation that was so harsh it inspired the largest peaceful demonstrations in our country's history. Enforcement only is not a solution. A bad guestworker program that results in the displacement of American workers and creates a vulnerable, exploitable class of workers is not a solution. A legalization program structured in a way that discourages undocumented immigrants to participate is not a solution. A realistic and effective solution must be comprehensive and must get at the root causes of undocumented immigration and must replace our current system with an immigration system that is safe, legal, and workable. NCLR supports comprehensive immigration reform that includes the following principles: 1) a reduction of family immigration backlogs; 2) a path to citizenship for the current undocumented population; and 3) the creation of new legal channels for future immigrant workers. By legalizing immigrants who live, work, and contribute to life in the U.S., the U.S. could deal fairly with hardworking people who have responded to an economic reality ignored by the law. At the same time, the U.S. can become more secure by enforcing the new law and by allowing undocumented immigrants to come out of the shadows and participate fully in their communities.

**Elements of comprehensive immigration reform:**

**1. Reduce family backlogs.** We recognize that the current backlogs in the family-based immigration system either separate close family members for long periods of time or encourage family members to enter the U.S. before their paperwork is completed, adding to the total undocumented population. To be truly comprehensive, immigration reforms must address the family backlogs and ensure that those who have waited to immigrate to the U.S. legally are first in line to receive their green cards. However, reducing the backlogs must not be done by simply nullifying the petitions of any group of people. Every person that has filed a petition, paid an application fee, and structured his life to prepare for the arrival of a family member must have his petition honored.

**2. Pathway to citizenship for undocumented workers.** The first step in any comprehensive immigration reform is to create a realistic pathway for undocumented immigrants currently in the U.S. to earn their way to permanent residence and ultimately U.S. citizenship. This is not an amnesty. Immigrants who can prove that they have been living and working in the U.S. for a specified period of time, have paid their taxes, have otherwise obeyed the law, and who undergo background checks and are proven not to be threats to the U.S. would be eligible to apply for earned legalization. Furthermore, applicants would have to pay an application fee and a fine to qualify for the program. Legalizing current undocumented immigrants would bring them out from the shadows, allow them to work in the formal economy thereby generating more annual tax revenues, allow these workers to obtain lawful and valid identification documents, and allow them to travel to and from their home countries. In addition, legalization would greatly diminish the “haystack” of suspicious individuals, meaning that the Department of Homeland Security (DHS) could focus its enforcement resources and concentrate on finding the dangerous “needles,” including terrorists, smugglers, traffickers, and unscrupulous employers.

It is crucial that an earned legalization program be workable and encourage participation. The tensions surrounding the presence of a sizeable undocumented workforce will not be alleviated if Congress creates a program that leaves millions unwilling or unable to participate. Any new system that discourages undocumented immigrants from coming forward because of extremely high fees, fear of immigration enforcement, lack of guaranteed legal status, or need to leave the country for lengthy periods of time is unlikely to be workable. Moreover, sufficient resources must be made available to the DHS and any other agency involved in the process so that the legalization program may be fully implemented.

**3. Worker visa program.** NCLR recognizes that legalizing all of the undocumented immigrants already in the U.S. would not stop future migrants from entering the country without visas. Since the overwhelming majority of undocumented immigrants come to the U.S. to work, creating legal channels for needed workers is an important pillar of comprehensive immigration reform. However, the Latino population has a long history with temporary worker programs like the *Bracero* program and has suffered abuse and exploitation as a result. Any new worker visa program must be markedly different than past or present programs, must protect both U.S. and immigrant workers, and must provide a path to permanent residency for those who desire it. The following principles are critical to the success of any new temporary worker program:

- *Wages and benefits.* It would be insufficient and, indeed, catastrophic for U.S. workers (including immigrants with permanent visas) if the only requirement was that employers observe all federal, state, and local laws regarding minimum wage. Should a temporary worker program be enacted without a more stringent wage requirement, foreign workers will be left vulnerable, and wages and benefits of U.S. workers will be reduced as foreign workers may come to the U.S. willing to work long hours at minimum wage and without benefits, even in the most dangerous industries. We support a prevailing wage provision to ensure that foreign workers who come to a particular industry be paid the prevailing wage in that industry; this prevents the erosion of wages for U.S. workers in that industry who may be making more than minimum wage.
- *Job portability.* Foreign workers must not be tied to a particular employer for the entire length of the program. Past experience has shown that tying workers to a particular employer allows unscrupulous employers to exploit those workers who have no alternative but to accept bad working conditions and wages or leave the program and return to their home country. Such a situation is bad for both immigrant and U.S. workers.
- *Labor protections, including the right to organize.* All workers must be granted the same workplace conditions and protections – not doing so is harmful to vulnerable foreign workers and to their U.S. coworkers. To the extent that foreign workers have different and fewer rights in the workplace than U.S. workers, unscrupulous, and even honest, employers will seek to lower their employee costs by relying on foreign workers rather than U.S. domestic workers. Unscrupulous employers cannot be allowed to hire vulnerable foreign workers with few rights at the expense of U.S. workers. Labor protections must go beyond minimum wage and must include protection from sexual harassment and discrimination of any kind, workers' compensation, health and safety laws, a mechanism for these workers to accrue benefits under Social Security for work performed during their participation in the program, and the right to organize. It is also absolutely necessary that protections afforded to foreign workers be enforceable.
- *Path to legal permanent residency and citizenship.* Without a path to citizenship, temporary foreign workers will forever remain vulnerable, second-tier workers without the ability to attain the full rights of U.S. citizenship and full participation in U.S. society. Guestworker programs in Europe and even here in the United States have shown that this is not desirable. Foreign workers must have the option after a reasonable and specific time period to choose to become lawful permanent residents of this country. Some will choose not to become permanent residents, preferring to work in this country for a period of time and ultimately choosing to return to their country of origin, but others will eventually like to become U.S. citizens. They must have that choice.
- *Family unity.* Any foreign-worker program that contemplates bringing in workers for more than just a few months must also allow such workers to bring in their spouses and minor children during the period of the program. Not only is it inhumane to separate nuclear families for long periods of time, but the lack of family unity provisions may

inadvertently lead to more unauthorized entries of family members who do not wish to remain separated.

We believe that the “Security Through Regularized Immigration and a Vibrant Economy Act of 2007” (“STRIVE Act,” H.R. 1645) includes the key elements necessary to fix the broken immigration system: a path to citizenship for undocumented immigrants, a new worker visa program so that future immigrants can arrive legally, a reduction in family immigration backlogs which allows American families to unite in a reasonable time period, and smart enforcement mechanisms to ensure that the new system remains viable. We urge the House to consider the “STRIVE Act” as you move forward this year’s debate over comprehensive immigration reform.

**Other issues.**

In addition to these three basic pillars of comprehensive immigration reform, there are several elements to the debate which have begun to take place in the Senate which are important for the House to consider.

**Decreases to the family immigration system.** NCLR was alarmed to find that the Senate negotiations which concluded last week made dramatic changes to the family and employment-sponsored immigration systems. These changes, which would eliminate most of the categories under the preference system, would favor a merit-based point system that privileges individuals with high levels of education and English language ability. We object to these changes for multiple reasons, not the least of which is our objection to the argument that the proposal preserves reunification of “nuclear” families at the expense of “extended” family. By eliminating the categories under which U.S. citizens reunite with their adult sons and daughters, and severely restricting the category under which citizens reunite with their parents, this proposal directly attacks the ability of Americans to reunite with their nuclear families. There has been a great deal of commentary about ethnic communities’ expansive definitions of family in describing our response to this proposal, though I have yet to encounter an American who believes that children become “extended” family when they turn 21.

The family immigration system has recently come under attack again as the fear of “chain migration” encourages restrictions on family unification. But an examination of the evidence reveals that “chain migration” is a myth. This concept purports that immigrants sponsor an uncontrollable number of family members. In reality, only immigrants who have already gained legal permanent residency or U.S. citizenship can sponsor relatives. On average, they only sponsor an average of 1.2 family members.<sup>3</sup> Since there are already highly restrictive caps on family reunification visas and because of the lengthy waiting times before a visa becomes available, there is virtually no opportunity for “chain migration” to occur. Only children, spouses, parents, and siblings qualify for such sponsorship – cousins, aunts, uncles, grandparents, and other extended family members cannot come to the United States through the family system.<sup>4</sup> To prevent dependence on public benefits, to sponsor a family member, a U.S. citizen

<sup>3</sup> Lowell, Lindsay and Micah Bump. *Projecting Immigrant Visas: Report on an Experts Meeting*. 2006. < <http://www12.georgetown.edu/sfs/isim/Event%20Summaries&Speeches/Lowell,%20ProjectionsWorkshop.pdf>>.  
<sup>4</sup> *Immigration Through a Family Member*. U.S. Citizenship and Immigration Services. <http://www.uscis.gov/portal/site/uscis/mcnuitem.5af9bb95919f35c66f614176543f6d1a/?vgnextoid=0775667706f7d010VgnVCM10000048f3d6a1RCRD&vgnnextchannel=4f719c7755cb9010VgnVCM10000045f3d6a1RCRD>

or lawful permanent resident (LPR) must already prove they have a stable income and commit to financially support their family members, so they do not rely on social services.

Reuniting close family members of U.S. citizens and LPRs has been a cornerstone of the U.S. immigration system since 1965, and it has served the country very well. In addition to strengthening families, family unification has a positive impact on the economy and on immigrant integration. It is inaccurate to suggest that family immigrants do not serve the economic needs of the country; indeed the bulk of immigrants participating successfully in our economy came here through the family preference system. In addition, by relying on employers and family members to petition for immigrants, the United States has essentially made them the cornerstone of an immigrant integration strategy; family members and employers help immigrants from the moment of their arrival, finding homes, jobs, and other resources that enable them to make a successful transition to life as future Americans. A point system that is aimed at anyone with particular skills or language abilities will likely be swamped with applicants, and provide no mechanism for the integration of these immigrants. To undo decades of sound policy for an experiment like this would be a mistake.

**Employment verification system.** NCLR has long been concerned about our nation's ability to implement and administer employer sanctions in a way that would be effective without engendering employment discrimination. The results of the 1986 law, from our perspective, represent the worst possible outcome. Employer sanctions have clearly been ineffective; nevertheless, there is abundant documentation that the policy has caused discrimination on the basis of nationality and citizenship status.<sup>5</sup>

A mandatory electronic employment verification system (EEVS) such as the one contemplated in the "STRIVE Act" and the current Senate bill will impact every single person who works in the United States. Because of its broad scope and strong impact – the potential to wrongfully deny employment to authorized workers – a new EEVS must be well designed and implemented. Any mandatory universal verification system must be implemented incrementally, with vigorous performance evaluations taking place prior to any expansion; contain strong antidiscrimination protections; insist upon updated and accurate databases; allow for every work-authorized worker to provide adequate documentation; contain adequate administrative and judicial review in case an error occurs in the system; and contain strong privacy protections

**Social Security benefits.** We are particularly alarmed that the current version of the Senate bill would deny legalizing immigrants credit for the earnings they have paid into the Social Security System. It is well established that undocumented immigrants have paid hundreds of billions of dollars into the Social Security System; indeed the Social Security Administration's Earnings Suspense File (ESF) has more than \$420 billion of cumulative earnings paid by employees who

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<sup>5</sup> See *Statement of the National Council of La Raza to the House Committee on the Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law Hearing on Proposals to Improve the Electronic Employment Verification and Worksite Enforcement System*, Thursday, April 26, 2007.

never claim benefits,<sup>6</sup> the vast majority of which is likely to be the taxes paid by undocumented immigrants using false social security numbers that they must use in order to work.

The bill being debated in the Senate this week includes provisions to prevent current undocumented immigrants from collecting Social Security benefits for past work performed upon legalizing their status and qualifying for benefits due to retirement or disability. This means that people who are currently working hard and paying taxes into the Social Security system would not be eligible to correct their records and receive the Social Security benefits they earned while undocumented. Since these workers will have legalized their status and received green cards – and many will have naturalized – by the time they are eligible, this provision would deny Social Security benefits to U.S. citizens and legal permanent residents. We strongly believe that legalized immigrants should be able to correct their records and receive full credit for work performed and taxes paid.

These future citizens are part of the fabric of our society, and a vital part of our nation's economic engine. They have been working hard for decades, contributing to our productivity as a nation, and contributing to the Social Security System like all workers in our country. To become legal residents, they must continue working, pay taxes, and learn English. It would be grossly unfair to say that once they have done all of those things to earn a place in America, our government will simply take the Social Security contributions that they have made over the decades.

This proposal says: “You worked for me for 20 years, but you know what, your paperwork wasn’t in order, so I’m not going to pay you what I owe you. You can just start fresh and get paid starting tomorrow.” That’s not consistent with our values as Americans, and it is not the kind of system that we want for our country. We need laws that are practical and consistent with our national values of hard work, fairness, and opportunity.

**Official English.** Contrary to common myths, Latino immigrants do learn English. According to the 2000 Census, of the people who report speaking Spanish at home, 72% report speaking English “well” or “very well.” This proportion for speakers of Asian languages is more than 77%. The research on the second and third generations consistently shows adherence to the three-generation pattern that immigrants have followed for more than a century. For example, a recent report on language assimilation by the Lewis Mumford Center for Comparative Urban and Regional Research at Albany found that the second generation is largely bilingual; 92% of Hispanics speak English “well” as do 96% of the Asians, though most also speak another language at home. By the third generation, the pattern is English monolingualism. The study also finds that even recent high immigration levels have not changed the pattern. Today’s immigrants are adopting English as fast as – or faster than – previous cohorts.

Immigrant adults want to learn English, but have few opportunities to do so. According to the Center for Adult English Language Acquisition, almost half of the 1.2 million adults in federally

<sup>6</sup> *Testimony on the “ITIN” and Social Security Number Misuse*, presented by Patrick P. O’Carroll, Jr., Social Security Administration, Office of the Inspector General, to the House Committee on Ways and Means, Subcommittee on Oversight, Subcommittee on Social Security, U.S. House of Representatives, Washington, DC, March 24, 2004, [www.ssa.gov/oig/communications/testimony\\_speeches/03102004testimony.htm](http://www.ssa.gov/oig/communications/testimony_speeches/03102004testimony.htm).

funded adult education programs are there to learn English. Perhaps more telling, waiting lists for classroom slots are often so long that some immigrants wait months or years before getting a space. Studies by the National Center for Education Statistics suggest a pool of three million or more adults who are interested in English as a second language (ESL) classes but not enrolled for a variety of reasons, especially the fact that they are oversubscribed.

The bill passed by the Senate in 2006 and the bill being debated in the Senate this week contain provisions making English the official language of the United States. The current Senate bill also requires immigrants in the legalization process to know English to receive a conditional Z visa. While we strongly believe that immigrant integration must be a critical element of the U.S.'s overall immigration policy, declaring English as the official language and simply requiring English knowledge will do little to actually assist immigrants in making the transition to English. An effective integration policy would provide sufficient resources and sufficient opportunities for immigrants to learn English.

**“DREAM Act” and “AgJOBS.”** We strongly support inclusion of the “DREAM Act” (S. 774, H.R. 1275) and “Agricultural Job Opportunity, Benefits, and Security Act” (“AgJOBS” S. 340, H.R. 371) legislation in a comprehensive immigration reform proposal. These bills enjoy strong bipartisan support and are necessary to be fully inclusive of the student and farmworker populations.

**“Triggers”** Both the “STRIVE Act” and the current Senate proposal include immigration enforcement “triggers” that must be met before a legalization program or worker visa system can be put into place. These triggers include hiring increased numbers of Border Patrol agents, construction of fencing and/or other physical barriers along the southern border, securing additional detention space, and implementing the EEVS. We believe that these additional enforcement tools will do little to reduce the flow of undocumented immigrants into the U.S., just as years of “enforcement only” policies have not resolved the problem. An earned legalization program coupled with a new worker visa program and family immigration backlog reductions will relieve much of the pressure along the border and provide a comprehensive solution to the immigration problem. It is also important that the triggers not be used to indefinitely delay implementation of the other elements of comprehensive immigration reform.

#### **Conclusion**

It is clear that the current U.S. immigration system is not meeting the nation’s economic, social, or security needs. Creating a safe, orderly, and fair immigration system that makes legal immigration the norm is possible and essential to our country’s well-being. In 2007 we have an historic opportunity to fundamentally and comprehensively reform our nation’s immigration system and create a well-functioning legal immigration system that serves our economic needs. I thank the subcommittee for this opportunity to testify, and I look forward to working with you throughout the remainder of the legislative process to ensure that effective, workable immigration reform is enacted.

Ms. LOFGREN. Thank you very much, and we will see Ms. Muñoz pinch hit for you.

And we will go back to Ms. Iyer. Thank you.

**TESTIMONY OF DEEPA IYER, EXECUTIVE DIRECTOR,  
SOUTH ASIAN AMERICAN LEADERS OF TOMORROW**

Ms. IYER. Madam Chairwoman and Members of the Subcommittee, I appreciate the opportunity to present to you information and views of the impact of immigration reform on the lives of current and future South Asian immigrants in the United States.

And I commend you and your extremely helpful staff for conducting these hearings with stakeholders.

As an immigrant myself, who moved from India to the state of Kentucky at the age of 12 with my family, I am a direct beneficiary of the family-based and employment-based system in its good and bad aspects.

I am here representing SAALT, which is a national non-profit organization in the D.C. metropolitan area. Our national advocacy work is informed by over 20 South Asian community-based organizations, whom I am honored to represent here.

First, a little bit about the South Asian community. Over 2.5 million strong, our community is extremely diverse along the lines of national origin, religion, immigration, and economic status.

South Asians trace our ancestries to the regions in the Asian subcontinent, which includes Bangladesh, India, Pakistan, Sri Lanka, and Nepal. Between 1990 and 2000, South Asians were the fastest-growing segment within the entire Asian American community.

While the common perception is that all South Asians are well off, this is obviously not the case. Linguistic barriers and increasing rates of poverty are on the rise, and nearly 75 percent of the South Asian population is foreign born.

Historically, South Asians have faced obstacles to migration and naturalization due to national origin quotas. Immigration laws after 1965 relaxed these restrictions and gave rise to greater opportunities for family-based and employment-based immigration.

After 1990, even more diverse populations arrived, including specialty occupation workers, working class families, and asylum seekers.

More recently, South Asians have been impacted by policies that criminalize immigrants, especially those that conflate national security with immigration in the wake of September 11th.

Policies such as arbitrary detention, special registration and others, target individuals based on national origin and religious affiliation, and have especially South Asians of the Muslim faith.

As a community, we have been and continue to be both positively and negatively impacted by immigration laws. I would like to provide some examples, but refer you to my fuller written testimony.

First, the backlog. The family-based system is the cornerstone of South Asian immigration into the U.S. In 2005, over 30,000 South Asians were sponsored and admitted as immediate relatives. Yet South Asians wait extraordinarily long periods of time due to the backlog, in order to be reunited with family members—11 years for

siblings of U.S. citizens, nearly 5 for children of green card holders in the U.S.

This is the case for Sumathi, a young software engineer in Boston, who moved to the U.S. in 1999 and became a legal permanent resident. She married her physician husband in India in 2002, and applied to bring him over. But it is unlikely that his application will be processed for at least 5 years.

Cases like Sumathi's are just one of many, which is why we have grave concerns with provisions in the Senate bill that would eliminate family preference categories and set arbitrary cutoff dates for clearing the backlog that currently exists.

Turning from family-based to employment-based immigration, in this context, both low-skilled and skilled workers of South Asian descent face challenges. In fact, many unskilled South Asian workers—janitors, cab drivers and domestic workers, who are part of America's immigrant backbone—struggle with worker exploitation and have little chance for employment-based sponsorship opportunities.

An example of such a predicament is one that we are monitoring in the Gulf Coast, where a company brought 300 South Asian nationals on temporary H-2B work visas to work as welders.

After paying as much as \$20,000 to receive their visas, the workers were promised refunds and paths to permanent residency status. However, once they arrived, all of these options disappeared.

Without a temporary worker program that includes worker protections and paths to citizenship, safeguards that are missing for the most part in the Senate proposal, workers such as the ones in the Gulf Coast will continue to have few choices.

In addition, skilled workers, especially those who are here on temporary H-1B visas, face unique sets of challenges, as well. In 2005, over 100,000 individuals from South Asia entered America on H-1B visas.

H-1B workers have concerns with the caps that are placed on these visas. In 2007, the cap was reached in just 1 day, and for long delays with green cards. In fact, one in five South Asians on employment-based visas is waiting to obtain a green card.

While these concerns must be considered, we send a note of caution about proposals that would favor employment-based criteria, such as jobs and education, to the detriment of poor, working class people or those with family ties.

And third, legalization of undocumented immigrants is also of concern to our community. Indians constituted the fourth-largest and fastest-growing undocumented population in America in 2005, jumping from 120,000 to 280,000, an increase of 133 percent in the 5 years prior.

The quest for legal immigration status in the U.S. becomes all the more urgent for undocumented students, as well as for South Asian survivors of domestic violence who are undocumented or on dependent visas.

Finally, I would like to mention that many South Asians are also experiencing unexplained security-related delays with background checks in their green card and naturalization applications. And again, we are seeing this trend especially affect individuals who are Muslim.

It is clear, then, that South Asians have a stake in immigration reform. As you continue to discuss the House's version of an immigration reform bill, we hope that you will keep many of these concerns we have raised, especially with the Senate bill, in mind as we work toward fair and humane reform.

Thank you.

[The prepared statement of Ms. Iyer follows:]

## PREPARED STATEMENT OF DEEPA IYER

*SAALT Testimony for Hearing on Comprehensive Immigration Reform (May 22<sup>nd</sup>, 2007)*

Chairperson Lofgren, Ranking Member King, and members of the Subcommittee: I am Deepa Iyer, the Executive Director of South Asian American Leaders of Tomorrow (SAALT). I appreciate the opportunity to present to you information and views of the impact of immigration reform on the lives of South Asian immigrants in the United States.

SAALT is a national, non-profit organization dedicated to ensuring the full and equal participation by South Asians in the civic and political life of the United States through community education, coalition-building, leadership development and advocacy around civil and immigrant rights issues. South Asians trace their ancestries to Bangladesh, Bhutan, India, Nepal, Pakistan, Sri Lanka, the Maldives, as well as to the diaspora, including Africa, the Caribbean, Europe, and the Middle East.

Much of SAALT's work is informed by South Asian community-based organizations who are our partners, including Andolan (New York), Chaya (Seattle), Chhaya CDC (New York), Concy Island Avenue Project (New York), Council of Peoples Organization (New York), Desis Rising Up and Moving (New York), Indo-American Democratic Organization (Chicago), Manavi (New Jersey), Michigan Asian Indian Family Services (Michigan), Saheli (Boston), Sakhi (New York), Sikh American Legal Defense and Education Fund (Washington, DC), Sikh Coalition (New York), South Asian American Policy and Research Institute (Chicago), South Asian Progressive Action Collective (Chicago), South Asian Network (Los Angeles), and many others. These organizations serve South Asian communities in a myriad of ways and are routinely in contact with South Asian immigrants. Their experiences and local knowledge in large part inform the policy recommendations included in this testimony.

As an immigrant myself who moved to the United States at the age of 12 with my parents and brother, I personally understand the importance and need for an effective immigration system. In fact, for the approximately 2.5 million South Asians in America – a community that includes legal permanent residents, undocumented immigrants, skilled and unskilled workers, students, and citizens – the immigration system has long been a fixture in our lives.<sup>1</sup> With nearly 75% of the South Asian population being foreign-born, immigration changes will impact those of us here in America today, as well as future flows of immigrants.<sup>2</sup> Laws governing immigration have significant and tangible repercussions on our community members.

#### ABOUT THE SOUTH ASIAN COMMUNITY

The South Asian community in the United States is extremely diverse in terms of our ancestry, ethnicity, national origin, immigration status, economic status, religion, culture, sexual orientation, and political affiliation. The community is also experiencing significant increases in population growth. Between 1990 and 2000, for example, the Indian, Pakistani and Bangladeshi populations were the fastest growing segments within the entire Asian American community.<sup>3</sup> The rapid growth of the South Asian community is reflected throughout the country – while metropolitan areas such as New York/New Jersey, the San Francisco Bay Area, Chicago, and Los Angeles have the largest populations of South Asians, areas with emerging populations include Atlanta, the Washington DC metropolitan area, and Seattle.<sup>4</sup>

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<sup>1</sup> U.S. Census 2000

<sup>2</sup> *Id.*

<sup>3</sup> *A Community of Contrasts: Asian Americans and Pacific Islanders in the United States*, Asian American Justice Center (March 2006).

<sup>4</sup> U.S. Census 2000.

*SAALT Testimony for Hearing on Comprehensive Immigration Reform (May 22<sup>nd</sup>, 2007)*

South Asians are doctors, lawyers and engineers, as well as cashiers, taxi drivers and restaurant workers.<sup>5</sup> According to a January 2007 study from Duke University on America's immigrant entrepreneurs, almost 26% of immigrant-founded companies created in the last decade were founded by Indian immigrants.<sup>6</sup>

However, while the common perception is that all South Asians are well off, this is obviously not the case. For example, linguistic barriers are prevalent among South Asians. Nearly a fifth of Indians and Pakistanis are limited-English proficient, while over 80% of Bangladeshi seniors and 59% of Pakistani seniors also experience difficulty with English<sup>7</sup>. Increasing rates of poverty also exist within significant segments of the South Asian community – 51% of Bangladeshis and nearly 40% of Pakistanis live at less than 200% of the poverty line.<sup>8</sup> Among the top ten most prevalent occupations for South Asians include cashiers, vehicle operators, waiters and waitresses, and retail sales.<sup>9</sup>

**SOUTH ASIANS AND THE IMMIGRATION SYSTEM: A HISTORICAL FRAMEWORK**

Given that the South Asian population in the United States is predominantly foreign-born, our community members frequently encounter the immigration system and confront challenges. At the turn of the twentieth century, South Asians faced obstacles to migration and naturalization due to national origin quotas and restrictions on naturalization in the same vein as other immigrants from Asia. Immigration laws after 1965 relaxed these restrictions and gave rise to greater opportunities for family-based and employment-based immigration. In the decades that followed, South Asians relied heavily upon these new preferences and categories to come to the United States. After 1990, a third wave of South Asian immigration occurred and even more diverse populations arrived in America, ranging from specialty occupations workers to working-class families.

Following September 11, 2001, numerous administrative and legislative policies were implemented that have had a devastating impact upon non-citizens of South Asian descent. For example, between September 2001 and February 2002, the Federal Bureau of Investigations and then-Immigration and Naturalization Service (INS) detained approximately 1,100 individuals with supposed links to terrorist activities. Many were denied access to counsel and underwent secret hearings. Of those detained, the largest numbers were Pakistani citizens (33%) and the sixth largest were Indian citizens.<sup>10</sup>

In June 2002, the Department of Justice instituted a program known as the National Security Exit/Entry Registration System (NSEERS), which included a domestic component known as "special registration."<sup>11</sup> This program required males aged 16 and over from 25 countries with predominantly Muslim and Arab populations – including Bangladesh and Pakistan – to report to local immigration offices. While touted as a tool to fight terrorism, this program became an immigration enforcement measure as those who reported and were found to be out of status were

<sup>5</sup> *Id.*

<sup>6</sup> *America's New Immigrant Entrepreneurs*, Duke University [January 2007]. Available at [http://memp.pratt.duke.edu/downloads/americas\\_new\\_immigrant\\_entrepreneurs.pdf](http://memp.pratt.duke.edu/downloads/americas_new_immigrant_entrepreneurs.pdf)

<sup>7</sup> U.S. Census 2000.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *The September 11 Detainees: A Review of the Treatment of Aliens Held on Immigration Charges in Connection with the Investigation of the September 11 Attacks*, Office of the Inspector General (June 2003)

<sup>11</sup> 8 CFR 264.1(f)(2).

*SAALT Testimony for Hearing on Comprehensive Immigration Reform (May 22<sup>nd</sup>, 2007)*

immediately placed into deportation proceedings. Of the 83,000 who registered, 13,000 were set to be deported and 35% of those in deportation proceedings were of Pakistani descent.<sup>12</sup> South Asian individuals continue to be impacted by special registration in many ways.

With this historical framework in place, we can draw some general observations about the impact of immigration policies on South Asians. We have been negatively affected by the lack of protections for workers suffering employer abuse; by anti-terrorism and national security laws that target individuals from certain nationalities and strip fundamental due process rights; and by the tremendous visa backlog that prevents community members from being reunited with their families or obtain permanent residency status.

We have also gained much from immigration laws that allow students to earn advanced degrees, professionals to begin their careers, entrepreneurs to open up small businesses, workers to start a new life in a new country, and victims of persecution to live lives without fear.

Yet, it is clear that the immigration system needs to be fixed and overhauled in many ways in order to ensure that current and future flows of immigrants can live productive, meaningful lives in America. In order for immigration reform to truly change the lives of immigrants and benefit our nation, we believe that the following policy changes should be implemented:

- Elimination of the employment and family-based visa backlogs and increase in the numbers of visas available under these categories;
- Facilitation of timely and full reunification of families, including parents, adult children and siblings;
- Creation of legal ways for people who want to contribute to our economy to come work in the U.S. and be on the path to permanent residency with full worker protections
- Provision of legal status and a path to permanent residence for undocumented immigrants;
- Eradication of the criminalization of immigrants and preserve due process rights; and
- Promotion of citizenship and civic participation

SAALT and South Asian organizations around the country with whom we work believe that immigration reform proposals must seek to meet the above principles.<sup>13</sup> Making tradeoffs to favor employment-based immigration over family-based immigration, for example, are ones that we cannot support. While we are hopeful that Congress will pass immigration reform soon, such reform cannot come at the expense of family-based immigration preferences or of underprivileged immigrants in America.

**Elimination of the visa backlog and reunification of family members**

The family-based system is the cornerstone of South Asian immigration into the United States. In 2005, nearly 22,000 South Asians entered the United States through a family category and over 30,000 South Asians were sponsored and admitted as immediate relatives.<sup>14</sup> In 2005, over 3,000 family-based applications were filed by Bangladeshis; over 15,000 by Indians; and over 3,000 by

<sup>12</sup> "35% of deported from US are Pakistanis," *Dawn* (July 29, 2003)

<sup>13</sup> South Asian Groups Address Immigration Reform ([www.saalt.org](http://www.saalt.org))

<sup>14</sup> *2005 Yearbook of Immigration Statistics*, Department of Homeland Security, Office of Immigration Statistics (November 2006).

*SAALT Testimony for Hearing on Comprehensive Immigration Reform (May 22<sup>nd</sup>, 2007)*

Pakistanis.<sup>15</sup> Specifically, in 2005, India ranked fourth among the countries from where people submitted family-sponsored green card applications.<sup>16</sup>

Unfortunately, many South Asians continue to wait extraordinarily long periods of time in order to be reunited with their family members. Some South Asians who are being sponsored by US citizen siblings currently have to wait nearly eleven years before obtaining green cards; others, especially green card holders, are waiting to be reunited with even spouses and children.<sup>17</sup> In fact, restrictions on family-based immigration impact newer immigrants even more harshly by imposing long separations from close family members including spouses and children; and by isolating residents in the US who cannot rely on family for support if they come upon hard times. Reasons for these delays include the visa backlog and insufficient numbers of visas for some family preference categories.

Moreover, while spouses and minor children of US citizens do not have to wait to be reunited with their sponsoring relative, the spouses and minor children of sponsoring relatives who are legal permanent residents often have to wait nearly five years before the application is processed.<sup>18</sup> More than 1 million spouses and minor children of legal permanent resident sponsors are currently awaiting reunification with their spouse or parent.<sup>19</sup> The separation from family members can take a harsh toll on immigrants, as demonstrated by the following stories.

*Masud Syed is an immigrant from Bangladesh who has had to leave behind his wife of four years in his home country. Although he is a lawful permanent resident in the United States, he has had to wait to bring his wife over. The only way he can see her is by making the trip back to Bangladesh. The last time he visited, he witnessed the birth of his son to return soon thereafter to Sunnyvale, California, where he resides.<sup>20</sup>*

*Karthik is a green card holder who lives in California. He is married but can only see his wife by making the expensive journey back to India every few months. He is required to do this because of the current visa backlog and the existing structure of the family-based preference system. Currently, the spouses of green card holders from India must wait 5 years before they obtain their own green cards. Karthik's wife would not be able to come to the United States even as a visitor because she would likely be unable to prove that she intended to stay in the U.S. temporarily, a requirement for tourist visas.<sup>21</sup>*

*Sumathi of Massachusetts is a young software engineer from Hyderabad who moved to the United States in 1999 on an H-1B visa and became a legal permanent resident. She fell in love with and married Jeevan in India in August 2002. Jeevan is a physician who is working on a project to eradicate polio in India for the World Health Organization. Sumathi applied to bring Jeevan over to America to join her. Although the application was submitted over 3 years ago, Jeevan is still in India, and it is likely to take two more years for the*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> "Visa Bulletin", Department of State (June 2007).

<sup>18</sup> *Immigration Backlogs are Separating American Families*, National Immigration Forum (2007).

<sup>19</sup> *Immigration Processing Delays*, Catholic Legal Immigration Network, Inc.

<<http://www.cliniclegal.org/Advocacy/delays.html>>

<sup>20</sup> Truong Phuoc Khanh, "Marriages" *Knight Ridder Newspapers* (2005).

<sup>21</sup> Cicero A. Estrella, "Laws could help unite immigrant families," *San Francisco Chronicle* (December 12, 2005).

*SAALT Testimony for Hearing on Comprehensive Immigration Reform (May 22<sup>nd</sup>, 2007)*

*application to be approved. In the meantime, Jeevan has not been able to enter the country and cannot even get a tourist visa to come see her<sup>22</sup>.*

The challenges of separation from loved ones are also acute for same-sex binational couples. Under current immigration law, same-sex couples – including those who have legally recognized unions and marriages – are prohibited from sponsoring each other as “spouses.” For example, a lawful permanent resident wishing to sponsor his/her partner living abroad is not allowed to do, even if the couple has been committed to each other for decades or have children together. As a result, many partners have little choice but to immigrate on temporary visas to see their loved ones. Due to the short-term nature of these visas, many opt to overstay their visa at the risk of deportation in order to stay with their family or have no choice but to be separated from loved ones.

*Ashwini, twenty-three and from India, was studying in Texas where she had met her U.S. partner Rachel, twenty-eight. She expressed her worry about the impact of current immigration laws that will have an impact on her relationship and her life in America when her student visa expires.<sup>23</sup>*

In spite of long delays and obstacles, South Asians rely upon the current family-based system in order to continue their lives with their loved ones in the United States. As the statistics and stories mentioned above illustrate, the family-based preference system is crucial to the vibrancy and growth of the South Asian population. Any proposal to eliminate or cap the preferences as they now stand will further divide South Asian families who have already waited for years. Recent proposals, such as the one in the Senate, that would eliminate certain family preference categories or impose a point system will widen the disparity that family members already face.

In addition, the new merit-based point system proposed under the new Senate proposal for green cards for all applications received after May 2005 will also create serious obstacles for the South Asian community. Applicants would compete for green cards and points awarded would heavily favor employment criteria. Other points would be awarded for speaking English, attaining higher education, and having family in the U.S. This system will create a second class of South Asians who are unable to move down the path to permanent residency due to economic and linguistic barriers. Contrary to popular perception, many within the South Asian community lack the English-speaking skills and high-skilled jobs needed in order to qualify for a green card.

We support provisions which would increase the availability of family visas by taking “immediate relatives” out of the visa cap (such as those within the STRIVE Act pending in the House of Representatives), as well as the Uniting American Families Act and the Child Citizen Protection Act which also contain provisions to promote family reunification.

<sup>22</sup>[http://www.boston.com/news/globe/editorial\\_opinion/oped/articles/2006/04/12/families\\_pay\\_price\\_of\\_faulty\\_policies/](http://www.boston.com/news/globe/editorial_opinion/oped/articles/2006/04/12/families_pay_price_of_faulty_policies/) (April 2006)

<sup>23</sup> *Family, Unvalued: Discrimination, Denial, and the Fate of Bi-national Same Sex Couples Under U.S. Law*, Immigration Equality and Human Rights Watch (2006).

*SAALT Testimony for Hearing on Comprehensive Immigration Reform (May 22<sup>nd</sup>, 2007)*

**Creation of Legal Paths for Workers to Contribute to Our Economy and Be on Path to Permanent Residency**

Congress must ensure that all workers have access to fair wages and safe working conditions, while being able to change jobs and pursue legal permanent residency status through an employment-based system that is not backlogged and is easier to navigate. For the thousands of skilled and unskilled workers from South Asia, there must be legal paths to help individuals contribute to America's economy and to become permanent residents if they so choose.

Those who work in the high-skilled sector as well as those who fill low-skilled positions are often bound to restrictive jobs due to their immigration status, the potential for worker exploitation, and often the limited scope for obtaining permanent residency status. The terms of high-skilled worker visas sometimes limit the ability to transfer jobs and take advantage of professional opportunities, while low-skilled workers are often left at the mercy of their employer with little chance for advancement or permanent residency.

We are deeply concerned with the situations faced by those who enter the United States to fulfill low-skilled jobs. South Asians work in a variety of capacities, including as assembly-line workers for high-tech companies, domestic workers, restaurant workers and taxicab drivers. Since many are dependent upon their employers for their livelihoods, the possibility of exploitation is ever-present. Moreover, the potential for employment-based sponsorship hardly exists for low-skilled workers who face very few options in terms of transforming their temporary status into permanent status. Many South Asian workers have fallen out of status and are working in the shadows of American society in order to provide for their families.

Below are stories of South Asian workers who face obstacles and challenges daily:

*A Nepali domestic worker, who arrived in the U.S. in 1987, was overworked and underpaid for nearly thirteen years. She worked for a family in suburban New Jersey, the same family for whom she worked in Nepal after dropping out of school in the fifth grade. She was promised \$70 per month and often did not receive even those payments. She later moved to another home where she was in charge of domestic chores both inside and outside a 6-bedroom house – for no pay.<sup>24</sup>*

*The Signal Corporation, a corporation that does oil-drilling work on the Gulf Coast, brought 300 Indian nationals on temporary H-2B work visas from Dubai and Saudi Arabia to Mississippi and Texas to work as pipefitters and welders. After being told by the recruiter, Global Resources, to pay as much as \$20,000 - their life savings for some - for their visas, they were promised refunds, wages, and green cards once they arrived. However, once they got here, their wages were drastically cut, they had to pay daily labor camp fees, and they were forced to stay in overcrowded windowless trailers that lacked sufficient facilities. The workers in Mississippi began organizing to get their money back and protest their working conditions - but once discovered, the company began to retaliate against them. The company started terminating their jobs and sending them back to India. Armed security guards at the company even raided the barracks, imprisoned the fired workers in a room, and threatened them with deportation. Workers now are unable to return home due to debt and are unable to find new jobs due to visa restrictions.<sup>25</sup>*

<sup>24</sup> "Loeb & Loeb LLP Wins Case for Pro Bono Client in Trenton Federal Court" [www.loeb.com](http://www.loeb.com), (June 30, 2006).

<sup>25</sup> Francis C. Assisi, "300 H2B Indians enslaved in Mississippi", [www.indolink.com](http://www.indolink.com), (March 13, 2007). Available at <http://www.indolink.com/displayArticle5.php?id=031607101206>.

*SAALT Testimony for Hearing on Comprehensive Immigration Reform (May 22<sup>nd</sup>, 2007)*

In addition, South Asian skilled workers on H-1B visas face unique challenges in the United States. The H-1B visa is a temporary visa given to foreigners who are employed in specialty occupations. In 2005, over 106,000 individuals from South Asia – predominantly from India – entered America on H-1B visas or as accompanying dependents.<sup>26</sup> Another method of coming into the United States is through the employment-based preference system, which was used by 55,839 South Asians in 2005.<sup>27</sup>

While these immigrants come here to improve their lives and contribute their skills to the U.S. economy, many feel hampered by restrictions imposed upon them through the immigration system. These difficulties are two-fold. First, the severe caps placed on these visas make it difficult for South Asians to come to the United States to fill jobs. In fact, in 2007, the annual cap for H-1B visas was filled within one day.<sup>28</sup>

Secondly, once they are here, it is almost impossible for H-1B workers to lead full lives due to long waits for green cards and the inability to change jobs and pursue professional opportunities. The caps on employment-based green cards limit the number of high-skilled workers who can become legal permanent residents. Since each country's nationals can comprise only 7 percent of total immigrant visas, the caps often lead to long delays and a visa backlog that keeps individuals in a limbo mode for years. In fact, according to Immigration Voice, an organization advocating for high-skilled workers, 1 in 5 Indians on employment-based visas have been waiting to obtain green cards. Their only recourse as they wait is to keep renewing their visas with their current employer.

The plight faced by many H-1B workers can be expressed through the following stories:

*Satyajit is a 39-year-old software engineer working for a large telecommunications company in New Jersey. He came to the U.S. from India two and a half years ago and has been working on his fourth H-1B visa. Satyajit expected to wait at least three more years before he hopes to have a green card. His wife, like many other spouses of high-tech workers, was sponsored on an H-4 visa which means that while she could stay here, she was not allowed to work.*<sup>29</sup>

SAALT has been monitoring various pieces of legislation that will impact temporary workers. For example, the temporary worker program outlined in the new Senate bill does not provide a path to allow high-skilled workers without degrees to pursue permanent lawful status. Moreover, while green cards are allocated annually for "essential" workers, it is unclear whether they can adjust to permanent status.

As it relates to high-skilled workers, the H-1B and L-1 Visa Fraud and Abuse Prevention Act will make it more difficult for individuals to obtain these visas. With respect to both skilled and unskilled workers, provisions in the STRIVE Act provide more straightforward solutions – including raising the cap on H-1B visas; exempting categories of high-skilled workers from employment-based visa caps; providing paths to citizenship for low-skilled workers; and affording immigrant workers a range of protections in the workplace, including the right to fair wages, permission to travel abroad, and the ability to change employers. We do not support

<sup>26</sup> *2005 Yearbook of Immigration Statistics*, Department of Homeland Security, Office of Immigration Statistics (November 2006).

<sup>27</sup> *Id.*

<sup>28</sup> "USCIS Reaches FY 2008 H-1B Cap" *US CIS Update* (April 3, 2007).

<sup>29</sup> Amitava Kumar, "Access Denied: The Plight of the Indian H-1B Workers of the United States," *LittleIndia.com*, (August 16, 1999)

*SAALT Testimony for Hearing on Comprehensive Immigration Reform (May 22<sup>nd</sup>, 2007)*

provisions however that would favor changes for high-skilled workers at the expense of unskilled workers – all workers should have equal opportunities, workplace rights, and the ability to become permanent residents and citizens if they so desire.

**Providing a path to legalization**

A growing number of South Asians reside in the United States without any legal status. In fact, Indians constitute the fourth largest and fastest growing undocumented population in the United States – from 120,000 to 280,000 (an increase of 133%) between 2000 and 2005.<sup>30</sup> Numerous South Asians from other countries are also residing in the United States without authorization and who wish to legalize their status.

The quest for legal immigrant status in the United States becomes all the more urgent for survivors of domestic violence. Often entering the United States through a spouse's sponsorship, many South Asian women are dependent upon their partner for immigration status and are threatened with loss of status or deportation if they report abuse. South Asian women's rights organizations with whom SAALT works emphasize the importance of including provisions that assist women who are trafficked into the country or trapped in abusive marriages. While self-petitioning under the Violence Against Women Act provisions is a resource for many women whose spouses are citizens or green card holders, South Asian women's organizations point out that those domestic violence survivors with dependent visas (such as H-4b or F-2 visas) or who are undocumented need different options. Women on dependent visas or who are undocumented have limited choices, as they are not allowed to work either. Moreover, the arduous process for securing U-visas available to victims of trafficking and abuse can bring about difficult choices as well for South Asian immigrant women.

Moreover, undocumented South Asian students will benefit from legislation such as the Development, Relief, Education for Alien Minors (DREAM) Act, which will permit undocumented students to obtain in-state tuition rates for higher education and opportunity to ultimately legalize their status.

While creating a path to legalization is an important principle to achieve, the methods proposed in legislation such as the new Senate proposal will keep it out reach for many South Asians. These legalization provisions require currently undocumented workers to register for a temporary work permit, pay thousands of dollars, and travel to their home countries and reapply for entry. The exorbitant fees and the requirement to return home will make the program unworkable for many undocumented immigrants.

While the STRIVE Act's approach is more feasible as a starting point, the proposed program to establish a path to legal status and citizenship for undocumented immigrants, unless improved, will create serious problems for South Asians seeking to legalize. Of particular concern are the fees that must be paid, the potential for serious and unwarranted delays due to background checks, and the impracticability of the touch-back provision. Legalization schemes must be both workable and humane in order to address the needs of America's 12 million undocumented immigrants.

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<sup>30</sup> *Estimate of Unauthorized Immigration Population, January 2005*, DHS Office of Immigration Statistics (August 2006).

*SAALT Testimony for Hearing on Comprehensive Immigration Reform (May 22<sup>nd</sup>, 2007)*

**Eradicating the criminalization of immigrants and preserving basic rights**

Following September 11, numerous initiatives were put into place that targeted certain nationalities, including South Asians. Arbitrary detentions and deportations, special registration, and voluntary interrogations of immigrants from certain countries have taken a tremendous toll on South Asian families – leading to separation from family members to the deprivation of basic rights of due process, open hearings, and access to counsel. It is important that immigration changes take into account the fallout and impact of policies unfairly implemented after 9/11.

Moreover, many South Asians have been experiencing unexplained security-related delays and FBI background checks in their green card and naturalization applications.<sup>31</sup> Despite having properly filed for these benefits and demonstrating their eligibility, many are now being told either upon entry to the United States or via written correspondence that their application is being retained for further investigation. These delays seem to be having a disproportionate impact on those from certain countries or with “Muslim-sounding” names.

This is the case of Yousuf who immigrated from Pakistan 17 years ago and passed the citizenship exam in 2002 – yet he is still waiting to have his naturalization application approved. Federal law requires that the government adjudicate the application within 120 days of passing the exam. Since 9/11, Muslim immigrants have experienced unexplained and lengthy delays in the processing of their immigration applications.<sup>32</sup>

Finally, proposals calling for local and state law enforcement agencies to carry out immigration law have induced a climate of fear among many immigrants, including South Asians. As a result of these initiatives, many South Asians fear turning to the police when they witness or are a victim of a crime. Individuals who even make routine visits to government service providers are afraid that they can no longer access services and benefits due to fear that they may be questioned about their immigration status. Moreover, local law enforcement of immigration laws is not an effective tool – it diverts valuable resources away from local police to fight crime, with the ultimate impact of undermining public safety.

*In November 2004, a Bangladeshi mother of two U.S. born children went to her local Department of Motor Vehicles to respond to a letter regarding her driver's license. Three days later, she was arrested at her home by immigration agents, taken to an immigration detention center, and deported for having an outstanding deportation order against her. She was forced to leave behind her husband and take her U.S. citizen children with her back to Bangladesh. She believes that the DMV may have alerted immigration officials as to her whereabouts.*<sup>33</sup>

*Terwinder, a Sikh mother of two American-born children, was deported from Brown Deer, Wisconsin after police found out she was living in the United States illegally. Police officers were assisting her with a flat tire on November 4, 2004, when they found out she had an outstanding deportation order and immediately arrested her. Terwinder lived in the United States for 12 years before she was deported along with her two children who have not lived in India before.*<sup>34</sup>

<sup>31</sup> *Americans on Hold: Profiling, Citizenship, and the War on Terror*, Center for Human Rights and Global Justice, New York University School of Law (April 2007).

<sup>32</sup> Peter Prengaman, “Immigrants sue over citizenship delays”, *Associated Press* (August 2, 2006).

<sup>33</sup> Story provided by Desis Rising Up and Moving (DRUM), Jackson Heights, NY

<sup>34</sup> “Current immigration reform debate could have long-lasting impact on tens of thousands of Sikhs” *Los Angeles Times* (May 16, 2006).

*SAALT Testimony for Hearing on Comprehensive Immigration Reform (May 22<sup>nd</sup>, 2007)*

Current immigration proposals do not respect due process rights of immigrants and may increase local law enforcement of immigration laws. Serious due process concerns exist for example with the new Senate proposal, with the expansion of immigrant detention, stiffening of the definitions of "aggravated felony" and "fraud" and provisions relating to the reimbursement by the federal government to state and local law enforcement that assist in the carrying out of immigration laws. The STRIVE Act also includes harmful provisions; it authorizes DHS to award grants to state and local law enforcement agencies that provide border-related assistance and reaffirms the ability of such agencies to enforce criminal provisions of immigration law. It also increases the number of immigration detention facilities and enforcement agents.

**CONCLUSION**

Given the significant stake that the South Asian community has in the passage of fair and humane comprehensive immigration reform, organizations and individual members have been closely monitoring the various pieces of legislation currently pending in both the House and the Senate.

In particular, we have reservations as raised above about the *Security Through Regularized Immigration and a Vibrant Economy (STRIVE) Act* of 2007/H.R. 1645), the recently brokered Senate deal on immigration reform (*Secure Borders, Economic Opportunity and Immigration Reform Act of 2007/S. 1348*), and *The H-1B and L-1 Visa Fraud and Abuse Prevention Act of 2007* (S. 1035). More promising immigration legislation that has also been introduced include the *Citizenship Promotion Act of 2007* (H.R. 1379/S. 795), the *Child Citizen Protection Act* (CCPA/H.R. 1176) and the *Uniting American Families Act of 2007* (UAFA/H.R. 2221/S. 1328).

SAALT and our partner organizations intend to continue to monitor immigration reform proposals, educate our community members and the public, and work in coalition with allies. We thank the Subcommittee for affording SAALT the opportunity to testify about some of the emerging concerns that South Asians have with the immigration system in America, and recommendations for improvement that will have a positive impact on all immigrants and citizens in America.

Ms. LOFGREN. Thank you.  
Ms. Narasaki?

**TESTIMONY OF KAREN K. NARASAKI, PRESIDENT AND EXECUTIVE DIRECTOR, ASIAN AMERICAN JUSTICE CENTER (AAJC)**

Ms. NARASAKI. Thank you, Chairwoman. We appreciate the opportunity to testify on behalf of the Asian American Justice Center. We work to advance the human and civil rights of Asian Americans.

May, as you know, is Asian American and Pacific Islanders Heritage Month. And this year is the 125th anniversary of the Chinese Exclusion Act, which prohibited the immigration of Chinese laborers to the United States and led to a long string of legislation discriminating against immigrants from Asia until the passage of the 1965 Immigration Act, along with other civil rights acts.

We hope that this year will be the year that America enacts comprehensive immigration reform that is workable, effective, fair, and humane.

According to the Census Bureau, there are almost 14 million Asian Americans living in the United States. Over 60 percent are immigrants, half who have already become citizens. Some have come as refugees or asylum seekers, others through the H-1B and other employment programs. Some are undocumented, but a majority have come through the family visa system.

Immigrants coming to join Asian American families face some of the worst immigration backlogs, as you heard.

A U.S. citizen petitioning for an unmarried adult son or daughter from China must wait approximately 6 years. A U.S. citizen petitioning for a brother or sister from the Philippines, the wait is 22 years.

In the employment-based system, highly educated and skilled immigrants from China, India and the Philippines wait 4 to 6 years before they can become legal permanent residents.

The backlog of the family visas and the insufficient number of employment-based visas, both for high- and low-skilled workers, are two of the major reasons for undocumented immigration. The Department of Homeland Security estimates that 1 in 10 Asian Americans have no access to legal immigration status.

For these reasons, we have long been an advocate for comprehensive reform. We believe the system should include tough but fair enforcement measures, a workable system of earned legalization and a realistic number and system of permanent visas that reflect reality in terms of the needs of our economy and of our families.

We are looking for sufficient visas to facilitate timely and full reunification of families, particularly parents, adult children and siblings. And we believe that spouses and minor children of legal permanent residents should be moved up into the immediate preference category, to deal with the long separations that they currently face.

We believe that you need to expedite the entire family immigration backlog before undocumented immigrants begin receiving their legal permanent residency status. It is only fair that they get in the back of the line of people who have decided to play by the rules.

We believe that there needs to be a legal status and a path to permanent residence for undocumented immigrants and their families. And we are looking to create legal ways for people who want to contribute to our economy and come to work in the U.S. fully protected by our laws with a path to citizenship.

Finally, we are seeking to restore due process to the immigration system that allows for meaningful judicial review of individual cases, as well as challenges to immigration policies.

The White House has argued that family categories should be cut in favor of a point system that gives very little weight to the value and reality of family ties.

Mr. Ting, I know, will speak in favor of this, but we believe you can meet both the economic needs in having a point system without destroying families. You can keep the family system while still creating something that works to help foster more employment-based visas.

We think that, if you ignore the reality of strong family ties, it will mean a failure to address one of the big reasons for illegal immigration, and that is the enormous pull of family.

There is a false choice based on the belief that we need to severely restrict immigration levels. It ignores the fact that the retiring baby boomer generation and the expanding economy means that we can increase immigration, not cut it.

Indeed, some argue that family-based immigration system causes chain migration. It sounds ominous, but the reality is to the contrary.

The requirement of affidavits of support already works to limit broad sponsorship. This requirement also results in a powerful incentive for sponsors to help ensure that the family members they bring in will contribute to the family's overall economic wellbeing.

Moreover, as you know, siblings, as well as parents and their adult children, provide an important safety net for each other.

Finally, we believe that separation of families impedes the actual process of integration, which is so important to our national interest. It forces many immigrant workers to send money overseas rather than being able to invest it all in the local communities to buy homes and build businesses, and it means that they have to delay fully putting down roots into their new communities.

We strongly believe that Congress can find workable, fair and humane solutions. We believe that the STRIVE Act is a good framework for comprehensive reform, and we look forward to working with you in the days ahead.

[The prepared statement of Ms. Narasaki follows:]

PREPARED STATEMENT OF KAREN K. NARASAKI

Madame Chairwoman and Members of the Subcommittee:

Thank you for the opportunity to submit the following testimony on behalf of the Asian American Justice Center (formerly the National Asian Pacific American Legal Consortium). The Asian American Justice Center (AAJC) works to advance the human and civil rights of Asian Americans through advocacy, public policy, public education, and litigation. AAJC is one of the nation's leading experts on issues of importance to the Asian American community including: affirmative action, anti-Asian violence prevention/race relations, census, immigrant rights, immigration, language access, and voting rights. AAJC is affiliated with the Asian American Institute of Chicago, Asian Pacific American Legal Center of Southern California in Los Angeles and the Asian Law Caucus in San Francisco.

Because over 60 percent of the Asian American community is foreign born, immigration and immigrant rights are a priority for AAJC. The goal of AAJC's immigration and immigrant rights program is to pursue fair, humane and nondiscriminatory immigration policies. We educate the general public and the Asian American community through use of ethnic and mainstream media, conferences and briefings; inform policy makers as to the impact of various restrictive and discriminatory proposals; provide the community with information on a wide range of immigration issues; monitor implementation of immigration laws by the Department of Homeland Security and other agencies; advocate for tough enforcement of anti-discrimination laws; and develop and disseminate education materials about various aspects of immigration laws of most relevance to the Asian American community. Furthermore, AAJC seeks to ensure Asian American communities have a strong voice in the national debate over how to reform our broken immigration system.

#### INTRODUCTION

Family reunification is a fundamental cornerstone of our nation's legal immigration system. The current push to pass a comprehensive immigration reform bill must not abandon this foundation, but rather improve the ability of American families to contribute to our American economy. The ability to reunite with family members is important to attracting and retaining the most talented and hardest working immigrants the world has to offer.

According to the 2005 American Community Survey by the U.S. Census Bureau, 61 percent (over 8.5 million) of all Asians living in the U.S. are immigrants.<sup>1</sup> Of the foreign-born Asian Americans, about 53 percent (over 4.5 million) immigrated to the U.S. within the last 15 years. The break-down of native-born and foreign-born U.S. citizens and non-citizens in the Asian American community are as follows:

- 38.5 percent are native-born U.S. citizens.
- 34.2 percent are foreign-born but naturalized U.S. citizens.
- 27.3 percent are foreign-born and not U.S. citizens.

Although many foreign-born Asian Americans arrive in the United States through the employment-based immigration system or as refugees and asylees, the majority of Asians immigrating to the U.S. do so through the family-based immigration system. In 2005, 56 percent of immigrants from Asia came to the U.S. through family immigration. However, Asian countries suffer from some of the worst immigration backlogs in the world.<sup>2</sup> In the family immigration system, a U.S. citizen parent petitioning for an unmarried adult son or daughter from China must wait approximately 6 years before s/he can immigrate to the U.S. A U.S. citizen petitioning for a brother or sister from India must wait approximately 11 years before s/he can immigrate to the U.S. If the brother or sister is from the Philippines, the wait is approximately 23 years.

In the employment-based immigration system, highly educated and skilled immigrants from China, India, and the Philippines currently face possible waits of 4 to 6 years before they can become lawful permanent residents. Finally, unless you have a qualifying U.S. citizen or permanent resident family member who can petition for you, or have highly specialized skills and/or post-secondary education, it is virtually impossible to legally immigrate to the U.S. As a result, the population of undocumented immigrants from Asia continues to rise.

The Department of Homeland Security's Office of Immigration Statistics estimates 1.3 million of the 10.5 million total undocumented immigrants in the United States in 2005 originated from Asia.<sup>3</sup> To put this number in context, there were 13.9 million Asian Americans living in the U.S. in 2005. This would mean that approximately 1 in 10 Asian Americans do not have access to legal immigration status.

In order to solve these problems, Asian Americans need comprehensive immigration reform that will:

- Allow the entire family immigration backlog to come through before undocumented immigrants gain legal status;
- Facilitate timely and full reunification of families, including parents, adult children and siblings;
- Provide legal status and a path to permanent residence for undocumented immigrants who work hard, pay taxes, undergo criminal and national security checks, and learn English and civics;

<sup>1</sup> [http://factfinder.census.gov/home/saff/main.html?\\_lang=en](http://factfinder.census.gov/home/saff/main.html?_lang=en)

<sup>2</sup> [http://travel.state.gov/visa/frvi/bulletin/bulletin\\_1360.html](http://travel.state.gov/visa/frvi/bulletin/bulletin_1360.html)

<sup>3</sup> [http://www.dhs.gov/xlibrary/assets/statistics/publications/ILL\\_PE\\_2005.pdf](http://www.dhs.gov/xlibrary/assets/statistics/publications/ILL_PE_2005.pdf)

- Create legal ways for people who want to contribute to our economy to come work in the U.S.; and
- Assist more immigrants to learn English and prepare for citizenship.

#### THE HISTORY OF ASIAN IMMIGRATION IN THE UNITED STATES

##### *Historical Exclusion*

Exactly 125 years after the United States separated countless families and halted innumerable dreams with racially biased immigration policy, law makers are again considering anti-family measures as the means to reform a broken immigration system. The Chinese Exclusion Act of 1882, which prohibited the immigration of Chinese laborers, epitomizes the early record on immigration from Asia. In 1907, anti-Asian sentiment culminated in the Gentleman's Agreement limiting Japanese immigration. Asian immigration was further restricted by the Immigration Act of 1917 which banned immigration from almost all countries in the Asia-Pacific region; the Quota Law of 1921 which limited the annual immigration of a given nationality to three percent of the number of such persons residing in the United States as of 1910; and the National Origins Act of 1924, which banned immigration of persons who were ineligible for citizenship. A decade later, the Tydings-McDuffie Act of 1934 placed a quota of 50 Filipino immigrants per year.

It has been a generation since the Chinese Exclusion Act and its progeny were repealed in 1943. Yet after the repeal, discriminatory quotas were nevertheless set using formulas giving special preference to immigration from Europe. Until 1965, for example, the German annual quota was almost 26,000 and the Irish almost 18,000 while the annual quota from China was 105, for Japan was 185, the Philippines was 100 and the Pacific Islands was 100.

The intensity of the discrimination against immigrants from Asia is reflected in the fact that they were ineligible to become naturalized citizens for over 160 years. A 1790 law allowed only "free white persons" to become citizens. Even after the law was changed to include African Americans, similar legislation to include Asian Americans was rejected. The Supreme Court upheld the laws making Asian immigrants ineligible for citizenship. The last of these laws were not repealed until 1952.

##### *Previous Reforms*

Congress sought to eliminate most of the racial barriers imbedded in the immigration system with the passage of the Immigration and Naturalization Act of 1965. Unfortunately the Act did not address the effect of earlier biases. In fact, the 20,000 per country limit, imposed without any connection to size of originating country or demand, resulted in extremely long waiting lists for Asian immigrants.

The Immigration Act of 1990 also failed to address the tremendous backlogs that already existed for countries like Mexico, India, the Philippines, South Korea, and China. Instead, the problem was exacerbated with the reduction in number of visas available for adult sons and daughters of United States citizens. At the time the backlog consisted primarily of children of Filipino veterans who were allowed to naturalize under the Act because of their service to this country in fighting as a part of the United States Armed Forces in World War II. Despite this fact, the quota was cut in half and other family categories were reduced, causing the backlog to increase by close to 70 percent.

As a result, although Asians have constituted over 30 percent of the country's immigration for the past two decades, the community still makes up only about 4 percent of the United States population. Most recent numbers indicate that well over 1.5 million Asian immigrants are still waiting in backlogs for entry visas to reunite with their families. Almost half of immigrants waiting to join their loved ones in the United States are from Asian countries. Thus any additional restrictions or reduction in the overall numbers, particularly in the family preference categories, will have an inordinate impact on Asian American families.

#### FAMILY REUNIFICATION AS THE FOUNDATION OF OUR IMMIGRATION SYSTEM

In keeping with American notions of the importance of the family, immigration through a family member who is a US citizen or permanent resident is the most common way of gaining US residency. Qualifying relationships are grouped into two main categories—immediate relatives and other close family members. Currently, spouses, unmarried minor children, and parents are considered immediate relatives. Other close family members of citizens and permanent residents are also allowed to immigrate. These include unmarried adult children of citizens, spouses and unmarried children of permanent residents, married adult children of citizens, and siblings of citizens. Currently, the annual ceiling for family-based immigration is

480,000 individuals per year. This number is divided into immediate relatives of U.S. citizens as well as the four different family preferences listed above. There is also a cap on how many people are allowed into the United States from any one country. A combination of these visa ceilings as well as the per-country cap often contributes to long waits for the average immigrant family.

*Benefits of Family-Based Immigration*

Family reunification has rightly been the cornerstone of United States immigration policy. Families are the backbone of our country and their unity promotes the stability, health, and productivity of family members contributing to the economic and social welfare of the United States.

Employment-based immigrants are not the only ones who are vital to the economy. Family-based immigrants tend to come in the prime of their working lives. In addition, families pool their resources to start and run businesses, purchase homes and send children to college. Many immigrant businesses are indeed run by families.

Family members help to take care of young children so that other family members can work. Brothers and sisters support each other's dreams, help each other find jobs and provide support and care for each other's families. We cannot attract and retain the best and the brightest if those coming to share their hard work and talents face long term or permanent separation from close family members. Long term separation of families generates stress and is distracting to those in our work force. 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.

America has always recognized that family members play an important role in helping immigrants build communities. Siblings as well as parents and their adult children often share the same home in immigrant families. Even when they don't, they help teach the newcomers what they need to understand about American values and about the job market. They provide an important safety net, not just for the immigrants but also for the U.S. citizen relatives. They take care of one another in times of economic, physical or emotional hardships, thus lessening the need for reliance on government services or private charities. In addition, having loved ones together in the U.S. increases the ability of immigrants to focus on putting down permanent roots in their new country.

Family immigration reflects the strong family values that are at the foundation of our nation while also contributing to America's social and economic well being. Any proposal that would eliminate family categories, prohibit immigrants legalizing their status from reuniting with their families, or force immigrant workers to maintain lengthy separations from their family violates those values. In addition, the entire backlog of immigrants, who have waited in line for as many as 22 years to join their families, must get their visas before immigrants seeking to gain legal status.

*Proposed Reforms*

Although the House of Representatives passed the anti-immigrant H.R. 4437 in 2005 and the Senate passed a more comprehensive but deeply flawed S. 2611 the following year, neither bill became law. On March 22, 2007, Congressmen Luis Guterrez (D-IL) and Jeff Flake (R-AZ) introduced the STRIVE (Security Through Regularized Immigration and a Vibrant Economy) Act. This comprehensive immigration reform bill contains workable solutions in provisions that would eliminate the backlog for family-based immigrants in approximately six years.

Unlike the STRIVE Act, a proposal created by Senator Jon Kyl (R-AZ) and supported by the Bush Administration includes plans that would severely impair the ability of U.S. citizens to bring their parents with an arbitrary and unrealistic cap on the number of available visas. The proposal would also eliminate all visas for siblings and adult children of U.S. citizens. In addition, this proposal arbitrarily cuts off the ability of immigrants already waiting in line.

The details of this plan continue to change, but they carry on a long tradition of attacks on family-based immigration that began soon after Asian and Latino immigrants became the major users of the kinship system in the 1980s.

The concept of a so-called "merit-based" point system for permanent residency has also emerged. Proponents of the proposal look to Canada's point system and argue that a similar model will serve America's economy more effectively than the existing family-based immigration system. The experience in Canada has shown that a point system results in a mismatch of skills to fit the needs of the economy.

In fact, Canadian businesses struggle with their point system, because they cannot keep jobs unfilled while visas are being processed. The system works best for individuals who are already working legally in Canada on a temporary visa. High-skilled immigrants who are admitted because of their education and work experi-

ence have no guarantee of finding a high-skilled job in their field. Low skilled workers do not qualify for visas under the system and foreign credentials are often not accepted. This forces many high-skilled and experienced immigrants to take low-skilled jobs in entirely new fields.

For some Asian immigrants, especially family members of H1-B visa-holders, the point system may be beneficial. However, those generally left out of the system will include those with poor language skills, those without high school diplomas, older persons, those with no work experience in high-skilled jobs, and those with work experience in low-skilled or semi-skilled industries. U.S. citizens with family members in countries that do not have strong educational systems, traditions of English-language education, and recognized certification systems will be unable to reunite their entire families.

#### *False Arguments and False Choices*

Many arguments have been made for changing the current family-based immigration system. Some argue that the waiting periods for visas are too long and encourage undocumented immigration. While the backlogs are truly a problem, the real solution is to raise the number of available visas to meet the demand of law-abiding immigrants and their families waiting in the United States. Eliminating the family immigration categories will only create greater strain on families and leave people with no legal means to come to this country.

Others argue that the family-based immigration system causes “chain-migration.” Some anti-immigrant groups even claim that one single immigrant will ultimately bring 373 additional immigrants.<sup>4</sup> That study was replete with faulty assumptions and questionable math. The reality is to the contrary. Researchers have found that, on average, an immigrant will bring in 1.2 additional immigrants.<sup>5</sup>

One of the limitations on the ability of immigrants to bring in family, in addition to the strict quota assigned each category, is that our laws require the sponsor of a family member to sign an affidavit of support to guarantee they will take care of the family member being brought in. Sponsors must also prove they have enough income to cover that pledge. This provides a limit on sponsorship and a strong incentive for the sponsors to help ensure the family member they are bring in will integrate and be self sufficient.

Opponents of immigration often claim, mistakenly, that each immigrant can bring in extended family members, such as cousin, uncles, and aunts. Under our immigration system today, visas in very controlled numbers are available only for a spouse, minor children, parents, adult children, and brothers and sisters. There are *no* visas for aunts, uncles, and cousins.

Some argue that the family immigration system does not benefit the economy, thus should be changed. Proposals which dismantle the family immigration system in the name of the U.S. economy do not address the actual needs of American businesses. Americans and foreign workers are demanding more high-skilled and low-skilled visas, but some policy makers choose to distort the issue and offer a point system that will leave high-skilled immigrants without jobs in the United States and low-skilled workers without opportunities to contribute to our economy.

Not only are family-based immigrants helpful to the economy, there is no need to cut family immigration in order to expand employment immigration. In the late 1990s, there was very high immigration to the U.S., including more than two million family-based immigrants. The economy easily absorbed all of the employment—and family-based immigrants—and a record number of undocumented immigrants. During the same period, unemployment in the U.S. was at a near-record low.

The U.S. economy will increasingly need new workers to maintain and grow our economy as the baby boomers begin to retire. Immigration—both family—and employment-based—will help to provide much needed labor. While we do need to reform the employment-based immigration system to better fill the needs of our changing demographics and economy, such reform need not and should not come at the expense of family immigration. Indeed, employment-based and family-based immigration are intertwined. Family-based immigration helps to support and supplement employment-based immigration.

One additional false argument being used against the current family-based immigration system is that the legalization of 10 to 15 million undocumented immigrants demands countermeasures to stave off a massive flood of relatives entering the United States. As discussed above, the current family-based immigration system already has effective safeguards against such mass migration. In addition, it is in

<sup>4</sup> <http://numbersusa.com/PDFs/ChainMigrationchart.pdf>

<sup>5</sup> <http://www12.georgetown.edu/sfs/isim/Event%20Summaries&Speeches/Lowell,%20ProjectionsWorkshop.pdf>

America's interest to make sure that all new legal immigrants have the familial support necessary to assimilate into this nation.

Studies have shown that the long backlogs in the family-based immigration system contribute to the rise in undocumented immigration.<sup>6</sup> Allowing the entire backlog to come through in a timely fashion would help solve this situation. Not addressing the backlogs or arbitrarily invalidating the applications of those who have played by the rules and waited in line would only exasperate the situation. In addition, eliminating family preference categories or reducing the numbers of available visas will force many immigrants to choose between family unity and following the law.

Finally, the days of America as the only land of opportunity are long gone. Immigrants have many choices when it comes to setting down roots and contributing to a new nation. Family values do not stop at the Rio Grande, as President George Bush repeatedly states, and they help guide individuals around the world in their decisions to immigrate to another country.<sup>7</sup> America has no other choice, but to keep family reunification the cornerstone of its immigration policies.

#### CONCLUSION

Family-based immigration benefits the U.S. economy, U.S. citizens, and U.S. communities. We need to make the family immigration system even better to continue the American tradition of allowing family reunification to foster the entrepreneurial spirit, build stronger communities, and attract the best and brightest the world has to offer.

AAJC cannot support any policy that does not address the entire family immigration backlog in a fair and workable manner or any law that significantly cuts the current family immigration categories and family-based visa allocations. Furthermore, legislation that prohibits immigrants legalizing their status from reuniting with their families or force immigrant workers to maintain lengthy separations from their family is unacceptable. The family members who are waiting in line now and those who will want to be reunited with family in the United States in the future must not be placed on the negotiating table.

Ms. LOFGREN. Thank you so much, Ms. Narasaki.  
Mr. O'Dowd?

#### **TESTIMONY OF NIALL O'DOWD, CHAIRMAN, IRISH LOBBY FOR IMMIGRATION REFORM**

Mr. O'DOWD. Thank you very much.

Good afternoon, Madam Chairman. My name is Niall O'Dowd. I am the founder of the Irish Lobby for Immigration Reform. I am founder of *Irish America* magazine and the *Irish Voice* newspaper, the two largest Irish-American publications.

On a personal note, I came here from Ireland to San Francisco in 1979. I was undocumented for several years before becoming legal. Since then, I have built a small business of 21 employees and live my version of the American Dream. I will always be grateful to this country for that.

The Irish Lobby for Immigration Reform has over 35,000 members nationwide. It is now the largest Irish group in America. It was founded in December of 2005 to address the issues of 50,000 Irish undocumented in the United States and the future of access of Irish citizens to America.

Since the 1965 immigration act, Ireland, in common with many other old seed countries, has essentially been frozen out of immigration to the United States. In 2005, for instance, only 2,000 out of 1.1 million green cards went to Irish applicants.

<sup>6</sup>*Placing Immigrants at Risk: The Impact of Our Laws and Policies on American Families*, Catholic Legal Immigration Network, 2000.

<sup>7</sup><http://www.whitehouse.gov/news/releases/2007/03/20070313-9.html>

As we have pointed out on the current legislation, the forebears of President Ronald Reagan or John F. Kennedy could not come to America legally from Ireland now.

The impact since 1965 has been that many Irish came to the United States as tourists and have stayed on, becoming undocumented.

The lack of access to America now threatens the very existence of the Irish-born community in the United States. As both the *Los Angeles Times* and *New York Times* have reported in the past year, our neighborhoods are crumbling, our community organizations are aging and losing members and our sporting organizations are in dire trouble because of lack of members.

Without legalizing the Irish here and allowing a future flow of Irish immigration to America, I believe we are seeing the inevitable passing of one of the great emigrant streams in American history.

There will always be Irish who want to immigrate legally to America, to build on the extraordinary connections of blood, community and family that have been part and parcel of America's past, present and, we hope, future.

As President Bush has stated, "Throughout our history, America has been greatly blessed by the innumerable contributions of the Irish." Unfortunately, the contribution of the Irish-born may be about to end.

The Irish Lobby for Immigration Reform has the support of every major Irish organization in the United States and, we believe, a large percentage of the 40 million Americans of Irish descent. Our national rally days in Washington have attracted over 5,000 supporters from all over the U.S., and this issue has the highest priority in our community.

We are working closely with other immigrant rights groups on this issue through our membership in CIRNOW and other groups, who are seeking to influence public policy on this issue.

We are very grateful to the legislators of both parties in both the House and Senate who have taken on very courageously this issue of immigration reform. We understand the complexity and the emotional atmosphere of the issue, and we have been deeply encouraged by the willingness of so many legislators to make a determined effort to resolve it.

With regards to current legislation before the House and Senate, we have some specific statements to make.

We strongly approve of the provisions that legalize the undocumented in the Senate bill, which we believe is a reasoned and humane approach bringing these people into the American mainstream.

We particularly note the eligibility cut-off date of January of this year and the path to a green card and citizenship, which the bill allows. We believe the House bill should reflect these provisions.

We also approve of the merit system for future flows of immigrants, which we believe would be advantageous to us and would go some way to address the inequities that intending Irish immigrants currently face.

We would like to see a merit system introduced as soon as possible, side by side with the family preference system, to give our

community reasonable access to new immigrants. We hope that the House bill will also include this provision.

As regards the family preferences, we believe the current, present system is largely unworkable, because of the lengthy processing times, i.e., 14 years for sibilings of U.S. citizens.

On temporary workers, we believe that the notion they should return home for a year between 2-year working assignations is completely unworkable and will create a new class of undocumented residents of the U.S., which is exactly the problem the House and Senate are trying to fix. We hope the House legislation will deal with this issue in a more humane manner.

Overall, we believe there are very many positive aspects of both STRIVE and the Senate bill. As a community, we approve of the legalization steps and the merit visa system, but we believe much work needs to be done on other outstanding issues.

Thank you.

[The prepared statement of Mr. O'Dowd follows:]

PREPARED STATEMENT OF NIALL O'DOWD

Good afternoon. My name is Niall O'Dowd. I am founder of the Irish Lobby for Immigration Reform and founder of Irish America Magazine and Irish Voice Newspaper the two largest Irish American publications.

The Irish Lobby for Immigration Reform has over 35,000 members nationwide. It is now the largest Irish grouping in America.

It was founded in December 2005 to address the issues of 50,000 Irish undocumented in the United States and the future access of Irish citizens to America.

Since the 1965 immigration act, Ireland in common with many other old seed countries has essentially been frozen out of immigration to the United States. In 2005, for instance, only 2,000 out of 1.1 million green cards went to Irish applicants.

As we have pointed out under current legislation, the forbears of President Ronald Reagan or John F. Kennedy could not come to America legally.

The impact since 1965 has been that many Irish come to the United States as tourists and stay on, becoming undocumented.

The lack of access to America now threatens the very existence of the Irish-born communities in the United States. As both the Los Angeles Times and New York Times has reported in the past year, our neighborhoods are crumbling, our community organizations are aging and losing members, and our sporting organizations are in dire trouble because of lack of members.

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Unfortunately the contribution of Irish-born may be about to end.

The Irish Lobby for Immigration Reform has the support of every major Irish organization in the United States and we believe a large percentage of the 40 million Americans of Irish descent. Our national rally days in Washington D.C have always attracted over 5,000 supporters from all over the U.S. This issue has the highest priority in our community.

We are working closely with other immigrant rights groups on this issue through our membership of CIRNOW and other groups, which are seeking to influence public policy on this issue. We are very grateful to the legislators of both parties in both the House and Senate who have taken on this issue of immigration reform. We understand the complexity and the emotional atmosphere of the issue and we have been deeply encouraged by the willingness of so many legislators to make a determined effort to resolve it.

With regards to the current legislation before the House and Senate we have very specific statements to make.

We strongly approve of the provisions that legalize the undocumented in the Senate bill which we believe is a reasoned and humane approach to bringing these people into the American mainstream.

We particularly note the eligibility cut off date of January of this year and the path to a green card and citizenship, which the bill allows. We believe the House bill should reflect these provisions. We also approve of the merit system for future flows of emigrants which we believe would be advantageous to us and would go some way to address the inequity that intending Irish emigrants currently face. We would like to see a merit visa system introduced as soon as possible to give our community reasonable access to new immigrants. We hope that the House bill would also include this provision. As regards the family preferences we believe the present system is largely unworkable because of the lengthy processing times—i.e., 14 years for siblings of US citizens.

On temporary workers we believe that the notion that they should return home for a year between two year working assignments is completely unworkable and would create a new class of undocumented residents of the US, which is exactly the problem the House, and Senate are trying to fix. We hope the House legislation will deal with this issue in a more humane manner. Overall we believe there are many very positive aspects of both Strive and the Senate bill. As a community we approve of the legalization steps and the merit visa system. We believe much work needs to be done on the other outstanding issues.

Ms. LOFGREN. Thank you, Mr. O'Dowd.  
Now, Mr. Saleh?

**TESTIMONY OF NOEL J. SALEH, PRESIDENT, ARAB COMMUNITY CENTER FOR ECONOMIC AND SOCIAL SERVICES (ACCESS) BOARD OF DIRECTORS**

Mr. SALEH. Madam Chair and Members of the Subcommittee, I want to thank you for the opportunity to be present here and actually for convening this hearing, because there cannot be any issue that is more significant or important right now on the American scene than the issue of comprehensive immigration reform.

As a personal aside, I want to thank Chairman Conyers for exercising his privilege of introducing me. It was an honor to have you introduce me, and I thank you for that.

But I am here as the President of ACCESS, the Arab Community Center for Economic and Social Services. I am not here as Noel Saleh. ACCESS is a 37-year-old human and social service agency located in the Congressman's district in Detroit, in Dearborn, Michigan.

And we have been around for—we are the largest and the longest-standing Arab-American human and social service organization nationwide.

With that standing comes a duty, and that is something that we soon recognized, or recently recognized. And that means that we have to become much more proactive and involved in strengthening our community, the Arab-American community, and making certain that that community is integrated in the American process.

One of the items that is very important to us is the issue of advocacy, and the core issue that we are advocating on is comprehensive immigration reform.

Now, we have heard substantial testimony about the need for comprehensive immigration reform and that the core issue being the 12 million undocumented individuals present in the United States. That is truly a human crisis that needs to be addressed, but it is the manifestation of how broken our immigration system is.

It is not the breaking of the system; it is the manifestation of how broken the system is.

It is a system that fails to reflect the needs of the economic society that we are now living in, the change to this new economic world order, implementation of treaties such as NAFTA, which have devastated the economies in many of our NAFTA trading countries in Central and South America, and left these persons in need of jobs and left American workers, or American employers, asking them to come up.

And these 10 million to 12 million who came up to take advantage of that did that with a wink and a nod of our system. They have earned a path to legalization. This is not a gift. This is a right. They have contributed substantially to our economy and to our society. And for that reason, this is a core issue that must be addressed.

It also reflects the failure of the current family-based immigration system. The family-based immigration system is the core of our American immigration identity.

But the system we have now does not address the realistic needs of visa availability for family members in order to arrive and meaningfully reunite with their families in the United States.

Immigrants are what have made this country what it is. Immigrants defined who we are as a nation, and we have been a beacon throughout the world, because of how we have fairly treated our immigrant population. And to change that now is a dangerous, very dangerous trend.

The immigrant population, documented and legal, are continuing to make, as they always have, substantial contributions to our society. And as Congressman Conyers knows, in his district in southwest Detroit, there is a vibrant Mexican-American, Hispanic American community that is growing and developing. It is the sole increased population in the city of Detroit. And the economic growth that is taking place in that community is being done without the benefit of government programs and intervention.

We have had a similar experience in the east side of Dearborn, where the Arab-American community took a rundown strip and has made it economically viable.

So that this is the contributions that immigrants are making to America, and they must continue to need this. And that is why families are a critical portion.

There is one thing—and I want to say it in 15 seconds instead of 10—and that is, comprehensive immigration reform must pay attention to our core constitutional values, and that includes due process for immigrants here in the United States and a meaningful opportunity for those persons who will be applying for a path to legalization to be eligible for it.

Technical violations of malicious programs such as NSEERS, the National Security Entry and Exit Registration System—right now, there is no waiver for a technical violation. So, if you failed to do your NSEERS registration, you would not be eligible for legalization.

Comprehensive immigration reform must include the thousands of individuals who are here in deportation/removal proceedings, because it would be not meaningful if they were not included. And that should also include persons who are here under final orders of deportation, but who have no substantial criminal background.

Waivers must be available. We must open up our immigration service and laws back to the humane principles that made them great in the past.

Thank you.

[The prepared statement of Mr. Saleh follows:]

PREPARED STATEMENT OF NOEL J. SALEH

Madam Chair, Members of the Sub-Committee, thank you for convening this important hearing and for inviting me to be with you today.

As a nation born of immigrants, no topic is more important for your consideration.

Comprehensive immigration reform is vital for this nation. An effectively reformed immigration system will serve national interests by supporting economic growth, social mobility, strong families, labor rights, civil rights, political rights, and law and order.

Clearly, the issue of up to 12 million undocumented persons present in the United States has been the focus of much public debate and attention. Equally clear is the need to address this issue. In human terms this population is the clearest manifestation of a broken system. It is reflective of the systems failure to respond to the labor and economic demands of our nation. Similarly, it manifests the weakness of the current system of backlogs in family-based immigration. Any comprehensive immigration package which fails to address this issue in a fair and equitable manner; which must include a path to legalization, would be a failure.

I am confident that other agencies and organizations presenting before this Committee will address this issue in greater depth and detail. I merely want to affirm our belief that this issue must be a core component in any legislation. The issue of comprehensive immigration reform, however, does not end with a "path to legalization" combined with enhanced border security and employer sanctions. There remains other issues that must be included if we are to truly "fix" a broken system.

Immigration reform is particularly crucial to the Arab-American community for a multitude of reasons. Above all, our community is depending on immigration reform to respect family unification and restore due process rights to our immigration system.

As Americans, we pride ourselves on family values. Our immigration system is no different. The United States has a long and rich history of putting families first in our immigration system. A comprehensive solution to our broken immigration system must maintain this longstanding tradition by continuing to place families first and keep families together.

Arab Americans, like all other Americans, have strong family ties and values. Our community, like many others, depends on the strength and unification of the family. For over 100 years, our families have been coming to the United States, integrating into our new society and with other immigrant populations serving as the building blocks for vibrant and stable communities. This pattern continues with our most recent immigrant population.

Families have also been the backbone and core social unit of our Arab-American society. Immigrant families help each other learn English, purchase homes, pursue job opportunities, start their own businesses, and contribute to their communities.

Currently, more than one million minor children and spouses of Legal Permanent Residents are currently awaiting reunions with their parent or spouse. The U.S. prides itself on welcoming newcomers and protecting families, but immigration policies are keeping these families apart. We must fix our immigration system, by providing families an easier path to unification, rather than ripping families apart.

Comprehensive immigration reform also means protecting immigrants' due process rights. This includes restoring judicial review and discretion, upholding the Supreme Court ruling against the indefinite detention of immigrants, and ending unfair, extreme punishments for minor offenses.

Increasingly strict laws enacted since 1996 are tying the hands of immigration judges. Today, if an immigrant faces deportation, a judge has little or no authority to review the case himself and decide if deportation is truly warranted. Judges are powerless. As a result, many individuals with highly compelling situations, such as lawful permanent residents, and individuals who have U.S. citizens as family members; are denied the opportunity to remain in this country.

Take the story of Mona and Ali (names have been changed to protect identity), a couple from Jordan. Mona and Ali came with their son to the U.S. over 17 years ago on a tourist visa. Once they were here, Mona's brother petitioned for Mona and her family to become legal permanent residents.

Mona and Ali remained in the U.S. They had three more children. All four of their children went to public schools and maintained "A" averages. Mona and Ali were very hard workers and very involved in their children's school activities. They were upstanding and productive members of their community. They loved America and were working hard to live the American dream.

After the events of September 11, Ali complied with the NSEERS Call-In registration. Through this registration, however, he was detained on the minor accusation of lying on a car title form. He was held in an immigration detention center in New Jersey for two years before finally being deported back to Jordan. No judge was able to review his situation and rule whether or not this minor crime should have been punishable by deportation.

Mona and Ali's family have been ripped apart. Mona and her children are still living here, as the original petition from her brother was completed, and she is now a permanent resident. Their life, however, is not easy without Ali, who was the family bread winner. Before her husband's deportation, Mona was able to stay home to raise their children, take care of household duties and attend her children's school activities. Now, she is forced to find odd jobs and ask her family for financial help just to support her children and give them a decent life. Mona and Ali's children are growing up without a father. Their youngest daughter often wakes up in the night crying for her Dad.

Ali's case should have been reviewed by a judge. However, current laws do not allow for this due process. This crime did not warrant the two years of detention that Ali endured, much less being deported from this country. He remains separated from his family as there is no ability, no matter how compelling the circumstances, to "forgive" his "unlawful presence." Unfortunately, this story is not unique. Community activists from across the nation are hearing similar stories of individuals being deported for very minor offenses and having no ability to be reunited with their families in the United States.

We must stop forcing judges to deport U.S. residents without considering the circumstances. It does not solve the problem of undocumented immigration and it is inconsistent with our core American values.

Judges must be allowed to study the circumstances of each case and decide what is best for that situation. Meaningful opportunity to receive a "waiver" for minor transgressions should be re-instated to allow for family unification. When our government denies due process to anyone in this country, it threatens the freedom of us all. The restoration of judicial and administrative discretion must be included in any comprehensive immigration reform bill that is passed in Congress.

We want to make sure that a comprehensive solution to our broken immigration system protects families and restores due process. We want to be sure that any efforts to restore the rule of law fully incorporates the American tradition of respecting and protecting the rights of individuals to fair proceedings, government accountability, including checks and balances, and due process rights. As a nation we are at our best when we live up to the ideals of opportunity for all, equal treatment under the law, and basic fairness. It is morally unacceptable for a bill to eliminate our respected tradition of family-based immigration and to erode due process protections. Legal status without the right to be with family or to have a fair day in court goes against the very basic principles of American consciousness and tradition.

Ms. LOFGREN. Thank you so much, Mr. Saleh.  
Ms. Pulido?

**TESTIMONY OF ROSANNA PULIDO, ILLINOIS SPOKESPERSON,  
"YOU DON'T SPEAK FOR ME"**

Ms. PULIDO. Thank you.

First of all, I just would like to acknowledge that whoever put the sarcastic and mean-spirited comments on my testimony and on my seat for me to find it, I found it. Thank you.

Chairwoman Lofgren and Members of the Subcommittee, thank you so much for inviting me here today.

I am Rosanna Pulido, an active member of You Don't Speak For Me. We are American Hispanics speaking out on illegal immigration, because, contrary to popular belief, a sizable number of Latinos oppose the recent marches and strongly object to illegal immigration.

But our voices have been largely muffled by the protests in Chicago and Los Angeles and other cities, by journalists and mass media that absolutely refuse to report the story of law-abiding American Hispanics.

Members of You Don't Speak For Me, American Hispanics against illegal immigration, do not want comprehensive immigration reform. But we do want immigration law enforcement.

Americans have learned that "comprehensive" means unlimited amnesty, a greater flow of immigrants into the country and the displacement of American workers.

Anybody who can sneak into our country gets to stay in. That is not sound immigration policy.

The bill our Senate is proposing is selling out the American worker and the rule of law.

We have witnessed in the past 18 months, hundreds of thousands of Latinos marching across the country in support of immigration reform. Many of these marchers are here illegally. One of the objectives of these marches is to give the impression that all Latinos want illegal aliens to become citizens. It is simply not true.

Jose, a legal Mexican immigrant, approached me and said, "You have got to help me. I am here in the United States legally. Look. Here are my papers. I cannot get a job. I go to the day labor centers on a daily basis, and they ignore me. And they give the jobs to illegal aliens. I cannot get work to support my family."

I am aware that there are many of my fellow Hispanics who are suffering, and those who followed the rules and respected our laws and came to this country the right way. It is for these people that I implore you to give them a chance at building their American dream they have patiently waited in line for.

That can be done only by our government enforcing immigration laws on the books.

In Chicago, Illinois, where I live, the city is under siege by illegal aliens who drain public services and take jobs away, especially from African-Americans and legal immigrants.

Our city and county officials ignore Federal immigration law and want to ignore Congress and make their own laws. They are attempting to make Cook County the first sanctuary county in the United States.

We have seen property taxes in Cook County rise 60 to 90 percent this past year. This rise is directly related to bilingual education and other social services for illegal aliens.

What illegal immigration has done is force our senior citizens out of their homes. They cannot keep up with the rise in property taxes on their fixed income. While these seniors look to us to assist them in their retirement years, we are letting lawbreakers completely drain our tax base—a tax base that should rightfully be going to our seniors and our veterans.

One of those seniors is my 78-year-old father.

We have recently heard about the injustices at Walter Reed Medical Center. Our wounded veterans in Illinois are the lowest paid in the nation. Some live like paupers, while illegal aliens get free health care and many other social services.

This abuse of our welfare program is a modern-day atrocity. I am baffled, because my government, who I trust to enforce the law, no

matter what the ethnicity or national origin of a person is, has been looking the other way while America is destroyed.

Some measures that need to be considered for comprehensive immigration enforcement are putting border security and enforcement first. How can we fight a war on terror if our borders are not secure?

Stop incarcerating our Border Patrol agents when they do their job, like Ramos and Compean, and support these agents in their job to stop illegal border crossings. Pardoning these two admirable Mexican-Americans would be a good start.

While you think that employee program to verify the eligibility of workers they hire might be effective, consider this. The Illinois House is passing a bill as we speak to prohibit employers from using these very tools to verify eligibility, Illinois House Bill 1744.

Finally, we do not want amnesty for illegal aliens. I ask you to remember that amnesty does not work. It just creates more of the criminal activity we want to prevent.

We know this from past immigration amnesties, especially the one granted in 1986. If that amnesty worked as a solution to our immigration problem, why then are we here today?

The definition of amnesty remains the same: to pardon immigration lawbreakers and to reward them with the objective of the crime.

It is not animosity to punish those who break our laws. It is simply justice—a justice law-abiding Americans hunger for.

Thank you.

[The prepared statement of Ms. Pulido follows:]

PREPARED STATEMENT OF ROSANNA PULIDO

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to appear today and to discuss the critical importance of Immigration Law Enforcement.

I am Rosanna Pulido, an active member of You Don't Speak For Me. We are American Hispanics speaking out on illegal immigration because, contrary to popular belief, a sizable number of Latinos oppose the recent protest marches and strongly objects to illegal immigration.

But our voices have largely been muffled by the protests in Chicago, Los Angeles and other cities nationwide and by journalists and the mass media that absolutely refuses to report the story of law abiding American Hispanics. Instead, the media would rather focus on the Latinos who are breaking our laws and paint them as helpless victims.

Members of You Don't Speak for Me American Hispanics against illegal immigration do not want comprehensive immigration reform, but we do want immigration law enforcement. Americans have learned that "comprehensive" means unlimited amnesty, a greater flow of immigrants into the country and the displacement of American workers.

Anybody who can sneak into our country gets to stay in. This is not sound immigration policy. Our open borders are a surrender of the United States to anarchy and the bill that the senate purposes is selling out the American public and the rule of law. This proposed legislation gives illegal aliens exactly what they want, legal status and permission stay in the United States.

We have witnessed in the past 18 months hundreds of thousands of Latinos marching across the country in support of immigration reform. Many of these marchers are here illegally. They do not live in the shadows, but flagrantly boast about violating our laws in broad daylight. One of the objectives of these marches is to give the impression that ALL Latinos want illegal aliens to become citizens. It simply is not true!

Let me tell you about a legal Mexican immigrant named Daniel. Daniel calls me on a regular basis. Daniel sees the injustice his fellow legal immigrants are going through. He tells me when an American or legal immigrant comes to look for a job

at his place of employment, they never get called for an interview, but if an illegal alien comes and fills out an application, they will be working with a couple of days. He is beside himself and is seeking justice, who will right these wrongs?

And Jose, a legal Mexican immigrant who approached me and said, "You have got to help me! I am here in the United States legally. Look here are my papers. I cannot get a job. I go to the day labor center on a daily basis and they ignore me and they give all the jobs to illegal aliens. I can't get work to support my family."

I am aware that there are many of my fellow Hispanics like this who are suffering, those who followed the rules and respect our laws and come to this country the right way. It is for these people and others like them that I implore you to give them a chance at building the American dream they patiently waited for in line.

That can be done only by our government enforcing immigration laws on the books! In Chicago, Illinois where I live, the city is under siege by illegal aliens who speak Spanish, use public services and take jobs away from citizens, especially African-Americans, and legal immigrants.

Our city and county officials ignore federal immigration law and want to ignore Congress and make their own laws. They are attempting to make Cook County the first sanctuary county in the United States. If this happens, then Cook County will be a haven for illegal aliens and other criminal elements.

We have seen property taxes rise in Cook County by 60 to 90 percent this past year. This rise is directly related to bilingual education, free health care and other social services for illegal aliens. What illegal immigration has done is force our senior citizens, (yes, those folks who built our country and are known as the greatest generation) out of their homes. They cannot keep up with the rising property taxes on their fixed incomes.

While these seniors look to us to assist them in their retirement years, we are letting law breakers completely drain tax base, a tax base that should be rightfully going to our seniors and our veterans. One of those seniors is my 78 year old father. He is bewildered by what is happening to the city he settled in many years ago.

We have heard recently about the injustices at the Walter Reed Center and the poor treatment of our veterans. Well, our wounded veterans in Illinois are the lowest paid in the nation. Some live like paupers, while illegal aliens get free health care, education and may other social services. This abuse of our welfare programs is a modern day atrocity.

I am baffled because my government, who I trust to enforce the law no matter what the ethnicity or national origin of a person is, has been looking the other way while America is destroyed.

Some measures that need to be considered for Comprehensive Immigration Enforcement are:

a. Putting Border Security and Enforcement First. How can we fight the War on Terror if our borders are not secure?

b. Stop incarcerating our Border Patrol when they do their job like agents Ramos and Campeon and support these agents in their job to stop illegal border crossings! Pardoning these two admirable Mexican Americans would be a good start!

c. While you may think that an Employers program to verify the eligibility of the workers they hire might be effective consider this. The Illinois House is passing a bill as we speak to prohibit Employers from using these tools to verify eligibility! (Illinois House Bill #1744)

We have 14 million under employed Americans? This bill proposed by the Senate displaces more American workers! Whose interests are the senators looking out for?

Finally, we do not want amnesty for illegal immigrants. I ask you to remember that amnesty does not work. It just creates more of the criminal activity we want to prevent. We know this from past immigration amnesties, especially the one granted in 1986. If that amnesty worked as a solution to our immigration problem, why, then, are we here today? The definition of amnesty remains the same: "to pardon immigration lawbreakers and reward them with the objective of their crime." It is not animosity to punish those who break our laws. It is simply justice, a justice law-abiding Americans hunger for.

Ms. LOFGREN. Thank you.

Mr. Ting?

**TESTIMONY OF JAN TING, PROFESSOR OF LAW,  
TEMPLE UNIVERSITY BEASLEY SCHOOL OF LAW**

Mr. TING. Chairman Lofgren, Chairman Conyers, Representative Gutierrez, I am honored and grateful for your invitation to join today's discussion on comprehensive immigration reform.

My name is Jan Ting. I teach immigration law at Temple University in Philadelphia, and I am a former Assistant Commissioner of the U.S. Immigration and Naturalization Service.

And, Chairman Conyers, I am also a native of Michigan. I was born in Ann Arbor and grew up in Dearborn Heights and went to high school in Dearborn.

I am also proud to be the son of immigrants. And my family's immigration story is included in my written testimony.

While each family's story is unique, all Americans are either immigrants or the descendents of ancestors who came here from somewhere else, and that includes Native Americans.

All of us who know our family histories respect and admire our immigrant ancestors, because we know the immigrant experience is never easy. The immigrant story is always a story of hard choices and difficulties overcome by persistence and very hard work.

So, our respect and admiration for immigrants, including illegal immigrants, should not be the issue.

The real issue instead, I submit, is whether our respect and admiration for immigrants is so great that we are willing to let everyone in the world who wants to come here do so, as the *Wall Street Journal* editorial board and the Cato Institute, among others, have suggested we should.

The alternative to open borders and open immigration is limited immigration, limited to only those immigrants we choose to admit and unavailable to all other would-be immigrants.

Now, as a lawyer, I can argue both sides of that question. But if we opt against open borders and in favor of limited immigration, as we have in our recent history, there are two more questions we must answer.

First, what do we do with those who are excluded under our law, but who come anyway? And second, which immigrants do we choose to admit, and which do we exclude?

If the answer to that first question is, if we give them a break, find an excuse for them to stay, then what we really have is an open border system, which is fine, if that is what we wanted in the first place.

We have heard a lot of discussion today on the semantics of amnesty. Why does that seem like such an important question? It matters, I suggest, because almost everyone will acknowledge the overwhelming majority of the American people want a system of limited—not unlimited—immigration, and are opposed to amnesty for those who enter the U.S. in violation of our immigration laws.

So, the case for comprehensive immigration reform requires somehow distinguishing what is being proposed from amnesty. That can be a hard sell.

The immigrant communities themselves, who have the most at stake in this debate, call it amnesty, or *'amnistía'*, and that seems correct to me.

To me, amnesty is anything that rewards a violation of immigration law by putting illegal aliens in a better position than other would-be immigrants, who have respected our laws by remaining outside our borders, waiting for their opportunity to immigrate legally.

The May 17 agreement among U.S. Senate conferees, for example, does this by granting illegal aliens, and only illegal aliens, immediate probationary legal status of indefinite duration as the first step on a pathway to citizenship, both of which millions of others outside our borders wish they could have, too.

The plan actually allows the government only 1 day for a security check from the time that the aliens apply for probationary status to when the government is obliged to give them work authorization.

Those who have violated our laws receive the benefit and can live and work in the U.S. openly. Those who have respected our laws will not receive the benefit.

It is false to claim that illegal aliens must go to the back of the line for benefits. There may be some delay under the May 17 Senate compromise in granting illegal aliens permanent residence and citizenship. But the principal benefit aliens seek is immediate, legal residence and work authorization, which will be awarded immediately under the Senate's version of comprehensive immigration reform.

As in the case of the 1986 amnesty, temporary residents, such as students who have properly maintained and renewed their immigration status, will not qualify for amnesty benefits, while those who violated their status by overstaying and illegal entrants will.

The yellow light is on, so let me jump ahead and say that the benchmarks are also not very good. They do not require any prior reduction in the number of illegal aliens.

And finally, as has been mentioned, anyone who has to deal with the Federal immigration bureaucracy today understands that the bureaucracy is already overwhelmed by its current workload with backlogs in everything from visa processing to security screening, to naturalization.

To add millions of applications for amnesty or probationary status, as well as the subsequent adjustments to permanent resident and then naturalization, is a formula for disaster.

The May 17 compromise seems to acknowledge that the fees and fines to be paid by applicants will be insufficient to cover those additional costs.

And let me just close by saying that the payment of back taxes hardly negates a finding of amnesty, since those taxes were already due and payable in any event. And similarly, requiring payment of a fine does not remove the taint of amnesty when that fine is in lieu of normally substantial processing fees that are required for legal immigration and citizenship.

I have a lot more to say. It is in my written testimony. Thank you.

[The prepared statement of Mr. Ting follows:]

PREPARED STATEMENT OF JAN TING<sup>1</sup>

Madame Chairman and Members of the Subcommittee: I am grateful for your invitation to speak today to discuss Comprehensive Immigration Reform with you and with the other members of the panel.

I am proud to be the son of immigrants. Both my parents came to the United States from China. They were able to enter as temporary students when the Chinese Exclusion Law prohibited their entry as immigrants and precluded their ever becoming U.S. citizens through naturalization. Chinese Exclusion was repealed by Congress in 1943. My father received his U.S. citizenship in 1945 in France, after service in the Battle of the Bulge and the Battle for Germany, as a result of special legislation enacted by Congress awarding citizenship to foreign nationals on active duty in the armed forces of the United States.

My mother was a nurse, and my father spent most of his career as a physician in the Veterans Administration. As I was growing up, much of my family's social life centered on the small and scattered community of Chinese Americans in southeastern Michigan. Despite the repeal of Chinese Exclusion, immigration from China and other Asian nations remained negligible because the national origins quota system sharply limited immigrants from Asia, and in the case of China to 100 immigrants per year. That quota system was repealed by Congress in 1965, and most Chinese Americans today trace their ancestry back to immigrants who entered the U.S. after 1965.

That the Chinese American community is composed of immigrants and their descendants is not anything special. Indeed all Americans are either immigrants or the descendants of ancestors who came here from somewhere else. And that includes Native Americans.

All of us who know our family histories respect and admire our immigrant ancestors, because we know that the immigrant experience is never easy. The immigrant story is always a story of hard choices and difficulties overcome by persistence and very hard work. And knowing that, we have to respect all immigrants, including illegal immigrants who have their own hard choices and difficulties to overcome. The economist Walter Williams used to teach at Temple University where I recall him saying that, "The poor people of the world may be poor, but they are not stupid. They are as capable of doing cost-benefit analysis to decide what's in their best interest as any of us."

So our respect and admiration for immigrants, including illegal immigrants, is not at issue, though some would try to poison the debate by saying that it is. The real issue instead, I submit, is whether our respect and admiration for immigrants is so great that we are willing to let everyone in the world who wants to come here do so, as the Wall Street Journal editorial board, and the Cato Institute, among others, have suggested that we should. The alternative to open borders and open immigration is limited immigration, limited to only those immigrants we choose to admit, and unavailable to all other would-be immigrants.

As a lawyer, I can argue both sides of that question. But if we opt against open borders and in favor of limited immigration, as we have in our recent history, there are two more questions we must answer: 1. What do we do with those who are excluded but who come anyway? 2. Which immigrants do we choose to admit, and which do we exclude?

If the answer to the first question is, "give them a break, give them some kind of amnesty so they can stay anyway", and especially if we set a pattern of successive amnesties, then what we really have is open immigration, where all who want to come here are in effect allowed and encouraged to do so. Which is fine if that's what we want. What do we want? And that brings us to "Comprehensive Immigration Reform".

## QUESTION 1: PROBATIONARY STATUS AND THE PATHWAY TO CITIZENSHIP

Is it or is it not amnesty? Why does that matter so much? It matters because, as almost everyone will acknowledge, the overwhelming majority of the American people want a system of limited, not unlimited, immigration, and are opposed to "amnesty" for those who enter the U.S. in violation of our immigration laws. So the case for "comprehensive immigration reform" requires somehow distinguishing what is being proposed from "amnesty". That can be a hard sell.

To me, amnesty is anything that rewards violation of U.S. immigration law by putting illegal aliens who have done so in a better position than other would-be im-

<sup>1</sup> Professor of Law, Temple University Beasley School of Law, Philadelphia. Assistant Commissioner, U.S. Immigration and Naturalization Service, 1990-1993. B.A., Oberlin College, 1970; M.A., University of Hawaii, 1972; J.D., Harvard University, 1975.

migrants who have respected our laws by remaining outside our borders waiting for their opportunity to immigrate legally. The May 17 agreement among U.S. Senate conferees, for example, does this by granting illegal aliens, and only illegal aliens, “probationary” legal status as the first step on a pathway to citizenship, both of which millions of others outside our borders wish they could have, too. Those who violated our laws receive the benefit and can live and work in the U.S. openly. Those who foolishly respected our laws do not receive the benefit.

It is false to claim that illegal aliens must “go to the back of the line” for benefits. There may be some delay under the May 17 Senate compromise in granting illegal aliens permanent residence and citizenship beyond the delay for those qualified legal immigrants now waiting in a queue. But the principle benefit aliens seek is immediate legal residence and work authorization, which will be awarded under “comprehensive immigration reform” only to unqualified illegal aliens, not to qualified immigrants waiting in a queue for their chance to enter, or to other would-be immigrants outside the U.S. who have not violated our laws. As in the case of the 1986 Amnesty, temporary residents such as students who have properly maintained and renewed their immigration status will not qualify for amnesty benefits, while those who violated their status by overstaying, and illegal entrants, will.

Just as the 1986 Amnesty set off the dramatic increases in illegal immigration we have experienced since then, and more than two decades of litigation as disqualified aliens challenged their disqualification for the amnesty in court, the May 17 amnesty compromise can be expected to attract new and even larger waves of illegal immigrants to the U.S., and more decades of litigation. Every amnestied alien has relatives, friends, neighbors, and acquaintances who also want to live and work in the U.S., and who suddenly know someone legal who can help them after they enter the U.S. illegally. Those outside the U.S. have new incentive to enter the U.S. illegally to await the next U.S. amnesty, having seen previous violators of U.S. law rewarded.

Requiring payment of back taxes due hardly negates a finding of amnesty, since those taxes are already due and payable in any event. Similarly, requiring payment of a “fine” does not remove the taint of amnesty when that fine is in lieu of the normally substantial processing fees that are required for legal immigration and citizenship.

The alleged benchmarks or triggers in the May 17 amnesty agreement do not require any prior reduction in the number of illegal aliens in or entering the United States each year, only that additional tax money be spent to hire personnel and attempt to improve border and technical infrastructure. A more meaningful benchmark or trigger would require actual reduction in both the number of illegal aliens in the U.S. and those entering the U.S. each year illegally. Without such clear evidence that U.S. immigration law is actually being enforced and the number of illegal aliens actually reduced by deportation and voluntary repatriation, consideration of amnesty is a mistake. Such actual reduction need not be to zero, and the warning that “we can’t deport all 12 million” is a straw man and not a valid argument for amnesty.

Finally, anyone who has had to deal with the federal immigration bureaucracy recently understands that the bureaucracy is already overwhelmed by its current workload, with backlogs in everything from visa processing, to security screening, to naturalization. To add millions of applications for amnesty, or “probationary status”, as well as subsequent adjustment to permanent resident, and then naturalization, is a formula for disaster. How exactly do illegal aliens prove they were in the U.S. prior to January 1, 2007? How does the government prove they were not? The May 17 compromise seems to acknowledge that the fees and “fines” to be paid by applicants will be insufficient to cover additional costs, and that substantial new appropriations will be required.

#### QUESTION 2: WHO SHOULD WE ADMIT AND EXCLUDE?

The U.S. is currently admitting historically high numbers of legal immigrants, each year admitting more legal permanent residents with a clear path to full citizenship than all the rest of the nations of the world combined. The single largest category of immigrant visas has been for family-sponsored immigrants. The balance between this category and the second largest category of employment-based immigrants has increasingly tilted towards family-sponsored immigrants, making our legal immigration system increasingly nepotistic. Reasons for this include the enormous demand for family-sponsored immigration and the difficulty in qualifying for employment-based immigration. The current expansiveness of the family immigration categories also accounts for its increasing demand through an expanding process of chain migration.

The backlogs in all the family-sponsored preference categories have called into question whether such categories are too broad, and whether family immigrant visas should instead be focused primarily on the nuclear family, consisting of spouse and minor children of the citizen or permanent resident sponsor. The May 17 Senate compromise moves in this direction, and I generally support the elimination of preferences for adult children and siblings of citizen and resident sponsors, and the awarding of points instead for such relationships in the proposed merit-based evaluation system. The May 17 Senate compromise places a cap on the number of visas for qualifying parents. I would go further and abolish the category as such, replacing it with points in the merit-based evaluation system as for adult children and siblings.

Given that we will be admitting only a limited number of those who would like to immigrate to the U.S., I find it reasonable to focus immigrant visas on reunification of the nuclear family and immigration which is most beneficial to the nation as determined by a Canadian-style merit-based evaluation system. The scandal of spouses and minor children of legal permanent residents having to wait for visas while adult children and siblings and parents are receiving them has always struck me as indefensible. Persons who place a high priority on living in close proximity to their extended families, including parents, siblings, and adult children, should probably not be thinking about leaving their extended family to immigrate elsewhere. The Canadian points system has always seemed easier to administer and less burdensome than our system of employment preferences and labor certifications.

The proposed transitional acceleration of visa processing for adult children and siblings already in the queue strikes me as unnecessary and an undesirable increase in the overall level of legal immigration which is not merit-based, does not clearly benefit the nation as a whole, and may in fact have adverse consequences in increased entitlements and lower wages for American workers than they might otherwise earn. Current backlogs could fairly be processed as scheduled until eliminated and the categories abolished. If amnesty recipients are truly required to "go to the back of the line" for permanent residence, they would consequently have to wait longer, too.

#### QUESTION 3: WHAT ABOUT A TEMPORARY WORKER PROGRAM?

The May 17 Senate compromise provides for a huge and complicated new temporary worker program with an initial cap of 400,000 new visas in the first year. The hope is that low-skill workers would enter this program instead of entering illegally, and then voluntarily depart the country after two years. I think it's more likely that this program will be a new pathway for illegal and permanent immigration into the U.S.

I question whether the government ought to be in the business of supplying employers with cheap labor. The alternative might be rising wages and a more secure work environment for American workers. Or it might be a process of automation, innovation, and creativity if the price of labor seems high, as has occurred in the past.

I also think it's un-American to bring indentured workers to the U.S. to be worked and then expelled, without allowing them any stake in the country. This system of contract labor has been described as a Saudi Arabian-style work program since such practice is widespread in the Middle East. It's one thing to run such programs for college-educated highly skilled workers who can change employers and eventually qualify for permanent residence. It's quite another thing to bring in temporary workers because they are unskilled and unable to change employers, and then expel them after two years.

#### IN CONCLUSION

When I worked at the Immigration and Naturalization Service from 1990 to 1993, the consequences of the 1986 Amnesty, and in particular how it would accelerate illegal immigration to the U.S., were not yet apparent. I thought of what the INS did as at least partially "smoke and mirrors" to convey the impression that we were enforcing the law, when our actual capability to do so was limited. As the problem of illegal immigration has grown, the inadequacy of our immigration enforcement has become more apparent.

The solution to insufficient enforcement of our immigration laws is, I believe, not amnesty, but more enforcement. So I support the enforcement initiatives in the Senate's May 17 compromise. I also support the re-balancing of legal immigration as proposed in the May 17 compromise between family and merit-based categories. But I oppose the temporary worker program which will add to the burdens of enforce-

ment. And I oppose the amnesty which, if enacted, will only encourage more illegal immigration.

What immigrant communities most want is not to be discriminated against. And so I applaud the proposed elimination of the so-called diversity visa lottery contained in the May 17 compromise. In 2004 I testified before this subcommittee against the diversity visa lottery because of the way it discriminates against would-be immigrants from Mexico, China, India, the Philippines and other high-admission states who are barred from participation. The proposed demise of the diversity visa lottery is welcome.

But the 7% per-country cap, which makes qualifying immigrants from those countries wait in longer queues solely because of nationality, remains, only slightly ameliorated in the May 17 compromise up to 10%. The effect on certain immigrant communities of eliminating certain family-immigration preferences, as proposed in the May 17 compromise, can be at least partially offset by eliminating the discrimination inherent in the continuation of the per-country cap on legal immigration. I urge its complete repeal.

Ms. LOFGREN. Thank you very much.

We will now move to questions from the panel. I will defer to the Chairman of the full Committee, Mr. Conyers, to begin his questions.

Mr. CONYERS. Thank you so much.

This is such a big question. We know we will not finish it up in the limited format that we have here. But I invite you to stay in touch with us.

To my former Michigander and friend, let me tell you that I find part of your presentation to be a straw-man-type argument. If you find anybody in the Congress supporting unlimited immigration, I would like you to identify them by name, because they are not on the Judiciary Committee, I can assure you.

What we are trying to do—and this panel forms an incredible juxtaposition to the first panel. And I propose to reread the testimony of both panels, because there are some strange disjunctions and there are some similarities.

For example, Ms. Bastien, in terms of temporary protective status, and the Haitian reform process that has been completely eliminated, but is in the STRIVE bill, is something that we must compensate for. President Preval was here only last week. And we are in the process of developing that, and I would like to do it with you.

But Attorney Selah, your description at the end—it was more oral than in your presentation—about the processes that are so unfair, which I think you draw on your legal, immigration lawyer status, they need so much correcting. It is so hard for us to work a balance there.

And I think I would like to hear you make any recommendations to this Subcommittee that will soon be meeting with the full Judiciary Committee, and soon we will be meeting with Senator Kennedy and their bill. We have a basketful of hard questions to resolve, and we want to make sure.

I do not think anybody I have heard here in the more than a dozen hearings that we have had, describe so briefly but succinctly the fact that we have a lot of fairness to bring into our processes.

Would you comment on that and anything else that is connected with it?

Mr. SALEH. I would actually be glad to submit at a later time, and then in the immediate future a more detailed statement on those particular issues.

But one of the things that we have learned from our immigration past and even from the amnesty of 1986, that, assuming that there is going to be amnesty or path to legalization, whatever we want to call it, then it needs to be implemented in a fair fashion.

And since 1996, there has been an increasing retrenchment in our immigration laws, making it extremely more difficult for immigrants to remain in the United States, making it much easier for immigrants to be in technical violations of their status.

And this has resulted in many an individual being removed and permanently barred from coming back, without a criminal violation, but just technical violations, or being barred for 10 years and having no waiver available so that they could come back in advance of those 10 years, no matter how compelling the human circumstances are of an individual case.

We have removed discretion from the Immigration Service and from the immigration judicial corps, so that there cannot be an individual determination on applications, because the law has eviscerated the ability of judges to grant waivers.

And the zero tolerance policy—or the, you know, that the ICE, the legacy INS implemented—has resulted in a de facto situation where nobody wants to be the last person to sign off on a discretionary matter, because that person might be the “next.”

Mr. CONYERS. We have worked on a lot of issues, but this may be the biggest one that we will have to wrestle with for the coming months and the rest of the year. And I look forward to your cooperation in that regard.

Mr. SALEH. It would be my pleasure. Thank you.

Ms. LOFGREN. The gentleman is, by unanimous consent, granted another minute so Ms. Iyer can also—

Ms. IYER. Thank you. I appreciate that, Madam Chair. I just wanted to respond to the question about fairness a little bit, as well.

Especially since September 11, we have noticed how immigration has become a national security issue. And much of that has taken a toll on Arab-American, Muslim, and South Asian immigrants.

I just wanted to mention a few specific pieces we have been noticing. Arbitrary detentions, special registration, lack of judicial review, closed hearings, lack of access to counsel—these are some of the situations that immigrants are facing when it comes to detention and deportation proceedings.

The second trend that we are seeing is how local law enforcement is collaborating with immigration authorities to enforce immigration laws. And I do not believe that that is off the table in either the House or the Senate. And that has led to fear. People are afraid of reporting crimes, seeking services and benefits that they are entitled to.

So, I really want to point out those two trends especially.

Ms. LOFGREN. Thank you. The gentleman's time has expired.

The gentleman from Chicago, Mr. Gutierrez, is recognized for 5 minutes.

Mr. GUTIERREZ. Thank you, Madam Chair.

And thank you to all of the witnesses for staying with us. It is almost going to be 6 p.m. It is good to see many of you. I thank

you for all of your comments. I want to simply respond to some of you and the comments that you have made.

Ms. Bastien, I want to tell you that Alcee Hastings and Kendrick Meek and Corrine Brown are sponsors of the STRIVE Act, and they make it absolutely clear that we need to address the issue of people who simply, if they lived another 75 miles to the west of Haiti, would arrive here under totally different circumstances. And we understand the political nature of our immigration decisions that are made here.

We saw those political decisions being made when, without any protest, the Republican Congress, when we introduced the bill for Guatemalans and Salvadorians and Nicaraguans, the NACARA Act, refused to act and include Haitians, number one, and then subsequently gave a blanket amnesty—any Nicaraguan in the country that could prove he was here January 1, 1995, you are in.

I was happy for them, I really was, for their families and for them. But if you were Guatemalan or Salvadorian, because you did not live in maybe Florida—or at least that was the conclusion we reached.

So, politics has always played a role in our immigration system. It has always played a role.

Politics played a role, as we know, when it came to people from China and the Chinese and their exclusion during the 1880's. They were good when we needed someone to build a railroad. They were a good work force, and then all of a sudden they weren't good any more. And so we just said, no more.

During World War II, if you were a child of a serviceman from England, the Congress said, fine, let us bring those orphans to America. We did not have the same policy if you were being afflicted by genocide and the Holocaust and you were a child of the Jewish family that needed to flee the Holocaust.

So, our immigration system has always chosen winners and losers.

And I think my point to all of you is that, I know that we are going to make sure that we do a fair comprehensive immigration bill that is fair to everyone, without politics, without fairness, but taking into consideration past injustices, past grievances, and taking the political reality that we live in into consideration.

And so, Mr. Ellison is on the STRIVE Bill, but I am going to make sure—because we spoke about some of the issues that you raised—but I am going to make sure that he receives your testimony in full, because I notice that he is not here, so that he and I can discuss those issues vis-a-vis the Muslim community, because I think it is very, very important that we deal with that issue as we move forward.

Let me just say that, I know that, as a Member of this Judiciary Committee and a very proud member of the Hispanic Congressional Caucus, I was delighted to go to Speaker Pelosi last week, so that we could reiterate our principles—our principles. And our principles are very, very clear.

We want a legalization process that helps all of those earn their legalization, and that it be fair and that it be obtainable, and regardless of what country you came from.

We want to make sure that the cornerstone of our immigration system, which is families—husbands, wives, children, grandparents—has been the cornerstone, continues to be the cornerstone of our immigration policy.

And we want to make sure that we take care of these backlogs. In 6 years we could take care of the backlogs. There is no reason, as Asians point out, that it should take 23, 24 years for a brother from the Philippines to come to this country. That is just wrong. It denies.

And lastly, let me just say that there have always been those who will come before the American people and say, you are paying higher taxes, there is more crime in your neighborhood, you have not gotten a good job, because of those darned immigrants.

They said it about the Irish in the 1850's. They said it about Italian immigrants at the turn of the century. They were wrong about them, and they are wrong about those immigrants coming to this country here today.

And I think this Committee is going to make sure that we put our immigration policy into a historical context, so that we do not repeat the mistakes of the past.

Thank you all so much for all of your commitment and your hard work.

Ms. LOFGREN. Thank you, Mr. Gutierrez.

I will turn now to the lady from Texas, Ms. Jackson Lee, for 5 minutes.

Ms. JACKSON LEE. Thank you very much, Madam Chairwoman, and to the Chair of the full Committee, to all of the witnesses.

Allow me to just say that I have probably dreamed what you have testified, so please forgive me for not being present in the room. But I do want to thank you for what you have offered.

And I will offer a few comments and will try to squeeze my questions in, because each of you, the moments that I have been able to hear, your comments speak directly to the challenge that we have to confront.

And that is a challenge procedurally to reconcile the Senate and ultimately the House, and generate a solution for the ages. I frankly believe it would be great to have a living document that actually grows with how the nation grows.

The difficulties of 1996 and 1987 is—the question is, did it grow with us as we changed in so many different, wonderful ways?

And to the last two witnesses, Ms. Pulido, if I am pronouncing it correctly, and Mr. Ting, my simple statement is—and I do not know if we will ever overcome this hurdle—is that this is not a giveaway. However we construct this bill, it will not be a giveaway.

And I do want to make the point that those who will come under this new legislation will be in a separate line. They will not intercede, interact, step in front of, because I know how the playground is. You don't want anybody to get in front of you on the playground line.

And I respect those who have been here, but they will not get in front of those who have been here. But they will painfully have a process that will allow them to be documented.

May I quickly turn to Ms. Bastien, if I can. We have Bastiens in Texas. Am I getting it correctly?

Ms. BASTIEN. "Bastien."

Ms. JACKSON LEE. Bastien. Thank you. And they have probably left off the "tien," because they are Texasized, but they do spell it the same way.

Let me burden you by causing you to speak for members of the Caribbean community who have come to these hallways and said, they frankly have been left out. And I know that there are great efforts to make sure that we include, for example, Liberians and the Caribbean.

Let me just, in a simple sentence, say how important it is to make sure that the legislation is comprehensive and relates to even segments of the populational communities that may not be high focus in terms of being immigrants.

A lot of the Caribbean individuals have either been here, or seemingly they have sort of integrated. A lot of them are 20-, 30-year persons who still may be subjected to deportation.

Ms. BASTIEN. This is a great concern of us, too, advocates who have been fighting for years for comprehensive reform to address the needs of these immigrants from the Caribbean. Many of them, most of the time they are in hiding. They are under the radar, because their voices are hardly heard.

Many of them are victimized and re-victimized over and over again. If they are a victim of crime, they are very afraid, very much afraid to come forward. They are suffering, but their voices are hardly ever heard.

And whatever comprehensive reform is adopted, I want to assure that the Caribbean people, from Jamaica—people who we often do not hear from, because usually they are not invited to forums like that. And yet, they are in the country, yet they are contributing. They are working, paying taxes. They are contributing to a system that most of the time when they need it, they are not able to access.

So, I think that whatever reform is presented, we have to make sure that these people who are here and also contributing and well under the radar and do not have a voice, are heard and are included.

Ms. JACKSON LEE. Thank you.

Can I quickly go to Ms. Iyer and Ms. Narasaki quickly?

Does the present structured bill undermine the family reunification issues that we have addressed over a number of years? If you both could answer that.

And lastly to Mr. Saleh, your issues on 696 and the court system are crucial. If you can just comment further on how dastardly it has been to have removed the discretion out of judges and how important it is to have that?

I will go with Ms. Iyer and Ms. Narasaki first, please.

Ms. NARASAKI. We are very concerned about the Senate bill that is before us. It does not take care of the entire backlog. In fact, it has an arbitrary May 2005 cutoff date. And so the 800,000 people who have applied since May 2005, their applications will be simply thrown away.

That is despite the fact that the legalization date, which we think is a good date, is January 1, 2007. And we are struggling to

understand why those who follow the rules are being disadvantaged in that system.

The second thing is that there is nothing to help the spouses and minor children of legal permanent residents, does not increase the number of visas available and does not take care of their over 1 million-person backlog, which makes the wait 7 to 8 years now.

And finally, it completely eliminates the category of adult children and brothers and sisters, giving them—brothers and sisters get a paltry four points out of a 100-point system, which we think certainly devalues their value to the family.

Some people have told me that maybe only Asians value their brothers and sisters and adult children. And I think that would be a fairly sad statement, because they tell me, maybe Americans think of families differently.

I do not believe that. I think most Americans truly care about and trust and rely on their brothers and sisters and their adult children as they get old, as they need to take care of each other.

Ms. LOFGREN. The gentlelady's time has expired. By unanimous consent, she will have an additional minute from Ms. Iyer and Mr. Saleh, quickly.

Ms. JACKSON LEE. I thank the Chairwoman for her graciousness. Thank you.

Ms. IYER. Well, very quickly, I do not think I can expand on too much more than what Ms. Narasaki mentioned.

But the one thing that I did want to mention about the Senate bill that is of concern is the merit-based point system that has been set in place for green cards. It heavily favors employment criteria, about 47 out of 100 points, and really does not compensate for family ties, how long you have been in this country.

And we are concerned that it is going to create, again, a second class of people who, if you are poor or you are working class, you are not as well educated, again, you are going to find further obstacles and challenges.

Ms. LOFGREN. Mr. Saleh?

Mr. SALEH. Thank you, Congresswoman.

Obviously, 1996 is a huge issue that cannot be addressed in 30 seconds. But basically, what we have seen since 1996 is an increasing stripping, not just of the immigration judges, but also even the Federal courts, where now Federal courts are incapable of intervening under the REAL ID Act.

The Federal district courts have been stripped of jurisdiction to review whether there were any constitutional violations in immigration proceedings. That the Federal appellate courts are limited in review, strictly on legal questions. They can no longer review the decisions of an immigration judge based on abuse of discretion.

And there was no great deference by the Federal—I mean, there was great deference, actually, of the Federal courts to the immigration and the board of immigration appeals.

Ms. LOFGREN. The gentlelady's time has expired.

Mr. SALEH. So, these issues were missed and need to be revisited and addressed.

Ms. JACKSON LEE. Thank you, Madam Chairwoman. I look forward to working with you. Thank you.

Ms. LOFGREN. The gentlelady's time has expired.

We turn now to Mr. Lungren for his 5 minutes.

Mr. LUNGREN. Thank you very much, Madam Chairwoman. I am sorry, but I have been watching this in my office on television, as I had to attend to some other things.

I would just like to ask a question to all the panelists. And that is, I was involved in the 1986 provision. I was the Republican floor manager. I was one of the authors of employer sanctions.

But I also got the votes to manage for the legalization program, at least on the Republican side. And I thought that that bill was going to be a good, balanced bill. The problem is, the legalization worked. We never enforced anything after that, and we now have a lot more people here than we had then.

And I think we have an obligation as Members of Congress to ensure that whatever we do does not create the same sort of situation, so that 20 years from now we are talking about 24 million people who are here illegally and changing the rules for them.

So, I think we have to do something with a good number of the people who have been here for periods of time. But we used to talk about how we would make special provisions for people who had gotten roots in the community, because there would be a situation of equities.

And I mentioned this to an unnamed member of the Democratic Party on the Committee, and I said, I thought we were talking about roots, and I see the bill in the Senate says January 1 of this year. He says, well, they are sprouts. [Laughter.]

I happen to think that is a serious, serious question. So, I would ask each one of the panelists. Can you tell me what date should be the date that we grant these new provisions, which literally give people an ability to stay in this country legally under certain circumstances, that they would not otherwise have, and why you would pick that date?

Or should it be they got in yesterday? They have been here 1 hour, they have been here 1 day, they have been here 1 month, they have been here 1 year? And does it make any difference if they have been here 5 years versus whether they got here yesterday?

And I wish as many of you could answer as possible.

Ms. LOFGREN. Shall we start with Ms. Bastien and move forward?

Ms. MUÑOZ. They are all pointing at me, so I am afraid I will—

Mr. LUNGREN. Well, I would really like to hear from all, because I have heard the testimony of all, talking about the equities. And I heard one of you, Ms. Narasaki, just say that that was a good date.

So, I would like to know what date should it be, and why is it a good date?

Ms. MUÑOZ. I think the most important thing is that the legalization program minimize the size of the undocumented population as much as possible.

If we have 1, 2, 3 million people at the end of this process, still living in the country without their papers, we still have a problem that this law is trying to address.

Mr. LUNGREN. What date would it be?

Ms. MUÑOZ. We support the January 1 date of this year for that reason, because we think it is likely to be effective. And in many cases we are talking about people who have the commitment and the drive to walk across the border and risk their lives.

They may be sprouts, but they have demonstrated some commitment to being here.

Mr. LUNGREN. Well, so did the people that got here January 30th.

Ms. MUÑOZ. That is true. And you do have to pick a date. And we do not think that the date should be—you know, we should not be picking a date contemporaneous with the debate, because we do not want to be encouraging people to come because we are having a legislative debate. But you want to maximize the extent to which people living here legally participate.

Mr. LUNGREN. The Senate bill was introduced last year, was passed last year. That obviously was while we were debating it.

So, that would be after it became clear that at least one of the houses thought we ought to have a large legalization program.

Ms. Bastien?

Ms. BASTIEN. If I had a choice, I would say that, if the provision passes while the immigrant lives in this country, he or she should be allowed to apply. If I—

Mr. LUNGREN. As long as they are already here.

Ms. BASTIEN. Exactly. Because no matter when they come here, they are contributing, they are working, they are paying taxes. They are enriching the lives of people in this country. They are our teachers, our farmers, our hospital workers. They are us. They are contributing.

If they are contributing and they are showing that they are contributing, they are to prove by any doubt they are contributing, I believe that they should be allowed to address this. That is my position.

Mr. LUNGREN. Thank you—

Ms. BASTIEN. But I am willing, I am—

Mr. LUNGREN. I wanted your position.

Ms. Iyer?

Ms. IYER. Thank you.

We also agree that there has to be a date that is picked. And I want to echo sort of what Ms. Muñoz was saying about being a little bit wary about picking a date that is very contemporaneous with the debate.

But the January date that has been put forth is one that we feel we could support.

Mr. LUNGREN. Ms. Narasaki?

Ms. NARASAKI. Well, I already noted that, for the same reason that Ms. Murguía supports the January 1 date.

I do want to say, one of the reasons why I think that the prior 1988 effort did not work is because it did not fully address family. In fact, when it came out of the box, it had a built-in backlog. That is one of the reasons why the Filipino community is so backlogged.

Mr. LUNGREN. So, it was not generous enough.

Ms. NARASAKI. Right, for understanding the need to have enough visas for family.

The second thing was the employer verification system. And we believe that there has been a lot of effort over this last year with business and labor and immigrant advocates to come up with a system that is going to work.

And we think that is going to be key to making sure that we do not have the same problem again.

Ms. LOFGREN. The gentleman's time has expired. By unanimous consent, he has an additional minute.

Mr. O'DOWD. In the Irish community, that is actually quite an issue, because most of our immigrants who are undocumented have been here a number of years.

So, but there was a lot of discussion about it last year on the Senate bill. The general sense was, the later the date the better, because you did not want to create a two-tier system of Irish immigrants, those who are going to have the amnesty and those who were not.

Mr. LUNGREN. Okay.

Mr. Saleh?

Mr. SALEH. I would echo the positions put forth by other members of the panel.

I am persuaded by the cogency of their argument that the more inclusive the provision can be without being an inducement for people that start coming over now, helps address the problem in a more meaningful fashion. And then the concept of control of undocumented is a more handleable issue for the agencies involved.

Ms. PULIDO. I am a very big fan of Senator Ted Kennedy. And I want to quote him from the 1986 amnesty, that after that amnesty in 1986 is passed, we will never have to pass another amnesty bill. So, I think we need to go back to 1986.

Mr. TING. Congressman, whatever date you set, you are going to generate litigation for the United States government. Thanks to the 1986 act, we have been in court for 21 years, litigating the question of who is entitled to that amnesty and who is not.

So, whatever date you set, there are going to be people that come in afterwards who are going to claim the benefit. And how does an illegal alien prove the date of entry? And how does the government prove the date of entry to prove that they are not qualified?

What it gives rise to is unlimited litigation that goes on forever. People say, well, they were intimidated by the government. That is why they did not get their application in on time. And so, we are in court forever. That is part of the problem with amnesty. It leads to this endless litigation.

Ms. LOFGREN. The gentleman's time has expired.

And I will now not take my full 5 minutes of questions. I would like to just note that the Senate bill will be moving on its own pace. Clearly, we are watchful of that process, but the House is obviously not bound to do whatever the Senate does.

I would note that one of the interesting issues in the Senate bill is that, while there are additional visas for backlogs in the family categories that are slated for elimination, it does nothing to reduce backlog for those categories that are not slated for reduction, so that the spouses and minor children of lawful permanent residents, who had remained backlogged for a considerable period of time,

whereas, people, if you use the Senate's rationale, who are arguably less compelling, for example, siblings would have an immediate visa.

So, I do not know whether that was an oversight, or whether, or what. But it seems inexplicable to me.

I would just like to have one quick question, because I think you have all been very clear. And it has been useful to hear your perspectives and to be reminded of the Haitian issue that you did so well, the issue relative to South Asians.

I appreciate that, for a whole variety of Hispanic groups arrived at one point of testimony, because obviously, we have limits on how many witnesses we can have from the Asian perspective, and on and on.

Mr. Saleh, of course, from—and Ms. Pulido that you came, I appreciate, and Mr. Ting.

Mr. O'Dowd, though, the one question I had in your testimony. You mentioned the concern about the Irish not having a root at this point to immigrate. And therefore, although you support family-based immigration, spoke favorably on the merit-based proposal.

In your mind, is that the point system that you are looking at?

Mr. O'DOWD. Yes, I mean, just in terms of what we are looking for as a community, is a way that we can legally access the United States. We cannot do it on the family reunification.

Ms. LOFGREN. I see. But if I may, one of the interesting ramifications on this merit system that has come out—and as many people know, I represent Silicon Valley, which is kind of ground central for high technology—is that although I think it is intended to be supportive of higher educated individuals, it actually does not work for the high technology industry, because, if you are a Google, I mean, it is Dr. Smith that you want. It is not somebody, anybody with a Ph.D. It is a specific person with the patent portfolio that you have identified. And having an employment base tied with the high skill set, I think actually is something we are going to want to take a good look at.

I will just say at this point that I appreciate your sticking with us for this long time.

Although we do not have every Member here, as Mr. Lungren has mentioned, this has been televised. And one of the upsides of being so long is that no one else is on TV but us. [Laughter.]

And so, everyone is watching you. And we appreciate your testimony.

This is the 12th hearing that we have had. We will have just a few more.

I would like to note that, under the rules, the minority is entitled to separate hearings using some procedures. And accordingly, at their request, we will have a minority hearing tomorrow at 5:30 in room 226—

Mr. LUNGREN. That is 5:30 p.m.

Ms. LOFGREN. [continuing]. Yes, 5:30 p.m., because we have full Committee. [Laughter.]

Well, that is sooner than we are today.

We have full Committee prior to that. And we will also have a hearing Thursday morning at 9:00, where we will hear perspectives from members of the labor movement.

I would like also to note that, by unanimous consent, we are amending a statement made by Reverend Cortés on page three, paragraph six, line four.

We are admitting to the permanent record the American Jewish Committee letter, a letter from evangelical leaders with six pages of signatures, a letter from the Congressional Black Caucus, a Center for Trade Policy Study, and statements from the Muslim community referenced earlier by Mr. Ellison, and a statement for the record of the Conveners of the *Latino Congreso*.

[An insertion entitled “Muslim Americans: Middle Class and Mostly Mainstream,” by the PewResearchCenter, May 22, 2007, is not reprinted in this hearing but is available on the Internet at <http://pewresearch.org/assets/pdf/muslim-americans.pdf> and is also on file with the Subcommittee.]

Ms. LOFGREN. AND IF THERE IS NOTHING FURTHER, WE WILL ADJOURN THIS HEARING WITH THANKS.

[Whereupon, at 6:31 p.m., the Subcommittee was adjourned.]

## A P P E N D I X

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### MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE ZOE LOFGREN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA, AND CHAIRWOMAN, SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER SECURITY, AND INTERNATIONAL LAW

I would like to welcome the Immigration Subcommittee Members, our witnesses, and members of the public to the Subcommittee's twelfth hearing on comprehensive immigration reform.

Our series of hearings on comprehensive immigration reform began at Ellis Island, where we examined the need for comprehensive immigration reform to secure our borders, to address economic and demographic concerns, and there we reviewed our nation's rich immigrant history. We have studied immigration reform from 1986 and 1996 in an effort to avoid the mistakes of the past. We've considered the problems with and proposed solutions for our current employment and worksite verification system. In light of the recent Senate immigration agreement to eliminate family priorities in immigration and replace those priorities with a completely new and untested point system, we studied the contributions of family immigrants to America and various immigration point systems used around the world. We have explored the costs of immigration on our states and localities. And just last week, we had two hearings to explore the importance of immigrant integration and the future of undocumented immigrant students in the United States.

Today we turn our attention to perspectives on comprehensive immigration reform from the faith based and immigrant communities.

Among the most heavily invested groups in the ongoing discussion over immigration reform are the faith-based and immigrant advocacy organizations that represent the vast majority of individuals who will be directly affected by such reform. This hearing is meant to explore their positions and viewpoints, especially in light of recent action in the Senate yielding an immigration agreement being debated in the Senate this week.

I look forward to hearing the voices of the faithful and the voices of community leaders that represent current and future immigrants. Thank you for being here with us today to provide your perspectives.

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PREPARED STATEMENT OF THE HONORABLE JOHN CONYERS, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN, AND CHAIRMAN, COMMITTEE ON THE JUDICIARY

Before making any big decision, it is always critical to hear from the persons who will be impacted the most.

We have had a series of hearings in the last few weeks that has seen some of the most brilliant academic minds—from history and sociology departments, from law schools, and even from a few think tanks. We have all learned about immigration at a depth that is unprecedented for a Congressional process.

Last week, we met some of the students who would be impacted by what we do here in the House. I think we can all agree, that hearing was one of the most moving hearings we have had on the immigration issues. These students serve as our conscience, and it is with them in our minds that we will work toward a controlled, orderly, and fair immigration system.

Today, we will again hear from the consciences of our communities. Leaders from the religious community will discuss how, in their view, immigration is a moral

issue; how a compassionate immigration system flows directly from the teachings of the great religions.

And, representatives from immigrant communities will discuss how they will be impacted by what happens in Congress. We have representatives with us from Caribbean, South Asian, Latino, Asian, and Arab communities. These communities have brought immeasurable value to this Nation. In the Detroit area, the African-American community and the Arab-American community are stalwarts of the daily life of Southeastern Michigan, and I am glad to see leaders from both communities could join us for today's hearing.

At the end of the day, this process makes us look at some of our core values as a country: Do we want to build a Nation that treats immigrants compassionately? Do we want to be in a system that values their worth? Do we want to lose their talents? Can we afford to? As one of the academic witnesses said of the students we met, would we rather support them in America, or would we rather compete against a Costa Rica, Zaire, or Vietnam to which they had been removed?

Whether out of humaneness, or out of competitiveness, there are many reasons to engage in comprehensive immigration reform.

The time to act is now.

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PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS, AND MEMBER, SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER SECURITY, AND INTERNATIONAL LAW

Today we continue these series of hearings dealing with comprehensive immigration reform. This subcommittee previously dealt with the shortfalls of the 1986 and 1996 immigration reforms, the difficulties employers face with employment verification and ways to improve the employment verification system. On Tuesday May 1, 2007 we explored the point system that the United Kingdom, Canada, Australia, and New Zealand utilize, and on May 3, 2007 the focus of the discussion was on the U.S. economy, U.S. workers and immigration reform. Last week we took a look at another controversial aspect of the immigration debate, family based immigration. Today we continue the vital task of eliminating the myths and seeking the truth. Last Wednesday's hearing dealt with probably the most crucial aspect underlying the immigration debate, an immigrant's ability to integrate, and assimilate into American society. Last Thursday we tackled another pressing topic, the practical issue of the impact of immigration on States and Localities. Last Friday we discussed the issue of the "Future of Undocumented Immigrant Students."

One of the things that we the Members of Congress tend to forget is that we work for the American people. We do the American people's business here on Capital Hill. Any type of legislation that we pass here in the halls of Congress will affect the people we represent financially, and emotionally. Therefore, we need to listen to the American people when we consider comprehensive immigration reform.

I thank the Chairwoman, my colleague from California Zoe Lofgren for these series of insightful hearings starting on Ellis Island. Her approach which has been a thoughtful one, and an approach I encourage fellow Chairs of various Committees and Subcommittees to follow has been to bring in the players, and the stakeholders that would be affected by comprehensive immigration reform.

One theme that I have reiterated is the need to debunk the myths, and seek the truth. That is why we brought in the Vice President of the Swift Meat Packing Co. to discuss the flaws in the Basic Pilot Program and with employment verification in general. This is why we examined the impact of illegal immigration on the national economy, on wages, and on States and Localities. This is why we took a gut-wrenching look last Friday at the plight of undocumented immigrant students. This is why members of the tech industry, construction industry, service industry, and agricultural industry have all spoken out against a point system.

Perhaps some of our constituents are misguided by the lies and misperceptions that permeate this discussion about comprehensive immigration reform but we must be the leaders that our constituents elected us to be.

Today we will look at the perspectives of faith based organizations and immigrant organizations as they are at the front lines of this ordeal. The majority of faith based organizations in our country would agree that the Government should provide a path for hardworking undocumented individuals to earn permanent residency in this country. However, many faith based organizations would take issue with the elimination of a family based system, and a system that bars workers from a path towards legalization.

The following faith based organizations have stated the following. The U.S. Conference of Catholic Bishops says that “immigration legislation should permit the prompt reunification of families and open a path toward the legalization of undocumented workers currently in the United States.” The USCCB also states that they have “a responsibility to be concerned about uniting families and to support an immigration reform that respects the dignity of the workers.” I believe that Cardinal Mahoney put it best when he stated that we are willing to accept to their cheap labor but, “we look the other way when they are exploited in the workplace, die in the desert or are arrested for providing nanny and cleaning services at desirable addresses. When convenient politically, we scapegoat the immigrant without acknowledging our complicity. Our immigration laws perpetuate this reality.”

The Hispanic Evangelicals (Esperanza USA) has the following to say about Comprehensive Immigration Reform. First that it is the “Christian responsibility to care for those that live among us today.” Second, “we should provide comprehensive reform that provides a legal and dignified way to be part of our country,” and finally “it is unchristian to criminalize acts of mercy and compassion.”

I find it odd that these faith based organizations seem to take a different approach towards immigration than some of my colleagues on the other side of the aisle, who trumpet themselves as men and women of faith, who are in turn guided by principles of faith, who now have seem to abandoned those principles because it is not convenient. The hypocrisy appalls me.

My legislation, the Save America Immigration Act maintains a strong immigration policy based on family unification, an American value that is the bedrock of our nation. Save would establish a Board of Visa Appeals for family based visas. Save recognizes that culturally there are different definitions of family. My legislation would allow for children who are born out of wedlock to a United States citizen father to acquire citizenship. Save would also allow aunts, uncles, or grandparents to adopt orphaned or abandoned children of deceased relatives. Likewise by increasing the allocation of family based visas, and streamlining the application process Save is clearly committed to the common goal of uniting and strengthening the family core.

It should come as no surprise that Immigrant organizations share the same sentiments as the members of the faith based communities. They also see the benefits of unifying the family, and creating a path to legalization that will end worker exploitation, deportation, and persecution. I look forward to the testimony of today’s witnesses.

LETTER FROM RICHARD T. FOLTIN, LEGISLATIVE DIRECTOR AND COUNSEL, AMERICAN JEWISH COMMITTEE, TO THE HONORABLE ZOE LOFGREN, CHAIRWOMAN, AND THE HONORABLE STEVE KING, RANKING MEMBER, SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER SECURITY, AND INTERNATIONAL LAW



**American Jewish Committee**

Office of Government and International Affairs

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May 22, 2007

The Honorable Zoe Lofgren  
Chairwoman

The Honorable Steve King  
Ranking Member

Immigration, Citizenship, Refugees, Border  
Security, and International Law Subcommittee  
House Committee on the Judiciary  
United States House of Representatives  
Washington, DC 20515

Dear Madam Chairwoman and Congressman King,

The agenda for today's hearing on "Comprehensive Immigration Reform: Perspectives from Faith-Based and Immigrant Communities" identifies witness Stephen Steinlight of the Center for Immigration Studies as "Former National Affairs Director at the American Jewish Committee (AJC)."

This identification of Dr. Steinlight may be misleading. Dr. Steinlight has not been associated with AJC for several years and his statements on immigration policy are diametrically opposed to the positions of this organization. We are perplexed that he identifies himself for the purposes of this hearing by his former affiliation with an organization whose positions differ so drastically from his own.

The American Jewish Committee firmly believes that a comprehensive approach to immigration reform—one that joins enforcement with a path to legalization and ultimately citizenship, for the undocumented—is the only effective way to fix our broken system. Anything less will fail to serve the compelling national security need to know who is entering—and who is already present in—this country.

According to AJC's survey of American Jewish opinion, sixty-six percent of those surveyed support a plan that would allow undocumented immigrants to remain in the United States and become citizens if they meet certain requirements. This perspective is in stark contrast to more restrictive approaches that undermine family, chip away at American values, and ultimately will not enhance our national security.

As an organization representing a faith-based community, AJC supports a comprehensive approach to immigration reform and urges Congress to move expeditiously to pass such legislation.

We respectfully request that this letter be made part of the record of today's hearing.

Respectfully,

Richard T. Foltin  
Legislative Director and Counsel

American Jewish Committee  
*A Century of Leadership*

LETTER FROM THE CHRISTIAN REFORMED CHURCH IN NORTH AMERICA, *ET AL.* TO  
PRESIDENT GEORGE W. BUSH AND MEMBERS OF THE UNITED STATES CONGRESS

May 21, 2007

Dear President Bush and Members of Congress:

We are writing to you as non-partisan Evangelical leaders and churches who are concerned about the issue of immigration in the United States. We urge you to support comprehensive immigration reform. The current state of immigration in this country is a complex situation, which requires a workable solution beyond increasing enforcement mechanisms.

We support comprehensive immigration reform, based on Biblical mandates, our Christian faith and values, and our commitment to civil and human rights. We value immigrants as human beings, made in the image of God. We are aware of the obstacles that immigrants face, especially undocumented individuals, because they are vital members of our churches, our communities, and our nation. Evangelical immigrants are a continually growing part of our churches.

God requires that we show love and compassion to aliens. In Deuteronomy 10:18–19, we learn that “[God] defends the cause of the fatherless and the widow, and loves the alien, giving him food and clothing. And you are to love those who are aliens, for you yourselves were aliens in Egypt.” Leviticus 19:33–34 teaches us, “when an alien lives with you in your land, do not mistreat him. The alien living with you must be treated as one of your native-born. Love him as yourself, for you were aliens in Egypt. I am the Lord your God.”

We are deeply concerned with the possibility of some anti-immigrant provisions being included in legislation that could pass in Congress this year. Instead, we encourage Congress and the Administration to enact comprehensive immigration reform that includes the following principles.

- Reforms in our family-based immigration system to significantly reduce waiting times for separated families who currently wait many years to be reunited;
- The creation of more responsive legal avenues for workers and their families who wish to migrate to the U.S. to enter our country and work in a safe, legal, and orderly manner that prevents their exploitation and assures them due process;
- The option for those individuals and families who are already living in the U.S. and working hard to apply for permanent legal status and citizenship if they choose to do so, by meeting specific application criteria; and
- Border protection policies that are consistent with humanitarian values and with the need to treat all individuals with respect, while allowing the authorities to carry out the critical task of enforcing our laws.

Thank you for your consideration of these important principles.

Sincerely,

National Evangelical Organizations:

**Christian Reformed Church in North America**, Grand Rapids, MI, Dr. Peter Borgdorff, Executive Director

**Church of the Nazarene**, Kansas City, MO, Board of General Superintendents

**Esperanza USA**, Philadelphia, PA, Rev. Luis Cortes, Jr., President

**Evangelicals for Social Action**, Philadelphia, PA, Ronald J. Sider, President

**Floresta USA Inc.**, San Diego, CA, Scott Sabin, Executive Director

**Hispanic Coalition for Comprehensive Immigration Reform**, Dallas, TX, Rev. Mark Gonzales, President & Policy Liaison for The National Hispanic Christian Leadership Conference

**Jubilee Campaign USA**, Fairfax, VA, Ann Buwalda, Esq., Director

**Latino Leadership Foundation**, Chicago, IL, Noel Castellanos, President

**National Hispanic Christian Leadership Conference**, Sacramento, CA, Rev. Samuel Rodriguez, Jr., President and CEO

**Sojourners**, Washington, DC, Jim Wallis, Executive Director

**World Evangelical Alliance**, Washington, DC, Rev. Geoff Tunnicliffe, International Director

**World Relief**, Baltimore, MD, Sammy Mah, President and CEO, Dr. Gordon MacDonald, Chairman of the Board of Directors

Local Churches and Other Evangelical Organizations:

**Bilingual Christian Church of Baltimore**, Dr. Angel L. Nunez, Baltimore, MD

**Grace Life Church**, Rev. Roger Kim, Baltimore, MD

**Iglesia Cristiana Alianza**, Rev. Armando Vera, McAllen, TX

**New Hope Community Church**, Rev. Jason Poling, Baltimore, MD

**The Brethren Church**, Rev. Kenneth Hunn, Ashland, OH

**The Latino Network of Virginia Baptists**, Dr. Daniel Carro, Chair Person, Richmond, VA

Individual Evangelical Leaders:

**Dr. Will Ackles**, Pastor, Calvin Presbyterian Church, Shoreline, WA

**Gerson Guillermo Amaya**, Pastor, Iglesia Evangelica Libre "Hazel," Chicago, IL

**Leith Anderson**, Former President, National Association of Evangelicals, Pastor, Wooddale Church, Eden Prairie, MN

- Rev. George Antonakos**, Associate Pastor, Central Presbyterian Church, Baltimore, MD
- Scott Arbeiter**, Senior Associate Pastor, Elmbrook Church, Brookfield, WI
- Richard Armstrong, Sr.**, Former Senior Vice President, Service Master, Fort Myers, FL
- Nancy Elizabeth Bedford**, Georgia Harkness Professor of Applied Theology, Garrett-Evangelical Theological Seminary, Evanston, IL
- Dana Benscoter**, Hispanic Ministries Coordinator, Northwest District Church of the Nazarene, Kennewick, WA
- Rev. Paul Borthwick**, Senior Consultant, Development Associates Int., Lexington, MA
- Don L. Bray**, Board Chair, Evangelical Fellowship of Mission Agencies, Indianapolis, IN
- Emily R. Brink**, Editor, Reformed Worship, Senior Research Fellow, Calvin Institute of Christian Worship, Grand Rapids, MI
- Crissy Brooks**, Executive Director, Mika Community Development Corporation, Costa Mesa, CA
- Rev. Steve Brown**, Pastor, Church of the Nazarene, San Bruno, CA
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*This letter remains open for endorsement on a rolling basis. To endorse, please contact Jenny Hwang at 443-451-1969 or [immigration@vr.org](mailto:immigration@vr.org). Please indicate your name, title, organization and location, and whether you wish to sign on as a national organization, local church or organization, or individual Evangelical leader.*

CONGRESSIONAL BLACK CAUCUS STATEMENT OF PRINCIPLES ON IMMIGRATION REFORM



## IMMIGRATION REFORM

The members of the Congressional Black Caucus (CBC) recognize the need for a comprehensive approach to immigration reform that includes increased security, protection against illegal immigration, immigration policies that have articulated objectives and fair administration of our immigration system. Consistent with this, the CBC adopts the following Statement of Principles.

### 1. BORDER SECURITY

The CBC believes that the federal government has the responsibility to protect, through border security and other means, against immigrants illegally entering the country and/or overstaying their authorized periods of admission. The CBC, therefore, supports funding for border security equipment, border patrol agents, enforcement and other resources as reasonably necessary to accomplish those objectives.

### 2. DIVERSITY AND EQUAL TREATMENT

The CBC supports immigration criteria that will increase the diversity of immigration from countries that have historically been underrepresented, such as countries in the Caribbean and Africa, or treated unequally, such as Haiti.

### 3. ECONOMIC OPPORTUNITY, FAIR WAGES AND JOB TRAINING FOR LEGAL WORKERS

The CBC believes that all citizens and legal workers in the United States should be assured education and job training, non-discriminatory employment opportunity and livable wage. The CBC, therefore, supports increased funding for education and job training utilizing fees generated from new immigration provisions and other resources and supports increased funding for enforcement of laws against employment discrimination, wage and hour violations, unfair labor practices and illegal hiring. The CBC also supports holding employers accountable for the legal status of their employees.

### 4. EARNED ACCESS TO CITIZENSHIP

The CBC supports earned access to lawful permanent resident status for persons currently in the United States that takes the following factors into account:

- Unification of immigrant families, which would include uniting immigrants with spouses, children or other close family members who are citizens or lawful permanent residents of the United States;
- Proven employment records through temporary and guest worker programs or other temporary residence programs; and
- Such reform of earned access to citizenship should also include a path to permanency for the undocumented already here.

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“THE FISCAL IMPACT OF IMMIGRATION REFORM: THE REAL STORY,” BY DANIEL GRISWOLD, DIRECTOR, CENTER FOR TRADE POLICY STUDIES, CATO INSTITUTE, MAY 21, 2007



CENTER FOR TRADE POLICY STUDIES

# Free Trade Bulletin

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## The Fiscal Impact of Immigration Reform: The Real Story

by Daniel Griswold, director, Center for Trade Policy Studies, Cato Institute

One frequently heard criticism of comprehensive immigration reform is that it will prove too costly to taxpayers. The mostly low-skilled workers who would be admitted and legalized under the leading reform plan now being considered by the U.S. Congress would typically pay fewer taxes than native-born Americans and presumably consume more means-tested welfare services. Critics of reform argue that legalizing several million undocumented workers and allowing hundreds of thousands of new workers to enter legally each year will ultimately cost American taxpayers billions of dollars.

One recent study from the Heritage Foundation, for example, claims that each “low-skilled household” (one headed by a high-school dropout) costs federal taxpayers \$22,000 a year. Spread out over 50 years of expected work, the lifetime cost of such a family balloons to \$1.1 million. If immigration reform increases the number of such households in the United States, it will allegedly cost U.S. taxpayers several billion dollars a year.<sup>1</sup>

It is certainly true that low-skilled workers do, on average, consume more in government services than they pay in taxes, especially at the state and local levels. But some of the estimates of that cost have been grossly exaggerated. Moreover, the value of an immigrant to American society should not be judged solely on his or her fiscal impact.

### The Real Fiscal Impact of Immigration

The wilder estimates of the fiscal impact of low-skilled immigrants are contradicted by more credible estimates. In May 2006 the Congressional Budget Office calculated that the 2006 Comprehensive Immigration Reform Act (S. 2611) then before the U.S. Senate would have a positive impact of \$12 billion on the federal budget during the decade after passage. The 2006 legislation, like current proposals, would have allowed low-skilled foreign-born workers to enter the United States through a temporary worker program, and it would have allowed several million undocumented workers in the United States to obtain legal status.

Specifically, the CBO estimated that federal spending would increase \$53.6 billion during the period 2007–16 if

the legislation became law, primarily because of increases in refundable tax credits and Medicaid spending.<sup>2</sup> The additional spending would be more than offset in the same period by an even greater increase in federal revenues of \$65.7 billion, mostly due to higher collections of income and Social Security taxes but also because of increased visa fees.<sup>3</sup>

One frequently cited figure on the cost of low-skilled immigrants comes from the authoritative 1997 National Research Council study, *The New Americans: Economic, Demographic, and Fiscal Effects of Immigration*. The study calculated the lifetime fiscal impact of immigrants with different educational levels. The study expressed the impact in terms of net present value (NPV), that is, the cumulative impact in future years expressed in today’s dollars. The study estimated the lifetime fiscal impact of a typical immigrant without a high school education to be a negative NPV of \$89,000.<sup>4</sup> That figure is often cited by skeptics of immigration reform.

What is less often considered is that the NRC study also measured the fiscal impact of the descendants of immigrants. That gives a much more accurate picture of the fiscal impact of low-skilled immigrants. It would be misleading, for example, to count the costs of educating the children of an immigrant without considering the future taxes paid by the educated children once they have grown and entered the workforce. The children of immigrants typically outperform their parents in terms of educational achievement and income. As a result, the NRC calculated that the descendants of a typical low-skilled immigrant have a positive \$76,000 fiscal impact, reducing the net present value of the fiscal impact of a low-skilled immigrant and descendants to \$13,000.<sup>5</sup>

Even that figure does not give the full picture. As the NRC study was being written, Congress passed the 1996 Personal Responsibility and Work Opportunity Reconciliation Act, otherwise known as the 1996 Welfare Reform Act. The act contains an entire title devoted to restricting immigrant access to means-tested welfare, limiting access of noncitizens to such public benefit programs as food stamps and Medicaid. When the NRC study accounted for the impact of the 1996 Welfare Reform Act, the fiscal

impact of a single low-skilled immigrant and descendants was further reduced to \$5,000 in terms of net present value.<sup>6</sup>

If we accept the NRC estimates, then allowing an additional 400,000 low-skilled immigrants to enter the United States each year would have a one-time NPV impact on federal taxpayers of \$2 billion. That cost, while not trivial, would need to be compared to the efficiency gains to the U.S. economy from a larger and more diverse supply of workers and a wider range of more affordable goods and services for native-born Americans. In a post-September 11 security environment, comprehensive immigration reform could also reduce federal spending now dedicated to apprehending illegal economic immigrants.

#### Assessing the Impact on Roads, Schools, Hospitals, and Crime

Increased immigration has also been blamed for crowded roads, hospitals, public schools, and prisons. In all four of those cases, the negative impact of immigration has been exaggerated.

As for congestion of roads, immigration has played a secondary role in population growth nationally and at a more local level. Nationally, net international migration accounts for 43 percent of America's annual population growth, with natural growth still accounting for a majority of the growth. On a local level, an analysis of U.S. Census data shows that, for a typical U.S. county, net international migration accounted for 28 percent of population growth between 2000 and 2006. Natural growth from births over deaths accounted for 38 percent of growth on a county level and migration from other counties 34 percent.<sup>7</sup> One-third of U.S. counties actually lost population between 2000 and 2006 as birthrates continue to fall and Americans migrate internally to the most economically dynamic metropolitan areas. If local roads seem more crowded, it is not typically immigration but natural growth and internal migration that are mostly responsible.

As for alleged overcrowding at public schools, low-skilled immigrants cannot be singled out for blame. Enrollment in the public school system has actually been declining relative to the size of America's overall population. The share of our population in K-12 public schools has fallen sharply in recent decades, from 22 percent of the U.S. population in 1970 to 16 percent today.<sup>8</sup> As with roads, overcrowding in certain school districts is more likely to be driven by new births and internal migration than by newly arrived immigrants.

As for crime and the inmate population, again, immigration is not the major driver. Indeed, the violent crime rate in the United States has actually been trending down in recent years as immigration has been increasing. After rising steadily from the 1960s through the early 1990s, the rate of violent crime in the United States dropped from 758 offenses per 100,000 population in 1991 to 469 offenses in 2005. As a recent study by the Immigration Policy Center concluded, "Even as the undocumented population has doubled since 1994, the violent crime rate in the United States has declined 34.2 percent and the property crime rate has fallen 26.4 percent."<sup>9</sup>

Immigrants are less likely to be jailed than are their native-born counterparts with similar education and ethnic background. The same IPC study found that "for every ethnic group without exception, incarceration rates among young men are lowest for immigrants, even those who are least educated."<sup>10</sup> Other studies reveal that immigrants are less prone to crime, not because they fear deportation, but because of more complex social factors.<sup>11</sup> All the available evidence contradicts the misplaced fear that allowing additional low-skilled immigrants to enter the United States will somehow increase crime and incarceration rates.

As for hospitals, especially emergency rooms, the presence of uninsured, low-skilled workers in a particular area does impose additional costs on hospitals in the form of uncompensated care. There is no evidence, however, that illegal immigration is the principal cause of such costs nationwide. Indeed, low-skilled immigrants tend to underuse health care because they are typically young and relatively healthy.

A recent report from the Rand Corporation found that immigrants to the United States use relatively few health services. The report estimates that all levels of government in the United States spend \$1.1 billion a year on health care for undocumented workers aged 18 to 64. That compares to a total of \$88 billion in government funds spent on health care for all adults in the same age group. In other words, while illegal immigrants account for about 5 percent of the workforce, they account for 1.2 percent of spending on public health care for all working-age Americans.<sup>12</sup>

#### Impact on State and Local Governments

Although the fiscal impact of low-skilled immigrants has been exaggerated by opponents of reform, it can impose real burdens at a local level, particularly where immigration inflows are especially heavy. The 1997 National Research Council study found that, although the fiscal impact of a typical immigrant and his or her descendants is strongly positive at the federal level, it is negative at the state and local level.<sup>13</sup>

State and local fiscal costs, while real, must be weighed against the equally real and positive effect of immigration on the overall economy. Low-skilled immigrants allow important sectors of the U.S. economy, such as retail, cleaning, food preparation, construction, and other services, to expand to meet the needs of their customers. They help the economy produce a wider array of more affordably priced goods and services, raising the real wages of most Americans. By filling gaps in the U.S. labor market, such immigrants create investment opportunities and employment for native-born Americans. Immigrants are also consumers, increasing demand for American-made goods and services.

Several state-level studies have found that the increased economic activity created by lower-skilled, mostly Hispanic immigrants far exceeds the costs to state and local governments. A 2006 study by the Kenan Institute of Private Enterprise at the University of North Carolina at Chapel Hill found that the rapidly growing population of Hispanics in the state, many of them undocumented immigrants, had indeed imposed a net cost on the state government of \$61 million,

but the study also found that those same residents had increased the state's economy by \$9 billion.<sup>14</sup>

A 2006 study by the Texas comptroller of public accounts reached a similar conclusion. Examining the specific fiscal impact of the state's 1.4 million undocumented immigrants, the study found that they imposed a net fiscal cost on Texas state and local governments of \$504 million in 2005. The fiscal cost, however, was dwarfed by the estimated positive impact on the state's economy of \$17.7 billion.<sup>15</sup>

### The Right Policy Response

The right policy response to the fiscal concerns about immigration is not to artificially suppress labor migration but to control and reallocate government spending. The 1996 Welfare Reform Act was a step in the right direction. It recognized that welfare spending was undermining the long-term interests of low-income households in the United States, whether native-born or immigrant, by discouraging productive activity. The law led to a dramatic decrease in the use of several major means-tested welfare programs by native-born and immigrant households alike. Further restrictions on access to welfare for temporary and newly legalized foreign-born workers would be appropriate.

Another appropriate policy response would be some form of revenue sharing from the federal to state and local governments. The federal government could compensate state and local governments that are bearing especially heavy up-front costs due to the increase in low-skilled immigration. The transfers could offset additional costs for emergency-room health care services and additional public school enrollment. Such a program would not create any new programs or additional government spending; it would simply reallocate government revenues in a way that more closely matched related spending.

Misplaced apprehensions about the fiscal impact of immigration do not negate the compelling arguments for comprehensive immigration reform,<sup>16</sup> nor do they justify calls for more spending on failed efforts to enforce our current dysfunctional immigration law. If the primary goal is to control the size of government spending, then Congress and the president should seek to wall off the welfare state, not our country.

1. Robert E. Reector, Christine Kim, and Shanca Watkins, "The Fiscal Cost of Low-Skill Households to the U.S. Taxpayer," Heritage Foundation Special Report no. 12, April 4, 2007.

2. Congressional Budget Office, "S. 2611: Comprehensive Immigration Reform Act of 2006," Congressional Budget Office Cost Estimate, May 16, 2006, p. 7, [www.cbo.gov/ftpdocs/72xx/doc7208/s2611.pdf](http://www.cbo.gov/ftpdocs/72xx/doc7208/s2611.pdf).

3. *Ibid.*, p. 27.

4. James P. Smith and Barry Edmonston, eds., *The New Americans: Economic, Demographic, and Fiscal Effects of Immigration* (Washington: National Academies Press, 1997), p. 334.

5. Although the NRC considered the fiscal impact of multiple generations, its study notes that "much of the impact of descendants is actually experienced during the lifetime of the immigrant." *Ibid.*

6. *Ibid.*, p. 339.

7. U.S. Census Bureau, "Cumulative Estimates of the Components of Population Change for Counties: April 1, 2000 to July 1, 2006," Population Division, 2007, <http://www.census.gov/popest/counties/CO-EST2006-04.html>, accessed May 10, 2007.

8. For U.S. population figures, see *Statistical Abstract of the United States: 2007* (Washington: U.S. Census Bureau), Tables 1 and 2; for public school K-12 enrollment, see U.S. Department of Education, National Center for Educational Statistics, "Digest of Educational Statistics: 2005," [www.nces.ed.gov/programs/digest/05/tables/d05\\_037.asp](http://www.nces.ed.gov/programs/digest/05/tables/d05_037.asp).

9. Rubén G. Rumbaut and Walter A. Ewing, "The Myth of Immigrant Criminality and the Paradox of Assimilation: Incarceration Rates among Native and Foreign-Born Men," Immigration Policy Center Special Report, Spring 2007, p. 1.

10. *Ibid.*

11. *Ibid.*, pp. 12-14.

12. Rand Corporation, "Rand Study Shows Relatively Little Public Money Spent Providing Health Care to Undocumented Immigrants," news release, November 14, 2006, [www.rand.org/news/press/06/11\\_14.html](http://www.rand.org/news/press/06/11_14.html).

13. National Research Council, p. 351.

14. John D. Kasarda and James H. Johnson Jr., "The Economic Impact of the Hispanic Population on the State of North Carolina," University of North Carolina at Chapel Hill, Kenan Institute of Private Enterprise, January 2006, p. ix, [www.kenan-flagler.unc.edu/assets/documents/2006\\_KenanInstitute\\_HispanicStudy.pdf](http://www.kenan-flagler.unc.edu/assets/documents/2006_KenanInstitute_HispanicStudy.pdf).

15. Carole Keeton Strayhorn, "Undocumented Immigrants in Texas: A Financial Analysis of the Impact to the State Budget and Economy," Office of the Comptroller, Texas, Special Report, December 2006, p. 20.

16. For a more detailed analysis of comprehensive immigration reform, see Daniel Griswold, "Comprehensive Immigration Reform: Finally Getting It Right," Cato Institute Free Trade Bulletin no. 29, May 16, 2007; Douglas S. Massey, "Backfire at the Border: Why Enforcement without Legalization Cannot Stop Illegal Immigration," Cato Institute Trade Policy Analysis no. 29, June 13, 2005; and Daniel Griswold, "Willing Workers: Fixing the Problem of Illegal Mexican Migration to the United States," Cato Institute Trade Policy Analysis no. 19, October 15, 2002.

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PREPARED STATEMENT OF THE CONVENERS OF THE *LATINO CONGRESO*

**Congressional Testimony for  
The Conveners of the Latino Congreso  
Tuesday, May 22, 2007**

**Sub-Committee on Immigration, Citizenship, Refugees, Border Security and  
International Law  
Hearing on Comprehensive Immigration Reform:  
Perspectives from Faith-Based and Immigrant Communities**

The *National Latino Congreso* convened a deliberative gathering of national, state and local Latino organizations and leaders from around the United States in September of 2006 in Los Angeles, California for the purpose of creating unity around the critical issues affecting the Hispanic community. We, the conveners of the Latino Congreso, collectively represent and serve tens of millions Latinos in every state of union.

At the *Latino Congreso*, delegates approved a unanimous resolution on immigration reform that was further developed at the National Immigrant Unity Summit on Immigration Reform, held on February 2-3, 2007 in Phoenix, Arizona. The product, the Unity Blueprint for immigration reform, reflects the thinking of community-based groups, coalitions, labor organizations, and other concerned civic groups around the country.

The Unity Blueprint, endorsed by more than 1,000 Latino and immigrant community-based organizations and entities, concludes that the interests of the nation, and its children, workers, business, and immigrant communities can only be addressed through the adoption of rational, effective and humane immigration and enforcement reform proposals.

Our organizations representing the conclusions of the National Latino Congreso (endorsed by 700 organizations and elected officials from 20 states) and the Unity Blueprint thus believe that the nation's interests are best served by achieving the following immigration reform policy goals:

- Reducing to the maximum extent possible the size of the undocumented migrant population
- Preserving family unity
- Reducing the backlog in family-based immigration
- Ensuring that legal permanent residents have the same due process and civil liberty protections as citizens
- Defending the rights of innocent children
- Fully protecting and enhancing the rights of U.S. and immigrant workers
- Realistically addressing future flows of immigrants so that the undocumented population does not again mushroom in the future
- Humanely enforcing current immigration laws and rational operation of the borders

The conveners of the *Latino Congreso* recognize that the United States has undergone a series of demographic changes due to shifts in mortality, fertility, and immigration. This combination of phenomena has created a need for a workable, just and fair immigration reform that takes into account the needs of U.S. citizens, its domestic workforce and the national economy.

The conveners are also cognizant that migration without full rights for migrants results in insufferable exploitation and human trafficking, conditions to be avoided at all costs.

The conveners of the *Latino Congreso* believe that the fundamental philosophy upon which all domestic and foreign policy decisions are made should be founded on the principles of human dignity and equality, along with the promotion of human rights, and of social and economic justice. To engage in immigration reform that promotes the status quo will only create an impractical and ineffective immigration system.

Anything less than a just and pragmatic process will invariably create additional strains on an already broken immigration system and likely cause permanent damage to the economic, social and political fabric of the nation.

#### **Protection of Immigrant and U.S. Citizen Children**

Recent home and work force raids have highlighted the extreme hardship families endure when a loved one is detained. The impact on children is particularly harmful, detrimentally impacting their well-being, sense of safety and security. The *Latino Congreso* supports:

- a) Restore the traditional recognition of family impact as a defense to deportation.
- b) The enactment of the DREAM Act.
- c) The enactment of the Child Citizen Protection Act
- d) Amending the INA to require that apprehended immigrant children are informed about their right to legalize their status under current law

#### **Reinstatement of the Jurisdiction of the Federal Courts to Review Agency Decisions**

The judicial review process of immigration cases has been severely limited in the last decade eroding the system of checks and balances that protect the rights of migrants. The *Latino Congreso* supports:

- a) Repealing jurisdiction-stripping provisions enacted in the Anti-Terrorism and Effective Death Penalty Act of 1996 (AEDPA)
- b) Repealing jurisdiction-stripping provisions enacted in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) that prevents the federal courts from reviewing discretionary decisions in cases involving cancellation of removal, certain waivers of inadmissibility, voluntary departure, or adjustment of status as well as removal orders based on certain criminal offenses, and restricted the federal court's ability to hear class action challenges brought on behalf of groups of similarly situated immigrants.

- c) Repealing jurisdiction-stripping provisions enacted in the 2005 REAL ID Act that seek to eliminate habeas corpus review over orders of removal.

**Achieving Maximum Protection of the Labor Rights of U.S. and Immigrant Workers**

Immigrant families contribute to our society and culture and help meet the nation's labor needs. Yet, a revised employment-based immigration system should strive to use objective economic factors to determine labor market needs and produce immigrant visa numbers in proportion to labor shortages. By improving the labor certification process, workers can be placed in jobs in a timely manner and not harm U.S. workers as their availability will have been determined prior to the issuance of the visas. A rational visa issuance process would result in immigration waiting lines being relatively current and only affected by processing time. The allocation of visas on an untried and unknown point system threatens to strike at the cornerstone of the nation's legal immigration system: family reunification – and potentially harms U.S. workers. Indeed, we believe the point system to be a veiled racial preference proxy whose de facto consequence will be exclusion of non-whites. Additionally, without adequate protections that guarantee migrant's labor rights, a system of exploitation is more likely to be incurred. The *Latino Congreso* supports:

- a) Repealing current employer sanctions laws because they undermine labor rights, cause racial and national origin discrimination, and have been largely ineffective in reducing the employment of undocumented workers.
- b) Supporting workforce enforcement based on the requirement of employers to maintain legal standards in wages, working conditions, and the unionizing rights of workers.
- c) The issuance of permanent employment visas should be based upon reliable economic indicators that test for long term labor shortages with frequent review.
- d) Bringing anti-discrimination protection in the INA into line with those of other civil rights laws by amending section 274B of the INA.
- e) Ensuring that all workers have the right to organize and bargain collectively under the rules of the National Labor Relations Act without coercion and the threat or risk of job loss.
- f) Supporting the passage of the Employee Free Choice Act to restore workers' freedom to join unions.
- g) Ensuring that immigration enforcement complements the enforcement of labor and employment laws instead of undermining it by amending INA sections 237(a), 274A and 101(a)(15)(U)(i).
- h) Prohibiting states from considering immigration status in determining worker benefits.
- i) Increasing budgets for the Wage and Hour Division of the Department of Labor and the Occupational Safety and Health Administration.
- j) Extending free legal service assistance to all legal workers.
- k) Reviewing international trade agreements that contribute to undocumented immigration such as NAFTA and DR-CAFTA.

### **Achieving Maximum Reduction in the Size of the Undocumented Population**

The ultimate goal of Comprehensive Immigration Reform is to dramatically reduce the number of the undocumented population by creating an immigration system that is workable, just and pragmatic. The current system is badly broken – burdened by long lines and impractical visa caps – the system unwittingly creates unintended conditions for the growth of undocumented immigration instead of mitigating it. Furthermore, certain laws enacted in the past decade with the purpose of encouraging undocumented migrants to leave the country have instead enlarged the conditions that drive them further into the shadows. The *Latino Congreso* supports:

- a) Repealing the 3- and 10-year and permanent bars that prevent immigrants from legalizing their status.
- b) Restoring pragmatism to the system by reinstating the ability of immigrants to legalize their status in the United States despite overstaying their visas or entering without inspection.
- c) Restructuring the immigration quota system so that families can be reunited and ‘per country’ limits are increased according to need.
- d) Ensuring that future workers who come to the United States are granted full rights.
- e) Temporary worker programs should only be considered to fill short-term labor shortages and not be established as a permanent labor pool.
- f) If temporary worker programs are enacted then certain conditions should be met:
  - i. The DOL must remain the “gatekeeper” to ensure that employers behave fairly and to enforce meaningful sanctions should they violate the conditions of the applications or U.S. labor laws
  - ii. Recruiters and labor contractors should not be permitted to file petitions for workers or otherwise participate in the program
  - iii. Adequate whistleblower protections must be built into the system
  - iv. Workers should have maximum portability
  - v. Temporary workers should have full labor rights
  - vi. Temporary workers who maintain status should be permitted to adjust their status to become lawful permanent legal residents after three years of maintaining temporary resident status.
  - vii. Temporary worker programs should be kept modest in size (no more than 75,000 per year) to minimize their distorting effect on local labor markets, working conditions, and wages.
- g) Permit lawful permanent residents to engage in greater circulatory migration without forfeiting their lawful status and ability to return to the United States lawfully.
- h) Free legal services for visa applicants

### **Humane Enforcement of Current Immigration Laws and Rational Operation of the Borders**

The current state of border enforcement and the enforcement of immigration laws has been largely focused on the southern U.S. border with Mexico. After 9/11, the national interest turned to the issue of security and an emphasis on shutting down the borders. Largely ignored, were the challenges related to other ports of entry, including maritime ports where approximately only 5-10% of the containers that enter into the United States from all over the world. Instead, anti-immigrant groups used the very real threat presented by anti-American terrorist organizations to bash immigrants who simply sought to enter into the United States to work and feed their families. What is critical is to ensure that rational policies are adopted regarding legalization and future flows of workers so as to decrease the number of person dying along the U.S.-Mexico border; the numbers of innocent migrants who are beaten and exploited in trying to come into the United States; and the rise of vigilantism and associated violence. The Latino Congress supports:

- a) Requiring that migrants apprehended entering the country are informed of rights extended to them by Congress before they are deported.
- b) Limiting border enforcement to the U.S. Border Patrol and other federal entities that have received the appropriate training and sensitization of law enforcement's impact on detention and deportation.
- c) Ensuring that military entities are not included as part of necessary public safety activities along the U.S.-Mexico border region.
- d) Making enforcement of law to prevent vigilantism a priority and monitor vigilante activity making information available to the public.
- e) Decriminalization of humanitarian assistance to migrants injured while attempting to enter the country.
- f) Diverting funds allocated to walls on the border to fund improvements in domestic infrastructure.
- g) Repealing recently enacted laws that permit "expedited removal".
- h) Creating an independent commission to provide oversight, accountability, consultation, and monitoring of federal border policies and practices.
- i) Limiting the amount of time an immigrant is detained and the number of times they are moved from detention center to detention center.
- j) Granting the suspension of deportation and registry to immigrants of good moral character
- k) Enacting legislation prohibiting mass non-individualized detentions of migrants
- l) Repealing provisions of the REAL ID Act that bar undocumented migrants from receiving driver's licenses
- m) Enacting legislation that makes removal proceedings open to the public
- n) Enacting legislation to prohibit the retroactive application of immigration laws.
- o) Enacting legislation an independent commission including representatives of governments, labor and civic society to assess the impact of U.S. economic and foreign policies on migration.
- p) rather than increasing border militarization we support increased use of technology and intelligence to create smart/virtual border control.

- q) Prohibit immigration enforcement authority to state and local police (as such practices invite racial profiling, increase immigrants' fear of local police and divert law enforcement resources from addressing serious and violent crimes).

**Conclusions:**

In conclusion, we believe that anti immigrant forces have done much to poison and complicate the debate on immigration reform. While no one would deny that fixing our broken immigration system is overdue, effective solutions are hardly complicated if Congress and the White House sticks to long-held American values and practices:

- Inclusion: give the 10-12 million unauthorized persons currently living and working (and paying taxes) in the U.S. a prompt and unfettered path to permanent residency and citizenship. Past experience show that legalizing the undocumented unleashes their civic, consumer, productive, and entrepreneurial potential, benefiting us all.
- Economic Opportunity: Increase visa quotas to migrant- sending countries in order to channel tomorrow's undocumented into legal migration (with rights!). This meets the needs of America's growing economy while protecting the wage levels of citizen workers.
- Preserve the Family: Protect and promote families by continuing to give preferences to legal immigrants bring their families to the U.S legally.
- National Security: Use smart technology and intelligence to focus our resources on true threats to national security, as well as abusers of immigrants.

Finally, while out of the realm of traditional immigration policy, we must engage in a thorough revamping of our foreign, trade, and development policies. Such policies in place since at least the mid 1980's have failed to improve the social and economic standard of living in migrant sending countries. Unless we significantly reduce the current economic asymmetries between the U.S. and its neighbors in the South, the medium and long-term consequences will be no different than what we have seen over the past 20 years. That is, a systematic exodus of people going to the U.S. in search of jobs and opportunities denied to them in their home countries.

LETTER FROM ERIC M. GUTIÉRREZ, LEGISLATIVE STAFF ATTORNEY, MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND (MALDEF), TO THE HONORABLE ZOE LOFGREN, CHAIRWOMAN, SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER SECURITY, AND INTERNATIONAL LAW



**MALDEF**  
MEXICAN AMERICAN LEGAL DEFENSE  
AND EDUCATIONAL FUND

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May 21, 2007

The Honorable Zoe Lofgren  
Chairwoman  
United States House of Representatives Committee on the Judiciary, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law  
2138 Rayburn House Office Building  
Washington, DC 20515

Dear Chairwoman Lofgren:

On behalf of the Mexican American Legal Defense and Educational Fund (MALDEF), I am writing to thank you for presiding over hearings that seriously examine substantive issues regarding comprehensive immigration reform. The Latino community's perspective is vital to discussions of immigration reform, and we appreciate the opportunity to influence the debate regarding fixing our broken immigration system.

The 40 million Latinos living in the United States are suffering increased discrimination but are more politically energized and unified as a result of the immigration policy debate of 2006, according to the Pew Hispanic Center National Survey of Latinos. Latinos want a solution to the immigration problem, but not a solution that will harm our nation.

When the House takes up comprehensive immigration reform legislation in the 110<sup>th</sup> Congress, MALDEF asks you to address the following key Latino concerns:

- 1.) **Legalization Program:** A crucial component to comprehensive immigration reform is a legalization program that is viable, casts a wide net of eligibility, and encourages immigrants to participate. Triggers that put a lengthy hold on enactment of the program, unrealistic cut-off dates, high fees and fines, disruptive "touchback" provisions, and English requirements with little to no access to classes are not only deterrents to ensuring full participation, but serious impediments to the final passage of a comprehensive bill.
- 2.) **New Worker Program:** A new worker program must take into consideration the delicate balance between the economic needs of U.S. employers and the protection of low-skilled, immigrant workers that participate in the program. The Latino community is still reeling from the abuses of the Bracero Program and is reluctant to recreate a modern-day version of the work scheme. Labor protections, like job portability for immigrant workers and the ability of immigrants to avail

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themselves of labor laws against discrimination are crucial, but mean little if a worker can never be put on a pathway to permanent status. As our society continues to age, these essential workers will take an even more prominent role in our society and a guest worker program should acknowledge that reality.

- 3.) **Employment Verification System:** The Department of Homeland Security's (DHS) Basic Pilot Program, a model targeted for expansion by some immigration bills, is based on a database that is prone to error and may be used by unscrupulous employers to discriminate against "foreign-looking" immigrants, mostly Latinos. Any newly proposed employment verification systems must be phased in with objective benchmarks, apply only to new hires, and contain strong anti-discrimination, due process, privacy, and identity theft protections.
- 4.) **Reduction of Visa Backlog:** Family reunification has always been the cornerstone of U.S. immigration policy. The current family-sponsored visa program does not include lengthy waits, but ensnares families in a bureaucratic backlog that delays legal immigration. MALDEF advocates legislation that would address the visa backlog head on by increasing the annual caps for family-sponsored immigrants or excluding the increases from the worldwide caps.
- 5.) **Due Process Rights for Immigrants:** MALDEF advocates for a complete overhaul of the current immigration court system which is neither fair nor efficient. Fair and correct results are no longer assured under the current system. The immigration system's integrity and impartiality have been compromised as the Board of Immigration Appeals continues to issue single-member decisions without written opinions. Moreover, recent immigration reform bills have included provisions that would expand the use of mandatory detention and expedited removal for certain immigrants and would force immigrants that participate in legalization programs to waive all rights to appeal their eligibility decisions.
- 6.) **Border Enforcement:** MALDEF has always advocated for smart enforcement measures that take into consideration the effects of enforcement upon border communities and do not encourage state and local police to enforce federal immigration law. Allowing state and local police to engage in the enforcement of federal immigration law erodes trust of police, discourages the participation of immigrant witnesses to criminal activity, and leads to racial profiling in the Latino community. The continuous buildup of forces along the border has done little to curb unlawful immigration.
- 7.) **Cooperation with Sending Countries:** One effective way to curb unlawful immigration is to cooperate with sending countries by funding studies and supporting initiatives that focus on the root causes

of migration. MALDEF encourages the development and fostering of binational relationships to create bilateral solutions to immigration issues.

- 8.) **DREAM Act:** Every year, approximately 65,000 promising high school students graduate U.S. high schools without the possibility of pursuing higher education. The DREAM Act would provide a legal fix for those hard-working students who currently have no mechanism to obtain legal residency.
- 9.) **AgJOBS:** AgJOBS represents a major compromise between farmworker advocates and major agricultural employers to address the agricultural immigration crisis. It creates an “earned legalization” program enabling many undocumented farmworkers and H-2A guestworkers to obtain temporary immigration status with the possibility of becoming permanent residents of the United States through continued work in agriculture. AgJOBS also represents the coming together of historic adversaries to achieve meaningful reforms supportive of immigrants as well as our nation’s agricultural productivity and food security. MALDEF strongly supports the inclusion of AgJOBS in any comprehensive immigration reform legislation.

Fixing our broken immigration system is an enormously complex and urgent task. The Senate-negotiated proposal has generated a great deal of consternation in the Latino community, as it weighs a legalization program for 12 million undocumented immigrants against a radical departure in immigration policy that would eliminate the third and fourth preferences in the family-sponsored visa program, create a new worker program with no pathway to citizenship, and limit the due process rights of immigrants.

On behalf of the Latino community, we thank you for this opportunity to express our perspective on the immigration debate and those of the 40 million Latinos living and working in the United States. We look forward to working with you and your fellow members of the Committee on the Judiciary to produce legislation that will ensure that our immigration system is reformed in a way that balances the need for border security with a workable, meaningful immigration reform.

If you have any questions regarding our concerns, please feel free to contact me at [egutierrez@maldef.org](mailto:egutierrez@maldef.org) or 202-293-2828. Thank you for considering MALDEF’s views on this matter.

Sincerely,

Eric M. Gutiérrez  
Legislative Staff Attorney

REVISED PREPARED STATEMENT OF KAREN K. NARASAKI, PRESIDENT AND EXECUTIVE  
DIRECTOR, ASIAN AMERICAN JUSTICE CENTER



ADVANCING EQUALITY

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CONGRESSIONAL TESTIMONY

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## **Asian American Perspective on Comprehensive Immigration Reform**

**Testimony before  
The Subcommittee on Immigration  
Committee on the Judiciary  
United States House of Representatives**

**Hearing on Perspectives of Immigrant Advocacy  
Organizations on Comprehensive Immigration Reform**

**May 22, 2007**

**Karen K. Narasaki  
President and Executive Director  
Asian American Justice Center**

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AFFILIATES: Asian Pacific American Legal Center in Los Angeles • Asian Law Caucus in San Francisco • Asian American Institute in Chicago

### *Oral Testimony*

Dear Madam Chairwoman and Members of the Subcommittee:

Thank you for the opportunity to testify on behalf of the Asian American Justice Center (AAJC). AAJC works to advance the human and civil rights of Asian Americans through advocacy, public policy, community education and litigation.

May is Asian American and Pacific Islander Heritage month. And 2007 is the 125th anniversary of the Chinese Exclusion Act, which prohibited the immigration of Chinese laborers to the United States. This led to a long string of legislation discriminating against immigrants from Asia until the passage of the 1965 Immigration Act. AAJC hopes 2007 will also be the year America enacts comprehensive immigration reform legislation that is workable, effective, fair, and humane.

According to the U.S. Census Bureau, there are 13.9 million Asian Americans living in the United States. Over 60 percent are immigrants, half of whom have become citizens. Some have come as refugees or asylum seekers, others through H1-B and other employment based programs, and some are undocumented, but the majority have come through the family visa system.

Immigrants coming to join Asian American families face some of the worst immigration backlogs in the world. A U.S. citizen petitioning for an unmarried adult son or daughter from China, for example, must wait approximately 6 years before that child can immigrate to the U.S. A U.S. citizen petitioning for a sibling from India, meanwhile, must wait approximately 11 years. And if the brother or sister is from the Philippines, the wait is approximately 22 years.

In the employment-based immigration system, highly educated and skilled immigrants from China, India, and the Philippines currently face waits of 4 to 6 years before they can become lawful permanent residents.

The backlog of family visas and the insufficient number of employment-based visas – both high and low-skilled – are two of the major reasons for undocumented immigration. The Department of Homeland Security's Office of Immigration Statistics estimates one in 10 Asian Americans have no access to legal immigration status.

For these reasons, AAJC has been a longtime advocate for comprehensive immigration reform. We seek reform that effectively addresses the "push and pull" factors for undocumented immigration. The system should include tough but fair enforcement measures, a workable system of earned legalization for the undocumented, and a realistic number and system of permanent visas that reflect both the needs of our economy and of our community.

To be effective, legislation must:

- Provide sufficient visas to facilitate timely and full reunification of families, including parents, adult children and siblings of citizens, as well as spouses and minor children of

legal permanent residents (or LPRs) to eliminate long periods of separation that result in undocumented immigration;

- Expedite the entire family immigration backlog before undocumented immigrants begin receiving legal permanent residency status so that the legalization process can begin in a timely fashion while ensuring that the undocumented are getting in line behind those who played by the rules;
- Provide legal status *and* a path to permanent residence for undocumented immigrants and their families in a workable system;
- Create legal ways for people who want to contribute to our economy to come work in the U.S., fully protected by our laws with a path to citizenship.
- Restore due process to the immigration system that allows for meaningful judicial review of individual cases as well as challenges to immigration policies.

The White House has argued that family categories should be cut in favor of a point system which gives very little weight to the value and reality of family ties.

Ignoring the reality of strong family ties will mean a failure to address one of the reasons for illegal immigration, which will continue because of the strength of those ties.

This is a false choice based on a belief that we need to severely restrict immigration levels. It ignores the fact that the retiring baby boomer generation and expanding economy means that we need to increase immigration, not cut it.

Indeed, some argue that the family-based immigration system causes “chain-migration.” While this sounds ominous, the reality is very much to the contrary.

The requirement of affidavits of support already works to limit broad sponsorship. This requirement also results in a powerful incentive for the sponsors to help ensure the family member they bring in will be contributing to the family’s overall economic well being.

Moreover, siblings as well as parents and their adult children provide an important safety net for each other.

Finally, separation of families impedes the actual process of integration. It forces many immigrant workers to send money overseas, rather than being able to invest all of it in local communities and to delay fully putting down roots into their new communities.

AAJC strongly believes Congress can and must find workable, fair, and humane solutions to our immigration problems. The STRIVE Act of 2007 provides a good framework for comprehensive reform and includes family immigration provisions that serve our national interests well.

## *Written Testimony*

### **Executive Summary**

#### Asian Immigration

Of the 13.9 Asian Americans in the United States, over 60 percent are foreign born, half of whom have become citizens. Some have come as refugees or asylum seekers, others through H1-B and other employment-based programs, and some are undocumented. The majority, however, have come through the family visa system. In 2005, for example, 56 percent of immigrants from Asia came to the U.S. through family immigration. Nonetheless, Asian countries suffer from some of the worst immigration backlogs in the world and an estimated 1.5 million family members of Asian American U.S. citizens are currently waiting in line. Studies have shown that the long backlogs in the family-based immigration system contribute to the rise in undocumented immigration, which includes 1.3 million Asian Americans without legal immigration status. For these reasons, the Asian American Justice Center (AAJC) has been a longtime advocate for comprehensive immigration reform. We seek a system that includes tough but fair enforcement measures, a workable system of earned legalization for the undocumented, and a realistic number and system of permanent visas that reflect both the needs of our economy, and of our community.

#### Family Reunification

AAJC supports immigration legislation that provides sufficient visas to facilitate timely and full reunification of families. We also support a fair and workable legalization program that includes a path to citizenship. We believe the entire family backlog must come in before immigrants seeking legalization get their permanent visas. Family reunification is a fundamental cornerstone of our nation's legal immigration system. Families are also the backbone of our country and their unity promotes the stability, health, and productivity of family members contributing to the economic and social welfare of the United States as a whole. In addition, the ability to reunite with family members is important to attracting and retaining the most talented and hardest working immigrants the world has to offer.

#### Point Systems

Any legislation seeking to reform legal immigration must have sufficient visas that more realistically match the intense pull of families and our economic needs. Moreover, the point system proposed in the Senate does not serve families or business. High-skilled immigrants who are admitted because of their education and work experience have no guarantee of finding a high-skilled job in their field. U.S. citizens with family members in countries that do not have strong educational systems, traditions of English-language education, and recognized certification systems will be unable to reunite with their adult children and siblings. Immigrant women will be disproportionately negatively affected by proposals to favor immigrants who have access to higher education, job experience and English-language education because of the widespread gender discrimination many women still face around the world. If a point system must be considered, AAJC recommends a pilot program to test its workability and evaluate its impact. However, a point

system cannot and need not come as a tradeoff for eliminating the family categories or the ability of legalizing immigrants and new workers to sponsor their family members.

#### Legalization Program

AAJC supports a workable legalization program with a path to citizenship. Undocumented immigrants, who pay a reasonable fine, work hard, pay taxes, learn English and civics, and pass background checks should be given legal status in a fair and workable system. These immigrants should have a path to citizenship and be reunited with their family members in a timely manner. There should not be barriers such as onerous risky touch back requirements, unreasonably high penalties and fees, or other conditions which make it less likely that undocumented immigrants will come forward.

#### New Workers and Employment Verification System

American businesses and communities also want a visa program that allows employers to invest in their new employees. In addition to full labor protections, these immigrants also need the opportunity to be reunited with their family members and an opportunity for legal permanent residency. AAJC does not support a new worker program that fails to give immigrant workers a path to citizenship. Employers should have to do more to ensure there are no workers already in the U.S. available for these jobs and there must be an increase in resources and the use of testing for wage and hour, safety, and anti-discrimination laws.

Any new employment verification system must have effective safeguards to protect workers from mistakes in the system.

#### Due Process and Civil Liberties

AAJC is also concerned that America's current detention and deportation system does not respect due process rights for immigrants. AAJC seeks to ensure that any reform of the immigration laws fully incorporates the American tradition of respecting and protecting the rights of individuals to due process, including fair proceedings, and holding the government accountable for its actions.

#### AAJC Policy Recommendations

In order to address the needs of American communities and businesses, Asian Americans support comprehensive immigration reform that will:

- Provide sufficient visas to facilitate timely and full reunification of families, including parents, adult children and siblings of citizens, as well as spouses and minor children of legal permanent residents (LPRs) to eliminate long periods of separation that result in undocumented immigration;
- Expedite the entire family immigration backlog before undocumented immigrants begin receiving legal permanent residency status so that the legalization process can begin in a timely fashion while ensuring that the undocumented are getting in line behind those who played by the rules;

- Provide legal status and a path to permanent residence for undocumented immigrants and their families in a workable system;
- Create legal ways for people who want to contribute to our economy to come work in the U.S., fully protected by our laws with a path to citizenship.
- Restore due process to the immigration system that allows for meaningful judicial review of individual cases as well as challenges to immigration policies.

### Introduction

The Asian American Justice Center (AAJC) works to advance the human and civil rights of Asian Americans through advocacy, public policy, public education, and litigation. AAJC is one of the nation's leading experts on issues of importance to the Asian American community including affirmative action, anti-Asian violence prevention/race relations, census, immigrant rights, immigration, language access, and voting rights. AAJC is affiliated with the Asian American Institute of Chicago, the Asian Pacific American Legal Center of Southern California in Los Angeles and the Asian Law Caucus in San Francisco.

Because over 60 percent of the Asian American community is foreign born, immigration and immigrant rights are a priority for AAJC.<sup>1</sup> The goal of AAJC's immigration and immigrant rights program is to pursue fair, humane and nondiscriminatory immigration policies. We educate the general public and the Asian American community through use of ethnic and mainstream media, conferences and briefings; inform policy makers as to the impact of various restrictive and discriminatory proposals; provide the community with information on a wide range of immigration issues; monitor implementation of immigration laws by the Department of Homeland Security and other agencies; advocate for tough enforcement of anti-discrimination laws; and develop and disseminate education materials about various aspects of immigration laws of most relevance to the Asian American community. Furthermore, AAJC seeks to ensure Asian American communities have a strong voice in the national debate over how to reform our broken immigration system.

Family reunification is a fundamental cornerstone of our nation's legal immigration system. The current push to pass a comprehensive immigration reform bill must not abandon this foundation, but rather improve the ability of American families to contribute to our American economy. The ability to reunite with family members is important to attracting and retaining the most talented and hardest working immigrants the world has to offer.

According to the 2005 American Community Survey by the U.S. Census Bureau, 61 percent (over 8.5 million) of all Asians living in the U.S. are immigrants.<sup>2</sup> Of the foreign-born Asian Americans, about 53 percent (over 4.5 million) immigrated to the U.S. within the last 15 years. The breakdown of native-born and foreign-born U.S. citizens and non-citizens in the Asian American community are as follows:

- 38.5 percent are native-born U.S. citizens.
- 34.2 percent are foreign-born but naturalized U.S. citizens.

<sup>1</sup> [http://factfinder.census.gov/home/saff/main.html?\\_lang=en](http://factfinder.census.gov/home/saff/main.html?_lang=en)

<sup>2</sup> *Id.*

- 27.3 percent are foreign-born and not U.S. citizens.

#### Majority of Asian Americans Immigrate as Family Members

Although many foreign-born Asian Americans arrive in the United States through the employment-based immigration system or as refugees and asylees, the majority of Asians immigrating to the U.S. do so through the family-based immigration system. In 2005, 56 percent of immigrants from Asia came to the U.S. through family immigration. However, Asian countries suffer from some of the worst immigration backlogs in the world.<sup>3</sup> In the family immigration system, a United States citizen parent petitioning for an unmarried adult son or daughter from China must wait approximately 6 years before he or she can immigrate to the United States. A United States citizen petitioning for a brother or sister from India, meanwhile, must wait approximately 11 years before he or she can immigrate to America. If the brother or sister is from the Philippines, the wait is approximately 23 years.

#### Asian Americans Need Comprehensive Immigration Reform

In the employment-based immigration system, highly educated and skilled immigrants from China, India, and the Philippines currently face possible waits of 4 to 6 years before they can become lawful permanent residents. Finally, unless you have a qualifying United States citizen or permanent resident family member who can petition for you, or have highly specialized skills and/or post-secondary education, it is virtually impossible to legally immigrate to the United States. As a result, the population of undocumented immigrants from Asia continues to rise.

The Department of Homeland Security's Office of Immigration Statistics estimates 1.3 million of the 10.5 million total undocumented immigrants in the United States in 2005 originated from Asia.<sup>4</sup> To put this number in context, there were 13.9 million Asian Americans living in the U.S. in 2005. This would mean that approximately one in 10 Asian Americans do not have access to legal immigration status.

For these reasons, AAJC has been a long time advocate for comprehensive immigration reform. We seek a system that includes tough but fair enforcement measures, a workable system of earned legalization for the undocumented, and a realistic number and system of permanent visas that reflect both the needs of our economy and of our community.

In order to address these needs, Asian Americans support comprehensive immigration reform that will:

- Provide sufficient visas to facilitate timely and full reunification of families, including parents, adult children and siblings of citizens, as well as spouses and minor children of LPRs to eliminate long periods of separation that result in undocumented immigration;
- Expedite the entire family immigration backlog before undocumented immigrants begin receiving legal permanent residency status so that the legalization process can begin in a

<sup>3</sup> [http://travel.state.gov/visa/ivy/bulletin/bulletin\\_1360.html](http://travel.state.gov/visa/ivy/bulletin/bulletin_1360.html)

<sup>4</sup> [http://www.dhs.gov/xlibrary/assets/statistics/publications/ILL\\_PE\\_2005.pdf](http://www.dhs.gov/xlibrary/assets/statistics/publications/ILL_PE_2005.pdf)

timely fashion while ensuring that the undocumented are getting in line behind those who played by the rules;

- Provide legal status and a path to permanent residence for undocumented immigrants and their families in a workable system;
- Create legal ways for people who want to contribute to our economy to come work in the U.S., fully protected by our laws with a path to citizenship.
- Restore due process to the immigration system that allows for meaningful judicial review of individual cases as well as challenges to immigration policies.

### **The History of Asian Immigration in the United States**

#### Asian Americans Have Experienced a Long History of Exclusion

Exactly 125 years after the United States separated countless families and halted innumerable dreams with racially biased immigration policy, lawmakers are again considering anti-family measures as the means to reform a broken immigration system. The Chinese Exclusion Act of 1882, which prohibited the immigration of Chinese laborers, epitomizes the early record on immigration from Asia.<sup>5</sup> In 1907, anti-Asian sentiment culminated in the Gentleman's Agreement limiting Japanese immigration.<sup>6</sup> Asian immigration was further restricted by the Immigration Act of 1917 which banned immigration from almost all countries in the Asia-Pacific region<sup>7</sup>, the Quota Law of 1921 which limited the annual immigration of a given nationality to three percent of the number of such persons residing in the United States as of 1910<sup>8</sup>; and the National Origins Act of 1924, which banned immigration of persons who were ineligible for citizenship.<sup>9</sup> A decade later, the Tydings-McDuffie Act of 1934 placed a quota of 50 Filipino immigrants per year.

It has been a generation since the Chinese Exclusion Act and its progeny were repealed in 1943.<sup>10</sup> Yet after the repeal, discriminatory quotas were nevertheless set using formulas giving special preference to immigration from Europe. Until 1965, for example, the German annual quota was almost 26,000 and the Irish almost 18,000 while the annual quota from China was 105, for Japan was 185, the Philippines was 100 and the Pacific Islands was 100.<sup>11</sup>

The intensity of the discrimination against immigrants from Asia is reflected in the fact that they were ineligible to become naturalized citizens for over 160 years. A 1790 law allowed only "free white persons" to become citizens. Even after the law was changed to include African Americans,

<sup>5</sup> Civil Rights Issues Facing Asian Americans in the 1990s. U.S. Commission on Civil Rights, p. 7 (1992).

<sup>6</sup> U.S. Dept. of State, Paper Relating to the Foreign Relations of the United States 1924 (1939), Vol.2, p. 339. See Higham, American Immigration Policy in Historical Perspective, 21 Law and Contemp. Probls. 213, 227 (1956).

<sup>7</sup> Act of Feb. 5, 1917, 39 Stat. 874.

<sup>8</sup> This quota limited non-European immigration. For example, Great Britain with two percent of the world's population had 43% of the quota. National Lawyers Guild, *Immigration Law and Defense*, p.2-4.

<sup>9</sup> At the time, only immigrants from Asia were ineligible for citizenship solely on the basis of race. See *Ozawa v. U.S.*, 260 U.S. 178 (1922).

<sup>10</sup> Ch. 344, 57 Stat. 600 (1943).

<sup>11</sup> *Id.*

similar legislation to include Asian Americans was rejected.<sup>12</sup> The Supreme Court upheld the laws making Asian immigrants ineligible for citizenship.<sup>13</sup> The last of these laws were not repealed until 1952.<sup>14</sup>

#### Previous Reforms Fell Short of Addressing the Needs of Asian Americans

Congress sought to eliminate most of the racial barriers imbedded in the immigration system with the passage of the Immigration and Naturalization Act of 1965. Unfortunately, the Act did not address the effect of earlier biases. In fact, the 20,000 per country limit, imposed without any connection to size of originating country or demand, resulted in extremely long waiting lists for Asian immigrants.<sup>15</sup>

The Immigration Act of 1990 also failed to address the tremendous backlogs that already existed for countries like Mexico, India, the Philippines, South Korea, and China. Instead, the problem was exacerbated with the reduction in number of visas available for adult sons and daughters of United States citizens. At the time the backlog consisted primarily of children of Filipino veterans who were allowed to naturalize under the Act because of their service to this country in fighting as a part of the United States Armed Forces in World War II. Despite this fact, the quota was cut in half and other family categories were reduced, causing the backlog to increase by close to 70 percent.<sup>16</sup>

As a result, although Asians have constituted over 30 percent of the country's immigration for the past two decades, the community still makes up only about four percent of the United States population. Most recent numbers indicate that well over 1.5 million Asian immigrants are still waiting in backlogs for entry visas to reunite with their families. Almost half of immigrants waiting to join their loved ones in the United States are from Asian countries. Thus any additional restrictions or reduction in the overall numbers, particularly in the family preference categories, will have an inordinate impact on Asian American families.

#### **Family Reunification as the Foundation of Our Immigration System**

In keeping with American notions of the importance of the family, immigration through a family member who is a United States citizen or permanent resident is the most common way of gaining U.S. residency. Qualifying relationships are grouped into two main categories – immediate relatives and other close family members. Currently, spouses, unmarried minor children, and parents of U.S. citizens are considered immediate relatives. Other close family members of citizens and permanent

<sup>12</sup> P. Chew, William and Mary Law Review, *Asian Americans: The "Reticent" Minority and Their Paradoxes*, p.13 (1995).

<sup>13</sup> See *Ozawa v. U.S.*, 260 U.S. 178 (1922); *U.S. v. Bhagat Singh Thind*, 261 U.S. 197 (1923); and *In re Ah Yup*, 1 F. Cas. 223 (Cir. Ct. D. Cal. 1878).

<sup>14</sup> H. Kim, Ed., *Asian American History, Asian Americans and American Immigration Law* by T. Knoll, pp.52-3 (1986).

<sup>15</sup> H. Kim, Ed., *Asian Americans and the Supreme Court, Asian Americans and Present U.S. Immigration Policies, A Legacy of Exclusion*, by W. Tamayo, p. 1112-1113 (1992).

<sup>16</sup> *Id.* At pp. 1120-1121; Sec. 405 of the Immigration Act of 1990, Nov. 19, 1990, Pub. L. No. 101-649, 104 Stat. 4978.

residents are also allowed to immigrate. These include unmarried adult children of citizens, spouses and unmarried children of permanent residents, married adult children of citizens, and siblings of citizens. Currently, the annual ceiling for family-based immigration is 480,000 individuals per year. This number is divided into immediate relatives of U.S. citizens as well as the four different family preferences listed above. There is also a cap on how many people are allowed into the United States from any one country. A combination of these visa ceilings as well as the per-country cap often contributes to long waits for the average immigrant family.

#### Family-Based Immigration Benefits American Communities and Businesses

Family reunification has rightly been the cornerstone of United States immigration policy. Families are the backbone of our country and their unity promotes the stability, health, and productivity of family members contributing to the economic and social welfare of the United States.

Employment-based immigrants are not the only ones who are vital to the economy. Family-based immigrants tend to come in the prime of their working lives. In addition, families pool their resources to start and run businesses, purchase homes and send children to college. Many immigrant businesses are indeed run by families.<sup>17</sup>

Family members help to take care of young children so that other family members can work. Brothers and sisters support each other's dreams, help each other find jobs and provide support and care for each other's families. We cannot attract and retain the best and the brightest if those coming to share their hard work and talents face long term or permanent separation from close family members. Long term separation of families generates stress and is distracting to those in our work force. 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.

America has always recognized that family members play an important role in helping immigrants build communities. Siblings as well as parents and their adult children often share the same home in immigrant families. Even when they don't, they help teach the newcomers what they need to understand about American values and about the job market. They provide an important safety net, not just for the immigrants but also for the U.S. citizen relatives. They take care of one another in times of economic, physical or emotional hardship, thus lessening the need for reliance on government services or private charities. In addition, having loved ones together in the U.S. increases the ability of immigrants to focus on putting down permanent roots in their new country.

Family immigration reflects the strong family values that are at the foundation of our nation while also contributing to America's social and economic well being.<sup>18</sup> AAJC supports immigration legislation that provides sufficient visas to facilitate timely and full reunification of families. We also support a fair and workable legalization program that includes a path to citizenship. We believe the entire family backlog must come in before immigrants seeking legalization get their permanent

<sup>17</sup> Harriet Orcutt Duleep and Mark C. Regets, *Immigrants and Immigration Policy: Individual Skill, Family Ties, and Group Identities*, JAI Press, 1996.

<sup>18</sup> *Family Values, Betrayed*, NY Times, Editorial, May 4, 2007.

visas. Family reunification is a fundamental cornerstone of our nation's legal immigration system. Families are the backbone of our country and their unity promotes the stability, health, and productivity of family members contributing to the economic and social welfare of the United States. In addition, the ability to reunite with family members is important to attracting and retaining the most talented and hardest working immigrants the world has to offer.

### **Proposed Reforms and Point Systems**

Although the House of Representatives passed the anti-immigrant H.R. 4437 in 2005 and the Senate passed a more comprehensive but deeply flawed S. 2611 the following year, neither bill became law. On March 22, 2007, Congressmen Luis Gutierrez (D-IL) and Jeff Flake (R-AZ) introduced the STRIVE (Security Through Regularized Immigration and a Vibrant Economy) Act. This comprehensive immigration reform bill contains workable solutions in provisions that would eliminate the backlog for family-based immigrants in approximately six years.

Unlike the STRIVE Act, the current Senate compromise bill supported by Senator Jon Kyl (R-AZ) and the Bush Administration includes plans that would severely impair the ability of U.S. citizens to bring their parents with an arbitrary and unrealistic cap on the number of available visas. The proposed bill would also eliminate all visas for siblings and adult children of U.S. citizens. In addition, this proposal arbitrarily cuts off the ability of immigrants already waiting in line and carries on a long tradition of attacks on family-based immigration that began soon after Asian and Latino immigrants became the major users of the kinship system in the 1980s.<sup>19</sup>

Although this Senate proposal allows new workers to contribute to the U.S. economy, these immigrants would only be able to work on a temporary basis and the new visa program does not include a path to legal permanent residency. Instead of this temporary new worker program, American businesses and communities want a visa program that allows employers to invest in their new employees. In addition to full labor protections and legal status, these immigrants also need the opportunity to be reunited with their family members and become a permanent part of the communities they come to help build.

While both bills contain an earned legalization program with a path to citizenship for undocumented immigrants, AAJC is concerned about the workability of the requirement for exit and re-entry. Immigrants, who pay a reasonable fine, work hard, pay taxes, learn English and civics, and pass background checks should be given legal status in a fair and workable system. These immigrants should have a path to citizenship and be reunited with their family members in a timely manner.

#### Point Systems do not Meet the Needs of American Businesses

The concept of a so-called "merit-based" point system for permanent residency has also emerged. Proponents of these proposals look to Canada's point system and argue that a similar model will serve America's economy more effectively than the existing family-based immigration system. The experience in Canada has shown that a point system results in a mismatch of skills to fit the needs of the economy.

<sup>19</sup> Bill Ong Hing, *Deporting Our Souls*. Cambridge University Press, 2006, p. 119.

In fact, Canadian businesses struggle with their point system, because they cannot keep jobs unfilled while visas are being processed. The system works best for individuals who are already working legally in Canada on a temporary visa. High-skilled immigrants who are admitted because of their education and work experience have no guarantee of finding a high-skilled job in their field. Low skilled workers do not qualify for visas under the system and foreign credentials are often not accepted. This forces many high-skilled and experienced immigrants to take low-skilled jobs in entirely new fields.

For some Asian immigrants, especially family members of H1-B visa-holders, the point system may be beneficial. However, those generally left out of the system will include people with poor English-language skills, people without college diplomas, people with no work experience in high-skilled jobs, and people with work experience in low-skilled or semi-skilled industries. U.S. citizens with family members in countries that do not have strong educational systems, traditions of English-language education, and recognized certification systems will be unable to reunite with their adult children and siblings.

#### Trading Family-Based Immigration for a Point System will have Disparate Impact on Women

Cutting back on family-based immigration options also has a disparate impact on immigrant women. Historically, lack of access to capital and gender discrimination, both in their home countries and in the United States, result in immigrant women disproportionately immigrating through family based immigration compared to men.<sup>20</sup> Immigration exacerbates women's vulnerability, heightening women's dependency on husbands, sponsors or employers, nuclear or extended families, and their own ethnic/racial communities.<sup>21</sup>

Reducing access to family immigration enhances the likelihood that women will face victimization by limiting avenues through which women can attain legal immigration status and bring in parents or siblings who can help provide support. In addition, a point system emphasizing education and job training or experience is gender biased given the reality of discrimination against women in many countries.

#### False Arguments and False Choices

Many arguments have been made for changing the current family-based immigration system. Some argue that the waiting periods for visas are too long and encourage undocumented immigration. While the backlogs are truly a problem, the real solution is to raise the number of available visas to meet the demand of law-abiding immigrants and their families waiting in the United States. Eliminating the family immigration categories will only create greater strain on families and leave

<sup>20</sup> Kelly Jeffreys, *Characteristics of Family-Sponsored Legal Permanent Residents: 2004*. Washington, DC: Office of Immigration Statistics, Department of Homeland Security, October 2005, "Table 1: Demographic Characteristics of All LPRs and Family-Sponsored Principal LPRs": Fiscal Year 2004.

<sup>21</sup> Edna Erez, "Immigration, Culture Conflict and Domestic Violence/Woman Battering," *Crime Prevention and Community Safety: An International Journal* 2:27-36, 2000 in Edna Erez and Carolyn Copps Hartley, "Battered Immigrant Women in the Legal System," *Western Criminology Review* 4(2), 2003, p. 156.

people with no legal means to come to this country. Moreover, a point, even one less biased against family, will not solve the problem absent a sufficient number of visas.

Others argue that the family-based immigration system causes “chain-migration.” Some anti-immigrant groups even claim that one single immigrant will ultimately bring 373 additional immigrants.<sup>22</sup> That study was replete with faulty assumptions and questionable math. The reality is to the contrary. Researchers have found that, on average, an immigrant will bring in 1.2 additional immigrants.<sup>23</sup>

One of the limitations on the ability of immigrants to bring in family, in addition to the strict quota assigned each category, is that our laws require the sponsor of a family member to sign an affidavit of support to guarantee they will take care of the family member being brought in. Sponsors must also prove they have enough income to cover that pledge. This provides a limit on sponsorship and a strong incentive for the sponsors to help ensure the family member they are bring in will integrate and be self sufficient.

Opponents of immigration often claim, mistakenly, that each immigrant can bring in extended family members, such as cousin, uncles, and aunts. Under our immigration system today, visas in very controlled numbers are available only for a spouse, minor children, parents, adult children, and brothers and sisters. There are no visas for aunts, uncles, and cousins.

Some argue that the family immigration system does not benefit the economy, thus should be changed. In reality, family-based immigrants benefit the U.S. economy by developing areas and businesses that would not otherwise be developed. Proposals which dismantle the family immigration system in the name of the U.S. economy do not address the actual needs of American businesses. Americans and foreign workers are demanding more high-skilled and low-skilled visas, but some policy makers choose to distort the issue and offer a point system that will leave high-skilled immigrants without jobs in the United States and low-skilled workers without opportunities to contribute to our economy.

Not only are family-based immigrants helpful to the economy, there is no need to cut family immigration in order to expand employment immigration. In the late 1990s, there was very high immigration to the U.S., including more than two million family-based immigrants. The economy easily absorbed all of the employment- *and* family-based immigrants – and a record number of undocumented immigrants. During the same period, unemployment in the U.S. was at a near-record low.

The U.S. economy will increasingly need new workers to maintain and grow our economy as the baby boomers begin to retire. Immigration – both family- and employment-based – will help to provide much needed labor. While we do need to reform the employment-based immigration system to better fill the needs of our changing demographics and economy, such reform need not – and should not – come at the expense of family immigration. Indeed, employment-based and

<sup>22</sup> <http://numbersusa.com/PDFs/ChainMigrationchart.pdf>

<sup>23</sup> <http://www.12.georgetown.edu/sfs/sim/Event%20Summaries&Speeches/Lowell.%20ProjectionsWorkshop.pdf>

family-based immigration are intertwined. Family-based immigration helps to support and supplement employment-based immigration.

One additional false argument being used against the current family-based immigration system is that the legalization of 10 to 15 million undocumented immigrants demands countermeasures to stave off a massive flood of relatives entering the United States. As discussed above, the current family-based immigration system already has effective safeguards against such mass migration. In addition, it is in America's interest to make sure that all new legal immigrants have the familial support necessary to assimilate into this nation.

#### America Needs a Fair and Humane Immigration System with Sufficient Visas

Studies have shown that the long backlogs in the family-based immigration system contribute to the rise in undocumented immigration.<sup>24</sup> Allowing the entire backlog to come through in a timely fashion would help solve this situation. Not addressing the backlogs or arbitrarily invalidating the applications of those who have played by the rules and waited in line would only exasperate the situation. In addition, eliminating family preference categories or reducing the numbers of available visas will force many immigrants to choose between family unity and following the law.

Finally, the days of America as the only land of opportunity are long gone. Immigrants have many choices when it comes to setting down roots and contributing to a new nation. Family values do not stop at the Rio Grande, as President George Bush repeatedly states, and they help guide individuals around the world in their decisions to immigrate to another country.<sup>25</sup> If America wants to recruit and retain the best and the brightest, America should hold onto this competitive advantage of being a country which values the whole family.

Any legislation seeking to reform legal immigration must have sufficient visas that more realistically match the intense pull of families and our economic needs. Moreover, the point system proposed in the Senate does not serve families or business. Immigrant women will be disproportionately negatively affected by proposals to favor immigrants who have access to higher education, job experience and English-language education because of the widespread gender discrimination many women still face around the world. If a point system must be considered, AAJC recommends a pilot program to test its workability and evaluate its impact. However, a point system cannot and need not come as a tradeoff for eliminating the family categories or the ability of legalizing immigrants and new workers to sponsor their family members.

#### **Legalization of Undocumented Immigrants**

It is in America's interest to bring all Americans into a regularized and legal immigration system. We must provide legal status and a path to permanent residence for undocumented immigrants and their families in a workable system. With one in 10 Asian Americans without legal immigration status, AAJC supports a workable legalization program with a path to citizenship. Undocumented

<sup>24</sup> *Placing Immigrants at Risk: The Impact of Our Laws and Policies on American Families*, Catholic Legal Immigration Network, 2000.

<sup>25</sup> <http://www.whitehouse.gov/news/releases/2007/03/20070313-9.html>

immigrants, who pay a reasonable fine, work hard, pay taxes, learn English and civics, and pass background checks should be given legal status in a fair and workable system.

There should not be barriers such as onerous risky touch back requirements, unreasonably high penalties and fees, or other conditions which make it less likely that undocumented immigrants will come forward. These immigrants should have a path to citizenship and be reunited with their family members in a timely manner.

Individuals should not be denied legalization or deported for conduct for which they have never been tried or convicted. DHS officials should have full discretion to waive bars to eligibility in cases where an individual's circumstances, such as their connection to the community, prior military service or other humanitarian factors, indicate that the person should be eligible for the legalization program. Also, individuals should not be permanently excluded from legalization or other programs based on minor offenses, because exclusion from the program would be a very harsh punishment for these past offenses.

#### **New Worker Program and Employment Verification System**

We must also create legal ways for people who want to contribute to our economy to come work in the U.S., fully protected by our laws, and with a path to citizenship. American businesses and communities also want a visa program that allows employers to invest in their new employees. AAJC does not support a new worker program that fails to give immigrant workers a path to citizenship or fails to give these workers the full protections in the work place that citizens have. In addition, employers should have to do more to ensure there are no workers already in the U.S. available for these jobs and there must be an increase in resources and the use of testing for wage and hour, safety, and anti-discrimination laws.

In addition to full labor protections, these immigrants also need the opportunity to bring their spouses and minor children with them.

Any new employment verification system must have effective safeguards to protect workers from mistakes in the system.

#### **Due Process and Civil Liberties for all Americans and Immigrants**

AAJC is concerned that America's current detention and deportation system does not respect due process for immigrants. Any reform of the immigration laws must fully incorporate the American tradition of respecting and protecting the rights of individuals to due process, including fair proceedings, and holding the government accountable for its actions.

The following are AAJC's policy recommendations in regards to due process and civil liberties:

- Protect due process in immigration proceedings and make sure judicial review is available.
- Stop automatic imprisonment without due process.
- Uphold the U.S. Supreme Court decision against indefinite detention of immigrants.

- Enhance judicial discretion so that judges can consider the circumstances in each individual case.
- Minor offenses should not result in deportation.
- Individuals should not be unfairly excluded from applying for legalization because of past conduct, which does not merit such harsh punishment.

Immigrants must be allowed to appeal to the federal courts if their rights are being violated or if an agency has made an error in adjudicating their immigration case. Judicial review should be available to everyone without obstacles regarding any agency decision and available at any time to ensure the program is implemented correctly. In addition, judicial review should be available in all individual deportation cases, so that arbitrary or capricious decisions by DHS or lower courts may be reviewed in the federal courts.

DHS officials should be able to consider individual circumstances in making detention decisions to ensure the decisions are humane and fair. For example, pregnant women who do not pose a flight risk should be released. The reform of our detention system should expand alternatives to detention rather than adding more beds to a broken detention system and to ensure that non-citizens are treated humanely. In addition, we must provide basic protections and safeguards for detained asylum seekers and other immigrants, encourage the use of secure alternatives to detention programs, and create new mechanisms for oversight and enforcement of standards governing the treatment of immigrant detainees.

American immigration law should not be changed to expand the powers of the executive branch currently kept in check by the U.S. Supreme Court. In Zadvydas v. Davis, 533 U.S. 678 (2001), and Clark v. Martinez, 543 U.S. 371 (2005), the Supreme Court held that the immigration service does not have the authority – outside of a judicial process – to impose indefinite detention, what is effectively a life sentence, simply because an individual’s country of origin will not accept the individual’s return. The Supreme Court said that the executive branch of the government cannot hand out life sentences to people who have already served their sentence. In essence, DHS wardens cannot issue prison sentences. The Court reaffirmed that in America the prison warden does not decide a person’s sentence.

For long-term residents facing deportation, our immigration system should provide discretion so these immigrants can stay in the U.S. by proving that the good factors in their case truly outweigh the negative factors. Such a provision could take into account (a) long-term residence, (b) U.S. citizen children, spouses or family members, (c) their work, (d) contributions to their community, (e) rehabilitation for the crime and (f) and the seriousness of the offense.

Rather than continuing to add penalties for conduct for which individuals already receive punishment under our criminal laws, Congress should address concerns about the existing detention and deportation system. Congress should revise the overly broad ‘aggravated felony’ definition so that it truly only applies to serious felonies rather than misdemeanors. Unless these laws are revised, long-term community members who are contributing to society will continue to be permanently banished from the U.S. without any individualized consideration of their case by a judge.

**Conclusion**

AAJC has been a longtime advocate for comprehensive immigration reform. We seek reform that effectively addresses the push and pull factors for undocumented immigration. The system should include tough but fair enforcement measures, a workable system of earned legalization for the undocumented, due process protections for all Americans, including non-citizens, and a realistic number and system of permanent visas that reflect both the needs of our economy and of our community.

Family-based immigration benefits the U.S. economy, U.S. citizens, and U.S. communities. We need to make the family immigration system even better to continue the American tradition of allowing family reunification to foster the entrepreneurial spirit, build stronger communities, and attract the best and brightest the world has to offer. The point system proposed in the Senate does not serve families or businesses.

AAJC supports immigration legislation that provides sufficient visas to facilitate timely and full reunification of families. We also support a fair and workable legalization program that allows immigrants legalizing their status to reunite with their families and includes a path to citizenship. We believe the entire family backlog must come in before immigrants seeking legalization get their permanent visas. In addition, we believe any new worker program must include a path to citizenship and allow their families to be reunited in a timely manner. The family members who are waiting in line now and those who will want to be reunited with family in the United States in the future must not be placed on the negotiating table.

