

**“WHY DON’T THEY JUST GET IN LINE?”
BARRIERS TO LEGAL IMMIGRATION**

HEARING
BEFORE THE
SUBCOMMITTEE ON IMMIGRATION AND
CITIZENSHIP
OF THE
COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES
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**“WHY DON’T THEY JUST GET IN LINE?”
BARRIERS TO LEGAL IMMIGRATION**

Wednesday, April 28, 2021

HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON IMMIGRATION AND CITIZENSHIP

COMMITTEE ON THE JUDICIARY
Washington, DC

The Subcommittee met, pursuant to call, at 2:12 p.m., via Webex, Hon. Zoe Lofgren [Chair of the Subcommittee] presiding.

Present: Representatives Lofgren, Nadler, Jayapal, Correa, Garcia, Escobar, Jackson Lee, Scanlon, McClintock, Buck, Biggs, Roy, and Spartz.

Staff Present: John Doty, Senior Advisor; Moh Sharma, Member Services and Outreach Advisor; Jordan Dashow, Professional Staff Member; Cierra Fontenot, Chief Clerk; John Williams, Parliamentarian; Betsy Lawrence, Chief Counsel; Joshua Breisblatt, Counsel; Anthony Valdez, Professional Staff Member; Ami Shah, Counsel.

Ms. LOFGREN. The Subcommittee on Immigration and Citizenship will now come to order, a quorum being present. Without objection, the Chair is authorized to declare a recess of the Subcommittee at any time. We welcome everyone to this afternoon’s hearing entitled, “Why Don’t They Just Get in Line? Barriers to Legal Immigration.”

I’d like to remind Members that we’ve established an email address and distribution list dedicated to circulating exhibits, motions, or other written materials that Members want to offer as part of our hearing today. If Members would like to submit materials, please send them to the email address that has previously been distributed to your office, and circulation of the materials to Members and staff will be made as quickly as possible.

I’d like to ask all Members to mute their microphones when you’re not speaking, to prevent feedback and other technical issues. You can unmute yourself anytime you seek recognition.

Finally, before we begin, I ask unanimous consent that our Judiciary Committee colleague, the gentlelady from North Carolina, Ms. Ross, be permitted to participate in today’s Subcommittee hearing. Following the Committee’s practice, Ms. Ross will be allowed to question the Witnesses if she is yielded time by one of the Members of the Subcommittee. I will now recognize myself for an opening statement.

I’d like to welcome our Witnesses and the Members of the Immigration and Citizenship Subcommittee to today’s hearing on barriers to legal immigration. Today, we’ll explore the question, why don’t they just get in line? For many, that question can be an-

swered in one of two ways: For some, there simply is no line; and for others, the line is so long that they will never get to the front.

The framework for our legal immigration system dates back to 1952 and 1965, and was last updated more than 30 years ago. In 1990, Congress established the worldwide numerical limits on immigrant visas that still exist today, as well as the so-called per-country cap which further limits the number of visas that can be issued to nationals of any single foreign State. This outdated framework is now failing our Nation.

Over the past three decades, the worldwide limits and per-country cap have led to wait times that were unimaginable in 1990. Today, an estimated 3.8 million individuals are waiting for a family-based immigrant visa, while approximately 1 million individuals wait for employment-based visas. Because of the per-country cap, the wait times are particularly long for individuals for countries with higher populations and higher demand for visas such as India, China, and Mexico.

For example, today it takes 23 years for an unmarried son or daughter of a U.S. citizen to receive a visa if they come from Mexico. As most family-based immigrants wait outside the United States for their visas to become available, families are forced to remain apart for decades.

While most employment-based immigrants wait for a visa in the United States, the hardships associated with the backlog are different but still significant. The per-country cap has had a huge impact on families from India and China who are stuck in the backlog the longest, even though a person's nationality has nothing to do with their merit as an employee.

For example, prospective employment-based immigrants can't switch jobs without a new employer agreeing to file a petition on their behalf. With limited mobility this can expose workers to substandard working conditions or prevent them from advancing up the professional ladder.

Further, the children of employment-based immigrants who turn 21 before they reach the front of the line, age out of dependent status and often green card eligibility. Despite growing up here, to remain, they must independently qualify for status on their own. If they're unable to do so, they must return to a country that is quite literally foreign to them.

On top of these very significant limitations, laws passed in 1996 that were intended to crack down on unlawful immigration by forcing those without status to return home have, instead, accomplished the opposite. IRCA established new bars to inadmissibility creating a difficult catch-22 situation for many who become eligible for a green card, but have accumulated unlawful presence.

Certain individuals, including some spouses of U.S. citizens, are ineligible to apply for a green card in the United States, and instead must depart and apply to U.S. Consulate abroad. It is the Act of departing itself that triggers the bar for unlawful presence, which can keep families apart for at least 3 or 10 years, and, in some cases, permanently.

Not surprisingly, rather than risk a lengthy separation, many families have, instead, chosen to remain together in the U.S. According to a new report from the Pew Research Center, as of 2017,

undocumented immigrants have lived in the United States an average of 15 years, up from just 7 years in 1959.

AILA also made changes to restrict the discretion of immigration judges and adjudicators, making our immigration laws even less flexible. Some bars to admissibility can't be waived at all, even if the individual was very young when the Act occurred or lacked the knowledge or intent to violate the law. Laws that completely close off relief regardless of the underlying circumstances don't protect our country and impose needless hardships on American families by keeping them apart or their loved ones forever in the shadows.

As lawmakers, it's incumbent upon us to fix those laws that don't well-serve the United States. I think that there are many aspects of these dated immigration laws that simply do not well-serve the United States of America, nor do they necessarily serve the purposes for which they were introduced.

I'll just give an example of the 3- and 10-year bar. I remember the discussion so well. I was a Member of this Committee at the time, as was our Chair, and my colleague, Sheila Jackson Lee. Elton Gallegly, then a Congressman from California, and Lamar Smith, then a Congressman from Texas, promoted the idea of the 3- and 10-year bar as an effective remedy to unpermitted entry to the United States. It was only directed at those who were not inspected. It did not apply to those who overstayed their visa.

We know, because from 1995 to today, there has been massive uninspected entry to the United States, that this effort to prevent that has simply failed. It serves no purpose today other than to frustrate the law itself which promotes American citizens being able to petition for their husbands and wives.

It's now my pleasure to recognize the Ranking Member of the Subcommittee, the gentleman from California, Mr. McClintock, for his opening statement. Mr. McClintock.

Mr. MCCLINTOCK. Well, thank you, Madam Chair.

If you'll recall, on March 4th, the Ranking Member of the Full Committee, Mr. Jordan, along with all six Republican Members of this Subcommittee, wrote to you requesting a hearing on the border crisis that's been caused by President Biden's decision to stop the MPP program, abandon the border wall, and to execute **[inaudible]** faithfully execute the laws of the United States.

We received no response. On March 12th, I reiterated that request to you in a subsequent letter. Again, no response. I wish to make that request to you once again. The situation is deteriorating rapidly, and the implications for every American community that will soon see its schools heavily impacted by non-English-speaking students, its hospital emergency rooms filled with illegal aliens demanding basic health services, and its safety compromised as gangs proliferate, and as criminal illegal aliens are released into our neighborhoods rather than to be deported.

Worse than ignoring this crisis, the majority seems to be working overtime to make it worse. In the last few weeks, the House has moved legislation to make it harder to keep terrorists out of the country, and harder to stop illegal drugs, weapons, and other contraband from breaching our ports of entry.

Now, we're holding this hearing aimed at flooding the labor market with low-wage labor just at the time when working Americans

are trying to regain the prosperity that they were enjoying under the Trump policies. Those policies secured our border, and for the first time in decades, the income gap between rich and poor began to narrow as blue-collar wages surged.

Unemployment reached its lowest rate in 50 years, the poverty rate plunged to its lowest rate in 60 years, and wages recorded their strongest growth in 40 years. The labor participation rate began to increase after decades of decline as American workers, who had given up hope of work, began seizing opportunities.

So, I hope the majority will listen very carefully to Mr. Law's testimony. He'll tell us how flooding the market with low-wage labor does enormous economic harm to working Americans. He destroys the myth that the programs like the H-1B and H-2B visas fill gaps in the American labor market. What they actually do is to allow employers to fill positions and wages substantially less than the domestic labor market would otherwise come in.

Wealthy corporate interests get richer by paying less than the Americans require to do these jobs. Immigrant labor gets paid more than they could get in their own countries, and all this at the expense of working Americans whose wages stagnated for decades as the immigrant share of the population tripled. As Mr. Law points out, it is the blue-collar American workers who lose and lose big.

I particularly want to note this passage from his testimony: There are no jobs Americans won't do. There are only wages and working conditions that they are not willing to accept for the work, nor should they. By refusing to offer higher wages or conditions to entice Americans to come to work for them, employers create a mirage of a labor shortage, and point to importing foreign workers as the only solution. Circling back to supply and demand, employers want to flood the market with labor supply to drive down wages. That's the game that they're playing.

A particular note is the optional practical training program that allows foreign students to work here for 3 years after graduation. Unlike their American classmates, they're exempt from payroll taxes, making them much cheaper than American graduates to hire. If your family's recent college graduate can't find work, there's a simple reason.

It's not that these policies put foreign workers at parity with American workers, they put American workers at a considerable disadvantage competing for jobs and market wages in their own country, and it's their own representatives that are doing this to you.

The crisis at the border is beginning to awaken Americans that their futures are very much at stake. Their simple ability to make it in their own country is now being jeopardized by the officials that they trust. I think it's why some of my colleagues would rather virtue signal to each other about their charity for strangers in a strange land than to fix our open border and lax immigration laws so that we can restore the American Dream for American families.

I yield back.

Ms. LOFGREN. The gentleman yields back.

The Chair of the Committee, Mr. Nadler, is now recognized for an opening statement.

Chair NADLER. Thank you, Madam Chair.

With today's hearing, we explore an aspect of the immigration system that is of great importance to millions of U.S. citizens and aspiring Americans: Barriers to legal immigration. It's important to remember that the immigration debate in this country does not start and stop at the southern border. We won't fix the system if we simply pump more money into border security, or an ineffective wall. To truly fix the system, we must update the legal immigration framework, and restore discretion to forge pathways to permanent residence and meet the needs of our country today.

Currently, more than 1 million individuals are stuck in the employment-based immigrant visa backlog, and nearly 4 million are waiting for a family-based visa. These backlogs exist, and have grown longer each year, because our legal immigration system has been frozen in time since 1990. The impact of these long wait times can be devastating, particularly for those from high-demand countries who wait the longest.

For example, today it takes nearly 25 years for certain family-based immigrants to receive a visa. That's a quarter of a century that many families must endure while separated from their loved ones. Many employee-based immigrants must wait well over a decade to reach the front of the immigrant visa line. Although most of these individuals live and work in the United States on temporary visas during that time, life-changing events can have serious consequences.

For example, if the principal immigrant dies before a visa becomes available, a risk that has become all too real during the COVID-19 pandemic, the family Members will lose their temporary status and be forced to leave the United States. Similarly, children who turn 21 before reaching the front of the green card line age out of eligibility for dependent status and must find a way to qualify for status on their own.

Our immigration laws are also particularly harsh for thousands of U.S. citizens whose spouses and children are virtually shut out of the system with no means of obtaining lawful status because of provisions that restrict or provide no discretionary waivers of inadmissibility or deportability and that provide arcane bars for unlawful presence.

Because of policies like these, far too many families have been needlessly and cruelly separated for years. For example, my constituent, Dr. Kevin Kells, has lived apart from his wife for over 15 years. In 1998, before they met, Dr. Kells' wife traveled to the United States to attend a high school graduation party. She did not speak English, but the driver of her car told the border officer that she was born in the United States. Her record now shows that she made a false claim to U.S. citizenship, and she is permanently barred from the United States.

For Dr. Kells and his wife, there is no line to obtain a green card or legal status, nor are there options for many others, given the limited discretion of immigration judges and officers to waive the consequences of past acts, even those that were based on honest mistakes made decades ago.

I look forward to hearing from our witnesses today on the impacts of the outdated immigration system and the reforms that are

needed to ensure the system works for, not against, American families and businesses. I thank the Chair, Ms. Lofgren, for her leadership on this issue and for holding this important hearing. I yield back the balance of my time.

Ms. LOFGREN. The gentleman yields back.

It's my understanding that the Ranking Member, Mr. Jordan, does not wish to make an opening statement. If that's incorrect, he should speak up now. If not, we will certainly welcome his submission of a statement for the record.

It's now my pleasure to introduce today's Witnesses. John Yang is the President and Executive Director of Asian Americans Advancing Justice. In 1997, Mr. Yang cofounded the Asian-Pacific American Legal Resource Center, a nonprofit organization dedicated to addressing the needs of Asian-Pacific Americans in the DC metropolitan area.

Previously, Mr. Yang was a partner with a law firm Wiley Rein, LLP, and worked in Shanghai, China for a U.S. Fortune 200 company. Mr. Yang received his J.D. from George Washington University Law School.

David Bier is a Research Fellow for immigration studies at the Cato Institute, a nonpartisan public policy research organization. Mr. Bier has nearly a decade of immigration policy research working with the Niskanen Center and the Competitive Enterprise Institute, in addition to the CATO Institute.

From 2013–2015, Mr. Bier served as a Senior Policy Adviser for Congressman Raul Labrador, then a Member of this Committee, and later Chair of this Subcommittee.

Pareen Mhatre is a student of biomedical engineering at the University of Iowa. Ms. Mhatre came to the United States when she was 4 months old as a dependent on her mother's student visa and has lived here ever since with her parents. Last month, Ms. Mhatre turned 21, and aged out of her H–4 status. Because of the immigrant visa backlog, she is now at risk of separation from both her family and the only country she has ever known.

Finally, Robert Law, who is the Director of Regulatory Affairs and Policy for the Center for Immigration Studies. From 2017–2021, Mr. Law served first as Senior Policy Adviser, and later as Chief of Office Policy and Strategy at U.S. Citizenship and Immigration Services. He has a bachelor's degree from the University of Virginia, and a J.D. from the Catholic University of America Columbus School of Law.

Now, we welcome all our distinguished Witnesses. We thank them for participating in today's hearing, and, as is customary, I would like to swear in all our Witnesses. Please, each of you, turn on your video and audio and make sure I can see your face, and your raised right hand, while I administer the oath.

Do you swear under penalty—or affirm, under penalty of perjury that the testimony, you are about to give is true and correct to the best of your knowledge, information, and belief, so help you God? Please say yes. Yes, I do.

It is noted that all our Witnesses have taken this oath. Please note that your testimony, your full written statement, will be made part of the record in its entirety, and we do accordingly ask you to summarize your testimony in about 5 minutes. To help you keep

track of that time, there is a timer on your screen, and we ask that you be attentive to it.

We will begin with you, Mr. Yang. Please help us with your testimony.

TESTIMONY OF JOHN C. YANG

Mr. YANG. Thank you very much. Thank you very much, Chair Lofgren, Ranking Member McClintock, Committee Chair Nadler, and all the Members of the Committee. I appreciate this opportunity to testify before all of you.

Asian Americans are acutely aware of the injustice of living in and contributing to the United States economy and society by always being treated as a so-called perpetual foreigner. This concept has been enshrined in our laws at different times with the Chinese Exclusion Act of 1882 and the incarceration of Americans of Japanese descent during World War II.

As such, we advocate for citizenship for all people who live and work permanently here in the United States. It should not be lost that two-thirds of the Asian-American population here in the United States are immigrants, that of our immigrants, about 75 percent of the Asian-American immigrants in recent years come through based on family-based visas, and that about 40 percent of the current immigrants to the United States come from Asia.

Now, these immigrants come through family-based system, others did come through humanitarian, employment-based or diversity visas and then they sponsor family Members. The family system creates a built-in safety net for new immigrants. Those who came before them helped new immigrants' relatives find housing and jobs, learn English, successfully navigate a foreign system to them, and eventually become United States citizens and participate in our democracy.

Together, families pull capital and labor to buy homes, start businesses, and create jobs. Immigrants accounted for 30 percent of all new entrepreneurs in 2014, despite only comprising only 13 percent of the United States population. Caretakers, who are predominantly women, do unpaid and undervalued work that enables their family Members to work outside the home. Our system is also in need of serious reform.

There are three basic answers to the question in the title of today's hearing, which is "Why don't they just get in line?" and some of this has been answered.

First, there is simply no line for some of our immigrants. Many undocumented people and nonimmigrant visa holders simply do not qualify for any existing immigrant pathways even though they were invited here by our government, or they are here out of status through no fault of their own. There are very few employment visas available for lesser-skilled workers in labor markets that desperately need workers, and even those with a college degree.

Second, many immigrants are in line, but those lines are far too long and snake around several blocks. There are around 4 million recorded family Members in line for green cards under the family-based system even though that system, as a practical matter, only has approximately 226,000 family-based visas allocated per year.

The employment-based system is no different. As several Members noted, there are approximately 1 million people waiting in that backlog, even though there are only about 140,000 employment-based visas allocated per year.

Years of bureaucratic processing delays, these low numerical limits, country caps, and Congress' inability to Act and update the system to keep up with population growth and labor market needs, has resulted in these extreme backlogs in the green card programs, and some families wait for decades to be reunited with their loved ones.

Look, and let's be clear, such long family separations are harmful to families. People make life choices, including foregoing marriages or education while they wait in these lines, if they have a line at all. They have children abroad who could've started their education here in the United States rather than transitioning at an older age.

These delays are contrary to U.S. interests and, where possible, we should encourage them to immigrate in their youth, so they can invest in English, education, and job skills to be successful.

Over half of the 1.1 million new green cards issued annually go to people that are already living in the United States, and the U.S. has not updated the family-based immigration system, nor increased the annual number allocation in over 30 years despite the fact that our U.S. population has increased and is aging.

It's not lost on us that the Census Bureau just yesterday announced that we had the lowest growth here in the United States since the 1930s at 7.4 percent. So, in order for our population to grow and survive and prosper, we do need more immigrants in the system.

Finally, undocumented immigrants face other barriers to adjusting their status. There are estimated 1.4 million undocumented immigrants with U.S. citizen or legal permanent resident spouses, and 3.4 million undocumented immigrants with a U.S. citizen or legal permanent resident child.

Finally, they face barriers to inadmissibility, as was noted, the most notable being the 3- and 10-year bars. The solution is easy, and that's why Advancing Justice, AAJC, advocates for the passage of Congresswoman Chu's Reuniting Families Act, Congresswoman Linda Sa'nchez's U.S. Citizenship Act, in whole or in part, to solve these problems. These provisions will create reasonable lines that we need to ensure a vital America in the future.

Thank you, and I look forward to your questions.

[The statement of Mr. Yang follows:]



**Testimony of John C. Yang
President and Executive Director
Asian Americans Advancing Justice | AAJC**

**Before the United States House of Representatives
Committee on the Judiciary
Subcommittee on Immigration and Citizenship**

**Hearing Titled
“Why Don’t They Just Get in Line?” Barriers to Legal Immigration
April 28, 2021**

Asian Americans Advancing Justice | AAJC appreciates this opportunity to testify in today’s hearing on “Why Don’t They Just Get in Line?” Barriers to Legal Immigration. Advancing Justice | AAJC works to advance the human and civil rights of Asian Americans through advocacy, public policy, public education, and litigation. Founded in 1991, Advancing Justice | AAJC is one of the nation’s leading experts on civil rights issues of importance to the Asian American community including immigration and immigrants’ rights, census, hate incidents, language access, discrimination, technology, and telecommunications, and voting rights. We are part of the national affiliation, Asian Americans Advancing Justice, comprised of five leading organizations advocating for the civil and human rights of Asian Americans and other underserved communities to promote a fair and equitable society for all. The affiliation’s members are: Advancing Justice | AAJC (Washington, DC), Advancing Justice - Asian Law Caucus (San Francisco), Advancing Justice - Los Angeles, Advancing Justice - Atlanta, and Advancing Justice - Chicago.

Asian Americans Advancing Justice co-convenes the Value Our Families Campaign. The Value Our Families Campaign exists to protect, preserve, and strengthen the family immigration system and promote an immigration system that is informed by love, empathy and justice. We are a network of local and national community-based and advocacy organizations who reject attacks and proposed harmful changes to our current family-based immigration system. We see to build public support for an immigration system that protects and promotes family unity and contributes to the American social and economic fabric. Formed in 2017 in response to attacks on the family-based immigration system, Value Our Families has long pushed for passage of Rep. Judy Chu’s Reuniting Families Act. As such, we celebrated the inclusion of that bill in President Biden’s U.S. Citizenship Act.

Immigration is an important issue to Asian Americans. Two-thirds of Asian Americans are immigrants. Family-based immigration is the primary pathway for immigrants from Asia. In 2016, 82.1% of visas issued for Asian countries were family-based.¹ Asian Americans sponsor more than one-third of all family-based visas each year.² As of 2017, there were around 1.7 million undocumented Asian people living in the U.S. including over 120,000 DACA-eligible Asian immigrants.³ There are close to 15,000 Nepali nationals living in the U.S. on Temporary Protected Status.

Asian Americans are acutely aware of the injustice of being allowed to live in, work in, and contribute to the U.S. but always being treated as a perpetual foreigner. This concept has been enshrined in our laws at different times with the Chinese Exclusion Act and Japanese American incarceration during World War II. As such, Advancing Justice | AAJC advocates for access to citizenship for all people who live and work permanently in the U.S. or semi-permanently in the case of many nonimmigrant visa holders. Advancing Justice | AAJC urges Congress to pass a path to citizenship for the 11 million undocumented immigrants, including DACA recipients and TPS holders. Many of the 11 million undocumented immigrants are essential workers, small business owners or their family members who care for children, the elderly and the disabled so their family members can work.

There are three main many reasons for the high number of undocumented immigrants living in the U.S. today. They are: (1) the insufficient number of green cards issued annually; (2) the existence of too many barriers to immigrants seeking to access to existing green card pathways; and (3) insufficient green card pathways for lesser-skilled workers. This testimony will address the first two issues.

Origins of Our of Current Immigration System

Our nation has a complicated immigration history. While it is important to celebrate our history as a nation of immigrants, we must also acknowledge our country's darker origins of colonization of Native Americans and slavery of African Americans. In keeping with the culture of white supremacy, Congress passed the Chinese Exclusion Act of 1882 followed by exclusions of people from other Asian countries culminating in 1924 when a racist national origin quota system passed excluding all Asians and greatly preferencing Northern and Western Europeans. While there was increased immigration in the 1940's and 1950's, the national quota system was not completely ended until the passage of the Immigration and Nationality Act ("INA") of 1965, which created the framework for the family-based immigration system that we have today. The INA of 1965 was both a civil rights law and an immigration law and in creating the family-based sponsorship system it opened up pathways for Asians and other peoples from around the world to immigrate to the U.S.

¹ This number excludes humanitarian visas. State Department Visa Statistics FY2016 Annual Report, Table III. <https://travel.state.gov/content/dam/visas/Statistics/AnnualReports/FY2016AnnualReport/FY16AnnualReport-TableIII.pdf>

² *Id.*

³ AAPIData.com <https://aapidata.com/undocumented/> (Last accessed April 26, 2020).

The INA has been amended many times over the years. Notable amendments include the Refugee Act of 1980, creating the Federal Refugee Resettlement Program, and the Immigration Reform and Control Act of 1986, which legalized people out of status and created penalties for employers who knowingly hire undocumented immigrants. The Immigration Act of 1990 expanded the number of family-based visas allotted per year and created the Diversity Visa Program, which allows for 55,000 permanent residency visas annually. The Diversity Visa Program has become an integral pathway to lawful permanent residency, as well as ensuring equitable migration from nations and regions with low migration rates to the United States.

In 1996, Congress passed the Illegal Immigration Reform and Immigration Responsibility Act (“IIRAIRA”), an enforcement enhancement law that increased criminal penalties for immigrants and stripped due process rights from them. Such provisions include creating a filing deadline on asylum applications, creating “expedited removal” and creating a system of mandatory detention for certain classes of immigrants. Most pertinent to this hearing, IIRAIRA created the three and 10 year bars to inadmissibility, described further below.

The U.S. Family-based Immigration System

Before addressing what is broken about our immigration system, it is important to state that Asian Americans Advancing Justice | AAJC is firmly committed to protecting family sponsorship as the central element of our immigration system and allowing people to sponsor their family members, including their adult children, parents and siblings. While it is clear that we need to expand our employment-based immigration system, that should not come at the expense of our family-based system.

The over 45 million immigrants (including 23 million naturalized citizens) living in the U.S. are the backbone and multi-ethnic fiber of our communities giving our country a competitive advantage while providing economic opportunities, freedom, safety and stability to many who need it most.⁴ The majority of immigrants came through our family-based immigration system. Others came as refugees, on employment-based visas or through the diversity visa program and then go on to sponsor their family members. Detractors have negatively ascribed this system as “chain” migration. In reality, estimates have ranged between 1 to 3 other immigrants in their lifetime.⁵ And this system creates a built-in safety net for those new immigrants. Immigrants integrate better and are more prosperous if they have the roots of strong communities. Those who came before them help new family members find housing and jobs, learn English, successfully navigate a foreign system and eventually become U.S. citizens and participate in our democracy.

⁴ Frequently Requested Statistics on Immigrants and Immigration in the United States. Migration Policy Institute. February 11, 2021. <https://www.migrationpolicy.org/article/frequently-requested-statistics-immigrants-and-immigration-united-states-2020>

⁵ *These Claims About ‘Chain Migration’ Are Not Accurate*, The New York Times (January 11, 2018) <https://www.nytimes.com/2018/01/11/us/politics/chain-migration-immigration-daca-factcheck.html>

Migration is fundamentally about people planting permanent roots in a new country and should take into account the human need to live with and care for one's family. Family members step in to provide support in times of personal and economic hardship. Caretakers, who are predominantly women, spouses, mothers, grandmothers and aunts, often do unpaid and undervalued work that enables their family members to work outside the home and contribute to our economy.

Immigrants who arrive on family visas have greater economic flexibility in contrast to work-based visas allowing them to start businesses, fill labor market needs and change jobs. A person's educational attainment is not the sole measure for the creativity, entrepreneurial spirit or grit to open a small business or create innovation. Together, families buy homes and start businesses that create jobs. Many immigrant business owners came through our family-based immigration system. Immigrants accounted for 30% of new entrepreneurs in 2014, despite comprising only 13% of the U.S. population.⁶

While the economy is important, we should be careful not to create an immigration system that treats people like commodities. It is vital that the U.S. continues to be a safe haven for those seeking refuge from violence, persecution and fleeing poverty. We are offended by the notion that there are good immigrants and bad immigrants and further that only English-speaking, highly paid immigrants have value. Of equal concern is that a "merit-based system" will prioritize the immigration of men over women due to gender discrimination in other countries where women do not have equal opportunities.

Problems with the Family-based Immigration System

Within family-based immigration there are two broad subcategories: (1) immediate relatives of U.S. citizens, and (2) family sponsorship according to preference categories. Visas are distributed based on the relationship the petitioner has to a family member residing in the United States.

An immediate relative is an unmarried minor child, spouse, or parent of a United States citizen (USC). Within the immigration system, a minor child is defined as being under the age of 21 and unmarried. In the case of a parent petitioning for a child, the child must be under the age of 21 and in the case of a child sponsoring a parent, the child must be 21 or older. Immediate relative visas are uncapped, but these visas are counted towards the maximum number of family-based immigrant visas issued per year. Immediate relatives are usually admitted within 6 months to one year from the date their applications are received. But unlike U.S. citizens, lawful permanent residents (LPRs) sponsoring spouses and children do not fall into the immediate relative category and fall into the capped family-based preference categories outlined below.

⁶ Immigrants as Economic Contributors: Immigrant Entrepreneurs. National Immigration Forum. July 11, 2018. <https://immigrationforum.org/article/immigrants-as-economic-contributors-immigrant-entrepreneurs/#~:text=Immigrants%20start%20businesses%20at%20a%20higher%20rate%20than%20the%20U.S.%20born&text=In%20other%20words%2C%20for%20every,U.S.%20were%20immigrants%20in%202014.>

All other family-based immigrants enter the United States through the “family preference system.” This structure divides immigrants into categories based on their relationship to a family member in the United States and processes their applications according to these preferences. Each category has its own cap. The categories are as follows:

- 1st Preference - Unmarried adult children of a U.S. Citizen (USC)
- 2nd A Preference - Spouse or minor children of a Legal Permanent Resident (LPR)
- 2nd B Preference - Unmarried adult children of an LPR
- 3rd Preference - Married adult children of a USC
- 4th Family Preference - Brothers and sisters of a USC

The worldwide cap on family-based immigrant visas is 480,000 and the numerical limit on family-based preference categories is 226,000 per year. Technically, the 226,000 number is a floor and any excess visas available after the immediate relative visas would be distributed across the preference categories and processed up to 480,000 at maximum. However, for many years the demand for immediate relative visas has met or exceeded 254,000 (480,000 – 226,000), therefore limiting the preference categories to 226,000 and creating pressure on the backlogs in those categories. Unlike the preference categories that are capped at 226,000, immediate relatives are uncapped and can total beyond 254,000 and bring the total visa count above 480,000.⁷

In addition to the categorical limits on family preference visas, there is a per country limit written into the INA. Any one country cannot receive more than seven percent of the total admissions in the capped categories which totals approximately 25,600 visas per year. This number includes immigrants in both the family and employment-based categories. There are some, but few, exceptions to these per country limits. Most nations do not come near the seven percent figure. However, Mexico, China, India, the Philippines and Vietnam regularly reach or exceed this country cap. These countries are given different priority dates for processing and, as a result, their backlogs are even longer.

The Department of State (DOS) allocates family preference visas by estimating how many immigrant visas will be available and publishes the results in a monthly visa bulletin. If the number of visas available in a category exceeds demand for them, the visa bulletin will indicate that the category is “current.” If the demand for visas exceeds what is available in a certain category, the visa bulletin will indicate a cutoff date and the issuance of visas in that month is restricted to applicants whose priority dates are earlier than the cutoff date. Petitioners whose priority dates are after the published date must wait until DOS advances the posted date to obtain a visa. (Note that priority dates operate within both the family-based and employment-based visa systems. However, these systems are wholly separate, parallel processes.)

⁷ The INA lays out the numbers of immigrant visas to be granted. However, it is important to note that green cards issued within the U.S. to people “adjusting their status” count towards the immigrant visa caps as well as those granted at U.S. consulates abroad.

There are around 3.8 million family-members in line to be sponsored through the family-based preference categories.⁸ Nationals from Mexico, the Philippines, India, Vietnam and China have the longest wait times. The table below shows the categories created by the Immigration Nationality Act (INA), the number of visas allocated to each of these categories and the length of time an applicant is required to wait. It is important to note that these wait times look backward. We can say for certain that a person from Mexico or the Philippines receiving their green card today through the Fourth Family-based Preference Category has waited over 22 years and 19 years prospectively. Looking forward, the wait times will be longer. If nothing is done to clear the family-based backlogs, some categories for some countries will have much longer prospective wait times. However, there are reasonable proposals outlined below to clear the family-based and employment-based backlogs. Once the backlogs are cleared, Congress should reevaluate the program more frequently than it has. Demand to immigrate to the U.S. from different regions of the world will not remain static, nor will the U.S.'s need for immigrants.

Such long family separations are bad for families. People wait abroad in limbo. They forgo marriage in order not to lose their place in line or investing in a home while waiting. They have children abroad who could have started their education in the U.S. rather than transitioning at an older age. These lags are also contrary to the U.S.'s interests. Where possible, we should encourage people to immigrate in their youth so they can invest in English and education or job skills to be successful.

| Visa Category | Citizenship Status of US Family Member | Relationship of Intending Immigrant to US Family Member | Annual Numerical Limit | Length of Wait Visas MOST COUNTRIES (as of Feb. 2021) | Longest Wait for Visas in this Category (as of Feb. 2021) |
|-------------------------|--|---|------------------------|---|---|
| Immediate Relative | U.S. Citizen | spouse, unmarried minor child, parent | unlimited | 6 months - 1 year to process | 6 months - 1 year to process |
| First Family Preference | U.S. Citizen | unmarried adult children | 23,400 | 6 years, 5 months | 23 years, 1 months (Mex) |

⁸The backlogs are likely longer as USCIS holds some applications before sending them to the National Visa Processing Center where they are officially counted. Annual Report of Immigrant Visa Applicants in the Family-sponsored and Employment-based preferences Registered at the National Visa Center as of November 1, 2020, https://travel.state.gov/content/dam/visas/Statistics/Immigrant-Statistics/WaitingList/WaitingListItem_2020_vF.pdf

| | | | | | |
|-----------------------------------|--------------------------------|--------------------------------|--------|--------------------|---|
| Second A Family Preference | U.S. Lawful Permanent Resident | spouse, minor child (under 21) | 87,900 | Current | Current |
| Second B Family Preference | U.S. Lawful Permanent Resident | unmarried adult children | 26,300 | 5 years, 7 months | 21 years, 8 months (Mex.) |
| Third Family Preference | U.S. Citizen | married adult children | 23,400 | 12 years, 7 months | 24 years, 5 mo. (Mex.) 18 years 11 mo. (Phil.) |
| Fourth Family Preference | U.S. Citizen | brothers and sisters | 65,000 | 14 years, 4 months | 22 years, 7 mos. (Mex.) 19 years (Phil) |

The employment-based immigration system has a similar statutory scheme with 140,000 green cards spread across five employment-based categories. They are more than 900,000 people waiting in the employment-based green card backlogs.⁹ They are primarily waiting in the Employment-based 2 and Employment-based 3 categories as the other categories are for more specialized occupations. One driver of these backlogs is that the U.S. has issued more nonimmigrant visas, H-1B visas and others, per year than it issues green cards in these categories. These non-immigrant visas are not temporary, rather they are feeders to permanent immigration and therefore, Congress must authorize at minimum, an adequate number of employment-based visas to ensure that workers and their families are not in perpetual limbo. This is the problem that caused the precarious and unconscionable situation that Preen Mhatre, who is testifying in today's hearing, find herself in. The H-1B holders are, with some exceptions, stuck in their job without full bargaining power or democratic rights in our society. Their spouses, predominantly women, wait years for work authorization that they could lose at any time. And their children, like Preen, grow up in the U.S. only to be told to leave when they turn 21 years-old.

Two problems with the system have contributed to the backlogs. In many years, but particularly in the 1990's, the Federal government has failed to process green cards up to the statutory caps. This was not due to demand but bureaucratic failures. The government has interpreted the INA to not allow the unused visas to roll over into the following fiscal year. Second, the State Department counts towards the visa caps spouses and children who accompany or follow to join

⁹ Green card recapture and reform would reduce immigration backlogs. FWD.US (April 13, 2021) <https://www.fwd.us/news/green-card-recapture/#~:text=The%20employment%2Dbased%20green%20card%20backlog%20currently%20numbers%20more%20than%20900%2C000.&text=Most%20employment%2Dbased%20green%20card,temporary%20H%2D1B%20work%20visa>

the primary visa applicant (known as derivative visas). The INA is also ambiguous on this point but practice has dictated counting them towards the caps.

Barriers to Family Sponsorship

Over half of the around 1.1 million new green cards issued annually go to people who are adjusting their status within the U.S.¹⁰ This includes people without status and in various temporary statuses. However, some residents of the U.S. have to leave the country to apply for immigrant visas abroad because adjustment of status is not available to them. Others may have a relative or employer who would sponsor them but inadmissibility bars prevent them from doing so. As mentioned above, the 1996 immigration laws made it harder for immigrants who have spent time in the U.S. out of status to obtain lawful permanent residence. The 3-year bar is triggered by immigrants who accrue unlawful presence in the U.S. for 180 days to 364 days. If the bar is triggered, applicants must remain outside of the U.S. for three years before being sponsored by a family member or employer. The 10-year bar is triggered when a person accrues 365 or more days of unlawful presence in the U.S. They must remain outside the U.S. for 10 years before being sponsored. There are waivers for some classes of sponsorship but they can be hard to obtain and are not available for everyone seeking a visa. The extreme hardship waiver only applies for applicants who can show an extreme hardship to a U.S. citizen or LPR spouse or parent. It notably does not include U.S. citizen or LPR children who face hardship from family separation due to deportations daily. Other U.S. relatives experience hardship from deportations as well, including grandparents and siblings. A 10-year family separation is an extremely harsh punishment for a system that has benefited from the labor and taxes and other intangible benefits of contributing community members. It is also not practicable for many heads of households caring for other family members.

The Migration Policy Institute estimates that 1.4 million undocumented immigrants have a U.S. citizen or LPR spouse and at least 1.7 million undocumented immigrant immigrants would likely have an employer sponsor but are barred by provisions added by the 1996 laws. MPI further estimates that there are 3.4 million undocumented immigrants who live with U.S. citizen or LPR children and have been in the country for at least five years.¹¹ U.S. citizen children may not sponsor their parents until they turn 21 years of age, but every day more children become eligible to sponsor their parents but face inadmissibility challenges to do so. If DREAMers are legalized and become citizens, this number would further expand (though there is some overlap with parents of DREAMers and parents of U.S. citizens). In addition to this population, an unknown but significant number of undocumented people are waiting in the family-based backlogs for

¹⁰ In FY2019, more than 55 percent (or 573,000) of the 1 million new LPRs were issued to people in country. That year was slightly lower than the recent average of 1.1 million green cards issued annually. "Frequently Requested Statistics on Immigrants and Immigration in the United States" Migration Policy Institute (Last Accessed April 26, 2020) <https://www.migrationpolicy.org/article/frequently-requested-statistics-immigrants-and-immigration-united-states-2020>

¹¹ "Back on the Table: U.S. Legalization and the Unauthorized Immigrant Groups that Could Factor in the Debate" Migration Policy Institute (Feb 2021) https://www.migrationpolicy.org/sites/default/files/publications/mpi-rethinking-legalization-2021_final.pdf

green cards to become available. Anecdotally, practitioners and community leaders have told us that these numbers are high in the communities with the longest backlogs. Once their processing times become current on the visa bulletin, they may still face the same barriers to inadmissibility. If they cannot overcome them with a waiver, then they will lose their place in line, the money spent on their application fees and remain out of status.

Proposals for Reform

The majority of Asian Americans have come to the U.S. through the family-based system. The expected inclusion of much, if not all, of Congresswoman Chu's bill in President Biden's bill presents a major victory for the Asian American advocates and activists who have worked for four years to defend the family-based system under the Trump administration and the Asian American voters who turned out in record numbers in the election.

Proposals for Reform

Advancing Justice | AAJC supports Representative Judy Chu's Reuniting Families Act of 2019 and Representative Linda Sanchez's U.S. Citizenship Act. We have outlined below the visa reforms in the U.S. Citizenship Act, which are smart solutions to the problems of the backlogs and the increased green cards in both the family-based and employment-based systems.

Clear the Family-based & Employment-based Backlogs:

- **Recapture Immigrant Visas Lost to Bureaucratic Delay**—Recaptures unused employment-based and family-sponsored visas from fiscal years 1992-2015. For future years, unused visa numbers will automatically "roll over" to the next fiscal year. [Between 1992-2009](#), there were over 240,000 unused family-based visas and 506,000 unused employment-based visas.
- **Reclassify Spouses, Permanent Partners & Minor Children of Green Card Holders as "Immediate Relatives"**— a category not subject to annual numerical limits.
- **End the Counting of Derivatives Towards the Caps**— Prevents derivative visa recipients (spouses, permanent partners, and children who are eligible to "accompany" or "follow to join" the primary applicant) from being counted towards the categorical or per-country caps.
- **Raise the Per-Country Limits**—Addresses the decades-long backlogs of people from certain countries by raising the per-country immigration limits from 7% to 20% for family-based categories and eliminates the cap for employment-based visas.
- **Create a Ten Year Maximum Wait Time**—Provides that once a beneficiary has been waiting in line for 10 years, they are no longer subject to the per-country or categorical visa caps.
- **Create Exemption from Family Visa Limit for Certain Sons and Daughters of Veterans from the Philippines**— Honors the contribution of Filipino World War II veterans by reducing their children's waiting times for family-based visas.

Provide Relief for Orphans, Widows & Equal Treatment to All Stepchildren:

- Protects widows, widowers, and orphans by allowing them to continue to wait in line for a visa after the death of a sponsoring relative.
- Affords the same protection to the children of fiancés of U.S. citizens, preventing them from aging out of the visa application process that other married immigrant visa holders have pursuant to the Child Status Protection Act.
- Provides equal treatment for stepchildren by allowing stepchildren under the age of 21 to be reclassified as “immediate relatives” upon their parent’s marriage or permanent partnership (current age limit is 18).

Provide Greater Enforcement Relief to Reunify & Keep Families Together:

- Repeals the three- and ten-year bars, as well as the permanent bar on admission for individuals unlawfully present in the United States from adjusting to legal status.
- Narrows the instances of inadmissibility or deportability for those who willfully misrepresent (versus falsely represent) himself or herself to be a citizen of the United States by accepting any alien under the age of 21 at the time of making the willful misrepresentation.
- Increases the government’s discretion and flexibility in waiving certain grounds of inadmissibility or deportability in the case of an immigrant who is the parent, spouse, permanent partner, son or daughter of a citizen or LPR, in instances that would not be contrary to the national welfare, safety, or security of the United States, or for humanitarian purposes, family unity, or public interest. Note that the waivers are more limited in the U.S. Citizenship Act. We prefer the waivers in the Reuniting Families Act of 2019.

Provide Relief for Spouses, Permanent Partners, and Children on H-4 Visas:

- Allows spouses, permanent partners, and children of H1-B visa holders to contribute to the economy with work authorization.
- Prevents the children of H1-B visa holders from aging out of the H-4 visa or adjustment of status application by freezing the age of the child on the date the employment-based petition is filed.

Eliminate Discrimination Facing LGBTQ Families Throughout Our Immigration Laws:

- Permits U.S. citizens and legal permanent residents in binational same-sex relationships to sponsor their permanent partner for immigration to the U.S. This bill would help individuals whose permanent partner is from a country that does not recognize same-sex marriage. It would also ensure that same-sex refugee partners are resettled together and that asylum grantees can have their nonmarried partners “follow to join” them in the U.S.
- Extends acquired automatic citizenship to children with at least one U.S. citizen parent [regardless of a biological relationship](#) to that parent. These provisions apply to children born through Assisted Reproductive Technology and children adopted within the first year of their life.

Ensure Retention of Priority Dates:

- The bill corrects a drafting error in the Child Status Protection Act to protect children from aging out of the visa application as a result of processing delays on the part of the U.S. Citizenship and Immigration Services or the Department of State.
- It provides that a beneficiary of any family or employment-based petition shall retain his or her earliest priority date regardless of the category of subsequent petitions.

Embrace the Diversity Visa Program

- The bill increases the number of green cards provided through the diversity visa program by increasing the cap from 55,000 to 80,000 visa and no longer counting spouses and children, accompanying or following to join, under the cap.

Creates a New V Nonimmigrant Visa

- The bill would create a new V nonimmigrant visa for family members who have an approved family-sponsorship petition to come and live with their family members in the U.S. pending the receipt of their green card.

Other Employment-based Visa Reforms

- Increases the number of immigrant visas for lesser-skilled jobs from 10,000 to 40,000.
- It exempts people with a doctoral degree in a field involving science, technology, engineering, or mathematics from an U.S. university accredited from the numerical caps on visas allowing them to immigrate more easily.
- Increases Immigrant Workers Protections by holding employers responsible for labor law violations regardless of the workers immigration status.

Conclusion

While our immigration system centered around family (while also promoting diversity) has worked well for the U.S., it is outdated and long overdue to be updated. Years of bureaucratic processing delays and Congress's inability to act and keep up with population growth and labor market needs has resulted in extreme backlogs in the green card programs and a large undocumented population prohibited from being sponsored by harsh bars and decades-long waits. Some families wait for decades to be reunited with their loved ones.

The U.S. has not updated the family-based immigration system nor increased the annual number allocation of immigrant visas in over 30 years (since 1990) despite that fact that the U.S. population has increased and is aging. There is both an economic need for new workers in our labor market and a moral imperative to allow families to be reunited and for the millions of people living no status or in temporary status to become permanent. As a civil rights organization, we take issue with excluding fellow community members who are subject to our laws from fully participating in our democracy.

Attachment: Stories of the Human Impact of our Broken Immigration System

The stories below are from 2021 interviews by the Value Our Families communications consultants with Tzunu Strategies.

Manuel* & Mary*: Separated by the 10 year bar

Manuel & Mary are pseudonyms. The names were changed to protect the persons identities.

Manuel was born in Honduras and came to the United States 15 years ago. By all accounts, he had achieved the American dream. He became a mechanic and opened his own business that allowed him to support himself and his family, and purchased a home. In 2013 he married Mary, a U.S. citizen, who immediately sought to sponsor him for a green card.

For years, Mary and Manuel tried to fix his status. They met with a lawyer, filed for sponsorship and the necessary waivers, paid taxes, and Manuel attended regularly scheduled check-ins with ICE agents. In June of 2018, Didier and Melisa received a letter from ICE stating that he needed to come in for a routine check-in. When they arrived at the office, ICE arrested Manuel without an explanation. Four months later he was deported to Honduras. Manuel's family was in shock and disbelief.

Manuel is subject to a 1996 law that imposes a 10-year bar so he can't reunite with his son for 10 years or until the immigration laws in this country change. Manuel has been fortunate enough to be able to move to Portugal where he can work as a mechanic. However, due to their son's special needs, the child must stay in the U.S. Mary has been traveling to spend time with her husband but she has to go back and forth thousands of miles to be with son and his father who are separated.

Mary said, "We need to change these laws in order to reunite and keep families like mine together. I am deeply saddened at how the government is separating families and targeting them."

MIRNA PEREZ

Member of CHIRLA & the Value Our Families campaign

I was 11 years old when I came to the U.S. from Mexico. I came to this country searching for educational opportunities for myself and my family but quickly realized that it would be a difficult journey. My mother was able to legalize under IRCA, but I was denied. I found myself in a web of bureaucracy with limited options.

Ten years after I arrived in the U.S., I began the residency process. As I was just over 21 years-old, my case was delayed in the long backlogs. I waited many years for my documentation, just like the thousands of other families stuck in the backlogs.

I dreamed of attending college and becoming an accountant. But I was not able to pursue my dreams because my undocumented status presented many challenges, including not qualifying for funding to pay for college. My first-hand experience with the immigration system motivated me to work hard to provide for my family so that my children could attend college someday.

In 2017, my daughter turned 21, which meant she could file for my permanent residency. Thirty years after I arrived in the U.S. and after being stuck in the backlog for 20 years, I finally felt like part of this country. I have experienced the injustice and outdated immigration system, a system that keeps families separated for decades, and I don't want that for others.

Although I did not qualify for DACA, I became a volunteer to help others obtain DACA, and it brought me joy to help others. I don't want other families to feel the same way that I did. If I can support by sharing my story and advocating, I am more than happy to do so. Now that I am a permanent resident, I want to use my resources to advocate for the rest of the immigrant community and support them in any way I can.

I have been an advocate for the immigrant communities and have been part of organizations that assist immigrants in filling out their paperwork and with financial support. I am now part of the Value Our Families campaign working to reform the family immigration system – with hopes that other families don't need to wait nearly 20 years to feel safe in the country where they grew up.

Shurupa

Bangladeshi family fears they will never see their family again due to the immigration visa backlog

Shurupa's parents migrated to the U.S. in search of opportunities for themselves and their family members. Sharupa's mother applied to sponsor her siblings over twelve years ago. In 2021, they are still waiting for a response. Sharupa's mother feels alone in this country and fears that she may never reunite with her loved ones because of the immigration backlogs.

Shurupa's mother is the only one of her siblings in the U.S and she has not seen her family in over a decade because travel to Bangladesh is too expensive. In the last ten years, Shurupa's mother lost a sister due to the violence and lack of safety laws in their home country. She worries because another sister cannot receive adequate healthcare and Shurupa's cousin is the victim of stalking and fears for her safety. These are some of the reasons why Shurupa's family migrated to this country. Shurupa stated, "Attaining these visas is urgent for my family, but the immigration laws continue to tell us to wait. This has caused my family to be separated for over a decade."

Shurupa's mother's dream is to reunite with a brother or sister in the U.S. someday, but every day that passes fades that hope. Her family has been preparing for decades to come to the U.S., following indications from immigration officials, but after 10 years, there is no clear sign of

when that will happen. Shurupa has done everything that she can to get an update on her family's status, but she always gets an automated message telling them to wait.

A Congressional representative reached out to Shurupa and her family and now they are hopeful they can get any information about the status of their case. Shurupa's mother fears that their case might not still be active, but they have no way of knowing. Just like Shurupa's family, many others have suffered from family separation for decades.

[HTTPS://ABC7.COM/IMMIGRATION-UNITED-STATES-PHILIPPINES-VALUE-OUR-FAMILIES-CAMPAIGN/10476821/](https://abc7.com/immigration-united-states-philippines-value-our-families-campaign/10476821/)

SOCIETY

SoCal Filipino American family separated more than 30 years underscores US immigration backlog

April 23, 2021

By [Anabel Munoz](#)

LOS ANGELES (KABC) -- The U.S. family-based immigration system can be complex. Wait times to immigrate can vary depending on several factors, including, where you were born.

Some of the countries that experience the longest wait times are China, the Philippines, India and Mexico.

Georgia Garcia Dolar has been waiting more than 30 years to immigrate from the Philippines.

"It just occurred to me, in doing the math, my aunt was younger than I am right now when this process started - by a lot," said Michael Milan, Garcia Dolar's nephew. "That's an entire lifetime."

She was petitioned by both her mother and sister in the 80s. In November 2020, her application was denied, citing proclamations signed by former President Donald Trump. Now, her case will have to be reconsidered. Her mother passed away in 2014 and her sister, Michael's mother, is now in her 80s. She worked as an ICU nurse in Southern California for about 30 years, taking care of others.

"I was emotionally depressed because I... really want to go to the states to be able to serve my sister, and to be with her because she's already 80 years old," said Garcia Dolar over a video Zoom call. "I wanted her to be with me until the last years of her life."

Milan joined the Value our Families campaign, which advocates for policies that would address the backlog that leaves families waiting up to 20 years or in some cases - like Garcia Dolar's - more.

"I guess that the most painful and the most challenging parts of this process: there are people on the other side of these forms that are being submitted, and multiply our family's story by several thousand - this is not uncommon," said Milan.

The Value our Families campaign is lobbying support the U.S. Citizenship Act of 2021, a bill President Joe Biden sent to Congress. Among other things, it would increase the 7% cap on visas to 20%.

"Under our current law...a certain country can have no more than 7% of all visa applications. And so, if that country hits that limit, then those people that are waiting in that line, would pause in that line, and people from different countries would get processed ahead of them," explained John C. Yang, executive director and president of Asian Americans Advancing Justice, an organization helping lead the campaign.

Part of the reason Garcia Dolar has waited so long is also because there's priority based on the sponsor's relationship to the applicant.

"If you are the spouse or a minor child of a current U.S. citizen, number one: you are not subject to these caps, and number two: it is basically immediate. In other words, you do go through the normal processing, the normal background checks of getting a visa application, but you are not subjected to the same limits that we're talking about," said Yang.

Lawful permanent residents, also known as green card holders, can petition spouses and children, but it takes longer. The very last preference is for siblings of U.S. citizens, the category Garcia Dolar is in.

"If they could help me, possibly, that I can go there before my sister will be gone because I want to be able to serve her, to take good care of her," she said.

"I think that our government can do a lot more and do right by these families, who have an interest in making America their new home," said Milan.

Ms. LOFGREN. Thank you, Mr. Yang.

Now, we would be happy to invite Mr. Bier for your testimony. Welcome.

TESTIMONY OF DAVID J. BIER

Mr. BIER. Chair Lofgren, Ranking Member McClintock, and distinguished Members of the Subcommittee, thank you for this opportunity. After having worked as Senior Policy Adviser for a Member and Vice Chair of this important Subcommittee, it is an honor to be invited back to explain the challenges that America's legal immigrants face.

The simple answer to the question that this hearing poses, why don't immigrants get in line, is that immigrants cannot legally get into line, that is, apply for legal permanent residence on their own. U.S. legal immigration is based almost exclusively on selection or sponsorship by the U.S. Government, U.S. families, employers, or other sponsors. Thus, the question could be restated: Why can't Americans let immigrants get into the line? The answer to this question is that the government effectively bans us from doing so.

Today, the only immigrants who can immigrate permanently from abroad without numerical limits are the spouses, minor children, and parents sponsored by adult U.S. citizens. All other permanent immigration from abroad is either capped or illegal, and the four capped categories aren't realistic options for nearly all would-be immigrants.

First, is the diversity visa lottery which selects 55,000 immigrants from a pool of generally over 20 million applicants, a 0.2 percent chance; second, is the refugee program, which currently select just 15,000 refugees from nearly 20 million refugees worldwide, even worse odds; third, other family sponsored categories for only the closest relatives of U.S. citizens and legal permanent residents, and here, the caps have created a backlog of nearly 4 million applicants, with many new applicants facing near 100-year wait times; and fourth, employer-sponsored immigration. Foreign employees also face a hard cap, also set by Congress in 1990, and half of that cap ends up being used by their spouses and minor children.

Indian immigrants bear nearly the full burden of the low overall employer-sponsored caps as a result of the per-country caps, which limit immigrants from any single birthplace to no more than 7 percent of the green cards issued. Indians are about half the applicants, which means they end up being about 90 percent of those in the backlog. At the current rate of issuances, it would take a new Indian applicant applying today with a master's degree or less, at least 84 years to receive a green card.

During this time, nearly 200,000 Indians already in line today would die waiting, even assuming that they could stay in line that long. Another 100,000 of their minor children already waiting with them right now will age out of eligibility for green cards based on their parents' application when they turn 21 and lose their chance at permanent residence altogether.

Even if you're not from India, it's effectively impossible to obtain employer sponsorship for permanent residence while you're not already in the country. This is because the government takes between 2-3 years to process a case abroad. That's far too long to fill

an open position, and the result is that almost all employer-sponsored immigrants must first obtain an H-1B temporary work visa, come here and work for their employers while the permanent residence process unfolds.

This is challenging for workers with college degrees because the cap on the H-1B visa is just 85,000, and employers petitioned for about 275,000 applicants last year. For workers without a college degree, it's effectively impossible. There's no year-round temporary work visa for them at all, so they are shut out. That is it. Four options to obtain permanent residence from abroad, and none are realistic for those crossing the border.

When immigration is illegal, no one can claim surprise at illegal immigration. The U.S. immigration system is far more constrained today than in its past. Before 1924, the U.S. allowed an annual rate of legal immigration as a share of its population, more than double any recent year. Many years during that time the rates were five times higher. That was when the U.S. system had a viable line that most immigrants were presumptively eligible for. Today, we have few eligible categories, arbitrary caps, and endless waits. We can do better.

Thank you, and I look forward to your questions.

[The statement of Mr. Bier follows:]



**Testimony of
David J. Bier
Immigration Research Fellow
The Cato Institute
Before
The House Judiciary Committee
Subcommittee on Immigration and Border Security
April 28, 2021
RE: "Why Don't They Just Get in Line?" Barriers to Legal Immigration**

Chair Lofgren, Ranking Member McClintock, and distinguished members of the subcommittee, thank you for the opportunity to testify.

My name is David Bier. I am the research fellow for immigration studies at the Cato Institute, a nonpartisan public policy research organization here in Washington, D.C. Having worked for a then-member and vice chair and later the chairman of this important subcommittee, it is an honor to be invited back to share my perspective on the challenges that America's legal immigration system faces. My perspective is informed, in part, by the multi-year effort we made to study and propose bipartisan reforms during that time. Unfortunately, the failure to act then has only further exposed the underlying flaws in our broken immigration system.

I will try to make my comments broadly applicable to any recent year, but it is impossible to ignore how the past year has seen the meager legal immigration system become more closed than at any point since the end of the Great Depression.¹

The Framework of U.S. Immigration Law

The simple answer to the question that this hearing poses—why don't immigrants get in line?—is that immigrants *cannot* legally get into “the line”—that is, apply for legal permanent residence on their own. To the extent that the U.S. government allows legal immigration, it is based almost exclusively on selection or sponsorship by the U.S. government or U.S. families, employers, or other sponsors. Thus, the question could be restated: why can't Americans let immigrants get into “the line”? The answer to this question is that the government effectively bans them from doing so.

It is important to start with the basic legal framework for U.S. immigration. Unlike most other areas of law familiar to Americans, all immigration is presumptively illegal unless immigrants prove that they fall within a few narrow exceptions based on U.S. sponsorship or selection, and most exceptions have hard numerical limits.² This legal state is most similar to the status of alcohol sales under Prohibition where sales were generally illegal with certain allowances for industrial, religious, or medicinal purposes.

Prior to the 1920s, the legal framework was reversed: nearly all immigration was presumptively legal unless the government found that an immigrant fell within a category specifically barred.³ Today, the only immigrants who can immigrate permanently from abroad without numerical limits are the spouses, minor children, and parents of adult U.S. citizens,⁴ and even they have more potential bars to obtaining legal permanent residence than ever.⁵

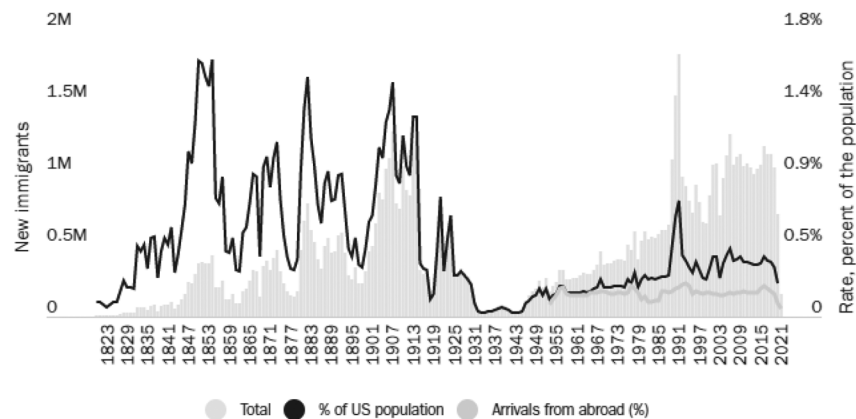
The result is that the United States has allowed a much lower rate of permanent legal immigration as a percentage of its population than in the years before the Immigration Act of 1924 (Figure 1).⁶ On average, from 1820—when the records begin—to 1924, the country allowed an average annual rate of immigration equal to about 2/3 of a percent of its population. This would be the equivalent of nearly 2.2 million people today, triple the

number of new legal permanent residents in 2020, and more than double any year in the last decade.

In several years before 1925, the rate hit 1.5 percent of the population, which today would be nearly 5 million immigrants. In 2019, the rate had fallen 80 percent from those peaks, and it has plummeted even lower since the pandemic. Moreover, more than half of new immigrants in recent years have adjusted to permanent residence *after* they had already entered the United States either illegally or with temporary statuses, meaning that the rate of new immigrants *from abroad* is lower still.⁷

Figure 1

Immigrants granted legal permanent residence, number and share of U.S. population
FY 1820-2021



[Download data](#)

Source: State Department, "Immigrant Visa Statistics"; State Department, "Annual Reports of the Visa Office"; Immigration and Naturalization Service, "Annual Reports".

Notes: "New arrivals" were used for arrivals from abroad from 1954-1995. Immigrant visas used thereafter. Visas were not required before 1924. 2021 shows the annualized numbers based on 6 months.

Controlling for the size of the country, the United States also allows comparatively few immigrants to come—legally or illegally. The United States ranks in the bottom third of wealthy countries for the share of its population that is foreign-born as well as in the bottom third for net per capita increase in foreign-born residents.⁸ This is despite the fact that no country has such a large share of its population in the country illegally. For refugee intake per capita, the United States is outside of the top 50 countries in the world,⁹ and for per-capita employment-based immigration, the United States lags behind nearly all the developed countries in the Organisation for Economic Co-operation and Development (OECD).¹⁰

Documented immigration

Today's highly restrictive system leads to violations of the law by immigrants whom it disqualifies, lengthy wait times for those who do qualify, and lost benefits to Americans who wish to associate with both.

Consider the only current options to immigrate to the United States *permanently* from abroad for someone without a parent, spouse, or adult child who is a U.S. citizen—the only uncapped immigration categories:

1. The diversity visa lottery: The diversity lottery program is the only immigration category under which people apply directly and, in theory, don't need a sponsor and don't need a college degree, though in practice the rules make it very difficult to qualify without a college degree or an employer lined up.¹¹ In recent years, the program averaged more than 20 million applicants, and an average of just 50,000 received a visa, which is just a 0.2 percent annual chance—a chance that has actually fallen by more than 80 percent since the lottery started in 1994.¹² As importantly, only people born in countries from which few immigrants have come in recent years can participate, meaning that immigrants from the top four origin countries for undocumented immigration—Mexico, Guatemala, Honduras, and El Salvador—are all currently excluded.¹³

2. The U.S. refugee program: Since it started in 1980, the U.S. refugee admissions program has allowed a narrow class of people with a well-founded fear of persecution based on certain protected grounds to immigrate.¹⁴ Over the last decade, refugees had about a 0.4 percent annual chance of being selected for the refugee program—a rate which has also declined by more than 80 percent since 1980—and there is also generally no way to apply directly.¹⁵ Refugees must generally obtain a referral from the United Nations, a U.S. agency, or designated nonprofits, and usually they must have already left their home country.¹⁶ So far in 2021, the program has resettled six refugees born in the top four origin countries for undocumented migration.¹⁷

3. Employer sponsorship: Employers may sponsor their employees, but their employees have a hard annual numerical limit of 130,000 green cards—half of which go to the spouses and minor children of the workers.¹⁸ This limit was last updated in 1990. Immigrants from a single birthplace can obtain no more than 7 percent of the green cards in a single year unless they would otherwise not be used.¹⁹ Since India-born immigrants make up about half of all the employer-sponsored immigrants, a massive backlog of about 800,000 applicants from India has developed.²⁰

Before the pandemic, this backlog was growing at a rate of more than 10,000 applicants per month. Indians who are *receiving* green cards right now typically waited 10 years, but assuming no change in the rate of issuances, it will take—for anyone applying tomorrow with a master's degree or less—at least 84 years for them to receive an employer-sponsored green card.²¹ Even if they could theoretically stay in line for that long, nearly 200,000 Indians in the backlog will certainly die before they could even theoretically

become permanent residents (Table 1).²² In addition, roughly 100,000 of the minor children of the workers currently in line will age out and lose eligibility for permanent residence under their parent's employer sponsorship when they turn 21—nearly 10,000 this year.²³

The only reason that some employers are willing to suffer through even the current 10 years for Indians is that nearly all the college-educated workers receiving permanent residence through the employer-sponsored system are already in the United States working for them on renewable work visas like the H-1B visa.²⁴ But for workers without a college degree—like nearly all workers crossing the border illegally—it is virtually impossible to obtain an employer sponsor for a green card because there is no work visa for year-round jobs that would allow them to enter and go through the permanent residence process in the United States. Employers generally have to rely on one of the meager 10,000 permanent immigrant visas allowed for workers without a college degree.²⁵

Table 1

Employment-based backlog, deaths in backlog, and years to process backlog. April 2020

| | | If everyone stays in line forever | | | | With deaths and abandonment*** | | | |
|---------------|------------|-----------------------------------|-----------------------|--------------------|------------------|--------------------------------|---------------------|-----------------------|------------------|
| | Birthplace | Backlog | Spillover Green Cards | Annual Green Cards | Years to Process | Deaths | Receive Green Cards | Share with Green Card | Years to Process |
| EB-1 | India | 74,016 | 26,383 | 9,008 | 5 | 211 | 68,218 | 92% | 8 |
| | China | 23,068 | 8,223 | 5,284 | 3 | 38 | 22,004 | 95% | 4 |
| | Other | 7,021 | 0 | 25,800 | 0 | 0 | 7,021 | 100% | 0 |
| EB-2/EB-3* | India | 741,209 | 69,212 | 7,956 | 84 | 186,038 | 369,002 | 50% | 46 |
| | China | 79,020 | 0 | 7,012 | 11 | 726 | 65,177 | 82% | 9 |
| | Phil (3) | 20,803 | 0 | 4,773 | 4 | 69 | 19,214 | 92% | 4 |
| | Other (3) | 83,212 | 0 | 16,825 | 5 | 249 | 72,147 | 87% | 4 |
| EB-4 | El Sal | 28,767 | 3,153 | 1,712 | 15 | 337 | 23,267 | 81% | 14 |
| | Guat | 25,854 | 2,834 | 1,297 | 18 | 384 | 20,032 | 77% | 15 |
| | Hond | 19,888 | 2,180 | 1,294 | 14 | 209 | 16,329 | 82% | 13 |
| | Mex | 3,863 | 423 | 834 | 4 | 12 | 3,652 | 95% | 4 |
| | Other | 0 | 0 | 4,951 | 0 | 0 | 0 | 100% | 0 |
| EB-5 | China | 67,235 | 8,591 | 4,327 | 14 | 546 | 54,413 | 81% | 13 |
| | India | 146 | 0 | 760 | 0 | 0 | 146 | 100% | 0 |
| | Viet | 1,267 | 0 | 716 | 2 | 1 | 1,230 | 97% | 2 |
| | Other | 0 | 0 | 3,675 | 0 | 0 | 0 | 100% | 0 |
| Total-Average | | 1,200,277 | 121,000 | 100,534 | 56 | 189,647 | 746,948 | 62% | 32 |

Sources: Author's calculations based on U.S. Citizenship and Immigration Services (USCIS), "Forms I-140, I-360, I-526 Approved Employment-Based Petitions Awaiting Visa Availability," April 2020; Department of Homeland Security (DHS), *Yearbook of Immigration Statistics* (Washington: DHS, 2019), Table 7; for green card data, see "Report of the Visa Office 2019," Bureau of Consular Affairs, Department of State, 2020, Table V; for deaths data, see Felicitie Bell and Michael Miller, *Life Tables for the United States Social Security Area 1900-2100* (Washington: Social Security Administration, August 2005); and for abandonment data, see USCIS, "Form I-140, Immigrant Petition for Alien Worker: Number of Petitions and Approval Status for All Countries by Fiscal Year Received and Approval Status, Fiscal Years 2009 to 2019," November 2019.

*Note: EB-2 and EB-3 are treated as one line because EB-2s can refile under EB-3 when its waits are shorter.

**Note: This is based on the number of green cards issued in 2019.

***Note: This includes effects of aging out, duplicate filings, and voluntary relinquishment in excess of deaths.

Note: EB-3 other workers not shown

Even if the worker is not from India and could theoretically immediately receive a visa under the caps, the bureaucratic process for obtaining one of these 10,000 immigrant visas makes them entirely unusable for employers. The Department of Labor, U.S. Citizenship and Immigration Services, and Department of State collectively take more than 2 years to process an employer-sponsored immigrant visa.²⁶ Employers cannot justify expending the time and money over the course of two years for workers who aren't already working for them. Each one of these agencies during the two years could deny the employer or worker, and all the costs would be for nothing. Even if approved, the worker might end up leaving as soon as they come, requiring the employer to duplicate the 2-year procedure.

Meanwhile, these exact same agencies take as little as 60 days to process seasonal farm workers under the H-2A guest worker program, despite effectively the same requirements in the law.²⁷ For this reason, these temporary worker programs have become virtually the only way for non-college educated workers to come to the United States legally, but when they are here, employers cannot sponsor them for permanent residence because the regulations require that the job be permanent, not temporary or seasonal.²⁸ This leaves effectively no option for immigrants without college degrees to be sponsored for permanent residence by their employers.

The only other employment-based option to immigrate permanently is for 10,000 investors and their families who can afford to invest between \$900,000 and \$1.9 million in a U.S. business that creates 10 new jobs.²⁹

4. Other family sponsorship: Aside from spouses, minor children, and parents of adult U.S. citizens who are exempt from the caps, U.S. citizens and legal permanent residents can theoretically sponsor certain other immediate family members (and their spouses and minor children). But except for spouses and minor children of legal permanent residents, the wait times have effectively closed certain categories to new applicants. For instance, the minimum wait for a U.S. citizen applying now for their brother or adult married child is 23-25 years, but as a result of the 7 percent per country caps, the wait for Mexicans will be nearly a century during which time nearly 400,000 applicants will likely die.³⁰ A non-Mexican adult child of a U.S. citizen has a bizarre incentive not to marry their spouse until after they receive a green card because the wait time for unmarried adult children is "just" 7 years, and once they receive a green card, they can sponsor their spouse in just over two more years, compared to 23 years if they married beforehand.

The exceptions to the presumptive ban on legal immigration ultimately provide very few options for immigrants to immigrate permanently. The options that do exist are so constrained that they provide hardly anyone considering migrating illegally a legal chance to come.

Undocumented migration

Undocumented immigration is a black market in human movement. Black markets are the inevitable and predictable result of government prohibition. For this reason, the earliest

undocumented immigration in the 1920s was often called “bootlegging in people,” making a rhetorical tie to the then-pervasive black market in alcohol.³¹ People at the time immediately understood that border crossers, boat jumpers, and visa overstays were all outcomes from the government’s effort to drastically restrict legal immigration.

Black markets can be greatly reduced when the costs of following the law fall below the likely costs of violating it. In the 1950s and 1960s, the government largely controlled undocumented immigration from Mexico by directing border crossers into the Bracero guest worker program, which allowed workers to obtain legal contracts with U.S. farmers.³² While the program failed to protect the rights of workers as well as it could have, it lowered the costs of following the law below the expected costs of crossing illegally for most Mexican workers, greatly reducing the size of the black market. Unfortunately, Congress simply ended the program in 1965. Once it became that no legal channels were going to replace it, undocumented immigration surged to unprecedented highs in the 1970s and remained high for nearly three decades.

In the late 1990s, however, as Border Patrol made crossings more difficult, employers turned to Mexican guest workers again under the H-2A and H-2B visa programs, which corresponded with a sustained drop in apprehensions of Mexicans at the border (Figure 2). One of the first Mexicans to be hired as an H-2A worker, José Vásquez Cabrera, told the *New York Times* that he jumped at the opportunity because, he said, with a visa, “I no longer have to risk my life to support my family. And when I’m here, I don’t have to live in hiding.”³³

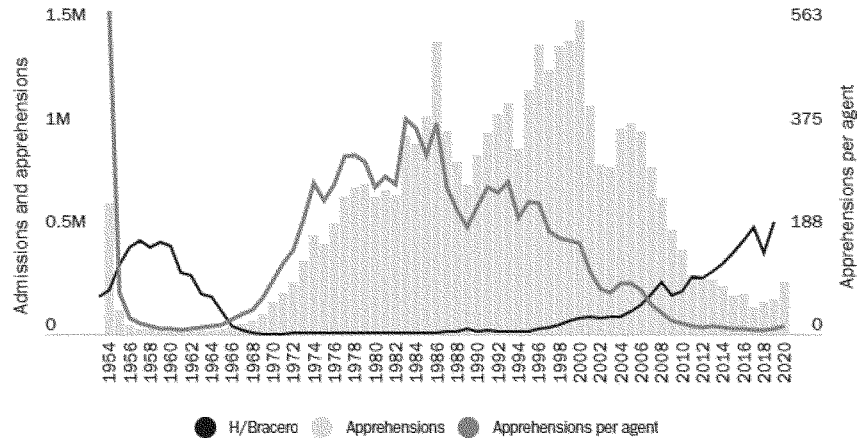
Based on the number of arrests for the *average* Border Patrol agent,¹ each agent averaged nearly 97 percent fewer apprehensions of Mexicans at the border since 2010 than during the 1980s—11 per year versus 299 per year (Figure 2). Mexican undocumented immigration fell further and faster than the increase in guest worker admissions. Jose Bacilio, a former-H-2A worker, explained why to the *Washington Post* in April 2019.³⁴ He said, even though he had not yet received a visa that year, he wouldn’t risk all of his future chances by crossing illegally.

From 2000 to 2018, a statistical analysis conducted by my colleagues estimates that 3 additional guestworker visas from Mexican workers reduced the number of Mexicans apprehended at the border by 2.³⁵ More research needs to be done on this topic, but there is a clear relationship whereby more legal visas for Mexicans reduces unauthorized Mexican entries. While highly successful in preventing illegal crossings, the H-2B program for nonagricultural seasonal workers is not as effective as it could be because—unlike the H-2A program for farms—it has an arbitrary cap that was last permanently updated in 1990.³⁶

¹ Apprehensions can increase simply because more agents are deployed.

Figure 2

Mexican guest worker admissions and apprehensions of Mexicans at the border
FY 1954-2020



Sources: Customs and Border Protection, "Southwest Border Migration," 2019; "U.S. Border Patrol Nationwide Apprehensions by Citizenship and Sector," 2007-18; Department of Homeland Security, "Apprehensions by the U.S. Border Patrol," 2005-06; Congressional Research Service, "Border Security: Apprehensions of 'Other Than Mexican' Aliens," 2002-04; Walter A. Ewing, "Border Insecurity: US Border-Enforcement Policies And National Security," 1999-2001; Department of Homeland Security, "Yearbooks of Immigration Statistics," 1991-1998; Immigration and Naturalization Service, "Yearbooks of Immigration Statistics," 1981-1996 (available under "General Collection"); Mexican guest worker admissions: Department of Homeland Security, "Yearbooks of Immigration Statistics," 1997-2017; Immigration and Naturalization Service, "Yearbooks of Immigration Statistics," 1979-1996 (available under "General Collection").
Note: Apprehensions include only those Mexicans arrested at the southwest border (excluding worksite raids prior to 1990). Guest workers include Bracero and H admissions (1979-1980 as well as 1997 and 2005 were linearly interpolated).

Even as border crossings were declining in the late 1990s and early 2000s, however, the undocumented population from Mexico continued to grow until 2007. The primary cause of this continued increase was that H-2 visas were still not yet prevalent enough to deter most undocumented crossers, and increased border security had increased the cost of crossing illegally to such an extent that it made departures and reentries every growing season too expensive to justify. Prior to the hardened border, the vast majority of undocumented immigrants left within a year. By 2009, nearly none did.³⁷ The end of this circular migration meant that workers who entered ended up staying permanently and spreading across the country, increasing the undocumented population.

Congress exacerbated the growing problem of permanent undocumented settlement in 1996. For many years, undocumented immigrants have generally been barred from adjusting to permanent residence if they crossed the border illegally, requiring them to go home, obtain a visa, and return. In 1996, however, Congress barred anyone with at least 180 days of illegal presence from leaving and reentering legally for 3 years and anyone with at least a year of illegal presence for 10 years.³⁸

Known as the three- and ten-year bars, these barriers to illegal immigration make it impossible even for the 1.2 million undocumented immigrants who would immediately qualify for permanent residence to leave and reenter legally—effectively cutting them off from the “line.”³⁹ Similarly, those deported from the United States face a permanent bar on returning legally, once again cutting untold thousands of parents of U.S. citizens off from their children north of the border.⁴⁰ Inevitably, tens of thousands of Border Patrol’s apprehensions each year come from stopping parents of U.S. citizens seeking to reunite with their families.⁴¹

In recent years, as Mexican migration has declined, Central American migration has risen to constitute the majority of Border Patrol arrests since 2014.⁴² But Central Americans have not benefited from the boon in H-2 visas because employers rarely have any economic incentive to hire from anywhere further away than Mexico. Instead, Central Americans come and work in occupations that are not eligible for an H-2 visa: year-round positions in meat processing and packing, dairies, construction, and other industries. This situation helps highlight the most important fact about U.S. immigration law: immigrants cannot “get in line” to obtain work visas. Rather, U.S. sponsors must first request that they receive visas. If Congress wants Central Americans to receive work visas, it must create entirely new programs or specifically require H-2 employers to hire Central Americans.⁴³

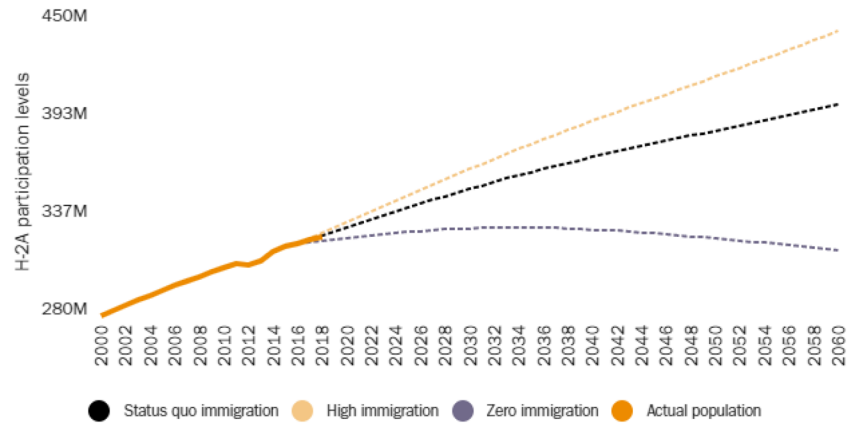
Consequences

The consequences of the highly constrained legal immigration system are too numerous to list. The government’s enforcement efforts against undocumented immigrants impose a significant cost on taxpayers and U.S. citizens wrongly caught up in those efforts. American families are separated, either through deportation or through exclusion. U.S. citizen children face the prospect of losing a parent or spouse who lacks legal status. The United States loses millions of potential citizens and legal residents who could contribute to keeping America the strongest and most influential country in the world.

The economic consequences are severe. Without immigration, the U.S. population will age and decline (Figure 3), causing great strain on public resources.⁴⁴ Population decline is already affecting three quarters of America’s rural counties.⁴⁵ Research has shown that the limits on skilled immigration have pushed more companies to move offshore.⁴⁶ Economist Charles Jones found that the increase in the share of scientists and engineers in the U.S. workforce can explain about half of U.S. growth in total factor productivity in recent decades,⁴⁷ and about 80 percent of that increase came from immigrants.⁴⁸

Figure 3

U.S. population 2000-2016 and projections under varying immigration levels, 2017-2060



Source: U.S. Census Bureau, "A Changing Nation: Population Projections under Alternative Migration Scenarios," February 2020.

Skilled immigrants on H-1B visas trapped in the green card backlog cannot start businesses or easily shift job categories. Currently, many H-1B workers' spouses and children cannot work, and even when they should be able to, in theory, the bureaucracy is currently making almost impossible to do so.⁴⁹ Trapping workers in less productive positions or out of the workforce entirely means that the United States is passing on massive economic gains. Blocking workers from coming and sending workers back to India has allowed that country to surpass the United States in software exports.⁵⁰

Immigrants are already twice as likely to start a new business as U.S.-born Americans.⁵¹ Yet the government has no way for entrepreneurs to enter the country for that purpose, and H-1B workers are effectively barred from self-sponsoring for visas or green cards as entrepreneurs, making the lengthy waits for green cards particularly damaging to the economy. Of the patents at the top 10 patent-producing universities in 2011, 76 percent had at least one foreign-born inventor or co-inventor, including 79 percent of pharmaceutical drugs or drug compounds.⁵² With visa restrictions, the United States is losing these inventors to other countries. From 2016 to 2019, the number of Indian immigrants going to Canada more than doubled, many coming straight from the United States.⁵³

Despite advancements in automation and increasing demand for higher skilled workers, the Bureau of Labor Statistics predicts that in 2026, 73 percent of U.S. jobs will still not require a 4-year college degree or equivalent training, including 62 percent of the job growth.⁵⁴ These jobs include physical therapist assistants, home health aides, personal care aides, which will increase in importance in the next ten years as the population ages.⁵⁵ In

fact, nearly half of the fastest growing jobs do not require a 4-year degree.⁵⁶ Economists have generally found that the immigration of workers with less education has improved working conditions for similar U.S. workers.⁵⁷ Because these immigrants work in complementary positions to workers with more education, they have also increased the demand for higher skilled workers and so increased the rewards to education, which has led a greater number of U.S.-born Americans to stay in school.⁵⁸ Restrictions on lower skilled immigration will undermine Americans' transition toward a skilled labor force.

Conclusion

The legal immigration system is effectively closed off for most potential immigrants to this country, and very difficult even for those few who do qualify. To address illegal immigration and to protect the U.S. economy, Congress should make legal immigration much easier than it is today. It should start by removing the per country limits for employment- and family-based immigration that discriminate based on birthplace, but ultimately, it should remove the worldwide limits on family- and employment-based immigration, which only serve to separate U.S. families and undermine economic growth. In lieu of this, it should cap wait times at no more than five years, and it should create a temporary work visa program for year-round jobs not requiring a college degree. It should remove the three- and ten-year bars and allow immigrants to correct their status by traveling abroad and applying for visas.

Until America returns to its historic practice of allowing immigrants to reside legally, it will suffer the economic and social penalties that come from illegal immigration.

Citations

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² Stephen Legomsky and Cristina Rodriguez. *Immigration and Refugee Law and Policy*. Fifth Edition. New York, Foundation Press, 2009, p. 17.

³ See the requirement to inspect admissions and affirmatively identify deficiencies: Immigration Act of 1882, Pub. L. 47-376, August 21, 1889, <https://govtrackus.s3.amazonaws.com/legislink/pdf/stat/22/STATUTE-22-Pg214.pdf>.

⁴ 8 U.S. Code § 1151.

⁵ 8 U.S. Code § 1182.

⁶ Department of Homeland Security, "Yearbook of Immigration Statistics," 2019; Department of Homeland Security, "Legal Immigration and Adjustment of Status Report Fiscal Year 2020, Quarter 4," 2021, <https://www.dhs.gov/immigration-statistics/special-reports/legal-immigration>.

⁷ Department of Homeland Security, "Yearbook of Immigration Statistics," 2019, Table 7.

- ⁸ David J. Bier, "America's Foreign Share Is In The Bottom Third Among Richest Nations," Cato Institute, September 25, 2020, <https://www.cato.org/blog/americas-foreign-share-bottom-third-among-richest-nations>.
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Ms. LOFGREN. Thank you very much.

Next, we will hear from Ms. Mhatre. Ms. Mhatre, you are welcome to join us with your statement for 5 minutes.

TESTIMONY OF PAREEN MHATRE

Ms. MHATRE. Chair Nadler, Chair Lofgren, Ranking Member McClintock, and Members of the Subcommittee, thank you for giving me the opportunity to share my story with you today. My name is Pareen Mhatre. I'm currently a third-year biomedical engineering student minoring in business Administration at the University of Iowa.

I'm also a member of Improve The Dream, a youth-led advocacy organization bringing awareness for more than 200,000 children of long-term visa holders who face self-deportation, even though we have grown up in the United States with a documented status. I am one of these children. I am a documented Dreamer.

I was born in India, and my parents brought me to Cincinnati, Ohio, when I was 4 months old, in August 2000, as a dependent on my mother's student visa. After a year, we moved to Iowa City, Iowa. My parents completed multiple degrees at the University of Iowa, and both parents started to work for the university. My status changed to an H-4 dependent visa in 2008, and my parents' employer filed for a green card in 2012.

I was enrolled in the Iowa City Community School district from K-12. Having lived in this country for virtually my whole life, my roots are here in Iowa, and I am a Midwesterner. As I grew up, I volunteered for many organizations in my community, including the public library and the local hospital. I've been part of teams that have competed in various STEM and student journalism competitions at both State and national levels.

During my time at school, at every step of the way, I formed relationships with teachers and students that have had a lifelong impact on me. Ms. Riepe in elementary school, guided me to lead. Mr. Norton, in middle school, gave me the confidence in my math skills that would allow me to choose engineering as my major. Mr. Gross, in high school encouraged me to speak up on unjust issues.

Over the past 21 years, my parents and I have received help and love from many wonderful people of this country, and we are very grateful for it. At the same time, our hearts break when we think of my future immigration status and that of many other documented Dreamers. Due to the uncertainty of my situation, I have been in constant fear for the past 5 years.

Despite living here my whole life and having, very literally, grown up on my university campus, I am considered an international student. After spending nearly my entire life here, I am encountering the same hurdles as newly arrived international students.

I am now a junior at the University of Iowa. My future goal is to work in the STEM field to contribute to advancements in medical devices. However, due to my status, the inability to obtain internships has limited me in terms of acquiring the professional experiences for my goals.

For the past 9 months, I've been awaiting approval for the change of status to F-1 students. I also turned 21 less than 2

weeks ago, so I no longer have dependent status. I aged out of the system. Unless my application is approved, I am not allowed to enroll in classes in future semesters.

As a result of the barriers and the daily worry of my situation, I have been diagnosed with clinical depression, generalized anxiety disorder, and panic disorder. I've been seeing a therapist for more than a year, because I've reached a point where I could not cope alone, and I needed help.

If my application is denied, I will be immediately out of status and will need to self-deport. My family will be torn apart and our American Dream will vanish even though I am an Iowan and American at heart.

Even if my application is approved, the odds are against people like me. After completing my education, I would need to obtain my own H-1B visa to be able to [inaudible], but only 31 percent of applicants were selected in 2020. Even after going through the entire employment-based green card process, I will be at the back of the line. People say, just get in line and apply for citizenship. The truth is, there is no viable line for me and the thousands of documented Dreamers.

My journey might sound unique, but more than 200,000 children share my story. Anagh will age out and face self-deportation in 9 months. Hudi (ph) will face deportation in 7 months. Trishdy (ph) will face self-deportation in 5 months. Members of Improve The Dream are grateful for our voice being recognized with our inclusion in the recently passed Dream and Promise Act.

Chair Lofgren, we are extremely thankful to you for this positive change, and hope that going forward, all solutions for Dreamers will include documented Dreamers like us. However, we hope that this Committee will also work to permanently end aging out and address the root causes of this issue.

Chair Nadler, Chair Lofgren, and Ranking Member McClintock and the Members of the Subcommittee, please consider the thousands of children and families who have had hopes in pursuing the American Dream, but are being torn apart, despite maintaining a documented status. This land of the free, this beautiful and generous Nation is our home. I hope you can improve the dream for all of us who only want a chance at the American Dream.

Thank you so much for your time today, and I look forward to answering any questions you may have.

[The statement of Ms. Mhatre follows:]



**Testimony of Pareen Mhatre
Student
Member, Improve The Dream**

**Submitted to the House Judiciary Committee's
Subcommittee on Immigration and Citizenship**

**Hearing on “‘Why Don’t They Just Get in Line?’ Barriers to Legal
Immigration”
April 28, 2021**

Chairwoman Lofgren, Ranking Member McClintock, and members of the subcommittee, I thank you for giving me the opportunity to share my story with you.

My name is Paireen Mhatre. I am currently a third-year biomedical engineering student at the University of Iowa. I am also a member of Improve The Dream, a youth-led advocacy organization bringing awareness for more than 200,000 children of long-term visa holders who face self-deportation,¹ even though we have grown up in the United States with a documented status. We are advocating for change that permanently ends "aging-out" of the immigration system,² and provides a pathway to citizenship for children of long-term visa holders who grow up in the United States. Multiple issues in our broken immigration system have caused these children to age out of their dependent statuses and self-deport, while many are on the verge of aging out. This means children who have grown up here will potentially be separated from their families when they lose legal dependent status after they turn 21 years old. I am one of these children. I am a Documented Dreamer.

I was born in India, and my parents brought me to the United States when I was four months old in August 2000. My mother arrived on a student visa, while my father and I were on dependent visas. We lived in Cincinnati, Ohio for about a year. After that, my family moved to Iowa City, Iowa in 2001, where both my parents completed their education on student visas. My mother has completed master's degrees in German, Educational Psychology, and Business Administration. My father completed his bachelor's degree and his master's degree in Computer Science at the University of Iowa. Both my parents started to work for the University of Iowa after completing their education. This was when my status changed to an H4 dependent visa in 2008. My mother works at College of Nursing, providing support for nursing education, and my father works at College of Medicine, giving critical information technology support for healthcare systems. My parents' employer filed for their green cards in 2012.

¹ David Bier, "House Bill Provides Path to Citizenship for Most Legal Dreamers", 2021, available at <https://www.cato.org/blog/house-bill-provides-path-citizenship-most-legal-dreamers>

² USCIS, "Chapter 2 - Definition of Child and Residence for Citizenship and Naturalization", current as of 2021, available at <https://www.uscis.gov/policy-manual/volume-12-part-h-chapter-2>

Having lived in this country for most of my life, I feel American in every way. I took my first steps as an infant in Cincinnati, Ohio, I learned how to speak and read in Iowa City. I learned how to ride a bike about a mile from my current home. I have attended kindergarten through high school in the Iowa City Community School District, and now I am in my third year of college at University of Iowa. My roots are here in Iowa. I have been brought up as a Midwestern American. This small, lively town and its residents have made me into a community-oriented individual. While volunteering for many organizations, including the Iowa City Public Library, University of Iowa Hospitals and Clinics, and the City of Iowa City, getting involved in various student organizations from elementary school up to college, and making lifelong connections, I have realized that the United States is the only country I have ever known. While I am a citizen of India on paper, it is a country that I do not know. I am foreign when I visit because I feel like an Iowan and American at heart.

I have also had the opportunity to represent my high school at many national and state-level competitions, such as TEAMS (Tests of Engineering Aptitude, Mathematics and Science), JETS (Junior Engineering Technical Society), FIRST (For Inspiration and Recognition of Science and Technology) Robotics Competition, and Science Olympiad. Individually, as well as in teams, I have also won awards in many of them. In addition to this, I held dual positions of the Online Managing Editor and the Photo Editor for West Side Story – my high school newspaper. I was able to gain leadership experience by being a part of my high school's student senate for 3 years, and during my senior year of high school, I was selected to be the member of West High Principal's Advisory Committee.

During my time in the Iowa City Community School District, at every step of the way, I formed relationships with teachers and students that have had a life-long impact on me. Mrs. Riepe in elementary school guided me to lead. Mr. Norton in middle school gave me the confidence in my math skills that would one day allow me to choose engineering as my major. And Mr. Gross in high school encouraged me to speak up on unjust issues.

Throughout our family's journey of almost 21 years here, we have received love and help from many wonderful people of this country, and we are very much grateful for it. At the same time, our hearts break when we think of my future immigration status, and that of many other

Documented Dreamers. Due to the uncertainty of my situation, I have been in constant fear and worry for the past 5 or so years. I applied to colleges as an international student, despite not living in the country of my citizenship, like many Documented Dreamers. In addition to being an international student on the campus that I, very literally, grew up on, I have not been able to apply for any internships, which is an integral part of the holistic student experience.

I am now a junior at the University of Iowa majoring in biomedical engineering and minoring in business administration. As someone who is studying in the STEM field and would like to design and create medical devices and equipment, internships are one of the few ways through which students can acquire work experience. This has put me behind professionally, compared to my peers. As a result of the barriers I have faced, not only professionally, but also as a community member, and the daily worry of my situation, I have been diagnosed with clinical depression, generalized anxiety disorder, and panic disorder. I have been seeing a therapist for more than a year because I reached a point where I could not cope alone, and I needed help.

In July 2020, I applied for a change of status to F1 student, and my application for a change of status to B2 bridge was submitted in early April 2021. However, both applications for change of statuses are pending. I also turned 21 less than two weeks ago, so I can no longer have dependent status. I essentially aged out of the system. The processing delays for these applications have increased my anxiety. Additionally, it is not a guarantee to be approved for a F1 student visa. Children who were raised in the United States on long-term visas like me are often denied a student visa because they are unable to show ties to their country of birth.³ I could potentially be denied only because I have no ties to India on my own, and have spent most of my life here.

If my applications are denied, I will be immediately out of status, and will need to self-deport. This will hurt me not just mentally, but also professionally, because I will have to stop my education towards obtaining a degree in biomedical engineering here, when I have completed 3/4th of the curriculum. I will have to start over, and honestly, I do not know if I will be able to

³ Boston University, "Proving Nonimmigrant Intent", current as of 2021, available at <https://www.bu.edu/isso/travel-visas/apply-for-a-visa/initial-visa-application/intent/>

do that. In addition to this, my family will be torn apart and all our lives will be in complete distress. I am the only child of my parents. Everything that my parents and I have worked for up until now will be lost. Our American dream that we hoped to pursue will vanish. My story might sound unique, however, there are hundreds of thousands of documented children who will or have gone through what I am experiencing. We are not just a statistic; the consequences are real for us.

Aging out is not the only issue we face. If my applications are approved, I'll be able to complete my education here, and maybe receive an H1-B work visa later. But again, the chances of acquiring an H1-B visa are low, because out of 275,000 applicants, only 85,000 are selected.⁴ And even after going through the entire process for the employment-based green card, I'll be at the back of the line for people born in India.

Even after spending nearly my entire life here, I am still encountering the same hurdles as newly arrived international students. In fact, I am not even allowed to enroll in any classes from the end of this current academic semester until my application for change of status is approved. This means that I cannot take summer courses that are necessary for me to complete and graduate in a timely manner.

Despite following laws meticulously and maintaining stacks of legal documentation at all times, all odds appear to be against people like me. This story is not just mine. More than 200,000 children and families share my story. I joined Improve The Dream to help advocate and raise awareness for this issue along with others who are in a similar situation. We are grateful for our voice being recognized with our inclusion in the recently passed Dream and Promise Act.

Chairwoman Lofgren, we are extremely thankful to you for this positive change and hope that going forward, all solutions for Dreamers will include Documented Dreamers like us.

⁴ USCIS, "FY 2021 H-1B Cap Petitions May Be Filed as of April 1", 2020, available at <https://www.uscis.gov/news/news-releases/fy-2021-h-1b-cap-petitions-may-be-filed-as-of-april-1>

However, I hope that this committee can go a step further and permanently end aging-out by creating mechanisms to prevent it from happening. I also hope the underlying root causes of aging out are addressed. More than 200,000 families in the United States, including mine, have followed the laws. We have maintained legal status, and speaking for my family, we have been here for almost a generation. This issue only highlights our plight. We have gotten in line. But our efforts have yet to see any success.

Chairwoman Lofgren, Ranking Member McClintock, and the members of this subcommittee: Thank you for your time today and thank you for giving me this opportunity to share my story with you. I only ask that you consider the stories of families and Documented Dreamers and help us achieve a permanent solution. We are firmly rooted here in this community and in this country, but just not on paper. I request that you consider the children and the families who have had hopes in pursuing the American dream, the families that are being torn apart, despite maintaining a documented status. Our roots are American. This land of the free, this beautiful and generous nation is our home. I hope that you can Improve the Dream for the thousands of children and families who only want a chance at the American Dream.

Thank you again and I look forward to answering any questions you may have.

Ms. LOFGREN. Thank you, Ms. Mhatre. We will actually make an inquiry of the Department about the status of your application. I don't understand why you have not heard back, so hopefully, that will help get an answer to you.

Now, we will turn to Mr. Law for your 5 minutes of testimony. Welcome, sir.

TESTIMONY OF ROBERT LAW

Mr. LAW. Thank you. While the topic of our Nation's lawful immigration system and the impact it has on the wages and job opportunities for Americans is an important one, a sovereign Nation must enforce the laws on the books, otherwise the rules become moot. The ongoing and worsening crisis at the southern border should temper consideration of any expansive legal immigration reforms.

The United States is the greatest country in the world, so it is unsurprising that billions of people from around the globe would relocate to America if they could. This presents a binary policy choice: Either allow unlimited immigration or set annual numerical limits. Unlimited immigration is not feasible and numerical limits or caps are not barriers, but instead, the rules under which our legal immigration system operates.

Because the American people are the true stakeholders in U.S. immigration policy, the system should not operate in a way that harms American workers. Every year, the United States awards 1 million new green cards, and allows in approximately 700,000 temporary foreign workers, generally without any analysis of whether there is any significant economic or labor need.

There is ample evidence that the current high levels of legal immigration, both permanent and temporary, negatively affect the wages and opportunities for certain Americans. With our predominantly family-based immigration system, only about 15 percent of green cards are awarded in a given fiscal year on the basis of merit. The result is that an overwhelming number of immigrants, including those who subsequently become naturalized U.S. citizens, are less educated and lower skilled than the general native-born American population.

Though this is not a reason to cast a negative light on any of these aliens, we should, however, consider whether we are adequately addressing the problems of U.S. citizens, education, unemployment, poverty, before welcoming even more people who are likely to struggle with the same issues.

The oversupply of workers at the bottom of the labor market reduces wages and job opportunities for Americans at that level. Specifically, the Americans who lose out due to mass immigration tend to be those without a college degree, including African Americans and other minorities, the young, and the disabled. These Americans are usually the last to enter the workforce during an economic boom, and the first to be let go during economic downturns.

On the other hand, lower wages translate to higher incomes for business executives and larger profits for corporations. The rich get richer, immigrants receive higher wages than they would for the same work in the home country, and lower-skilled Americans disproportionately suffer.

As the National Academy of Sciences found in 2016, the lower wages paid to immigrant workers translates to approximately \$54 billion a year in lost income for marginalized American workers. Put another way, mass low-skilled immigration fuels income inequality and causes significant wealth transfer from blue-collar Americans.

A common refrain from businesses and proponents of high levels of immigration is that our country needs immigrants because there are supposedly jobs that Americans will not do. The data clearly refutes that, with only 6 of 474 unique occupations being majority immigrant. This flawed premise should be dispensed with, as Chair Nadler himself said during an October 2017 immigration bill markup.

Or consider these words from Jared Bernstein, former Chief Economic Adviser to then-Vice President Biden, quote, “Employers are very quick to raise the specter of a labor shortage, but often it’s another way of saying they can’t find the workers they want at the price they’re paying. They are unwilling to meet the price signal the market is sending so they seek help in the form of a spigot like immigration,” end quote.

Due to mass legal immigration, Pew reports that the real wages of noncollege-educated Americans have stagnated or declined over the past 40 years. It took a decade for wages of hourly workers to return to pre-Great Recession levels, and American workers across the board still have not recovered from the crippling effects of the economic downturn caused by COVID-19. It is not unreasonable to wonder if these marginalized Americans will ever recover with government policies that flood the labor market with cheap foreign labor.

In closing, I note that the mid 1990s Jordan Commission, named after former Congresswoman and civil rights icon Barbara Jordan, warned about all this, quote, “Immigration policy must protect U.S. workers against unfair competition from foreign workers with an appropriately higher level of protection to the most vulnerable in our society,” end quote.

One last quote, “The Commission is particularly concerned about the impact of immigration on the most disadvantaged within our already resident society, inner-city youth, racial and ethnic minorities, and recent immigrants who have not yet adjusted to life in the U.S.,” end quote. It is long past time for Congress to heed the recommendations of the Jordan Commission. Thank you.

[The statement of Mr. Law follows:]

**House Judiciary Committee
Immigration and Citizenship Subcommittee**

Why Don't They Just Get in Line? Barriers to Legal Immigration
April 28, 2021

Prepared Testimony of
Robert Law
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Thank you, Chairwoman Lofgren, Ranking Member McClintock, and distinguished Members of the Subcommittee for the opportunity to testify on our nation's lawful immigration system and the impact it has on the wages and job opportunities for Americans.

This hearing is being held amidst an ongoing and worsening crisis at the Southern border, fueled by the Biden administration's decisions to limit application of Title 42 authority; end the Migrant Protection Protocols (MPP), or "Remain in Mexico" policy; and a policy of generally not enforcing our immigration laws in the interior. To have a properly functioning legal immigration system, a sovereign nation must enforce the laws on the books otherwise the rules become moot.

The United States is the greatest country in the world so it is unsurprising that billions of people from around the globe would relocate to America if they could. This presents a binary policy choice, either allow unlimited immigration or set annual numerical limits. Recognizing that unlimited immigration is not feasible, the key policy question is how many should we allow each year?

Congress, through the Immigration and Nationality Act (INA), has established various levels of permanent and temporary legal immigration per fiscal year. Numerical limits or caps are not barriers but are instead the rules under which our legal immigration system operates.

Because the American people are the true stakeholders in U.S. immigration policy, the system should not operate in a way that harms American workers. There is ample evidence that the current high levels of legal immigration, both permanent and temporary, negatively affect the wages and opportunities for certain Americans.¹ Those harmed tend to be marginalized workers, minorities and those with lower skills and education, who usually are the last into the workforce during economic booms and the first to be let go during economic downturns. As the American economy tries to recover from the government-mandated shutdowns to stop the spread of Covid-19, tighter labor markets are critical to ensuring that vulnerable American workers get back to work.

Sustained High Levels of Permanent Immigration Since 1965

The 1965 Immigration Act established the formula that is still applicable today for the annual worldwide levels of legal immigration. It is often said that our immigration system is "broken" without anyone ever defining what that means. Currently, the United States issues over 1 million green cards per year and over 43 million aliens have obtained lawful permanent resident (LPR) status since the 1965 Act.² Many of them have, or intend to, naturalize.

How do we get to over 1 million new green cards a year? Generally speaking, the INA establishes three avenues for an alien to become an LPR: family based, employment based, and visa lottery.³ Within the family-based and employment-based avenues, Congress established overall annual limits as well as preference allocations that further subdivide the total annual limits.⁴ The third avenue is the visa lottery whereby Congress allocates 50,000 visas per year that are randomly distributed to aliens from countries that have low levels of immigration in the United States.⁵

The formula for family-based immigration levels looks complicated in the statute, but in practice generally results in an annual level of 226,000 family-based green cards subject to numerical limitation.⁶ Congress allocates those 226,000 visas as follows:⁷

- First preference – Unmarried sons and daughters of U.S. citizens: 23,400
- Second preference – spouses and unmarried sons and daughters of LPRs: 114,200, with at least 77 percent of this allocation for spouses and children (under age 21) of LPRs
- Third preference – Married sons and daughters of U.S. citizens: 23,400
- Fourth preference – Brothers and sisters of U.S. citizens: 65,000

Immediate relatives of U.S. citizens are exempt from numerical limitation. The INA defines “immediate relatives” as children and spouses of a U.S. citizen as well as the parents provided the U.S. citizen is at least 21 years old.⁸ As a result, this category alone accounts for nearly 500,000 new LPRs every year.

The worldwide level of employment-based immigration is generally 140,000 per fiscal year.⁹ Congress allocates those 140,000 visas as follows:¹⁰

- First preference – Priority workers (aliens of extraordinary ability, outstanding professors and researchers, certain multinational executives and managers): 28.6 percent
- Second preference – Aliens with advanced degrees or exceptional ability: 28.6 percent
- Third preference – Skilled workers, professionals, and other workers: 28.6 percent
- Fourth preference – Certain special immigrants: 7.1 percent
- Fifth preference – Employment creation: 3.1 percent

Within the employment-based third preference category, “skilled workers” are defined as defined as immigrants performing non-temporary or seasonal labor that requires at least two years of training or experience; “professionals” hold baccalaureate degrees; and “other workers” are unskilled laborers.¹¹ Not more than 10,000 visas may be issued to “other workers”.¹² The employment-based fourth preference category is not really a work-based category but a catch-all of certain aliens defined in INA section 101(a)(27). Within the employment-based fifth preference category, also not really a work-based category, at least 3,000 visas are issued to immigrant investors who invest in a new commercial enterprise which creates employment in a targeted employment area.¹³

Another element of the 1965 Act was to replace the national origin-based system for distributing immigrant visas with one that generally limits the number of visas that nationals of a specific country can obtain in a given fiscal year to 7 percent of the cap. This so-call per country cap serves the important function of ensuring diversity in the immigrant population which prevents very large countries from capturing all of the green cards to the exclusion of the rest of the world and, thereby encouraging assimilation among new immigrants.

Mass Immigration Harms American Workers While Enriching Executives

With our predominantly family-based immigration system, only about 15 percent of green cards are awarded in a given fiscal year on the basis of merit. In practice, this means that today’s

immigrants are effectively selecting the next wave of immigrants and this process has repeated on autopilot since 1965. The result is that an overwhelming number of immigrants, including those who subsequently become naturalized U.S. citizens, are less educated and lower skilled than the general native-born American population.¹⁴ For example, Census Bureau data show that of adult immigrants (ages 25 to 65), 28 percent lack a high school diploma, compared to 8 percent of natives.¹⁵

And, more importantly, the immigrant population has skyrocketed. Since 1970, the number of immigrants in the United States has gone from 9.6 million in 1970 to 44.9 million in 2019—a nearly four and half fold increase. The immigrant share of the U.S. population has nearly tripled over this time period, from 4.7 percent to 13.7 percent.¹⁶ The 1986 amnesty of 3 million illegal aliens and the corresponding 1990 Immigration Act put immigration into overdrive.

The 1990 Act also established what became known as the Jordan Commission, after its chair former Congresswoman and Civil Rights icon Barbara Jordan. Among the Commission's recommendations issued in 1997 shortly after Ms. Jordan's passing, was to (1) better integrate immigrants currently in the country; (2) reduce legal immigration to about 550,000 per year; (3) tighten up and regulate temporary nonimmigrant worker programs; and (4) vigorously enforce immigration laws, i.e., no more amnesties.¹⁷ The Commission aptly summed up its work as follows: "The credibility of immigration policy can be measured by a simple yardstick: people who should get in, do get in; people who should not get in are kept out; and people who are judged deportable are required to leave."¹⁸ Unfortunately, these recommendations were never put into effect.

The basic economics principle of supply and demand completes the analysis of the effects of high levels of immigration that the Jordan Commission warned about. The oversupply of workers at the bottom of the labor market reduces wages and job opportunities for Americans at that level. Specifically, the Americans who lose out due to mass immigration tend to be those without a college degree, including African Americans and other minorities, the young, and the disabled. As the National Academies of Sciences (NAS) found in its 2016 report entitled, *The Economic and Fiscal Consequences of Immigration*, "... the evidence suggests that groups comparable to the immigrants in terms of their skill may experience a wage reduction as a result of immigration-induced increases in labor supply" and that "[s]ome research also suggests that, among those with low skill levels, the negative effect on native's wages may be larger for disadvantaged minorities and Hispanic high school dropouts with poor English skills."¹⁹ The NAS study found that by increasing the labor supply, immigration could reduce the wages of workers by approximately \$500 billion while the owners of capital gain about \$550 billion.²⁰

On the other hand, lower wages translate to higher incomes for business executives and larger profits for corporations. The rich get richer, immigrants receive higher wages than they would for the same work in their home country, and lower skilled Americans disproportionately suffer. Put another way, mass low skilled immigration causes significant wealth transfer from blue collar Americans.

Myth of Jobs Americans Won't Do

A common refrain from businesses and proponents of high levels of immigration is that our country needs immigrants because there are supposedly jobs that Americans will not do. The data clearly refutes that and this flawed premise should be dispensed with, as Chairman Nadler himself said.²¹

Of the 474 unique occupations defined by the Department of Commerce, my colleagues at the Center discovered that just 6 occupations are majority immigrant and in these occupations Americans still account for 46 percent of workers.²² Additionally, these high-immigrant occupations only employ less than 1 percent of all native workers and 3 percent of all immigrant workers. Our labor market simply is not segmented into native jobs and immigrant jobs.

A closer look at the Department of Commerce data show that many occupations thought of being done by non-natives (both legal immigrants and illegal aliens) are in fact majority native-born. This includes:

- Maids and housekeepers: 51 percent native-born
- Taxi drivers and chauffeurs: 54 percent native-born
- Butchers and meat processors: 64 percent native-born
- Grounds maintenance workers: 66 percent native-born
- Construction laborers: 65 percent native-born
- Janitors: 73 percent native-born

Again, there are no jobs Americans won't do. There are only wages and working conditions they are not willing to accept for the work. Nor should they. By refusing to offer higher wages or conditions to entice Americans to come to work for them, employers create a mirage of a labor "shortage" and point to importing foreign workers as the only solution. Circling back to supply and demand, employers want to flood the market with labor supply to drive down wages. Through legal immigration, temporary guest worker programs, and illegal alien labor, many employers accomplish this goal. In a truly free market economy, this phenomenon would not be possible and employers would have to adapt or risk going out of business. As the Center previously put it, "In fact, a tight labor market is the rare uplift program that does not require any new taxes or regulations. It naturally incentivizes employers to raise wages, improve working conditions, and recruit from marginalized groups."²³

The Center's observation on this issue is hardly unique. Lawrence Mishel of the Economic Policy Institute put it this way: "At what wage? That's the question. Will employers start to make job conditions better to attract more workers? If they're not doing that, then they're not facing much of a shortage." Similarly, former Secretary of Labor Robert Reich has said, "It should be noted that the term 'labor shortage' rarely means that workers cannot be found at any price. Its real meaning is that desired workers cannot be found at the price that employers and customers wish to pay." Or how about Jared Bernstein, former chief economic advisor to then-Vice President Biden saying "Employers are very quick to raise the specter of a labor shortage, but often it's another way of saying they can't find the workers they want at the price they're

paying... they are unwilling to meet the price signal the market is sending, so they seek help in the form of a spigot like immigration.”

Due to mass legal immigration, Pew reports that the real wages of non-college educated Americans have stagnated or declined over the past 40 years.²⁴ It took a decade for wages of hourly workers to return to pre-Great Recession levels.²⁵ The economic effects of Covid-19 related shutdowns disproportionately crippled lower skilled Americans. It is not unreasonable to wonder if these marginalized Americans will ever recover with government policies that flood the labor market with cheap foreign labor to compete against.

Guest-worker Programs Inherently Harmful to American Workers

In addition to permanent immigration impacting American workers, there is an alphabet soup of temporary worker programs that add roughly 700,000 additional cheap foreign workers into the labor pool per year. Among them is the H-2B temporary low-skilled, non-agriculture program with a statutory cap of 66,000 foreign workers per fiscal year. Nominally, the law requires an employer to demonstrate an inability to find American workers before they can petition for H-2Bs. In practice, businesses have developed creative approaches to avoid finding qualified Americans and the Department of Labor generally rubberstamps the Temporary Labor Certification (TLC), a prerequisite to obtaining H-2B workers. These foreign workers are yet another form of direct competition that harms marginalized American workers. Yet, Homeland Security Secretary Mayorkas recently announced an additional 22,000 H-2Bs would be available beyond the statutory cap for the remainder of the fiscal year, relying on authority delegated by Congress. This decision was made at the behest of business interests at a time when roughly 19 million Americans were still collecting unemployment benefits.²⁶

The H-1B temporary worker program functions to harm and suppress the wages of college educated or white collar Americans, especially in the science, technology, engineering, and mathematics (STEM) fields. Unlike H-2Bs, there is no requirement that most employers show they unsuccessfully tried to recruit Americans first. The lone exception is for “H-1B dependent employers” or those who have a large amount of H-1Bs within their workforce. But because of a lobbyist driven loophole in the law, “H-1B dependent employers” can bypass the American recruitment requirement, i.e., not even try to recruit Americans, if they pay a salary of at least \$60,000. While at USCIS, I learned that 99 percent of H-1B dependent employers avoid the American recruitment requirement through the salary loophole, with most paying exactly \$60,000 salaries. As Chairwoman Lofgren knows, a \$60,000 salary does not go very far in Silicon Valley.

The media and immigration advocates often frame the H-1B as reserved for the “best and brightest” and “high wage earners”, but this is inaccurate. The 85,000 cap subject H-1Bs are currently awarded by a lottery with most of them going to foreign workers at the two lowest—out of four—prevailing wage levels. Those wage levels are also artificially low, further making H-1B workers an attractive, low cost alternative for employers. Currently, the four prevailing wage levels are the 17th, 34th, 50th, and 67th percentile within a given occupation and geography. If H-1Bs are truly the “best and brightest”, they should be paid competitive wages not entry level wages. The Trump administration issued regulations that would replace the lottery with a merit

based selection process and increase the prevailing wage levels, but both have been delayed by the Biden administration. Any pro-American worker administration should support those reforms, regardless of political party.

Optional Practical Training (OPT) is the largest guest worker program never passed by Congress. Designed by the Bush administration to circumvent the H-1B cap and further expanded by the Obama administration, OPT has no statutory basis but allows over 100,000 aliens admitted as foreign students to work for one-to-three years after graduation. Continuing the fiction that these aliens are “students”, they are exempt from payroll taxes making them at least 10-15 percent cheaper than a comparable American. Unsurprisingly, recent college graduates struggle to land that first job, a critical step in building a career and having the ability to payoff substantial student loan debt.

The Trump Years and Legal Immigration

Among the many criticisms from advocates of unlimited immigration about President Trump was that his administration allegedly erected an invisible wall around the legal immigration system. The implication being that policies and guidance were put in place to arbitrarily and impermissibly deny immigration benefits for otherwise eligible aliens. Again, the data refute this allegation.

Between Fiscal Years 2001 and 2019 (the most recently available year), the United States has issued over 1 million green cards per year each year except for three years. None of those sub-one-million LPR years occurred during the Trump administration.²⁷ In Fiscal Years 2003 and 2004, during the “immigrant friendly” George W. Bush presidency, the United States issued 703,542 and 957,883 green cards respectively.²⁸ In Fiscal Year 2013, during the Obama-Biden administration, the U.S. issued 990,553 green cards.²⁹ Between Fiscal Years 2017 and 2019, during the Trump administration, the U.S. issued 1,127,167; 1,096,611; and 1,031,765 green cards respectively.³⁰ DHS has not made Fiscal Year 2020 data available but it is estimated to be an obvious outlier (very low numbers) given the Covid-19 global pandemic.

Naturalizations, the most meaningful immigration benefit the United States offers, also remained high during the Trump administration. In Fiscal Year 2018, 761,901 immigrants became naturalized U.S. citizens, marking a five year high.³¹ In Fiscal Year 2019, the most recent year’s data available and the last pre-Covid-19 year, 843,593 immigrants naturalized, the highest number since Fiscal Year 2008.³²

Not only were approvals for adjustment of status (LPR) and naturalization during the Trump administration consistent with the levels of recent past administrations, denials for these benefits remained low. In the first quarter of Fiscal Year 2021 (October 1 to December 31, 2020), the last full quarter of the Trump administration, USCIS approved 110,934 adjustment of status applications compared to just 13,874 denials.³³ During the same period, USCIS approved 137,818 applications for naturalization compared to just 15,096 denials.³⁴

Conclusion

The United States has a generous legal immigration system, admitting more immigrants per year with a path to citizenship than the rest of the world combined. Perhaps it has been too generous, to the detriment of certain American workers. Real wages for marginalized Americans have not increased since the 1965 Immigration Act. The economic gains of mass immigration have accrued in the owners of capital, not workers. This amplifies income inequality, an issue many in Congress profess to be concerned with addressing. The behavior of businesses in the political sphere further shows that immigration is a tool to keep wages low. If that wasn't the case, it is doubtful they would vocally lobby Congress for increased immigration and amnesty without first raising wages and improving labor conditions. Our nation is at a critical juncture as we try to rebuild a once booming economy that was decimated by the government mandated shutdowns to stop the spread of Covid-19. This is an opportunity to ensure that no American worker is left behind in the recovery.

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- ¹ See <https://cis.org/Richwine/Abundance-New-Academic-Studies-Find-Negative-Impacts-Immigration>.
- ² Department of Homeland Security, *2019 Yearbook of Immigration Statistics*, Table 1 (Persons Obtaining Lawful Permanent Resident Status: Fiscal Years 1820 to 2019), available at <https://www.dhs.gov/immigration-statistics/yearbook/2019/table1>.
- ³ See INA 201, 203.
- ⁴ INA 203(a)-(b).
- ⁵ INA 203(c).
- ⁶ INA 201(c).
- ⁷ INA 203(a).
- ⁸ INA 201(b)(2)(A)(i).
- ⁹ INA 201(d).
- ¹⁰ INA 203(b).
- ¹¹ INA 203(b)(3).
- ¹² *Id.*
- ¹³ INA 203(b)(5).
- ¹⁴ See <https://cis.org/Report/Immigrants-United-States-2015> (analyzing American Community Survey, Census Bureau data).
- ¹⁵ *Id.*
- ¹⁶ See Figure 3, <https://cis.org/Report/Immigrant-Population-Growth-Slows>.
- ¹⁷ See U.S. Commission on Immigration Reform, *Becoming an American: Immigration and Immigrant Policy*, September 1997.
- ¹⁸ *Id.*
- ¹⁹ National Academies of Sciences, *The Economic and Fiscal Consequences of Immigration*, at p. 189, p. 168, available at <https://www.nap.edu/read/23550/chapter/1#xi>.
- ²⁰ See <https://www.nationalreview.com/2016/09/united-states-immigration-policy-economic-fiscal-impact-education-native-born/>
- ²¹ See <https://www.c-span.org/video/?c4687727/user-clip-nadler-free-market> and <https://www.c-span.org/video/?c4687725/user-clip-nadler-slave-labor>.
- ²² <https://cis.org/Report/There-Are-No-Jobs-Americans-Wont-Do>.
- ²³ <https://cis.org/Report/There-No-Labor-Shortage>.
- ²⁴ See Drew DeSilver, "For Most U.S. Workers, Real Wages Have Barely Budged in Decades", Pew, Aug. 7, 2018.
- ²⁵ See <https://www.cnn.com/2017/07/13/a-decade-after-great-recession-1-in-3-americans-still-havent-recovered.html>.
- ²⁶ See <https://cis.org/Law/Biden-Administration-Continues-Admit-Cheap-Foreign-Workers>.
- ²⁷ Department of Homeland Security, *2019 Yearbook of Immigration Statistics*, Table 1 (Persons Obtaining Lawful Permanent Resident Status: Fiscal Years 1820 to 2019), available at <https://www.dhs.gov/immigration-statistics/yearbook/2019/table1>.
- ²⁸ *Id.*
- ²⁹ *Id.*
- ³⁰ *Id.*
- ³¹ Department of Homeland Security, *2019 Yearbook of Immigration Statistics*, Table 20 (Petitions for Naturalizations Filed, Persons Naturalized, and Petitions for Naturalizations Denied: Fiscal Years 1907 to 2019), available at <https://www.dhs.gov/immigration-statistics/yearbook/2019/table20>.
- ³² *Id.*
- ³³ U.S. Citizenship and Immigration Services, Number of I-485 Applications to Register Permanent Residence or Adjust Status, Oct. 1, 2020 to Dec. 31, 2020, available at https://www.uscis.gov/sites/default/files/document/reports/i485_performancedata_fy2021_qtr1.pdf
- ³⁴ U.S. Citizenship and Immigration Services, Number of N-400, Application for Naturalization, Oct. 1, 2020 to Dec. 31, 2020, available at https://www.uscis.gov/sites/default/files/document/reports/N400_performancedata_fy2021_qtr1.pdf.

Ms. LOFGREN. Thank you. Thanks to all our Witnesses for your testimony. Now is the time when Members of the Subcommittee can ask questions of the Witnesses for up to 5 minutes. I'll turn first to the Ranking Member, Mr. McClintock, for his questions. Mr. McClintock, you are recognized.

Mr. MCCLINTOCK. Thank you, Madam Chair.

Mr. Law, to hear the Democratic witnesses, immigration slowed to a trickle. Yet, you pointed out that currently, the United States issues over 1 million green cards per year and over 43 million immigrants was able to obtain lawful permanent residency status since the 1965 Act. You point out in your written testimony that the number of immigrants in the United States has gone from 9.6 million in 1970 to 44.9 million in 2019, a nearly 4½-fold increase.

You point out that the immigrant share of U.S. population has nearly tripled over this time period from 4.7 percent to 13 percent, and that the United States admits more immigrants per year with a path to citizenship than the rest of the world combined. That doesn't sound like a trickle to me. What am I missing?

Mr. LAW. Thank you, sir. No, the only trickle, of course, would be this last year which, of course, the entire world shut down due to COVID-19. Any suggestion otherwise that immigration has been shut out, more specifically, within the Trump Administration, is simply not true.

During the previous Administration, legal immigration, meaning green cards, continued to average just slightly over 1 million a year. That has been consistent with more recent historical norms. Any form of temporary worker programs, such as the aforementioned H-1B or H-2B programs, those caps have been met. In fact, the H-2B supplemental authority that Congress delegated was utilized numerous times by prospective DHS Secretaries. So, it's just simply not true. It's intellectually dishonest to suggest that legal immigration was shut out at any time under the Trump Administration.

Mr. MCCLINTOCK. Well, we have heard about long wait times. Now, Gallup polling estimates that from their polling data, just in Latin America and the Caribbean, there are 42 million people wanting to come to the United States, let alone from the rest of the world. Aren't the wait lists the national consequence of the simple fact that not everybody who wants to come to the United States can come to the United States?

Mr. LAW. Yes, thank you. As I mentioned in my opening remarks, we're really posed with just two choices: You either have unlimited immigration, which our country legitimately cannot sustain. Our borders cannot contain the entire world's population, and as great of a Nation as we are, it's unsurprising that everybody would want to come here. We don't have the space and we certainly don't have the economy to cover everybody.

Regarding the green cards, so, therefore, we have respective limits that Congress has set in place. When there is a higher demand than there is the available amount of green cards, there is not a backlog as has been often mischaracterized. It is, in fact, a wait list. That's exactly what that means. You have to wait until your number becomes available. A backlog suggests basically government ineptitude in delayed processing.

There's no amount of expeditious processing that the government could do to approve all the green cards, particularly for what is called the oversubscribed nations. There is a limit that Congress has put in place, and for those who aren't able to get in because of those limits, they simply are just waiting their turn. It's not a backlog. It is a wait list, and that distinction is very critical to understand.

Mr. MCCLINTOCK. The per-country cap on green cards, without that, wouldn't it mean that the largest countries would then claim all the slots? Isn't a per-country cap designed assure that citizens of every country have a shot at those slots?

Mr. LAW. Absolutely. The 1952 immigration system had a national origin quota system that we did away with in the 1965 Act. Having per-country caps was a very thoughtful decision that said, we value diversity in our immigrant population. We don't want populous countries or large-sending countries to capture all the green cards at the expense of nationals from every other country in the world. In recent—go ahead.

Mr. MCCLINTOCK. I was going to say, we heard one Democratic Witness recommend that we start by removing the per-country limits, but ultimately, we should remove the worldwide limits—all the worldwide limits on family and employment-based immigration entirely. What would that mean for working American families?

Mr. LAW. I mean, if we were to disregard all forms of immigration limits and the entire world's population came to the United States, there are very few Americans that would find themselves employed, or certainly having the same types of wages and opportunities that they currently have. I mean, it's simple supply and demand.

With respect to the per-country caps, while it does appear, just by a quick reading of the statute, to be limited to 7 percent, there is actually a carve-out provision that when the lower-sending countries don't utilize their allotment, higher-sending countries do get more of that.

When it comes to India, they are currently getting 25 percent of the green cards available in a given fiscal year. If you disregard per-country caps, Indian nationals will take at least 90 percent of the green cards for the next decade. What that means is, you don't have diversity in the immigrant population, and you have now injected waits to everybody else in the world just to cater to one particular population.

Mr. MCCLINTOCK. I see my time is expired. Thank you very much for your testimony.

Mr. LAW. Thank you.

Ms. LOFGREN. The gentleman yields back.

The Chair of the Committee, Mr. Nadler, is now recognized for 5 minutes.

Chair NADLER. Thank you.

Mr. Bier, in 1996, Congress enacted what has become known as the 3- and 10-year bars. You discussed in your testimony how harsh these bars are, how limited the waivers are, and the impact they have on millions of individuals. Can you discuss in more detail just how these bars work and why, in your view, they need to be replaced?

Mr. BIER. Thank you for that question. Under the bars, anyone with a year of illegal presence in the United States cannot reenter the country legally for 10 years, and this is essentially one of the most counterproductive enforcement measures that Congress has ever enacted.

As a result of the bars, if someone is trying to get right with the law, and that should be the goal of our immigration enforcement system, is that we should have a process for people to correct the mistakes that they made, and go home and get an immigrant visa and come back. Under this system, you are barred even if you are eligible for status, which means, you have created an incentive in the law to continue to maintain illegal presence in this country, and not return home and correct your mistake.

So, what we've seen is people stay, despite being eligible for a green card, many of them end up being deported, and then you're subject to a permanent bar on reentry. Then you have a situation today, right now, where Border Patrol is apprehending tens of thousands of parents of U.S. citizens who are crossing the border illegally, even though they could be eligible for a green card if not for the bars that the law subjects them to.

So, it has completely backfired, and it hasn't worked out at all how the authors of that law expected it to.

Chair NADLER. Thank you.

Mr. Yang, in your opening statement, you discuss the need to protect and reform family-based immigration, which has been the bedrock of our immigration system since 1965. Can you discuss some of the obstacles that U.S. citizens and green card holders face when they try to sponsor family Members through our legal immigration system?

Mr. YANG. Thank you for that question, Chair Nadler. The main obstacle is with respect to the wait times. Because of the limited number of family-based visas that are available, family Members end up—United States citizens trying to sponsor family Members often have to wait several years, if not decades, for them to be able to bring over their family Members. If you're talking about nationals from Mexico, Philippines, India, China, or the Philippines, those waits could be upwards of 20 years or more.

Now, why is that important? Because we want to unify family Members here in the United States to provide that social safety network for those people to prosper. Those people are doing any sort of different, oftentimes undervalued work to help Americans succeed in business, to help Americans create businesses, help Americans to innovate.

That's why the family-based immigration system works, because it creates that entire network that values how our system is constructed, and values all of these different pieces that aren't simply based on merit, or based on existing wealth that would contribute to the American economy.

Chair NADLER. Thank you.

Ms. Mhatre, can you describe to the Subcommittee what you want to do with your degree in biomedical engineering if you're able to stay in the United States and obtain a green card?

Ms. MHATRE. Thank you for that question. Like I stated, I would like to help improve the healthcare system by advancing medical

devices, and, most importantly, I want to give back to the community that has supported me and my family for the past almost 21 years now. I realized I wanted to do this because of my volunteering experience at the hospital.

I was not only exposed to the hospital environment, but also to the way physicians use various types of equipment and devices to treat patients, and I want to use this experience, and as well as my degree, to help contribute to these advancements in the medical field, and hopefully help increase the quality of life for patients and just be a productive member of the society.

Chair NADLER. Thank you.

Madam Chair, I yield back.

Ms. LOFGREN. The gentleman yields back.

Mr. Buck would be next, but I think he has had to step away, so we will turn to Mr. Biggs for his questions. Mr. Biggs, you're recognized.

Mr. BIGGS. I thank the Chair for recognizing me and appreciate all our Witnesses being here.

I am, however, once again, disappointed that we're not having a hearing on the actual border crisis. While legal immigration is important to our country, the most important issue, in my opinion, that this Subcommittee should be addressing is the border security.

The current crisis was created by the Biden Administration and our Democrat friends in Congress. President Biden ended successful policies and programs that were put in place by the Trump Administration, and then brought the southern border under operational control, generally. Democrats in Congress continue to promise amnesty to those who have broken our laws. They continue to provide incentives and draws for people from all over the world to enter our country illegally.

When it comes to legal immigration, we're the most generous Nation in the world, despite the COVID-19 pandemic. For instance, in fiscal year 2020, more than 700,000 people received a green card, and more than 620,000 individuals were naturalized. In fiscal year 2019, more than 1 million individuals received green cards, and more than 840,000 individuals were naturalized.

In fiscal year 2019, there were more than 186 million non-immigrant alien admissions to the United States. That included over 440,000 H-2A visa admissions, and over 129,000 H-2B admissions and over 1.8 million student admissions. According to USCIS data, as of September 30, 2019, there were more than 583,000 aliens authorized to work in the United States under the H-1B visa classification.

By any stretch of the imagination, by any rational look at this, you cannot say that the United States is squeezing out immigrants, when instead, we're the most generous Nation in the world for immigration. So, Mr. Law, my first question is for you. What impact would reinstating the MPP have on the current crisis?

Mr. LAW. Thank you. MPP was one of the—or remain in Mexico, as it is sometimes referred to as—was one of the most visionary aspects of the Trump Administration's efforts to control the border and deter fraudulent, frivolous, and otherwise nonmeritorious asylum claims filed by economic migrants. The way that MPP works

is if you are inadmissible, you must wait in Mexico if you are non-Mexican until you have your court hearing.

The number one goal of economic migrants is to simply be let into the country, at which point they oftentimes disappear, or, in many cases, are actually given work permits while they wait out their court dates. Very few of them actually meet the statutory requirement of the humanitarian protection that we call asylum, so MPP actually does control the border.

Mr. BIGGS. So, Mr. Law, how many aliens are currently in the United States waiting their asylum claim to be adjudicated by USCIS or EOIR?

Mr. LAW. Thank you, sir. It's my understanding, based off of the fiscal year 2021 refugee report that the State Department submitted, which takes into account and recognizes that our humanitarian efforts are both refugee from abroad and asylum here at home, and we have to address both. That USCIS has approximately 598,000 asylum applications that they are dealing with, and that EOIR for the Department of Justice has approximately 549,000 on their docket.

Mr. BIGGS. So, what percentage of aliens who actually express fear at the border ultimately file an asylum claim?

Mr. LAW. So, this is an important point. The claiming of credible fear tends to have been the ticket into the country. That does not mean that you are granted asylum, it just means you have met the first threshold. Once that claim has been made, only 62 percent are subsequently turning around and actually seeking in this country.

Mr. BIGGS. So, in 20 years—in fiscal year 2020 through quarter three, what percentage actually was adjudicated as having a credible fear claim?

Mr. LAW. Credible fear is a rather higher number. Then when you look at actual asylum grants, which is it the more important measure, it's only approximately 15 percent.

Mr. BIGGS. Right, and I have got—that's, roughly, right all the way back to fiscal year 2013. What happens to those whose claims are not granted?

Mr. LAW. Well, oftentimes, they are not removed from this country. They should be. Just given the sheer volume of it, and the limited enforcement resources that ICE has, very, very few actually get removed. That, again, just further complicates the system and just fuels the next caravan of economic migrants.

Mr. BIGGS. I see my time has expired. I thank the gentlelady. Thank you, Madam Chair.

Ms. LOFGREN. Thank you. The gentlelady from Washington, Ms. Jayapal, is now recognized.

Ms. JAYAPAL. Thank you, Madam Chair. Thank you to our Witnesses for being here today. I am here today as the only Member of this Committee to actually have been on an F1 student visa.

When I was 16 years old, my parents sent me by myself with their last \$5,000 so that I could get the best education and the most opportunities here in the United States. It was a tremendous sacrifice for them, and we still live on different continents. I spent a good chunk of my life on an alphabet soup of visas.

After I graduated from college, I transitioned to a practical training visa, and then back to a student visa for graduate school, and

then to an H-1B visa before eventually obtaining legal permanent resident status or a green card through marriage to a U.S. citizen.

My journey to citizenship, like so many other immigrants, was almost thwarted entirely by life. In 1995, I received a 2-year fellowship to go back to my birth country of India. To maintain my green card, I had to return to the United States once a year. I carefully planned the timing so that I could return home to the United States for the final trimester of my pregnancy, and be within those rules, but then I developed a leak in my amniotic sack that endangered the life of both me and my child.

I had an emergency C-section at 26½ weeks in India and spent months at my child's bedside in the ICU, praying and doing everything I could for their survival. That also meant I was unable to return to the United States within my year window, and I lost my legal status, even though my husband and now my child were both U.S. citizens.

The then-Immigration and Naturalization Service was not concerned with the real-life decision I had to make to stay in India for the safety of me and my child when it revoked my legal status, and it was only after enormous advocacy from my family and my fellowship that I was able to get my permanent resident status reinstated and reenter the country with my family, only to have to start from scratch with my green card, and wait another 3 years to get my citizenship.

Once I finally became a citizen after 17 years of living in the United States, I desperately wanted to bring my parents here to be with me and their grandchild. They were elderly, and it was unfair to uproot them from their community, especially with the additional time it would take to join me through family sponsorship.

I tell this story because it is really important that we think about how tough our immigration system is to navigate, and how families are kept apart, and how this story, just like the stories of our Witnesses today, are just a few of the many stories that are out there.

So, is Ms. Mhatre, thank you for being here today and for sharing your story; one that is all too common and very heartbreaking. Now, I understand that you have aged out of eligibility for an H-4 visa, the visa for spouses and children of H-1B visa holders. Can you just quickly share why that visa was so critical to you and your family?

Ms. MHATRE. Thank you for your question, Congresswoman. The H-4—the dependent visa is the only thing that's kept me and my family together for 21 years. I have been in the United States since I have been 4 months old. I have gone to school here. My parents and I have built a life here in our community. So, it was really terrifying to think about the fact that once I turned 21, I would lose my H-4 visa, and there was a chance that I couldn't be on the same continent as my parents. This feeling is still pertinent today.

Because I have aged out, I don't know if my applications will be approved. My future is really uncertain. I may have to leave the only place I call home.

Ms. JAYAPAL. Thank you. Mr. Bier, can someone like Ms. Mhatre follow all the rules and still lose their H-1 status?

Mr. BIER. Absolutely. Losing your H-4 status is built into being a dependent of an H-1B worker. As soon as you turn age 21, you

can lose your status. Ultimately, this is a component of the immigration system throughout. You can lose your status even if you do everything right. We have seen in recent months how 91,000 spouses who are on an H-4 visa also lose their status and lose their work authorization because of delays at U.S. Citizenship and Immigration Services. So, we already talked about how these delays are impacting individuals. At the end of the day, many people are losing status in this country, despite following every Rule laid out for them in the law.

Ms. JAYAPAL. Thank you. Very quickly, Mr. Yang. In December alone, women accounted for over 85 percent of jobs lost, and Black, Hispanic, and Asian women accounted for all women's jobs lost that month. How does the experience of the H-4 workforce fit into this, and why is it so particularly devastating right now?

Mr. YANG. Thank you for that question. Very briefly, 95 percent of H-4 visa holders are women, and at least 98 percent of them come from Asian countries. Because of some of these bureaucratic delays, as well as the COVID-19 problem, some of them have fallen out of status. If that results in a job loss to get back into the economy, and at the level that they were, they're losing literally a year or 2 years in their ability to be promoted and succeed in the business environment.

Ms. LOFGREN. The gentlelady's time has expired. We will now turn to the gentleman from Texas, Mr. Roy, for his questions.

Mr. ROY. Well, I thank the Chair. Can you hear me okay, Madam Chair?

Ms. LOFGREN. Yes, I can.

Mr. ROY. Okay. I am in front of this building hear in Texas between events, and so I apologize. Hopefully, my signal stays strong. I appreciate all the guests here today joining us, all the Witnesses, and the opportunity to have this hearing. The one question that I have—and I think that my friend from Arizona, Mr. Biggs, raised one of these questions. Mr. Law, I think you and he had an exchange along these lines. I want to make sure I heard it correctly. How many people are in the United States right now, legally, we are admitting over a million people a year. Is that correct?

Mr. LAW. That's correct. One million permanent resident green cardholders a year.

Mr. ROY. How long have we been at, roughly, that clip? I mean, by my account, it means somewhere close to a decade. Is that right? I mean, certainly, 5 years or more?

Mr. LAW. It's longer than a decade. Probably going on close to 20 years. There's only been a few years where the numbers were lower than 1 million a year, and they were still in the high 800,000s or low 900,000s. None of those years, of course, occurred under the Trump Administration. So, this notion that legal immigration was shut down is just completely not intellectually honest.

Mr. ROY. Right. So, putting aside for a moment some of the issues my colleagues are raising—and all of which we all want an immigration system that works smoothly. I've had numerous friends over the years who have sought, tried to come to the United States. I had a teammate of mine at the University of Virginia, who was the first Black to win the South African Open. It was a big deal in golf, as you can imagine, post-apartheid South Africa.

He and some of my other friends, and another friend from Zimbabwe were trying to get into the country. It was all very difficult for my friends.

Your point, I think that is important, is that we still have a million-plus who are coming into our country every year. Do you know, Mr. LAW, how many people are admitted to other countries around the world each year? That's a big question. I realize that. Do you have any idea?

Mr. LAW. Sure, so I don't have an itemized breakdown, but it's my understanding that the rest of the world combined offers what is equivalent of our green card or permanent immigration status. Combined it is less than what we do on an actualized basis.

Mr. ROY. Yeah, and I actually would love the answer to that from you or any of the other Witnesses at the end of this hearing. I will ask my staff to look at it, but I don't have the exact number. It's something like that, right? I mean, I'm not trying to minimize the importance of perfecting our immigration system. The point of Mr. Biggs was in welcoming a million people legally a year in the United States of America.

Meanwhile, to the best of my understanding, correct me if these numbers are correct, we had 170,000 in March along our southern border, about a little over 100,000 in February, another 70-something thousand in January, and we're waiting on the April numbers right as the month of April here winds down, we'll get the April numbers. We're pushing upward of half a million for over the first 4 weeks of this calendar year. Does that sound right in terms of apprehensions at our southern border?

Mr. LAW. I lost you a little bit, but I believe if you are referencing the border apprehension numbers, yes, it was roughly, I believe, 78,000 in January, up to 101,000 in February, which is a 15-year high, and then it ballooned to 172,000 in March. All bucking the historical trend of border apprehensions going down at this time a year.

Mr. ROY. Right. I believe we will be pushing half a million here by the end of April. We'll see what the numbers are for April when we get that report. Also, that does not account from what we call got-aways. Right? It doesn't account for the people coming in between the ports of entry or between who are getting through at the ports of entry. For example, in the Del Rio Sector alone, we know there were in the last month in March, there was 26,000 cameras had caught movement of activity of individuals moving across the border of 26,000. That's just the Del Rio Sector. In other words, there are certainly tens of thousands of people that are able to get into our country between the ports of entry and illegally not being apprehended. Do you understand that to be correct?

Mr. LAW. That's correct. You will never truly understand what the real denominator is because some are captured by camera, as you referenced, others are just simply missed and are particularly good at coming across the border. So, yes, the border apprehension is just a snapshot of overall larger, illegal alien population coming across the border.

Mr. ROY. Okay. Madam Chair, I don't have a clock ticker on my thing, but I want to be mindful of time. I don't know where I am for the 5 minutes.

Ms. LOFGREN. Your time is up.

Mr. BIER. Congresswoman, could I answer your question really quick about the share of immigrants that come to the United States out of the share of all immigrants? Because it's actually only 10 percent of all immigrants worldwide come to the United States in the last 10 years. So, 10 times as many immigrants are going to other countries than are coming to the United States. So, it's not correct that the United States allows more immigrants here than the rest of the world combined. That's just not correct.

Mr. ROY. Okay. Well, we can get back—Mr. Bier, we can get that number. I think what my point was going to be, whatever the number is, we bring in a substantial portion of the immigrants around the world of 7-point X billion people around the world. We have a substantial portion of that coming into the United States. I would like to know if you can confirm the number on that? As you said, maybe we have 10 percent, and that means 10 million are immigrating into the country, and we have a million of them. Okay. That's fine. I will accept that. We'll go look it up. My main point is when we say we're kicking the lion's share. I would look to then see that list compared to every other country, itemized country by country. I would like to know then what that means in terms of overall burden and costs of us having a system to do all that. I think these are important questions for us to understand.

The only other question I have for Mr. Law, and I will wind down.

Ms. LOFGREN. The gentleman's time has expired, so if you could wrap up.

I don't want to cut you off prematurely, but your time has expired, so let's wrap it up quickly, if you could.

Mr. ROY. Okay. Understood, and I appreciate that graciousness. Quick question, Mr. Law. Do you believe it to be true that the increase in illegal immigration under the power of the cartels in our southern border is hampering legal immigration? Because the cartels are looking to funnel their traffic through their operations versus our normal legal paths?

Mr. LAW. That is a complicated question, in a short amount of time I go over. Typically, the whole situation of border and immigration system, they interplay against each other, their burdens, we give and take on the whole thing. Any activity that encourages cartels and coyote behavior is problematic.

Ms. LOFGREN. Thank you. The gentleman's time has more than expired.

Mr. ROY. Thank you, Madam Chair.

Ms. LOFGREN. We will turn now to Mr. Correa for his questions. Lou, it is your time.

Mr. CORREA. Can you hear me okay, Madam Chair?

Ms. LOFGREN. Yes, we can, Lou. Go ahead.

Mr. CORREA. Thank you very much. First, let me thank you for holding this most important. I want to thank our Witnesses for being here today. Let me say that hearing this discussion reminds me of the debate we have been having 40–50 years, maybe 100 years throughout the history of this country.

At the end of the day, we are a country of immigrants, I don't think there's any other place in the world that you can point to and

say you are a country of immigrants. A little secret here, essentially, we're all riffraff. We've all come to this country because our own country didn't want us there, so that's why we came to America with nothing but our dreams and our ability to work hard.

Mr. Bier, I wanted to talk a little bit about the labor stats, because about a year ago, I got a call from a lobbyist representing the poultry business. He was calling me because I was in this Committee and wanted my help. He told me a story where down in Deep South, 600 poultry workers had gotten deported, bringing the whole poultry industry, the whole county to a standstill, the economy. He told me, he said, "Lou, we can't get workers." He said, "It's not about wages." He said, "they're all Members of the food and commercial—United Food and Commercial Workers Union. We just can't get people to come in and do these jobs."

You think about the comments that we make today, and I guess you look at numbers, and you can do whatever you want to do with numbers. In California, the fifth largest economy in the world, heavily dependent on immigrants, skilled and unskilled.

We are going through a pandemic. We talk about the unemployment numbers. I went out there and I visited farm workers, working under in what we could call dangerous conditions. Nonetheless, they were working to feed us under these conditions. You look at Silicon Valley, the pharmaceutical industry, the medical device industry, what would we do without skilled and unskilled workers? Do we have a labor shortage in this country? What is going on? Do these immigrants hurt Americans? Please, Mr. Bier.

Mr. BIER. No, they absolutely do not hurt Americans. It was said that there's no job an American won't do. That's certainly true. When it comes to farm labor, meat and poultry processing, and other industries, there is no unemployed Americans who are seeking out these jobs.

In fact, a study was done of farm workers in North Carolina, for example. At the height of the recession in North Carolina in 2011, there were more than 500,000 unemployed North Carolinians. The H-2A program advertised to those jobs at the prevailing wage for multiple months to those unemployed Americans. And only 7 of those applicants, U.S. workers, actually came on and stayed throughout the entire season. So, there is a need for foreign workers to come in and fill some of these slots.

Under the H-2B program, we see the same thing. We have 100,000 labor-certified, Department of Labor-certified positions that are unfilled right now that need workers, and yet, we're hearing that we don't have any way to get them into the country. So, it's a major issue right now. Right now, some of the numbers are out of date. Today, we have more open jobs in this country than before the start of the pandemic.

So, yes, unemployment is high, but, guess what, we're still in the middle of the pandemic. Many people are still afraid to go out to work. Immigrants are willing to go out and work these jobs, and we should let them, because it's harmful to our economy not to allow it.

Mr. CORREA. Thank you, Mr. Bier. Very quickly, Ms. Mhatre, I wanted to ask you, you're an individual that America needs. You come, you educate yourself in the STEM area, a scientist and

healthcare worker. These are the areas that America has the edge on technology. We make the best pharmaceuticals, the best medical instruments, and the best medicine. This is where I see your role. The doctors at the local hospital—a lot of them are immigrants. Yet, we have this issue of not letting you into a country. Why in God's name would we take somebody smart like you, intelligent like you, give you all this education, all this training, and then tell you, thank you very much, thank you, but go away, we don't want you anymore? I just think it's crazy. What do you think? Could you enhance our country with your skills? Thank you.

Ms. MHATRE. Thank you so much for your kind words. I just want to say I am very grateful for the opportunities that I have that my university has given me. However, it hurts when I am not able to fulfill my goals or give back to the community that has done so much for me.

Mr. CORREA. Thank you.

Ms. LOFGREN. Thank you. The gentleman's time has expired. Ms. Spartz is next, but the rules require, Ms. Spartz, for your camera to be on. Could you please turn on your camera and be recognized for your questions? Ms. Spartz? There you are. You are now recognized.

Ms. SPARTZ. Thank you. Thank you, Madam Chair. I think it's a very important conversation, and I appreciate you having this conversation. As a legal immigrant myself, I truly believe would have a lot of work to improve our legal immigration system, improve our legal infrastructure, and, also, look at how we can really streamline some of the policies that better serve our country and provide less bureaucracy, including maybe some visa policy and work visa policies. There is a lot of work to do in this area. It's also important that we have a secure border with—we have a border policy and the issue with national security.

So, I think it's important for us to have this conversation. So, it seems to me that we don't have it very often, and we don't have it in a productive way. So, hopefully, our Committee can work on it because it's not—you cannot resolve all this with religious—do it in one bill.

So, my question is going to be related to—I can ask, several of you, if any can volunteer from our panel people, what is some things you believe that Republicans and Democrats can agree on that we can provide, streamline legal immigration system, provide border security, and national security on the border? If there is any place we can find a common ground, or we can never—because it seems like I am frustrated as a lot of people.

We have been discussing for years, and I am sure Madam Chair has been on this Committee for a long time, but nothing happens. We keep discussing and we keep discussing. I will be honest with you what's happening on the border, it breaks my heart. It's a very disturbing situation. It didn't happen overnight, but it's escalated recently.

So, we have to have good policy. We have to be able to work as a branch, and then work and put pressure on the Executive Branch to actually get stuff done and work with us. So, anyone on the Committee wants to mention just quickly what do you think? Do you think there is hope that something can be done?

Ms. LOFGREN. Ms. Spartz, if I could interrupt. Last Congress, 365 Members of the House voted to make adjustments on the per country cap limitation, not to eliminate it completely. So, it was a huge bipartisan vote in the House. The Senate mucked it up. That was an example of bipartisan effort. Ms. Buck was the principal who—

Ms. SPARTZ. Maybe we need to work better. I have a visa policy, it's all right. I have a problem. It should be. We actually represented the people that represent the State. I don't know, we have Mr. Roy and he has worked a lot of policy issues. Do you want to mention something? Do you think there is something that can actually happen and have somethings that can be decided by the President?

Mr. LAW. Yeah, thank you. First, we should absolutely fix the TVTRA and Florida settlement loopholes in the law. Even President Obama back in 2014 pleaded with Congress to do that, and Congress failed to act. If we do not enforce our laws and remove the incentives for economic migrants and other vulnerable people to put themselves in harm's way through coyotes and drug cartels to come here when they don't have a mechanism, other than just coming across the border, we have got to stop that. You have got to cut off this link to the cartels.

Unfortunately, regarding the per country caps, while, yes, it did pass with a broad bipartisan support, I think there's fundamental misunderstanding about what that bill does. It would be a train wreck to the legal immigration system, and, frankly, it would reward those in the tech industry, in particular, who have replaced and displaced American workers by utilizing the H-1B program first, which does not require you to actually seek out Americans first. They only petition for Indian males to overload the system, because there is no per country cap on H-1B, Congress can fuse the whole system by creating this concept of dual intent where you can have both nonimmigrant, meaning temporary, and immigrant, meaning permanent, intend at the same time.

The blending of those two things together has unfortunately created a mess that is too often just destroying the system. Frankly, that is why the per country caps are in place. We need to have clear distinctions between permanent immigration and temporary immigration, which is why things like alien and immigrant are important legal terms because those distinctions matter very much.

Ms. SPARTZ. I yield back. If you have a second, if you can maybe something quickly. Madam Chair, if you can allow me a couple of seconds.

Ms. LOFGREN. Of course. The gentlelady yields back. I appreciate her question. We now turn to Ms. Garcia for her 5 minutes.

Ms. GARCIA. Thank you, Madam Chair, and thank you to all the Witnesses that are here today, and, Madam Chair, for holding this critical hearing. When it comes to immigration issues, as you said, everyone always asks, why don't they just get in line like everybody else? The truth of the matter is, there is no everybody else, because of the unduly burdensome barriers to immigration that make it impossible to whether there's no general purpose line, or as one of the Witnesses said, there is a lot of waits everywhere.

Like many of my colleagues have called for confident immigration reform for many, many years. Today, we have before us a lot of questions that are being asked about wait lists, backlogs, because the reality is that USCIS provides on its website that the estimated time range is 5–17 months of processing time for an immigrant who applies for a green card at the Texas Service Center. Not long ago, the national average processing time for citizenship had increased by 80 percent. Here in Houston, the median wait time was 14 months over a year, and processing could take up 25 months. That's two years. What's more is that number of immigrant visa cases pending interviews at the National Visa Center increased by 473,000.

While green card wait times were already at a steep rise, COVID-19 has made it worse, the surge to unprecedented levels. So, the bottom line is, we need change, and we need it now.

I want to start with you, Mr. Bier, we have said over and over, and I think a couple of colleagues have even used the word, we are the most generous country in the world on immigration. Can you really give us some context in light of the many barriers for pathways into really getting there? I know they keep talking about these 1 million green cards. The truth is, 65 percent of those were based on a green card going to a relative. So, just quickly, some of the barriers, and I would like the 1-minute mark, Madam Chair, yielded to my colleague, Ms. Ross, for a question.

Mr. BIER. Ultimately, if you don't have a family member in the United States, and you don't have a college degree, you are pretty much shut out of the immigration system in the United States. We have a system that basically assigns people by random lottery that you have almost no chance of winning. We are one of the largest countries in the world. We are the third largest country in the world. So, the idea that 1 million should sound impressive to anyone, it is just not that impressive. It's 1 million out of 330 million people. That's less than $\frac{1}{3}$ of a percent of our population.

Overall, compared to other countries, controlling for the population size, we rank 61st in the world for our foreign-born share of the population. We're bottom third among wealthy countries. We're fourth in last among OECD countries for employment-based immigration. We're not even in the top 50 countries worldwide for refugee and asylum intake per capita. Even if the U.S. increased its legal immigration system five-fold for the next decade, we still wouldn't have a foreign-born share of the population equal to the share in Australia, Canada, New Zealand, or Switzerland. So, the idea that the United States is letting in some absurd number of people that's totally abnormal for a developed country is just not true.

Ms. LOFGREN. Ms. Garcia, you have a minute and 11 seconds. Do you wish to yield to Ms. Ross now?

Ms. GARCIA. If I can put a document in the record. It's called, Immigrants Applying for Citizenship in Houston Face High Wait Times.

Ms. LOFGREN. Without objection, that will be made a part of the record.

[The information follows:]

MS. GARCIA FOR THE RECORD



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Immigrants applying for citizenship in Houston face high wait times

Natalie Weber, Staff writer

Updated: Aug. 16, 2019 10:39 p.m.



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From left, Martín Alvarez, Gissel Alvarez, Altagracia Castaneda and Anabel Castaneda at prepare for dinner at their home in Katy, Friday, Aug. 9, 2019. Anabel received her citizenship in 2008 and her husband Martín and mother Altagracia will take the test later this month. Martín's friends and family members urged him to reapply for his citizenship after failing his first

When Martín Alvarez and his mother-in-law, Altagracia Castaneda, found out their citizenship applications had been processed, and their interviews were scheduled near the end of August, they were pleasantly surprised.

"I thought it was going to take longer," Castaneda said in Spanish. "They said it was going to take a lot of time, and it could take up to two years. But it was one year."

National average processing times for citizenship have increased by 80 percent since fiscal year 2016: going from 5.6 months in that fiscal year, to 10.1 months as of March 2019. But in Houston, the median wait time is 14 months, and processing can take up to 25 months.



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Naturalization applications spiked in 2016 and 2017, according to a report by Boundless Immigration, a Seattle-based technology company that helps immigrants obtain green cards and citizenship. However, the report said, U.S. Citizenship and Immigration Services — the government agency that oversees naturalization — has the lowest processing efficiency in a decade.

Why there's a backlog

"What we're seeing in the Trump years is you get this surge in volume and then the processing stays well below that," said Doug Rand, co-founder of Boundless Immigration.

Houston had the highest median processing times and the third-lowest backlog completion rate when compared with 86 other U.S. Citizenship and Immigration Services field offices, the company's analysis found.

Rand said there doesn't seem to be a clear reason why certain field offices have higher wait times than others — it's not based on an urban-rural divide, he said, or the political leanings of a certain area.

"It may just be arbitrary," he said.

Citizenship and Immigration Services spokeswoman Jessica Collins has an answer for the longer wait times: They are due to the number of applicants.

"The truth is that while many factors relating to an individual's case can affect processing times, waits are often due to higher application rates rather than slow processing," she said. "That is why

USCIS has implemented a range of process and operational reforms, hired additional staff and expanded its facilities to ensure its ability to adjudicate keeps pace with extraordinary demand for its services over recent years.

On HoustonChronicle.com: [Read the Chronicle's immigration coverage](#)

The agency strives to process applications as effectively and efficiently as possible while following laws, policies and regulations, she said.

Emma Ibarra, who serves as the American Immigration Lawyers Association liaison for the Houston field office, also said the high wait times are a result of an increased workload. The Houston field office alone serves 30 Texas counties.

"They basically have the same (amount) of officers, just handling way more applications," Ibarra said.

As the local field office works through the backlog, it is working to hire more officers and cross-train employees so they can handle various types of immigration cases, Ibarra said.

Anxiety in waiting

Castaneda and Alvarez said waiting for their applications to be processed did not cause them a lot of anxiety. However, they have both said they will feel more secure in this country if they pass their citizenship exams and are [approved for naturalization](#).

"I have various family members and they motivated me (to apply)," Alvarez, who is from Mexico, said in Spanish. "And at the same time, they pressured me, because they said that 'Look, residents don't have the same advantages as being a citizen, because being a resident, you don't have anything certain in this country.'"

Castaneda said while she waited for her citizenship application to be processed, she delayed plans to visit two of her children, who live in Mexico.

On HoustonChronicle.com: [Houston leaders react to Trump's announcement of immigration raids](#)

"I had plans to travel," she said in Spanish. "But I said 'If the call to go answer the questions arrives, I can't go. I have to wait to be able to carry out everything that I've been hoping for.'"

This isn't the first time Citizenship and Immigration Services has seen a spike in applications — in 2007, almost 1.4 million petitions were filed, and by the following year, it had adjudicated more than 1.1 million cases.

In addition to impacting travel plans, waiting for citizenship can have negative effects on people who can't receive certain medical benefits unless they are naturalized, Ibarra said.

"The long processing time causes them great hardship," she said.

It can also impact social service organizations' ability to advise new immigration cases, Jill Campbell, managing immigration attorney at BakerRipley said.

"Having a pending application can create some anxiety," she said. "It also puts a strain on nonprofits."

Other challenges

While wait times have gone up, it's not the only challenge some immigrants may face while applying for citizenship, advocates said.

To become a citizen, a person must pass a civics test and a basic English test during their citizenship interview. However, if a person is 50 or older and has been a permanent resident for at least 20 years, or 55 or older, and a permanent resident for at least 15 years, they are exempt from the English language requirement, and may take the civics test in their native language, using a translator.

As a result, some immigrants may wait to apply for citizenship.

"That is the biggest reason why I don't see some people apply sooner," Ibarra said.

Both Alvarez and Castaneda said one of the reasons they delayed getting their citizenship was to become eligible to have the English requirement waived. Alvarez applied for citizenship in 2007, but failed his exam which was in English.

"In my country, in my state, in my town, I wasn't able to study, and with work, I was barely able to write Spanish," he said. "It was very difficult for me to write the sentences in English. So, for this reason, I failed the citizenship exam, and I got discouraged."

"Socioeconomics play an important role in how people can go through this process," said Benito Juarez, who works in Houston's Office of New Americans and Immigrant Communities. "For example, if you have an immigrant that came here and has a good job and was able to immediately learn the language or they already knew the language, it's a lot easier."

On [HoustonChronicle.com](#): Home at last: Houston father resettles after deportation

Gordon Quan, a Houston-based immigration attorney, said he's also noticed an increased scrutiny of applications, which he said may contribute to longer wait times.

"In the past, we just looked at a good moral character for the last five years, if it was a normal case," he said.

As a result, some people seeking citizenship may find their green cards jeopardized, Quan said.

"Now, if they find that anything has been done before that, that somewhat would disqualify a person, they're going back onto those cases and trying to even revoke the person's permanent resident visa," he said.

Prospective citizens also face the challenge of paying for the application fees, which cost \$725 per person.

Since his youth, Alvarez earned a living by painting cars, but the chemicals damaged his skin, and he is only able to work odd jobs from time to time. He and his wife rely on her job as a teacher to pay their bills and save enough funds for his application fee. Castaneda said her children helped her pay her fee.

"I work every now and then, but it's not a salary, a check that I bring to my house like I brought before, when I was able to work the entire week," he said. "So, that is part of the reason why it took me a little longer."

Uneven workload

While Citizenship and Immigration Services is still working through a backlog of applications, it said it will realign its regional, district and field offices as part of its efforts to redistribute the workload.

By October 2019, the agency plans to realign its field offices under 16 district offices, instead of the current 24. There hasn't been a reorganization since 2006, which has caused the workload across the country to become uneven.

The organization also plans to use overtime, technology and redistribution of staff workloads to address the backlog. In fiscal year 2018, Citizenship and Immigration Services increased its staff by almost 1,300 positions — a 7 percent increase over staffing in fiscal year 2017. For fiscal year 2019, it has authorized an additional 884 positions.

The caseload "skyrocketed under the Obama administration" more than doubling from 291,800 in September 2010 to nearly 700,000 by the beginning of 2017, said USCIS spokeswoman Jessica Collins.

"Despite a large workload, USCIS is completing more citizenship applications, more efficiently and effectively—outperforming itself as an agency," she said.

As an example, she cited FY 2018 rates, saying the agency “exceeded a five-year high in both new oaths of citizenship and the number of applications processed.”

While aspiring citizens may face certain barriers in the application process, there are people willing to help them along the way.

“We’re here to overcome them,” Campbell, the managing immigration attorney for BakerRipley, said of the obstacles.

Bonding Against Adversity, another nonprofit group in Houston working to assist immigrants, helps people apply for citizenship. Earlier this month, Castaneda and Alvarez practiced for their exam during a citizenship class hosted by the organization.

Gloria Villarreal, a Mexican mother of two who became a citizen in July 2018, was also attending the class. But now she volunteers with Bonding Against Adversity, and offers encouragement to people as they go through the process she completed not too long ago.

“I really like to motivate them. I always give advice,” she said. “Are you scared? Perfect. I was too. But it’s normal, no?”

Juan Figueroa contributed to this report.

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Written By

Natalie Weber

Ms. LOFGREN. Ms. Ross, you are recognized.

Ms. ROSS. Thank you so much, Congressperson Garcia and Chair Lofgren. I am honored to be here and make this visit to your Subcommittee, because I want to advocate for documented Dreamers like Ms. Mhatre, and her colleagues that improve the dream.

My district in the research triangle area of North Carolina depend on highly skilled, highly educated foreign workers to fill jobs in technology and biotech. These workers bring their families to my district, build their lives here, and make our communities better. Our economy is booming because of them. So, I want to thank you, Ms. Mhatre. I want to thank you, and I want to thank your family. We need these workers and their families to help our Nation maintain its status as a world leader in innovation. I will close just by saying if you want to go to a Committee that can really agree on the need for these workers, come to the Science, Space, and Technology Committee because we want you to stay in our country, and we welcome you. Thank you so much, and I yield back.

Ms. LOFGREN. The gentlelady, Ms. Garcia yields back. Now, I am pleased to recognize the gentlelady from Texas, Ms. Escobar.

Ms. ESCOBAR. Thank you so much, Madam Chair. I am so grateful for this hearing and for this opportunity. I want to just say a few things before I ask my question. What we're seeing today and have seen for years at the southern border in safe and secure communities like my own is, unfortunately, the consequence of America's failed approach to immigration. For decades, we have spent hundreds of billions of dollars on hardening our border, on costly ineffective walls, and during the past Administration, using cruelty as a deterrent.

At the same time, our country has limited, and in the eyes of many, essentially eliminated legal pathways. So, we shouldn't be at all surprised that as legal pathways shrink, irregular or undocumented immigration grows. What we should have learned by now is that the shortsighted approaches of the past not only do not work, but they dehumanize immigrants and they debase us.

I frequently hear my colleagues on the other side of the aisle cynically say that they support legal immigration. Yet, they say this knowing full well that those legal pathways have continued to shrink and for many are nonexistent.

At the beginning of this hearing, we heard the Ranking Member preach that we should continue the same failed approaches of the past. I will recount that old saying for him, that the definition of insanity is doing the same thing over and over again.

It's long past time that we recognize that immigrants are in that positive for our economy. After the results from the Census Bureau, recently, we should recognize that we need them.

I want to take a moment to highlight the story of how we have eliminated pathways for people. One of my constituents Edgar Falcon, has been living the reality of permanent family separation for the last decade. Edgar, a U.S. citizen, met his now wife in Ciudad Juarez Chihuahua. His wife later applied for a visa and was denied over an incident that occurred when she was a teenager. An adult took her to a port of entry and encouraged her to present false documents to enter the United States. This decision she made as a

child resulted in a permanent bar to accessibility. There are no waivers for a situation like this, and, therefore, no forgiveness.

Edgar has been splitting his time between El Paso and Ciudad Juárez where his wife and daughter live, but they can't be together. Edgar is 1 of 1.3 million U.S. citizens whose families have been permanently separated over a denied spousal visa, or the removal of a spouse from the country. I ask unanimous consent to enter Edgar's statement into the record.

Ms. LOFGREN. Without objection, the material will be in the record.

[The information follows:]

MS. ESCOBAR FOR THE RECORD



American Families United

**Statement of
Edgar Falcon
President
American Families United**

**for
House Committee on the Judiciary
Subcommittee on Immigration and Citizenship**

**Hearing “‘Why Don’t They Just Get in Line?’ Barriers
to Legal Immigration”**

April 28, 2021

Thank you Subcommittee Chair Zoe Lofgren (D-CA), Ranking Member Tom McClintock (R-CA), and members of the House Judiciary Committee Subcommittee on Immigration and Citizenship for the opportunity to submit this written statement in support of the American Families United Act, which would address barriers to legal immigration for spouses and children of U.S. citizens.

As an El Paso constituent and as president of American Families United, which represents U.S. citizens who have married foreign nationals, I would like to thank Congresswoman Veronica Escobar (D-TX) for her continued leadership on this issue. I would also like to thank Congressman David Valadao (R-CA).

I grew up in El Paso, graduated from the University of El Paso with a BA in Kinesiology, and continue to work in the community as an educator. Eight years ago, I married my wife on the US-Mexico border. This is as close as she has ever been to living with me in the United States. She was denied a visa because at the age of 14 years, she was taken to a port of entry where an adult said she was a U.S. citizen.

Often immigration workers and judges can balance issues such as these against mitigating factors. In our case, there is no way forward. Her inadmissibility is permanent with no waiver.

My story is just one of many separations, due to many inadmissibilities under the law. 1.3 million U.S. citizens are part of a family that has already been separated due to the refusal of a spousal visa or the removal of a U.S. citizen's spouse from the country. Another 2.7 million U.S. citizens fear separation for this reason.

The American Families United Act would allow U.S. citizens to request a case-by-case waiver for their foreign national spouse or child for many inadmissibilities. The bill would not abolish those inadmissibilities. Judges and others authorized to hear immigration cases would not have the discretion to reunite families if the foreign national is a security threat or has a history of serious criminal activity.

In a poll of registered voters conducted last week, SurveyUSA found strong support for the American Families United Act across all regions and demographics. Democrats support by a margin of 10:1; Republicans support by 4:1; Independents support by 5:1.

This statement includes an appendix for each state represented by a member of this subcommittee with estimates of the U.S. citizens impacted statewide, personal stories, and poll numbers. It concludes with an appendix of national estimates, stories, and polling results.

Thank you for your time and consideration. I hope that you will be able to positively report this bill.

Sincerely,
Edgar Falcon



Impacted U.S. Citizens: 92,000

Personal Story

Dr. Sherrie Licon, an administrator at college in Arizona, has been married to her husband since 2009. She and her daughters live with the fear and anxiety that their husband and father could be ripped away from them at any time. Due to harsh immigration laws, the family has no options to move his immigration process forward and face living in immigration limbo as a mixed-status family for the rest of their natural lives.

Polling

We commissioned a poll with SurveryUSA in April 2021 and asked registered voters in the state if they support or oppose the American Families United Act.

| Not Sure | Strongly Oppose | Oppose | Neutral | Support | Strongly Support |
|----------|-----------------|--------|---------|---------|------------------|
| 3% | 4% | 15% | 24% | 43% | 11% |



California

Impacted U.S. Citizens: 954,000

Personal Stories

Ariana Gonzalez Chavez from San Jose, California is an American citizen and constituent of Congresswoman Zoe Lofgren. Like many families in our community, her family has struggled with the fear of family separation due to immigration issues for years. The American Families United Act would provide a path of reunification for family members married to American citizens and an opportunity to keep her family united, allowing them to be able to pursue and fulfill the American dream.

Elizabeth Jaimes, of Bakersfield, California, married her husband 20 years ago. She has been struggling to get his permanent residence ever since, despite seeing many lawyers. She and her husband have four children together, three living.

Edward Americano, an American citizen and hardworking family man from Hayward, California, is living through family separation because of immigration bars. He went to 'the back of the line' to adjust his wife's immigration status, but she did not qualify. She has lived outside the country with our four young American children for years. The American Families United Act would help families, like Edward's, by providing a pathway to reunification for those married to American citizens.

Patricia Gutierrez, from Bloomington, California, grew up in San Diego, California. When she met her husband, there was an interior border patrol checkpoint in between where she lived and where he lived. When she married, she had to move to where her husband lived. She is unable to travel freely to visit her family with her husband. She and her children are U.S. citizens living in the shadows.

Alvaro Escobedo, of Valley Center, California, married his wife at the age of 20 and they have been together for 20 years. He now has three U.S. born children and, after all this time, his wife has not been able to fix her status in the U.S., without facing a bar that would separate her from Alvaro and their children. It has been a very challenging journey for all of them and they have faced adversity in the hope that they can one day have the freedom and liberty that tax paying, U.S. citizens deserve.

Mirtha Arriaga, a U.S. citizen from Maywood, California and her foreign national husband are parents to children with special needs. Her husband would receive a 10 year immigration ban if he tried to adjust his immigration status. Mirtha relies on support and services for her children that are only available to them in the U.S., and if her husband was not allowed to remain in the U.S. with her, she would be facing a decade of separation without her husband's support, which would result in extreme hardship for both her children and herself.

Polling

We commissioned a poll with SurveyUSA in April 2021 and asked registered voters in the state if they support or oppose the American Families United Act.

| Not Sure | Strongly Oppose | Oppose | Neutral | Support | Strongly Support |
|----------|-----------------|--------|---------|---------|------------------|
| 14% | 4% | 8% | 12% | 25% | 36% |



Colorado

Impacted U.S. Citizens: 66,000

Personal Stories

Ed Markowitz, a U.S. Navy veteran from Lakewood, Colorado, has had to live abroad for the past 10 years to keep his family semi-intact. His wife is barred from entry into the U.S. due to an entry violation. Their minor U.S. citizen son is being raised in a foreign setting while they remain separated from their other two sons, who are U.S. permanent residents.

Beth Capriz, from Centennial, Colorado, spent over 5 years separated from her husband while she applied for a hardship waiver that would allow her husband to return to the U.S. Had there been an opportunity to plead the case before a judge, in which the judge had the ability to review her husband's background and use his discretion based on a character review, she could have avoided an agonizing separation.

Polling

We commissioned a poll with SurveryUSA in April 2021 and asked registered voters in the state if they support or oppose the American Families United Act.

| Not Sure | Strongly Oppose | Oppose | Neutral | Support | Strongly Support |
|----------|-----------------|--------|---------|---------|------------------|
| 2% | 5% | 6% | 25% | 48% | 14% |



Indiana

Impacted U.S. Citizens: 41,000

Polling

We commissioned a poll with SurveryUSA in April 2021 and asked registered voters in the state if they support or oppose the American Families United Act.

| Not Sure | Strongly Oppose | Oppose | Neutral | Support | Strongly Support |
|----------|-----------------|--------|---------|---------|------------------|
| 8% | 6% | 3% | 21% | 26% | 36% |



New York

Impacted U.S. Citizens: 330,000

Personal Story

Susan Houmita, a graphic designer from Brooklyn, New York, has been pursuing a green card for her husband for 7 years. In August 2018, Susan's husband was detained after accidentally driving into Canada near Buffalo, NY. He has remained in custody for 2 years and 8 months, while they continue to appeal his deportation to Algeria.

Polling

We commissioned a poll with SurveryUSA in April 2021 and asked registered voters in the state if they support or oppose the American Families United Act.

| Not Sure | Strongly Oppose | Oppose | Neutral | Support | Strongly Support |
|----------|-----------------|--------|---------|---------|------------------|
| 13% | 3% | 5% | 29% | 28% | 21% |



Ohio

Impacted U.S. Citizens: 58,000

Personal Story

Regina Cano, from Cincinnati, Ohio is struggling to pay her medical school debt while living in Mexico, since her husband cannot return to the U.S. upon receiving an immigration bar 8 years ago. She has left her family behind in Mexico on three separate occasions this past year to work in the U.S. on the front lines of the COVID-19 pandemic

Polling

We commissioned a poll with SurveryUSA in April 2021 and asked registered voters in the state if they support or oppose the American Families United Act.

| Not Sure | Strongly Oppose | Oppose | Neutral | Support | Strongly Support |
|----------|-----------------|--------|---------|---------|------------------|
| 13% | 5% | 11% | 11% | 44% | 15% |



Pennsylvania

Impacted U.S. Citizens: 51,000

Personal Story

Stacy Rodriguez, housewife and entrepreneur from Union City, Pennsylvania, and her husband, a Mexican national, have been married for 11 years. Their family is facing long term separation related to immigration bars. They have 5 children ranging from 5-18 years old. Without her husband, the family faces financial, educational, medical, physical and emotional hardships. The future of their family- 6 U.S. citizens- depends on the passage of the American Families United Act.

Polling

We commissioned a poll with SurveryUSA in April 2021 and asked registered voters in the state if they support or oppose the American Families United Act.

| Not Sure | Strongly Oppose | Oppose | Neutral | Support | Strongly Support |
|----------|-----------------|--------|---------|---------|------------------|
| 9% | 8% | 10% | 22% | 27% | 24% |



Impacted U.S. Citizens: 661,000

Personal Stories

Jennifer Alvarez, from McKinney, Texas, met her husband while working as a restaurant manager. He was brought to the U.S. as a 15 year old boy. She is facing the probability of having to raise their 4 kids without a father due to immigration status. Her kids have an amazing, devoted father and they may miss out on his presence for the rest of their childhood.

Monica Logan, a resident of Houston, Texas, and her husband started a life together five years ago. She has chronic illnesses that require extensive care from specialized physicians. Monica is facing the harsh reality of being separated from her husband who provides the physical, emotional and financial support she needs or living in a country where her health will deteriorate due to lack of skilled medical personnel.

Beatrice Rodriguez, of Palacios, Texas, has been trying to fix her husband's immigration status for 7 years. Beatrice has been raising her two daughters alone for over a year now, as her husband is in Mexico completing his 10-year ban. She faces daily emotional and financial struggles due to his absence.

Polling

We commissioned a poll with SurveyUSA in April 2021 and asked registered voters in the state if they support or oppose the American Families United Act.

| Not Sure | Strongly Oppose | Oppose | Neutral | Support | Strongly Support |
|----------|-----------------|--------|---------|---------|------------------|
| 11% | 3% | 5% | 26% | 36% | 18% |



Washington

Impacted U.S. Citizens: 98,000

Personal Stories

Karen Colpo-Seguin, of Olympia, Washington, and her daughter live in the shadows because Karen's spouse cannot get an inadmissibility waiver, due to a misdemeanor committed almost 40 years ago. Immigration judges could be the key to allowing families, like Karen's, the opportunity to present their case and receive due process for the benefit of U.S. citizens.

Jill Carrillo, a public servant from Vancouver, Washington, and her husband have been married 15 years. She is facing the harsh reality that she may need to spend her senior years in poor health while in exile in another country in order to stay with her husband, who has been a constant companion to her through her own illness and her mother's illness.

Polling

We commissioned a poll with SurveryUSA in April 2021 and asked registered voters in the state if they support or oppose the American Families United Act.

| Not Sure | Strongly Oppose | Oppose | Neutral | Support | Strongly Support |
|----------|-----------------|--------|---------|---------|------------------|
| 4% | 3% | 2% | 22% | 37% | 32% |



Wisconsin

Impacted U.S. Citizens: 39,000

Personal Story

Lisa Lopez, from Milwaukee, Wisconsin, and her husband have been married for 10 years. Together they have an 8 year old son. Lisa started her husband's paperwork process for his green card in 2011 before their son was born and soon found out that because of a mistake they made, he might not be able to get his green card. She's terrified by the idea of living anywhere outside of the United States as a way to keep her family intact.

Polling

We commissioned a poll with SurveryUSA in April 2021 and asked registered voters in the state if they support or oppose the American Families United Act.

| Not Sure | Strongly Oppose | Oppose | Neutral | Support | Strongly Support |
|----------|-----------------|--------|---------|---------|------------------|
| 6% | 0% | 3% | 26% | 33% | 32% |



United States of America

Impacted U.S. Citizens: 4 million

Personal Stories

Matthew Bryan is an executive at a Fortune 500 company. Originally from Cimarron, Kansas, he has been forced to live outside of the United States for 13 years because of his wife's inadmissibility. He has a great desire to return home to Kansas and raise his two children, who are U.S. citizens, on the family farmstead with his parents and siblings.

Krystal Loverin, a disabled Iraq veteran from Oregon, had to quit her government job to move her children to Mexico in order to keep her family together while her husband José applied for the I-601 waiver after their I-601A was erroneously denied.

Megan Gonzalez, a teacher from Burnsville, Minnesota, has lived separately from her husband of 16 months due to a permanent bar he faces.

Daniel Adam Dusbabek, from Brainerd, Minnesota, has had to live in Mexico for the last 13 years because of his wife's permanent bar and no available waiver. The 13 years in Mexico were preceded by 6 years of living apart and in different countries while working through the immigration process with no success.

Summer Holbrook, of Southaven, Mississippi, met her fiancé 6 years ago while on a mission trip to Peru. Ever since then, they have been working to get him to the United States. However, there is no opportunity for him to obtain a waiver for an administrative violation that has them lost in immigration.

Melissa Paciulan, a former Americorps National Service Program volunteer from Londonderry, New Hampshire, has been exiled from the USA since 2006 when her husband was wrongly accused of an oral false claim to citizenship. This accusation and permanent immigration bar has had severe, detrimental impacts on Melissa and her family and there was NO due process, discretion, or special consideration offered to them as American citizens.

Laura Araujo, from Manchester, Maryland, has been living in Mexico for 4 years. She had to make the difficult choice to move her family to another country in order to keep her family together after her husband was given a permanent immigration bar at his consular interview. Poor legal counsel about confusing and draconian immigration law led her to believe that her husband would be able to return with her to the U.S. and live their American Dream together. She often laments the opportunities her children are missing by not living in the U.S.

Liza DuPont lives with her husband and their two children in Atlanta, Georgia. Her efforts to obtain her husband's green card came to a dead end in 2014 when they were informed that her husband could be subject to a lifetime bar if he were to attend his visa interview at the Mexican Consulate. Until the law is changed, she lives in limbo and is hindered from achieving her full potential.

John Wright, from Oakland Park, Florida, married his husband in 2019 in Colombia, South America. His husband was denied an American Tourism Visa in 2019 after he married John. They plan to apply again for a visa in 2022 after being married for more than 2 years, but fear another denial.

Ana Ortiz, an essential worker from Morriston, Florida, and her husband have been married 6 years. She is facing the harsh reality that she may need to leave the U.S. with her three U.S. citizen daughters to join her husband in a country where sex trafficking is the norm. Ana fears her daughters becoming part of the statistics living in another country and faces her own PTSD from when she herself nearly became a victim of human trafficking at the age of 12 while living in Mexico. She and her husband should be building a safe future for their family in the U.S.

Chasidy Rosa Morales, of Summit Point, West Virginia married her husband 10 years ago. Her husband received a 5 year bar and has been separated from the family for 3 years. She and her husband have 2 biological children and 1 adopted child.

Amanda Fernandez Franco, a registered nurse from Jackson, Missouri, has been living in Mexico with her husband for 13 years. They are happily married and have three daughters, but they have no options for moving forward in their immigration process. She is separated from her family in the U.S. and she has not been able to return regularly to the U.S. to visit her family.

Lara Garcia, from Columbia, Maryland, and her husband have been together for 10 years and they have three children together. They have been working through the process of adjustment of status for 5 years and still face 2-3 more years of tireless waiting before her husband will be able to return to El Salvador for a consulate interview. Their eldest child suffers from severe anxiety due to the fear of being separated from her father. They want nothing more than to be free from the shadows, so they can give their children the life that they deserve.

Anna Alberto, a kindergarten teacher from Crystal, Minnesota, has been married to her husband for almost 8 years. Anna and her 7 year old son lived in Honduras for a year to be together as a family with her husband, but life there was filled with danger and insecurity. They made the hard decision to move back to the U.S., leaving her husband behind, only able to see him via the phone. Anna and her son are both American citizens and should not have to choose between living in the United States and being together as a family.

Lois McGuire, a retired nurse practitioner from Rochester, Minnesota, has been living away from her daughter and grandchildren for 3 years. Her daughter and son-in-law, a Mexican national, moved to Mexico to try to obtain legal U.S.citizenship for him. This entails at least a 10 year wait outside of the country. Now, Lois is missing out on precious time with her family.

Mary Mejia, from Rochester, Minnesota, and her husband have been married for 10 years and live in Mexico with their 2 children. They don't feel safe in Mexico, but have made the decision to stay in order to live together as a family. Mary and her 2 citizen children have been effectively exiled from living in the U.S., based on a legal immigration system that doesn't work for citizen petitioners of immigrant spouses.

Jennifer Rivera, a teacher from Rolesville, North Carolina, and her husband have been together for 15 years and have two U.S.citizen children. They started their immigration process 11 years ago, but have been unable to move forward without tearing their family apart for a minimum of 10 years, due to a permanent bar that her husband faces. Jennifer and her children live in fear every day that their lives could be torn apart at any moment.

Stacy Marcondes, an American citizen from Somerset, Massachusetts, married her Brazilian husband in 2008. However, due to his immigration status and the lack of an immigration policy favorable for American citizens, they have been living together in Brazil for the last 7 years. Leaving behind her family, friends, career, and culture has been an extremely difficult experience; one that could be permanent if unable to adjust his immigration status.

Polling

We commissioned a poll with SurveryUSA in April 2021 and asked registered voters across the United States if they support or oppose the American Families United Act.

| 1214 Registered Voters | | Gender | | Age | | Party Affiliation | | |
|--|------------|------------|------------|------------|------------|-------------------|------------|------------|
| Credibility Interval: ± 3.5 pct points | U.S. | Male | Female | 18-49 | 50+ | Rep | Dem | Ind |
| Strongly Support | 23% | 25% | 21% | 23% | 23% | 18% | 28% | 23% |
| Support | 33% | 35% | 30% | 30% | 36% | 32% | 35% | 31% |
| Neutral | 24% | 24% | 24% | 26% | 21% | 28% | 20% | 23% |
| Oppose | 6% | 7% | 5% | 5% | 7% | 8% | 3% | 8% |
| Strongly Oppose | 4% | 5% | 4% | 3% | 6% | 6% | 3% | 3% |
| Not Sure | 10% | 5% | 15% | 13% | 7% | 8% | 10% | 12% |

About / Filtering: SurveyUSA interviewed 1,575 US adults 04/20/21 through 04/22/21, using sample provided by Lucid Holdings LLC of New Orleans. Of the adults, 1,214 were identified as being registered voters and were asked the substantive questions which follow. The pool of adult survey respondents was weighted to U.S. Census targets for gender, age, race, education, region, and home ownership. This research was conducted online.

QUESTION: "Another proposed law, the American Families United Act, would allow the U.S. citizen to request a case-by-case waiver for the non-citizen spouse and children for many of the reasons they ordinarily may be denied permission to live here. Judges and others authorized to hear immigration cases would not have the discretion to reunite families if the non-citizen is a national security threat or has a history of serious criminal activity. Do you support or oppose the American Families United Act?"

Ms. ESCOBAR. Thank you, Madam Chair, I will be reintroducing the American Families United Act this week, a bill that will help families like Edgar's, and I hope my colleagues will cosponsor.

Mr. Bier, I really was so interested in the Cato Institute's survey polling results that you provided us this week. I want to get back to something that you talked about and something that we're grappling with, the visa backlogs in our immigration system. What would a more efficient system look like? What should Congress do to begin to address this issue?

Mr. BIER. As the Chair said, the most important thing is fairness in the system. So, everyone should be treated equally without regard to their birthplace. Ultimately, Congress does need to address the fact that there are not enough green cards for the demand from around the world. We need these people. So, ultimately, we need to create a flexible immigration system that evolves with our economy and society.

So, the idea that we should have a hard cap on the number of employment-based green cards makes no sense in a modern economy with demand that could change overnight. A new industry could be born tomorrow. We don't even know what it is. Yet, we're deciding in Congress right now how many green cards we're going to have 10 years from now?

We're dealing with a cap that's 30 years old, and yet, the idea that we can't make any tweaks to that magical number makes no sense, no economist would agree with it. It's really counter-productive.

So, I would argue we need a flexible cap, or have the cap eliminated entirely, because every single person that we're keeping out would be a huge asset to our economy right now.

Ms. ESCOBAR. Thank you so much. I appreciate that. Mr. Bier, I want to follow up with you beyond this hearing to continue this conversation.

I will just close, there was a mention of intellectual dishonesty earlier by Mr. Law, when he and my colleague, one of my colleagues, Mr. Roy, were talking about border encounters and apprehensions. We need to talk about this honestly. Those numbers, just for the public's sake, include numbers of recidivists. In other words, policies in place, like title 42 that cause people to attempt multiple times to come into our country.

So, those numbers sound—they're intended to sound scary to folks, but they don't reflect adequately what is truly happening. Madam Speaker, I yield back.

Ms. LOFGREN. The gentlelady yields back. The other gentlelady from Texas, Ms. Jackson Lee, is now recognized.

Ms. JACKSON LEE. Madam Chair, thank you, and to the Ranking Member, thank you so very much. I would almost say for some of us, this is down memory lane. A memory lane that we wish we did not have to repeat. I am grateful that we are moving forward. I would like to really think that there is light at the end of the tunnel. So, let me thank all the Witnesses, first, for their testimony.

Let me share some thoughts. Madam Chair, I am not seeing the 5 minutes. So, please forgive me. I am just going to try to move as quickly as possible. I do want to get this particular information into the record. Texas immigrants that are in our particular State,

43,500 homes in Texas, and pay \$240,500,000 annual mortgage payments, and their households contribute 2 trillion—\$2,234,800,000 in Federal taxes, and \$1,265,000 in State and local taxes, just for our information, and as well, \$10 billion in spending power in Texas. That's just in Texas. I imagine we can repeat some of these numbers all over the Nation.

So, these immigrants, by the way, come from all over the world. Houston has found itself, and Harris County is one of the most diverse cities in the Nation. Our friends from Southeast Asia, Latinx, Hispanic, from Africa, in particular, as well. Each having their individual—from the Mid-East, from Iran, from various other places in the Mid-East, from Israel. Immigrants come from everywhere contributing their own talents.

I am wondering why there is such an apprehension and fear. So, I am going to raise my questions in that context, if I might. Congressperson Escobar has moved me to be able to speak of a Palestinian family that I worked with immediately after 9/11. They had a loss in their family. By the way, they owned a flag store. The flag store was making American flags. There were nine Members, and most of children had been born in the United States. That's how long they had been—and their youngest child as well. They had a death in their community. The block that they lived on, there were many Muslims coming, and they were tired. They might have been praying out and around because of the loss, in their family, a Muslim loss. They were saying their prayers.

So, a neighbor called the authorities and said terrorists were gathering for a meeting. This was right after 9/11. I understand that to the extent that one might be sympathetic. That family was rounded up with their American store. Their parents were not citizens. Their children were. We worked and worked and worked with an effort to try and secure their ability to stay, so that they could status themselves. Ultimately, they were deported to Jordan; first to Canada, and then to Jordan. The hardship and break on that family was enormous.

I want to ask both Mr. Yang and Mr. Bier, in particular, and I will start with Mr. Bier. I do want to say, I join with the Congressperson Preen, to find every way to ensure that you can stay in this Nation, this country, your country, and to make sure that you can get the interns and fellowships you want.

Let me just quickly ask Mr. Yang and Mr. Bier, because have I heard this before. Can you, through me, speak to the fears that are being expressed by my friends on the other side of the aisle? How do you address that fear for us to be able to move in a bipartisan way realistically to solve this inadequate immigration system? Let me start with Mr. Bier first, please.

Mr. BIER. I think we can think of a number of different ways to address the concern. The main concern that I am hearing from the other side is that there are just too many people who want to come to this country. I don't share that concern at all. I think more people contributing to this country would make us a stronger economy, a stronger country. If you look at our share of GDP, it's declined by 50 percent out of the share of world GDP over the last 50 years.

So, the U.S. influence is declining as a result of these limits on immigration. I do think that we can find agreement in certain

areas. The majority in this current Committee passed an ag workforce bill. We also had an ag workforce bill passed by the last majority, Representative Goodlatte's bill. We could find common ground about that, and ultimately see that pass into law.

Ms. JACKSON LEE. Mr. Yang.

Mr. YANG. Mr. Bier gives a good—let me give you two stories. One is Levi Strauss. Levi Strauss was brought here to the country because of one of his siblings. He came here with nothing in his pockets and built an iconic American brand.

Let me talk about Yahoo, Jerry Yang, was brought here to the country by one of his siblings. He brought an iconic American brand. That's the value that immigrants and family immigration brings to this country.

Ms. JACKSON LEE. If you only can see our way clear, and that would include African immigrants as well who come and have a strong emphasis on science and medicine and building the economy. I hope our friends on the other side can hear that, because I do think we can find a pathway forward. Madam Chair, I don't know my time at this point.

Ms. LOFGREN. Time actually has expired.

Ms. JACKSON LEE. Well, thank you so very much. With that, Ms. Madam Chair, I yield back. Thank you.

Ms. LOFGREN. The gentlelady, Ms. Scanlon, is now recognized.

Ms. SCANLON. Thank you, Chair Lofgren, for hosting this important conversation. I was so interested to read the title of today's conversation, because it becomes such a cliché response. Whenever the broken nature of our immigration system intrudes on the news, the idea that people seeking admission to the U.S. should get in line or wait their turn becomes a go-to talking point for folks who don't really understand how complex our immigration system has become. Often the lack of understanding goes back to their personal family history, whether decades or generations ago, which was often vastly different and didn't involve navigating the complicated photos and application processes or waiting decades for a visa.

So, the reality is, our immigration system today is incredibly slow and complex. Refugees are waiting decades for a chance to join their families in the U.S. Talented workers are choosing to work in other countries so that they can more easily bring their spouses and children. Of course, Dreamers and TPS holders are left confused by complicated and regrettably changing guidance.

So, I am grateful for this opportunity to hear from experts about the changes that Congress could make because we really must simplify and reform our immigration process.

Mr. Yang, I think your testimony talks a little bit about the decades' long backlogs for family-based and green cards. Can you talk a little bit about that and maybe compare how those backlogs impact people from different areas, or people today versus even a decade or two ago?

Mr. YANG. Absolutely. Thank you for that question. Certainly, the backlogs do affect us differently depending on where you're from. So, if you talk about countries like Mexico, Philippines, India, and China, those countries have the longest backlog, especially

when you talk about the sibling category, we're talking about over two decades when it comes to family-based immigration.

So, I think Mr. Bier talked about there was perhaps an unusable system, as it currently exists. That's exactly right. As we need to update the system from where it was 30 years ago.

One thing to go to what Representative Spartz was asking about is what are some fixes that we could offer that make sense, or that are efficient? One thing that could be offered is ending the count of derivatives. Or what I mean by derivatives is, spouses and immediate children of a person that is applying for a visa. Right now, they're counted towards these caps, towards these numbers. If we exclude them from the numbers, then we start to get rid of the backlog. We start to streamline the system. Reclassifying spouses, permanent partners, and minor children of green cardholders and immediate relatives, that's another way that you start to move some of these backlogs.

The last thing I would offer that certainly is something that, whether it's Congress potentially, administratively you could do is recapturing immigrant visas that were unused. Because of bureaucratic delays, because of administrative delays, there's been a number of unused visas as far back as 1992 that we can recapture, and then that could streamline that process to start to reduce those backlogs.

Ms. SCANLON. Thank you for that. That's really interesting. I did have experience with representing a woman who our State Department honored as a hero from Darfur, who was repeatedly kidnapped and tortured and spent decades in a displaced persons camp where her parents and siblings remain. There is nothing she can do to try to reunite with her family. She cannot return there, or she'll be murdered. She cannot bring them here. It's truly, truly heartbreaking.

Mr. BIER. I hear all the time from academic, medical, and research institutions in my district that our system and, particularly, the rules regarding H-1B visas and work authorization for spouses are really impeding our economic efforts and our research and development efforts and really hurting a lot of our medical progress, ect. Can you address the consequences to the U.S. economy and to Americans if we don't address some of these issues?

Mr. BIER. Look, we are already losing out dramatically as a result of our broken immigration system. India has already surpassed us in terms of software exports in the world economy. You are talking about biomedical expertise; the United States is losing out there. We know that all the companies that were working on vaccines, all of them were employing H-1B workers. Many of their spouses are ineligible from working until they enter the green card process. Now, we have Trump era rules that are preventing those spouses from being able to renew their work authorization.

So, we've had 91,000 lose their work authorization over the last year. All those people are working in high-skilled industries and occupations, and we're disemploying them, and causing this huge upset in the high-skill sector.

So, ultimately, Congress needs to step in, they need to have congressional authorization and mandates to make sure that we are treating our high-skilled workforce like the asset that they are. Ul-

timately, no country on Earth treats their high-skilled immigrants as poorly as the United States does. So, it's no wonder so many are going to other countries. We're seeing immigration—Indian immigration to Canada in the last 5 years has doubled. So, it's not surprising that the United States can lose out on many innovators and entrepreneurs.

Ms. SCANLON. I think I have even heard, other countries such as President Macron, actively courting folks who aren't able to stay here. I see my time has expired, so I yield back. Thank you.

Ms. LOFGREN. The gentlelady yields back. I now will start with my questions. I think about a lot of Americans are great people, and I have heard people say, my family immigrated the right way, and that's all we want. I think about my grandfather, he immigrated the right way at the time. That process was this: He got on a boat, the boat sailed to America, and he got off the boat. That was the whole process. It's what served the United States at the time. We now have a very complicated system, and the question is, does it serve the United States' interest or not?

When I think about the backlogs and family immigration, if you are a legal permanent resident of the United States, and you petition for your spouse, ultimately, you and your spouse are going to be reunited, but there may be some delay. So, what value does it give to the United States to separate spouses for a period of years? I don't see what value that yields to the United States. We ought to fix that because we set the rules.

Also, about the employment base, and yes, we have the National Origin Bill, but we have a version of that now. If you take a look at the V's allegation, Western Europe has 25 countries, some very tiny, Lichtenstein. The population of Western Europe is about 196 million people. They get no more than 7 percent per country. Yet, if you look at India, with a population of 1.36 billion, they get the same allocation as Lichtenstein.

Now, I don't think that's a neutral allocation, and I think it harms the United States. Because the gentlelady is right, we have recruiters down here from Canada taking people who are hotshots, waiting in interminable lines, and they're leaving. They're going to Toronto, which is why the Toronto tech economy is growing faster than Silicon Valley today. So, we need figure out what's good for America, what serves American interest as we look at writing the laws.

I would like to talk to you, Dr. Bier, if you would. On the per-country cap issue. Obviously, the broader issue is making sure that we have enough visas to meet the need, and that relates to both scrutinizing that we have an adequate test to make sure that Americans are not displaced, that the person who is to be hired, in fact, is an important goal and win for the American economy. We may want to do that. If that hurdle is passed, how do we make sure by adjusting the caps that we don't actually hurt others? People are concerned. If you adjust relative to the biggest companies, somehow others will be left out, when, in fact, the bill that we have worked with the Senate on doesn't completely eliminate the cap, it just adjusts it downward to 75 percent. Can you address that issue?

Mr. BIER. Well, the issue you're talking about is ultimately the consequence of the backlog in the per country caps is that almost all the people in the backlog are from India. So, if we do it in a first-in—first-out basis, then Indians are going to be processed first, and then new applicants are going to get to the back of the line. In my opinion, that is a completely fair system. There are other issues at stake, and, so, there is a transition process provided in the bill that enables a transition over time to phase out these country caps.

At the end of the day, a fair process is treating everyone as individuals, knowing what the process is going to be when you apply, and taking into account birthplaces is just not a reasonable basis for an immigration system.

Ms. LOFGREN. We had a report, and I would like to ask unanimous consent to put the report in the record.

[The information follows:]

MS. LOFGREN FOR THE RECORD

JOINT ECONOMIC COMMITTEE
CONGRESSMAN DON BEYER, CHAIRMAN



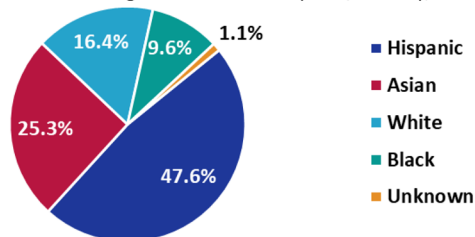
Immigrants Are Vital to the U.S. Economy

The COVID-19 crisis has brought renewed attention to the role of immigrants in the U.S. economy. Immigrants disproportionately work in the jobs labeled “essential” during the spring lockdowns in 2020, placing many of them on the front lines of the crisis. While initially immigrants were more negatively impacted by the coronavirus recession, immigrants are once again poised to play a vital role in the economic recovery and future economic growth. Their spending power, relative youth, high levels of involvement in STEM fields, and high rates of entrepreneurship make them key contributors to our economy.

Immigrants in the United States make up approximately 1-in-7 residents, 1-in-6 workers and create about 1-in-4 of new businesses.¹ Immigrants are diverse in many ways: country of origin, race and ethnicity, education and occupation.² Nearly half of all immigrants are naturalized citizens (20.7 million), 27 percent are lawful permanent residents (12.3 million) and 5 percent are temporary residents with legal status (2.2 million).³ Less than one-fourth of the foreign-born population (10.5 million) are undocumented.⁴ Immigrants are more likely to be of prime working age (between 25 and 54 years old), balancing out the relatively older native-born population.⁵

Foreign-Born Workers are Racially and Ethnically Diverse

Percent of foreign-born labor force by race/ethnicity, 2019



Source: Bureau of Labor Statistics

IMMIGRANTS ARE MORE LIKELY TO BE “ESSENTIAL” WORKERS

When the coronavirus pandemic reached the United States in early 2020 and much of the economy was forced to shut down, the Department of Homeland Security took steps to label some workers “essential,” excluding them from local and state stay-at-home orders.

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Immigrants disproportionately work in the jobs that were labeled essential. As of 2020, there were 19.8 million foreign-born “essential” workers, working in jobs arrayed across sectors and skill-levels. A higher share (69 percent) of all immigrants, and undocumented immigrants (74 percent), are in the essential work categories compared to native-born workers (65 percent).⁶ As a result, they may have been more likely to contract and die from COVID than native-born Americans.⁷

| Immigrants Disproportionately Work in "Essential" Sectors | |
|---|-------------------------------------|
| Sector | Share of Workers Who Are Immigrants |
| Manufacturing | 19% |
| Transportation and Utilities | 20% |
| Professional and Business Services | 21% |
| Leisure and Hospitality | 21% |
| Agriculture, Forestry, Fishing and Hunting | 23% |
| Construction | 28% |
| Overall | 18% |
| Source: U.S. Census Bureau. "Foreign Born: 2019 Current Population Survey Detailed Tables - Table 1.8. Industry of Employed Civilian Workers 16 Years and Over by Sex, Nativity, and U.S. Citizenship Status: 2019." Accessed April 12, 2021. https://www.census.gov/data/tables/2019/demo/foreign-born/cps-2019.html . | |

Immigrant labor sustains the U.S. food supply

Foreign-born workers account for more than 1-in-5 of all workers spread across the U.S. food supply chain — growing crops, harvesting fruits and vegetables, processing meat, transporting products and materials, and engaging in wholesale and retail sales.⁸ Immigrants comprise more than 30 percent of many of the most physical of these jobs: farm laborers, graders and sorters, crop production, meat processing and commercial bakeries.⁹ In some states, the majority of workers in these jobs are immigrants. Foreign-born workers make up:

- 69 percent of the agricultural workers in California,
- 70 percent of the seafood processing workers in Alaska and
- 66 percent of the meat processing workers in Nebraska.¹⁰

Despite the acute health risks of the pandemic and chronic low pay, foreign-born workers who feed the U.S. continued to show up to work due to economic necessity.¹¹ Meanwhile, amid fears of food shortages and rotting produce, few policies were enacted to improve the conditions for those contributing to the food supply chain. Migrant workers—even those with H-2A visas, which enable noncitizens to work in the agricultural sector—have little leverage to seek improved working or living conditions for fear of deportation or losing their visas if they leave their job.¹² Because of these and other factors, unsafe work and living conditions that exacerbate

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COVID-19 risks for migrant workers, their families and their communities have gone unaddressed during the pandemic.¹³

Immigrant health care workers are disproportionately responsible for in-person care

In addition to their over-representation in jobs in the food supply chain, immigrants also play an outsized role in the U.S. response to the COVID-19 pandemic in the health care services sector. While some health care occupations moved their contact with patients to primarily online modes, immigrants are overrepresented in many health care jobs that require close contact with the sick and highest-risk individuals during the pandemic. Public-facing health care jobs—including nurses and medical assistants—sometimes require non-English language skills. For example, most medical interpreters are immigrant workers.¹⁴

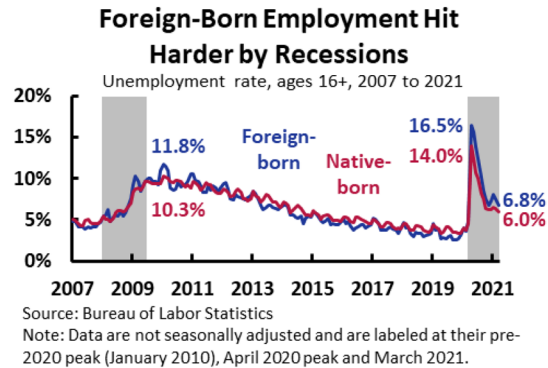
Immigrants make up 38 percent of home health aides, 29 percent of physicians and 22 percent of nursing assistants.¹⁵ As Baby Boomers age and the health care system faces increasing demand, immigrants will play an even more critical role in some of the fastest-growing health care occupations, such as licensed registered nurses and certified home health aides.¹⁶

IMMIGRANTS ARE DRIVING OUR ECONOMIC RECOVERY

Despite being hit hard by the recent economic contraction, immigrants were quick to lead the recovery effort by returning to the labor force. With their return to the labor force and their spending power, immigrants are helping drive the economic recovery for all Americans. Already, the gap between the employment-population ratios of the foreign- and native-born populations is widening, with foreign-born workers returning to the labor force at a faster rate. While this may be partly driven by limited access to unemployment insurance and other forms of relief, their relatively rapid return to work fits with data from previous recessions and represents a positive development for the nation's ongoing recovery.

Immigrants were initially hit harder by the COVID-19 recession

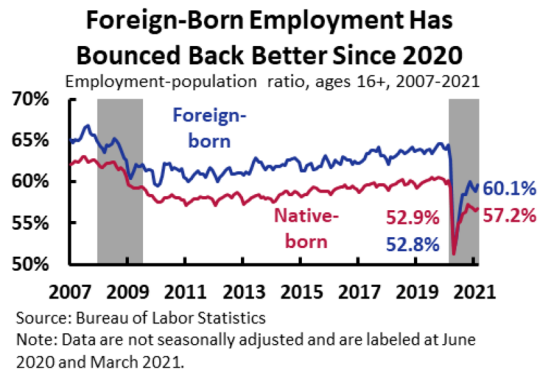
From February to April 2020, the unadjusted unemployment rate for native-born workers increased from 3.8 percent to 14 percent. Foreign-born workers experienced an unprecedented increase, with one-in-five losing their jobs and the unemployment rate climbing from 3.6 percent to 16.5 percent.

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The unequal impact of the COVID-19 contraction could be partly explained by the fact that foreign-born workers disproportionately work in the occupations that experienced the highest job loss during the initial labor market collapse in April 2020.¹⁷

Immigrants' employment rate typically rebound more quickly from downturns

Historically, immigrants' employment rates rebound more quickly from recessions, making them integral to a speedy recovery as their earnings fuel spending and further growth.¹⁸ In the Great Recession, foreign-born workers were hard hit — losing over a million jobs. However, within a year, foreign-born worker employment returned to pre-recession levels relative to native-born workers.



According to an analysis by the Pew Research Center, immigrants accounted for all of the job gains in the first year of recovery after the Great Recession (from the second quarter of 2009 to

Immigrants Are Vital to the U.S. Economy

the second quarter of 2010). Immigrants gained 656,000 jobs and 566,000 entered the labor force. Native-born workers, by comparison, lost 1.2 million jobs and 633,000 exited the labor force.

Similarly, in the recovery from the coronavirus recession, the employment rates for foreign-born workers have bounced back quickly.

The spending power of immigrants will help fuel the recovery

Immigrants are not only workers, they are also consumers. According to an analysis of 2019 American Community Survey (ACS) data by the New American Economy, immigrants (14 percent of the U.S. population) wield \$1.3 trillion in spending power.¹⁹ In some of the largest state economies the contributions of immigrants are substantial.

- In California, the immigrant share of the population is 27 percent and immigrant spending power is \$318 billion.
- In New York, the immigrant share of the population is 22 percent and immigrant spending power is \$130 billion.
- In Texas, the immigrant share of the population is 17 percent and immigrant spending power is \$120 billion.
- In Florida, the immigrant share of the population is 21 percent and immigrant spending power is \$105 billion.

Immigrants are poised to play a large role in the economic recovery as they return to work and regain some of this spending power. Their ability to spend more will further drive demand for goods and services that will help bring workers back into the ranks of the employed.

IMMIGRANTS ARE POSITIONED TO MAKE OUTSIZED CONTRIBUTIONS TO LONG-TERM ECONOMIC GROWTH*Immigrants are younger, more likely to work in STEM*

Immigrants are more likely to be of prime working age (between 25 and 54 years old), balancing out the relatively older native-born population.²⁰ They also are less likely to be children: only 6 percent are under 18 years old, compared to 25 percent of the native-born. The consequence of this age breakdown is that foreign-born residents are disproportionately workers, actively contributing to programs like Social Security. In 2019, immigrants paid \$492 billion in state, local and federal taxes.²¹

Much of the projected job growth in the United States is in STEM fields (Science, Technology, Engineering and Math).²² Because U.S. universities are under producing graduates with STEM degrees and the skills to fill STEM positions, companies need immigrants to help fill these skill gaps. In recent years, immigrants with STEM degrees have made up an increasing share of the innovators responsible for new U.S. patents. Foreign-born innovators are responsible for more than 75 percent of patents from the top ten patent-producing U.S. universities.²³

*Immigrants Are Vital to the U.S. Economy**Immigrants are more likely to start businesses*

Immigrants are more likely than the native-born to start businesses or pursue other forms of self-employment. This entrepreneurship makes immigrants essential for encouraging future economic dynamism, innovation and long-term economic growth.

Immigrant entrepreneurs are overrepresented among non-white business owners. Three-fourths of all businesses owned by Asians are owned by immigrants. Immigrants also own about half of all Hispanic-owned firms and about one-fourth of all Black-owned companies.²⁴ Data from the Survey of Business Owners shows first-generation immigrants open about 25 percent of new firms in America.²⁵

Immigrant entrepreneurs take on significant risks to start their businesses. In 2016, they owned 22 percent of businesses in higher-risk industries, compared to 16 percent of all businesses.²⁶ These elevated risks were reflected in the number of immigrant-owned businesses that closed permanently during the initial weeks of the pandemic. Foreign-born business ownership fell by 36 percent during the onset of the COVID-19 outbreak, compared to an 18 percent decline in native-born business ownership.²⁷

The recovery of immigrant businesses is essential since these businesses create employment opportunities for millions of workers. Over 3 million immigrant entrepreneurs employ almost 8 million American workers across the nation.²⁸ A study by the New American Economy estimates that immigrants and the children of immigrants have started almost half of all Fortune 500 companies.²⁹

CONCLUSION

The COVID-19 crisis has revealed that immigrant workers play a critical function in supplying “essential” labor in the service and agricultural sectors, as well as other parts of the economy. They are working on the front lines of the fight against the coronavirus pandemic in health care and other industries. Moreover, they are more likely to be entrepreneurs, hit hard by the coronavirus recession but also uniquely positioned to drive the economic recovery.

Since the founding of the nation, immigrants have played a vital role in creating a diverse, dynamic and growing U.S. economy. Immigrants help fuel economic activity through their attachment to the labor market, their spending power and their entrepreneurial spirit behind much of our innovations. To foster a stronger and more equitable American economy, new policies must build upon the essential contributions—and address the challenges of—the foreign-born workforce and immigrant-owned businesses.

KEY FACTS

- One-in-seven of the total U.S. population is foreign-born (46 million people).
- More than one-in-six workers in the United States are foreign-born (28 million workers).
- Almost half (48 percent) of the foreign-born labor force is Latino; one-quarter (25 percent) is Asian; 10 percent is Black and 16 percent is White.
- Foreign-born workers are overrepresented in key occupations in the field of health, accounting for 38 percent of home health aides, 29 percent of physicians and 23 percent of pharmacists.
- Immigrants make up 22 percent of all workers in the U.S. food supply chain, even though they comprise only 18 percent of the labor force.
- Primarily as a result of the coronavirus recession, the number of employed foreign-born workers dropped from about 28 million in February to 22 million in April 2020. The level recovered to approximately 26 million one year later in February 2021.
- About three-fourths of undocumented immigrants in the labor force are classified as essential.
- Immigrants start approximately 25 percent of new firms in the United States.
- The number of immigrant-owned businesses fell by 36 percent during the onset of the COVID-19 outbreak, compared to an 18 percent decline in native-born business ownership.

Immigrants Are Vital to the U.S. Economy

| Demographic, Economic and Vulnerability Indicators for the Foreign-Born Population by State | | | | | | |
|---|-----------------------------|-----------------------|------------------|----------------------------|---------------------------|-------------------------------------|
| State | Foreign-Born Population (#) | % of Total Population | % of Labor Force | % of All Essential Workers | % Below the Poverty Level | % Noncitizens with Health Insurance |
| Alabama | 172,947 | 3.5% | 4.5% | 4.5% | 20.2% | 67.8% |
| Alaska | 57,667 | 7.8% | 10.6% | 11.4% | 9.7% | 82.2% |
| Arizona | 940,651 | 13.3% | 17.2% | 18.9% | 20.0% | 76.4% |
| Arkansas | 145,047 | 4.8% | 7.3% | 7.5% | 18.3% | 67.5% |
| California | 10,547,210 | 26.8% | 33.3% | 35.9% | 14.8% | 85.7% |
| Colorado | 546,513 | 9.7% | 12.0% | 12.9% | 13.9% | 75.4% |
| Connecticut | 520,951 | 14.6% | 18.4% | 18.7% | 11.5% | 82.9% |
| Delaware | 91,473 | 9.6% | 12.1% | 13.2% | 12.9% | 83.2% |
| Districot of Columbia | 95,065 | 13.7% | 16.7% | 18.6% | 13.0% | 90.7% |
| Florida | 4,324,800 | 20.7% | 26.6% | 28.2% | 16.2% | 77.4% |
| Georgia | 1,053,874 | 10.1% | 13.7% | 14.1% | 15.1% | 69.0% |
| Hawaii | 262,439 | 18.5% | 22.4% | 23.6% | 10.8% | 93.0% |
| Idaho | 102,443 | 6.0% | 8.6% | 10.2% | 18.5% | 70.4% |
| Illinois | 1,796,962 | 14.1% | 18.1% | 19.2% | 12.9% | 80.4% |
| Indiana | 349,922 | 5.2% | 6.8% | 6.7% | 19.4% | 77.3% |
| Iowa | 166,439 | 5.3% | 7.7% | 8.0% | 17.9% | 81.7% |
| Kansas | 207,845 | 7.1% | 9.5% | 9.8% | 16.6% | 70.5% |
| Kentucky | 171,979 | 3.9% | 5.2% | 5.5% | 21.7% | 75.9% |
| Louisiana | 194,206 | 4.2% | 5.5% | 5.5% | 21.2% | 65.6% |
| Maine | 47,938 | 3.6% | 4.0% | 4.3% | 15.3% | 91.3% |
| Maryland | 912,887 | 15.2% | 20.1% | 21.2% | 9.5% | 81.2% |
| Massachusetts | 1,148,909 | 16.8% | 20.8% | 22.5% | 13.5% | 94.0% |
| Michigan | 684,197 | 6.9% | 8.2% | 8.4% | 16.9% | 88.1% |
| Minnesota | 472,849 | 8.5% | 10.7% | 11.4% | 17.6% | 86.9% |
| Mississippi | 70,469 | 2.4% | 3.2% | 3.2% | 19.7% | 64.2% |
| Missouri | 255,719 | 4.2% | 5.4% | 5.5% | 18.3% | 79.3% |
| Montana | 23,048 | 2.2% | 2.3% | 2.4% | 14.4% | 88.8% |
| Nebraska | 137,899 | 7.2% | 9.3% | 9.9% | 18.9% | 74.1% |
| Nevada | 576,729 | 19.4% | 25.5% | 27.4% | 13.3% | 76.2% |
| New Hampshire | 82,694 | 6.1% | 6.5% | 6.4% | 10.4% | 87.9% |
| New Jersey | 1,992,027 | 22.4% | 29.2% | 30.6% | 11.8% | 80.5% |
| New Mexico | 197,164 | 9.4% | 12.1% | 13.5% | 23.6% | 71.2% |
| New York | 4,419,646 | 22.6% | 28.2% | 31.0% | 15.8% | 87.4% |
| North Carolina | 822,764 | 8.0% | 10.9% | 11.2% | 17.7% | 66.8% |
| North Dakota | 30,794 | 4.1% | 6.3% | 6.0% | 18.7% | 82.8% |
| Ohio | 535,052 | 4.6% | 5.8% | 5.7% | 17.2% | 84.4% |
| Oklahoma | 236,369 | 6.0% | 8.1% | 9.0% | 19.0% | 64.0% |
| Oregon | 407,643 | 9.9% | 13.2% | 14.6% | 16.0% | 82.1% |
| Pennsylvania | 882,350 | 6.9% | 9.2% | 9.1% | 15.8% | 85.5% |
| Rhode Island | 143,718 | 13.6% | 16.2% | 16.4% | 16.3% | 88.1% |
| South Carolina | 252,614 | 5.0% | 6.6% | 6.8% | 17.8% | 67.5% |
| South Dakota | 32,011 | 3.7% | 4.7% | 5.2% | 18.3% | 79.8% |
| Tennessee | 344,162 | 5.1% | 7.1% | 7.7% | 18.6% | 65.6% |
| Texas | 4,814,638 | 17.0% | 22.4% | 24.0% | 18.2% | 63.6% |
| Utah | 261,851 | 8.5% | 11.2% | 12.9% | 15.1% | 70.1% |
| Vermont | 29,328 | 4.7% | 5.5% | 5.8% | 14.1% | 94.2% |
| Virginia | 1,051,559 | 12.4% | 16.8% | 17.1% | 10.8% | 78.9% |
| Washington | 1,056,534 | 14.3% | 18.8% | 19.7% | 13.0% | 83.6% |
| West Virginia | 30,171 | 1.7% | 1.7% | 1.5% | 19.5% | 87.5% |
| Wisconsin | 289,722 | 5.0% | 6.3% | 6.7% | 16.0% | 80.1% |
| Wyoming | 19,982 | 3.4% | 3.9% | 3.6% | 16.1% | 68.2% |
| United States | 44,011,870 | 13.6% | 17.5% | 18.3% | 15.4% | 79.8% |
| Sources: 2015-19 American Community Survey: 5-Year Data; Center for Migration Studies | | | | | | |

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¹ U.S. Census Bureau. 2019. "Foreign Born: 2019 Current Population Survey Detailed Tables." Table 3.1. Foreign-Born Population by Sex, Age, and World Region of Birth: 2019. <https://www2.census.gov/programs-surveys/demo/tables/foreign-born/2019/cps2019/2019-asec-tables-world-region-of-birth-tab1.xlsx>; Wisenberg Brin, Dinah. 2018. "Immigrants Form 25% of New Businesses, Driving Entrepreneurship In 'Gateway' States." *Forbes*. <https://www.forbes.com/sites/dinahwisenberg/2018/07/31/immigrant-entrepreneurs-form-25-of-new-u-s-business-researchers/?sh=2c6f1ed713b>; U.S. Bureau of Labor Statistics. 2020, May 29. "Foreign-born workers made up 17.4 percent of labor force in 2019." https://www.bls.gov/opub/ted/2020/foreign-born-workers-made-up-17-point-4-percent-of-labor-force-in-2019.htm?view_full.

² A little over half of all immigrants were born in Latin America. Approximately one-third were born in Asia, one-tenth in Europe and less than one-tenth in Africa or other regions.

³ Pew Research Center. 2019. "Measuring Illegal Immigration: How Pew Research Center Counts Unauthorized Immigrants in the U.S." <https://www.pewresearch.org/fact-tank/2019/07/12/how-pew-research-center-counts-unauthorized-immigrants-in-us/>.

⁴ Most undocumented immigrants entered the country with a temporary legal status that later expired. Others immigrated to the United States without authorization at the time of entry.

Congressional Budget Office. 2020. "The Foreign-Born Population and Its Effects on the U.S. Economy and the Federal Budget — An Overview." <https://www.cbo.gov/system/files/2020-01/55967-CBO-immigration.pdf>.

⁵ U.S. Census Bureau. 2019. "Foreign Born: 2019 Current Population Survey Detailed Tables." Table 3.1. Foreign-Born Population by Sex, Age, and World Region of Birth: 2019. <https://www2.census.gov/programs-surveys/demo/tables/foreign-born/2019/cps2019/2019-asec-tables-world-region-of-birth-tab1.xlsx>; Pew Research Center. 2015. "Chapter 5: U.S. Foreign-Born Population Trends." <https://www.pewresearch.org/hispanic/2015/09/28/chapter-5-u-s-foreign-born-population-trends/>.

⁶ Kervin, Donald, Mike Nicholson, Daniela Alulema, and Robert Warren. 2020. "US Foreign-Born Essential Workers by Status and State, and the Global Pandemic." Center for Migration Studies (CMS). <https://cmsny.org/publications/us-essential-workers/>.

⁷ Renwick, Danielle and Shoshana Bunow. 2020, August 26. "Many People of Color, Immigrants Among Over 1,000 US Health Workers Lost to COVID." <https://khn.org/news/many-people-of-color-immigrants-among-1080-us-health-workers-lost-to-covid/>.

⁸ Migration Policy Institute. 2020. "The Essential Role of Immigrants in the U.S. Food Supply Chain." <https://www.migrationpolicy.org/content/essential-role-immigrants-us-food-supply-chain>.

⁹ Ibid; United States Department of Agriculture (USDA). 2020. "Farm Labor." April 22, 2020. <https://www.ers.usda.gov/topics/farm-economy/farm-labor/#demographic>.

¹⁰ Migration Policy Institute. 2020. "The Essential Role of Immigrants in the U.S. Food Supply Chain." <https://www.migrationpolicy.org/content/essential-role-immigrants-us-food-supply-chain>.

¹¹ Lussenhop, Jessica. 2020. "The Untold Story behind America's Biggest Outbreak." *BBC News*, April 17, sec. US & Canada. <https://www.bbc.com/news/world-us-canada-52311877>.

¹² Willingham, Zoe, and Silva Mathema. 2020. "Protecting Farmworkers From Coronavirus and Securing the Food Supply." Center for American Progress. <https://www.americanprogress.org/issues/economy/reports/2020/04/23/483488/protecting-farmworkers-coronavirus-securing-food-supply>; Kirwan, Hope. 2020. "Wisconsin Farms Face New Worker Safety Challenges During COVID-19 Pandemic." *Wisconsin Public Radio*, June 22. <https://www.wpr.org/wisconsin-farms-face-new-worker-safety-challenges-during-covid-19-pandemic>; Crampton, Liz. 2020. "In Absence of Federal Action, Farm Workers' Coronavirus Cases Spike." *Politico*, June 10. <https://www.politico.com/news/2020/06/09/farm-workers-coronavirus-309897>.

¹³ Newman, Etan. 2011. "No Way to Treat a Guest: Why The H-2A Agricultural Visa Program Fails U.S. and Foreign Workers." Farmworker Justice. <https://www.farmworkerjustice.org/sites/default/files/documents/7.2.a.6%20fvj.pdf>.

¹⁴ New American Economy. 2020. "How Has the Labor Market Been Affected by Covid-19?" <https://research.newamericaneconomy.org/report/labor-market-covid-19/>.

¹⁵ "Immigrant Workers: Vital to the U.S. COVID-19 Response, Disproportionately Vulnerable" by Migration Policy Institute. Occupations that have a disproportionately higher share of foreign-born workers compared to their overall share in the labor force (>17.5%) shown

¹⁶ New American Economy. n.d. "Healthcare: How Immigration Plays a Critical Role." Accessed June 12, 2020. <https://www.newamericaneconomy.org/issues/healthcare/>.

¹⁷ Bureau of Labor Statistics. 2020. "Employment Situation - April 2020." https://www.bls.gov/news.release/archives/empst_05082020.htm. Data are not seasonally adjusted.

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- ¹⁸ Pew Research Center. 2010. "After the Great Recession: Foreign Born Gain Jobs; Native Born Lose Jobs." <https://www.pewresearch.org/hispanic/2010/10/29/after-the-great-recession-brforeign-born-gain-jobs-native-born-lose-jobs/>.
- ¹⁹ New American Economy. 2020. "Map the Impact of Immigration: U.S. Economic Data & Numbers." 2020. New American Economy. January 31. <https://www.newamericaneconomy.org/locations/>. Estimates for share of the foreign-born population slightly differ between 2018 ACS and 2014-2018 ACS data sources. 2014-2018 ACS data used to produce the county-level map and state-level estimates in the table of this report.
- ²⁰ U.S. Census Bureau. 2019. "Foreign Born: 2019 Current Population Survey Detailed Tables." Table 3.1. Foreign-Born Population by Sex, Age, and World Region of Birth: 2019. <https://www2.census.gov/programs-surveys/demo/tables/foreign-born/2019/cps2019/2019-asec-tables-world-region-of-birth-tab1.xlsx>; Batalova, Jeanne, Mary Hanna and Christopher Levesque. 2021, February 11. "Frequently Requested Statistics on Immigrants and Immigration in the United States." Migration Policy Institute. <https://www.migrationpolicy.org/article/frequently-requested-statistics-immigrants-and-immigration-united-states-2020>.
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- ²² Zilberman, Alan and Lindsey Ice. 2021. "Beyond the Numbers: Why computer occupation are behind strong STEM employment growth in the 2019-29 decade." Bureau of Labor Statistics. <https://www.bls.gov/opub/btn/volume-10/why-computer-occupations-are-behind-strong-stem-employment-growth.htm#:~:text=The%20U.S.%20Bureau%20of%20Labor,3.7%20percent%20for%20all%20occupations>; New American Economy. 2021. "Innovation & STEM Fields." <https://www.newamericaneconomy.org/issues/innovation-stem-fields/>; New American Economy. 2015. "Facts You Can Use: To Prove That High-Skilled Immigration is Good for America's Workforce and Economy." <https://www.newamericaneconomy.org/wp-content/uploads/2015/04/12-Associations-High-Skilled-Facts-You-Can-Use-4-24-2015.pdf>.
- ²³ New American Economy. 2012, June 26. "Immigrants Are Behind More Than Three-Quarters of Patents from Top Ten Patent-Producing American Universities." <https://www.newamericaneconomy.org/news/press-release-new-study-reveals-immigrants-behind-three-quarters-patents-top-ten-patent-producing-american-universities/>.
- ²⁴ Kochhar, Rakesh. 2020, April 23. "The financial risk to U.S. business owners posed by COVID-19 outbreak varies by demographic group." Pew Research Center. <https://www.pewresearch.org/fact-tank/2020/04/23/the-financial-risk-to-u-s-business-owners-posed-by-covid-19-outbreak-varies-by-demographic-group/>.
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- ²⁸ New American Economy. 2019, March 12. "New Data Shows Immigrant-Owned Businesses Employed 8 Million Americans; Immigrants Wield \$1.1 Trillion in Spending Power." <https://www.newamericaneconomy.org/press-release/new-data-shows-immigrant-owned-businesses-employed-8-million-americans-immigrants-wield-1-1-trillion-in-spending-power/>.
- ²⁹ Fearnow, Benjamin. 2019. "Nearly Half of All Fortune 500 Companies Were Founded by Immigrants or Their Children, Study Finds." *Newsweek*, July 22, sec. Business. <https://www.newsweek.com/immigrant-founded-fortune-500-companies-us-gdp-1450498>; New American Economy. 2019. "New American Fortune 500 in 2019." <https://data.newamericaneconomy.org/en/fortune500-2019/>; Hathaway, Ian. 2017, December 4. "Almost half of Fortune 500 companies were founded by American immigrants or their children." Brookings Institution. <https://www.brookings.edu/blog/the-avenue/2017/12/04/almost-half-of-fortune-500-companies-were-founded-by-american-immigrants-or-their-children/>.

Ms. LOFGREN. The Joint Economic Committee has prepared a report on immigrants in the U.S. economy. They report that 29 percent of physicians in the United States are foreign-born, and that 25 percent of new firms in the United States were started by immigrants. I am just wondering by failing to provide for a lawful status for needed physicians, and for people who want to start companies in the United States, what damage, in your judgment, does that do to the American economy and to American workers? Mr. Bier, if you can address that.

Mr. BIER. It does incredible damage. If you look for the Bureau of Labor Statistics saying these are going to be some of the fastest-growing occupations with the aging of our society. As the elderly population grows, we're going to need more physicians, we're going to need more home health aides. Home health aides are even more overrepresented by the immigrant population. They're almost 40 percent foreign-born.

So, we need these workers right now, particularly, dealing with the demographic situation that our country faces. The Social Security Administration is telling us we need workers to fund Social Security.

So, at the end of the day, I think you have to say that our system is too constrained given the moment in time right now. We have to address the challenges of our economy, and one of those is expanding the legal immigration system.

Ms. LOFGREN. I see that my time has expired, and so I will stop my questions. We do know that the record is open for the next 5 days for additional questions that may be directed to our Witnesses. We ask if those questions are directed to you, that you please answer them promptly.

I would also like to ask unanimous consent to put in the record statements from 16 organizations and 25 individuals, four individuals who have asked that their statements be made part of the record.

[The information follows:]

MS. LOFGREN FOR THE RECORD



**Hearing of the House Judiciary Committee, Subcommittee on Immigration and Citizenship
April 28, 2021**

“Why Don’t They Just Get in Line?” Barriers to Legal Immigration”

ASISTA is a national organization dedicated to safeguarding and advancing the rights of immigrant survivors of violence. For over 15 years, ASISTA has been a leader on policy advocacy to strengthen protections for immigrant survivors of domestic violence, sexual assault, human trafficking and other crimes. Our agency assists advocates and attorneys across the United States in their work on behalf of immigrant survivors, so that survivors may have greater access to protections they need to achieve safety and independence.

The Asian Pacific Institute on Gender-Based Violence is a national resource center on domestic violence, trafficking, and other forms of gender-based violence in Asian and Pacific Islander communities, including domestic violence dynamics in refugee zones. The Institute supports a national network of advocates and community-based service programs that work with Asian and Pacific Islander survivors and is a leader in providing analysis on critical issues facing victims in the Asian and Pacific Islander community. The institute aims to strengthen advocacy, change systems, and prevent gender violence through community transformation.

Casa de Esperanza was founded in 1982 in Minnesota to provide emergency shelter for women and children experiencing domestic violence, with a primary focus on helping Latina and immigrant survivors to access safety and justice. In 2009, Casa de Esperanza launched the National Latin@ Network for Healthy Families and Communities, which is a national resource center focused on research, training, and technical assistance, and policy advocacy focused on preventing and addressing domestic violence in Latino and immigrant communities.

The Tahirih Justice Center is the largest multi-city direct services and policy advocacy organization specializing in assisting immigrant women and girls struggling to survive gender-based violence. Since its beginning in 1997, Tahirih has provided free legal assistance to more than 27,000 individuals, many of whom have applied for asylum, T and U Visas, Special Immigrant Juvenile status, or filed for lawful permanent residency under the Violence Against Women Act. Through direct legal and social services, policy advocacy, and training and education provided in five cities across the country, Tahirih protects immigrant women and girls and promotes a world where they can live in safety and dignity.

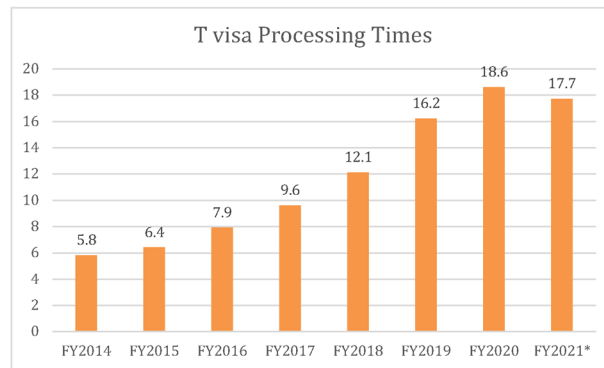
We write in support of the House Judiciary Committee Subcommittee on Immigration and Citizenship’s present focus on U.S. Citizenship and Immigration Service (USCIS) barriers to legal immigration. One immense barrier immigrant survivors of domestic and sexual violence and other crimes face is the significant

USCIS processing delays. At this moment, Congress has a unique opportunity to provide meaningful oversight to a broken immigration system and increase USCIS accountability for protecting survivors in a way that a bipartisan majority in Congress intended when it created critical protections for immigrant survivors, most notably in the Violence Against Women Act (VAWA) and the Trafficking Victims Protection Act (TVPA).

Abusive partners and perpetrators of crime often manipulate victims' lack of immigration status or dependent immigration status as a way to maintain power and control and to keep victims silent. Past immigration enforcement priorities have emboldened abusers and resulted in increased trauma and risks of harm to survivors. Immigrant survivors around the country are afraid to reach out for protection due to fears of deportation.ⁱ These fears are exacerbated by substantial delays in processing for humanitarian-based applications like VAWA self-petitions, U and T visas, which create increased instability and risk of danger for survivors.

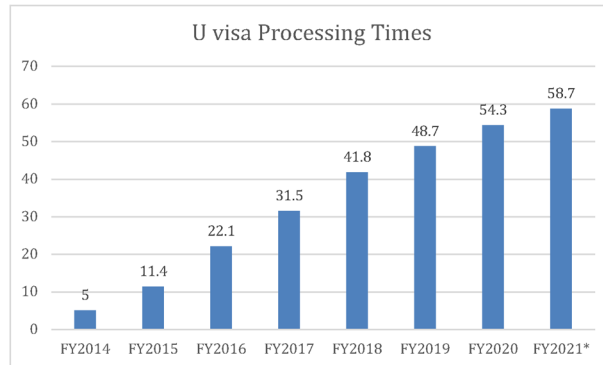
Recognizing how the immigration system can be used to perpetuate abuse and exploitation, a bipartisan majority in Congress created VAWA self-petitions in 1994 to assist abused family members of U.S. citizens or lawful permanent residents so that they would not be forced to choose between living with abuse or facing deportation.ⁱⁱ When VAWA was reauthorized in 2000, in conjunction with the passage of the Trafficking Victims Protection Act (TVPA), Congress established, also in a bi-partisan fashion, two additional remedies for immigrant survivors: the T visa to assist victims of human trafficking, and the U visa to assist noncitizen victims of certain eligible crimes (including domestic violence, sexual assault, and trafficking) who are willing to assist in the investigation or prosecution of those crimes.

The processing times for survivor-based forms of immigration protections like VAWA self-petitions and U and T visas have skyrocketed, undermining the effectiveness of these critical benefits. VAWA self-petitions now take between 19.5 and 25 months to be adjudicated.ⁱⁱⁱ Current processing times for T visa applications are between 17 and 29 months^{iv}, an exponential increase from FY2015 when these applications took 6.4 months to adjudicate.^v



Source: USCIS Historic National Median/Average Processing Times^{vi}

In the case of U visas, the delay is even more egregious, as there is an almost 5-year backlog in the adjudication process. Current processing times for I-918 U visa applications indicate that adjudications can take between 59 and 59.5 months.^{vi} This is the posted time for placing cases on the U visa waitlist, not the issuance of a full 4-year U visa. This is a shameful delay which compromises the safety and well-being of applicants and their families. Equally alarming is that the fact that this backlog continues to grow substantially since at least 2015.



Source: USCIS Historic National Median/Average Processing Times^{viii}

For years, advocates have raised their concerns about the growing processing times, and USCIS' efforts to address the backlog have been insufficient.^{ix} Such long waits for the adjudication of their cases, coupled with other barriers (like a lack of access to work authorization or other financial supports) can be devastating to victims, and often place them either facing homelessness or having to return to violent homes or maintaining employment in exploitative workplaces. Similarly, survivors who are facing these incredible backlogs risk potential deportation before their applications are adjudicated, which contravenes the purpose of these bipartisan protections established by Congress.

Furthermore, recent policies limiting the use of parole to allow applicants and family members to be reunited while awaiting the protracted U-visa processing times or simply be permitted to enter the US further increases the risk of abuse and trauma for survivors caught up in the backlog. Survivors' children, for example, are often left exposed to the violence and threats of domestic violence abusers without meaningful protections outside of the country. Survivors themselves already in the country also continue to suffer extreme distress over protracted separation from their family members who may be faced with waits over a decade long.

Congressional goals are also undermined by U and T visa processing delays as they negatively impact the ability of survivors to seek redress through the legal system. Tucson Police Chief Chris Magnus indicated that "his biggest concern about U visas is that the program's effectiveness would diminish as a result of the

enormous backlog as witnesses or victims may get deported before getting through the program: 'If word gets out that this does nothing for you, then people won't be willing to come forward.'"^{xx}

Conclusion

For these reasons, we strongly support the House Judiciary Committee's efforts to increase USCIS accountability for implementing the intent and purpose of VAWA and the TVPA and urge you to prioritize the need to protect immigrant survivors and their families who are impacted by these barriers.

Respectfully submitted,

Asian Pacific Institute on Gender-Based Violence
ASISTA
Casa de Esperanza:
Tahirih Justice Center

- ⁱ See “May 2019 Advocate Survey: Immigrant Survivors Fear Reporting Violence” Asian-Pacific Institute on Gender Based Violence, ASISTA Immigration Assistance, Casa de Esperanza: National Latin@ Network, National Alliance to End Sexual Violence, National Domestic Violence Hotline, National Network to End Domestic Violence, and Tahirih Justice Center available at <https://www.tahirih.org/pubs/may-2019-advocate-survey-immigrant-survivors-fear-reporting-violence/>; See also Rebecca Tan. “Amid immigration crackdown, undocumented abuse victims hesitate to come forward” Washington Post (June 30, 2019) available at https://www.washingtonpost.com/local/social-issues/amid-immigration-crackdown-undocumented-abuse-victims-hesitate-to-come-forward/2019/06/30/3cb2c816-9840-11e9-830a-21b9b36b64ad_story.html?utm_term=.f0302819c5d2
- ⁱⁱ Pub. L. No. 106-386, § 1502, 114 Stat. 1464, 1518(a)(1) (2000)
- ⁱⁱⁱ See USCIS Processing Times at <https://egov.uscis.gov/processing-times/> for processing times for I-360 VAWA self-petitions adjudicated at the Vermont Service Center
- ^{iv} *Id.* for processing times for I-914 Application for T Nonimmigrant Status processed at Vermont Service Center
- ^v USCIS. “Historic National Average Processing Times for All USCIS Offices” (captured March 12, 2019) available at <https://web.archive.org/web/20190312202427/https://egov.uscis.gov/processing-times/historic-pt>
- ^{vi} USCIS. Historical National Median Processing Times available at <https://egov.uscis.gov/processing-times/historic-pt> (March 30, 2021), Note USCIS announced it has shifted its case processing methodology. The FY2014 -FY 2016 numbers reflect the older methodology, as reflected in prior captures of USCIS’ data sets. See. e.g., Historical Average Processing Times captured January 10, 2019 (available at <https://web.archive.org/web/20190110111519/https://egov.uscis.gov/processing-times/historic-pt>)
- ^{vii} See USCIS Processing Times at <https://egov.uscis.gov/processing-times/> for processing times for I-918 Petition for U Nonimmigrant Status adjudicated at the Vermont or Nebraska Service Centers
- ^{viii} USCIS. Historical National Median Processing Times available at <https://egov.uscis.gov/processing-times/historic-pt> (March 30, 2021), Note USCIS announced it has shifted its case processing methodology. The FY2014 -FY 2016 numbers reflect the older methodology, as reflected in prior captures of USCIS’ data sets. See. e.g., Historical Average Processing Times captured January 10, 2019 (available at <https://web.archive.org/web/20190110111519/https://egov.uscis.gov/processing-times/historic-pt>)
- ^{ix} Sign on letter to USCIS regarding U visa backlog with USCIS Response (2016) available at <https://asistahelp.org/wp-content/uploads/2019/07/2016-ASISTA-Sign-on-letter-on-U-processing-delays-and-response-1.pdf>
- ^x Human Rights Watch. “Immigrant Crime Fighters: How the U visa Program Makes U.S. Communities Safer” (July 8, 2019) available at <https://www.hrw.org/report/2018/07/03/immigrant-crime-fighters/how-u-visa-program-makes-us-communities-safer>



Background and Barriers to Legal Immigration

By Sadikshya Nepal and Rachel Iacono

The H-1B High-Skilled Visa: Background and Barriers

The H-1B process is fraught with confusing procedural government inflexibility, “black boxes” of no information, and long backlogs. The unpredictability of the pathway from H-1B to green card creates significant obstacles for nonimmigrants looking to use this path to gain long term residency in the United States.

First, the employer must file a Labor Condition Application form that attests to the Department of Labor that a nonimmigrant employee will not displace similarly employed U.S. workers, and is being paid the prevailing wage for the occupation in the area of employment. Additional attestations apply for companies that have a high percentage of H-1B workers in their workforce. The H-1B petition process [can take](#) up to eight months depending on the processing center. Sponsoring a nonimmigrant employee [costs](#) anywhere between \$1,250 to \$4,500 in filing fees, not including legal fees for the employer. According to U.S. Citizenship and Immigration Services, as of FY2018, there were 331,098 approved H-1B petitions, with 86,784 initial employment petitions and 244,314 continuing employment petitions.

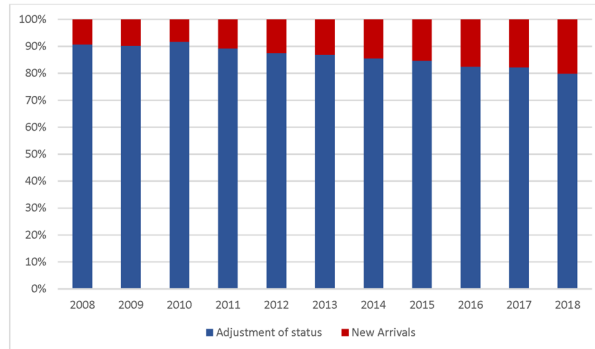
While the labor condition attestation helps employees secure a prevailing wage that is equal or higher than the wage paid to someone with similar qualifications in the area of employment, it also restricts the worker to their sponsoring employer. **An H-1B nonimmigrant visa holder may only work for the employer who petitioned for the candidate and only in the activities described in the petition.¹** If the employee wishes to change companies, they must find an employer willing to sponsor a new H-1B petition on their behalf. Furthermore, if nonimmigrant employees face job losses, they only have 60 days to find a sponsoring employer and start a new petition process before being deemed “out of status”—in other words, undocumented.

Issues to Consider: Convoluted Path to Permanent Residency

The United States offers 140,000 employment-based green cards annually, which includes sponsored workers and their eligible spouses and children. According to Department of Homeland Security, the U.S. government [offered](#) 139,337 employment-based permanent residency visas to nonimmigrants in FY2018, of which 79% were adjustments of status for individuals already in the United States. **In the last ten years, 86% of all employment-based permanent green cards have been adjustments of status from other nonimmigrant visa categories (Figure 1).**

¹USCIS, *Nonimmigrant- Based Employment. Hiring a Foreign National for Short Term Employment*. Available at: https://www.uscis.gov/sites/default/files/USCIS/About%20Us/Electronic%20Reading%20Room/Applicant%20Service%20Reference%20Guide/Nonimmigrant_Empl.pdf

Figure 1. Employment-Based Legal Permanent Residents
(FY 2008 – 2018)



Source: DHS Yearbook of Immigration Statistics

Foreign workers can apply for an [employment based \(EB\) green card](#) in the following categories. Most H-1B workers receive their green card through an employer sponsorship. The EB system is divided into five preference categories, of which the first, second, and third preferences directly relate to employer sponsorship (Figure 2). The fourth and fifth preference categories relate to miscellaneous “special immigrants” and immigrant investors.

Figure 2. Employment-based (EB) Preference Categories

| Preference Category | Description |
|--------------------------|--|
| First Preference (EB-1) | Foreign workers with extraordinary abilities in arts, sciences, business, or athletics; outstanding professors or researchers; or managers and executives of certain multinational firms |
| Second Preference (EB-2) | Foreign workers in a profession that requires advanced degree; or have exceptional abilities in the sciences, arts, or business |
| Third Preference (EB-3) | Skilled workers with a minimum of 2 years of training experience; or a professional with a bachelor’s degree or a foreign equivalent; and unskilled workers |

Source: USCIS Green Card Eligibility Categories

The sponsorship process requires employers to include a labor market test for most EB-2² and all EB-3 preferences. The employer must complete a Labor Certification Application with the Department of Labor proving that the employer was not able to secure a U.S. worker—defined as a U.S. citizen or current green card holder—for the role. Even if the position already employs the foreign worker on a temporary visa, the employer must demonstrate that these new domestic recruitment strategies failed to find a U.S. worker for the position. Since most employment-based green card sponsorships are H-1B adjustments of status, temporary workers have had up to six years of experience in the job for which they are being sponsored. During that time, they have developed a robust understanding of their position and the job requirement. Given that the employer has already agreed to sponsor the foreign national for permanent residence, this domestic recruitment rarely results in a U.S. worker being hired for the sponsored position. In FY2019, the approval rate for Labor Certification Applications [was around](#) 95%, indicating that the certification application gets approved, and that a U.S. worker was not found to be available, in the vast majority of cases.

Another challenge in the process of adjusting from temporary to permanent status is the annual green card limitations. In addition to the overall cap of 140,000 on EB-based green cards, limits are also set based on nationality; each nation is restricted to a seven percent per-country cap regardless of the size of the country or the demand for green cards from that country. The country quota system has created an unprecedented backlog in employment-based immigration for certain nationalities. For example, as of 2019, [there were](#) an estimated 800,000 immigrants, the majority of whom are Indian nationals eligible for green cards, stuck in the backlog. Even after DHS approves the employer's petition on behalf of the foreign worker, nationals from high immigration countries must wait for an extended time for a green card to be available. According to a recent policy brief by the CATO Institute, green card backlog for skilled immigrants is expected [to exceed](#) 2.4 million by 2030. The backlog most affects Indian and Chinese skilled immigrants, with the largest backlog for Indian nationals at 780,579 petitions. With no change in the current processing system, foreign nationals from India would have the longest wait time for a green card in the EB-2 and EB-3 categories of 89 years.

The backlog creates severe pressure on employees since they cannot find a sense of permanency in a country where they have worked, lived, paid taxes, and frequently raised their children for many years. The long wait for green cards due to the backlog has jeopardized permanent residence eligibility for many immigrant children who migrated to the United States as dependents on their parents' temporary visa sponsorship. These children are at risk of aging out of eligibility after they reach 21, requiring them to convert to another nonimmigrant status, depart the country, or remain in an undocumented status; they would have to qualify for permanent residence at some point in the future on their own.

Furthermore, those with an ongoing adjustment of status application with USCIS have a difficult time traveling outside the United States while their application is under review. According to USCIS, traveling outside the United States while your adjustment of status is pending can have severe consequences, [including](#) inadmissibility back into the United States and the automatic withdrawal of one's application. The process of securing one's travel outside the United States during a status change is

² There is a provision that allows an immigrant to self-petition if they believe their presence in the United States would be in the "national interest." To obtain a National Interest Waiver of the sponsorship requirement, the immigrant must show that the proposed endeavor is of substantial merit and national importance, they are well-positioned to advance the endeavor and that it would be beneficial to the United States to waive the requirement of a job offer, and thus labor certification. See: <https://www.uscis.gov/working-united-states/permanent-workers/employment-based-immigration-second-preference-eb-2>

often bureaucratic and convoluted. It requires application for an “advance parole” which entails an additional application and fee and can take several months to process. In places like California, where there are a high number of immigration-related applications, changing one’s status from H-1B to Legal Permanent Resident [can take](#) anywhere between seven and a half months to over two years, assuming there are no backlogs from per-country caps, barring foreign temporary workers from traveling back to their home countries during that time.

Foreign workers on temporary visas can be negatively [impacted](#) by abrupt changes in the United States immigration law. For example, the ban on H-1B visas issued under the Trump Administration has jeopardized the H-1B to green card pipeline for skilled nonimmigrant employees. Several foreign-born workers, who live in the United States, [are trapped](#) in their home countries and unable to return as a result of the visa ban. Many of these employees were eligible for green cards but were not able to receive one due to backlogs. Nationals from countries with high immigration rates are forced to reside in limbo due to the United States’ outdated immigration policies. A lack of an accessible route to a permanent status that can match our current rate of immigration [has deterred](#) future immigration of skilled immigrants to the United States.

The process of moving from a temporary visa to permanent residency in the United States is lengthy, requiring multiple bureaucratic processes. Many employment-based green card applicants have lived and worked in the United States for several years and in many cases first came the United States as students. The irregular path to a green card requires varying degrees of labor market tests and attestations, and different types of sponsorships from employers with multiple application processes, making the journey from temporary status to permanent residency unpredictable, and many never make it through, costing the United States its investment in the human capital of these immigrants. As BPC’s Work in Progress report [shows](#), other countries have adopted different ways of streamlining the temporary-to-permanent residency process. There is no perfect system available, but there is a lot the U.S. immigration system can learn from other countries. Our temporary-to-permanent residency process needs reimagination and understanding the pros and cons that exist in other systems could be our first step.

The H-2B Visa for Temporary Non-Agricultural Workers: Background and Barriers

The H-2B is a relatively small visa program, capped at 66,000 per year. The REAL ID Act of 2005 [divided](#) the H-2B visa category semi-annually, allocating 33,000 visas for seasonal workers from October 1-March 31, and the remaining 33,000, including the unused visas from the first half of the fiscal year to seasonal workers from April 1-September 30. This change was meant to preserve visas for employers whose seasonal need was later in the fiscal year. However, certain foreign workers such as those currently in the United States on an H-2B visa seeking work extensions, those counted towards the cap in the same fiscal year, fish roe processors, technicians, and supervisors, and workers in the U.S. territories are [not counted](#) towards the overall cap.

Issues to Consider: H-2B Program is Beneficial but in Need of Reform

The H-2B visa program’s core function is to help provide U. S. businesses with willing and qualified temporary foreign workers to fulfill labor demands when there are no U.S. workers to take the job. But, participation in the program also [helps](#) foreign workers improve their own livelihoods in their

home countries.³ The remittances that foreign workers send back, who migrate largely from poor communities with persistent poverty, help foreign workers' families and their community with improvements in health, education, and nutrition. The H-2B visa program also [provides](#) foreign workers with a consistent source of employment and income at the prevailing wage rate that they can rely on, albeit seasonal. **The program is one of the few legal and viable routes for foreign workers with lesser education or job training skills to access the U.S. labor market, which in turn can [drive down](#) undocumented migration from countries like Mexico and Guatemala, which were among the highest H-2B visa [recipients](#) in FY2019.**

Figure 5: Countries with Highest H-2B Visas Issued (FY2019)

| H-2B Visa Issued Country | Number of Total Visas |
|--------------------------|-----------------------|
| Mexico | 72,284 |
| Jamaica | 10,078 |
| Guatemala | 3,262 |
| South Africa | 1,830 |
| Serbia | 1,381 |

Source: United States Citizenship and Immigration Services Annual Submission April 2020

H-2B visas can be instrumental in helping businesses in the United States thrive, [especially](#) in remote and smaller states where businesses find it [difficult](#) to fill labor shortages with native-born Americans. Research suggests that higher H-2B visa demands correlate with higher U.S. employment rates; a one percent growth in employment [correlates](#) with adding 216 additional H-2B workers, and unemployment rates in counties with higher H-2B employers were 0.4 percentage points [lower](#) than in counties without H-2B employers, debunking the myth that H-2B workers take jobs away from Americans. **Employers' reliance on H-2B visas for business sustainability is clear in a recent report by the Government Accountability Office in April 2020, where employers they [surveyed](#) have suggested that any decrease in the number of expected H-2B visas does significantly impact their business decisions.** Moreover, in some industries such as the seafood industry, employers who did not acquire the requested number of H-2B workers, due to the cap, reported revenue decline and loss of customers and contracts in FY2016.

However, the H-2B program in its current form has not been free of controversy. **Employers have argued that the [uncertainty](#) of whether businesses would be approved of the required H-2B visas under the cap, exacerbated by the lottery system, makes the current visa system inequitable.** Moreover, a rigid labor certification test requires employers to prove there are not enough U.S. workers willing to take the job, so a cap in addition to the certification makes the H-2B visa process redundant, overly bureaucratic, and cumbersome. Some business owners in the GAO survey suggested that the visas should be distributed fairly under the cap, while some elected officials have [recommended](#) increasing the cap⁴ in past years to support small businesses.

Elected officials on the other end of the argument claim that the visa program, in its current form, is [not rigid enough](#) and [fails to protect](#) American citizens, while in some cases being [subject](#) to labor violations. Proponents of regulating the H-2B visa [claim](#) that foreign workers on H-2B visas perform low-wage work that takes jobs away from Americans, though [the GAO report](#) from April 2020 signals to

³ The study is based on the H-2B program's impact on the local livelihood of Guatemalan forest and conversation workers in Alabama.

⁴ Increasing the cap by utilizing unused available visas.

the contrary. Advocates of regulating the visa also state that tying the foreign worker to their employer through visa sponsorship makes the program exploitative towards foreign workers. A [GAO report](#) from March 2015 on H-2A and H-2B visas does confirm some violations by employers who charge workers excessive fees for recruitment, provide inaccurate job information, and wages paid. However, whether these violations are selective or industry-wide is controversial. For example, while labor unions [contend](#) that H-2B visas routinely expose foreign workers to abuses and companies hires foreign workers for cheap labor, proponents of decreasing H-2B visa regulation [claim](#) that most employers are in complete compliance with the program and that most H-2B violations are just minor infractions. Proponents further argue that higher regulations would lead to more violations, and hiring of unauthorized workers, not less.

Whatever grievances experts on either end of the H-2B debate may have, one can safely argue that the program, if managed adequately, can be a win-win situation for migrants, businesses, and the U.S. economy. The H-2B program is also one of the few avenues that foreign workers, especially those from poor countries, can use to access the U.S. labor market, significantly improving their lives at home and driving down illegal border crossings. However, the H-2B program, in its current iteration, is in need of major reform. Since its inception in 1986, the visa program has remained the same, whereas our labor trends and needs have changed significantly. A deeper look at how the program can meet our current labor needs in a way that protects employers, U.S. workers, and migrants, while keeping the visa program fair and equitable for U.S. businesses and workers, is necessary.

Limited Legal Channels to Working in the United States

Border Enforcement as a Panacea?

Much of the immigration reform debate has emphasized increased border enforcement to address these unauthorized migrations. IRCA set out to eliminate illegal border crossing by [supplying](#) new technology and increased border funding and resources, as well as implementing requirements for employers to verify the employment eligibility of all new hires. Similarly, the Border Security, Economic Opportunity, and Immigration Modernization Act (S.744), which passed the Senate in 2013, also set out to [tighten our southern border](#) by increasing enforcement at the U.S.-Mexico border, adding additional Border Patrol and U.S. Customs and Border Protection officers, and including National Guard support for securing the border, [as a precursor to](#) providing a pathway for unauthorized immigrants living in the United States. The U.S. Citizenship Act also advances some policy initiatives to manage our southern border by deploying smart technology, which bill sponsors say will help detect and prevent illicit activity, improve situational awareness, and counter transnational crime networks.

While these policies emphasize stricter border control to reduce illegal immigration, the majority of the new undocumented population that [enter](#) the United States in recent years do so by overstaying their visas. Without a long-term strategy that buttresses the legal immigration channels to the United States, visa overstays and undocumented migration are likely to continue.

Reforming Visa Programs

IRCA's one success in curbing unauthorized border crossing may have been in amending the Immigration and Nationality Act and separating the preexisting H-2 temporary visa program into H-2A and H-2B visas for agricultural and non-agricultural workers. Though both visa programs still require substantial reform, they have provided a legal channel for lesser-skilled labor migration to the United States. According to [estimates](#), the H-2 visa programs helped decrease Mexican illegal border crossing

between 2008-2018, demonstrating that migrants are willing to use a legal channel to come to the U.S. if one is available to them. The H-2A program, which is not subject to any visa caps, is a popular program with migrant farmworkers and in spite of challenges, is increasingly being used by farm owners as well. The usage of agricultural visas has continued to increase over the last several years (Figure 1), and, according to estimates by the State Department, [there were](#) just over 213,000 visas issued for fiscal year 2020.

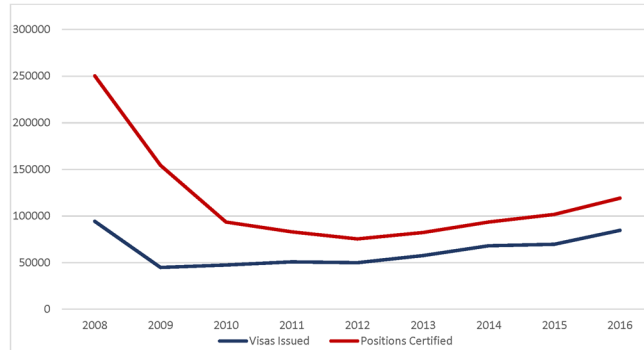
Figure 1. H-2A Visa Issued and Positions Certified (FY2008-FY2016)



Source: Department of State and Department of Labor

Similarly, the H-2B program has also remained in high demand with businesses requesting more seasonal foreign workers each year, exceeding the annual 66,000 cap. **Temporary foreign workers have become an integral part of the U.S. labor market, filling jobs** in occupational sectors where employers cannot find U.S. workers for the position, especially in rural and remote states, and seasonal areas. This has remained true even during [periods of high unemployment](#) such as when COVID visa restrictions drastically reduced work visas for foreign temporary workers. The demand for H-2B workers to fill labor shortages in the United States has steadily increased since 2010, compelling lawmakers to allow cap increases every year. For example, in FY2016, 119,000 H-2B positions were certified, a 17% increase since 2015. (Figure 2)

Figure 2. H-2B Visa Issuances and Labor Certifications (FY2008-FY2016)



Source: Department of Labor

The majority of seasonal workers that enter on lesser-skilled temporary visas such as the H-2A and H-2B programs have historically come from Mexico. For example, out of [around](#) 442,000 total H-2A admissions to the United States in FY2019, 94% were Mexican nationals. Similarly, in FY2019 around 72,000 H-2B visas out of approximately 98,000 visas, or 74%, [were issued](#) to Mexicans, followed by nationals of Jamaica and Guatemala who got 10% and 3% of the total visa issuance, respectively. [Research suggests](#) that Mexicans are more likely to have access to H-2 visas and therefore have a higher representation in the U.S. seasonal labor market. For example, in 2019, Mexican migrants were 32 times more likely to receive H-2 visas than Honduran nationals per capita. Unsurprisingly, Hondurans were 20 times more likely, per capita, to get apprehended at the border than their Mexican counterparts.

These visas have tremendous potential to improve the lives of participants in their respective home countries. The visas provide consistent, albeit seasonal, employment at a “prevailing wage” rate. For example, a study by the Center for Global Development using a sample of Haitian farmers in the United States [showed](#) that the short-term agricultural guestworker program benefited poor Haitian families during the post-Haiti earthquake more than any other aid program; roughly doubling their families’ income back home.

Moving Away from Amnesty-Only Approach to Addressing Unauthorized Migration

To avoid the need for another large-scale amnesty in the future, a reorganization of our legal immigration system that incorporates temporary guestworker visa reform may be necessary. Currently, the U.S. Citizenship Act would reform our employment-based legal immigration system by

raising visa caps on some existing permanent visa categories.⁵ However, these [cap increases](#) would mostly benefit high-skilled immigrants and their family members who [may already be](#) in the United States. The bill, unfortunately, [does not offer](#) substantial reform to our temporary guestworker programs nor introduce new visas in the lesser-skilled category.

Immigration reform that includes improvements in temporary guest worker programs is also more likely to benefit migrants from Central America. Presently, those fleeing from the Northern Triangle, due to economic challenges in their home countries, have no lawful option, besides asylum, to legally enter the United States. Guestworker visa reforms and other legal pathways for people to access U.S. labor markets may reduce illegal border crossings and better manage Central American migration challenges in the long-term. According to a 2019 report by the Congressional Research Service, nearly 52% of migrants from Central America [cited economic opportunity](#) as their reason for fleeing the region. Additionally, the [World Bank](#) reports that around 54% of El Salvadorians, 63% of Guatemalans, and 56% of Hondurans are of working age and the ratio of the working age population in these countries is expected to continue to rise. Therefore, it is likely that we will continue to see young people migrate towards the United States in search of job opportunities.

Guestworker programs that facilitate migrants' access to our labor markets, therefore, might be a benefit to all. But if we continue to prioritize the same enforcement-based approach to border crossing without providing an alternative and accessible route for immigration to migrants, we might end up where we started in a few decades; discussing amnesty for a large group of undocumented immigrants in need of relief and ever-increasing border security.

⁵ The bill also exempts spouses and children of foreign workers from visa caps which further increase total immigration numbers.



Statement for the Record of

Gustavo Torres
Executive Director

CASA

**For a Hearing from the Committee on the Judiciary
Subcommittee on Immigration and Citizenship**

**“Why Don’t They Just Get in Line?”
Barriers to Legal Immigration**

Wednesday, April 28, 2021

2141 Rayburn House Office Building

Washington, D.C. 20515

CASA is a group of passionate, community-conscious people working to organize, advocate for, and expand opportunities for Latino and immigrant people in the state of Maryland, Pennsylvania, and Virginia. We do this by providing employment placement; workforce development and training; health education; citizenship and legal services; and financial, language, and literacy training to Latino and immigrant communities throughout the state. Since our humble beginnings in 1985 assisting Central American refugees fleeing wars and civil strife at home, we have worked tirelessly to bring immigrant communities in Maryland, Virginia, and Pennsylvania out of the shadows and into greater power, dignity, and legitimacy.

The United States is home to approximately 11 million undocumented individuals,¹ including an estimated 636,390 Deferred Action for Childhood Arrivals (DACA) recipients² and approximately 320,000 Temporary Protected Status (TPS) recipients.³ Five million undocumented individuals are currently aiding the battle against COVID-19 as essential workers,⁴ including 202,500 DACA recipients⁵ and 131,300 TPS holders.⁶

Unfortunately, most undocumented individuals cannot obtain lawful status because no such pathway to lawful status exists. While a small number of undocumented individuals can adjust status via sponsorship, section 212(a)(9) of the Immigration and Nationality Act (INA) imposes 3-year, 10-year, and even permanent bars from entry on certain individuals who accrue specific amounts of unlawful presence and meet other requirements.⁷ Furthermore, INA § 245(a) requires that nonimmigrants be “inspected and admitted or paroled into the United States” in order to adjust status, which excludes many undocumented individuals who entered without inspection from eligibility.⁸ By July 31, 2019, only 76,000 DACA recipients successfully adjusted status to lawful permanent residents (LPRs).⁹ Likewise, by September 17, 2020, nearly 82,000 TPS

¹ *Profile of the Unauthorized Population: United States*, Migr. Pol’y Inst., <https://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/US> (last accessed Apr. 26, 2021).

² Andorra Bruno, Cong. Rsch. Serv., R46764, *Deferred Action for Childhood Arrivals (DACA): By the Numbers* 9 (2021).

³ Jill H. Wilson, Cong. Rsch. Serv., RS20844, *Temporary Protected Status and Deferred Enforced Departure* 5 (2021).

⁴ Nicole Prchal Svajlenka, *A Demographic and Economic Profile of Undocumented Workers on the Pandemic’s Front Lines*, Ctr. for Am. Progress (Feb. 18, 2021, 9:02 AM), <https://www.americanprogress.org/issues/immigration/news/2021/02/18/495992/demographic-economic-profile-undocumented-workers-pandemics-front-lines/>.

⁵ Nicole Prchal Svajlenka, *A Demographic Profile of DACA Recipients on the Frontlines of the Coronavirus Response*, Ctr. for Am. Progress (Apr. 6, 2020, 9:01 AM), <https://www.americanprogress.org/issues/immigration/news/2020/04/06/482708/demographic-profile-daca-recipients-frontlines-coronavirus-response/>.

⁶ Nicole Prchal Svajlenka & Tom Jawetz, *A Demographic Profile of TPS Holders Providing Essential Services During the Coronavirus Crisis*, Ctr. for Am. Progress (Apr. 14, 2020, 9:05 AM), <https://www.americanprogress.org/issues/immigration/news/2020/04/14/483167/demographic-profile-tps-holders-providing-essential-services-coronavirus-crisis/>.

⁷ 8 U.S.C. § 1182(a)(9)(B)–(C) (2021).

⁸ *Id.* § 1255.

⁹ Andorra Bruno, Cong. Rsch. Serv., R46764, *Deferred Action for Childhood Arrivals (DACA): By the Numbers* 20 (2021).

holders adjusted status to LPRs, and nearly 9,500 former TPS holders successfully naturalized.¹⁰

To promote equity for undocumented individuals throughout the United States, Congress must repeal the bars implemented by INA § 212(a)(9), the per-country limit on employment- and family-based visas, and the inspection and parole requirements of INA § 245(a). Additionally, Congress must pass legislation to provide status to undocumented individuals, including but not limited to the Dream Act of 2021, the American Dream and Promise Act of 2021, the SECURE Act, and the Citizenship for Essential Workers Act, either through reconciliation or through any other available mechanism.¹¹

¹⁰ Lora Adams, TPS Advoc. Working Grp., Pulling Back the Curtain: Analysis of New Government Data on Temporary Protected Status 36 (2021), *available at* <https://cliniclegal.org/resources/humanitarian-relief/temporary-protected-status-and-deferred-enforced-departure/pulling>.

¹¹ American Dream and Promise Act of 2021, H.R. 6, 117th Cong. (2021); Dream Act of 2021, S. 264, 117th Cong. (2021); Safe Environment from Countries Under Repression and Emergency (SECURE) Act, S. 306, 117th Cong. (2021); Citizenship for Essential Workers Act, S. 747, 117th Cong. (2021).



April 28, 2021

Chair Zoe Lofgren
House Committee on the Judiciary
Subcommittee on Immigration and Citizenship
Washington, DC 20515

Ranking Member Tom McClintock
House Committee on the Judiciary
Subcommittee on Immigration and Citizenship
Washington, DC 20515

RE: Hearing “Why Don’t They Just Get in Line?” Barriers to Legal Immigration
Dear Chair Lofgren & Ranking Member McClintock:

On behalf of the Coalition for Humane Immigrant Rights (CHIRLA), the largest statewide immigrant rights organization in California, I submit this statement for the record for today’s hearing entitled “Why Don’t They Just Get in Line?” Barriers to Legal Immigration”. CHIRLA is a member of the Value Our Families campaign. Value Our Families is a network of local and national community-based and advocacy organizations who are committed to protecting, preserving, and strengthening the U.S. family immigration system.

I write to express CHIRLA’s strong support for Sen. Menendez’ (S.348) and Rep. Sanchez’ (H.R.1177) U.S. Citizenship Act, which would create a path to citizenship for all the 11 million undocumented immigrants currently living in the U.S., including those who arrived as young children, those protected under Deferred Action for Childhood Arrivals (DACA), Temporary Protected Status (TPS) recipients, essential workers and their family members. Crucially, the bill also includes key elements of [Representative Judy Chu’s Reuniting Families Act](#).



which would reduce family immigration visa backlogs and [promote humane and timely reunification of immigrant families](#).

Problems With Our Immigration System

The current U.S. immigration system is antiquated and harmful because it has not adapted to new economic and social realities, at home and globally. It also fails to recognize the full humanity and dignity of immigrants. Today, the vast majority of immigrants coming to the U.S. through the family-based system, diversity lottery and refugee program are underrepresented people of color. Due to years of bureaucratic processing delays and Congress's inability to address these long-outdated policies, many remain unable to be sponsored and remain undocumented because the immigration system has backlogged their cases in a decades-long pipeline. Currently, there are close to 4 million family-members in line to be sponsored through the family-based preference categories ¹. Nationals from Mexico, the Philippines, India, Vietnam and China have the longest wait times.

Additionally, there are several inadmissibility bars to people obtaining green cards through family sponsorship. These bars referred to as the three-year, ten-year and permanent bars to inadmissibility prevent immigrants who qualify for a green card from receiving one if they were in the U.S. without status for more than six months unless they remained outside the U.S. for at least three years, and ten years for those in the U.S. for more than one year. Eliminating the bars would allow millions of immigrants living in the U.S. to make use of the existing legal immigration process and adjust their status.

¹Annual Report of Immigrant Visa Applicants in the Family-sponsored and Employment-based preferences Registered at the National Visa Center as of November 1, 2019, https://travel.state.gov/content/dam/visas/Statistics/Immigrant-Statistics/WaitingList/WaitingListItem_2019.pdf



Legalization

CHIRLA supports a legalization program that is inclusive and provides undocumented immigrants with the opportunity to emerge from the shadows and attain permanent legal status with a pathway to citizenship. In the U.S. there are currently 11 million undocumented immigrants who form the backbone of many sectors of the economy and who during the COVID-19 pandemic have put their lives on the line to help our country stay afloat, providing medical care, working in the fields, stocking our grocery shelves, and other frontline roles. Many remain undocumented because they are stuck in the backlogs, others because they do not qualify for family unification, work permit or humanitarian relief currently available under our immigration system.

Accordingly, CHIRLA believes an immigration program must be attainable, affordable, expedient, unifying and equitable. We were very pleased to see President Biden announce his immigration reform bill, the U.S. Citizenship Act on Day One of his administration, and U.S. Sen. Menendez (S.348) and Rep. Sanchez (H.R. 1177) introduced it in Congress in February. This immigration reform bill is the justice and legalization that our country desperately needs and of which our communities have sought for years.

The Reuniting Families Act in the U.S. Citizenship Act

The inclusion of Congresswoman Chu's bill in the U.S. Citizenship Act (H.R. 1177 and S. 348) presents a major victory for the Value Our Families campaign as we have worked tirelessly to defend the family-based system from the never-ending attacks by the Trump administration.

The Reuniting Families Act would resolve these problems. It would:





- clear the family-based and employment-based backlogs, raise the country caps and reclassify lawful permanent residents as immediate relatives, provide relief for orphans, widows and stepchildren and protect the families of H-4 visa holders from losing work authorization or status;
- promote and preserve diversity by increasing diversity visas;
- provide equality for same sex partners in our immigration laws; and
- provide enforcement relief in our immigration system through eliminating the 3- and 10-year bar and providing family unity waivers of some inadmissibility and deportability grounds.

As Congress considers potential reform to the U.S. immigration system, it should center its priorities around reuniting families while promoting diversity. CHIRLA believes that the U.S. Citizenship Act (H.R. 1177 and S.348) as well as the Reuniting Families Act offer solutions and need to be passed by Congress and sent to President Biden's desk forthwith. These bills would fix the current legal avenues available to immigrants and would ultimately establish a fair legalization process for the 11 million undocumented immigrants.

Thank you for your consideration of this statement. Should you have any questions, you can reach me at jcastro@chirla.org.

Sincerely,

Luz Castro
National Policy Advocate
Coalition for Humane Immigrant Rights (CHIRLA)



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**Statement for the Record by the Federation of American Scientists (FAS)
 Submitted to the Immigration and Citizenship Subcommittee of the
 U.S. House of Representatives Committee on the Judiciary**

The Federation of American Scientists (FAS) submits this statement for the record to provide the House Judiciary Subcommittee on Immigration and Citizenship with information relevant to its April 28, 2021 hearing entitled “Why Don’t They Just Get in Line? Barriers to Legal Immigration.”

The Technology and Innovation Initiative at FAS is focused on the intersection of immigration policy and emerging technologies in advancing the nation’s national security and economic growth. Talent is one of the scarcest resources in the global race for predominance in artificial intelligence (AI) and other technologies, yet the United States risks squandering this advantage. Despite the high proportion of foreign-born students and professors in U.S. science and engineering departments, the vast majority of whom wish to stay in the United States, much of the nation’s resident technology talent does not have a clear path to U.S. citizenship.

Addressing the Backlog Crisis

Both Congressional action and administrative improvements are urgently required to upgrade all elements of the U.S. legal immigration system for the 21st century, including employment-based immigration, [family-based immigration](#), [humanitarian immigration](#), and [naturalization](#).

In recent years, [processing times](#) have skyrocketed at U.S. Citizenship and Immigration Services (USCIS), leading to onerous wait times for everything from work permits to green cards to the ultimate privilege of U.S. citizenship.

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Average processing time by U.S. Citizenship and Immigration Services for key forms (months)

| Form | Purpose | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2018 | FY 2019 | FY 2020 | Change since 2014 |
|-------|---|---------|---------|---------|---------|---------|---------|---------|-------------------|
| I-130 | Green card sponsorship by immediate relative | 6.8 | 6.1 | 6.0 | 7.7 | 9.7 | 10.6 | 10.3 | 51.5% |
| I-131 | Travel permit | 2.1 | 2.3 | 2.3 | 3.0 | 3.9 | 4.5 | 4.7 | 123.8% |
| I-140 | Green card sponsorship by employer | 2.9 | 5.1 | 5.7 | 6.9 | 7.8 | 5.3 | 6.0 | 106.9% |
| I-485 | Green card application based on employment | 4.5 | 6.5 | 6.8 | 8.1 | 11.1 | 12.8 | 14.4 | 220.0% |
| I-485 | Green card application based on family | 5.7 | 6.6 | 6.8 | 8.4 | 11.1 | 11.1 | 9.9 | 73.7% |
| I-751 | Final step for green card based on marriage ("removal of conditions") | 5.7 | 7.4 | 9.1 | 11.8 | 16.1 | 15.5 | 13.9 | 143.9% |
| I-765 | Work permit | 2.1 | 2.4 | 2.6 | 3.1 | 4.2 | 4.5 | 4.4 | 109.5% |
| I-914 | T visas for victims of trafficking | 5.8 | 6.4 | 7.9 | 9.0 | 11.4 | 16.1 | 16.3 | 181.0% |
| I-918 | U visas for victims of crime, including domestic abuse | 5.0 | 11.4 | 22.1 | 32.1 | 40.6 | 44.5 | 48.8 | 876.0% |
| N-400 | Citizenship application | 5.2 | 5.8 | 5.6 | 8.1 | 10.3 | 9.9 | 9.3 | 78.8% |

Worse still, the average numbers above conceal even more dire wait times that vary by region and by immigration category. The [median processing time for a U.S. citizenship application](#) far exceeds one year in many parts of the country, and some applicants have been kept waiting for over two years, despite meeting all eligibility requirements.

Wait times for the [spouses of H-1B workers](#), most of whom are highly-skilled professionals in their own right, now regularly exceed two years, leading to loss of immigration status and a flight of talent from the United States.

By the end of Fiscal Year 2020 (the latest date for which agency data is currently available), many of the most important services provided by USCIS had become burdened by extraordinary backlogs.

Stated simply, the entire U.S. legal immigration system is in a state of crisis, and without concerted policy and operational improvements, global talent will increasingly flow to other, more welcoming countries.

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Number of pending applications (i.e. backlog) at U.S. Citizenship and Immigration Services for key form

| Form | Purpose | FY 2016 | FY 2017 | FY 2018 | FY 2019 | FY 2020 | Change from FY16-20 |
|-------|--|---------|-----------|-----------|-----------|-----------|---------------------|
| I-130 | Green card sponsorship by immediate relative | 938,577 | 1,289,088 | 1,520,249 | 1,564,880 | 1,472,788 | 56.9% |
| I-485 | Green card application based on family | 247,062 | 314,939 | 372,185 | 322,562 | 357,639 | 44.8% |
| I-765 | Work permit | 533,130 | 649,428 | 580,765 | 637,811 | 648,985 | 21.7% |
| I-918 | U visas for victims of crime, including domestic abuse | 150,561 | 190,361 | 229,230 | 255,495 | 270,074 | 79.4% |
| N-400 | Citizenship application | 520,589 | 728,301 | 734,817 | 644,121 | 938,154 | 80.2% |
| I-539 | Extension or change of temporary status (e.g. spouses of H-1B workers) | 59,330 | 87,848 | 95,938 | 97,201 | 349,631 | 489.3% |

Streamlining Immigration for AI Professionals

New applications of artificial intelligence (AI) [are expanding rapidly](#), while countries all over the world are fiercely competing for the talent necessary to take advantage of these increasingly consequential technologies. The United States is still one of the top destinations for AI students and professionals, but it [may not stay that way for long](#). Many countries, such as [Canada](#) and the [United Kingdom](#), among [others](#), are adapting their immigration systems to make it easier for AI experts to study, work, and stay permanently.

One of the biggest barriers to global AI talent recruitment is the sheer time required to obtain a green card. In addition, current guidance for USCIS adjudicators makes no reference to particular technology areas, and it is not clear how AI-specific achievements fit into the requirements for various immigration options. USCIS can provide clearer guideposts for AI professionals seeking to demonstrate their eligibility for employment-based permanent residency pathways, such as EB-1s, EB-2s with National Interest Waiver, and EB-3s with [Schedule A](#) designation.

More information can be found in our report, “[Winning the Global Race for Artificial Intelligence Expertise: How the Executive Branch Can Streamline U.S. Immigration Options for AI Talent](#),” *N.Y.U. J. Legis. & Pub. Pol’y Quorum* (2021).

Welcoming Immigrant Entrepreneurs

The [International Entrepreneur Rule](#) (IER) was finalized at the end of the Obama Administration as a way for the America to attract entrepreneurs to launch and grow innovative startups in the

United States. It is an agency regulation that was developed by the Department of Homeland Security (DHS), rooted in the DHS Secretary's statutory authority to grant parole on a case-by-case basis for "urgent humanitarian reasons or significant public benefit." During the Trump Administration, DHS attempted to rescind the rule—and though the rule ultimately survived, its precarious situation over the last four years has dissuaded all but [the most iron-willed entrepreneurs](#) from utilizing it.

There are many ways to achieve the full promise of the International Entrepreneur Rule through administrative changes, such as improving outreach and marketing; issuing clarifying and streamlined guidance; and issuing new rules to bridge the gap between the IER and existing immigration pathways for permanent residence.

The uncertainty around long-term permanent resident status in the United States cannot be relieved through parole alone, however. Ultimately, only Congress can pass more enduring startup visa legislation, expand the number of green cards available, and reform existing immigration pathways such that they would be more suitable for an international entrepreneur seeking to start a firm in the United States.

In fact, [not one but two statutory pathways](#) for entrepreneurs were already passed by the Senate in its bipartisan 2013 comprehensive immigration bill. Congress could consider reintroducing such pathways, updating them with the best parts of the IER while maintaining DHS' flexibility. Such changes could include:

- Removing the 2013 bill's requirement for applicants to submit a business plan, which DHS adjudicators are unlikely to have adequate time and expertise to review—unlike professional investors with "skin in the game";
- Allowing a simplified process to evaluate the qualifications of the startup's investors, with deference to previous approvals;
- Providing a more explicit way for adjudicators to account for the value of a startup being accepted into an exclusive accelerator program as evidence of its potential for rapid growth; and
- Granting DHS the flexibility to adjust investment and revenue thresholds to account for changing industry standards.

In addition to these changes, Congress should make a point to gather stakeholder feedback on the details, particularly on the definition of a qualified investor, to ensure that no legitimate investors are barred from participating.



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More information can be found in our report, co-authored with Caleb Watney, "[Long Live the International Entrepreneur Rule: An Opportunity to Boost Jobs and Economic Growth is Hiding in Plain Sight](#)," *Progressive Policy Institute* (2021).

Thank you for your attention to these important matters.

Sincerely,

Doug Rand
Senior Fellow
Director, Technology and Innovation Initiative
Federation of American Scientists

Lindsay Milliken
Research Associate
Federation of American Scientists



April 27, 2021

The Honorable Zoe Lofgren
United States House of Representatives
Washington, DC 20515

The Honorable Tom McClintock
United States House of Representatives
Washington, DC 20515

Subject: Statement for Record for the bill to remove per-country limits on Employment-Based Green Cards

Dear Chairwoman Lofgren and Ranking Member McClintock:

We respectfully write this letter on behalf of Immigration Voice to thank you for your leadership in holding this hearing today on “Why Dont They Just Get in Line? Barriers to Legal Immigration?”

Immigration Voice is a national grassroots non-profit organization representing the rights and interests of over 130,000 legal, highly skilled immigrant members living in the United States who are part of the 915,497 people that the Congressional Research Service estimates are part of a discriminatory green card backlog that effectively bans Indian nationals from receiving employment-based green cards in the United States solely on the basis of their national origin. For nearly two decades, Immigration Voice has advocated for long overdue changes to the Immigration and Nationality Act (INA) that will help enhance American economic competitiveness while also creating a fair and equitable employment and family-based immigration system that distributes green cards based upon when an individual applied, not the applicant’s country of birth. Such legislation would end the current discriminatory allocations of green cards by creating a “first come, first serve” system for immigrants to America that does not make immigrants from countries such as Mexico, Philippines, India, Vietnam, El Salvador, Guatemala, Honduras, and China wait longer for green cards than immigration from other countries.

Each year, the United States conducts a lottery to admit approximately 85,000 new H-1B Visa workers on what are known as “dual-intent work visas.” These H-1B visas allow workers to enter the United States to work in high-skilled occupations with the intention of ultimately receiving lawful permanent residency (Green Cards) if they perform well on the job. Each year, approximately 70% of those new visas (or nearly 60,000 visas) are issued to workers from India, many of whom enter the United States with their spouses and minor children, with dreams of pursuing a better life for their family and fulfilling their American Dream by working hard and playing by the rules. At the same time, discriminatory per-country limits established during the time of segregation restrict Indian nationals to receiving only 8,400 of the 120,000 Employment-Based Green Cards available each year.

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As per the non-partisan Congressional Research Service, this discriminatory and arbitrary cap on the number of Indian nationals who can receive lawful permanent residency each year has created a backlog of over one million people waiting for Green Cards, with a wait time of over 195 years. In fiscal year 2030, the line is expected to grow to 436 years. A majority of the Green Card backlog consists of women and children, who will eventually die in these backlogs. This demonstrates that the per-country limits on the Employment-Based green card system are in effect, an “**Indian Exclusion Act**.” This system implies a de facto ban on Employment-Based Green Cards for any new Indian national entering the United States on an H-1B visa.

This de facto ban creates terrible and traumatic real-world consequences.

- *Almost every day*, we hear reports from our members almost that one of our members has died while in the backlog, leaving their spouse and children without a valid immigration status where their only options are to either immediately self-deport to India or face actual deportation or a life in illegal status.
- *Every day*, we hear the cries of children who legally came to US with their parents as infants and toddlers many years ago. Having lived their entire lives in this country, US is the only home they know. But when these children turn 21 years old, they lose their immigration status which is connected to the pending green card petition of their parents. The root cause of this issue is discriminatory per-country limits that have created the first ever multi-generational ban on people receiving green cards based on their national origin. And thus, these children are either forced to self-deport, or, they have to apply for student visa to restart the same process all over again, just as their parents did many years ago, and then wait in the same long backlogs spanning hundreds of years, just like their parents.
- *Every day*, we hear from members with homes and families in the United States who are stuck in India because they traveled to perform the last rites for their deceased parent and now cannot get a visa appointment, or their visa stamp has been arbitrarily denied by a United States consulate in India.
- *Every day*, we hear from members who have held the same job for over a decade and USCIS has suddenly declared they do not have the right education to do the same job they have been successfully doing for more than a decade. Therefore, they are forced to uproot their family and immediately leave the United States with their spouse and kids, or they will all be in illegal status.
- *Every day*, we hear from members who—even though they had two more years of H-1B status left when travelling outside of the United States, since their passport only had 6 months of validity, their stay was cut short by CBP while at the airport. Now they are subject to illegal status and are facing a 10-year ban from re-entering the United States.

- *Every day*, we hear from members saying that their employer is sexually harassing them, and they cannot do anything out of fear that they will lose their employer-sponsored visa, and their children will be forced to leave this country, uprooting their lives here.
- *Finally*, and most commonly, every day, we hear from people who cannot resign from jobs where they are exploited by their employers, who cannot get promotions in jobs despite their qualifications, cannot start companies based on their innovative ideas, and cannot develop their own world-changing patents.

Due to the arbitrary and discriminatory per-country limits on Employment-Based Green Cards, the United States is disenfranchising specific immigrants many of whom first came here nearly two decades ago. Additionally, the current system is a legalized form of indentured servitude that promotes the interest of a handful of employers and perpetrates an industrialized process of mass exploitation of skilled Indian immigrants. Such a glorified system of indentured servitude cannot be called a just immigration system.

If the current law is not changed, we will soon have the situation where hundreds of thousands of senior citizens will be seen working in Silicon Valley, not by choice but by compulsion. It would be up to the employers' discretion whether to retain these employees for the rest of their lives to prevent their deportation or to terminate their employment and cause their deportation when they are no longer able to perform their jobs due to declining health. Only high-skilled workers who are born in India face such discrimination as workers from virtually every other country can obtain lawful permanent residency within one year of entering the United States. Clearly, the current system has deeply racist outcomes targeting immigrants from India. This is an unconscionable scenario that has been allowed to exist for far too long by lawmakers.

Under this system, over 60,000 additional Indian nationals will be unwittingly lured to enter the United States this year (and every year) to engage in a life of indentured servitude where their very existence and the lives of their families will be entirely subject to the whims of their employer, new administrations, or even individual immigration adjudicators simply having a bad day.

The membership of Immigration Voice can no longer stand idly by and watch new Indian immigrants unknowingly enter a life of such trauma, despair, and suffering while thinking that they are on a path to achieving the American Dream.

In the current system, the only people who benefit are-

- Unscrupulous employers who benefit from employing workers without rights
- Staffing companies across various industries who profit enormously from maintaining the status quo, and
- Immigration lawyers who profit from being able to process the maximum number of immigration applications possible by keeping Indian immigrants tied to an endless line of

renewals of H-1B visa applications, while also double-dipping to keep the Green Card pool open for people from other countries. Equal rights for all would mean a reduction in work by 50% for most immigration lawyers, therefore they vigorously act to oppose a bill they should support under any normal humanitarian circumstance.

Until the United States law treats all human beings equally (as promised by the Declaration of Independence, the U.S. Constitution, and the Title VII of the Civil Rights Act of 1964), the United States should stop accepting people to come here to live as third-class visitors with no rights other than fulfilling every unreasonable demand of their employer or suffer the consequences of deportation. This inequity and inequality in the system can be fixed with the bill that passed both the House and the Senate in 2020 (the Fairness for High Skilled Immigrants Act).

We will see you as our allies in the quest to reduce the human suffering of those in the discriminatory green card backlog, if you act to end per-country limits or at least end the human suffering of new people entering this horrific racially biased system by no longer issuing new H-1B visas to Indian nationals currently outside the United States. Immigration Voice is optimistic that you will act swiftly upon the ideals of equality and justice propounded by the likes of Martin Luther King Jr., Rosa Parks, and President Abraham Lincoln, who are often quoted in your speeches, and change the discriminatory status quo of the skilled immigration system.

If Congress is truly serious about working to stop Asian hate, it should put an end to the monthly issuance of visa bulletins that explicitly discriminate against would-be Asian-Americans and give better treatment to immigrants from other countries. This change is not about immigration law, it is about civil rights, the dignity of each human being, and the concept of human decency and equality. Any person asking for preconditions on achieving this equality is in effect saying that they are fine with maintaining the current green card ban and indentured servitude of Indian Immigrants in the United States. Any person asking for more immigration provisions to be added in order to support equality is also in our view saying that they support the current discriminatory system. Overt discrimination based on immutable factors would not be permitted in any other aspect of immigration law, and it is far past time to end this ugly stain upon America's immigration code and history once and for all. Those who oppose or delay in enacting this reform will be viewed no differently by posterity than those who delayed and opposed other monumental civil rights legislations that were also designed to protect and preserve equality and equal treatment under the law.

Thank you for your consideration for adding this statement to the record for a very important matter in front of the Subcommittee on Immigration and Citizenship.

Sincerely,

Aman Kapoor

Aman Kapoor
President
Immigration Voice

Page 4 of 4



Statement for the Record

Dip Patel

Founder and President, Improve The Dream

**Submitted to the House Judiciary Committee's
Subcommittee on Immigration and Citizenship**

“‘Why Don’t They Just Get in Line?’ Barriers to Legal Immigration”

Wednesday, April 28, 2021

Improve The Dream is an advocacy organization led by young immigrants who have grown up in the United States as child dependents of long-term visa holders without a clear path to citizenship. We represent over 200,000 Documented Dreamers who are collectively raising awareness about the various issues that cause us to age-out of the system when we turn 21.¹ Members of our community were brought to the United States at an average age of 5 and have resided here for an average of 12 years. We are advocating for change that permanently ends "aging-out" and provides a path to citizenship for every child who grows up in the United States, regardless of status.

We appreciate the Subcommittee for holding this hearing to highlight the barriers in the legal immigration system. This is an urgent issue affecting both immigrant lives and our country. Current immigration laws prevent high-skilled immigrants, small business owners, and their children from achieving the American Dream, even though these documented immigrants have spent decades contributing to the United States. These obstacles are not just tearing families apart, but also negatively impacting the United States economy.²

Many Americans are not aware that it is possible for an immigrant child to grow up in the United States with legal status, but still have no clear path to citizenship. Long-term visa holders and their children often come to the United States under the H1B visa (high-skilled workers) or the E2 visa (small business owners). Due to long backlogs for certain countries disproportionately affecting immigrants from India, the children of H1B visa holders "age-out" of their status at age 21. E2 visa holders, on the other hand, have no pathway to citizenship, which forces their children to self-deport at age 21. Likewise, children of other long-term visa holders face a similar predicament.³

At age 21, temporary options exist for very few. Most of us attempt changing status to a temporary student visa, but the change of status process is rather complicated for Documented Dreamers as they must show that they do not have immigrant-intent. It is difficult for children who have grown up here to prove ties to their country of birth and proving non-immigrant intent is nearly impossible for children whose parents have already filed for a green card. Hence, children are often denied student visas precisely because they have grown up in the United

States. If these children are fortunate to successfully obtain a student visa, they must also be lucky enough to get sponsored by an employer to remain in the country. However, the odds of winning the H1B lottery were approximately 31% in 2020.⁴ In addition to the low odds, children born in India will be subject to the same employment-based green card backlog that affects their parents. Therefore, while a few options do exist within the legal system for aged-out children, these options prove to be unviable for the majority of individuals.

While growing up, we do not receive benefits and protections that were offered to other children brought here at a young age, only because we had not lost our documented status. This means we do not have work authorization through DACA, hindering us from gaining valuable work experience. The requirement of being undocumented prevented approximately 75,000 children from qualifying for the program, limiting them from reaching their fullest potential.⁵ Documented Dreamers do not qualify for any federal aid and many do not qualify for in-state tuition, despite meeting all other residency requirements. Although DACA recipients and Documented Dreamers were both brought here at a young age and grew up as Americans, legislative solutions have also historically excluded Documented Dreamers. It is important to recognize the positive impact that the DACA program has had on many Dreamers, but, we believe that permanent protection should be provided to all Dreamers, including us. We commend the House and are incredibly grateful for our recent inclusion in the Dream and Promise Act of 2021.³ We hope that going forward, all solutions for Dreamers will include Documented Dreamers as well.

People often say to us, just get in line and apply for citizenship, but the truth is there is no viable line for most Documented Dreamers. Moreover, many of us face self-deportation everyday since the immigration system currently has no mechanism in place to protect children from aging-out. Once a child ages out, the decades they spent growing up in the United States are rendered useless in the eyes of the immigration system.

Our hope is that immigration reform will prioritize protections for children who grow up in the United States. Efforts at immigration reform should incorporate the following principles to

remove obstacles under the current system and permanently protect children of long-term visa holders:

1. Ensure inclusion of children of long-term visa holders who have maintained status in all legislative solutions for Dreamers.
2. Create an exemption from numerical limitations for individuals who are brought to the United States as children of long-term visa holders, spend at least 10 years in the United States, and graduate with an American college degree.
3. Establish age-out protections by clarifying the definition of child under the Immigration and Nationality Act to freeze the child's age on the date of filing.
4. Grant employment authorization to children of long-term visa holders who are in the backlog with pending green card applications.
5. Allow retention of priority dates for derivative beneficiaries with the earliest of any approved petition.
6. Allow dual intent for international student visas.
7. Address the root causes of aging out by ending per country limits on green cards and increasing pathways to citizenship for nonimmigrant visa holders.

We urge this committee to immediately consider these crucial principles that would resolve the majority of time sensitive issues affecting Documented Dreamers. We are committed to working with members of this Subcommittee to find solutions which permanently remove barriers in our immigration system, especially for individuals who were brought here as children and consider this their home. All children who grow up in the United States should receive a clear pathway to citizenship.

¹David Bier, “100,000 Children in the Employment-Based Green Card Backlog at Risk of Family Separation,” 2020, available at <https://www.cato.org/blog/100000-children-employment-based-green-card-backlog-risk-family-separation>

²David Bier, “Huge Fiscal Benefits of Including Legal Immigrant Dreamers in the DREAM Act,” 2017, available at <https://www.cato.org/blog/huge-fiscal-benefits-including-legal-immigrant-dreamers-dream-act>

³David Bier, “House Bill Provides Path to Citizenship for Most Legal Dreamers,” 2021, available at <https://www.cato.org/blog/house-bill-provides-path-citizenship-most-legal-dreamers>

⁴USCIS, “FY 2021 H-1B Cap Petitions May Be Filed as of April 1,” 2020, available at <https://www.uscis.gov/news/news-releases/fy-2021-h-1b-cap-petitions-may-be-filed-as-of-april-1>

⁵MPI, “A Narrower Path in the House for Most DREAMers,” 2018, available at <https://www.migrationpolicy.org/news/narrower-path-house-most-dreamers>

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April 27, 2021

The Honorable Zoe Lofgren
Chair, House Committee on the Judiciary, Immigration and Citizenship Subcommittee
2138 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Tom McClintock
Ranking Member, House Committee on the Judiciary, Immigration and Citizenship Subcommittee
2138 Rayburn House Office Building
Washington, D.C. 20515

Dear Chair Lofgren and Ranking Member McClintock,

As an employer who sponsors highly skilled immigrants for green cards as a complement to our U.S. workforce, Microsoft has a long history of supporting reforms that seek to preserve and strengthen our nation's ability to attract the world's best talent. Those reforms must also ensure integrity in immigration programs and grow opportunities for U.S. workers in the modern economy.

We appreciate the Committee on the Judiciary's attention to these issues with this week's hearing, and we respectfully offer our perspectives on the critical issues in immigration requiring attention and reform.

The United States must reform and modernize its approach to employment-based immigration.

Highly skilled immigrants are an essential component of our country's innovative capacity, competitive advantage, and economic strength. The COVID-19 pandemic has highlighted the vital contributions of immigrants to the country's response and recovery—with many immigrants working and contributing in essential fields like healthcare, information technology, and other critical infrastructure roles.

Unfortunately, our employment-based immigration system is out of date and out of synch with today's economy. This comes as no surprise, as the framework and key numerical quotas for the system have not been updated since 1990, at a time when the phrase

Microsoft Corporation is an equal opportunity employer.

“world wide web” had yet to be coined. During the more than three decades since, the global economy, technological innovation, and nearly every aspect of modern life has undergone enormous transformation. Today, the computational power that previously required a room filled with microprocessors is now surpassed by the everyday phones in our pockets. Advances in cloud computing, machine learning, and artificial intelligence are democratizing the power of technology and creating enormous opportunities. And new cybersecurity risks and threats are emerging every day that need to be confronted and mitigated.

Our nation’s laws and policies have failed to keep up with these technological advances and economic transformation. In the ambition to drive the kind of innovation that can foster greater prosperity and economic inclusion, businesses and immigrants are facing an increasingly unworkable system that is impeding pathways to progress. And for our nation, it means we are failing to realize the full potential of these technological advances, with a growing risk of losing ground in a globally competitive world.

There are many challenges faced by our current system and many reforms that are needed. Below we describe just a few of the most pressing burdens and barriers the status quo imposes on businesses, workers, and families.

1. *Green card backlogs have reached extraordinary thresholds due to outdated quotas and arbitrary limits based on country of origin.*

Our laws fail to provide clear paths for individuals with degrees in high-demand fields from U.S. universities and from around the world to stay and contribute to U.S. economic growth. Despite the increasing need for talented people with technology skills, the number of employment-based green cards available each year remains at only 140,000—a number that has not changed since 1990. These limits are made more problematic by the “per-country cap,” which limits the number of green cards allocated to a single country of origin to 7%—only 9,800. That limit, which is unrelated to actual global talent flow, leads to decades-long backlogs for individuals from larger countries, despite already meeting the extensive documentary requirements for permanent residence.

These two constraints mean that the annual supply of employment-based green cards falls drastically short of the actual number of immigrants who are otherwise eligible for permanent residence, an issue that has been at the center of Microsoft’s work on immigration reform for more than a decade. Right now, there are an estimated 1.2 million sponsored high-skilled employees (along with their spouses and children) in the employment-based green card backlog.¹ These are individuals who have *already been fully approved as qualified and eligible for green cards* by the government, based on their jobs and their skills. They are just waiting for a number to become available.

Because of per-country limits, individuals from only a few countries bear the disproportionate burden of this backlog. That burden has fallen principally on those born in India or China. To illustrate the effect, at Microsoft, we have nearly 700 employees whose underlying green card qualifications were approved by the government in 2011 or

¹ See David Bier, *Employment-Based Green Card Backlog Hits 1.2 Million in 2020*, Cato at Liberty blog (November 20, 2020), <https://www.cato.org/blog/employment-based-green-card-backlog-hits-12-million-2020>.

earlier, who are still waiting for a green card number to become available and be issued to them. And the timeline is even more stark for those who are coming to the U.S. today. For example, an India-born immigrant starting the process today faces an estimated eight-decade wait to get an employment-based green card.² Their spouses—many of whom are highly-skilled in their own right—face uncertainty about whether or not they will be able to work and contribute to the economy while they wait.

Such an untenable prospect—that the estimated green card backlog could exceed one’s *remaining life expectancy*—is not the way to attract and retain the world’s top talent. And yet, even with this backlog, the system cannot ensure that all statutorily available green card numbers can be fully utilized before the end of the fiscal year, resulting in wasted green card numbers.³

2. *Children who grew up in the U.S. with documented status are increasingly at risk of being forced to leave because the length of the green card backlog will foreclose their path to a green card.*

Additionally, because of these extensive delays, many children who have grown up in the U.S. are forced to leave when they turn 21 and no longer qualify for residency based on their parents’ delayed visa applications. This eventuality weighs heavily on families who have relocated to the U.S. to apply their skills and invest their futures in this country. Our immigration laws should be reformed to ensure that the green card backlog does not, as an unintended consequence, foreclose the ability for children to remain in the U.S. with their families. Protecting these children from “aging out” of green card eligibility can be accomplished with a simple legislative fix.

3. *Improving and modernizing agency processes is long overdue and essential to reduce the significant hardships being caused by current system delays.*

Administrative delays and uncertainty in adjudications add additional instability to an already uncertain future for employment-based immigrants and the businesses that employ them. While we recognize that immigration agencies operate with significant demand, processing times have become so lengthy that certain categories of individuals—like spouses of H-1B and L-1 visa holders—are guaranteed to face employment gaps due to those delays, which means a loss of valued workers at a critical time for businesses and financial hardship for families. In other areas, the administrative process is unnecessarily inefficient and burdensome. In some cases, these challenges can be addressed through modernization and digital transformation of operations. In others, it is a matter of

² There are a range of estimates on the approximate length of the green card backlog for India-born employment-based immigrants. Based on the latest data available, there are over 815,000 sponsored employees, spouses, and children in the India-born green card backlog. Under the standard annual allocation of 9,800 green cards each year per country, it would take over 83 years to issue green cards to each of those individuals. This does not take into account complex rules for distribution of unused green card numbers that are not subject to per-country limits.

³ See U.S. Department of State: Consular Affairs, *May Visa Bulletin Youtube Live Q&A* (April 22, 2021), comments by Charles Oppenheim, Chief, Visa Control and Reporting Division, <https://youtu.be/ORqfhwLHck> (“Therefore, we believe it would be somewhat unrealistic not to expect there to be tens of thousands of unused [green card] numbers, despite everybody’s best efforts this year.”).

resourcing, policy simplification, and clarity in adjudicatory standards. These issues create a lack of predictability that disrupts business planning while placing unnecessary anxiety on families navigating an already complicated immigration system.

Lastly, while not the focus of this hearing, it is critical that Congress find a bipartisan legislative solution for Dreamers. Microsoft is proud to have Dreamers among our employee community, each of whom is contributing to our company's mission and success. We are grateful for the work in the House to pass H.R. 6, the American Dream and Promise Act, and we are hopeful for bipartisan movement in the Senate, on behalf of our employees as well as the more than 600,000 Dreamers who are waiting for a defined pathway to citizenship.

We appreciate the committee's attention to the critically important issue of immigration reform.

Sincerely,



Jack Chen
Associate General Counsel
Microsoft Corporation



Statement of the National Immigration Law Center

House Judiciary Subcommittee on Immigration and Citizenship

“Why Dont They Just Get in Line? Barriers to Legal Immigration”

Wednesday, April 28, 2021 at 2:15 PM

Dear Members of the House Judiciary Subcommittee on Immigration and Citizenship,

The National Immigration Law Center (“NILC”) is pleased to submit this statement to the House Judiciary Subcommittee on Immigration and Citizenship for the April 28, 2021 hearing, “Why Dont They Just Get in Line? Barriers to Legal Immigration.”

Founded in 1979, NILC is an organization exclusively dedicated to defending and advancing the rights and opportunities of low-income immigrants and their families. We believe that all people should have the opportunity to achieve their full human potential – regardless of their race, gender, immigration, and/or economic status. Over the past 40 years, NILC has won landmark legal decisions protecting fundamental human and civil rights and advocated for policies that reinforce our nation’s values of equality and justice for all. Furthermore, we engage in policy analysis and advocacy, strategic communications, and provide technical assistance to partner organizations across the country.

Immigrants are essential to the fabric of who we are as a nation. We applaud the subcommittee for conducting this much-needed hearing to explore the barriers to legal immigration and we’re calling on Congress to act quickly, using all available means, to pass inclusive legislation that builds a fair and humane immigration system, creating pathways to U.S. citizenship for Deferred Action for Childhood Arrivals (DACA) recipients and others who have grown up here, Temporary Protected Status (TPS) grantees, essential workers, and the millions of undocumented immigrants who live, work, and are an integral part of the U.S..

Why we need bold immigration reform now

Our country is facing the enormous challenge of trying to heal from the brutality of immigration enforcement under the prior administration and its catastrophic handling of the worst global pandemic we have faced in a century. The Trump administration used blunt instruments to inflict harm on immigrant communities and U.S. citizens alike – with intentionally cruel policies such as the discriminatory Muslim and African bans; decimation of our refugee resettlement program; a morally bankrupt family separation policy that continues to separate over 600 children from their parents;¹ destabilizing the future of millions of people who have relied on the protections under the DACA and TPS policies remain in limbo; and gutting legal immigration channels through numerous discriminatory bans; bars to accessing asylum and the refugee program; and the creation of a wealth test for accessing our immigration system. These tactics were

¹ Shear, Michael D., “Trump and Aides Drove Family Separation at Border, Documents Say,” New York Times, Jan. 14, 2021, <https://www.nytimes.com/2021/01/14/us/politics/trump-family-separation.html>.

nothing short of an attack on the soul of our nation and among the most dangerous attempts to redefine what it means to be an American, to divide us and to undermine and threaten our democracy.

While it is crucial to emphasize the distinctive cruelty of the Trump Administration it is important to acknowledge that the approach of the past four years was also possible because Congress has failed to seize opportunities to enact permanent solutions and protections for noncitizens and has let past immigration reform efforts and federal Department of Homeland Security (DHS) spending be defined by the massive expansion of harmful interior enforcement and border militarization. We are long past due in taking corrective action.

Millions of aspiring citizens have lived and worked in this country for decades but there are several barriers preventing access to existing status and/or citizenship. Polling nationwide shows that more than two-thirds of American voters support immigration reform, including a path to legal status, permanent residency, and eventually citizenship for the estimated 11 million undocumented persons living in the country.² We have an opportunity and a mandate to act now.

Congress must significantly reduce immigration enforcement funding

Immigrant communities have endured decades of escalating immigration enforcement and instead of spending billions of dollars on detention and deportation, we should be passing policies of inclusion that place the 11 million undocumented immigrants who are part of our families and communities on a pathway to citizenship. Federal immigration enforcement policies and practices, including increased reliance on state and local agencies for information about non-U.S. citizens, have swept an unprecedented number of asylum seekers and community members into the detention and deportation system.³ Since 2016, the U.S. Immigration Customs Enforcement's (ICE) budget has grown by about 40 percent while U.S. Customs and Border Protection's (CBP) budget has grown by 30 percent.⁴ Despite patterns of abuse, lack of accountability, and mismanagement of funds, the federal government continues providing an influx of funding to immigration enforcement agencies.⁵

Congress must repeal the three- and ten-year bars

One of the key barriers that often prevents individuals from being able to pursue a pathway to citizenship in the U.S. are the three- and ten-year bars. People who enter the U.S. without being "inspected" and "admitted" (entered without inspection "EWI") by a U.S. immigration officer—or in other words, who enter without government authorization—and who have been in the U.S. without authorization for a certain amount of time are generally not able to adjust to becoming lawful permanent residents while in the U.S., regardless of whether they have an approved family or employment-based petition, for example, filed on their behalf. Instead, they must first leave the U.S. and apply for a waiver of their being unauthorized in the U.S., and pursue their lawful permanent resident (aka "green card") application at a U.S. embassy or consulate abroad, a time- and cost-intensive process that entails risk of not being able to re-enter the U.S..

² Narea, Nicole, "Poll: Most Americans support a path to citizenship for undocumented immigrants," Vox, Feb. 4, 2021, <https://www.vox.com/policy-and-politics/2021/2/4/22264074/poll-undocumented-immigrants-citizenship-stimulus-biden>.

³ "Justice-Free Zones: U.S. Immigration Detention Under the Trump Administration," the American Civil Liberties Union (ACLU), Human Rights Watch (HRW), and the National Immigrant Justice Center (NIJC), December 2020, <https://www.aclu.org/report/justice-free-zones-us-immigration-detention-under-trump-administration>.

⁴ See "The Defund Hate Coalition responds to scarcity language in DHS memo, calls for significant cuts in funding to ICE and CBP," Defund Hate Coalition, Jan. 21, 2021, <https://defundhate.org/2021/01/21/the-defund-hate-coalition-responds-to-scarcity-language-in-dhs-memo-calls-for-significant-cuts-in-funding-to-ice-and-cbp/>.

⁵ Cantú, Aaron, "How Democrats Abetted Trump's Bloated Border Regime," The New Republic, Jan. 7, 2020, <https://newrepublic.com/article/156116/democrats-abetted-trumps-bloated-border-regime>.

After a 1996 change in immigration law created what is known as the “unlawful presence bars,” pursuing a green card abroad for those who EWI and for those who accrued unlawful presence in the U.S. has become much more daunting. Under the unlawful presence bars, people who have been in the U.S. without permission for six months are barred from reentering the U.S. for three years once they leave and anyone who has been in the U.S. without permission for one year or more is barred from reentering the country for ten years, unless the person applies for and is granted a waiver.

In 2013, as immigration reform efforts stalled in Congress, and the Obama administration made headway in at least reducing some of the stress from having to consular process by permitting green card applicants to initiate the unlawful presence waiver process from the U.S. Those who have U.S. citizen family members may apply for a “provisional waiver” of the three- or ten-year unlawful presence bars before departing the U.S. if they can show that a U.S. citizen immediate family member would suffer “extreme hardship” should they be separated. Therefore, instead of having to wait for the waiver application to be adjudicated abroad, applicants can at least be with their family members until the application is approved, which can take years. Upon approval, they can then travel abroad for consular processing of their “green card” application, knowing that a waiver has already been granted for the “unlawful presence bar,” reducing both the time away from home and the risk that they would be denied reentry. The waiver was expanded at the end of the Obama Administration in 2016 through USCIS policy guidance, which allowed lawful permanent residents to also avail themselves of the provisions waiver process, and clarifying the “extreme hardship” standard.

However, there are still thousands of people with strong ties in the U.S. who have been unable to move forward with the green card process because they don’t want to risk years of separation from their loved ones should they leave the country and be denied reentry. Congress must take immediate steps to repeal this barrier which would allow thousands of otherwise undocumented immigrants living in the country today to pursue a pathway to citizenship.

Relief is long-overdue for undocumented youth whose home is here.

While NILC supports broad reforms to address our dysfunctional and increasingly cruel immigration system, we have worked together with immigrant youth for more than two decades to urge Congress to pass legislation to provide undocumented youth who came to the U.S. as children with a pathway to citizenship. The first version of the Dream Act was introduced in 2001 but Congress has been unable to pass the Dream Act into law.⁶ After years of Congressional inaction, President Barack Obama announced on June 15, 2012 the Deferred Action for Childhood Arrivals (DACA) program, which grants eligible immigrant youth temporary protection from deportation for a two-year renewable period and provides them work authorization. More than 700,000 young immigrants have been granted DACA and are able to pursue educational and professional opportunities, purchase homes, and remain with their families. However, DACA does not provide permanent lawful status and it must be renewed every two years. As a result, DACA recipients must continually pay the high renewal fees every two years to retain their work authorization and protection from being deported.

Until Congress acts to provide permanent protections for this population, immigrant youth will rely on DACA but this program has its own set of barriers and remains in a precarious situation due to litigation.

Barriers to DACA

⁶ NILC was thrilled to see the House pass the Dream and Promise Act in March of 2021 and we urge the Senate to pass a more inclusive version of the Dream and Promise Act that does not include harmful criminalizing provisions. See NILC, National Immigration Law Center Celebrates House Passage of the Dream and Promise Act, (Mar. 18, 2021), <https://www.nilc.org/2021/03/18/nilc-celebrates-house-passage-of-dream-and-promise-act/>.

1. One of the main barriers to applying for DACA is the cost (\$495 fees) for both initial and renewal requestors. These increased fees may block some recipients from being able to renew their DACA and cut off this crucial pathway to opportunity for immigrant youth and their families. Past research has shown that the applying for and getting DACA already presents barriers for immigrant youth and their families. Many young people who've applied for DACA come from low-income backgrounds.⁷ Research shows that DACA recipients struggle to pay the fees and not being able to afford the fees has delayed renewals. Lack of affordability has prevented some people from applying or renewing at all.⁸ In addition to having to pay the fees, many DACA recipients retain paid legal assistance to submit renewal applications. We know that participation in DACA is lower in communities that have high unemployment and low levels of economic opportunity.⁹ In other words, the people who have the most to gain from DACA may be prevented from accessing its benefits because of these exorbitant fees.
2. Another barrier that prospective DACA applicants face is the amount of evidence the initial requestor has to submit. As the DACA policy has existed since 2012, applicants are having to document 14 years of continuous residence. Gathering such evidence has been difficult and made even more challenging during this pandemic. Additionally, several places, like schools and health care clinics from which applicants are requesting records, do not keep records for more than 10 years. DHS should be flexible on the volume of documentation that is needed from applicants when they request DACA for the first time, while preserving a broad range of documents that are acceptable.

Litigation

The Trump administration abruptly terminated DACA on September 5, 2017 which has threatened immigrants with DACA protections. Several lawsuits were filed challenging the termination, and the U.S. Supreme Court concluded, on June 18, 2020, that the Trump administration had terminated DACA unlawfully. The Trump administration again tried to dismantle DACA on July 28, 2020, by shortening the duration of work authorization and protection from deportation from two years to one year for renewal applicants and eliminating DACA for first-time applicants. NILC and our partners challenged that change, and a federal district court set the change aside. Nevertheless, DACA remains under threat, as there is ongoing litigation brought by the Texas and other states challenging its legality.

Multiple Pathways to Swift Reform

The consequences of political inaction on immigration reform have been severe and we have the moral authority to work together to update our cruel and outdated immigration system. With each passing day, the uncertainty for millions of immigrants causes unnecessary suffering and costs all of us. There is no silver bullet or any singular legislative path to bring us closer to our vision of an immigrant inclusive

⁷ Caitlin Patler, Jorge A. Cabrera, and Dream Team Los Angeles, From Undocumented to DACAmented: Impacts of the Deferred Action for Childhood Arrivals (DACA) Program, (June 6, 2015), <https://escholarship.org/uc/item/3060d4z3>.

⁸ Tom K. Wong, In Their Own Words: A Nationwide Survey of Undocumented Millennials, Center for Comparative Immigration Studies, In Their Own Words: A Nationwide Survey of Undocumented Millennials, (Oct. 18, 2017), <https://escholarship.org/uc/item/1db6n1m2#author>.

⁹ Tom K. Wong and Angela S. Garcia, Does Where I Live Affect Whether I Apply? The Contextual Determinants of Applying for Deferred Action for Childhood Arrivals, *International Migration Review*, <https://journals.sagepub.com/doi/10.1111/imre.12166>.

society, and so we urge Members to continue to pursue swift passage of multiple bills that advance our collective agenda.¹⁰

NILC looks forward to continuing to work with members of this subcommittee to ensure that Congress acts quickly, using all available means, to pass inclusive legislation that builds a fair and humane immigration system, creating pathways to U.S. citizenship for the millions of undocumented immigrants who live, work, and are an integral part of the U.S..

We thank you for your time on this important matter.

Sincerely,
The National Immigration Law Center

¹⁰ For more information NILC's positions on legalization bills, please see Marielena Hincapié's statement submitted to the House Judiciary Committee's Subcommittee on Immigration and Citizenship for the hearing entitled, "The U.S. Immigration System: The Need for Bold Reforms," <https://docs.house.gov/meetings/JU/JU01/20210211/111174/HHRG-117-JU01-Wstate-HincapiM-20210211.pdf>.

April 27, 2021

Chairwoman Zoe Lofgren and Ranking Member Tom McClintock
Subcommittee on Immigration and Citizenship
U.S. House Judiciary Committee
6320 O'Neill House Office Building
Washington, DC 20515

Re: Hearing on Barriers to Legal Immigration

Dear Chairwoman Lofgren and Ranking Member McClintock,

On behalf of the National Partnership for New Americans (NPNA), a national coalition of 41 immigrant and refugee rights organizations, we submit this statement for the record in connection to the subcommittee's April 28 hearing titled "'Why Don't They Just Get in Line?' Barriers to Legal Immigration."

We appreciate the Subcommittee's focus on barriers to legal immigration, which impact the lives of countless prospective immigrants and continue to burden newcomers to our country long after they have arrived. Identification and removal of these barriers requires a comprehensive approach that considers the way our immigration laws are written, as well as how they are implemented by federal departments and agencies. Among these agencies, the role of the U.S. Department of Homeland Security's U.S. Immigration and Citizenship Services (USCIS) is especially critical, as USCIS is the federal entity that adjudicates immigration benefits. The solvency, efficiency and reliability of USCIS in large part determines the ability of individuals to effectively pursue and attain the immigration benefits to which they are entitled. Congressional oversight, as this Subcommittee knows well, is critical towards USCIS' solvency, the ability of eligible individuals to obtain benefits, and ensuring legislative intent.

The NPNA network has put forth the following list of recommendations for USCIS to reform the naturalization process, a critical juncture in any legal immigration journey. While these items are focused on naturalization, many of the same barriers exist for applicants seeking other immigration benefits, including Deferred Action for Childhood Arrivals or Temporary Protected Status. In furtherance of these recommendations, the NPNA network has also advocated for increased Congressional appropriations for USCIS and urges the Subcommittee to prioritize these items through the appropriations process. This includes ensuring the implementation of the Emergency Stopgap USCIS Stabilization Act, as part of H.R. 8337: Continuing Appropriations Act, 2021 and Other Extensions Act, and funding proactive measures like the Citizenship and Integration Grant Program to address the needs of the millions of eligible lawful permanent residents who are eligible for naturalization.

NPNA respectfully requests that the Subcommittee work with the administration, and, when appropriate, encourage and/or fund the following policies.

Rescind Barriers to Prospective Applicants and Encourage More Naturalization Applicants

- Take the necessary rulemaking steps to rescind the fee schedule [rule](#) increasing application fees for naturalization and immigration benefits and eliminating most fee waivers.
- Reduce the price of the citizenship application fee in the next fee schedule, based on the principle that naturalization should have a reduced fee since it is in the national interest.
- Rescind the finalized [rule](#) eliminating fee waivers based on the receipt of a means-tested benefit.
- Simplify the Application for Naturalization (Form N-400) and withdraw proposed [rules](#) that do the opposite.
- Reverse the [policy guidance](#) that makes it more difficult for immigrants with a disability to apply for naturalization and related [changes](#) to the Medical Certification for Disability Exception (Form N-648).
- Reopen USCIS offices [overseas](#) so that armed services members and others can apply for naturalization and other immigration benefits.
- Seek increased funding for the Citizenship and Assimilation Grant Program so that community-based organizations (CBOs) can continue and expand naturalization assistance, remove the E-Verify requirement for grantees and subgrantees, and change the name of the program to the "Citizenship and Integration Grant Program."
- Send notices of naturalization eligibility to permanent residents upon their eligibility, at the three and five-year mark, similar to the practice of USCIS sending notices to permanent residents who are eligible for removing conditions on permanent residence based on marriage.
- Identify and implement ways in which USCIS can promote citizenship for the millions of eligible permanent residents, including a focus on former asylees and refugees.

Reverse Policies and Practices that Unnecessarily Prolong the Adjudication Process and Burden Applicants, Their Legal Representation, and USCIS Itself

- Develop a plan, with a timeline and metrics for success, on how to reduce the backlog of citizenship applications, currently at just under [one million applicants](#), by at least half and reduce to no more than six months the processing delays, which currently have a national average of [over nine months](#), with multiple USCIS offices exceeding one-year [delays](#) and some even reaching delays of two years.
- Prioritize the allocation of premium processing funds, pursuant to the provisions of [Emergency Stopgap USCIS Stabilization Act](#), which were included in [H.R. 8337: Continuing Appropriations Act, 2021 and Other Extensions Act](#), towards reducing naturalization and other backlogs and processing delays.
- Report on how USCIS is allocating the premium processing funds it has received since October 1, 2020, and steps it is taking to improve processing times for naturalization and all immigration benefits requests, in its report to Congress, which was due on [March 30, 2021](#).

- Reverse the [memorandum](#) and general practice of increasingly issuing Requests for Evidence and Notices of Intent to Deny, which lengthen the process for USCIS to adjudicate the application and often require applicants and their legal services providers to provide documents that were already provided or that are not required to determine eligibility.
- Utilize the option of reusing biometrics and waiving the biometrics requirement for certain groups such as youth, elderly, and previously vetted individuals like naturalization applicants.
- Ensure that USCIS makes accommodations through remote interviews, on a voluntary basis, rather than only offering multiple continuances for applicants who cannot enter USCIS buildings due to medical susceptibilities and/or who are bed-bound, especially during the coronavirus pandemic.
- Do not require in-person interviews for all naturalization applicants.
- Significantly reduce the [length](#) of interviews, which have reportedly doubled in length from 20-30 minutes to 45-60 minutes in some USCIS offices and exceeded 90 minutes in other offices.
- Revise and simplify the manner in which adjudicators conduct the English-language proficiency test to comport more closely with the statutory requirement of “ordinary usage” of the English language.
- Reverse the [policy](#) that schedules citizenship and other applicants to attend their interview at a USCIS office that is not the one where they applied, possibly requiring them to travel hundreds of miles and even travel to another state.

Revise Extreme Policy Guidance on Criminal Bars and Inadmissibility

- Reverse the policy manual [change](#) that expands the bars to the “good moral character” requirement for citizenship by including those who received post-sentence relief, such as a new trial or sentence modification as well as those who have two or more driving under the influence convictions, further limiting those who will proceed in the naturalization process.
- Reverse the policy manual [change](#) that directs adjudicators to find a lack of “good moral character” for individuals who have violated or found to have violated controlled substances or other violations of federal law related to marijuana, even if that conduct was not in violation of state law.
- Reverse the policy manual [change](#) directing adjudicators to find inadmissible, and, thus bars from naturalization individuals who have falsely claimed citizenship regardless of intent.
- Reverse the policy manual [change](#) that unnecessarily scrutinizes naturalization applicants’ adjustment of status application, potentially directing USCIS officials to essentially re-adjudicate an application for lawful permanent residency.

Ensure that the Final Steps of Naturalization are Efficient, Safe, and Facilitate the Civic Engagement of Naturalized Citizens

- Halt the proposed [rule](#) that would require applicants who have been approved and who are awaiting their swearing-in ceremony, to produce unnecessary and burdensome documentation at that ceremony.
- Allow remote oath ceremonies, especially during the ongoing coronavirus pandemic and any similar future national emergencies, and utilize the option of conducting oath ceremonies on the same day as interviews.
- Promote voter registration and vote by mail options, including through multilingual information, to promote equal participation in the electoral process for eligible citizens of all backgrounds, pursuant to [Executive Order 14019](#) on Promoting Access to Voting.
- Directly assist and collect information from naturalization applicants for voter registration purposes, on a voluntary basis, and share with the chief election official of each State, with privacy protections.
- Direct all USCIS offices to work with CBOs and other stakeholders to register to vote all naturalized citizens, on a voluntary basis, at oath ceremonies and all other opportunities.

Ensure Accountability and Disinvest from Denaturalization and Other Policies and Practices that Disproportionately Target Communities of Color

- Immediately pause all USCIS actions that further or facilitate civil or criminal denaturalization and passport revocation; dismantle its apparatuses within USCIS and other DHS entities and federal agencies; publish data on priorities and policies and individual denaturalization cases since 2008; and work with impacted communities and advocates to institute review and oversight measures.
- Prohibit the use of funds from application fees for enforcement purposes, including denaturalization and any activities by Immigration and Customs Enforcement and Customs and Border Protection.

Make Necessary Cultural Changes Within USCIS To Reestablish it as a Service Agency that Facilitates the Naturalization and Integration of Immigrants

- Reverse the [change](#) to the USCIS mission statement that USCIS made under the previous administration.
- Improve the customer service functions of USCIS by reestablishing the USCIS Office of Public Engagement and USCIS Office of Customer Service, including allowing applicants to schedule in person appointments online.
- Commit to equity by expanding the diversity, cultural competency, and customer service training of all USCIS personnel.

NPNA and our network of advocates and legal services providers across the nation look forward to working with the Subcommittee as it continues to review the multiple barriers to legal immigration, acts to address them, and re-envision how USCIS, DHS, and the federal government as a whole treats immigrant and refugee communities.

We invite you to see NPNA as a resource and partner as you work towards these goals. If you have any questions, please contact Diego Iñiguez-López, Policy and Campaigns Manager for NPNA, at diego@partnershipfornewamericans.org.

Thank you,

Nicole Melaku
Executive Director
National Partnership for New Americans

**PRESIDENTS' | ON HIGHER EDUCATION
ALLIANCE AND IMMIGRATION**

Statement for the Record of

Miriam Feldblum
Executive Director

Presidents' Alliance on Higher Education and Immigration

**For a Hearing from the Committee on the Judiciary
Subcommittee on Immigration and Citizenship**

**“Why Don’t They Just Get in Line?”
Barriers to Legal Immigration**

Wednesday, April 28, 2021

2141 Rayburn House Office Building

Washington, D.C. 20515

I. INTRODUCTION

The nonpartisan, nonprofit Presidents' Alliance brings together college and university leaders committed to increasing public understanding of how immigration policies and practices impact our students, campuses, and communities; supporting policies that create a welcoming environment for immigrant, undocumented, and international students on our campuses; and identifying and sharing best practices.¹ The Presidents' Alliance is composed of over 500 presidents and chancellors of public and private colleges and universities, enrolling over five million students in 43 states, the District of Columbia, and Puerto Rico.

II. UNDOCUMENTED STUDENTS AND SCHOLARS

An estimated 427,000 undergraduate students in U.S. higher education are undocumented, representing approximately 2% of all undergraduate students.² Of these students, only 181,000 either hold Deferred Action for Childhood Arrivals (DACA) or would be eligible for relief under DACA. As with other Dreamers, many of these students have really only known the United States as their home, having been raised and educated in the U.S. from a young age, including over 90% of DACA-eligible students enrolled in colleges and universities who arrived in the United States when they were twelve or younger.³ An unknown number of undocumented students enrolled in higher education hold or could be eligible for Temporary Protected Status (TPS).⁴ Additionally, approximately 98,000 undocumented students graduate from high school in the United States every year.⁵

Unfortunately, most undocumented students cannot obtain lawful status because they lack a pathway to do so—no such pathway exists. While a small number of undocumented individuals can adjust status via sponsorship, section 212(a)(9) of the Immigration and Nationality Act (INA) imposes 3-year, 10-year, and even permanent bars from entry on certain individuals who accrue specific amounts of unlawful presence and meet other requirements.⁶ Furthermore, INA § 245(a) requires that nonimmigrants be “inspected and admitted or paroled into the United States” in order to adjust status, which excludes many undocumented individuals from eligibility.⁷ By July 31, 2019, only 76,000 DACA recipients successfully adjusted status to lawful permanent residents

¹ *Founding Statement*, Presidents' Alliance on Higher Education & Immigration, <https://www.presidentsalliance.org/statement/> (last accessed Apr. 12, 2021).

² Presidents' Alliance & New American Economy, *How Many Undocumented Students are in U.S. Colleges and Universities, and Who Are They?* (2021), available at <https://www.higheredimmigrationportal.org/research/undocumented-students-in-higher-education-updated-march-2021/>.

³ *Id.*

⁴ *Id.*

⁵ Jie Zong & Jeanne Batalova, *How Many Unauthorized Immigrants Graduate from U.S. High Schools Annually?*, Migration Policy Institute (Apr. 2019) and commissioned by the Presidents' Alliance, <https://www.higheredimmigrationportal.org/research/migration-policy-institute-fact-sheet-on-number-of-dreamers-graduating-from-high-school/>

⁶ 8 U.S.C. § 1182(a)(9)(B)–(C) (2021).

⁷ *Id.* § 1255.

(LPRs).⁸ Likewise, by September 17, 2020, nearly 82,000 TPS holders adjusted status to LPRs, and nearly 9,500 former TPS holders successfully naturalized.⁹

To ensure equity for undocumented students in higher education, Congress must repeal the bars implemented by INA § 212(a)(9); repeal the inspection and parole requirements of INA § 245(a); and pass legislation to provide status to undocumented individuals, including but not limited to the Dream Act of 2021, the American Dream and Promise Act of 2021, and the SECURE Act.¹⁰ For more information, see the Presidents' Alliance's *Legislative Recommendations Regarding Immigrant Students, Higher Education Access, Federal Financial Aid, and Professional and Occupational Licensure*.¹¹

III. INTERNATIONAL STUDENTS & SCHOLARS

Additionally, our outdated immigration system does not include adequate pathways for legal immigration for international students and scholars. Even though the future of higher education in the United States as well as our economy depends in part upon our ability to attract and retain international students and scholars, there are very limited, and sometime no options, for these students to obtain lawful permanent residency or citizenship after they have completed their studies and wish to contribute to our communities.

U.S. colleges and universities are magnets for the world's talent. Our country has benefited enormously from their contributions:

- International students **create jobs and help us grow our economy**. For every eight international students we welcome, three U.S. jobs are created or supported, according to NAFSA's latest data.¹² These students and their

⁸ Andorra Bruno, Cong. Rsch. Serv., R46764, Deferred Action for Childhood Arrivals (DACA): By the Numbers 20 (2021).

⁹ Lora Adams, TPS Advoc. Working Grp., Pulling Back the Curtain: Analysis of New Government Data on Temporary Protected Status 36 (2021), available at <https://cliniclegal.org/resources/humanitarian-relief/temporary-protected-status-and-deferred-enforced-departure/pulling>.

¹⁰ American Dream and Promise Act of 2021, H.R. 6, 117th Cong. (2021); Dream Act of 2021, S. 264, 117th Cong. (2021); Safe Environment from Countries Under Repression and Emergency (SECURE) Act, S. 306, 117th Cong. (2021).

¹¹ *Legislative Recommendations Regarding Immigrant Students, Higher Education Access, Federal Financial Aid, and Professional and Occupational Licensure*, Presidents' Alliance on Higher Education and Immigration, Jan. 7, 2021, <https://www.presidentsalliance.org/legislative-recommendations-regarding-immigrant-students-higher-education-access-federal-financial-aid-and-professional-and-occupational-licensure/>.

¹² Press Release, NAFSA, New NAFSA Data Show First Ever Drop in International Student Economic Value to the U.S. (Nov. 16, 2020), available at <https://www.nafsa.org/about/about-nafsa/new-nafsa-data-show-first-ever-drop-international-student-economic-value-us>.

dependents contributed \$38.7 billion and nearly 416,000 jobs to the U.S. economy in the 2019-2020 academic year.¹³

- U.S. national security and foreign policy leaders have often referred to **international students as our greatest foreign policy asset**. Our ability to attract top international students in the past has meant that the U.S. educates more world leaders than any other country: in 2020, 62 leaders from 58 countries studied in the U.S. earlier in their careers.¹⁴
- International students **ensure that our college campuses remain global and diverse**. Their presence helps to prepare our own students to develop global perspectives and to prepare for a global workforce, especially given that only 10 percent of American students will themselves have the opportunity to study abroad.
- International students **help expand domestic student enrollments** and support academic programs.¹⁵ An increase in international students in STEM increases the number of domestic students obtaining STEM degrees.¹⁶
- International students who stay in the U.S. and become immigrants **contribute significantly to science, innovation, and entrepreneurship**. Twenty-five percent of founders of a \$1 billion U.S. startup first came to America as an international student. Companies founded by immigrants are worth an estimated \$168 billion and have generated thousands of U.S. jobs.¹⁷

Now **we are losing our edge in the global competition for talent**. The latest Open Doors report by IIE shows that new international student enrollment declined for the fourth straight year, following several years of annual increases.¹⁸ In the last academic year alone, the United States lost more than 42,000 jobs and \$1.8 billion because students were unable to come to the United States or chose to study in other countries.¹⁹ Additionally, one estimate suggests that any further restrictions in Optional

¹³ NAFSA International Student Economic Value Tool, NAFSA, <http://www.nafsa.org/econvalue> (last accessed Apr. 27, 2021).

¹⁴ Nick Hillman, Higher Educ. Pol'y Inst., Pol'y Note 26, HEPI Soft-Power Ranking 2020 (2020), available at <https://www.hepi.ac.uk/2020/08/27/hepi-soft-power-ranking-2020/>.

¹⁵ Rajika Bhandari, Presidents' Alliance on Higher Education and Immigration, Did You Know? Five Facts about International Students in the United States, available at <https://www.higheredimmigrationportal.org/policy/did-you-know-5-realities-international-students/>.

¹⁶ Madeline Zavodny, Nat'l Found. for Am. Pol'y, The impact on U.S. Men and Women in STEM fields of Increases of International Students (2021), available at <https://nfap.com/wp-content/uploads/2021/04/International-Students-and-STEM.NFAP-Policy-Brief-April-2021.pdf>.

¹⁷ Nat'l Found. for Am. Pol'y, NFAP Policy Toolkit 2019: Immigrant Entrepreneurs and U.S. Immigration Policy (2019), available at tinyurl.com/NFAP-2019-IEUSI-Policy.

¹⁸ *New International Student Enrollment*, Open Doors, <https://opendoorsdata.org/data/international-students/new-international-students-enrollment/> (last accessed Apr. 27, 2021); Elizabeth Redden, *International Student Numbers Decline*, Inside Higher Ed (Nov. 16, 2020), <https://www.insidehighered.com/news/2020/11/16/survey-new-international-enrollments-drop-43-percent-fall>.

¹⁹ Press Release, NAFSA, *supra* note 11.

Practical Training (OPT)—the post-study work program for international students—would have dire consequences for the U.S. economy, including a drop in GDP and a loss of 443,000 jobs over the next decade, including 255,000 jobs held by native-born workers.²⁰

Congress should clearly articulate the value of international students, sending a message that international students are welcome to succeed here by enacting proactive policies that enable institutions of higher education to attract, welcome, and retain international students. As an organization serving at the intersection of immigration and higher education, the Presidents' Alliance has compiled legislative recommendations for the 117th Congress.²¹ One of our key recommendations is that Congress expand dual intent to include F-1 visa applicants.²² This would permit individuals who are being screened for a visa or when entering the United States to communicate their interest in obtaining a different lawful status upon completion of their degree and would therefore enable them to remain in the United States after graduation.²³ Likewise, we encourage Congress to create a direct path to green cards for noncitizen alumni, to eliminate current green card backlogs, and to prevent future backlogs.²⁴ These alumni should represent the wide range of fields of study that our economy needs to thrive.²⁵ By allowing those educated by our institutions to stay in the United States, we allow them to contribute their knowledge and skills to our economy.²⁶

IV. CONCLUSION

Undocumented, other immigrant, and international students are key to the vitality of higher education in the United States, and it is imperative that Congress provide pathways to residence and citizenship for these students. Currently, legislative barriers prevent many undocumented and international students from pursuing lawful permanent residence and eventual naturalization. By eliminating these barriers, Congress can ensure the future academic and career success of these student populations, the future vibrancy and sustainability of the colleges and universities that educate them, and the future prosperity and vitality of the communities across our nation that benefit from their contributions and dedication.

²⁰ *The Economic Impact of Curbing the Optional Practical Training Program*, Bus. Roundtable, <https://www.businessroundtable.org/policy-perspectives/immigration/economic-impact-curbing-optional-practical-training-program> (last accessed Apr. 27, 2021).

²¹ For a complete list of our legislative recommendations regarding international students, see Presidents' All. on Higher Educ. & Immigr., Recommendations for the 117th Congress To Grow the Economy and Create Jobs, Prepare for the Next Global Crisis, and Strengthen National Security: Welcome International Students (2021), available at <https://www.presidentsalliance.org/legislative-recommendations-for-welcoming-international-students-policies-to-grow-the-u-s-economy-and-create-jobs-prepare-for-the-next-global-crisis-and-strengthen-national-security/>.

²² *Id.* at 2–3.

²³ *Id.*

²⁴ *Id.* at 3.

²⁵ *Id.*

²⁶ *Id.*

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Statement for the Record of the

Public Defenders Coalition for Immigrant Justice

For House Judiciary Committee Subcommittee on Immigration and Citizenship

Hearing on Barriers to Legal Immigration

Wednesday, April 28, 2021

6320 O'Neill House Office Building

Washington, DC 20515

Statement for the Record: Hearing on Barriers to Legal Immigration

I. Introduction

The Public Defenders Coalition for Immigrant Justice provides this statement to address how current immigration law excludes countless individuals from ever obtaining lawful status because of contact with the criminal legal system. Existing criminal bars disproportionately and unfairly exclude Black, Latinx, and other minorities from obtaining lawful status. We urge Congress to repeal these bars, and to repeal their core triggers, the broad and punitive criminal grounds of inadmissibility and deportability.

The Public Defenders Coalition for Immigrant Justice is a growing coalition with public defender member offices in Alabama, Arizona, California, Colorado, Florida, Georgia, Illinois, Louisiana, Maryland, Massachusetts, Nebraska, New York, Oregon, Texas, and Washington. As advocates who represent noncitizens in criminal and immigration proceedings, we are deeply aware of the devastating impact of criminal and immigration laws that disproportionately punish noncitizens and separate immigrant families by incarceration and deportation. The coalition seeks to disentangle the criminal and immigration legal systems and support policies that promote family reunification, decarceration, and due process protections for immigrant communities.

II. Criminal Bars Within the Immigration & Nationality Act

The criminal bars within the INA must be understood in relation to the systemic racism and inequities within the criminal legal system. In conjunction with the failed “tough on crime” policies that have long resulted in poverty and incarceration, traumatizing generations of immigrants and their families, the criminal bars operate to prevent Black, Latinx, and other minorities and those of limited means from legalizing their status.

In fact, the United States’ immigration laws have long operated to exclude or deport those deemed “undesirable” or “undeserving” due to their race, religion, ethnicity, class, or some perceived defect. The Immigration Act of 1917, for example, excluded individuals from certain Asian countries, those suffering from mental illness or limited mental capacity, and those who had admitted to or been convicted of a felony or any crime involving moral turpitude.¹ Today’s criminal bars in the INA have their roots in these discriminatory bars from over a century ago.

Criminal bars are found throughout the INA. They exist within the grounds of inadmissibility at INA § 212(a)(2), the grounds of deportability at INA § 237(a)(2), the “good moral character” definition at INA § 101(f), and elsewhere. These bars are extremely broad and prohibit countless individuals who would otherwise qualify for lawful status - including longtime spouses and parents of U.S. citizens - from moving forward with their applications. Inadmissibility grounds include all controlled substance offenses and any crime involving moral turpitude (“CIMT”) aside from a single conviction for a misdemeanor

¹ See *Immigration Act of 1917*, available at <https://www.loc.gov/law/help/statutes-at-large/64th-congress/session-2/c64s2ch29.pdf>.

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with minimal jail time.² An individual who would otherwise be eligible to adjust their status to lawful permanent residence through their U.S. citizen spouse is permanently barred from doing so if they have any controlled substance conviction or admission to a controlled substance offense on their record aside from one offense related to possessing a small amount of marijuana. An individual with a minor marijuana possession offense or two petty theft convictions can overcome their crime only by demonstrating that their U.S. citizen or lawful permanent resident spouse, parent, or child would suffer extreme hardship without them.³ An individual with two marijuana possession offenses - or who cannot meet this hardship standard - is out of luck.⁴

The CIMT ground of inadmissibility is both nebulous and extremely broad. Very minor offenses can be categorized as CIMTs, since the definition turns on the character of the crime rather than its severity. Anything that might be considered “vile or depraved” may be deemed a CIMT. Retail theft, giving a false name to a police officer, and writing a bad check are a few examples of CIMTs. Sex work, despite being legal in parts of the country and decriminalized elsewhere,⁵ remains a CIMT and also triggers a separate ground of inadmissibility.⁶

Moreover, some criminal grounds of inadmissibility do not require a conviction. A mere admission even without a conviction to certain crimes (e.g., controlled substance offenses or CIMTs) is enough to render someone inadmissible⁷. Additionally, if the Department of Homeland Security has “reason to believe” someone is a drug trafficker, that person may be unable to ever gain lawful status, even absent any criminal convictions⁸. The “reason to believe” standard is akin to a probable cause standard, requiring far less evidence than would be required to sustain a criminal conviction.

Likewise, individuals placed into removal proceedings are disqualified from asserting strong defenses to deportation such as cancellation of removal or asylum under the existing criminal bars. Undocumented individuals who have lived in the U.S. for over ten years and who could prove that their deportation would inflict exceptional and extremely unusual hardship on their United States citizen or permanent resident spouse, parent, or child are denied recourse to protect their family members if they fall within any criminal ground of inadmissibility or deportability.⁹ This means, for example, that a father who is the caregiver and financial support of his autistic child could not ask an immigration judge to permit him to stay in the United States if, even decades earlier, he had been convicted of a single, minor drug possession offense or a single, non-petty crime involving moral turpitude such as using a false identification to work. Similarly, an asylum applicant who has been convicted of an aggravated felony

² INA § 212(a)(2).

³ See INA § 212(h).

⁴ *Id.*

⁵ ABC News, *NYC Judge Agrees to Dismiss Thousands of Prostitution Cases* (Apr. 21, 2021), available at <https://abcnews.go.com/US/wireStory/nyc-judge-agrees-dismiss-thousands-prostitution-cases-77217629>

⁶ INA § 212(a)(2)(D)

⁷ INA § 212(a)(2)(A)(i)

⁸ INA § 212(a)(2)(C)

⁹ INA § 240A(b)(1)

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cannot pursue their application, no matter how compelling its merits. Since the 1996 amendments to the INA, aggravated felonies have included minor offenses, particularly in states that utilize suspended jail sentences. In fact, a misdemeanor theft offense where the convicted individual never even steps foot in a jail is an aggravated felony if the sentence is 365 days suspended.

III. Criminal Bars in the Context of Our Biased Criminal Legal System

As public defenders who represent noncitizens in criminal and immigration proceedings, we recognize the pernicious connection between the criminal and civil immigration legal systems. Every day our offices fight against the devastating impact of criminal and immigration laws that disproportionately punish noncitizens. We witness how the criminal legal system, especially its “War on Drugs,” “broken windows,” and “stop and frisk” policing, has long targeted Black people and other communities of color. These are the same communities that are the most susceptible to immigration enforcement and deportation. In fact, our immigration system relies on state and local criminal legal systems to find noncitizens, detain them, and subject them to the civil deportation process. And noncitizens who avoid detention and deportation often find out that their contact with the criminal legal system still has immigration consequences, preventing them from legalizing their status even after years or decades have passed since their criminal arrest.

IV. Conclusion

We have an opportunity to lift up immigrant communities by building pathways to legal status and citizenship that are free of the inequities in our criminal legal system. To do so, we need to rethink the existing criminal bars that operate to exclude people because the color of their skin or the neighborhood of their residence brought them into contact with the police. Sweepingly excluding those with police contact from immigration reform ignores that systemic racism in the criminal legal system triggered those contacts, the ensuing prosecutions, and the convictions and sentences that then are used to vilify and deport immigrants of color.

We urge Congress to end the practice of categorically labeling and excluding certain immigrants - a practice that has its roots in nativist ideology from the 1800's and early 1900's - and to instead build stable, prosperous, and vibrant communities for immigrants, their families, and for all of us by giving these individuals a chance at a life in lawful status. It is time for immigrants to stop having to live under the constant fear of incarceration, separation, and deportation. We must break from the unjust and outdated practice of granting immigration status for some in exchange for harsher punishments and criminalization of others.



Statement for the Record
Submitted to the U.S. House Committee on the Judiciary,
Subcommittee of Immigration and Citizenship

On Hearing titled:
**“Why Don’t They Just Get in Line?
Barriers to Legal Immigration”**

Submitted by:
UnidosUS
Raul Yzaguirre Building
1126 16th Street NW, Suite 600
Washington, DC 20036-4845

April 28, 2021

Introduction

UnidosUS, formerly the National Council of La Raza, is the largest national Latino* civil rights and advocacy organization in the United States. For more than 50 years, we have worked to advance opportunities for Latino families to enhance their significant contributions to the social, economic, and political tapestry of our great nation. In this capacity, UnidosUS and its Affiliate network of nearly 300 community-based organizations in 36 states, the District of Columbia, and Puerto Rico, work to provide education, health care, immigration, housing, workforce development, free tax preparation, and other services to millions of Latinos in the United States each year.

Throughout our history as an organization, UnidosUS has united communities and diverse groups seeking common ground through collaboration and a shared desire to make our country stronger. Our approach to immigration policy is no different and has guided our advocacy efforts on every significant immigration conversation our country has had since 1968. UnidosUS has combined original research, policy analysis, and advocacy to support commonsense policy solutions to achieve an immigration system that is fair, just, and accountable to the rule of law—indeed, an immigration system of which we can all be proud.

This statement for the record highlights the fact that our immigration system—and specifically the mechanisms for legal immigration into the United States—is broken and in need of repair. The reality is that there is no “line” or “turn” to be had for most individuals seeking entry into the United States. Pathways to legal immigration into the United States remain significantly out of reach for many seeking to contribute to our country. This reality simultaneously hurts the nation’s ability to compete for top global talent, undermines the nation’s ability to curb illegal migration, and deepens the moral urgency to reckon with the nearly 11 million undocumented people residing within the United States.

UnidosUS seeks to draw particular attention to the plight of the millions of long-time undocumented residents. Despite having lived in the United States for at least 15 years per Pew Research, the typical undocumented resident remains in a state of legal limbo.¹ While some may believe there is a “line,” the reality for many undocumented individuals is that legalization is effectively out of reach despite their many contributions to families, communities, and the nation. Those who do possess a requisite family relationship that could lead them to legal status are often stymied by draconian and outdated laws like the so-called “3/10 year bars” and others like it that needlessly put families at risk of permanent family separation as they seek to regularize their status.² Our laws and policies—either wholesale or incrementally—must at a minimum be amended to blunt the harshness of these rules largely put in place 25 years ago in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

* The terms “Hispanic” and “Latino” are used interchangeably by the U.S. Census Bureau and throughout this document to refer to persons of Mexican, Puerto Rican, Cuban, Central and South American, Dominican, Spanish, and other Hispanic descent; they may be of any race. This document may also refer to this population as “Latinx” to represent the diversity of gender identities and expressions that are present in the community.

Finally, the pandemic has reminded us all of the essential role that undocumented workers are playing in the nation's ability to stay afloat and beat COVID-19. Latino and immigrant workers are heavily overrepresented in industries such as agriculture and food processing, which have been designated by our federal and local governments as "essential." Yet, the cracks in our outdated immigration system only serve to destabilize our workforce, at a time when recovery from the pandemic will depend most on the many contributions of immigrants—from the labor to build the critical infrastructure like roads and bridges, to child and health care infrastructure, and contributions to the tax bases to help fund the project of "building back better."

Modernizing our immigration system, we submit, is an essential element of the recovery we all want and hope to see.

There Is No Line

The title for today's hearing is apt. It recognizes that for many seeking to migrate to the United States, there are simply few to no legal pathways to do so. Meanwhile labor, familial, and—increasingly—humanitarian considerations continue to drive the very human urge (and often necessity) to migrate to the United States. As debates arise about how best to manage and administer the nation's southern border, especially during moments of irregular migration like what the nation is experiencing at present and experienced before it in 2019 and 2014,³ it is impossible not to conclude that our outdated legal immigration system is a significant reason why these occurrences continue to happen.

For individuals presently outside the United States, there are effectively three legal channels to immigrate to the United States: family-based immigration, employer-based immigration, and a collection of humanitarian mechanisms such as the nation's refugee program. Each is dependent, largely, on a connection either to a separate party or vetting institution: qualifying employer or familial relationship with respect to the former two, and vetting by international organizations in the case of refugees in the case of the latter. There are very few options for someone seeking to immigrate to the United States independently or absent these connections.

In the case of families, while the immigration laws favor the noncitizen spouses and children under 21 of U.S. citizens by exempting them from the numerical limitations of the available visas each year, other family relationships are subject to significant waiting periods. Adult children of U.S. citizens, noncitizen siblings of U.S. citizens, and the family members of lawful permanent residents, for example, seeking entry into the United States are often subject to waiting periods and long backlogs, depending on the nature of the family relationship.⁴ Siblings and adult children of U.S. citizens, for example, can experience wait times exceeding a decade. Moreover, for intending immigrants from Mexico, India, China, and the Philippines, these backlogs are typically larger given additional restrictions imposed on immigration from these nations specifically.⁵

Similar issues befall the nation's employment and humanitarian migration channels. In the employment context, avenues for lawful permanent residence skew toward so-called "high-skilled" professions, increasingly in the technology sector, but even then, visa allocation is limited. Instead, many of these workers and their families are admitted on temporary work visas like the H-1B visa—often for many years before they can secure a green card, if ever. For so-called "low-skilled" workers, avenues for permanent legal residence based on employment is nearly nonexistent, which in turn increases competition among employers for an annually finite number of temporary H-2A and H-2B worker visas to help fill jobs in sectors like agriculture, forestry, and fisheries.

The changing composition of who is migrating to the United States has put a spotlight on our nation's avenues for humanitarian entry. Our national investments at our ports of entry have not kept up with the fact that recent arrivals to the southern border are more likely to be asylum-seekers arriving in family units. The bottlenecks that ensue are not only predictable, but solvable with the appropriate calibration of resources to meet the needs at the southern border. Fair, expeditious, and humane processing of humanitarian claims is an essential element of a properly functioning legal immigration system.

Additional Barriers for the Undocumented Population within the United States

For many of the same reasons described above, our immigration laws make it difficult for an undocumented individual living within the United States to legalize his or her status. A sizable share will lack the requisite family relationship to initiate a family-based petition, others seeking to make out an asylum claim may have long missed the required one-year window following entry into the country to make such a claim, and still others do not possess the desired skills to access the employment-based immigration system. While some may obtain temporary protections such as deferral of deportation under policies like Deferred Action for Childhood Arrivals policy or pursuant to the Temporary Protected Status program, these mechanisms alone do not afford a pathway to permanent status.

Immigration laws also make it hard for the undocumented individuals who do have a path to legalize. That is largely due to rules put in place 25 years ago under the "Illegal Immigration Reform and Immigrant Responsibility Act of 1996," like the so-called "3/10 bars" that require individuals to spend three or ten years, depending on how much unlawful presence they accrued, in their country of origin before being able to apply for a green card. While in some instances these infractions can be waived, having to apply for a waiver and risk not being able to return to family, work, and strong ties in the United States for years is enough to discourage otherwise eligible individuals from seeking legal status. The consequences of these rules have been vast, and shaped the lives of millions of American families since their enactment.⁶

Impact on the Latino Community

The nation's failure to fix our immigration laws has caused significant harm to the Latino community in many ways, including to an entire generation of American kids. As UnidosUS has

chronicled in the report, *Beyond the Border: Family Separation in the Trump Era*, it is often the American-citizen children of undocumented and temporary immigrants who bear the brunt of these failed policies. Most of these children are Latino; in fact, today, four million Latino children in the country have at least one undocumented parent—or roughly one in four Hispanic children.⁷

The nation's inability to provide earned pathways to citizenship for the parents of American-citizen children has detrimental impacts on child education, health, and economic outlooks. Original research by UnidosUS of our Affiliate Network, found in our report, *A Generation at Risk: The Impact of Immigration Enforcement on UnidosUS-Affiliated Classrooms and Educators*, illustrates these negative impacts on American children and their educational attainment, through measures such as their attendance, performance, and engagement in critical extracurricular activities, resulting from a harsh immigration landscape and a lack of legalization avenues for parents.

Moreover, the COVID-19 pandemic has not only made clear how interdependent we are on one another, including on the Latino and immigrant workforce. Farm to table, Latinos power an outsized percentage of the American food supply chain, making up 34% of crop production workers, 35.3% of animal processing workers, 29.7% of food manufacturing workers, 20.1% of transportation and warehousing workers, and 20.5% of grocery store workers.⁸ Together with the 14% of health care and emergency service workers, 25% of automotive repair workers, and 22% of waste management workers who are Latino, hundreds of thousands of Latino workers are considered essential to the safety and security of America, and do not have the luxury of telework, physical distancing, or self-isolation during the crisis, leaving them at high risk for exposure to COVID-19.⁹

The nation's inability to fix our broken immigration systems has contributed to disparate impacts. In our report, *The Latino Community in the Time of Coronavirus: The Case for a Broad and Inclusive Government Response*, UnidosUS demonstrates how the Latino community continues to be disproportionately impacted by the pandemic even as they are overrepresented in the very essential jobs and industries that keep the nation afloat. Immigration status and the harsh anti-immigrant policies and rhetoric of the past four years, UnidosUS found, contributed to the impact across a number of measures like health access, job loss, access to food, and education. UnidosUS chronicles this impact in its interactive tool using U.S. Census Household Pulse Survey data titled *By the Number: Latinos in the Time of Coronavirus*.

It is past time that Congress modernize our legal immigration system and provide longtime undocumented residents with the peace of mind and certainty that comes from permanent legislative relief. Our current trajectory is no longer sustainable.

Conclusion: The Time to Act is Now

It is in Congress's power to finally modernize our immigration system and avoid many of the past and current pitfalls that are making it increasingly unsustainable. UnidosUS supports the passage of the "U.S. Citizenship Act of 2021," which represents a bold yet sensible way forward to do just this. We also support incremental measures that tackle aspects of that vision, so long as Congress commits to action in 2021. Examples of measures that Congress could take action on now include:

- Enact the "*American Dream and Promise Act*" and "*Farm Workforce Modernization Act*," each passed by the House of Representatives in March 2021.
- Reactivate and update existing provisions in our immigration laws like INA 245(i) and the immigrant registry.
- Enact the "*Reuniting Families Act*," which would, among other things, repeal the three- and ten-year bars, as well as the permanent bar on admission for individuals unlawfully present in the United States from adjusting to legal status. The bill also makes more family-based immigration visas available.
- Modernize Section 240A(b) of the INA pertaining to the cancellation of removal by lifting the limits on how many people can apply per year (currently a scant 4,000 annually).

The nation is long overdue for immigration reform, and today's hearing underscores the need for Congress to provide commonsense solutions to our broken immigration system. The UnidosUS network of community-based organizations represents thousands of individuals who are depending on Congress to do what is right and just. Indeed, Congress is the only American institution that can bring about the sustained reforms needed to both provide earned pathways to citizenship for longtime undocumented members of our communities, as well as fixes that modernize our outdated legal immigration system.

Please feel free to contact Carlos Guevara (cguevara@unidosus.org) for any questions raised by this statement.

¹ Migration Policy Institute. "Unauthorized Immigrant Population Profiles." MPI. <https://www.migrationpolicy.org/programs/us-immigration-policy-program-data-hub/unauthorized-immigrant-population-profiles> (accessed April 2021).

² Homan, Laura B. "Not All 'Entries' Are Equal – The Law of 'Entry' and 'Admission' for Purposes of the Immigration and Nationality Act." *National Law Review*, October 29, 2012. <https://www.natlawreview.com/article/not-all-entries-are-equal-law-entry-and-admission-purposes-immigration-and-nationality> (accessed, April 2021).

³ Mayorkas, Alejandro, "Statement by Homeland Security Secretary Alejandro N. Mayorkas Regarding the Situation at the Southwest Border." Statement. Secretary U.S. Dept. Homeland Security. March 16, 2021.

<https://www.dhs.gov/news/2021/03/16/statement-homeland-security-secretary-alejandro-n-mayorkas-regarding-situation> (accessed April 2021).

⁴ National Visa Bulletin. "Visa Bulletin For January 2021." Department of State, Bureau of Consular Affairs. <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2021/visa-bulletin-for-january-2021.html>. (accessed April 2021).

⁵ Ibid.

⁶ Ahmed, Saba, Adina Appelbaum, and Rachel Jordan, "The Human Cost of IIRIRA — Stories From Individuals Impacted by the Immigration Detention System," *Journal on Migration and Human Security*. 2017. <https://doi.org/10.1177/233150241700500110> (accessed April 2021).

⁷ Wyatt Clarke, Kimberley Turner, and Lina Guzman, "One Quarter of Hispanic Children in the United States Have an Unauthorized Immigrant Parent," (Bethesda, Maryland: National Research Center on Hispanic Children and Families, October 4, 2017), <https://www.hispanicresearchcenter.org/research-resources/one-quarter-of-hispanic-children-in-the-united-states-have-an-unauthorized-immigrant-parent> (accessed April 2021).

⁸ UnidosUS. "The Latino Community in the Time of Coronavirus: The Case for a Broad and Inclusive Government Response." July 2020. http://publications.unidosus.org/bitstream/handle/123456789/2066/unidosus_latinosinthetimeofcovid.pdf?sequence=7&isAllowed=y (accessed April 2021).

⁹ Ibid.



Statement for the Record

**Collection of Personal Statements from
Members of Improve The Dream**

**Submitted to the House Judiciary Committee's
Subcommittee on Immigration and Citizenship**

**“‘Why Don’t They Just Get in Line?’ Barriers to Legal Immigration”
Wednesday, April 28, 2021**

Anagh Kulkarni:

My name is Anagh Kulkarni. I'm currently a sophomore at the Ohio State University majoring in biomedical science and minoring in business. I am a Documented Dreamer.

Having resided in this country for 18 years, American culture is what I know best. I'm a huge fan of the Buckeyes, my thinking voice speaks exclusively English, and if someone gives me a temperature in Celsius, I have to convert it to Fahrenheit before I know whether it's hot or cold. I've always considered myself American in every conceivable way.

My parents brought me to this country when I was two years old. Both of them were first generation immigrants, leaving behind their entire families, their country, and all sense of familiarity for the sole purpose of my future. The American higher-education system was revered throughout the world, and in order to allow me to experience such an education, my parents sacrificed everything that they had.

As a toddler, I lived in Boston, Massachusetts, but because of my dad's visa status, he was limited in his career options, and so forced to be extremely flexible with his job. This meant that we moved around a lot when I was young. I didn't even know it then, but the immigration system was already beginning to affect me. Moving around as a young child is difficult. Adjusting to a new home, new people, and a new environment every couple of years was something that I eventually grew used to, but for a long time I struggled with attachment. To this day, I find it difficult to maintain long-term connections with distanced peers, and that's something that I am actively working to improve. As it stands, I do fondly remember my young life in distinct segments, each with memories that I wish to re-experience, places I wish to revisit and people with whom I would love to reconnect.

At the beginning of Kindergarten, my family moved to an apartment in Jersey City, New Jersey. I fondly remember my friends from then: Bryce, Alex, Shania, CiCi, Yash, Neil, Arjun... and even my kindergarten crush, a girl named Anastasia. I planted the seeds of my future then, starting to play competitive chess and joining a Karate school, two activities that I enjoy to this very day. We moved again for third and fourth grade to Dublin, Ohio, and I made some of my oldest friends, picking up a few karate and soccer trophies, and going to state tournaments in chess. Finally, my dad received a job offer that would allow us to settle down in one location, an offer that put us in the city that I, to this day, consider home: Mason, Ohio.

Mason was where I completed my education from 5th-12th grade. It was where I chipped my first tooth, drove my first car, and had my first kiss. Mason was where I really grew up. And Mason was when I first realized that my future was not going to be an easy journey,

The first wake-up call was at the age of 16, when I started looking for a summer job to buy myself a nicer laptop for school. I realized then that as a H4 child dependent without a work permit, I couldn't legally be paid. Conversations about my family's pending green card had permeated the household for years now, but it was at this point that I started understanding why they always seemed to be accompanied by an aura of hopelessness.

However, I still hadn't fully comprehended my situation by this time, so I decided to just work even harder to fulfill my academic and extracurricular goals. and ended up graduating high-school with a 4.970 GPA a perfect 36 ACT score, and a National Merit title. I participated in community service, putting over 200 hours into my local hospital as a volunteer and even more in a nearby retirement home. I became the event leader for my public forum debate team, and ended up qualifying to Nationals as a senior after winning nearly all of the regional tournaments that year. My list of chess achievements grew longer, as I consecutively placed in the top 10 in my grade at nationals. I obtained my black belt in martial arts after 10+ years of intensive training and having to restart from the beginning every time I moved. In each of these activities, I wanted to succeed. But even more than that, I wanted to make my parents proud.

It was here in high school that I first developed my interest in medicine. While doing research for a debate tournament, I found myself unable to stop reading about the inequities that existed throughout the healthcare system. Insurance was ineffective, drug prices were extremely high, and people were suffering. Increasing not only the quantity of treatments, but their accessibility was an often forgotten part of healthcare, and as a doctor I hoped to change that. I wanted to travel to impoverished communities, restoring within them hope that'd been long lost, all at little to no cost. I wanted to make a difference in someone's life.

With these thoughts in mind, I started applying to colleges. However, as I spoke to university representatives, I found out that almost none of my efforts thus far had mattered anyway. As an "international student", I would be automatically disqualified from any merit-based scholarships, financial aid, or in many cases, even in-state tuition. My achievements in high-school were worth next to nothing, because in a world where college tuition was growing faster than my mom's garden plants, a jobless high-school graduate with no personal savings had limitations.

That being said, I was fortunate enough to qualify for an exceptional pre-medicine program at Ohio State University, and after a back-and-forth with administration, secured in-state tuition as well. I became heavily involved at OSU, pursuing every opportunity that I could to further my aspirations. Even though I still couldn't qualify for jobs or internships, I decided to get involved in volunteering-based organizations so that I could still give back to my community.

I joined an organization called Scientific Thinkers, where my role as Lessons Committee Chair was to develop science lessons that we took to underprivileged schools to present to their

students. I started tutoring for an organization called ClassMates, designed to help disadvantaged students that have been disproportionately affected by COVID-19. I became heavily involved in my cancer research lab, in which one project explored the impact of racial and economic disparities on rates of breast cancer. I joined ENCompass, an organization that focuses on helping impoverished community members with financial factors that influence the efficacy of their medical treatments.

I'm involved in all of these organizations to this day, and they have only strengthened my resolve to pursue making a change in the healthcare system. But even while researching medical schools, I was faced with the stark reality of my situation.

The knock-out blow came in the form of a couple of statistics. A study by InGenius Prep of AAMC data shows that two-thirds of medical schools in the United States do not accept international students without exception. Further damning is the fact that the acceptance rate for international students nationally is around 8%, a stark contrast from the 41% that domestic students face.

The air left my sails.

As of last January, I'm twenty. I dread growing any older. While turning 21 is generally a celebration of adulthood, for me, it's more akin to an expiration date. At 21, I age out of my status. And now that I'm mere months away, I find myself wondering if there is any point to the hundreds and thousands of hours that I've worked to make myself a valuable member of society. In moments of weakness, I often find myself in a cycle of despair, losing more motivation with every passing month, finding it difficult to focus on my grades, my involvements, and my goals. I have two questions that often fall on deaf ears. "*What did I do to deserve this,*" has no answer, and "*Why does anything matter anymore,*" struggles to escape the quick "*It doesn't*" that follows.

And yet, I've not given up my dreams. My parents didn't raise me to be a quitter, and I owe it to them to keep swimming. As an active member of Improve The Dream, I will fight to make sure that the hundreds of thousands of kids like me don't have to undergo the same struggle that I have to this point. I fight for my future, but I also fight for theirs.

Thank you for taking the time to read my story. I hope that you can take this into consideration to remove barriers that exist for children growing up in the United States.

Lakshmi Parvathinathan:

Most American teenagers look forward to turning 21, but I dread it. I am American in every way except on paper. and turning 21 means that I will age out of the system and have to fight to stay in this country, a country that has become home to me.

My name is Lakshmi Parvathinathan and I am a Documented Dreamer.

I was born in Tamil Nadu, India and my parents brought me to Dallas, Texas when I was just three years old. I didn't know it at the time, but Dallas would be home only for the next five years - how long our L1B visas would be valid. I grew up 25 minutes away from the Cowboys Stadium and I cherished the sweltering summers and merciful winters that came with Texas. I went to school in Dallas from pre-k to third grade, but three months into third grade I was torn away from everything I ever knew. Our L1A visa extension got denied. I had only a few weeks to tell my friends and teachers that I was moving halfway across the world to a country that I didn't remember.

For the next two years, I had to adjust to life in India. During my first six months there, I spent hours after school everyday with a tutor learning how to read and write Tamil, a language with 247 characters, just to pass the third grade. At school, I faked an Indian accent and smiled awkwardly when my native friends praised me for my "perfect" English. I somehow managed to feel like a foreigner in the very country I was born in.

When fifth grade rolled around, so did my chance to come back to America. This time, home was the suburbs of Philadelphia. Now that I was older, my parents decided to be transparent about our visa status. When I started middle school, they warned me that our L1B visa would only allow us to stay for five years, which meant that I might have to move back to India again during high school. But they told me there was a chance that we could stay longer if we won a lottery: the H1B lottery. Winning the H1B lottery would mean that I could complete at least high school in America. On top of angsty tween drama, my middle school experience was plagued with constant uncertainty. The odds were not in our favor the first time we applied to the lottery-we were met with a rejection. Our second application resulted in the same fate. We started losing hope about our future in America. Facing rejection repeatedly was emotionally draining, but my parents refused to relent and tried again. As a final attempt, we applied one more time. This time, the odds were in our favor and we won the H1B lottery when I was in the ninth grade. I thought this meant that my future in this country was secured. I could not have been more wrong.

By the next year, I learned about all the disheartening limitations that came with my status: I don't qualify for federal aid or in-state tuition, I don't have work authorization, and I can't easily

pursue a career in healthcare the same way my peers can. Worst of all, I found out that I might have to self-deport from the country that I proudly call home when I turn 21.

My enthusiasm for my future quickly turned into fear. Growing up in a community with few immigrants, the lack of a solid support system made me feel incredibly alienated. No one I knew could understand what I was going through, and I began to question everything. Despondent thoughts consumed me, forcing me to constantly worry about my future and feel so utterly powerless. Nothing felt in my control anymore; the American Dream that I had spent all these years in school learning about seemed like a lie.

I am now a Biological Sciences major at Drexel University, still working to chase my dream of entering the medical field. I recently joined Improve The Dream, and for the first time ever, I feel like there is finally hope for me and the 200,000 other Documented Dreamers like me. We will continue to advocate for all Dreamers to ensure that no child has to ever face self-deportation. We are Dreamers too, and we just want to be given a real chance to chase our American Dream.

Hwanhee (Hilary) Yoon:

My name is Hwanhee (Hilary) Yoon. I'm seventeen years old, and I'm currently a junior in high school. I am a documented dreamer.

My parents brought me and my siblings to the US from South Korea when I was just ten months old. Due to the lack of pathways to citizenship, I am still on a temporary visa though I have never left the United States since moving here almost 17 years ago. America is all I've ever known—I'm more comfortable speaking English than Korean, and because I was so young when I left Korea, I don't remember a single thing about the country. Everything that I know about Korea is what I've learned growing up here in the U.S.

My parents grew up in Korea and their reason for moving to the US was because my dad's company had sponsored his Master's degree in public administration in the U.S. During my dad's three-year masters program, my parents realized that this is the place where they wanted to raise me and my siblings, as the education system in Korea is extremely stressful and competitive. My parents wanted us to be able to play sports, learn how to play instruments, hangout with friends and have fun while growing up, rather than studying from morning to night everyday. However, my dad had an obligation to return to the company. Though it was a difficult decision, my mom decided to stay in the U.S. to raise us while my dad worked in Korea. As a result, our family reunited only once or twice a year for a few years until my dad eventually left his company and moved to the U.S. to be with us. My parents decided to start running a small business on an E2 visa. They started with a small cafe in Portland, Oregon without any prior experience in running a business. They had given up their jobs, left their family and friends, and took a chance at making a living here in the U.S. so that my siblings and I could have a more positive upbringing.

When I started kindergarten, I remember no one in my class could pronounce my name correctly. The first thing my family and I did was research English names so that my siblings and I would have an easier time while going through school. I remember always being embarrassed whenever someone asked me what my "real" name was, or when my parents would speak Korean to me in front of my friends. I wanted to be 'normal' and have the life that every American kid got to experience. My parents gave me just that. I was involved in almost all the activities and clubs that my elementary school offered - I ran track, I was in student council, I played in band, I sang in choir, and I was involved in volunteer activities when there were such opportunities. Outside of school I received piano lessons, I was in figure skating and played on a basketball team. When I entered middle school I was involved in school leadership, played volleyball, basketball, ran track, and was a member of the National Honor Society. I am now in high school, and I am still involved in leadership, National Honor Society, and had the privilege of being the President of Key Club. I have also been on varsity basketball and golf teams since freshman year. Through all

these activities my parents were there, giving me rides, coming to my games and matches, all the while supporting my two siblings and running their business.

Growing up, I've seen my whole family struggle due to the lack of permanent residency in America—my parents working tirelessly for as long as I can remember in fear of denial of E-2 Visa renewal and in turn losing the residency status for our entire family—my sister crying due to the limitations she faced as a student when deciding on a major to pursue, and applying for jobs and finding out that numerous companies only consider applicants that are green card holders or citizens—my brother who left the U.S. when his visa expired.

I remember the numerous conversations my parents had to have with me, explaining that we might have to leave America and that everything would be okay no matter what happened, that they would figure out a way for me to stay in the U.S. I watch my parents act fine, when I know how much it hurts them to see everything that my siblings and I have to go through. They watch us cry about what the future might hold, while they are acting strong for us--when they haven't seen their parents and siblings for over 12 years. Even though my grandmother was diagnosed with cancer and my grandfather's health is worsening, my parents have not had a chance to go to Korea to be with them all because of me--they do not want to jeopardize losing the E-2 Visa status because that would mean that I would have to move out of the country I call home.

Now that I will be applying to colleges in less than a year, I am fearful of what I will be facing. I had never thought about not attending college, but now I realize that whether or not I could go to college solely depends on whether my parents could afford expensive international student college tuition. My attending college would require my parents' sacrifice not only financially, but also the time they could spend with my grandparents in Korea in poor health. If it weren't for me, my parents could spend time with them and be able to rest--they have worked tirelessly for as long as I can remember and I wish that I didn't need their sacrifice.

I feel American and I grew up just like my American friends around me. I only wish that I could also have the same opportunities as them.

Padma Danturty:

My name is Padma, I'm 18 years old and I'm a senior in high school. When I was 8 months old, I took a life changing flight from Mumbai, India to the Boston Airport. This was my first flight ever, and was the beginning of my life in America—the only life I've ever known.

Growing up, I always saw myself as every other American. My friends and I played in our backyards together, learned in the same classrooms, and our parents were friends. I grew up speaking English, playing on a local girl's soccer team, dressing up barbie girl dolls, and enjoying fast food.

My favorite activity of all time, though, was visiting an arcade called Putt Putt Fun House, in Houston Texas, with my dad. I loved to rock climb, play laser tag, and play Deal or No Deal at the arcade. In the 2nd grade, I decided to have my 8th birthday party there, and I invited every single person in my class. I relished being with my closest friends in the place that I loved, and had some of my fondest memories with them. I had found my people, after years of being a shy kid.

Another frequent activity of mine was playing house with my friends during recess. Whatever I was, the mother, the child, the secret agent, I imagined my life 20 years from then, living in the US. I thought we were all in the same boat, as Americans.

When I was in middle school, we visited Canada. I thought we were going on a small vacation, until I came to understand that we needed to visit the American Embassy in Ottawa, in order to get our multiple entry visa. I was confused, but they told me we needed to go there in order to come back "home" in the US. It was then that my parents explained that I'm not like every other American. As an Indian immigrant, I remained on a H-4 visa dependent on my mom's work, even though we applied for residency in 2013. I realized living on an H-4 visa, waiting in an endless line for a Green Card, has major drawbacks. Every 2 or 3 years, I have to file for an extension for our visa, despite the fact that I've lived here for 18 years. Each time is anxiety-inducing for me and my family, as we never know if we will be denied and sent back "home." This was particularly scary for me because I had no memory of India, yet it is technically considered my place of permanent residence.

Throughout high school, I've tried to embrace the American culture that I've grown up with. I joined my school's marching band, and at every home football game, I proudly play the star spangled banner on my saxophone with the rest of my American friends. I work hard in school, and do what I can to volunteer and give back to my community. However, I learned that I can't work, get a normal driver's license, or accept most scholarships for college. Worst of all, I could be deported at age 21 if I don't switch to another visa and start the immigration process all over.

Even if I do switch to a student visa in college, I would be considered “international,” and my entire existence growing up in America wouldn’t matter or be accounted for.

My best friends talk excitedly about going to university, earning money over the summer, and even voting. I can’t do any of these things, despite us having many of the same experiences in America. I recently committed to the University of Michigan in Ann Arbor, and I look forward to majoring in Neuroscience, and becoming a scientific researcher; but I’m scared. I don’t want to leave what I consider to be my nation.

I hope one day I can truly call the only country I’ve ever known “home.”

Sumana Kaluvai:

We came to America when I was two. My father worked as an engineer for several different tech companies. I've always felt like an American. My parents told me that I could be anything I wanted. I do remember them saying I couldn't get a job when I turned sixteen, but I assumed it was a typical Indian household protecting their daughter. So I focused all my energy into making good grades and getting into college. I finished my applications early. But when I showed them to my mom, she zoned in on one particular part. 'Be sure to mark that you're an international student,' she said.

She explained that because of my H4 visa status, the selection process would be much tougher. And I wouldn't qualify for financial aid or scholarships. Soon I found out I couldn't get a State ID, or pay in-state tuition or do any internships. Worst of all I would have to self-deport when I was 21. I was devastated. I'd done everything right and pushed myself in school. I was even a national champion in artistic roller skating. But none of that seemed to matter. There was a chance I couldn't even go to college in America.

I've had to make every decision based on what gives me the best chance of staying in the country. It's like I'm always playing a game. And if I mess up once, I'll need to leave. For a long time I carried a lot of anger. I was jealous of my younger brother for being born here. I was mad at my parents for not telling me. But both of them were born in a village. They gave up so much to be here. They went years at a time without seeing their families. How could I be mad when they sacrificed so much? I think they were afraid of discouraging me. They were focused on me being OK in the moment, and they assumed it would all work out.

The American Dream is so well marketed. And when you get here, it feels so close. Like if you just work hard—everything will fall into place. I have 16 months left before my OPT is over and I'm not sure what the future holds for me after it expires. But I know one thing is for sure, me calling America home will not be over then.

Adhithya Rajasekaran:

First, I want to convey my sincere gratitude to the people of this beautiful country for providing me and my family with safe refuge and incredible opportunities. The United States has always been a country of immigrants. But the immigration system has unfortunately not kept up with the times and needs serious reform. One immigration issue that is close to my heart is the struggles of Documented Dreamers in this country. I am one of them and this is my story.

I was born in Chennai, India. I come from a poor family of priests. We sustained our day-to-day lives from the donations devotees offered to the temple. My mom grew up in abject poverty. But she had enormous willpower and perseverance. She taught herself English by reading old English newspapers, studied day and night and was able to get admission to a top college. She went on to get two PhDs (one in chemistry and one in education) and she is one of the smartest people that I have ever known in my life. She has been a science educator for more than 30 years. She has several peer-reviewed publications and has helped lots of women get PhDs as a guide.

In 2004, my mom was recruited to come and teach in the United States. She eventually got a permanent teaching job in 2007 and got an H1B visa. She brought my sister and I to the US on H4 dependent children visas. That is how I came to the US. Our family eventually settled in Covington, Georgia where my sister and I enrolled in school.

When I came to the US, I did not speak English well. English is my third language. So, I was placed in the ESOL program. I did even know the words “visa”, “immigration”, “H1B”, “green card” or any of the other terms that I use in this testimony. With the help of amazing teachers and exceedingly kind and empathetic American friends, I was eventually able to speak English fluently and I eventually went on to study and pass the AP British Literature exam and get college credit for it. I was a good student. I took AP classes. I was eventually inducted into the National Honors Society. Service to others was always emphasized to me even as a little child. So, I joined the Beta club and volunteered every weekend. I was also part of the team that won the Georgia Academic Bowl Championship in 2011. The Georgia state legislature decided to honor our team by passing a resolution and I have a signed copy from the governor, and it is one of my proudest possessions.

My mom’s employer sponsored her for permanent residence in 2010 under the employment-based immigration system. But because my mom had the misfortune of being born in India, she was subject to the per country cap of 7% and was unable to receive permanent residency. She has been stuck in the backlog ever since. We have family friends who were born in countries other than India. Many of them came to the US around the same time as my mom or later and almost all of them are US citizens and they have voted in at least two if not three presidential elections. But my mom has been unable to even receive her green card.

The first time I learnt that I was not like my American friends is when I went to get my learner's permit. My American friend was getting his and his mom took me with him. My application was denied, and I was told that I had to produce additional documents because I was an "alien". I eventually came to know that my stay in this country was limited, and I could not do a lot of things that my American friends could do like take summer jobs.

I graduated in the top 10 of my graduating class. I have been dreaming of becoming an engineer ever since I was a little kid. Georgia Tech was my top choice as it was one of the best engineering schools in the entire country and it was in my backyard. They also offered automatic admission to students who graduate in the top 10 from any Georgia school. But I soon realized I would not be able to afford Georgia Tech because of my immigration status.

Even though I was a resident of the state of Georgia, I had a driver's license issued by the state, I had graduated from a Georgia high school and my mom worked for a public educational institution in Georgia, I was still classified as an out of state student. This meant that I had to pay out of state tuition, which was closer to \$50,000 for a single year. Putting one kid through college is already hard enough for most American families. Putting two kids through college and paying out of state tuition was not possible for my family. I distinctly remember sitting outside of the Georgia Tech registrar's office crying and not knowing what to do next.

My helpful high school counselor told me to fill out the FAFSA form because she had seen other children from poor families get money from the federal government. But because of my immigration status, I did not qualify for any federal student aid like Pell grants or student loans. I went to apply for a private student loan from a bank. The bank asked for my social security number (SSN) and I had none because H4 children are not work authorized in the US and are not provided with SSNs. I also didn't qualify for any state scholarships like the merit-based Hope or Zell Miller scholarship that the state of Georgia provided to students because of my immigration status.

A close friend of mine who knew my struggles was enlisting in the US army. He put me in touch with a recruiter for the US army. The US army had a shortage of translators for certain languages, and they had a shortage of translators who can translate Tamil, my native language. The recruiter mentioned that if I joined the US army as a translator, I could receive US citizenship and receive the GI bill to pay for college through the MAVNI program. I wanted to join. But due to a pre-existing medical condition, I eventually received a permanent disqualifier from ever enlisting in US military service.

Eventually, I decided to go to a community college called Georgia Perimeter College (now part of Georgia State University). My mom scrapped every bit of money she had to provide for my community college tuition. They did not have an engineering program at that time. So, I decided to study Mathematics. I continued my volunteer work every weekend. I was inducted into the honors program, rose to the leadership of several different clubs, and led delegations to

Washington D.C on a wide variety of issues. I ran for the student government and became the vice president. I graduated in 2013 with an A.A degree in Mathematics with honors. I wanted to transfer back to Georgia Tech to get my engineering degree. But I still did not have money to pay for out-of-state tuition.

While I was at Georgia Perimeter College, the Obama administration came out with the DACA program. I am in full support of the DACA program. I have friends in the DACA community, and I personally know how much the program has transformed their lives. I am very thankful that the administration came out with the DACA program. But the administration included a requirement that individuals should have “no lawful status on June 15, 2012” to qualify. Since my mom renewed my visa and kept my lawful status on that date, I and others in my situation did not qualify. This meant that we did not have any protections from deportation like those in the DACA program had.

In April 2013, my life changed forever. A private foundation in Washington D.C named the Jack Kent Cooke Foundation named me as a scholar. They told me that I can go study whatever I want in whichever college I want, and they would cover the cost. With the financial backing of the Jack Kent Cooke Foundation, I was finally able to get to Georgia Tech. I thought I had conquered all the problems. But little did I know that my troubles because of my status were just beginning.

Since scholarships are considered taxable, Georgia Tech reported my “income” to the IRS. But I couldn’t file taxes on my own as I didn’t have a SSN. So, I was forced to add all my “income” to my mom’s income and file taxes through her. This resulted in her income doubling immediately and resulting in huge tax bills for her.

Georgia Tech is a world class research university. I wanted to get involved in research. But since I had no work authorization, I could not work as a research assistant. Georgia Tech also had a startup incubator where students can join and start companies. I wanted to start my own company based on a research project that I had done for a class. But I could not do it.

In early 2015, my mom was in a bad car accident. She injured her neck and spinal cord and was in a serious condition. Doctors were asking who her next of kin is and who can make medical decisions about her life. That is when I came to the realization that my status in this country was tied to my mom and if something happened to her, I would not only be losing my mom, but I would also be deported out of this country and lose everything that I have worked hard for all this time. My mom is a fighter. She eventually recovered. But she is unable to drive today.

H4 visas cannot be extended past age 21. But I did not have enough credits to graduate before I turned 21. So, I started exploring other options. F1 (student visa) was the only option that allowed me to study. But F1 visas have a requirement that the applicant must have a residence abroad that he/she has no intention of abandoning. Since my entire family had moved to the US

and my mom had a permanent job in the US, we had no residence abroad. I talked to immigration lawyers, and they told me that I do not qualify for F1. But I wanted to study. So, I self-filed my F1 application as no immigration lawyers were willing to take my case that they knew was going to end up in denial. I did not hear back from USCIS for months. I was super fortunate. My application was eventually approved. But many others are not that fortunate, and they must self-deport themselves out of this country.

I graduated from Georgia Tech in December 2015 with a B.S in Electrical Engineering with highest honors. My mom had two PhDs. I wanted to get at least one PhD. I was immediately admitted to graduate school at Georgia Tech and the Jack Kent Cooke foundation once again offered me their full financial support until I got my PhD. But my mom's health was in decline. So, I decided to put my PhD dreams on hold, and I finished my M.S in Electrical and Computer Engineering in one semester and I graduated in May 2016.

Microsoft recruited me out of Georgia Tech, and I moved to Washington state to work for them. I have been working at Microsoft for the last four years. I currently work as a Software Engineer on the Word team and my areas of expertise are performance and accessibility. Microsoft applied for an H1B visa, and I am on that right now. I lost my pathway to citizenship when I turned 21. I was kicked out of my mom's permanent residency application.

I was extremely fortunate. There were so many people who provided me with their time and other resources to help me on my journey. I am incredibly grateful to them. I also know that I was super lucky to have an opportunity to study computer science and engineering. But I am acutely aware that lots of children (especially in rural communities) in this country do not have that opportunity. So, I have been a volunteer high school computer science teacher for the last three years through the TEALS program. I have been teaching at Mabton High School in Mabton, WA. It has been one of the most fulfilling things that I have done in my life. My family and I also started a scholarship program at Georgia State University to provide a scholarship that has no immigration status requirements. The Rajasekaran family scholarship will start providing scholarships starting in Fall 2021.

I really want to commend the members of this committee for including people like me in the recently passed bipartisan American and Dream Promise Act. But people like me are still excluded from the senate version of the Dream Act and executive programs like the DACA program still exclude documented dreamers just because of the fact they are documented.

My sincere hope is that distinguished members of this committee can come together in a bipartisan way to provide a pathway to citizenship for all children who grew up here and call America home. I also hope that this committee can find bipartisan solutions for other immigration issues that plague the employment based immigration system. Thanks for taking the time to read my story and thanks for the opportunity to share it.

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Testimony of Curtis Morrison and Rafael Urena

Attorneys at Law
FOR THE HEARING ON

"Why Don't They Just Get in Line? Barriers to Legal
Immigration"

PRESENTED TO THE

Subcommittee on
Immigration and
Citizenship

COMMITTEE ON THE JUDICIARY
OF THE

UNITED STATES HOUSE OF REPRESENTATIVES

April 28, 2021

We represent 1,203 Diversity Visa (DV) selectees from the 2020 fiscal year who were not issued visas prior to the September 30, 2020. Under the Immigration and Nationality Act, DVs expire at the end of the fiscal year. Congress can and should extend their use into subsequent fiscal years.

Of those, 961 families are plaintiffs in *Mohammed v Biden*, *Fonjong v Biden*, and *Kennedy v Biden*, lawsuits consolidated with the *Gomez v Biden class action*, and pending before the District Court for the District Court of Columbia.

This hearing asks a telling question: Why don't they just get in line?

Our clients got in line - but it didn't matter. The line stopped moving with 35,000 diversity green cards still to be distributed. Even with thousands of eligible immigrants ready to receive them, the visas ceased to exist under the INA. The Pandemic and the Presidential Proclamation 10014 stopped the line dead in its tracks.

So even more directly than the rest of our broken immigration system, the fate of our clients - selectees for the FY 2020 green card lottery - proves a grim lesson of legal immigration: it's bait and switch.

Many of these families have sold their homes and cars, quit their jobs, or borrowed money to get this far in the DV application process. Even though their visa application journey has continued for two years now, they still have hope to enter America and make this country a better place.

It would be wrong to turn our back on these families.

We ask Congress to make the technical fix that would deliver what it promised to these families. Just roll over the FY2020 DVs for use until they have all been issued to 2020 selectees.

The following Amendment would correct the problem for FY2020 selectees:

IMMIGRANT DIVERSITY VISA ROLL-OVER AMENDMENT

Unused DV from 2020 added to 2021 and subsequent years allocated solely to 2020 selectees.

SEC. ___. (a) For fiscal years beginning with 2021, in addition to the worldwide level of diversity immigrants under subsection (e) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), additional visas shall be made available in accordance with subsections (b) and (c).

(b) The number of such additional visas computed under this subsection is the difference between the worldwide level established for the 2020 fiscal year under subsection (e) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) and the number of such authorized visas that were issued and used as the basis for an application for admission into the United States as an immigrant (including admissions pursuant to adjustment of status) described in subsection (c) of the Immigration and Nationality Act (8 U.S.C. 1153).

(c) The additional visas made available as computed in subsection (b) for fiscal years beginning in 2021 all shall be made available to diversity immigrants selected in the lottery for fiscal year 2020.

Written Statement of Dr. Kevin Kells

For House Committee on the Judiciary

Subcommittee on Immigration and Citizenship

Hearing “‘Why Don’t They Just Get in Line?’ Barriers to Legal Immigration”

April 28, 2021

Thank you Subcommittee Chairwoman Zoe Lofgren (D-CA), Ranking Member Tom McClintock (R-CA) and members of the House Judiciary Committee Subcommittee on Immigration and Citizenship for this opportunity to submit this written statement in support of the American Families United Act, which would address existing barriers to legal immigration for spouses and children of U.S. citizens. I would especially like to thank my Congressman, Mr. Jerry Nadler (D-NY) for accepting this statement.

As a US citizen, I am not able to be reunited with my wife of two decades because she is inadmissible under INA 212(a)(6)(C)(ii), false claim to US citizenship. This dates back to an incident in 1998 before our marriage. My wife was invited for the weekend to her cousin’s high school graduation party in the US. Her intent was to return to her job the following week in her country. She was a passenger in a car. The driver said she was born in the US. The border agent asked her where she was born. She did not answer because she did not understand English at the time. The border agent brought in a Spanish speaker and when asked in Spanish, she replied that she was Mexican, and that she did not possess the needed travel document. She was young, though fully an adult, and this was her first time traveling internationally.

We’ve been married since 2001. During those twenty years, we have lived together abroad for approximately 5 years and been separated for approximately 15 years.

I was born into a military family. My father fought for this country. My grandfather also served this country during World War II, as did my great uncle. I have a Ph.D. in Electrical Engineering

and an MBA and work as an engineer at a well-known market data and news organization in New York City. My wife also has a Master's and a Ph.D. in Computer Science.

When the consular officer in 2003 told us that my wife had been approved for her K-3 visa, but that she would not be able to receive it due to a lifetime bar to admissibility, I asked him what my next steps were, how to appeal, how to proceed. The officer informed me the law permitted no appeal and no waiver for immigration in our case. Back then, there was no legal way forward. There is still no legal way forward now.

During these 20 years, my grandmother passed away. My brother passed away. Both without ever having a chance to meet my wife. My wife and I have had no children. And now we don't want to be destined, by force of law, to die alone, separately, in separate countries.

As a conscientious US citizen, I am following the law responsibly, hoping for a chance to make our case, to appeal her inadmissibility, to apply for a waiver that would let our family reunite in this country—in my country. The rights and interests of US citizens to reunite with our family members should be protected by our laws. The American Families United Act helps provide these protections to US citizens and US citizen rights.

Thank you.

Sincerely,

Dr. Kevin Kells

Written Statement of Erika Orrantia,

U.S. House of Representatives Committee on the Judiciary
Subcommittee on Immigration and Citizenship
Hearing "Why Don't They Just Get in Line?" Barriers to Legal Immigration"

April 28, 2021

Thank you, Subcommittee Chairwoman Zoe Lofgren, (D-CA), Ranking Member Tom McClintock (R-CA), and members of the House Judiciary Committee Subcommittee on Immigration and Citizenship for this opportunity to submit this written statement in support of the American Families United Act, which would address barriers to legal immigration for spouses and children of U.S. citizens. I would especially like to thank my Congresswoman, Representative Veronica Escobar, for introducing this bill.

My name is Erika Orrantia. I am a U.S. citizen currently living in Ciudad Juarez, Mexico. I travel into El Paso, Texas daily to work as an educator. When I met my husband, Luis, I was finishing up my student teaching at Northern Arizona University. I fell in love with my husband and we have been married for 14 years. Luis was the ultimate gentleman. He treated me like I had never been treated before and our sweet friendship blossomed into a love that I thought was only possible in fairy tales. I knew my husband was undocumented, but why would I break things off with my soul mate merely due to him not having certain 'papers'? As an American-born citizen, with deeply planted roots dating back to the Revolutionary War, surely there would be a way to correct his wrongs—right? I found out the cruelest and most sobering truth- that this was not the case.

You see, more than twenty years ago my husband made a terrible mistake. He found out his U.S. citizen fiancé was pregnant and, out of desperation, told Border Patrol authorities that he was "American". His relationship with his fiancé eventually ended. After we were married, we began his immigration process and, as a part of the process, he went to his interview to obtain his residency status. The caseworker asked him how he came across the border. He told the truth. He was later notified by mail that, because of how he entered the US, he now had a permanent lifetime ban without any chance of a waiver and was ordered to leave the United States. He knew that lying was wrong but had no idea the magnitude of his actions. We had established an American lifestyle and now had two U.S. citizen children.

When I learned about my husband's inadmissibility, my world came crashing down and my husband was soon deported. How was I supposed to tell my 2 year old and 3 year old children that daddy wasn't coming home? We eventually came to Ciudad Juarez because that is where my husband had his family and was able to gain employment.

We have been living here now for ten years. Life is very hard living in a third-world country with so much corruption. I do not ever venture out by myself—as a tall, Anglo woman who speaks only English, I have trouble blending in. Learning Spanish has proved to be especially difficult for me and without much success.

It is a very hard pill to swallow that my children and I may never be able to live in the country of our birth right as a complete family. Before my husband's deportation, we knew no other country. My ancestors fought for my freedoms in the Revolutionary War and my great grandfather was a 6' 5" man who wasted away to 120 pounds as a prisoner of the Civil War. Despite my deep-seated roots in the United States, I have no way to keep my family intact and live in the country that I feel so connected to. My husband can never attend important events pertaining to our children that are held in the United States, nor will he be there when they graduate. If I ever need help while in El Paso---I am on my own, and that is a helpless feeling.

As U.S. citizens, my children and I are suffering due to my family living in exile. We know we don't 'belong' in Mexico. As Americans, we feel that we should get as much relief as anyone else being considered for immigration reform. Therefore, I would like to personally say thank you to Congresswoman Veronica Escobar for reintroducing the American Families United Act. The American Families United Act will help American families that have been denied the right to keep their families together. Every immigration case is unique and should not be lumped together in a "one size fits all" sentence. Due process is desperately needed. We hope and pray for waiver equity so that our family can finally come home.

Sincerely,

Erika Orrantia

Written Statement of Gilbert Loredó,

U.S. House of Representatives Committee on the Judiciary
 Subcommittee on Immigration and Citizenship
 Hearing “Why Don’t They Just Get in Line?” Barriers to Legal Immigration”

April 28, 2021

Thank you, Subcommittee Chairwoman Zoe Lofgren, (D-CA), Ranking Member Tom McClintock (R-CA), and members of the House Judiciary Committee Subcommittee on Immigration and Citizenship for this opportunity to submit this written statement in support of the American Families United Act, which would address barriers to legal immigration for spouses and children of U.S. citizens. I would especially like to thank my Congresswoman, Representative Veronica Escobar, for introducing this bill.

My name is Gilbert Loredó. I am a U.S. citizen and I currently live with my wife and kids in Ciudad Juárez, Mexico. My kids and I made the difficult decision to leave our wonderful country. My wife's immigration petition was denied at her consular interview in Mexico in 2019. At that moment, my family was torn apart, even though we went through all the proper immigration processes. My wife crossed the border at the age of 14 (over 17 years ago). She has been charged with a False Claim to US Citizenship. My wife was only a minor when she answered *yes* to the question *Are you a US citizen?*. Currently, we are being denied the right for an immigration judge to review our case since our immigration interviewer issued ‘inadmissibility to entering the United States’, barring her for life with no access to a waiver or forgiveness. I am proud to be an American. My father fought for this country. I have no family in Mexico nor do I speak the language. I will never forget that day, having to leave my wife in Mexico, and go back to Oklahoma to try to break the news to my kids that ‘mommy was not coming home’. My kids had to say goodbye to their friends and family and all they had ever known in the US to go live in Mexico.

After living apart for over a year and a half, hoping to fight and find a lawyer that would take my family's case, it started to get harder and harder to see my family. I finally chose to make the move to Mexico. Americans should have the right to keep their families together. We should at the very least have the right to have our day in court, our chance to tell our story, our chance to fight to keep our families together. That is why I want to thank Congresswoman Veronica Escobar from the bottom of our hearts for introducing the American Families United Act and giving U.S. citizens a fighting chance to keep our families together. By this action, you are showing, not only me and my family- but our fellow Americans- that American families matter and that we should have the right to fight, to plead our case, and to keep our families together.

Sincerely,

Gilbert Loredó

April 28, 2021

The Honorable Zoe Lofgren
Chair
House Committee on the Judiciary
Subcommittee on Immigration
and Citizenship

The Honorable Joe Neguse
Vice Chair
House Committee on the Judiciary
Subcommittee on Immigration
and Citizenship

Re: Statement for the Record; Subcommittee Hearing: *Why Don't They Just Get in Line?*
Barriers to Legal Immigration

Dear Chairperson Lofgren and Vice Chairperson Neguse:

I submit this letter for the record in connection with the April 28, 2021 Subcommittee hearing titled: *Why Don't They Just Get in Line? Barriers to Legal Immigration*. Thank you for holding today's hearing and bringing attention to the critical need to fix our nation's broken immigration system.

Most people think that marriage to a United States citizen means that you automatically have the right to reside legally in the United States, but that is not always the case. The truth is that outdated immigration laws force thousands of families like mine to live apart. My family can be reunited with a simple, targeted change to immigration law; a solution that has been supported in the past by both Republicans and Democrats. I sincerely hope that this hearing will prompt swift action from Congress to pass *The American Families United Act*. This bill would protect the rights and interests of U.S. citizens in our immigration system, and provide the Attorney General and the Department of Homeland Security Secretary discretion to allow certain individuals to be reunited in the United States. I thank Congresswoman Escobar for her long-standing leadership on this issue.

I am a 20 year member of the International Brotherhood of Teamsters. My wife Cecilia and I met in 2004 through mutual friends. As I got to know her, I was completely smitten with her smile and her laugh, but she wouldn't go out with me because of her immigration status. Finally, our friend told me that Cecilia was undocumented. She had crossed the border illegally in 1997, returned to Mexico after becoming homesick and then came back to the United States in 2000. Border Patrol caught her crossing illegally twice. But, during her years living in the United States, she worked hard to earn a living and was careful not to break any laws; she never got so much as a traffic ticket. I told Cecilia that I didn't care about her immigration status. We got to know each other, fell in love, got married, was blessed with our son, Ashton, and welcomed him into our family. Cecilia became a stay-at-home mom. We were happy and lived our life like any other family.

Several years after our marriage, we decided it was time to make things right and pursue legal residency and citizenship for Cecilia. We hired an immigration attorney but received terrible

Jason Rochester Statement for the Record
 April 28, 2021
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advice. Our lawyer told us “If Cecilia is ever deported, I can have her back in the United States in six months.” This was a lie. He had advised us to get a work permit for Cecilia. In doing so, this put her in the immigration system. For three years we had to report for annual check-ins.

During this whole time our lawyer never told us that Cecilia had a permanent bar. Then came 2016. Soon after the election, former President Trump signed an executive order directing ICE agents to arrest and deport as many of the 11 million undocumented people in the country as possible. Cecilia began to live in fear of taking Ashton to the park or going shopping for groceries. This fear became so severe that we decided she should self deport while at her 2017 immigration appointment, with the false hope that she would be able to return within six months to a year. So, after being allowed to spend Christmas and New Year’s together, we all flew to Mexico as a family to help Cecilia settle in and say our goodbyes. My son and I returned to Georgia without Cecilia. I was sad but hopeful this would be a short separation.

Soon after my wife returned to Mexico, Ashton was diagnosed with kidney cancer. Cecilia applied for humanitarian parole to be with Ashton during his surgery and treatment, but our request was denied. It was a nightmare. I had to watch my son go through surgery and chemotherapy treatment without his mommy. Cecilia was alone in Mexico and terrified for Ashton.

I have put every effort into reuniting my family, but when I checked on the progress of our case, I was told that due to Cecilia’s earlier illegal border crossings she was permanently barred from even trying to return to the United States. Depending on individual circumstances, other American citizens have spouses with bans with a range of three years to lifetime. In my wife’s case, after ten years, I can try to sponsor her return. There is no guarantee of approval.

Over one million people in the United States are married to undocumented individuals. Traditionally, marriage to a U.S. citizen usually resulted in approval for permanent residency, but that changed in 1996 when Congress enacted the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), commonly referred to as “Ira-Ira”. This act was an effort to address the growing undocumented immigrant population and it increased penalties for immigrants who violated U.S. law in some way. It had many dire consequences for U.S. citizen families. Deportations were “fast-tracked,” discretion was taken away from immigration judges, and due process was eliminated from the majority of removal cases. Legal status became a much harder goal to achieve regardless of familial ties to U.S. citizens. It was also in this act that we saw the birth of the 3 and 10-year inadmissibility bars.

Ashton misses his mommy desperately. I miss my wife desperately. Cecilia wanted to come out of the shadows as an undocumented immigrant and tried to pursue legal residency with the help of an immigration attorney. In this case, trying to do the right thing may have resulted in our family being permanently split between two countries. Sometimes we wish we had not tried to

Jason Rochester Statement for the Record
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remedy the situation, that we had just gone on hiding her status, so at least our family would still be together.

I am a Christian, and believe God will bring my family back together. Until then, we will use FaceTime and Skype to communicate and have family visits in Mexico whenever possible. I will continue to support two households in two countries, but will never stop looking for avenues to change the law because I have no other choice. Cecilia and I share a deep love for each other and Ashton. We believe we belong together as an American family.

I don't believe that what has happened to my family is what Congress or the American people intend or want from our nation's immigration system. The system is broken and it's hurting families like mine. We have a rare and powerful opportunity in this moment to finally address our nation's outdated and inhumane immigration laws. I believe and hope that this hearing will be a critical step toward Congress taking action to reunite families like mine by passing the *American Families United Act* this year.

Sincerely,

Jason Rochester

115 Roswell Green Ln
Roswell, GA
30075
Phone: (770) 639-4557
Email: jesus-is@att.net

Testimony of Maz Rostamian
Founding Member - Director of

All Of Us

Supallofus.Org

FOR THE HEARING

"Why Don't They Just Get in Line?
Barriers to Legal Immigration"

PRESENTED TO THE

Subcommittee on
Immigration and
Citizenship

COMMITTEE ON THE JUDICIARY
OF THE

UNITED STATES HOUSE OF REPRESENTATIVES

April 28, 2021

My name is Maz Rostamian. I am a founding member and the director of outreach All of Us, a grassroots organization with roughly 5,000 members who hope and expect that because of our skills, we will get green cards to live as legal permanent residents in the United States - and eventually, to become citizens of the greatest country in the world.

Our members are from more than 60 countries: Armenia, Australia, Bolivia, Brazil, Belarus, Canada, China, Columbia, Croatia, Cyprus, Philippines, France, Germany, Greece, Guatemala, India, Indonesia, Iraq, Ireland, Italy, Iran, Israel, Japan, Kazakhstan, Malaysia, Mexico, Morocco, Nepal, Nigeria, Pakistan, Taiwan, and others.

We study at MIT, Stanford, Rensselaer, University of Texas at Austin, Penn State, Cornell, University of Notre Dame, Carnegie Mellon, Clemson, Indiana University, Pitt, Cleveland Clinic, Johns Hopkins, Brandeis, Virginia Tech, Duke, LSU, the University of Illinois, West Virginia University and many others.

Our professional fields include medical and scientific research (chemistry, computer science, physics, neurology, climate change, marketing science, and artificial intelligence, among others).

Yet we face an obstacle that only the Congress can clear: there are not enough green cards.

I am typical of All of Us membership - I have a Ph.D. in Mechanical Engineering with experience as a Multibody Dynamics Engineer. My specialty is in Virtual

Prototyping of Mechanical Systems with aerospace and automotive applications.

Nearly all of our members are scientific and medical researchers, as you see from the attached document.

Our work saves lives and creates jobs.

All of Us supports the US Citizenship Act of 2021, introduced in the House by Congresswoman Loretta Sanchez, and in the Senate by Senator Robert Menendez, and proposed by President Biden.

This bill has many parts reforming the entire broken immigration. No matter what, we urge that you move forward the provisions that increase green cards to eliminate backlogs and deliver to the current demand.

We ask this Committee to be very clear: the backlog for employment-based green cards is a not enough problem. So the answer is equally clear: we need more green cards.

As CRS has documented, the mostly Indian H-1Bs who are stuck in the backlog have a legitimate grievance. No one should have to wait 10 years for an employment-based green card

It's just arithmetic: the only way to solve that is more green cards.

"This analysis projects that, by FY2030, the EB1 backlog would grow from an estimated 119,732 individuals to an estimated 268,246 individuals; the EB2 backlog, from 627,448 individuals to 1,471,360 individuals; and the EB3 backlog, from 168,317 individuals to 456,190 individuals. In sum, the total backlog for all three employment-based categories would increase from an estimated 915,497 individuals currently to an estimated 2,195,795 by FY2030." [Page 15]

Zero sum can't even solve the problem for Indians in the backlog: of the 2.2 million CRS calculated who will be waiting in 2030, roughly 150,000 are people born in India who are already waiting today - who will still be waiting ten years from now.

<https://crsreports.congress.gov/product/pdf/R/R46291>

So the backlog itself will have more than doubled. What's now a 10 year wait for one source country will become a 17 year wait for all source countries. A system that now doesn't work for Indians (and some Chinese) won't work for anybody.

When your hair is on fire, don't reach for a hammer to put it out.

The Biden/Menendez/Sanchez bill solves the employment-based immigration backlog the only way it can be solved: with more green cards. It also repeals the so-called "per country cap", which of course is not a cap at all: people born in India have gotten as much as five times the ostensible "cap".

We urge this Committee to look down the road on what some call merit-based immigration issues. It is true that because of COVID, by the end of this fiscal year, roughly a quarter million family based green cards will have been reallocated to the employment-based categories. This has been a substantial relief to many in the backlog.

Yet like the Titanic approaching the iceberg, the signs must not be ignored: one professional society surveyed its foreign graduate students and found that nearly 90% might simply leave the US and never return, if they were burdened with the delays that now afflict those born in India, and some from China.

<https://www.aps.org/policy/analysis/upload/Building-America-STEM-workforce.pdf>

Critical health care professionals like nurses and doctors also urgently need a supply of green cards. Let's be blunt: without enough nurses and doctors in this pandemic, people will die.

Just consider the space program. Varmi Verma, chief engineer for robotic operations for the Perseverance rover now exploring Mars told the Wall Street Journal: "She reels off a list of colleagues' countries of origin: "Greece, Russia, India, Costa Rica, Cambodia, Mexico"—she pauses, then continues—"Argentina, France, Italy, the U.K., Colombia. It's almost every place I can think of."

<https://www.wsj.com/articles/the-american-dream-is-alive-on-mars-11614370446>

All of those professionals who seek green cards would be indefinitely cut off by zero sum legislation.

Surely this Committee doesn't want to indefinitely exclude virtually all professions - except IT - and 190+ source countries from employment-based green cards, when MORE is the obvious solution. That would seriously damage higher education, the space program, and America's technological lead in dozens of fields. Please don't do it.

All of Us believes that America is not a zero sum nation. We do not believe that the only way for anyone to benefit is to make someone else suffer.

We urge this Committee to support the Biden/Menendez/Sanchez legislation to not only deliver green cards to everyone now in the employment-based backlog, but also to provide enough green cards so that, as CRS warned, we don't double the backlog in the next ten years.

Thank you for your consideration.

Attachment

**Sample quotes from letters by the
All of Us Ad Hoc Committee on Medical and Scientific
Research**

Universities: MIT, Stanford, Rensselaer, University of Texas at Austin, Penn State, Cornell, University of Notre Dame, Carnegie Mellon, Clemson, Indiana University, Pitt, Cleveland Clinic, Johns Hopkins, Brandeis, Virginia Tech, Duke, LSU, the University of Illinois, West Virginia University and many others.

Fields: Medical and scientific research (chemistry, computer science, physics, neurology, climate change, marketing science, artificial intelligence).

"I am Rui Yan. I hold a Ph.D. degree in Computer Science from Rensselaer Polytechnic Institute. Currently, I am a data scientist at Microsoft.

The goal of my research work is to enable reasoning over streaming data in a more efficient way. Stream reasoning is more challenging than stream processing, as it requires to perform logical reasoning over the streaming data, which imposes much more computational complexity but still have to be finished within a fast time period just like how stream processing does. Generally, I solved this problem by introducing a novel conceptual model called "semantic importance" that is used to model the importance of the streaming data, empowering the stream reasoning system to smartly pick and keep important data for reasoning and query answering. My work helps pushing forward the boundary of stream information extraction and works as an efficient algorithm to analyze streaming data, ultimately helps improve the society, economy and people.

I am from China, there are many talented and high-educated foreign nationals in Microsoft just like me. Holding a Ph.D. degree in computer science from a top

school doesn't mean I secure my green card. In fact, I didn't even win the H1B lottery 2 times in a row, because of the current H1B abuse situation. If you look at the data, you will easily get the point that the pending S386 doesn't help at all..."

"My name is Ali Abavisani. I hold an undergraduate degree and a master's degree in Electrical Engineering, and I hold a second master's degree in Electrical and Computer Engineering from Northeastern University, Boston, MA, and I am a PhD candidate in Electrical and Computer Engineering at University of Illinois at Urbana-Champaign... Our research lab is focused on addressing shortcomings of current hearing aid technology in order to devise a strategy for hearing aid amplification process, to enhance the speech perception for people with hearing loss... (with) scientists from Switzerland, Iran, and South Korea. "

"I am Jin Ikeda, born in Japan. I attained a Ph.D. degree in Civil Engineering from the University of Texas at San Antonio. Currently, I am a postdoctoral researcher at the Center for Coastal Resiliency at Louisiana State University... to accurately estimate climate change effects on future hurricane storm surges and compound flooding (flush and coastal flooding) in the Gulf of Mexico region. We have been developing the storm surge models and try to provide adequate tools to decision-makers to mitigate storm damages. Our work helps people."

"My name is Mario Jabra. I am 22 years old and a Lebanese citizen. I hold an undergraduate and Master's degree in Chemical Engineering and currently, I am in my 3rd year Ph.D. in Chemical Engineering at the Pennsylvania State University.

Our lab works along with Biopharmaceutical companies in order to study and optimize the production of therapeutics. We focus mainly on the production of monoclonal antibodies which is used for immunotherapies and DNA/RNA production and modification using CRISPR Cas9 which are mainly used in gene therapy... Our lab includes scientists from Iran, Italy, Lebanon and Mexico."

"I am I Huang. I hold an undergraduate degree in Computer Science and Information Engineering from National Taiwan University and a Master degree in Computer Science from Cornell University. Currently, I am a Software Engineer in Cloud Infrastructure team at Oracle, California.

In Oracle Cloud Infrastructure, my team is engaged in groundbreaking research designed network architecture for Public Cloud/On-Premise Cloud and also provide concrete networking service such as Fast Connect or Virtual Cloud Network or Load Balancing for enterprise customers in the world include some U.S Government ... Our team includes engineers from Taiwan, Hong Kong, Romania and U.S. "

"I am Abolfazl Hashemi... a Graduate Research Assistant and a PhD candidate at the Department of Electrical and Computer Engineering at the University of Texas at Austin.

Our lab is engaged in designing novel methodologies for the next-generation of intelligent and data-driven systems with applications in bioinformatics, wireless communications, and connected autonomous cars. Our research is funded by grants from the National Science Foundation and other federal institutes. Our research further helps to creates jobs. America's technological superiority includes producing knowledge in the engineering field, which is vital to continuing America's economic growth. S. 386, still

pending in the Senate, threatens the US superiority in many industries.

Our research group includes scientists from Iran, China, Columbia, and India."

"I am Yun Wang I got my master's degree and PhD degree in Compute Science from Carnegie Mellon University. Currently, I am a research scientist at Facebook.

My research team is engaged in frontline research in artificial intelligence (AI) for audio and video understanding. We work on tasks such as speech recognition and event detection in videos. These technologies can enable machines to understand the content of multimedia content people share on the web, and improve the searching and recommendation of such content. For example, with these technologies, users will be able to search for a video they uploaded years ago when they first visited the Yellowstone National Park and saw a bison. They can also get videos recommended to them in which cats play with dogs. In a word, our research help people search for and digest multimedia information more easily and efficiently... America's technological superiority includes artificial intelligence, which is vital to our future. S. 386, still pending in the Senate, threatens American superiority in AI research.

My research team includes scientists from China, Vietnam, Armenia, Romania, and Germany. "

"My name is Atiye Ahmadireskety. I am an Analytical Chemist. Currently, I am working on my second PhD. (August 2017-onwards) at the Department of Chemistry, University of Florida, Gainesville, Fl. Research in my group centers around applications of mass spectrometry as a powerful analytical tool in clinical, pharmacological, biotechnological, environmental, petrochemical, and forensic analysis... we

are trying to find a way to evaluate and identify early EC [Endometrial Cancer] diagnosis and prognosis without the need for a biopsy. I have accumulated significant amount of experience and knowledge in my eight years of research carrier (which is continuing) to help people, especially women....Our lab includes scientists from Brazil, Canada, China, Iran, and the Netherlands."

"My name is Mozghan Rahimi Boldaji and I hold a Ph.D. degree in Mechanical Engineering from Stony Brook University. Currently, I am a postdoctoral researcher at the Department of Automotive Engineering at Clemson University.

I work on design and development of new generations of Internal Combustion (IC) engine that have higher efficiency and lower harmful pollutant emissions compared to conventional engines. My research work has an extremely broad impact..."

"I am Laya Shamgah and hold an undergraduate degree, a master's degree, and a PhD in Electrical Engineering - control systems. ... My previous research, funded by Air Force Research Laboratory, has been toward development of algorithms for automatically, immediately, and correctly design paths for robots to win a battle in a highly dynamic adversarial environment. The project has been very successful that brought back several other research projects to the lab from TRMC, DoD, and other related organizations. We help US.

That is most important, but I feel I should add that it also creates jobs. America's technological superiority includes robotics, which is vital to our economic future. S. 386, still pending in the Senate, threatens American superiority in robotics research.

Our lab includes scientists from all over the world, including Ethiopia, Iran, Bangladesh, and China. .."

"I am Ali Pakzad. I hold an undergraduate degree in Mathematics, a master's degree in MBA finance, and a Ph.D. degree in Mathematics from University of Pittsburgh. Currently, I am a Zorn postdoctoral fellow at Indiana University, Department of Mathematics.

I am a computational fluid dynamicist studying the accuracy of turbulence models using a combination of computation and modern applied mathematics. My research involves modeling hurricanes... damage of the 2017 Atlantic hurricane estimated to be \$300 billion (USD), with over 3,300 deaths. If the hurricane could be predicted more precisely, many of those 3,300 persons could be alive today.

...Our department includes mathematicians from Italy, France, Poland, Iran, Russia, Hong Kong and Armenia."

"I am Nazmin Bithi. I hold an undergraduate degree in Pharmacy. Currently, I am a PhD student at the Department of Cardiovascular and Metabolic sciences at Cleveland Clinic.

Our lab is engaged in groundbreaking research designed to impact the course of diseases Glioblastoma (4th stage of human brain tumor), longevity associated diseases like Alzheimer's, Parkinson's. We are currently involved in number of projects using dietary restriction mediated endogenous H₂S to increase the resistance of longevity associated neurodegenerative diseases and sensitivity against Glioblastoma cell proliferation. Our works will ultimately use to help patients and uncover to the novel way of longevity... Our lab includes scientists from Bangladesh, Japan, China. "

"I am Ali Rashidi. I hold my medical doctor (M.D) degree from Hormozgan University of Medical Sciences

and Currently, I am a postdoctoral researcher at the Department of Radiology at Johns Hopkins University School of Medicine.

Our lab is engaged in groundbreaking research designed to impact the techniques of magnetic resonance imaging (MRI) in patients. We are currently involved in a number of projects to improve the imaging quality of patients with a metal implant, which always was a problem of using MRI in these patients. In addition, other projects of our lab have defined with the focus of decreasing the time of MRI which would be a great help for people with claustrophobia and an important factor for the cost-effectiveness of MRI for companies who are using MRI machine....

Our lab includes scientists from Brazil and Iran. "

"My name is S.Ali Aghvami. I'm PhD Candidate in physics at Brandeis university. I'm research assistant at Fraden lab studying soft matter and biological Physics. In my National Science Foundation funded research, I study biomaterials such as biopolymers and DNA and in collaboration with DNA origami labs in Germany, we are developing self-assembling DNA origami capsids that assemble around cargo which can be used as drug delivery vesicles in cancer therapy methods.

Our lab is also involved in method development for biological research. In 2017, I developed a rapid method for fabrication of microfluidic chips with wide range of applications in academia and industry. Two Massachusetts based companies, CamMed, Luminova, have already started working with the proposed method and I have been giving consultations to them for developing microfluidic chips for two medical devices. We recently got a \$250,000 PFI-TT award from National Science Foundation to partner with Industrial section and commercialize this microfluidic chip for use in pharma companies. We have a pending patent on this product and

I've had the plan to continue the product development through my own startup, which does not seem like a clear path, if S386 is passed by Senate.

I'm part of Brandeis Material Research Science and Engineering MRSEC Bioinspired Materials, where physicists, biologists, biochemists and chemists from US, Japan, Iran, China, France, Turkey and other countries... "

"I am Pouria Salehi Nowbandegani, a fourth-year Ph.D. student of mathematics at Vanderbilt University, Nashville TN. Prior to Vanderbilt, Prior to Vanderbilt, I got my masters degree from Georgia Southern University, Statesboro GA. Before that, I obtained dual major bachelor degrees in Pure Mathematics and Computer Science.

My primary research area is graph theory. Over the last decade, I have published more than 25 papers in top peer-reviewed journals and I have solved several problems which had stayed unsolved for many years. Graph theory is a field of mathematics which has several applications from chemistry and pharmacology to computer science, data science, and telecommunication in addition to its theoretical value. In general, graph theory forms the fundamentals of analysis of any big data. The United States has been the top country in all of these areas, for instance, the United States is the leading chemical industries, telecommunication technologies or pharmacology which make billions of dollars of GNP.

In our department, there are mathematicians from the United States, France, Iran, Australia, China, Nepal, Ukraine ..."

"My name is Armin Yeganeh... I am a graduate research assistant at Virginia Center for Housing Research and a

Ph.D. student in Environmental Design and Planning at Virginia Tech. I have three master's degrees ..."

"My name is Aghil Abed Zadeh I have received a Ph.D. degree in physics from Duke University. Currently, I am a postdoctoral researcher at the Department of Neurobiology at Duke University School of Medicine.

In our lab, we use groundbreaking theoretical and computational models of brain systems to investigate how they process and learn information from their inputs. We investigate several brain mechanisms such as learning and memory in collaboration with various experimental groups. My project focuses on striatum in the midbrain which is central to several behaviors and its dysfunction is implicated in numerous diseases with major societal burden (i.e. Parkinson's disease, Huntington's disease, addiction, compulsion) and of great importance in United States...Our lab includes scientists from Italy, Iran, India and Ukraine."

"My name is Sajad Modaresi. I received my Ph.D. in Operations management from the Fuqua School of Business at Duke University I obtained my Master of Science degree in Industrial Engineering from the University of Pittsburgh and my Bachelor of Science in Industrial Engineering from Sharif University of Technology. Currently, I am an Assistant Professor of Operations at the Kenan-Flagler Business School at the University of North Carolina at Chapel Hill (UNC-CH). My research mainly focuses on data-driven approaches to decision-making under uncertainty. I use analytical modeling and statistical and machine-learning tools to provide insights into operational decision problems and design implementable solutions... sales from 3.8 million retailers within the United States surpassed \$2.6 trillion in 2016, with the industry employing nearly 29 million individuals that year. In addition to retail industry sales being

projected to rise 3.4% on an annual basis, e-commerce sales are estimated to rise by 7 to 10% each year. Given that I conduct research in support of improved e-commerce retail services, including online personalization and return policies, it is evident that my work benefits U.S. economic interests... My department in the Kenan-Flagler Business School includes researchers and scholars from U.S., Iran, Turkey, China, Canada, and India. "

" I am Alireza Fali. I hold an undergraduate degree in Optics and Laser Engineering, and my master's degree in Photonics, and currently I am a fourth year Ph.D. student at University of Georgia... Our lab is engaged in groundbreaking research in Nano optics science. We are currently involved in a number of projects studying interaction of light and matter in nano scale which we are publishing in very high prestigious journals such as nature publications. My research is supported by NSF and Airforce funding and it opens the development of new nanotechnologies using new materials. By modifying materials such as black phosphorus, or by changing the metasurface structures of various materials, it allows for the creation of more reliable solar panels and data transmission hardware. These advanced technologies reduce reliance on fossil fuels and establish the infrastructure for quantum computing... Our lab includes scientists from Bangladesh, Iran, and Nepal."

Written Statement of Ramon Canaba, Jr.
Retired Supervisory Immigration Enforcement Agent, U.S. Immigration and Customs Enforcement

U.S. House of Representatives Committee on the Judiciary
Subcommittee on Immigration and Citizenship
Hearing "Why Don't They Just Get in Line?" Barriers to Legal Immigration"

April 28, 2021

Thank you Subcommittee Chairwoman Zoe Lofgren (D-CA), Ranking Member Tom McClintock (R-CA), and members of the House Judiciary Committee Subcommittee on Immigration and Citizenship for this opportunity to submit this written statement in support of the American Families United Act, which would address barriers to legal immigration for spouses and children of U.S. citizens. I would especially like to thank my Congresswoman, Representative Veronica Escobar, for introducing this bill.

My name is Ramon Canaba, Jr. I'm a retired SIEA (Supervisory Immigration Enforcement Agent), Immigration and Customs Enforcement. I started with Border Patrol and retired with ICE at the mandatory retirement age of 57 years. I served for 31 years in total and was detailed to many branches of the service. My duties included processing immigrant visas, processing refugees/asylum applicants, inspections, supporting prosecutions, processing detentions, and carrying out removals. I was also an immigration law instructor at the Academy in Glynco, Georgia.

With the Patrol, I witnessed that immigration laws are very tough and have teeth, but most situations allow for waivers. I often encountered two broad waivers at our ports of entry: the I-212 (d)(4)(a) waiver of entry documents, which applies to humanitarian, public interest, and business applicants that are entering the US for business-related or special purposes; and the I-212 (d)(5)(a), which applies to criminal proceedings.

Immigration law should allow the immigration service to apply this principle to every case that presents itself, including when petitioning/applying for a spouse or children of a US citizen. The limited waivers available in these cases are granted in cases of "extreme hardship," but in my experience, the process is so difficult for a US citizen that the financial and emotional toll cause the very hardship that the process is meant to evaluate. US citizens cannot even live together while their applicant spouse gathers the required documents supporting the issue at hand.

Other times, applications for the spouse or child of a US citizen are denied without recourse to a waiver. I have seen good people, including those working for federally supported programs, forced to relocate to the other side of the border, where they and their families become targets for drug cartels. I place myself in their shoes and think about the anguish and hardship they have to go through each and every day, just because our laws do not support their need to live with their families in the United States of America.

My opinion on the *American Families United Act* is very strong. I believe that each and every case should be closely reviewed by immigration officers. Quality inspectors should have the leeway to review the application at hand. Adjudicators should be able to weigh the facts in favor of approval/disapproval and make decisions as soon as possible. Congress needs to consider that these applicants have very little resources, have commitments with their employers, and very little time to see the process through.

Thank you for letting me share my thoughts and input on this important bill. I urge Congress and the President to pass it into law.

Yours in Service,

Ray Canaba

Ms. LOFGREN. Without objection, that will be done. This concludes today's hearing. I would like to thank, once again, our panel of Witnesses for participating in this hearing. You have helped advance our understanding of this complex issue. Without objection, as I said, all Members will have 5 legislative days to submit additional written material or questions for the Witnesses. Unless there is an objection, this hearing is now adjourned.

[Whereupon, at 4:07 p.m., the Subcommittee was adjourned.]

APPENDIX

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| <p>President Aniyan George 908 337 1289 General Secretary T. Unnikrishnan 813 334 0123 Treasurer Thomas T. Oommen 631 796 0064 Vice President Pradeep Nair Jl. Secretary Jose Manakatt Jl. Treasurer Biju Thonikadavil</p> <p>Regional Vice Presidents Sujanam T. Puthumpurayil Bino Thomas Shoby Issac Baiju Varghese Thomas Jose Biju Joseph Philip Mathew Benoy Elias John Pattapathy Dr. Sam Joseph Jose Vadakara Biju Kattathara</p> <p>National Committee Girish Potti Geevarghese KG Dincil George James Mathew Sunny Kalloppara Jose Mathiyil Manoj Varghese Anu Skariah Anil Nair Madhusoodana Nambiar James Joy Kallarakaniyil Prakash Joseph Biju Antony Binoob Sreedharan Saijan Kaniyodikal Bijoe James Kariapuram Johnson Kannukadan Anto Kavalakal Mathews Mundakal Sam Mathai Joseph Ouso Dr. Prince Nechikat Biju Mathews</p> <p>PBO Mohammed Salim</p> <p>Women's Representatives Juby Vallikalam Jasmine Parol Shiny Aboobacker</p> <p>Youth Representatives Calvin Kavalackal Kuruvilla James Masood Al Ansar</p> <p>Advisory Board Chairperson John C. Varghese</p> <p>Ex Office Philip Chamathil Shinu Joseph</p> |  <p>FEDERATION OF MALAYALEE ASSOCIATIONS OF AMERICAS Non-Profit Organization 501 (C) (3) 390 New Brunswick Ave, Fords, New Jersey 08863 www.fomaa.org Email: info@fomaa.org</p> | <p style="text-align: right;">5/3/2021</p> <p>To: Chair Zoe Lofgren House Committee on the Judiciary Subcommittee on Immigration and Citizenship Washington, DC 20515</p> <p>Ranking Member Tom McClintock House Committee on the Judiciary Subcommittee on Immigration and Citizenship Washington, DC 20515</p> <p>Subject: Appealing your support for Legal Immigrants and their families</p> <p>Dear Chair Lofgren & Ranking Member McClintock,</p> <p>We write on behalf of the Federation of Malayalee Associations of America (FOMAA) the Indian diaspora community organization that represents 700000 + people across the country. FOMAA is the federal umbrella organization possessing affiliation from 75 member organizations based in major Cities in the USA. L.I.F.e (Legal Immigrants Federation) is the legitimate immigration advocacy initiative of FOMAA favoring the welfare of our highly skilled immigrants of our nation. Our community strength comprises of professionals immigrated to USA on employer based sponsorships in the academic disciplines of Doctors, Educators, Nurses, Lawyers, Engineers, Pharmacists and IT professionals.</p> <p>The burning backlog disparity injustice occurring to the legitimate and licit immigrants is not just an Indian diaspora issue, but is adversely impacting the families from large population Nations specifically in Employment Based visa categories with approved Green Card status. The very perspective being approved in previous congress with historic bipartisan majority (HR.1044/S.386) amplifies the relevance and criticality of the subject. Prayerfully hope the Nation to which we gave and spent our youthful years and resources will do the needful in retaining the talents and skills, rather than losing them to competing nations. We would like to emphasize on specifics concerns that our community is currently going through, due to the alarming wait time of Green Card processing.</p> <ul style="list-style-type: none"> • Primary Applicant - Inability to take any promotions in career, change jobs or start their own business, despite doing all possible correctly towards the American economy are imperiled and indentured with systemic injustice. • Children - They are otherwise called "Documented Dreamers" legally accompanied H1B parents into America, at 21 years are helplessly ageing-out because of parents backlogged GC application; imperiled with self-deportation at prime-youth, education discontinued etc. • Spouses - Long processing time for H4 EAD currently is putting their business at risk and forced unemployment for those in jobs or inability to apply for new jobs. • Investment - Can't achieve American dream of buying house or other investments. • Travel - Visa 'stamping' requirements restrict families to travel to their home country even during emergency situations, funerals etc. <p>We appeal your good offices to recognize these desperate concerns and provide an immediate solution and pathway for Legal Immigrants and their families. Again, on behalf of FOMAA L.I.F.e, we appeal your goodwill enabling affirmative impacts in the lives of our community who took the correct, legitimate, and documented measures immigrating to The United States of America.</p> <p>Sincere regards, Aniyan George (President, FOMAA)</p> <p style="text-align: right;">Sam Anto (Chairman, FOMAA L.I.F.e)</p> |
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Written testimony of the International Medical Graduate Taskforce
 Before the House Judiciary Committee's Subcommittee on Immigration and Citizenship
 "Why Don't They Just Get in Line?: Barriers to Legal Immigration"

April 28, 2021

Introduction

Chairwoman Lofgren, Ranking Member McClintock, and members of the subcommittee, thank you for providing the opportunity to submit written testimony regarding the barriers to legal immigration that currently exist within our immigration system.

The International Medical Graduate (IMG) Taskforce is comprised of legal professionals dedicated to helping Americans in rural and other physician-shortage areas obtain the basic medical services they so desperately need and deserve. Our members represent universities, teaching hospitals, medical centers, clinics of all sizes, and the physicians seeking to work in these shortage areas. We advise physicians when they are undergoing their graduate medical education, help them obtain lawful nonimmigrant status so they may commence their careers, and ultimately assist them in attaining lawful permanent resident status and citizenship.

Through this work, our membership has seen how the immigration system burdens these physicians and their employers, which hurts the medically underserved communities in which the physicians wish to work. The United States is facing a growing physician shortage that has only gotten worse due to the ongoing pandemic. The Association of American Medical Colleges projected that there will be a total physician shortage of between 54,100 and 139,000 physicians by 2033.¹ Yet, instead of working to attract foreign physicians from abroad to help alleviate this shortage, our immigration system actively disincentivizes the hiring and long-term retention of such physicians. Below, we will outline the difficulties the current system poses for physicians.

Barriers for foreign physicians

Training and post-training employment

Foreign medical graduates make up approximately 24.7% of the population of those obtaining graduate medical education in the United States.² Generally, they complete their residency and/or fellowship training in either H-1B or J-1 status. About 20% of trainees are in H-1B status and 80% train in J-1 status.³

When training in H-1B status, trainees must be paid at or above the prevailing wage for physicians in their specialty in their area. The prevailing wage levels determined by the Department of Labor are often far higher than standard wages paid to residents and fellows

¹ *The Complexities of Physician Supply and Demand: Projections From 2018 to 2033*, ASSOCIATION OF AMERICAN MEDICAL COLLEGES 3 (June 2020), <https://www.aamc.org/media/45976/download>.

² *Physician Specialty Data Report: Active Physicians Who Are International Medical Graduates (IMGs) by Specialty, 2019*, ASSOCIATION OF AMERICAN MEDICAL COLLEGES (2020), <https://www.aamc.org/data-reports/workforce/interactive-data/active-physicians-who-are-international-medical-graduates-imgs-specialty-2019>.

³ Greg Siskind and Elissa Taub, *ABCs of Immigration: J-1 Visas for Graduate Medical Training*, SISKIND SUSSEX PC (Dec. 2, 2019), <https://www.visalaw.com/abcs-immigration-j-1-visas-graduate-medical-training/>.

because there is no “trainee physician” wage category. As such, training programs often must use private wage surveys, which can trigger Requests For Evidence (“RFEs”) from U.S. Citizenship and Immigration Services (“USCIS”). Additionally, the H-1B status has a six year time limit, unless an employment-based permanent residence case has been commenced on the H-1B worker’s behalf. As training positions are temporary, this is not feasible for H-1B trainees and they will need alternative non-immigrant status to work in the United States if they pursue specialty training in H-1B status.

Physicians pursuing training in J-1 status become subject to Section 212(e) of the Immigration and Nationality Act (“INA”). This requires them to return to their home country for a minimum of two years before they may change to H or L status in the United States, obtain an H or L visa, or obtain lawful permanent residence. Physicians may waive this requirement by 1) agreeing to work for three years in a Health Professional Shortage Area or Medically Underserved Area or in a Veterans Affairs facility, 2) demonstrating that they will be persecuted if they return to their home country, or 3) showing that their U.S. citizen family member(s) will experience extreme and unusual hardship if they are forced to fulfill the two year home residency requirement. Most physicians choose the first option and pursue a J-1 waiver through either an Interested Government Agency (“IGA”), such as the Appalachian Regional Commission (“ARC”), the Delta Regional Authority (“DRA”), and the U.S. Department of Health and Human Services (“HHS”), or through a state department of health participating in the Conrad State 30 waiver program (“Conrad Waiver”).

IGA waivers are limited to specific regions, areas, and/or specialization. The Conrad Waiver program currently only allows 30 waivers per state or territory (DC, Guam, and Puerto Rico are all eligible for this program), meaning there are a maximum of 1,590 waiver slots in any given year. In 2020, there were 12,506 foreign medical graduates training in J-1 status.⁴ As such, there are an insufficient number of waiver slots for all J-1 trainees, and many of them will need to return to their home countries, where they may choose to remain, rather than attempting to return to the United States after completing their two year home residency requirement.

Foreign physicians who obtain J-1 waivers become personally exempt from the annual numerical limitation or cap on H-1Bs, but those who train in H-1B status or fulfill the two year home residency requirement are not exempt from the cap, and must either find cap-exempt employers to sponsor them or go through the annual H-1B lottery to secure H-1B status. Some of the facilities that might be considered the most deserving of an H-1B cap exemption - those in physician shortage areas, those serving vulnerable populations, etc. - often do not qualify as H-1B cap exempt. This again limits how many American-trained physicians can actually work in the United States following their training and often is not serving the interests of the American public.

Permanent residence

The two most common paths to permanent residency for physicians are through the PERM Labor Certification process (“PERM”) or the Physician National Interest Waiver petition (“PNIW”). For physicians completing a J-1 waiver commitment, either process can be commenced while the physician is within the three year commitment period.

⁴ ECFMG J-1 Sponsorship: Number of Exchange Visitor Physicians Sponsored 2010–2020 Calendar Years, ECFMG (Jan. 13, 2021), <https://www.ecfm.org/resources/2020-EVSP-Data-Sponsored.pdf>.

With a PERM, the employer must demonstrate through an extensive recruitment process that no able, qualified, or willing US worker is available to take the position. Once the advertisements have been placed for the required time and any applicants are properly vetted for the offered position, the PERM application is filed with the Department of Labor ("DOL"). Once the PERM is certified, a Form I-140, Immigrant Petition for Alien Worker can be filed with USCIS. The I-140 establishes the baseline for why an individual is eligible to file a green card, but the I-140 is only one part of the process. The second part of the green card application, Form I-485, Application to Register Permanent Residence or Adjust Status, can be filed with USCIS following the end of the three year J-1 waiver commitment (if applicable), as soon as the individual is eligible to apply for a green card.

With a PNIW, the physician must agree to work for a minimum of 40 hours per week in a medically underserved area for a total of five years. To obtain a PNIW, physicians first must obtain a letter of support from an IGA or the state health agency that oversees the state in which the physician will work. They then submit that letter of support to USCIS as part of their I-140 petition. Depending on the country in which they were born, the physician may also concurrently submit their I-485 application with the I-140 petition, but they will not be adjusted to permanent resident status until after their five year commitment is complete.

INA § 202(a)(2) provides that nationals of no one country can receive more than 7% of all green cards issued in a given year. As such, individuals born in countries with large emigrant populations, such as India and China, have to wait several years before they are eligible to apply for a green card. Both of the above-listed pathways are considered within the EB-2 category. Indians in the EB-2 category face immensely long waits for a green card – recent projections place the waiting time at several decades.⁵ While awaiting their green cards, Indian physicians must renew their H-1B status every three years. H-1B sponsors must be able to control the employment of their H-1B employees, making it extremely difficult for H-1B physicians to open their own clinics.

Likewise, H-1B physicians need visas to travel, putting them at risk of administrative processing when they travel abroad. Additionally, the children of H-1B physicians can only maintain dependent status until they turn 21, at which point they must obtain an alternative nonimmigrant status, return to home countries in which they have not lived for a decade or more, or become undocumented. A recent study estimates that there are between 14,710 and 16,189 US-trained Indian physicians currently working in the United States who are awaiting adjustment of status.⁶ Our current immigration system discourages each of these physicians from remaining in the United States and treating the U.S. citizens who need their help the most.

⁵ See, e.g., Stuart Anderson, *Immigration Bill Shows Need To End Employment-Based Immigrant Backlog*, FORBES, Mar 1, 2021, 12:21 PM, <https://www.forbes.com/sites/stuartanderson/2021/03/01/immigration-bill-shows-need-to-end-employment-based-immigrant-backlog/?sh=1bb5a4f1271a>; David J. Bier, *Immigration Wait Times from Quotas Have Doubled: Green Card Backlogs Are Long, Growing, and Inequitable*, CATO INSTITUTE: POLICY ANALYSIS, June 18, 2019, <https://www.cato.org/publications/policy-analysis/immigration-wait-times-quotas-have-doubled-green-card-backlogs-are-long#projected-future-wait-times>.

⁶ Kiran Koushik Nagarajan ET AL., *Prevalence of US-trained International Medical Graduates (IMG) physicians awaiting permanent residency: a quantitative analysis*, 10(6) J CMTY. HOSP. INTERNAL MED. PERSP. 537, (2020).

Conclusion

The COVID-19 pandemic has demonstrated the importance of a robust system of health care providers to the nation's ability to function. We are pleased that the House Judiciary Subcommittee on Immigration and Citizenship is discussing the barriers that prevent foreign-born physicians from being able to easily participate in our healthcare system and provide much-needed health care to our citizens. Several bills have been proposed in this Congress and in previous sessions that would address many of the above-discussed problems, including the U.S. Citizenship Act of 2021, the Healthcare Workforce Revitalization Act, the Fairness for High Skilled Workers Act (116th Congress), and the Conrad State 30 & Physician Access Act (116th Congress). We urge the Members of the Subcommittee to support the reforms proposed in these bills, as they will have an important and positive impact on our ability to attract and retain foreign physicians in the United States to alleviate our physician shortage.



May 4, 2021

The Honorable Zoe Lofgren
Chair, House Committee on the Judiciary, Immigration and Citizenship Subcommittee
2138 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Tom McClintock
Ranking Member, House Committee on the Judiciary, Immigration and Citizenship Subcommittee
2138 Rayburn House Office Building
Washington, D.C. 20515

Subject: Statement for the Record to strengthen and improve the H4-EAD work authorization program for the spouses of high skilled immigrants

Dear Chairwoman Lofgren and Ranking Member McClintock

We offer our heartfelt gratitude and thank you for your leadership to hold the hearing on "Why Don't They Just Get in Line? Barriers to Legal Immigration?"

SaveH4EAD is a group of individuals and nation-wide grassroots volunteers who have worked tirelessly over the years to raise awareness, protect, preserve and strengthen the H-4 EAD program, which offers employment eligibility to the spouses of high skilled immigrants, who are on path to permanent residency, and are often described as "Americans-in-Waiting".

H-4 EAD PROGRAM:

The genesis of the H-4 EAD program lies in the crippling green card backlogs for employment-based immigrants, and those born in India almost entirely bearing the brunt of it due to discriminatory country of origin caps. According to estimates by the nonpartisan Congressional Research Service in a March 2020 report, it would take 195 years to clear the backlog for employment-based immigrants born in India. This wait time is expected to grow to 436 years in 2030.

H-4 EAD (Employment Authorization for H-4 spouses) came into effect on 26th May 2015 through federal rule-making with the intention to "support the retention of highly skilled workers who are on the path to permanent residency".¹ An overwhelming majority (>90%) of H-4 EAD recipients

¹ Federal Register, DHS available at: <https://www.govinfo.gov/content/pkg/FR-2015-02-25/pdf/2015-04042.pdf>



are female, with over 95% of those were born in India. The recipients of H-4 EAD are highly educated, skilled, and work in a wide variety of occupational fields².

H-4 EAD PROCESSING DELAYS

Current Status

Presently, the H-4 EAD program is facing extraordinary processing delays running as high as two years³, while the application (renewals, for example) can only be done six months prior to expiry of an existing EAD. This mathematically guarantees that the recipients of H-4 visa (Spouses of High Skilled Immigrants) and those utilizing Employment Authorization Document for Spouses of High Skilled Immigrants (H-4 EAD) will lose their jobs and be forced to shut down their businesses. Current estimates indicate that over 91,000 H-4 EAD recipients have been impacted by these delays.

This is adversely impacting the lives of hundreds of thousands of families across the United States and is effectively killing the very intent of the H-4 EAD program. Most of the H-4 EAD applicants are highly skilled women of color working in a variety of occupations. Many of them are essential workers, healthcare workers, small business owners⁴, among others. They are suffering severe mental health issues, severe financial issues, unable to pay for mandatory medical expenses, and childcare expenses. Many have reportedly lost their health insurance during this pandemic and are also unable to renew their driver's license because several state DMVs require H-4 approvals to renew driver's licenses.

Key Contributing Factors

1. In March 2019, the USCIS introduced a new process as per the Executive Order 13780 mandating in-person biometrics for H-4 approval⁵.
 - This is a completely new policy requirement which was not in place prior to March 2019 and we view it as wholly unnecessary, as there is no evidence to point to any increased risk factors from the H-4 population.

² USCIS data for 1765 Applicants for H4 non-immigrants available at: https://www.uscis.gov/sites/default/files/document/foia/1765_Applicants_for_Employment_Authorization_for_H-4_Non-Immigrants_by_Gender_for_FY2015-FY2018.pdf

³ <https://www.forbes.com/sites/stuartanderson/2021/02/09/uscis-taking-two-years-to-process-many-applications-for-h-1b-spouses/?sh=6dff0fe63276>

⁴ Brannon, Ike and McGee, M. Kevin, Repealing H-4 Visa Work Authorization: A Cost-Benefit Analysis (April 2, 2019) available at SSRN: <https://ssrn.com/abstract=3349786> or <http://dx.doi.org/10.2139/ssrn.3349786>

⁵ USCIS Policy available at <https://www.uscis.gov/archive/uscis-to-publish-revised-form-i-539-and-new-form-i-539a>



- Additionally, the H-4 population undergoes biometric checks every time during visa stamping at consulates outside the US as well as during entering the US at ports of entry.
 - Furthermore, the H-4 EAD population, by the nature of being in the employment based green card backlogs, are longtime residents of the US and have provided biometrics numerous times over the years.
 - Lastly, the collection of additional biometrics, even though unnecessary and arbitrary in our opinion, has been severely curtailed due to the pandemic related in-person restrictions.
2. In 2019 there was an internal USCIS policy by which the concurrent processing for H-1B (I-129), H-4 (I-539) and H-4 EAD (I-765) was stopped⁶
- Additionally, due to the new in-person biometric requirements for H-4 (I-539) processing, it is guaranteed that the H-4 and H-4 EAD applications will not be processed together with the H1B application.
 - The median processing times for I-539 applications have increased to 8.1 months for FY 2021

RELIEF SOUGHT FOR H-4 EAD PROGRAM:

Short-term relief (Administration and/or Agency action):

- DHS should publish a federal register notice (FRN) to automatically extend or grant the validity period of H-4 visa and H-4 EAD to a period equal to the validity of the underlying approved H-1B petition of the spouse. This temporary action should be made effective via FRN notice until 90 days after the period of public health emergency (COVID 19 pandemic) declaration is over.
- DHS/USCIS should provide relief by allowing the H-4 EAD application acknowledgement receipt (I-797C Notice of Action) to be used as proof of employment eligibility until USCIS is able to adjudicate the application.
- USCIS should immediately follow the revocation of Executive Order 13780 and accordingly remove the additional in-person biometrics requirement for H-4 processing for all in-flight and future applications.

⁶ Gudla v. Koumans available at <https://nfap.com/wp-content/uploads/2019/06/Plaintiffs-Filing-June-6-2019.pdf> at page 6 of 20



Long-term relief (Legislative action)

As a long-term permanent solution, we request that the H-4 EAD program be codified into law, either as a stand-alone legislation or as part of any upcoming immigration legislation. This provision can be found in Section 3409 of H.R.1177 United States Citizenship Act of 2021 introduced in the current 117th Congress and reads as follows:

WORK AUTHORIZATION FOR H-4 NONIMMIGRANTS—The Secretary of Homeland Security shall authorize a nonimmigrant spouse or child who is accompanying or following to join a nonimmigrant described in section 101(a)(15)(H)(i)(b) to engage in employment in the United States and shall provide such nonimmigrant spouse or child with an ‘employment authorized’ endorsement or other appropriate work permit.

In addition to the above, we are proposing the following provisions to further strengthen the H4 EAD program and to future-proof any H-4 EAD processing delay issues. This is extremely crucial, given the multi-decades long wait times for employment-based immigrants, especially those born in India. As a result, there are many H-4 and H-4 EAD recipients (currently >125,000 and growing every year) who will continue to have the need to renew their employment authorization document every 1 to 3 years. This codification should include the following provisions:

- a. Auto-extension of H-4 EAD (I-765 c26 category) to 180 days. This provision is already provided to many other Employment Authorization categories⁷
- b. Allow concurrent processing of the spousal visa (H-4) and H-4 EAD applications along with the primary H-1B application
- c. A set timeline shall be established by the USCIS for processing the H-4 and H-4 EAD applications with a maximum upper limit of 90 days.
- d. The H-4 (I-539) and H-4 EAD (I-765 c26 category) applicants should be able to apply in premium processing as per H.R.8337 - Continuing Appropriations Act, 2021 and Other Extensions Act

We highly appreciate the Committee’s attention to the various crucial aspects of immigration and urge the Committee to provide immediate relief measures to protect the intent of the H-4 EAD program and to take steps to further strengthen and improve it.

⁷ USCIS Automatic Employment Authorization Extension categories available at <https://www.uscis.gov/working-in-the-united-states/information-for-employers-and-employees/automatic-employment-authorization-document-ead-extension>


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Hearing on
Why They Don't Just Get in Line? Barriers to Legal Immigration
 April 28, 2021

House Committee on the Judiciary
 Subcommittee on Immigration and Citizenship
 U.S. House of Representatives

Statement of
Worldwide ERC®

Chairwoman Lofgren, Ranking Member McClintock and distinguished members of the House Judiciary Subcommittee on Immigration and Citizenship, on behalf of the members of the Worldwide Employee Relocation Council (Worldwide ERC®), thank you for the opportunity to submit a written statement on barriers to legal immigration.

Worldwide ERC® represents the people and businesses that facilitate the relocation and movement of global talent. Our over 5,400 professionals represent both corporations and service providers across Europe, the Middle East and Africa, Asia, and the Americas. Approximately 80 percent of our members are small- to medium-size businesses, and our members come from a diverse range of professions and industries, including human resources, recruiting, military, real estate, financial services, moving, counseling, and consulting. We are where work is going, and we advocate for public policies that [support work anywhere, are agile and are attentive](#) to employers and employees.

Immigration policies have always played a critical role in workforce mobility as the relocation of talent is a tool employers often deploy to fill critical skills gaps, as a complement to their American workforce. Research overwhelmingly shows that foreign-born talent makes significant contributions to U.S. economic growth and job creation. In fact, economists at Oxford University and Citi found that without immigrants contributing to the quantity and quality of the labor supply, the majority of the economic growth gains America saw between 2011 and 2016 following the recession would have been eliminated.¹ Further, in a recent Gallup survey, nearly 8 in 10 Americans said immigrants are good for the country – the highest level of support since Gallup began asking the question more than 50 years ago.²

The United States needs an immigration system that recognizes the value of immigrants and nonimmigrants, that is built for the modern, post-pandemic world. It must balance the needs of national security and U.S. economic growth; treat people fairly; support productivity; protect workers; encourage innovation; and be predictable and reliable to prevent abuse of the system. We have three key recommendations on actions that the Congress and Administration should take to achieve this balance and allow U.S. employers to maintain global competitiveness with a workforce comprised of domestic and international talent.

¹ Ian Goldin, Andrew Pitt, Benjamin Nabarro and Kathleen Boyle, "Migration and the Economy," *Citi and Oxford Martin School, Oxford University*, September 2018, as cited in Stuart Anderson, "Immigrants and America's Comeback from the COVID-19 Crisis," *National Foundation for American Policy*, July 2020.

² "Americans Want More, Not Less, Immigration for First Time," *Gallup*, July 2020.

Modernize the Nonimmigrant and Immigrant Employment-Based System with E-Filing— The government, employers and workers need a predictable and reliable system that provides the green cards and L, H-1B and other nonimmigrant visas needed to recruit, deploy, transfer and retain top world talent. USCIS must come into the 21st century and support a fully electronic system for filing, whether for electronic I-9s or employment-based petitions and applications. With the growth of remote work – [Worldwide ERC® recently found that 80 percent of employers](#) with over 10,000 employees anticipate over 50 percent of their workforce will work remotely on a permanent basis – e-filing becomes ever more important.

Pass key provisions of the Fairness for High-Skilled Immigration Act – We appreciate the Chair’s and many other bipartisan members of Congress’ support to eliminate the per country green card limits. We believe it is a critical first step for high skilled employees waiting in the green card backlogs that would also help U.S. employers, many in STEM industries, to globally compete. Setting limits on per country green card applicants at seven percent of any one country has created up to decade-long backlogs for many sought-after, highly skilled and educated immigrants, regardless of their date of filing. Eliminating the per country limits would create a first-come first-served green card system, that allows applicants with an approved immigrant petition to keep their place in the green card line and helps address the backlog. This result would put the talent and skills professionals bring to the economy before a beneficiary’s country of birth.

Increase Certainty and Save Resources with Trusted Employer – We also believe the Chair’s support and other bipartisan Members of Congress’ support of a Trusted Employer program should be a part of reform efforts and would help eliminate any abuses by pre-certifying immigration-compliant employers, saving resources for top government priorities. This program would also help increase business certainty in workforce planning and mobility similar to a Trusted Traveler or Pre-Check and Trusted Shipper.

Worldwide ERC® and the workforce mobility and relocation professionals we represent look forward to working with the Subcommittee and being a resource to you on improving worker immigration policy and again thank you for the opportunity to provide you with a written statement.

Worldwide ERC® is the professional association for employee mobility professionals. Since 1964, Worldwide ERC® has been committed to connecting and educating workforce mobility professionals across the globe. A global not-for-profit organization, we are headquartered in Washington, D.C., with offices in London and Shanghai, and are the source of global mobility knowledge and innovation in talent management from Europe, the Middle East and Africa, to Asia and across the Americas.

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May 5, 2021

Chairwoman Zoe Lofgren and Ranking Member Tom McClintock
Subcommittee on Immigration and Citizenship
U.S. House Judiciary Committee
6320 O'Neill House Office Building
Washington, DC 20515

Statement for the Record on the hearing 'Why Don't They Just Get in Line?' Barriers to Legal Immigration" held April 28, 2021.

Submission by the Association of Americans Resident Overseas

Thank you, Representative Zoe Lofgren, Representative Tom McClintock, and members of the House Judiciary Committee, Subcommittee on Immigration and Citizenship, for this opportunity to submit this written statement in support of the American Families United Act HR 2920.

The Association of Americans Resident Overseas (AARO), consistent with its founding principles, supports the AMERICAN FAMILIES UNITED ACT and urges its quick passage on a bi-partisan basis.

AARO is a Paris based, non-partisan, volunteer, not-for-profit organization which represents the interests of Americans abroad throughout the world, including stateside residents who share our concerns.

Since its creation in 1973, AARO has successfully fought to modify legislation and regulations that had the effect of discriminating against American citizens living abroad. AARO's actions were particularly geared to preserving the unity of American families by promoting gender equality and reducing unwarranted impediments to the transmission of American nationality within the family unit.

Through its advocacy efforts, AARO was able to help secure for overseas Americans their fundamental right to vote and the lowering of the years that a foreign-born citizen needed to reside in the U.S. to pass citizenship to their own children from 10 to 5 years.

Respectfully submitted,

William Jordan
President, Association of Americans Resident Overseas



May 12, 2021

Attn: Members of the Subcommittee on Immigration and Citizenship of the House Committee on the Judiciary

Engine is a non-profit technology policy, research, and advocacy organization that bridges the gap between policymakers and startups. Engine works with government and a community of thousands of high-technology, growth-oriented startups across the nation to support the development of technology entrepreneurship. Access to talent is critical to the success of U.S. startups, and high-skilled immigrant talent serves a vital role both in filling the gaps in the STEM workforce, but also in generating new, successful startups. Engine is grateful for the subcommittee's efforts in examining needed changes to the U.S. immigration system and the opportunity to comment on the subcommittee's recent hearing, "Why Don't They Just Get in Line? Barriers to Legal Immigration." We look forward to serving as a resource for the subcommittee on the impacts of immigration on the startup community in the future.

The companies Engine works with are the lifeblood of the U.S. economy. Startups generate a large percentage of U.S. job growth, and founders are responsible for many technological advances that cement the United States in its role as a leader in innovation. These startups often have high-skilled talent needs that cannot always be met with the STEM workforce available in the U.S. Not only do they rely on innovative talent from many countries to excel, but many of these job-creating startups are founded by foreign-born entrepreneurs who launched their ventures and were successful in the U.S. not because of our immigration system, but in spite of it. Indeed, immigrant founders and CEOs, like those of Pfizer and Moderna, lead companies that are among the most influential of today, given the breakneck speed with which they were able to develop effective vaccinations for COVID-19.¹

At the hearing, the subcommittee posed the question, "why don't they just get in line?," and the response is complicated. Limited visa programs, per country caps, and green card backlogs all factor in. As do the efforts of the previous administration to further limit access for foreign workers, create legal uncertainty for Dreamers, and stall efforts around a startup visa program. And while the causes of the ineffectiveness of the U.S. immigration system are numerous, Engine calls on policymakers to take an active role in the solutions so that the U.S. innovation ecosystem can access the talent it needs and serve as the job creator the country needs.

To start, policymakers must work to address the plight of Dreamers—children brought to the U.S. by their parents, who largely grew up in and were educated in the U.S. Many Dreamers know little of their birth places and instead consider the U.S. their home. Numerous Dreamers attend or have attended university here, work for American companies, and even found startups. Take Victor

¹ Stuart Anderson, The Founder of Pfizer was an Immigrant, too (Dec. 7, 2020), <https://www.forbes.com/sites/stuartanderson/2020/12/07/the-founder-of-pfizer-was-an-immigrant-too/?sh=3c489f4938f6>

Santos, for example—a DACA recipient who co-founded a company to help unbanked persons in emerging markets.² While he successfully raised capital, venture capitalists expressed uneasiness because of his immigration status.³ But DACA recipients and Dreamers remain in limbo, both at the hands of the courts⁴ and also at the hands of policymakers. While the House passed the American Dream and Promise Act, its path forward remains uncertain in the Senate, and thousands of potential startup founders and employees may not be able to bring their ideas to fruition in the U.S. This is only one example of the U.S. leaving innovators behind.

Even before the Trump administration attempted to curtail much of the H-1B visa program—which allows for high-skilled workers to come and work in the U.S. on a temporary basis—the program had issues. The limited number of visa slots, the high cost and time commitment necessary to apply, and the per country caps on green cards are all impediments to making the program work for the talent needs of the nation. And for prospective startup founders, there are few entry mechanisms that can be exercised to come to the U.S. with the goal of launching a company. Though we are encouraged that the Biden Administration recently withdrew the previous administration's proposed termination of the International Entrepreneur Rule, the U.S. still lacks a dedicated startup visa, which would provide more options for founders of high-growth, job generating startups, to launch and grow their companies in the U.S.

While the H-1B visa program is a significant source of foreign-born, high-skilled talent in the U.S., the program is limited—capped at 65,000 visas, an additional 20,000 visas for those with higher degrees obtained at U.S. institutions, annually.⁵ The lottery system results in most applicants receiving denials each year, despite a need for STEM talent in the U.S.⁶ And while small employers, including startups, are able to petition for H-1B employees, doing so may be cost and resource prohibitive for businesses with bootstrap budgets. Large companies may be more equipped to shoulder the fees and hire immigration attorneys to guide them through the process, but nascent companies have fewer resources available and may not be able to afford what could amount to thousands of dollars to hire an H-1B visa holder.⁷

Critics of the H-1B visa program frequently argue that the presence of the foreign-born workers limits opportunity for American workers, but this is fundamentally false. Nicky Goulimis of Nova Credit, a startup based in San Francisco, CA states, “[a]lmost every study shows that immigrants don’t take away jobs but, rather, that they create them. As the American economy recovers from COVID, the country needs healthcare workers, investments in emerging technologies,

² Hayden Field, *This Immigrant Entrepreneur and DACA Recipient Raised Over \$15 Million in Funding* (Podcast), *Entrepreneur* (July 26, 2019), <https://www.entrepreneur.com/article/337296>.

³ *Id.*

⁴ Claudia Flores and Nicole Prchal Svajlenka, *Why DACA Matters*, Center for American Progress (April 29, 2021), <https://www.americanprogress.org/issues/immigration/news/2021/04/29/498944/why-daca-matters/>.

⁵ Liya Palagashvili and Patrick O’Connor, *Unintended Consequences of Restrictions on H-1B Visas*, Mercatus Center (Jan 28, 2021), <https://www.mercatus.org/publications/trade-and-immigration/unintended-consequences-restrictions-h-1b-visas>.

⁶ *Id.*

⁷ Path2USA, *What Is The H1-B Filing Fees For 2021? How Much Does It Cost To File An H1-B Petition This Year?*, <https://www.path2usa.com/what-is-the-h1-b-filing-fees-for-2021-how-much-does-it-cost-to-file-an-h1-b-petition-this-year>.

and new businesses. Despite immigrants being approximately 13 percent of the population, they're overrepresented as small business owners, as entrepreneurs, and as healthcare workers.⁸ And studies have shown that H-1B workers do not harm opportunities for American workers; instead the program ultimately creates new jobs for American workers⁹ and does not stagnate or depress wages of American workers.¹⁰ Further studies have shown that if the H-1B program were expanded, it could result in the creation of up to 1.3 million new U.S. jobs.¹¹ In fact, evidence suggests that limiting the H-1B visa allocation to 65,000 visas per year has had a depressive effect on job growth, estimating that "had the U.S. government not rejected 178,000 H-1B visa petitions in computer-related fields in the 2007 and 2008 visa lotteries, U.S. metropolitan areas could have created as many as 231,224 tech jobs for U.S.-born workers in the two years that followed."¹²

Adopting a startup visa could similarly provide a boost in job creation. Currently, there is no visa category specifically set aside for foreign-born entrepreneurs who want to establish companies in the U.S. A study by the Kauffman Foundation found that implementing a startup visa could result in the creation of 500,000 to 1.6 million jobs over a decade.¹³ Another study found that if a 2016 startup visa bill had been passed, it could have created 1-3.2 million jobs over a decade.¹⁴ These estimates say nothing about the potential boosts to innovation, novel products and services that could be created, or the expected growth of startups that successfully age out of a startup visa program.¹⁵ And the U.S. is an outlier in lacking a startup visa—dozens of countries,¹⁶ many of whom are competing for economic and technological dominance with the U.S.—have some version of a startup visa. In failing to adopt this needed mechanism to boost startup formation, the U.S. risks falling behind in the global innovation ecosystem, forcing founders to look elsewhere when establishing their businesses.

⁸ Edward Graham, Engine, *#StartupsEverywhere: San Francisco, California* (October 23, 2020), <https://www.engine.is/news/startupseverywhere-sanfrancisco-calif-nova-credit>.

⁹ Madeline Zavodny, *The Impact of H-1B Visa Holders on the U.S. Workforce*, National Foundation for American Policy (May 2020), <https://nfap.com/wp-content/uploads/2020/05/The-Impact-of-H-1B-Visa-Holders-on-the-U.S.-Workforce.NFAP-Policy-Brief.May-2020.pdf>.

¹⁰ American Immigration Council, *the H-1B Visa Program* (April 2, 2020),

<https://www.americanimmigrationcouncil.org/research/h1b-visa-program-fact-sheet>.

¹¹ Jay Srinivasan, *Trump's Latest Immigration Restrictions are Bad News for American Workers*, Tech Crunch (Oct. 14, 2020),

<https://techcrunch.com/2020/10/14/trumps-latest-immigration-restrictions-are-bad-news-for-american-workers/>.

¹² *Id.*

¹³ Dane Stangler and Jared Konczal, Give Me Your Entrepreneurs, Your Innovators: Estimating Employment Impact of a Startup Visa, the Kauffman Foundation (Feb. 12, 2013), <https://www.kauffman.org/entrepreneurship/reports/give-me-your-entrepreneurs-your-innovators-estimating-employment-impact-of-a-startup-visa/>.

¹⁴ National Foundation for American Policy, *The International Experience of Startup Visas for Immigrant Entrepreneurs* (July 2020), <https://nfap.com/wp-content/uploads/2020/07/International-Experience-of-Startup-Visas.NFAP-Policy-Brief.July-2020.pdf>.

¹⁵ Stangler and Konczal, *supra* note 13.

¹⁶ NanoGlobals, *Startup and Entrepreneur Visa Index*, <https://nanoglobals.com/entrepreneur-startup-visas/#:~:text=There%20are%2046%20startup%2C%20entrepreneur, and%20residence%20in%2039%20countries>.

In failing to expand critical worker visas, like the H-1B visa program, the U.S. risks forcing companies to shift operations to countries that are more able to supply needed talent.¹⁷ When the Trump administration engaged in efforts to restrict H-1B visas, a study found that multinational companies responded “by increasing employment at their existing foreign affiliates and by opening new foreign affiliates—particularly in India, China, and Canada.”¹⁸ Indeed, according to the National Foundation for American Policy, “[t]he fact that the H-1B program either improves job opportunities for U.S. workers or has no effect indicates that the program enables employers to hire foreign workers when they cannot hire U.S. workers,” and that absent needed H-1B visas, the solution for employers is to instead hire talent overseas.¹⁹ But this isn’t ideal both for job creation or for employers, as bringing workers in-country is thought to result in increased productivity over offshoring jobs.²⁰

Ultimately, immigrant talent is responsible for founding countless high-growth startups in the U.S. Many of these founders first find their way to the U.S. on H-1B visas.²¹ But how many more startups could be founded if we welcomed more talent—more job creating talent—into the U.S.? Failing to expand entryways, or even worse, restricting pathways for critical talent to enter the United States simply means more of these companies will be founded elsewhere. Indeed, studies have shown that “immigrants found businesses at twice the rate of the native born, starting about 30% of all new businesses in 2016 and more than half of the country’s billion-dollar unicorn startups.”²² Policymakers must make efforts—including boosting H-1B visas and making them more accessible, implementing a startup visa, and providing certainty for Dreamers—to ensure the U.S. can remain at the forefront of innovation, particularly as the U.S. struggles to emerge from the COVID-19 pandemic.

Engine is grateful for the opportunity to provide comments regarding barriers to legal immigration and the critical need for reforms. We look forward to serving as a resource for the committee on the issue of immigrant entrepreneurship and high-skilled workers throughout this Congress.

¹⁷ American Immigration Council, *the H-1B Visa Program* (April 2, 2020), <https://www.americanimmigrationcouncil.org/research/h1b-visa-program-fact-sheet>.

¹⁸ *Id.*

¹⁹ Zavodny, *supra* note 9.

²⁰ *Id.*

²¹ Stuart Anderson, American Made 2.0, <https://nvca.org/wp-content/uploads/2019/06/American-Made-2.0.pdf>.

²² Srinivasan, *supra* note 11.

**SHEILA JACKSON
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COMMITTEE ON THE JUDICIARY SUBCOMMITTEE ON THE IMMIGRATION AND CITIZENSHIP

HEARING ON: “WHY DON’T THEY JUST GET IN LINE?” BARRIERS TO LEGAL IMMIGRATION”

**CISCO WEBEX
WEDNESDAY, APRIL 28, 2021
2:15 P.M. (EDT)**

9

- Thank you, Chairwoman Lofgren and Ranking Member McClintock, for convening this timely and important hearing on “Why Don’t They Just Get in Line?” Barriers to Legal Immigration.”

- Let me welcome our witnesses and thank them for taking time out of their busy schedules to share with us their perspectives and views on the challenges immigrants face in seeking lawful permanent resident (“LPR” or “green card”) status and the need to overhaul and modernize the legal immigration system:

- o John Yang, President and Executive Director of Asian Americans Advancing Justice (AAJC).

- David J. Bier, Research Fellow, Cato Institute.
- Pareen Mhatre, Student, University of Iowa and Former H-4 Nonimmigrant Who Aged Out of Dependent Status.
- *[Minority Witness] Rob Law, Director of Regulatory Affairs and Policy, Center for Immigration Studies.*

- Madam Chairwoman, during the first 100 years of our national existence, new settlers were important to the young nation and immigrants were welcomed.

- This policy paid rich dividends as the immigrants and their descendants contributed heavily to the growth of the nation.

- It was during this time that Emma Lazarus wrote the poem that now is forever enshrined on the Statue of Liberty:

- *“Give me your tired, your poor, your huddled masses yearning to breathe free, the wretched refuse of your teeming shore, send these, the homeless, tempest-tossed, to me: I lift my lamp beside the golden door.”*

- Sadly, today’s immigration law does not live up to our forebearer’s dream.

- The Immigration and Nationality Act (INA) sets forth the structure of today’s immigration law, including a “preference system” for the distribution of immigrant visas.

- The current preference system was established over thirty years ago in 1990, and limits the yearly admittance into the United States to 226,000 family-based immigrants, 140,000 employment-based immigrants, and 55,000 diversity immigrants.

- The preference system also limits the number of visas that can be made available each year to natives of any single foreign state to 7 percent.

- Over time, the limitations imposed by the preference system has created significant backlogs in the immigrant visa system, as more individuals apply for visas each year than those who receive immigration visas.

- Additionally, under the INA, an individual who was “unlawfully present” for more than 180 days but less than 1 year prior to departing the United States is barred from returning for 3 years, and an individual who is “unlawfully present” for more than one year is barred from returning for 10 years.

- Madam Chairwoman, few ideas are more central to who we are as Americans than the notion that people should be judged based on their own merits as individuals and not on their race or nationality.

- Immigrants make invaluable contributions to American innovation, the American economy and the American Dream.

- Immigrants bring new ideas and fresh perspectives to our companies and our communities.

- Immigrants are workers and taxpayers who complement the domestic workforce and make contributions large and small to our everyday lives, and they are also our neighbors.

- In Texas, immigrants are part of the social fabric.

- Texas is home to 386,300 Dreamers, 112,000 of whom reside in Harris County.

- These individuals live with 845,300 family members and among those family members, 178,700 are U.S.-born citizen children.

- Texas immigrants own 43,500 homes in Texas and pay \$340,500,000 in annual mortgage payments and their households contribute \$2,234,800,000 in federal taxes and \$1,265,200,000 in state and local taxes each year.

- Annually, these households generate \$10,519,000,000 in spending power in Texas and help power the national economy.

- In spite of this, our current immigration policy is hopelessly outdated, and it must change to reflect the realities of the 21st century economy.

- Rather than keeping people out due to arbitrary limits, our immigration policy should be reworked to build a diverse workforce that allows American companies to serve global customers, compete in new markets and leverage different perspectives that fuel innovation.

- Over the past year, immigration for many categories of people was shut down due to COVID-related immigration bans, many of which are still in effect.

- These policies exasperated the already long green card backlogs, and there are currently over 4 million people in the family immigration backlogs waiting to reunite with their loved ones.

- According to the May 2021 Department of State Visa Bulletin, the average wait time for a permanent resident to sponsor an unmarried son or daughter from Mexico is over 20 years, and the average wait time for a U.S. citizen to sponsor a sibling from the Philippines is nearly 25 years.

- Additionally, in order for certain Indian nationals to be eligible to receive a work-based visa, they would have had to file a visa petition before August 1, 2010 – nearly 11 years ago.

- Individuals applying today will have to wait much longer—as long as the number of individuals applying for visas each year

continues to be greater than the number of individuals receiving such visas, wait times will keep rising.

- This backlog is only one of the problems in our current lawful permanent resident system: many immigrants enter the United States under worker visas, but due to the long backlogs, the children who came with their parents "age-out" of their parent's status at age 21, before their parents obtain a green card.

- One criterion for DACA has excluded hundreds of thousands of young immigrants who would otherwise qualify for the program: that the immigrant "had no lawful status on June 15, 2012."

- This means that the children of immigrants on work visas must leave the country at the age of 21 unless they find a temporary way to stay, but because they had previously been considered documented due to their parents' visas, they are ineligible for DACA.

- According to the CATO Institute, there are more than 200,000 so-called "documented Dreamers."

- Take Mily Herrera, 16, and her older brother Diego Herrera, 19, who have lived in Houston, Texas for more than a decade.

- Her parents brought her and her older brother to the United States because they wanted to give them a better future, away from the violence and corruption of their home country Mexico.

- Their parents lawfully obtained E-2 visas, a type of visa citizens of Mexico can use to start businesses in the United States, and in 2014 they opened a business in Houston.

- Mily and Diego have the same visa status as their parents, but once they turn 21 they will lose it because they will no longer be

considered dependents – and because they had lawful status in 2012, they are ineligible for DACA.

- Fixing our broken system and providing a path to earned access to citizenship is critical, and it is a central feature of the U.S. Citizenship Act of 2021, which provides a path to earned legalization status to those 11 million undocumented immigrants who have resided in the United States for 5 years and meet other eligibility requirements.

- Madam Chairwoman, as we hold this important hearing, this Congress stands on the precipice of at long last passing comprehensive and humane immigration reform, and I am thinking of the hundreds of thousands of young immigrants whose lives will be changed for the better by keeping our promise to them, so they can realize their dreams and making America better, stronger, and more prosperous.

- And at this moment, I am thinking of Alonso Guillen, an heroic DREAMER who lived in my congressional district, and who came to the United States from Mexico as a child and died when his boat capsized while he was rescuing survivors of the flooding caused by Hurricane Harvey in the Houston area.

- I am mindful also that in addition to helping restore America's reputation as the most welcoming nation on earth, the President's U.S. Citizenship Act of 2021 also positions America to better compete and win in the global economy of the 21st century.

- According to expert studies, including one by the Center for American Progress, continuing deferred action for childhood arrivals would result in a gain of \$460.3 billion from the national GDP over the ensuing decade and would provide an estimated 685,000 workers to the nation's economy and workforce at a time when more, not fewer, workers are desperately needed.

- And 10 states, including my home state of Texas, would stand to

gain more than \$8 billion annually in state GDP.

- Madam Chairwoman, comprehensive immigration reform is desperately needed to ensure that Lady Liberty's lamp remains the symbol of a land that welcomes immigrants to a community of immigrants and does so in a manner that secures our borders and protects our homeland.

- We must help reunite American families with their loved ones, alleviate prolonged family separations, and provide redress to people who were denied visas based on discriminatory immigration bans.

- We must live up to our founding principles by addressing the arbitrary discrimination in our nation's employment-based green-card system

- Thank you again for convening this important hearing and I would now like to ask the witnesses some questions.

- [QUESTIONS]

- Thank you, Mr. Chairman, I yield back my time.