

**STRONG FAMILIES: AN ECONOMIC AND SOCIAL
IMPERATIVE FOR SUCCESSFUL IMMIGRATION REFORM**

Presented at

“The Separation of Nuclear Families under U.S. Immigration Law”

Submitted to
Subcommittee on Immigration and Border Security
U.S. Committee on the Judiciary

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

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

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

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

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

- **Restores the rule of law** by creating a path to legalization and a roadmap to citizenship for the 11 million aspiring Americans, as well as smart enforcement that improves safety and

security, supports legal immigration channels, prevents discrimination and respects due process;

- **Preserves the rule of law** by restoring integrity and confidence in workable legal immigration channels that uphold the principle of family unity for all America's families, and strengthen our economy by responding to employment needs while upholding wages, labor rights, and protections for the American workforce;
- **Strengthens the fabric of America** by adopting proactive measures that advance the successful integration of new immigrants.

The Family Immigration System is Outdated

The various components of our immigration system are designed to work in tandem, and we welcome the current Congressional debate to fix this system from top to bottom. As part of this debate, it is essential that we acknowledge that once we restore the rule of law, our ability to preserve it will rest on having a functioning legal immigration system that does not create incentives to go around it. To this day, that system has been largely based on family- and employment-based immigration, and both have generally served our country well. While some may choose to see these as competing categories, the reality is that they are highly complementary and speak to national goals of strengthening family values and achieving global economic competitiveness.

The U.S. has been successful as a nation of immigrants because we allow and encourage those who come to our shores to fully participate in American life. By encouraging citizenship and civic participation, we strengthen immigrants' connection to the nation and strengthen our common social bonds. Our country has recognized that family unification must be a core principle of our immigration policy. Keeping families together is a fundamental value and interest, and we must maintain our historic commitment to keeping families strong and united. We must address the unnecessary separation of families who are kept apart by extraordinarily long wait times for certain family visas, who are excluded from the system, like bi-national same-sex couples, or who are torn apart by current enforcement policies.

Currently, U.S. citizens and Legal Permanent Residents (LPRs) are able to sponsor close relatives, provided they meet certain eligibility requirements, demonstrate they can support themselves, and legally commit to support the family member they are seeking to bring to the U.S. Due to the inadequate numbers of visas allocated for family unification, 4.3 million relatives of U.S. citizens and legal permanent residents are stuck waiting outside the U.S. for visas to become available; many waiting years or even decades. For example, U.S. citizen parents who petition for their adult child from Mexico must wait almost twenty years to be reunited. In that time, it is nearly impossible for the son or daughter to visit the United States, resulting in decades of family separation. For LPRs, the only opportunity for reunification is with immediate family, meaning spouses, minor children, and unmarried sons and daughters. But while LPRs have been vetted, and accepted as permanent residents in our country, they often have to wait two years or more to reunite with a spouse or child.

Faced with extraordinary wait periods, Latino families are disproportionately affected by separation due to our broken immigration system. Mexico is the country with the highest number of individuals in the family-sponsored waiting list. Unmarried sons and daughters of U.S. citizens in Mexico, Dominican Republic, El Salvador, Cuba, and Colombia make up 47.4% of the individuals in that category's waiting list. The spouses and children of LPRs in Mexico, the Dominican Republic, and Cuba make up 57.7% of the waiting list in that category.

Not only do the long wait periods create untenable situations for families, it also should disabuse anyone of the notion that the family immigration system enables "chain migration," the misconception that family members petition endlessly for each other resulting in exponential growth in overall immigration. The reality is that the typical immigrant sponsors two family members, and that is after they have achieved legal permanent residency or, as is required for most of these categories, citizenship, a process that involves an average wait of at least five years but that for most immigrants takes much longer.

The Economic Benefits of Family Immigration

Keeping families together and strong is a core principle and a fundamental value of American life. It also promotes the economic stability of immigrants and their integration into our country, and we must continue our historic commitment to this idea. In every religion, in every culture, in every wave of immigrants that have come to this country, the family unit has been critical both to the survival of immigrants in a strange land, and to their success in adapting and contributing to their newly adopted nation. We would be undermining ourselves as a nation if we walked away from family unity as a guiding principle for our immigration policy. These close relatives are able to make vital contributions to the U.S. economy as productive workers and entrepreneurs. Family-based immigrants have a higher occupational mobility than employment-based immigrants and are able to fill gaps in our economy. Immigrant families are also more likely to start small- and medium-sized businesses as they benefit from family networks and pooled resources. Research shows that immigrant families work together not only to accelerate the integration of new immigrants, but they also form businesses together. Prior testimony from conservative policy organizations notes "a large majority of immigrant-owned businesses in the United States are individual proprietorships relying heavily on family labor," and family based immigration has contributed to reenergizing small business culture in the U.S.¹ Immigrant-owned family businesses are a driving force behind revitalization in cities across our country and spur job growth in nearly every major metropolis. This is why a number of mayors and local elected officials have praised the economic impact of immigrant families on their communities and expressed interest in programs that attract immigrants to revitalize cities. New York Mayor Michael Bloomberg, who we just honored in our national awards ceremony, and Chicago Mayor Rahm Emanuel both agree that immigrants and their families strengthen cities, strengthen neighborhoods, and improve the quality of life for all of us.

Immigrants who enter the U.S. through the family based immigration system have an advantage in that families act as a resource for integration. Families have served as powerful integrating

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

institutions; serving as resources for employment, access to credit, and as a one stop shop for support and information for newcomers. This allows immigrants to integrate into our society and become productive taxpayers more quickly.

Current Immigration Laws Separate Families

Despite the many compelling reasons for ensuring that families are united, our current immigration system separates mixed status families—that is, families made up of U.S. citizens or Legal Permanent Residents (LPRs) who are the spouses, children, parents, and siblings of undocumented immigrants.

The rapid increase in deportations over the last four years is having a devastating effect on families. Our deportation policies literally destroy families and force U.S. citizens into public assistance, foster care, or exile from the United States. Hundreds of thousands of U.S. citizens and lawful permanent residents have been separated from family members. For example, between July 1, 2010 and September 31, 2012, the Department of Homeland Security (DHS) deported 204,810 parents of U.S. citizens.

In mixed status families, many have tried to adjust their immigration status, and have spent fortunes in immigration fees and lawyers' fees, but have failed. As one U.S. citizen married to an undocumented immigrant stated, "People who don't have undocumented family members don't believe me when I tell them he can't get papers."² It is commonly believed that if a U.S. citizen marries an immigrant, the foreign-born spouse is quickly or even instantly granted U.S. citizenship. The reality is that for most people who entered without a visa, or who overstayed a visa, it is very difficult and often impossible to obtain legal status. Anyone who has been in the U.S. for more than six months out of legal status is barred from reentry for three years, and those who have been out of status for one year or more are barred from reentering for ten years, due to provisions in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA).

So when you hear on talk radio, "why don't these people go out and come back the right way?," the answer is that, because of IIRIRA, we have created an incredible disincentive for those with legal claims to adjust their status, to get legal, because they would face exile from their families, and therefore push them to remain in the undocumented underground.

This puts many families who seek to adjust the status of their loved one through legal channels in a terrible catch-22. They must leave the United States in order to apply for an immigrant visa at a U.S. consulate, but once they depart the U.S. for that visa, they may be barred from reentering for as long as ten years. At NCLR, we know of countless stories of U.S. citizens and permanent residents who are separated from their spouses because of the three- and ten-year bars to reentry.

² Rojas, Leslie Berestein, "Why it's so hard to obtain legal status, even through marriage and family." KPCC *The MultiAmerican*, Southern California Public Radio, November 25, 2011. <http://www.scpr.org/blogs/multiamerican/2011/11/25/7718/why-its-so-difficult-to-obtain-legal-status-even-t/> (accessed March 12, 2013).

For many of these spouses, they never imagined that by trying to follow the rule of law their family would be ripped apart.

Take the case of Elizabeth, an American citizen from Cleveland, Ohio. Elizabeth served in the National Guard and the Marine Corps. She served in Afghanistan during Operation Enduring Freedom. After she left the Marines, Elizabeth fell in love and married Marcos. The very same day Elizabeth and Marcos celebrated the news that they had a second child on the way, Marcos was stopped on his way to work. Marcos was undocumented. He was deported a month later. Elizabeth was left behind, without the family's breadwinner, pregnant and with a small child. That was three years ago. She is someone who takes pride in following the rules, in going through the system and following available processes. She has done exhaustive research and gotten legal assistance. As she tells it, "we want to do it the right way, but every door has been slammed in our face." Marcos has been declined a consular interview until 2020. Elizabeth has even considered moving to Mexico, so the children can be with both mom and dad, but this is her country. She is fighting to keep her family afloat, bring it back together. She traveled to DC last week and walked the halls of Congress, for the first time ever, with many other family members that share similarly devastating stories.

This forced separation of families has increased exponentially as a result of current enforcement policies. By nearly every standard, more is being done than ever before to enforce immigration laws. Measured in terms of dollars, not only are we spending more on immigration enforcement than at any time in history, but the federal government today spends more on enforcing immigration laws than on all other categories of federal law enforcement combined. Measured in qualitative terms, never before has our country used a broader array of enforcement strategies than we do today.

The way in which these policies are being carried out is destroying the fabric of immigrant communities across the nation. And the magnitude of that devastation goes beyond immigrant communities, as the lives and fate of immigrants are fundamentally interwoven with those of citizens, as Elizabeth's story illustrates. Most undocumented immigrants are long-term U.S. residents; two-thirds have lived here for a decade or more. They work hard, pay taxes, and otherwise abide by our laws. They provide for U.S. citizen spouses and children; they are our fellow churchgoers and children's playmates. Some of them came to this country as children, and this is the only country they know and consider home. The interests of our country are best served by allowing these long-term residents to come forward, pass a background check, pay taxes, learn English, and earn the ability to apply for citizenship just like every other group of immigrants before them. An immigration bill must not create a permanent subclass of individuals who are expected to support the rest of us in our pursuit of the American Dream without having access to it themselves.

The Solution

Our visa policies have to conform with reality, so that in ten years' time, we are not back here talking about legalizing another population of undocumented immigrants who, like those today, had no option to come in legally, and came illegally instead. This is the key difference between

the immigration debate in 2013 and the immigration debate in 1986. Back then, we legalized a portion of the undocumented, myself included, and put in place a new regime of workplace enforcement that did not on its own curtail illegal immigration. A key missing aspect of the 1986 legislation is that it did not fix the underlying legal immigration system, resulting in a continuing mismatch between the supply of immigration visas, and the demand for legal immigration as determined by families and our vibrant economy. You have a chance to do it right this time, and the decisions you make in the coming weeks and months are very important. In order for our visa policies to comport with and effectively regulate reality, they have to be both generous and flexible.

We know from the history of people coming to this country that some people will come for jobs intending to go home some day. Some people will come with their families, intending to make this their permanent new home. Some who come permanently will decide to leave. Some who come temporarily will decide to stay. And factors like love, families, children, and careers, inevitably make matters complex. We have to have an immigration system in the 21st Century that reflects those complexities and includes channels that address a mix of permanent and temporary, of family and business, of education and marriage channels, and that does not lock individuals out of legal status or citizenship, if they play by the rules.

NCLR supports employment-based immigration because done right it can help strengthen our economy. But we must be careful not to pursue improvements in this area by undermining family immigration or denying the powerful role the latter plays in the social and economic integration of immigrants in our country. Let's remember the principles that should guide us—to restore the rule of law, preserve the rule of law, and strengthen the fabric of America. This can only be accomplished with a functioning family immigration system, working in complement with our employment-based immigration system.

I would urge this Subcommittee to think in terms of both/and, rather than either/or. Undue restrictions on employment-based legal immigration have the potential to rob the American economy of talent that can create jobs and improve our national well-being, and could lead to unintended consequences, like off-shoring of jobs or incentives to work around the limits of our legal immigration system. But you must also realize that undue restrictions on family immigration have the exact same potential, in addition to keeping families separated, or encouraging them to break the law because they have no other choice, and slowing the integration and success of immigrants in our country.

For example, creating a visa program for graduates in Science, Technology, Engineering and Math (STEM) fields is a good idea that both parties embrace. But if we are reducing other legal immigration channels in order to create a new one, we are forcing ourselves into a trap, a false choice. We are not for unlimited immigration, we are not for open borders, we are not for immigration on demand. But as with any sensible regulation of an aspect of the American economy, that regulatory regime has to be based in reality and responsive to the market forces of supply and demand. If we are going to end illegal immigration, which should be our shared goal, then we must have a flexible, dynamic, and multi-pronged legal immigration system that creates incentives to follow the rules rather than incentives to go around the system.

We should also realize that in 2013, many states and many countries recognize the reality that some couples, some families, and some long-term committed relationships involve same-sex couples. If our immigration laws exclude same-sex couples, we are forcing people who can contribute to our country to leave, or creating incentives for reunification outside our legal system rather than within the structure of sensible laws.

My husband's great grandfather came from Russia as part of a family unit in the 1880s. Another great grandfather came as a young man from Canada seeking business opportunities. My parents came in the early 80s, but eventually went back. I stayed, was able to get an education, became a citizen, married, and have made my life here. My family and my husband's family include PhDs, factory workers, and office workers; gay and straight people; different religious denominations and political orientations—just like every other American family. We need a legal immigration system as varied and colorful as my modern family, in order to do the job or regulating immigration in 21st Century America. Is a huge challenge, but failure is not an option.