

IMMIGRATION REFORM FOR ASIAN AMERICANS

**Testimony submitted to U.S. Senate Committee on the Judiciary
Subcommittee on Immigration, Refugees and Border Security**

Hearing: “Comprehensive Immigration Reform in 2009: Can We Do It and How?”

April 30, 2009

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American Justice Center**

The Asian American Justice Center (AAJC) is a national organization that seeks to advance the human rights and civil rights of Asian Americans. Our affiliates are the Asian Pacific American Legal Center, Asian American Institute and Asian Law Caucus. AAJC has worked on immigration and immigrant rights issues since its incorporation in 1991.

We commend Senator Charles Schumer for his leadership on spearheading this conversation on comprehensive immigration reform.

AAJC is an expert on immigration and immigrant rights issues, particularly as they pertain to the Asian American and Pacific Islander communities. AAJC co-chairs the immigration task force of the Leadership Conference on Civil Rights, the nation’s largest civil rights coalition. AAJC also chairs the Family Coalition, a group which consists of a broad partnership of faith-based organizations, national ethnic organizations, and immigrant rights organizations that advocates for positive reforms to the family-based immigration system. AAJC also co-chairs the immigration committee for the National Council of Asian Pacific Americans, a coalition of over two dozen national Asian Pacific American organizations.

Finally, as Chair of the Rights Working Group Steering Committee, a group dedicated to addressing due process issues, we are working to ensure that due process issues and policy priorities related to post-9/11 backlash are addressed in an immigration reform bill. AAJC has also organized the small business community through our Asian American Contractor Empowerment Program (AACEP), and we understand the challenges the immigration system also poses to Asian American small business owners.

Given AAJC’s expertise, we believe that common sense immigration reform should include the following principles:

- Legalize unauthorized individuals in a workable and realistic manner;
- Resolve and fix the family immigration backlogs without making cuts to the current family immigration system;

- Ensure that all individuals have the protection of our civil rights laws and human rights when our immigration laws are enforced;
- Ensure prospective flows of immigrant workers have the full protection of our labor laws and civil rights laws;
- Ensure our citizenship process is accessible for everyone, especially elderly, disabled and child immigrants; and
- Ensure that new Americans are able to access English classes, integrate and participate fully in American civic life.

A comprehensive bill that encompasses the above provisions is not only good policy, but good economics. AAJC is sensitive to the current economic climate, and we believe there is a strong economic case to be made for this reform.

Asian buying power totaled \$509.1 billion in 2008 and is expected to increase to \$752.3 billion by 2013.¹ Since 1990, Asian buying power has increased by 337 percent, according to the Selig Center for Economic Growth at the University of Georgia.² One-point-one million Asian-owned firms provided jobs to 2.2 million employees, had receipts of \$326.4 billion and generated payroll of \$56 billion, according to the U.S. Census Bureau.³

Even during hard times, Americans progress as a nation by welcoming immigrants under an orderly and sensible system. Immigrant families pool funds to open businesses, buy homes, send children to schools and provide safety nets for each other.

Background on Asian Americans

This hearing for immigration reform is happening at a significant time: The month of May is Asian Pacific American Heritage Month. It is a time to celebrate the contributions Asian American and Pacific Islanders have made and continue to make to communities across America.

The Asian American community is extremely diverse. There were an estimated 15.2 million Asian Americans living in the United States as of July 2007.⁴ Sixty-one percent of Asian Americans are foreign born.⁵ Asians continue to immigrate as asylum seekers, refugees, family members, and high- and low-skilled workers.

As an immigrant community, Asian Americans are disproportionately undermined by the pressures on our family immigration system, which imposes protracted waits on their close family members. Last year, family members from Asia used 74,955 immediate relative family visas and 83,561 family preference family visas.⁶ The State Department has also estimated that several Asian countries are in the top ten countries constituting the family immigration backlog (i.e., the numbers of individuals waiting abroad to join family members in the United States)⁷:

Philippines	401,849
China	132,325

India	115,394
Vietnam	109,910
Bangladesh	50,275

The most backlogged Asian countries, including the Philippines, China and India, also are the countries of origin for a large number of unauthorized Asians in the United States. Correspondingly, the numbers of Mexican families in the family immigration backlog abroad and waiting in the United States are the largest of all. As long as we have inhumane family immigration backlogs, we will also have individuals choosing to stay with their families in the United States rather than face a long and lonely separation.

In 2008, the Department of Homeland Security (DHS) estimated that 1.2 million unauthorized individuals were from Asian countries.⁸ Out of this undocumented population, 300,000 were born in the Philippines, 240,000 were born in Korea, 220,000 were born in China and 160,000 were born in India.⁹

Congress and DHS must also prepare for any legalization program by resolving the family immigration backlogs. In addition, once unauthorized persons attain legal status, many will also need to reunite with close family members. The family immigration system has not been substantially updated in over twenty years. This is unfortunate since this system consists of hundreds of thousands of individuals who are trying very hard to abide by our laws and immigrate to America legally.

Without complete reform of our family system, close family members of legalized individuals will still have to endure inhumane waits to join family in the United States because their loved ones would have to join the backlogs at the end of the line. Congress needs to ensure that in ten years we do not have another unauthorized population that, understandably, cannot bear to wait ten to twenty years to reunite with a spouse or other close family member.

Reuniting Asian American Families

The family immigration system has been a cornerstone of the post-Exclusionary era since 1965. For more than a hundred years, siblings and other close family members had been able to join family members under a first-in-line system. Congress and our government recognized family reunification as a core national interest even before the family immigration system was created. Even during times when America was feeling hostile to foreign workers, siblings, parents and adult children counted as close family members because we recognized that sometimes many of these family members provide critical and valuable support to immigrants.

In the family immigration system, a family member who is a U.S. citizen or a lawful permanent resident (green card holder) may sponsor the immigration of a close family member abroad. Qualifying relationships are grouped into two main categories—*immediate relatives* and *family preference*. Immediate relatives are the spouses, unmarried minor children and parents of U.S. citizens. Relatives in the family preference

category are the unmarried or married adult children of citizens, spouses and unmarried children of lawful permanent residents or the siblings of citizens. Neither citizens nor lawful permanent residents may sponsor more distant family members such as aunts, uncles and cousins. The annual ceiling for all family-based immigration is 480,000 individuals per year. However, there is no numerical limit on immediate relative visas, and family preference visas are capped at 226,000 per year. In addition, each country is limited to seven percent of the total family immigration visas. A combination of the visa ceilings and the per-country cap contributes to long wait times for reunification of immigrant families.

Immigrant families need a reasonable process to come here legally and join their family members in the United States. Most individuals abroad are willing to wait patiently to rejoin family members within a reasonable time frame. The current estimated wait of seven to 10 years for spouses of green card holders or 10 to 20 for adult children (depending on country of origin and category) is not reasonable. Nor is it healthy for the communities in which they live. Delays in family unity undermine integration and decrease the capacity of immigrants waiting for their loved ones to invest in homes and businesses.

We need to reform our outdated family immigration policies, which have not been truly fixed for over forty years. Senator Robert Menendez (D-NJ) and Congressman Mike Honda (D-Calif.) have both been stalwart champions of this issue and introduced stand-alone legislation, the Reuniting Families Act,¹⁰ last fall that contains an array of legislative tools that would begin to reform our outdated family immigration policies. Some of the key proposals within this bill include:

- Recapturing unused and unclaimed family-based and employment-based visas, placing them in a pool of usable visas, and creating a “roll-over” mechanism in future years for future unclaimed visas;
- Re-classifying lawful permanent resident spouses and children as immediate relatives and exempting them from overall family numerical caps;
- Increasing the per country share of family visas from seven percent to 10 percent;
- Removing bars to family unity by broadening judicial discretion to waive bars to reentry in cases where the beneficiary is in removal proceedings and has a pending legal visa application;
- Allowing widows, widowers and orphans to immigrate despite the death of a petitioner;
- Adjusting status and preventing age-out for children of fiancé visa holders; and
- Exempting children of certain Filipino World War II veterans from overall family-based caps.

Many of the key provisions of the Reuniting Families Act would make common sense reforms to our arcane family immigration system. The proposal to re-classify green card holder spouses and children and exempt them from overall family numerical caps would be a policy calibration that effectively resolves a large portion of the family immigration backlog.

Asian Americans around the nation who are caught up in the broken family immigration system send stories to AAJC and its affiliate offices every day to illustrate how desperately they need immigration reform. The following heart-wrenching stories about families from India and the Philippines show how the broken family immigration system has broken up marriages and has kept loved ones apart for so long that many died before they could reunite:

Salim was working in the United States and separated from his wife in India. His wife's visa application took over three years to process, even though the average time for a spouse visa is eight months. During that time, his wife was unable to visit him because spouses with pending visa applications are unable to get a visitor's visa. As a result, Salim was forced to make the expensive journey to India multiple times. By the time that his wife's visa was finally approved and she was cleared to immigrate to the United States, the couple had divorced.¹¹

Anne (pseudonym used) immigrated with her parents to the United States from the Philippines in 1973. In 1990, Anne's grandmother, who was then 67, arrived. Her grandmother became a U.S. citizen and petitioned for her four sons to join the family in America. Eight years later, her grandmother finally received an approval letter from the INS stating that her sons' petitions had been approved. However, the family waited year after year and nothing happened. Growing impatient, Anne helped her grandmother by calling INS, and they discovered that there was a 10-year wait before they could be reunited with their family members. Tragedy struck in 2004 when Anne's now-80-year-old grandmother was diagnosed with ovarian cancer. INS informed Anne that there was nothing they could do to speed up the reunification process. Additionally, they informed Anne that if her grandmother died before her sons' approved petitions were processed, the petitions would no longer be valid. After waiting 15 years, Anne's grandmother died in March 2005 without ever seeing her children.¹²

Employment-based Immigration and Asian American Families

Lawmakers resolving the family immigration backlogs should also understand the visa backlogs for employment-based visa holders. The very same constraints on the family-based immigration system impact individuals seeking green cards through the employment based system. Many individuals initially come through temporary work visas sponsored by corporations, and they cannot bring spouses until green cards for their spouses are available. Per country limits and employment visa quotas also apply to these visa applications. Spouses and children of Indian and Chinese visa holders often remain separated from their family members in America for years because of green card backlogs for these countries. The current wait times for spouses of Chinese and Indian employment visa holders are four and five years, respectively.¹³

AAJC has an interest in ensuring that Asian American families coming to America through employment-based immigration are not exploited and are able to stay together. A study by Harvard professor Vivek Wadhwa released in March 2009 indicates that the United States is actually suffering from the growing numbers of educated, highly skilled immigrants who are returning to their home countries.¹⁴ The shift is, in effect, causing a reverse “brain drain.” Through a survey of 1,203 Indian and Chinese immigrants who had worked or received their education in the United States and returned to their home country, the study found the following trends:

- The majority (89.8 percent of Indians and 72.4 percent of Chinese) were male, and most (72.7 percent of Indians and 67.1 percent of Chinese) were married.
- A third (32.2 percent) of the Chinese respondents entered the United States on student visas, in comparison with about a fifth (20.2 percent) of Indians. Of the Chinese respondents, 19.8 percent were on temporary work visas. Of the Indian respondents, 48 percent were on temporary work visas.

AAJC supports resolving the family backlogs for these workers’ families. AAJC also supports measures that will broaden the ability of the government to enforce labor laws violated by unscrupulous employers and investigate abuses of the employment-based immigration programs.

Legalizing Asian Americans

Asian Americans have a considerable stake in legalizing the status of unauthorized individuals who remain in the shadows and are an indefinitely exploitable class of individuals. More than 1.2 million unauthorized individuals are from Asian countries.¹⁵ AAJC advocates for a streamlined, practical and workable system that will require individuals to pay a reasonable fine, pay their taxes and apply to DHS for status. As part of a legalization provision, unauthorized students should be able to attain legal status if they attend high school and college in the United States.

The American public has been bombarded by the media with myths about how individuals become and remain undocumented. AAJC and its affiliates have received countless stories from families who became undocumented because DHS lost their files, from unknowing individuals who paid “notarios” posing as attorneys to legalize, and from others who became caught up in our nation’s bureaucratic maze of immigration laws. Here are some of the stories from our community:

Dr. Pedro and Salvacion Servanos came legally to the United States from the Philippines in the 1980s. They settled in Pennsylvania and became fixtures in their community—Dr. Servanos completed a second residency and became a community doctor, while Mrs. Servanos opened a store. They had four American-born children. The Servanos, who have not even visited the Philippines since they left, face possible deportation. The Servanos each came to the United States as unmarried children under the sponsorship of both their mothers, who were legal

permanent residents. However, in the years between the time the visas were requested and when they were issued, the Servanos, hoping to escape conflicting parental demands, secretly married in the Philippines. They had no idea their marriage would violate the terms of their visas. In 1991, the Servanos applied for naturalization without seeking a lawyer. Immigration reviewing their records accused the Servanos of lying during the visa application process more than two decades ago. The Servanos were ordered deported. They spent years filing appeals. A community outcry led DHS to temporarily suspend the deportation, and the Servanos continue to pursue legal options to stay in the community they have embraced as home.¹⁶

Mr. Alex Chen (pseudonym used) is an undocumented immigrant from China. He immigrated to the United States in 1990 to escape political pressure from the Chinese government due to his participation in the Tiananmen Square protests in 1989. After a New York judge denied his asylum case in 1997, Mr. Chen began demonstrating symptoms of psychological disorder. Over the decades, he has suffered from enormous mental and emotional stress because of his legal status. The fear of deportation from the United States and of the potential severe punishment he faces under the Chinese authority, combined with the painful separation from his three-month-old daughter whom he sent back to China, led to a series of breakdowns for Mr. Chen. He continues to battle the emotional and psychological trauma and is currently seeking counseling. In his own words, “President Obama’s speech about ‘change’ echoes my dreams for the future. I genuinely hope that the immigration system of the U.S. can sympathize with an undocumented immigrant’s intense desires for a better life.”

The Vang family, Guy, Genevieve, Caroline and Melanie, are Hmong Americans (an ethnic minority in Southeast Asia who fought with the United States against Communist forces in Laos). After having been resettled in France as refugees, they came to America through the Visa Waiver pilot program in 1989. They hoped to reunite with Guy's parents who were believed to have been killed by Lao communists in the midst of the Vietnam War. Due to restrictions in the pilot program, the family experienced extreme difficulty filing for asylum, and due to bureaucratic delay, did not receive any responses to their asylum application despite frequent contact with then-INS. On May 31, 2007, the Sixth Circuit Court of Appeals denied the family's case to remain in the United States and ordered them removed. The family has paid taxes for all of the years they have been in the United States, and they own a successful restaurant, Bangkok 96, in Dearborn, Michigan. They have two U.S. citizen children and would face extreme hardship if deported to a country they barely remember.

A Fair Immigration System for Asian Americans

A complete immigration reform package must also include serious revisions to the way the United States enforces its immigration laws, often sidestepping due process protections and human rights principles. AAJC would like to highlight failed

enforcement, judicial review and detention policies that have ensnared Asian American and Asian individuals, especially families and individuals trapped by the Bush Administration's post-9/11 policies. In 2007, there were 7,066 people from Asian countries who were removed.¹⁷ Of those deported, 4,352 did not have a criminal immigration charge.¹⁸ The Asian countries with highest number of deportable individuals in 2007 included as follows: China (864), India (832), Philippines (697), Pakistan (545), Indonesia (434) and Korea (617).¹⁹ Overall, a total of 49,973 individuals from Asian countries were removed from the United States from 1998 to 2007, and 38,064 were removed on non-criminal charges.²⁰

The U.S. Constitution guarantees certain rights for all individuals within the United States, yet our current immigration enforcement system fails to fully reflect our nation's commitment to human rights and due process. Asian Americans are painfully acquainted with the impact of targeted law enforcement and immigration detentions of members of selected groups within the Asian American community. The treatment of South Asians and Muslims since September 11 brings forth disturbing reminders of the experience of Japanese Americans during World War II. After the bombing of Pearl Harbor, 120,000 Japanese Americans—nearly two-thirds of whom were U.S. citizens—were forcibly relocated from the West Coast and interned under the rationale of military necessity. Yet no Japanese Americans were subsequently convicted of military espionage, underscoring the danger of targeting entire ethnic communities to suspicion and scrutiny.

Any reform of the immigration laws must fully incorporate the American tradition of respecting and protecting the rights of individuals to due process. The immigration detention system must operate in a humane way, providing detainees timely and appropriate health services, access to attorneys and religious counsel, and professional interpretation and translation services for limited English proficient individuals. In court, immigrants must be able to have fair proceedings that include meaningful review of individual cases, language interpretation and translation assistance, and qualified and impartial judges.

Post 9/11 Backlash

In the aftermath of September 11, members of the Asian American community—particularly South Asians and Muslims—have experienced profound backlash by not only the public, but also by the government. There are more than 2.7 million South Asians in the United States. In addition, 2.3 million Muslims live in America, with 18 percent of them being from South Asia.²¹ The federal government's deliberate and misguided reliance on racial, ethnic, religious and national origin has created a climate of fear and suspicion. Federal and local law enforcement have worked together to target people on streets, in cars and at airports based solely on their ethnic or religious appearance.

AAJC's affiliate in San Francisco, the Asian Law Caucus, has received more than 40 complaints since 2007 from individuals—mostly U.S. citizens and legal permanent residents who are Muslim or of South Asian or Middle Eastern descent—who have been

subjected to lengthy detentions and invasive questioning and searches at U.S. land borders and international airports. A groundbreaking report released in April 2009²² reveals the disturbing extent to which U.S. Customs and Border Protection (CBP) has interrogated these individuals about their political and religious beliefs, volunteer activities and associations without first establishing any basis for suspecting these individuals of violating the law. Professors, religious and community leaders, attorneys and entrepreneurs have been among those whose laptop computers, digital cameras, cell phones, books and personal papers have been turned inside out for evidence of wrongdoing. The accounts shared with the Asian Law Caucus corroborate reports from other civil rights groups across the country and indicate a pattern of profiling and discrimination at U.S. borders against those particularly of Muslim, South Asian or Middle Eastern origin. The following is one such story:

Anila Ali, a middle school teacher from outside Los Angeles, is a naturalized U.S. citizen originally from Pakistan. In recent years, Ali has been pulled for questioning and searches five times when returning to the United States from travel abroad—all on account of her name and country of origin. In the most recent incident, when Ali protested to the CBP agent that she was a U.S. citizen, the agent responded that her citizenship did not matter: “It’s where you were born.”²³

The practice of racial, ethnic, religious or national origin profiling fails to make America safer. Indeed, discriminatory targeting and overbroad questioning of individuals from Muslim, Arab and South Asian communities diverts law enforcement from their charge to investigate and eliminate actual security threats.

Civil liberties must be restored and respected. The broad authority that DHS officials have invoked under the Homeland Security Act to engage in invasive questioning and searches lacks transparency and oversight. Congressional action is necessary to delineate boundaries for law enforcement conduct and establish accountability.

AAJC recommends that Congress include the Travelers’ Privacy Protection Act in a comprehensive immigration reform bill to address profiling of post-9/11 affected communities. Inclusion of the Travelers’ Privacy Protection Act would establish standards for border searches of electronic devices. Such standards must include the requirement that the government have reasonable suspicion that an individual is violating the law.

Asian Americans in Detention

On any given day, more than 30,000 people may be held in any of the nation’s more than 300 immigration detention facilities.²⁴ During fiscal year 2007, more than 311,000 people were detained in total.²⁵ Immigrants from China comprised the largest group in detention from Asia, with more than 6,200 detained in fiscal year 2007.²⁶

The necessity of immigration detention reform is perhaps most underscored by alarming reports of detainee abuse and medical negligence that have become all too frequent. Since 2003, when the Bureau of Immigration and Customs Enforcement was formed, at least 90 people have died while in immigration custody.²⁷ Asians are among those numbers. These tragic deaths should not have happened.

The New York Times last year did prominent features of Korean and Hong Kong nationals who died in U.S. custody and highlighted the critical need for ensuring we hold DHS accountable:

Young Sook Kim, an elderly Korean cook, was caught in a worksite raid and detained for a month at a county prison in New Mexico. With each day, Kim's health worsened. Fellow detainees repeatedly pleaded with authorities to examine her. The authorities were not responsive to the requests, and they did not send Kim to a hospital until after her eyes had completely yellowed and she had stopped eating. By the time Kim received basic medical care, it was too late. She died of pancreatic cancer while in U.S. custody on September 11, 2006, the day after she was taken to a hospital. Until other detainees reported it, there was no record of the death for two years.²⁸

Hiu Lui "Jason" Ng came to the United States from Hong Kong at the age of 17 and eventually became a computer engineer living in New York City. Mr. Ng married a U.S. citizen and had two sons. He was arrested in 2007 for having overstayed his original tourist visa. While in ICE custody for over a year, Mr. Ng began to complain of excruciating pain but was denied access to medical care because officers assumed his complaints were false. Mr. Ng died in ICE custody on August 6, 2008 at the age of 34. A medical examination conducted days before he died found Mr. Ng had been suffering from a fractured spine and terminal cancer.²⁹

AAJC recommends that Congress codify detention standards and medical standards as part of a complete immigration reform package. Codification that includes specific language about language assistance is especially necessary for the Asian American community, which communicates in multiple languages.

Identity Verification of Asian American Workers

Congress should resist pressure to mandate employment eligibility of workers through universal biometrics and through the current flawed verification system that cross-checks worker status with the Social Security Administration. This system should also not be imposed upon government contractors. This is one of the few issues that will impact every single Asian American worker, whether he or she is unauthorized, a legal resident or a citizen. The enforcement of labor laws and civil rights laws are paramount, and the government should not overly rely on a verification system. Due to cultural name conventions (some countries reverse the first name and last name) and government bureaucracy, Asian Americans have experienced incredible challenges in verifying their

citizenship and legal status. Future verification policies should include due process protections so that Asian American workers can contest government determinations of status and retain employment while they do so. Without such measures in place, the jobs and prosperity of every American worker are endangered.

The following is a story of a Filipina citizen who discovered that DHS had lost her file and who was subsequently unable to find employment:

Violeta Cabanatuan (name changed to protect her privacy) immigrated legally to the United States from the Philippines as a nine-year-old child in 1964. Forty years later, after serving honorably in the U.S. Army during the Vietnam War and working for decades in other jobs, she was laid off from work. Unable to locate her 40-year-old green card, she was barred from applying for unemployment benefits and was told she could not renew her driver's license. When she met with an immigration officer, she was shocked to discover that her immigration file had been lost during the federal government's transfer to a computer-based record system many years earlier. Despite being a legal immigrant and a U.S. military veteran, she was unable to get a new job, claim the unemployment benefits she had paid for during years of working, or move on with her life for the five months it took to locate her immigration record and provide her with a replacement green card.³⁰

Asian Americans Learning English and Naturalizing

Barriers to Naturalization

AAJC has worked on the rights of language minorities and on citizenship and civic engagement issues for the Asian American community since its founding. Although the Asian American community's rate of naturalization has typically been high (with approximately 60 to 70 percent of Asian American lawful permanent residents who arrived from 1973 to 1995 becoming naturalized³¹), a number of factors have led to a decrease in naturalization. Naturalizations of people born in Asia decreased from 36.2 percent of all naturalizations in 2007 to 30.9 percent in 2008.³²

AAJC believes the decrease is in large part due to drastic changes that the DHS of the previous administration made to fee structures, the citizenship exam, and to policies affecting disabled and elderly immigrants. In 2007 and 2008, DHS changed the citizenship exam to include more material which it considered more meaningful, but it also made many missteps in soliciting input from the immigrant advocacy community. In 2007, DHS also increased the fee for the naturalization application from \$400 to \$675. According to a report by the Illinois Coalition for Immigrant and Refugee Rights, the price of naturalization has increased by 610 percent in the last 10 years.³³ The report also notes that it would take at least eight weekly paychecks to cover the cost of citizenship for a family of four.³⁴ USCIS currently has no transparent process or a form by which families can apply for a fee waiver, making it difficult for poor families to apply for naturalization. A Government Accountability Office report released earlier this year

revealed that a great many user fees paid by immigrants went to enforcement activities such as the Notice to Appear unit (which is charged with asking removable individuals to appear before an immigrant judge) and the fraud unit.³⁵ These unconscionable practices must end.

Finally, DHS policy changes in the last few years have caused elderly, disabled and refugee Asian Americans to endure rigorous challenges to their requests to waive the English and civic portions of the exam due to age or physical or mental disability. For example, last year DHS issued a new form N-648—a form that allows an individual to apply for a waiver of the English and civic portion of the exam due to a mental or physical disability that renders him or her unable to learn English—and sent advocacy groups a notice of change of regulation without including the actual new form. The individuals affected by these policy changes often lose access to Social Security Income disability benefits—often their only living income—as a result due to naturalization requirements. These changes impact our most vulnerable community members desperate to learn English, earn citizenship, and become full and taxpaying citizens of our country.

The story of one elderly Vietnamese American individual successfully applying for citizenship demonstrates the challenges that elderly immigrants encounter as they work towards full integration:

Thai Ban (pseudonym used) immigrated in the 1990s after being held in a Vietnamese communist labor camp for almost a decade. Ban applied for citizenship in 2004. By then, he had lost his social security income due to harsh changes in the law. Suffering from damaging head injuries and severe Post-Traumatic Stress Disorder, Ban was emotionally and mentally broken from his years of torture in the labor camp. It took him nearly one year to receive a waiver of the English and history test. In the process, he lost his social security disability income, his only source of income. However, he faced another one-year wait for an FBI background check to clear his name because the system was so backlogged after the attacks of 9/11. Ban finally took his oath of naturalization in 2007. “It was a long wait, but my family and I are happy that it is over and I am now part of this country,” he said.³⁶

AAJC recommends that the following legislative provisions (many of which were included in the previously introduced Citizenship Promotion Act³⁷) be included in a complete immigration reform package in order for immigrants to access the naturalization process in a fair manner:

- Require DHS to rigorously consult with Congress and stakeholders prior to changing fees or changing the citizenship exam;
- Require DHS to create a fee waiver form that will make the fee waiver process more transparent and accountable;
- Require DHS to codify fair policies that allow elderly and disabled immigrants to waive the English and civic portions of the exam; and
- Disconnect disability benefits completely from the naturalization process.

Barriers to Learning English

In order to ensure that Asian Americans can effectively integrate, retain jobs, prosper, and naturalize, our government must devote more attention and resources to those learning English. English language learning is important for maintaining an educated and skilled workforce in this 21st century economy.

The substantial limited-English proficient and immigrant population within the Asian American community creates a demand for English language and citizenship classes. However, a majority of English Language Learner (ELL) programs have waiting lists. Among 176 providers surveyed in a recent report by the National Association of Latino Elected and Appointed Officials Educational Fund (NALEO), 57.4 percent reported that they had a waiting list. Waiting times range from a few weeks to more than three years.³⁸ In the metropolitan New York City region, where Asian Americans have the highest rate of limited-English proficiency among racial groups, and a near majority of Asian Americans city-wide have some difficulty speaking English, the need for adult ELL classes in the region is estimated to be one million.³⁹ However, in 2005, only 41,347 adults were able to enroll because of the lack of programs.⁴⁰ Most adult ELL programs in New York City no longer keep waiting lists because of the extreme demand, and instead use lottery systems in which at least three out of every four adults are turned away.⁴¹

AAJC recommends an increase in Workforce Investment Act appropriations to address adult education and vocational programs to help immigrants integrate. In addition, integration legislation should be incorporated into a complete immigration reform package with provisions supporting local and state programs that bring various stakeholders together to create state-customized integration strategies like those already existing in Illinois, Massachusetts, Washington State and Maryland.

Conclusion

AAJC believes that immigration reform must address the full panoply of issues that have made our immigration system broken. Solutions include expediting the reunification of families by significantly decreasing the family immigration backlogs, legalizing the undocumented, promoting a fair immigration system for all, rolling back draconian post-9/11 policies, promoting due process in our system, fully enforcing civil rights and labor laws, ensuring our citizenship process is accessible and fair, and helping new Americans learn English and integrate into our society.

¹ JEFFREY M. HUMPHREYS, THE UNIVERSITY OF GEORGIA, THE MULTICULTURAL ECONOMY: 2008, at 9 (2008), available at http://media.terry.uga.edu/documents/selig/buying_power_2008.pdf.

² *Id.*

³ U.S. CENSUS BUREAU, *Statistics for Asian-Owned Firms by Kind of Business and Detailed Group: 2002*, in 2002 SURVEY OF BUSINESS OWNERS: COMPANY STATISTICS SERIES (2002), available at http://factfinder.census.gov/servlet/EconSectorServlet?caller=dataset&sv_name=2002+Survey+of+Business+Owners&_SectorId=*&ds_name=EC0200A1

⁴ ROBERT BERNSTEIN, U.S. CENSUS BUREAU, U.S. HISPANIC POPULATION SURPASSES 45 MILLION (2008), available at <http://www.census.gov/Press-Release/www/releases/archives/population/011910.html>.

⁵ U.S. CENSUS BUREAU, *S0201. Selected Population Profile in the U.S.: Asian Alone or in Combination with One or More Other Races*, in 2005-2007 AM. COMMUNITY SURVEY 3-YEAR ESTIMATES (2007), available at

http://factfinder.census.gov/servlet/DatasetMainPageServlet?_program=ACS&_submenuId=datasets_2&_lang=en.

⁶ U.S. DEPT. OF STATE, REPORT OF THE VISA OFFICE FOR 2008, TABLE III: IMMIGRANT VISAS ISSUED (BY FOREIGN STATE OF CHARGEABILITY OR PLACE OF BIRTH) FISCAL YEAR 2008, (2008), available at <http://www.travel.state.gov/pdf/FY08-AR-TableIII.pdf>.

⁷ U.S. DEPT. OF STATE, IMMIGRANT WAITING LIST, 2009.

⁸ MICHAEL HOEFER, NANCY RYTINA, AND BRYAN C. BAKER, U.S. DEPT. OF HOMELAND SECURITY, ESTIMATES OF THE UNAUTHORIZED IMMIGRATION POPULATION RESIDING IN THE UNITED STATES: JANUARY 2008 4 (2009), available at http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2008.pdf.

⁹ *Id.*

¹⁰ Reuniting Families Act, H.R. 6938, 110th Cong. (2008); Reuniting Families Act, S. 3514, 110th Cong. (2008).

¹¹ Statement by Salim to the Asian Am. Inst., in Chicago, Ill. (2008).

¹² Statement by Anne to the Asian Am. Inst., in Chicago, Ill. (2006).

¹³ RUTH ELLEN WASEM, U.S. IMMIGRATION POLICY ON PERMANENT ADMISSIONS: CRS REPORT FOR CONGRESS, RL 32235, at 13 (2006).

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