

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”**

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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).

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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-nationali> (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.