



**STATEMENT OF  
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THE LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS**

**HEARING ON  
THE BORDER SECURITY, ECONOMIC OPPORTUNITY, AND IMMIGRATION  
MODERNIZATION ACT, S.744**

**COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE**

**APRIL 22, 2013**

Chairman Leahy, Ranking Member Grassley, and members of Committee: I am Wade Henderson, President and CEO of The Leadership Conference on Civil and Human Rights. I appreciate the opportunity to present the views of The Leadership Conference for inclusion in the record of today's hearing on S. 744, the "Border Security, Economic Opportunity, and Immigration Modernization Act."

The Leadership Conference on Civil and Human Rights is the nation's oldest and most diverse coalition of civil and human rights organizations. Founded in 1950 by Arnold Aronson, A. Philip Randolph, and Roy Wilkins, The Leadership Conference seeks to further the goal of equality under law through legislative advocacy and public education. The Leadership Conference consists of more than 200 national organizations representing persons of color, women, children, organized labor, persons with disabilities, the elderly, gays and lesbians, and major religious groups. I am privileged to bring the voices of this community to today's hearing.

**Comprehensive Immigration Reform, a Matter of Civil and Human Rights**

The Leadership Conference is extraordinarily pleased that Congress is making a concerted effort to move forward this year with a full-scale overhaul of our nation's immigration system. While my staff and I are continuing to study the details of S. 744, and while there are likely to be a wide range of opinions about the bill as it moves forward, I would like to begin my statement by setting out what I hope are a few general points of agreement.

First, I believe that everyone in this debate can agree that our nation's immigration system is badly broken. It fails to keep up with economic realities, it fails to provide an orderly way to keep track of who is here, it inhumanely separates families and keeps them apart, it penalizes children for the actions of their parents, and it is so unfair and so burdensome that it fails to give people enough incentives to play by the rules. America's immigration system clearly needs sweeping changes, and it needs them soon.

Second, I think we can also agree that in fixing our immigration system, it is vital that we include more realistic and more humane immigration enforcement. For many reasons, it is undoubtedly important to know who is coming here and under what circumstances, and to protect communities from people who



would do us harm when they have no authorization to be here. Yet as evidenced by record-high numbers of deportations in the past four years, the notion that the laws are not being enforced is simply not true. The real problem, when it comes to enforcement, is that ongoing efforts – particularly since the implementation of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 – too often take a heavy-handed and even cruel approach. Countless numbers of immigrants – regardless of their legal status – are needlessly locked up and removed, even when detention and deportation do not serve the public interest, because immigration judges and other officials no longer have the ability or the incentive to exercise common sense. At the same time, many of the most complicated and sensitive decisions involving immigration law enforcement are being made in many parts of the country by untrained state and local law enforcement officials, or worse, by private for-profit corporations that have a financial incentive to lock up as many people as possible.

As a nation, we can and should take more sensible measures, such as hiring additional inspectors and border patrol agents to work in ports of entry, making better use of technology, and working more closely with Mexico to cut down on problems like human trafficking and the drug trade. At the same time, enforcement efforts must ensure due process and protect the civil rights of all people who are affected.

Third – and while this, of course, has long been the subject of contentious debate – I would hope that we might come to agree on the importance of giving unauthorized immigrants, living and working in our country, a realistic way to come out of the shadows and legalize their status. As a lifelong civil rights advocate, I see this not as an issue of economics but of morality, and I believe it goes directly to our most basic understanding of civil and human rights.

It is easy to focus on the fact that many immigrants have broken the rules in order to get or stay here. We do not condone violations of our immigration laws. But as we do in most other circumstances, we should also look at why these individuals have broken the rules. Motives count. And the overwhelming majority of unauthorized immigrants have broken the rules not to “steal jobs,” to live off the government, or to take advantage of anyone else. Instead, most of them have been motivated, to the point where many have even risked their lives to come here, by the desire to escape economic or political hardships that few native-born Americans today could fully understand. At the same time, they are all too often enticed here by employers who are perfectly willing to use and abuse them in the process.

When we consider the motives of most of the unauthorized immigrants who live and work in our country, it is clear to The Leadership Conference – and hopefully to everyone – that our policies should not treat them as fugitives to be hunted down, but as an economic and social reality that must be addressed in a thoughtful manner that best serves our nation and our communities as a whole. For example, unauthorized immigrants should not be so afraid of law enforcement, due to their immigration status, that they refuse to report crimes in their own neighborhoods. When they go to work, they – like all humans – have a right to know they will be treated safely and paid fairly, which protects the interests of native-born workers as well. If they drive on our roads, it is in the interest of everyone to make sure they are doing so safely. Regardless of how they may have initially come here, if they show a willingness to play by the rules and contribute to our economy and our society, we should have policies in place that will reward their hard work. At the very least, I would hope that we can agree that punishing the children of unauthorized immigrants for the actions of their parents is nothing short of insane, and is an affront to our deepest values and constitutional traditions.

Finally, we believe that family unity should be a key foundation of our immigration laws, in the same way that it is a key foundation of our society itself. Sadly, our current immigration system is chronically plagued by administrative backlogs in the family-based visa process, as well as by the woefully inadequate numbers of family-based visas that become legally available each year. As a result, it can often take years or even more than a decade for close relatives of U.S. citizens or permanent residents to obtain immigrant visas, and these delays simply encourage people to overstay temporary visas or find other ways to enter the country in order to be with their loved ones. Other families are kept apart by outright discriminatory federal policies, particularly the wrongly-named Defense of Marriage Act of 1996. Addressing these and numerous other problems in our immigration system is an essential component of the modern civil and human rights agenda.

### **Immigration Reform and the African-American Workforce**

I am mindful that these are challenging times to take up an issue like immigration reform. Our economy is continuing to struggle, leaving far too many of Americans uncertain about their jobs and their economic well-being. Most recently, a horrifying act of terrorism in Boston has caused some to argue – very wrongly, in my opinion – that we should further delay fixing the massive, long-standing problems in our national immigration system. To the contrary, I believe the need for immigration reform remains as strong as ever.

That said, I would like to turn to another important yet complicated issue that affects the immigration reform debate: the impact that immigration has on minority communities, particularly African Americans. Needless to say, this topic has generated a great deal of controversy, particularly in recent years as our economy has struggled, and African Americans have faced much higher unemployment rates than usual.

I certainly share the legitimate concerns about unemployment and underemployment among African Americans. Indeed, advancing policies that would address these concerns has been one of my highest priorities throughout my career. The needs of low-wage workers – a group disproportionately composed of African-American workers – have long been neglected by policymakers, a situation that has needlessly exacerbated tensions between the African-American and immigrant communities. Many African Americans, as a result of the difficult economic conditions they face, understandably fear that the immigrant workforce will worsen their situation as the competition for jobs in our struggling economy reduces the opportunities and the wages of all vulnerable workers. Yet having said this, I do not share the simplistic and divisive view, advanced by some, that immigrants are to blame for “stealing jobs” on any widespread scale from native-born Americans.

### **The Impact of Immigration on African-American Employment**

The situation facing African-American workers is a complicated one, and the impact of immigration on the employment prospects and the wages of African Americans is the subject of much debate among economists. As economists such as Steven Pitts of the Center for Labor Research and Education at the University of California have pointed out, for example, the employment crisis facing African Americans began long before our nation took a more generous approach to immigration policy in 1965. Looking at overall unemployment rates over the last half century, we see that the unemployment rate for African Americans has always been approximately twice as high as for White Americans, and has remained

approximately the same<sup>1</sup> even as the percentage of foreign-born Americans, relative to the population as a whole, has increased in the past several decades:

Year	Black Unemployment	White Unemployment	Black/White Unemployment Ratio
1956	8.3%	3.6%	2.3
1965	8.1%	4.1%	2.0
1975	14.8%	7.8%	1.9
1985	15.1%	6.2%	2.4
1995	10.4%	4.9%	2.1
2005	10.0%	4.4%	2.3

As most economists would explain, this employment crisis has a wide variety of causes that are remarkably difficult to sort out. These causes include both historical and contemporary racial discrimination, not only in the labor market, but also in other sectors of society such as housing markets, educational systems, and consumer finance. The higher rates – and the lasting stigmatic effects – of incarceration of African-American males are also significant.<sup>2</sup> Disparities in health care are both a cause and a consequence of unemployment.<sup>3</sup> In addition, the situation has certainly been compounded by broader changes in the U.S. economy as a whole, including the globalization of the economy and the movement of many types of jobs overseas.

As to the question of whether immigration might play a role in aggravating the long-existing causes of African-American unemployment, economists who have studied the issue have not been able to establish any sort of consensus.<sup>4</sup> Even among experts who do think there is an impact, there is disagreement over its extent. For example, Bernard Anderson, an economist at the University of Pennsylvania's Wharton School, believes that while immigrants have probably taken some jobs previously performed largely by African Americans, there is also evidence that African Americans are less likely to perform low-skill service jobs because they have largely moved on to take better-paying jobs or have retired from the labor force. The displacement that has taken place, Anderson argues, has not had a significant effect on the wages or opportunities of native-born workers.<sup>5</sup> Another study, by the Immigration Policy Center, found that in states and metropolitan areas with high levels of recent immigrants, unemployment among African Americans was actually *lower* than in areas with low levels of recent immigrants.<sup>6</sup> Finally, a study by the

<sup>1</sup> U.S. Department of Labor, Bureau of Labor Statistics; also Council of Economic Advisors, *Changing America: Indicators of Social and Economic Well-Being by Race and Hispanic Origin*, Sept. 1998, at 26.

<sup>2</sup> See, e.g., Jenny Bussey and John Trasviña, *Racial Preferences: The Treatment of White and African American Job Applicants by Temporary Employment Agencies in California*, Discrimination Research Center, Dec. 2003; Devah Pager, *The Mark of a Criminal Record*, AMERICAN JOURNAL OF SOCIOLOGY 108(5): 937–75.

<sup>3</sup> Kristen Suthers, *Evaluating the Economic Causes and Consequences of Racial and Ethnic Health Disparities*, Issue Brief, American Public Health Association, Nov. 2008.

<sup>4</sup> See, e.g., Harry J. Holzer, *Immigration Policy and Less-Skilled Workers in the United States: Reflections on Future Directions for Reform*, Migration Policy Institute, Jan. 2011; Roger Lowenstein, *The Immigration Equation*, THE NEW YORK TIMES, July 9, 2006.

<sup>5</sup> *The Immigration Debate: Its Impact on Workers, Wages and Employers*, KNOWLEDGE@WHARTON, May 17, 2006, available at <http://knowledge.wharton.upenn.edu/article.cfm?articleid=1482>.

<sup>6</sup> *Immigration and Native-Born Unemployment Across Racial/Ethnic Groups: Untying the Knot, Part II of III*, Special Report, Immigration Policy Center, May 2009.



Economic Policy Institute found that any negative effects of new immigration were felt largely by earlier immigrants, the workers who are the most substitutable for new immigrants.<sup>7</sup>

### **Policies Aimed at Improving Conditions for Low-Income Minority Workers**

As explained above, economists simply do not – and perhaps cannot – know with certainty the full extent of the displacement of African-American workers by new immigrants. As such, I reject the sweeping, simplistic, divisive indictments of immigrants that have been offered by some advocates, and I urge this Committee to do the same. At the same time, I do recognize that it is possible that unskilled, native-born workers have been – or could be – displaced by increased immigration. There is certainly anecdotal evidence to that effect, even as the overall body of statistical evidence is far less clear. In any event, the prospect of job displacement caused by immigration has long caused concerns within the African-American community – a fact that has been exploited by some to drive a wedge between African Americans and Latinos.

For these reasons, The Leadership Conference takes the underlying concerns about job displacement very seriously. Because the unemployment crisis facing African Americans has a wide variety of causes, however, we believe that efforts focusing on widespread deportation – or on making immigrants feel so unwelcome that they “self-deport,” as some have proposed<sup>8</sup> – miss the mark completely.

There are numerous policy proposals that academics and advocates have advanced to assist low-wage native-born workers. The Leadership Conference is proud to have contributed to these ideas. In early 2007, we organized a summit of leaders from African-American, Latino, and Asian-American communities to discuss how the concerns of low-income workers might best be addressed in the ongoing debate over immigration reform. The organizations and leaders involved in those discussions produced a statement of principles and legislative recommendations that we urged Congress to take up as a part of comprehensive immigration reform. These recommendations call upon Congress to provide for:

- Better enforcement of antidiscrimination laws, through testing and other measures, and enhanced public education efforts to counter stereotypes about immigrants and African Americans;
- More open vacancy notification systems, to overcome the use of informal networks of friends and relations to fill low-wage jobs, which reduces job competition;
- Increased enforcement of workplace standards, including fair wage and overtime requirements, and safety, health and labor laws;
- Making it easier for workers to compete for jobs in other locations through better advertising of unskilled jobs and the allocation of resources to pursue and relocate for them; and
- More job skills, training and adult education opportunities for low-wage workers, including young people and high school dropouts.

During the 2007 debate in the Senate over comprehensive reform legislation, we worked with Sen. Sherrod Brown (D-OH) on an amendment focusing on the second point above, as a starting point. His

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<sup>7</sup> Heidi Shierholz, *Immigration and Wages: Methodological Advancements Confirm Modest Gains for Native Workers*, Briefing Paper, Economic Policy Institute, Feb. 2010.

<sup>8</sup> See, e.g., Mark Krikorian, *Not Amnesty but Attrition: The Way to go on Immigration*, National Review, Mar. 22, 2004.

amendment would have required employers who want to hire immigrant workers, under the temporary employment visa provisions of the bill, to show that they have advertised – and to continue to advertise, for one year – all similar job vacancies with the state employment service. The requirement would have been extended to all vacancies that require comparable education, training, or experience as the job to be given to an immigrant worker. It would have helped ensure that native-born workers became aware of, and had the opportunity to apply for, job openings before employers resorted to hiring immigrant workers. Unfortunately, the Senate deliberations over immigration reform collapsed before Sen. Brown was able to offer his amendment. We believe, however, that his proposal could have earned widespread bipartisan support, and it would have been an important and constructive step in addressing the concerns of low-income minority workers.

I would urge Congress to move forward with all of these proposals – and I would note that they can be enacted even in the absence of comprehensive immigration reform legislation. By doing so, our elected officials can provide low-wage African-American workers with much-needed assistance, and can help mitigate tensions between African-American and immigrant workers. I would also urge the Subcommittee to consider a 2009 blueprint for immigration reform that was jointly issued by the two American labor federations, the AFL-CIO and Change to Win, together representing more than 60 different unions and about 16 million American workers. Their proposal, entitled *Framework for Comprehensive Immigration Reform*,<sup>9</sup> meets many of the concerns expressed in the African-American community by providing for the fair and humane treatment of immigrants, on one hand, and preventing immigrant workers from being exploited and used to undercut work standards to the detriment of native-born workers, on the other.

### **So-called “Black vs. Brown” in the Immigration Debate: Perceptions and Realities**

Before I conclude, I would like to say more about the misperceptions about relations among African Americans and Latinos, misperceptions that some immigration reduction advocates have attempted to foster, in recent years, in an effort to pit community against community with the goal of preventing immigration reform. In 2007, for example, a group that called itself the Coalition for the Future American Worker, organized primarily by immigration reduction organizations, deliberately attempted to stir up African-American resentment toward immigrant communities and immigration reform by running full-page newspaper ads that blamed immigrants for taking hundreds of thousands of jobs from African Americans.

As with any controversial issue – and immigration reform is undoubtedly a controversial issue – there inevitably will be a range of individual opinions within any community. But on the whole, the relationship between the African-American community and immigrant communities has long been far too complex to neatly summarize in a newspaper ad.

On one hand, as minority groups in America, African Americans and immigrants share a strong common interest in fairness and equal opportunity. Indeed, because the immigrant community includes many individuals of African and Caribbean descent, including those admitted under the diversity visa program, African Americans do have a direct interest in fair immigration policies. For these reasons, the traditional civil rights movement was instrumental in eliminating discriminatory immigration quota laws in favor of

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<sup>9</sup> Available at <http://www.aflcio.org/content/download/60511/854621/UnityFrameworkAug2009.pdf>.

more generous policies in the 1960s, and leading civil rights organizations have continued to speak out on behalf of immigrants' rights since then.

On the other hand, as I have explained above, it is clear that many African Americans, particularly those who struggle the most to make ends meet in today's economy, are concerned about the way their economic well-being is affected by increased immigration. Time and time again, immigration reform opponents focus only on these anxieties while ignoring the common ground that exists. For example, following the August 2008 immigration enforcement raid at Howard Industries in Laurel, Miss., immigration reduction advocates focused on a segment of some African-American workers who apparently celebrated the arrests, as an example of the divide between native-born and immigrant workers, while ignoring the fact that the African-American leadership at Howard Industries' union supported signing up Latino workers and forging solidarity to improve the living standards of all employees.

Contrary to what the propaganda of some groups might suggest, African-American concerns about the effects of immigration do not, on the whole, lead to any widespread resistance to the legalization of unauthorized immigrants or the other elements of comprehensive reform. Our own public opinion research confirms this. Last month, Lake Research Partners conducted telephone polling of 805 African-American likely voters nationwide.

Our most recent polling finds that 75 percent of respondents rate the economy negatively, and 54 percent worry that they or someone in their household will lose a job in the coming year. With respect to immigrants, 45 percent of respondents believe that immigrants take jobs away from Americans, and 51 percent believe that they drive down wages for Americans. Despite these fears, however, we found that 66 percent of respondents supported comprehensive immigration reform that includes increased border security, penalties on employers of illegal workers, and criteria for a path to citizenship, with only 16 percent opposing such reforms. Furthermore, 72 percent of respondents (69 percent in the Deep South) have a favorable impression of immigrants, with 68 percent believing they contribute to our economy and communities. Only 39 percent believe that immigrants drive down wages for African-American workers, a 20 percent decline since we conducted similar polling in 2007. Finally, our research in this and previous years confirms that strong majorities of African Americans believe that they can work together with immigrant communities on common social and economic goals such as expanding access to health care and education, reducing crime, and improving wages, work benefits, and job opportunities.<sup>10</sup>

In short, African Americans generally understand that it is inherently wrong to divide people along the lines of race or ethnicity or national origin, and that creating "us versus them" scenarios does not help anyone in the long run. If Congress did more to protect low-income, native-born workers, as a part of immigration reform or even independently, and consistent with the principles I outlined above, the numbers I have just cited would be even more favorable.

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<sup>10</sup> Polling conducted by Lake Research Partners, for The Leadership Conference on Civil Rights & Leadership Conference on Civil Rights Education Fund, March 25-30, 2013, among 805 African-American likely voters. The results are consistent with similar polling conducted for us by Lake Research Partners, December 8-17, 2007, among 700 African-American voters.



Finally, I would like to add that African Americans do tend to take note of how consistently – or inconsistently – immigration advocates show their concern for the well-being of the African-American community across the board. Unfortunately, evidence of that concern is often sorely lacking.

For example, from the 2006 reauthorization through the Supreme Court case that is now awaiting a decision, the Voting Rights Act – the most important civil rights law governing our most important civil right – has been under steady attack by many of the same groups and individuals who claim to be interested in protecting black Americans from the effects of immigration. As the 2008 financial crisis began, many of those same individuals dishonestly blamed the Community Reinvestment Act, a decades-old civil rights law that could have in fact reduced predatory subprime lending if it had been more uniformly applied.<sup>11</sup> More recently, many have supported budget policies that drastically cut spending in areas that are most important to African Americans such as education and health care, in order to protect millionaires or defense contractors from making sacrifices. Finally, some immigration reduction advocates have even gone so far as to propose rewriting the 14<sup>th</sup> Amendment of our Constitution,<sup>12</sup> striking at a core foundation of our nation's civil rights protections that is deeply cherished by most African Americans. While there are certainly exceptions,<sup>13</sup> it is clear that immigration reduction advocates have rarely gone out of their way to be our friends.

This concludes my remarks. Thank you for the opportunity to have my thoughts included in the record of today's hearing. I would be happy to answer any questions you may have.

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<sup>11</sup> Myths about the Community Reinvestment Act (CRA) contributing to the financial crisis have been thoroughly debunked by experts, but nevertheless continue to proliferate. *See, e.g.*, letter from Federal Reserve Chairman Ben Bernanke to Sen. Bob Menendez (D-NJ), Nov. 25, 2008, *available at* <http://menendez.senate.gov/pdf/112508ResponsefromBernankeonCRA.pdf> (explaining that he found no evidence to support the claim that the CRA was to blame for the mortgage crisis).

<sup>12</sup> *See, e.g.*, H.R. 140/S. 301, the Birthright Citizenship Act of 2013.

<sup>13</sup> I would certainly note, for example, the bipartisan effort that resulted in the enactment of the Fair Sentencing Act of 2010, which will help reduce racial disparities in cocaine sentencing. Its champions in Congress included a number of prominent opponents of comprehensive immigration reform.