

## **TESTIMONY BEFORE NEW YORK CITY COUNCIL COMMITTEE ON IMMIGRATION**

**Presented on February 25, 2021**

My name is Johanna Zacarias, and I am a staff attorney in the Immigration Law Unit (ILU) at The Legal Aid Society (LAS). For 145 years, LAS has been a tireless advocate for those least able to advocate for themselves. ILU, founded in the 1980s, provides legal representation to vulnerable New Yorkers seeking relief for themselves and their families. We assist those in detention and fighting unlawful deportations, and represent low-income individuals in gaining and maintaining lawful status. Combining this representation with affirmative litigation work, we strive to ensure that families are able to stay together and stabilize their living situations. Over the most recent year, ILU assisted in nearly 4,500 individual legal matters benefiting over 10,500 New Yorkers citywide.

Noncitizen New Yorkers have continued to be disproportionately impacted during the COVID-19 pandemic and we are grateful for the City Council's support for our communities during this time.

**A. Res 1416 - Resolution calling on the United States Department of Homeland Security to halt all deportation proceedings for the length of the COVID-19 pandemic, as a means of restricting the global spread of this disease.**

We support this proposed resolution, which recognizes the increased risk of COVID-19 infection facing detained individuals and the sizable threats to public health posed by potential widespread transmission resulting from continued deportation operations. Immigrations and Customs Enforcement (ICE) has proved incapable of adequately mitigating these risks and it is essential that civil immigration detention does not carry the risk of serious illness or death for noncitizen New Yorkers.

We do, however, have concern about a possible unintended negative consequence of a categorical halt on removals. While the Biden administration's 100 day moratorium on deportation contains an exemption for noncitizen individuals in detention who wish to voluntarily accept deportation, ICE's New York offices have prevented the exercise of this exemption based on a misapplication of the moratorium. As a result, some individuals whose proceedings are complete, who have a final order of removal, and who wish to be deported have instead been forced to remain in detention for extended periods of time when they would prefer to be returned to their country of origin without further delay. In many instances, individuals may have exhausted all legal avenues for obtaining immigration relief, and the reality of their legal situation may mean that successfully challenging the removal order is unlikely. In other cases, the emotional and psychological toll of being detained for significant periods of time renders individuals unable to further endure detention as they continue challenging their deportation. While we are able to provide high quality and zealous representation through the New York Immigrant Family Unit Project (NYIFUP), the realities of the immigration legal process mean that the timeframe for successfully challenging removals can often be several years, which can cause stress and anxiety. The dangers inherent in being detained in congregate detention settings during the pandemic as well as the conditions within the facilities have significantly added to this stress and anxiety, with many individuals preferring to be deported rather than face the continued risk of exposure to COVID-19 transmission and infection, especially if all appeals have been exhausted. The resolution as currently worded risks reinforcing ICE's erroneous interpretation of the current

moratorium, forcing already extremely vulnerable individuals to continue with an extended and unnecessary period of detention, against their will, during a catastrophic global public health crisis.

As a result, we strongly encourage incorporating language into the resolution that clearly includes a specific exemption for detained individuals who are resigned to deportation and want to avoid further languishing in ICE detention indefinitely.

- B. Res 1417 - Resolution calling on the United States Department of Homeland Security to place a moratorium on all removal proceedings for employment-based status holders that suffered a loss of employment during or due to the COVID-19 pandemic.**
- C. Res 1418 - Resolution calling on the United States Congress to pass, and the President to sign, legislation that would permit employment-based status holders to retain lawful status, after loss of employment, if such loss was related to the COVID-19 pandemic.**

We strongly support these resolutions that would significantly enhance protections for immigrant New Yorkers whose lawful immigration status is based on employment. Noncitizens have been disproportionately impacted by the pandemic and are more likely to have lost work and be employed in sectors that have been forced to cease or significantly reduce business operations as a result of social distancing measures.<sup>1</sup> According to one recent report, half of New York City's immigrants have been made unemployed at some point during the pandemic at the same time as being excluded from significant portions of pandemic relief legislation.<sup>2</sup> The COVID-19 pandemic is an unprecedented situation and it is a matter of fairness that we do not adopt a punitive approach to among our most vulnerable populations during this unparalleled crisis.

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<sup>1</sup> [https://maketheroadny.org/wp-content/uploads/2020/05/MRNY\\_SurveyReport\\_small.pdf](https://maketheroadny.org/wp-content/uploads/2020/05/MRNY_SurveyReport_small.pdf)

<sup>2</sup> <https://nycfuture.org/research/under-threat-and-left-out>

In addition to these considerations of basic fairness, protecting and supporting our immigrant communities is also integral to New York's ability to build a long-term recovery that is community-based and equitable following the pandemic. Between 1980 and 2018, noncitizen New Yorkers founded more than half of all small businesses in the city and accounted for 107% of the city's growth. The degree to which all of our communities are supported during this unparalleled crisis will determine the speed with which we are able to recover as a city in the future. Ensuring that noncitizen New Yorkers who have lost employment through no fault of their own during the pandemic do not face being forced to leave their home is a key component of this.

**D. Res 1419 - Resolution calling on the United States Congress to pass, and the President to sign, legislation that would provide immigration relief for family members who derive lawful immigration status from a frontline worker who passed away due to COVID-19.**

In addition to being disproportionately impacted economically by COVID-19, New York's noncitizen communities have been significantly more likely to become infected and experience serious medical complications or fatalities.<sup>3</sup> Noncitizens are more likely to live in overcrowded conditions that increase risk of infection at the same time, while also having an increased likelihood of being forced to continue working out of necessity during the pandemic. The health disparities experienced by immigrant communities, compared to the native born, mean that noncitizens who contract the virus are more likely to experience serious medical complications or fatalities in the event of infection. In the initial stages of the pandemic, Black and Latinx New Yorkers died from COVID-19 related illnesses at rates more than two times higher than other groups in the city. At

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<sup>3</sup> [https://maketheroadny.org/wp-content/uploads/2020/05/MRNY\\_SurveyReport\\_small.pdf](https://maketheroadny.org/wp-content/uploads/2020/05/MRNY_SurveyReport_small.pdf)

the same time, noncitizen New Yorkers make up a significant portion of the frontline workers who have been so central to our city's ability to endure during the pandemic and continue to risk exposure to the virus.

It is vital that we ensure that New Yorkers who have already experienced the trauma of the loss of a loved one during the pandemic do not face the added stress of being forced to leave their home.

Respectfully submitted,

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