



THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, N.Y. 10007

FATIMA SHAMA  
COMMISSIONER  
OFFICE OF IMMIGRANT AFFAIRS

TESTIMONY OF FATIMA SHAMA,  
COMMISSIONER OF THE MAYOR'S OFFICE OF IMMIGRANT AFFAIRS

APRIL 26, 2010

Good morning, Chairman Dromm, and members of the City Council's Immigration Committee. I am Fatima Shama, the Commissioner of the Mayor's Office of Immigrant Affairs. This morning I am joined by Matilde Roman, the office's General Counsel.

Thank you for inviting me to discuss comprehensive immigration reform with you and share with you the City's continued support and commitment to advocate for a viable and balanced solution to the nation's broken immigration system. Our commitment to struggling immigrants in New York City, who we care most about, is steadfast. Throughout our City's history, people from around the world have been drawn to the freedom and opportunity that define New York City. Immigrants by the millions have made New York their home and, as a result, we have become the world's second home – the most unique, diverse, and vital city in the world. Immigrants have come to New York and written their own American success stories by working hard, playing by the rules, and weaving themselves into the permanent fabric of city life. They are the lifeblood of this City. Their contributions to our history are beyond measure. And they have always been and will always be welcome here.

Let me begin with a brief overview of the role that my office plays in improving the lives of immigrant New Yorkers. My office serves as a bridge between immigrants and city government,

helping to facilitate the successful integration of immigrants into the social, civic and economic fabric of our great City. We strive to better the lives of immigrants and their families through a focused attention to policies, programs, and practices that address the needs of immigrant communities. Working with our colleagues in City agencies, with civic and religious leaders, our elected officials, and other key stakeholders, we identify emergent issues and work toward viable solutions to enhance the lives of the more than thirty-seven percent (37%) of our City's population that is foreign-born.

In New York City, 500,000 of our more than 3 million immigrants are members of our vibrant communities and are currently without status. It is because of them and the millions of others across the country, 11 million to be precise, that comprehensive immigration reform is an issue of utmost urgency. It is why Mayor Bloomberg, a long-standing advocate for immigration reform, pledged during his inaugural address on January 1<sup>st</sup> to assemble a bipartisan coalition to support President Obama's call for comprehensive reform that honors our history, upholds our values, and promotes our economy.

Our City's historical commitment to our immigrant residents has meant more than just words. It has also meant services. Perhaps more than any other city in this country, New York has a proven track record of offering its services to everyone, regardless of where they were born. That longstanding policy is alive and well today. And the reason is simple: What's good for the City's immigrants is good for the City. Yet, late last week we witnessed a passage of a law in Arizona that will impact its success in every way. Economically, how will businesses and visitors to Arizona feel welcome, for all of the residents of Arizona how does this provide a greater sense of public safety? Arizona's passing of this law, in my opinion, is misguided and harmful because it creates an America where people will be racially profiled, where communities will fear accessing services and engaging with their partners in government and in the end neighborhoods may become less safe because well-intentioned, hard working, American dream seeking good people will fear "government" especially the police.

As a country, America will be badly hurt if more states follow Arizona's lead. **This law came to be because** for years Congress has failed to fix our broken immigration system, and this could

undoubtedly **spread to other states, if we don't act steadfast in bringing about comprehensive immigration reform.** Instead of misguided efforts by states, we need Washington to lead the way with comprehensive immigration reform that secures our borders, promotes economic growth, and honors our American heritage.

This is why comprehensive immigration reform is a priority of New York City's legislative agenda. Just weeks ago the Mayor met with Senator Lindsey Graham to discuss his commitment to engage in the nation's immigration debate, thereafter he met with Senate Majority Leader Harry Reid and discussed the importance of the need for comprehensive immigration reform, and when he met with New York City's business leaders he urged them to recognize comprehensive immigration reform as an urgent discussion in the political sphere. He has been clear that the key guiding principles to help frame the reform effort needs to be structured and fair, and proves beneficial for all members of our community.

Allow me to share with you a few points the Mayor has publicly articulated specific to the needs for immigration reform.

First, to fully restore the economic health of our city and country a national immigration policy needs to be based on the reality that we need more immigrants, not less. Whether it is the entrepreneurial spirit that starts businesses, or it is individuals who go to work in businesses that could not otherwise find people with their skills it is our lack of a good immigration policy that may cause our country to lose our advantage of being the place where the best and brightest want to work.

Second, an equitable and balanced immigration policy will also take into consideration that it would be impossible to deport 11 million people, as well as devastate many families, and make our economic recession far worse. It is why the Administration advocates for a policy that would give those immigrants already here the opportunity to earn the right to stay and begin a path to legalization.

Third, we also support strengthening our immigration laws to eliminate incentives for people to come here illegally by making sure that businesses can and do follow the law, which is key to securing our borders.

As the Senate moves forward to introduce legislation to fix our broken immigration system, this Administration will work with the President and Congress to create an immigration system that will strengthen our economy, protect our borders, and honor our American values.

I would like to once again thank you for granting me the opportunity to speak with you this morning and I would be glad to answer any questions you may have.



# NYCLU

NEW YORK CIVIL LIBERTIES UNION

125 Broad Street  
New York, NY 10004  
212.607.3300  
212.607.3318  
www.nyclu.org

**TESTIMONY OF UDI OFER  
ON BEHALF OF THE NEW YORK CIVIL LIBERTIES UNION**

*before*

**THE NEW YORK CITY COUNCIL IMMIGRATION COMMITTEE  
IN SUPPORT OF RESOLUTION 162, CALLING ON CONGRESS  
TO PASS COMPREHENSIVE IMMIGRATION REFORM**

**April 26, 2010**

Council Member Dromm and members of the City Council's Immigration Committee: My name is Udi Ofer, and I appear before you today on behalf of the New York Civil Liberties Union ("NYCLU") and its 48,000 members statewide. Since 1951, the NYCLU has been the state's leading advocate on behalf of New Yorkers' civil rights and liberties.

Throughout the NYCLU's 60 year history, we have fought for the rights of both documented and undocumented immigrants living in New York. This fight has been a necessary one, as all too often immigrants in our state and across the nation have faced violations of their rights and freedoms. In recent years, the NYCLU has battled against anti-immigrant ordinances on Long Island, poor conditions of confinement at the Varick Federal Detention Facility, English-only ordinances in upstate towns, the federal Real ID Act, and the profiling of Arab, Muslim and South Asian men in the aftermath of the attacks of September 11, 2001. Our work on these issues in the courts, in the legislatures, and on the streets has taught us one important lesson: our immigration system is fundamentally broken, and until Congress passes comprehensive immigration reform, the civil rights and civil liberties violations will continue.

Up to one million undocumented immigrants in New York State continue to be trapped in a system that makes it almost impossible for them to obtain their citizenship, even if they have lived here since they were children, have paid their taxes, or have children who are American

citizens. This has led to a human rights crisis across the country: immigrant homes are raided in violation of the Fourth Amendment; hundreds of thousands of people are detained, many without adequate access to the judicial system or medical care; and unscrupulous employers prey on the undocumented. Our immigration system is so flawed that even documented immigrants regularly suffer from many of these problems. We cannot afford to wait any longer for reform.

The NYCLU has identified passage of comprehensive immigration reform as our top federal legislative priority. We are mobilizing our members all across New York State to build pressure in support of reform this year. But not just any reform—we are pushing for reform that will fix our broken system while also respect the fundamental rights and liberties of immigrants and non-immigrants in New York.

Therefore, I testify today in support of Resolution 162, which calls on Congress to pass comprehensive immigration reform. But I also testify to encourage the City Council to amend the resolution to go on record as supporting not just any reform proposal, but immigration reform that will truly fix our broken system in a way that that will uphold our nation's—and our city's—values.

The New York City Council has a unique opportunity to influence the direction of immigration reform. New York State's senior senator, Charles Schumer, is a resident of New York City and the chair of the Senate Immigration, Refugees, and Border Security Subcommittee. He is the leading lawmaker in the Senate on the issue of immigration reform. While Senator Schumer has indicated that he plans to introduce legislation that will create a path to citizenship for tens of thousands of undocumented New Yorkers, he has also indicated that he will include a proposal for a national biometric worker ID card, which the NYCLU strongly opposes. Moreover, it does not appear that his legislative proposal will fix most of the due process, judicial review, and federalism concerns that plague our immigration system.

The New York City Council should go on record supporting Senator Schumer in his efforts to provide a path to citizenship for millions of undocumented immigrants. But the City Council should but also go on record as urging him to reject a biometric national worker ID card and to fix the civil rights and civil liberties problems that plague our immigration system.

We believe that any comprehensive immigration reform package passed by Congress must address the following six issues:

**I. Pave a Path to Citizenship for Undocumented Immigrants**

With 12 to 15 million undocumented immigrants living in the U.S.—and up to one million in New York State—it is clear that our immigration system is broken. New York City’s economy, which relies on the labor of hardworking immigrants, draws many immigrants to our shores who want to enter legally but our flawed immigration laws make that nearly impossible. The status quo has created a permanent underclass of millions across the country who are regularly exploited by unscrupulous employers and are afraid to report crimes, seek medical care, or cooperate with the police because they or their loved ones may be put in a detention center or deported. Keeping millions of people in the shadows is not in the moral, economic, or security interests of New York or our nation. It’s impractical and inhumane to tear families apart and to round up and deport millions of people.

Any immigration reform package passed by Congress must include a fair legalization program that will end further criminalization of immigrants and bring millions out of the shadows to put our national economy and security back on sound footings.

**II. Restore Due Process, Judicial Review, and Fairness to the Immigration System**

The guarantee of due process is essential to enforcing legal and constitutional protections, preserving the separation of powers, and guaranteeing fairness and the rule of law. Yet in too many cases current law strips immigration judges and even the Attorney General of the discretion they should have to evaluate cases on an individual basis and grant relief to deserving immigrants and their families.

Under the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 there is no review for persons who have been convicted of certain crimes, even minor ones, thus subjecting immigrants to mandatory detention.<sup>1</sup> In New York State, such minor offenses

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<sup>1</sup> See 8 USC 1226-1227, INA 236(c). The Supreme Court recognized in *Denmore v. Kim*, 538 US 510 (2003) and *Zadvydas v. Davis*, 533 US 678 (2001) that federal courts have jurisdiction to review challenges to the mandatory detention of immigrants convicted of criminal offenses. In *Zadvydas*, the Court upheld mandatory detention under

include petit larceny. In these cases, immigration judges do not have the discretion to consider the facts of the case, the length of time the person has lived in the U.S., or the individual's contributions to the community. The sole option is detention, and almost certainly deportation.

These mandatory detention and deportation laws have led to immigrants, including lawful permanent residents and asylum seekers, to be detained for long periods—sometimes several years—without any finding that they pose a danger to society or a flight risk sufficient to justify such a prolonged deprivation of liberty.

Take, for example, Gary Anderson, a lawful permanent resident suffering from schizophrenia and mild mental retardation. He came to the United States from Jamaica as a teenager in 1984. The government sought to deport Gary in 2007 for two misdemeanor convictions for possessing a small amount of marijuana, for which he served a total of five days in jail. Even though Gary posed no danger or flight risk and was eligible for relief from deportation, he spent over two years in immigration detention while fighting his case. During this time he never received a bond hearing since his misdemeanor convictions subjected him to "mandatory detention."

Gary's detention caused his family, which includes numerous U.S. citizens and lawful permanent residents, tremendous hardship. His detention caused particular hardship to his mother, who is also mentally ill and previously relied on him for household help and emotional support.

Ultimately, because of his strong family ties and other reasons, an immigration judge granted Gary a permanent form of immigration relief that allows him to remain in the United States as a lawful permanent resident, and Gary was finally allowed to go home. He was represented by attorneys from the Legal Aid Society of New York and the Center for Constitutional Rights.

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1231(a)(6), INA 241(a)(6), so long as the detention was limited to "a period reasonably necessary to bring about that alien's removal from the United States." The Supreme Court recognized six months as a presumptively reasonable period of time, but recognized that it could be longer. In *Kenmore*, the Court rejected a due process challenge to mandatory detention under 1226(c), INA 236(c). The Court distinguished detention during removal proceedings and following a determination of removability.



The City Council should affirm its support for immigration reform legislation that amends the immigration laws by ending mandatory detention; narrowing the definition of aggravated felony; expanding cancellation of removal;<sup>2</sup> and restoring judicial review.<sup>3</sup> The policies of mandatory detention and deportation are fundamentally contrary to traditional American notions of fairness and justice and must be ended. Restoring judicial and administrative discretion and review is crucial to restoring integrity to and the public's faith in the immigration system.

### **III. End Local Enforcement of Immigration Law**

Under presidents Bush and Obama, the Department of Homeland Security has increasingly delegated immigration enforcement to local law enforcement agencies through the 287(g) program,<sup>4</sup> Secure Communities initiative,<sup>5</sup> Criminal Alien Program, and other such programs that bolster local immigration enforcement.

Yet these policies and practices have led to extensive civil rights violations. Immigrants, fearful that they or a family member may be detained or deported as a consequence, don't report information about crimes, weakening public safety. In fact, both the International Association of Chiefs of Police and the Major Cities Chiefs Association have publicly raised concerns about such laws that drive divisions between immigrant groups and overburdened local law enforcement agencies.

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<sup>2</sup> The 1996 laws deleted INA 212(c) and eliminated the ability of the AG/DHS to waive grounds of inadmissibility. Those convicted of aggravated felonies are ineligible for cancellation (for example, a military veteran convicted of stealing \$10 video game). Congress should restore INA 212(c).

<sup>3</sup> Congress should amend INA 242(a)(2) by allowing judicial review of individual orders.

<sup>4</sup> Section 287(g) of the Immigration and Nationality Act, 8 U.S.C. § 1357(g), allows the Secretary of Homeland Security to enter into agreements that delegate immigration powers to local police, but only through negotiated agreements, documented in Memoranda of Agreements (MOAs). These MOAs are negotiated between the Department of Homeland Security and the local authorities, and include delegation of authority to a limited number of police officers. Section 287(g) was enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act in 1996. Since 2004, the Immigration and Customs Enforcement Agency (ICE) has greatly expanded its partnerships with local police through the 287(g) program. There are 67 active Memoranda of Agreement (MOAs). Eleven of them have been signed under President Obama

<sup>5</sup> In March 2008, U.S. Immigration and Customs Enforcement announced the initiation of the Secure Communities program. The critical element of the program is that, during booking in a jail, arrestees' fingerprints will be checked against U.S. Department of Homeland Security databases, rather than just against FBI criminal databases. ICE will automatically be notified if the fingerprints match fingerprints in the DHS system. It will then do follow-up interviews and "take appropriate action."

Furthermore, the increase in local enforcement of immigration law has led to significant increases in reports of racial profiling and discriminatory targeting of Latinos and other immigrant communities throughout the country.<sup>6</sup> The Department of Homeland Security's own Office of Inspector General released a scathing report last month outlining the mismanagement, inefficacy, and civil rights violations rampant in the 287(g) program.<sup>7</sup> In Tennessee, a study of arrest data found that the arrest rates in Davidson County for Latino defendants driving without a license more than doubled after the implementation of the 287(g) program in that county.<sup>8</sup> In Alabama, 58 percent of motorists stopped by a 287(g) police officer were Latino, although Latinos make up less than two percent of the population.<sup>9</sup> In Gaston County, NC, for example, 83 percent of the persons arrested under 287(g) were charged with traffic offenses.<sup>10</sup>

In New York City, Executive Order 41, signed by Mayor Bloomberg in 2003, does provide some protection to immigrant communities by limiting the times during which City employees—including law enforcement personnel—can inquire about an individual's immigration status or report that information to federal authorities, but there remain large loopholes in the Order that leave too many immigrant New Yorkers vulnerable to having their immigration information released. For example, the NYPD may request and report a person's immigration status if it's related to "illegal activity," which is an overly broad category that includes minor offenses such as disorderly conduct. Moreover, the permanent presence of federal immigration officers on Rikers Island and in other Department of Correction facilities

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<sup>6</sup> Gardner II, Trevor and Kohli Aarti, *The C.A.P. Effect: Racial Profiling in the ICE Criminal Alien Program*, The Chief Justice Earl Warren Institute on Race, Ethnicity, & Diversity, University of California, Berkeley Law School, Sept. 2009, available at [www.law.berkeley.edu/files/policybrief\\_irving\\_FINAL.pdf](http://www.law.berkeley.edu/files/policybrief_irving_FINAL.pdf).

<sup>7</sup> Office of the Inspector General, U.S. Department of Homeland Security, *The Performance of 287(g) Agreements*, Mar. 2010, available at [www.dhs.gov/xoig/assets/mgmt/rpts/OIG\\_10-63\\_Mar10.pdf](http://www.dhs.gov/xoig/assets/mgmt/rpts/OIG_10-63_Mar10.pdf).

<sup>8</sup> Tennessee Immigrant and Refugee Rights Coalition, *Arrests for No Drivers License by Ethnicity and Race: A Comparison of May-July 2006 to May-July 2007*, at 1 (July 31, 2007), available at <http://tirrc.bondwaresite.com/photos/File350.pdf>.

<sup>9</sup> David C. Volk, *Police Join Feds to Tackle Immigration*, Stateline.org (Nov. 27, 2007), available at <http://stateline.org/live/details/story?contentId=259949>.

<sup>10</sup> University of North Carolina, Immigration and Human Rights Policy Clinic & ACLU of North Carolina Legal Foundation, *The Policies and Politics of Local Immigration Enforcement Laws: 287(g) Program in North Carolina* (February 2009), p.29, available at <http://www.law.unc.edu/documents/clinicalprograms/287gpolicyreview.pdf>; see also Barrett, Michael, *Officers Decide When to Arrest, But For Immigrant Community, Decision Can Lead to Deportation*, Gaston Gazette (July 1, 2008), available at [http://www.gastongazette.com/news/cloninger\\_22388\\_article.html/charges\\_arrested.html](http://www.gastongazette.com/news/cloninger_22388_article.html/charges_arrested.html).

exposes immigrant New Yorkers, including many pre-trial detainees, to ICE interrogations that can lead to immigration detention and deportation and tear apart families and communities.

Comprehensive immigration reform must protect civil rights and enhance public safety by ending local enforcement of immigration law.

#### **IV. Treat Immigrants in Detention Centers Humanely and Create Alternatives to Detention**

In February, the NYCLU released a report, *Voices from Varick: Detainee Grievances at New York City's Only Federal Immigration Detention Facility*.<sup>11</sup> The report analyzed a year's worth of grievances filed by men being held at the Varick facility. The report found extensive reports of inadequate medical care, abusive treatment by staff, and unsatisfactory dietary conditions. Examples of the medical care grievances include the following:

- Varick officials waited 10 months to schedule a dental appointment for a detainee suffering an abscessed tooth. By the time the detainee had a dental exam, the infection had spread to seven teeth. The dentist recommended pulling all seven teeth. At his own expense, the detainee visited a private dentist, who determined that a series of root canals would address the problem. The government refused to authorize this less invasive treatment. After 16 months, the detainee's teeth still have not been treated, causing him extreme pain and compromising his health.
- A detainee complained that his prosthetic leg caused pain and bleeding when he attempted to wear it. Varick officials consulted a private vendor, who determined that the artificial leg should be replaced. They informed the detainee of their intentions to request a replacement for him, but three months later the detainee had yet to receive a new prosthetic limb.

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<sup>11</sup> Udi Ofer, et al, *Voices from Varick: Detainee Grievances at New York City's Only Federal Immigration Detention Facility*, New York Civil Liberties Union, Feb. 2010, available at [www.nyclu.org/files/publications/Varick\\_Report\\_final.pdf](http://www.nyclu.org/files/publications/Varick_Report_final.pdf).

Although DHS moved long-term detainees out of Varick at the end of February, we remain concerned that short-term detainees at Varick will continue to face inadequate conditions.

The problems documented in the Varick facility plague immigration detention facilities throughout the nation. They are a product of an immigration detention system that holds close to 400,000 people every year, yet is not governed by enforceable regulations. For this reason the NYCLU and human rights organizations across the country have called on Senator Schumer to include a provision in his legislation that would direct the Department of Homeland Security to adopt detention regulations that are legally binding and enforceable.

Furthermore, many of the immigrants crowding these facilities are community and family members who pose no threat or flight risk, yet they remain in detention sometimes for years at a time at taxpayers' expense. The U.S. spends more than \$2 billion each year keeping hundreds of thousands of non-violent people in detention, away from their spouses, children, and parents.<sup>12</sup> Meanwhile there remain safe, effective, and cost-efficient alternatives to detention that must be expanded to preserve our families, communities, and save resources during this time of economic recession.

Comprehensive immigration reform must modify the immigration detention system to include enforceable standards for detention conditions and an expansion of alternatives to detention.

## **V. End Discrimination Against Bi-National LGBT Families**

Under current immigration law, citizens and permanent legal residents may sponsor their spouses for immigration purposes. However, because same-sex partners of U.S. citizens are not considered "spouses," gay and lesbian U.S. citizens and permanent residents are barred from sponsoring their partners. Even as more states in the U.S. continue to grant same-sex couples marriage rights, the immigration system refuses to recognize those marriages for sponsorship purposes. As a result, relationships and families are inevitably torn. Many other countries do allow their gay and lesbian citizens to sponsor their partners to become permanent residents,

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<sup>12</sup> Schriro, Dr. Dora, *Immigration Detention Overview and Recommendations*. U.S. Department of Homeland Security Immigration and Customs Enforcement, Oct. 2009, available at [www.ice.gov/doclib/091005\\_ice\\_detention\\_report-final.pdf](http://www.ice.gov/doclib/091005_ice_detention_report-final.pdf).

leading U.S. citizens to flee with their partners to countries with more equitable immigration laws, taking their skills and contributions to the economy with them.

Comprehensive immigration reform should include changes to the immigration system to end discrimination against same-sex couples and families.

## **VI. Respect Americans' Privacy and Reject Backdoor Attempts to Establish a National ID Card**

As part of his plan to verify the immigration status of every person attempting to work in the United States, Senator Charles Schumer has proposed creating a national mandatory biometric<sup>13</sup> worker identification card. The proposal would require that every person wishing to work in the U.S.—American citizens and immigrants alike—submit to a digital scan of his or her fingerprints or iris that would then be stored in a national worker ID card. Individuals applying for jobs would be required to present to employers this card with the biometric data contained in it to verify their identity and eligibility to work. Employers will swipe or scan the ID card, as well as scan the fingerprints or iris of prospective employees, and then match the biometric data to verify the identity and lawful status of the prospective employees.

If implemented, this proposal would lead the U.S. to a full-fledged national ID card system—something Americans have opposed throughout our history

While Senator Schumer's intentions are noble, his proposal is very dangerous and is one we hope the City Council will oppose. A system such as the one Senator Schumer proposes threatens all New Yorkers' privacy by building the digital backbone that will ultimately lead to a more expansive system that could be used to track Americans' everyday activities. Senator Schumer has described this proposal as "the only way" to achieve immigration reform,<sup>14</sup> but most Americans will be skeptical of a plan that will make it more difficult for them to work, particularly in this difficult economy, and that allows the federal government to intrude into the private lives of citizens.

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<sup>13</sup> Biometrics is a technology that identifies a person through his or her physical attributes, such as fingerprints, facial features, iris patterns or DNA.

<sup>14</sup> Hsu, Spencer S, "Senate Democrats Share Plans for Immigration Reform," *Washington Post*, 25 Jun. 2009, available at [www.washingtonpost.com/wp-dyn/content/article/2009/06/24/AR2009062402244.html](http://www.washingtonpost.com/wp-dyn/content/article/2009/06/24/AR2009062402244.html).

There are numerous reasons to oppose the creation of a national biometric worker ID card.

First, the infrastructure that a biometric worker ID will create will put the U.S. on a path of no return to a national ID card. It will do so in two ways. It will lead to the creation of a national database with personal information on tens of millions of law-abiding Americans. It is inevitable that such a database will eventually be expanded upon to include additional information than the data elements proposed by Senator Schumer. Second, the national worker ID card will contain a machine readable zone or radio-frequency identification (“RFID”) chip that will allow for third party access to information contained in the card. As time progresses, the swiping or scanning of the card will surely become a requirement for other functions, whether because of mandates by local government or by the private sector. An entire industry will be created that collects information left by such card use and creates “lifestyle” profiles of Americans’ activities. Simply stated, Americans’ everyday lives will begin to be tracked.

A second reason to oppose the creation of a national biometric worker ID card is that such a card would make it more difficult for citizens and immigrants to work. Workers would have to wait for affirmative permission from the government before they could begin working, and data errors and technological glitches would prevent many people from landing jobs. Even a small error rate would leave millions without jobs until they can jump through bureaucratic hurdles and correct mistakes. The Latino community would bear the brunt of this difficulty, as some employers will be reluctant to hire workers they perceive to be “foreign” to avoid hassles with the verification system.

Third, Senator Schumer’s plan would increase discrimination against documented immigrants and racial minorities. Once the identity card system becomes commonplace, failure to carry the card would become a pretext for law enforcement to search or detain people they suspect of being foreign. Even if one gains lawful status through the legalization program, immigrants would have the burden of regularly proving their lawful status.

Fourth, the ID card plan will impede efforts to pass any comprehensive immigration reform package through Congress. Since the 1930s, Americans have rejected every attempt to establish a national identity card system as a violation of privacy rights and a gateway to

increased government surveillance. This unpopular proposal would cause many Americans to turn against immigration reform, thus endangering reform.

Finally, once the ID system is established, the government would be unable to resist requiring the card for purposes other than employment, such as voting, entering government buildings, receiving Section 8 housing, or traveling inside the United States. Not having the card or having an error in your record in the system could result in losing much more than a job—it would make life in the United States unbearable.

Senator Schumer's biometric worker ID card plan is bad for immigrants, bad for workers, and bad for Americans.

Instead, Senator Schumer should fight against the employment of undocumented immigrants through other means. What drives the hiring of undocumented immigrants is the exploitation of cheap and unregulated labor by unscrupulous employers, and the use of fraudulent documents by undocumented immigrants. Therefore, the federal government should be embarking on strict enforcement of labor and employment laws. Meaningful enforcement of these laws will make it less attractive for employers to hire undocumented immigrants, who are often paid below the legal minimum. Moreover, Congress should also explore harnessing new state-of-the-art technology to enhance the federal government's anti-document fraud capabilities to build more confidence into the employment verification system.

Comprehensive immigration reform is a rare legislative opportunity that must be used to fix our immigration system in a way that protects fundamental rights and liberties. Senator Schumer's national biometric worker ID plan would work against that goal and could set in place a system that will have severe ramifications for citizens and immigrants' basic rights and liberties for generations to come. A national ID card must not be a part of immigration reform.

## **Conclusion**

The NYCLU applauds this committee and the City Council for considering Resolution 162. As has been said many times before, New York is and has always been a city of immigrants and our history is something of which we should all be very proud.

But this Council should not be satisfied with endorsing just any immigration reform legislation. Senator Schumer, New York's home senator, is writing this legislation and leading this fight in Congress and this Council should demand from him legislation that reflects the values and priorities of his constituency in New York. We urge the City Council to pass a resolution that calls on Congress to pass a strong, just, and humane comprehensive immigration reform bill that respects the fundamental rights and liberties of all New Yorkers and all Americans.



ASAP, that, if enacted, would boost the economic contributions of undocumented immigrants to New York City—and the nation as a whole. The bill's various legalization provisions will bring millions of undocumented immigrants out of the shadows and empower them continue working, paying taxes and contributing to New York's economy. In addition, with a permanent foothold in the country, undocumented immigrants will have an even stronger incentive to improve their English skills, advance their careers, buy homes and otherwise invest in their communities.

A study from the Department of Labor shows that within five years of gaining legal status under the Immigration Reform and Control Act of 1986, workers earned up to 15 percent more per hour. So in a very direct way, an earned legalization program enacted today could boost the wages, and in turn the economic power of immigrant New Yorkers.

There's another crucial way that the reforms proposed by CIR ASAP would benefit middle class New Yorkers. The earned legalization measures in the bill would do much to prevent the workplace exploitation that threatens both immigrant workers and their native-born counterparts.

The fact is, right now undocumented workers can't effectively stand up for themselves in the workplace. Employers can threaten to deport them if they demand the minimum wage, ask for the overtime pay they're legally owed, or request proper safety equipment. That intimidation is powerful. This is going on right here in New York City, where workers living without regularized immigration status remain in fear of deportation, and as a result are forced to accept substandard working conditions.

When immigrants lack rights in the workplace, labor standards are driven down and all working people have less opportunity to enter or remain part of the middle class. As long as there is a pool of immigrant labor available that's cheaper and more compliant than native workers, many employers are all too willing to take advantage of the situation to keep their labor costs down and are less willing to hire U.S.-born workers if they demand better wages and working conditions. That leaves U.S.-born workers and legal immigrants to either accept the same bad wages and degraded working conditions or to be shut out of whole industries where employers mostly hire undocumented immigrants.

The reforms proposed by CIR ASAP would improve the labor rights of currently undocumented immigrants who gain conditional or temporary legal status—bringing these workers out of the shadows means that they can more freely exercise their labor rights and organize for better working conditions without the constant threat of deportation. Allowing these workers to earn legal status also brings their employment out into the open—a more regularized workplace that enables effective enforcement of U.S. wage and hour laws, workplace safety standards and other labor regulations, benefitting all working people who rely on these protections.

New York's middle class relies on immigrants' economic contributions and at the same time is harmed by undocumented workers' vulnerability to exploitation. And enacting comprehensive immigration reform will both enable our immigrant workforce to continue boosting the city's economy and ensure their full labor rights in the workplace.

I urge you to pass Resolution 162 in support of comprehensive immigration reform that serves the interests of all New Yorkers, regardless of citizenship status.

April 26, 2010

Testimony on The Importance of Comprehensive Immigration Reform to New York City.  
Committee on Immigration: New York City Council.

My name is Afton Branche, and I'm an immigration analyst at the Drum Major Institute for Public Policy, a non-partisan, multi-issue think tank here in New York City.

I'd like to thank the Committee on Immigration for the opportunity to present testimony about the vital importance of comprehensive immigration reform to this city.

For a number of years, DMI has analyzed social and economic policy from the point of view of the majority of Americans who are middle class or aspire to a middle-class standard of living. What does that mean? As we see it, this is more than an income bracket: being middle class means having a stable job that enables you to support a family, having the opportunity to own a home, access to health care, retirement security, opportunities to save for the future, and the ability to provide a good education, including a college education, for one's children.

DMI is not an immigration advocacy organization, and we're not a direct service organization – we come to this committee from a different perspective entirely. The point of view of immigrants and immigration advocates is vitally important – and it's well represented here today – but I'm here to talk about how smart, comprehensive immigration reform can strengthen and expand New York's middle class.

First, we must acknowledge that immigrants, including undocumented immigrants, make critical contributions to the U.S. economy as workers, entrepreneurs, taxpayers, and consumers. These contributions are significant enough that it is safe to say the American middle class relies on immigrants.

The first basic observation is that the middle class relies on the goods and services that immigrants produce. Undocumented immigrants pick the produce that ends up on middle-class tables and in middle-class refrigerators here in New York City. Undocumented workers build the homes and office buildings of the middle class, process their poultry, prepare their meals and wash the dishes in the restaurants they frequent. We can't miss the role of immigrants as the owners of small businesses, in the taxis, restaurants and bodegas all around us. And as consumers, immigrants help drive demand for the goods and services that middle-class and aspiring middle-class workers make.

The strength of our city and its middle class rests on the estimated \$215 billion in economic activity that immigrants generate. New York's current and aspiring middle class relies on the economic activity of undocumented immigrants, and so have a shared interest in an immigration policy that bolsters these contributions.

Now more than ever, we need an immigration system that acknowledges the role of immigrants in our dynamic economy. But current immigration policy fails the middle class because it is disconnected from our nation's economic reliance on undocumented immigrants.

Last year, Representatives Solomon Ortiz (D-TX) and Luis Gutierrez (D-IL) introduced the Comprehensive Immigration Reform for America's Security and Prosperity Act, known as CIR



***COUNCIL OF THE CITY OF NEW YORK  
HEARING ON RESOLUTION 162:  
COMMITTEE ON IMMIGRATION***

***Resolution calling upon the United States Congress to pass and President Obama to sign a just and humane comprehensive immigration reform bill in 2010.***

***April 26, 2010***

**Testimony of Nerissa Kunakemakorn, Esq.  
Robert L. Carter Fellow & Associate Counsel  
The Opportunity Agenda  
568 Broadway, Suite 302  
New York, New York, 10003  
T: 212.334.4267  
[nerissa@opportunityagenda.org](mailto:nerissa@opportunityagenda.org)**

Thank you for the opportunity to submit our thoughts on the need for the United States Congress to pass, and for President Obama to sign, a comprehensive immigration reform (“CIR”) bill in 2010 that provides workable solutions, which uphold our commitment to due process, and move us closer to our national goal of equality and fair treatment under the justice system.

My name is Nerissa Kunakemakorn. I am the Robert L. Carter Fellow and Associate Counsel of The Opportunity Agenda, a communications, research, and policy organization with the mission of building the national will to expand opportunity in America. The Opportunity Agenda is a national organization headquartered in New York City. Over the course of the last four years, our organization has conducted substantial and continuing research on Americans’ views on immigration in the United States, on the challenges to opportunity and equality in our country, and on effective solutions for protecting the opportunity and rights of everyone within our nation’s borders. Furthermore, we have conducted research and engaged in advocacy on due process issues as they affect all Americans, including immigrants.

The Opportunity Agenda applauds the New York City Council for working to persuade the United States Congress and President Obama to reform our broken immigration system.

This testimony will focus on the positive impact that CIR can, and should, make on due process concerns for immigrant populations. This is critical because our American values of justice and fairness only stand strong when we have one system of justice for everyone—we should not deny due process, for undocumented immigrants or anyone else. If one group can be denied due process, none of us will be safe to enjoy the rights that America stands for.

## I. American Opinions on Due Process and Immigrants

The vast majority of Americans embrace due process as core to our national principles. According to a national public opinion survey we conducted in partnership with the respected polling firm of Belden, Russonello & Stewart, most Americans strongly agree that freedom from discrimination is a human right (83%),<sup>1</sup> as is being treated fairly in the criminal justice system if accused of a crime (83%).<sup>2</sup> Furthermore, in later focus groups representative of the 69% of the U.S. population that is supportive of human rights in the United States,<sup>3</sup> nearly all participants agreed that everyone, including undocumented immigrants, is entitled to fair treatment in the justice system and freedom from mistreatment by law enforcement officials.<sup>4</sup>

As one Caucasian man in New York stated during a focus group:

*Personally, I think everyone in the world is really entitled to [due process], that's my personal feeling . . . I think that it doesn't matter if you're an illegal alien or if you're an American citizen, there is due process. . . . those individuals who are not U.S. citizens, but they're in America, they see this country as the great country that it is because we do things the right way.<sup>5</sup>*

In addition to our strong support of due process principles, Americans consistently support CIR. A national poll conducted by America's Voice and the Benenson Strategy Group in December of 2009 showed that 65% of American voters support Congressional action on CIR in 2010.<sup>6</sup> Furthermore, a telephone poll conducted by CNN revealed that a majority of adult Americans (more than 60%) favor an immigration solution other than mass deportation.<sup>7</sup>

Providing solutions to America's broken immigration system is consistent not only with American values, but also with American beliefs and public opinion. This clearly includes elements of due process and freedom from discrimination and mistreatment.

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<sup>1</sup> THE OPPORTUNITY AGENDA/BELDEN, RUSSONELLO & STEWART, HUMAN RIGHTS IN THE U.S.: FINDINGS FROM A NATIONAL SURVEY 3 (2007), available at [http://opportunityagenda.org/human\\_rights\\_report\\_2007](http://opportunityagenda.org/human_rights_report_2007).

<sup>2</sup> *Id.*

<sup>3</sup> THE OPPORTUNITY AGENDA, TOOLKIT: TALKING HUMAN RIGHTS IN THE UNITED STATES 11 (2009), available at [http://opportunityagenda.org/files/field\\_file/HumanRightsToolkit%282009%29\\_0.pdf](http://opportunityagenda.org/files/field_file/HumanRightsToolkit%282009%29_0.pdf)

<sup>4</sup> *Id.* at 35.

<sup>5</sup> *Id.* at 36.

<sup>6</sup> AMERICA'S VOICE, POLLS SHOW MOST AMERICANS SUPPORT COMPREHENSIVE IMMIGRATION REFORM 1 (2009), available at [http://amvoice.3cdn.net/aed609a4968f2d0380\\_h6m6bn79o.pdf](http://amvoice.3cdn.net/aed609a4968f2d0380_h6m6bn79o.pdf) (citing America's Voice National Poll/Benenson Strategy Group).

<sup>7</sup> *Id.* at 2 (citing CNN/Opinion Research Corporation).

## **II. CIR Must Reflect Our National Commitment to Due Process**

It has become clear that the United States must make the existing immigration system meet the needs of both U.S. citizens and non-citizens living in the United States. As stated in the New York City Council's Resolution No. 162, elements of a fair and humane immigration system must include reforms of existing policies on border security, detention conditions, and enforcement activities; employment authorization; legalization of undocumented immigrants; and integrating new citizens.<sup>8</sup>

Current CIR proposals do not include an explicit focus on improved protections of due process for immigrants. For example, the four pillars of Senators Charles E. Schumer and Lindsey O. Graham's plan for immigration reform include "fulfilling and strengthening our commitments on border security and interior enforcement."<sup>9</sup> While we applaud that commitment, we also strongly urge specific provisions to uphold the due process rights of all people living in the United States.

Particularly troubling challenges to due process currently include: the passage of Arizona's recent immigration bill, S.B. 1070; the strengthening of Operation Streamline on the U.S.-Mexico border; and existing laws barring immigrants based on past drug convictions. By supporting a just and humane comprehensive reform bill in 2010, the United States Congress and President Obama can reaffirm their commitment to reflecting our national belief in due process, dignity, respect, and the rule of law.

### ***a. Arizona Senate Bill 1070***

The Arizona State legislature recently passed a bill entitled, "Support Our Law Enforcement and Safe Neighborhoods Act" (SB 1070),<sup>10</sup> which, among other provisions:

- Requires police officers to make a reasonable attempt to determine the immigration status of a person whenever there is a "reasonable suspicion" that the person is unlawfully present and verify that status with the federal government;<sup>11</sup>
- Gives police officers authority to conduct warrantless arrests of persons for whom the officer has probable cause to believe have committed any public offense that makes those persons deportable;<sup>12</sup>
- Creates a private right of action for any person to sue a city, town, or county for failing to enforce federal immigration laws to the fullest extent possible;<sup>13</sup>
- Requires employers to keep E-Verify records of employees' eligibility;<sup>14</sup>

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<sup>8</sup> N.Y.C. Council Res. 162 (2010), available at <http://legistar.council.nyc.gov/Legislation.aspx>.

<sup>9</sup> Charles E. Schumer and Lindsey O. Graham, The Right Way to Mend Immigration, op-ed (March 19, 2010), available at <http://www.washingtonpost.com/wp-dyn/content/article/2010/03/17/AR2010031703115.html>.

<sup>10</sup> "Support Our Law Enforcement and Safe Neighborhoods Act," S.B. 1070, 49th Leg., 2nd Reg. Sess. (Az. 2010), available at <http://www.azleg.gov/legtext/49leg/2r/bills/sb1070s.pdf>.

<sup>11</sup> *Id.* at 1, Sec. 2 § 11-1051(B).

<sup>12</sup> *Id.* at 1, Sec. 2 § 11-1051(E).

<sup>13</sup> *Id.* at 2, Sec. 2 § 11-1051(G).

<sup>14</sup> *Id.* at 7, Sec. 6 § 23-212(I).

- Establishes a separate state offense, with attendant criminal penalties, for any person to violate provisions of the federal immigration law regarding registration and carrying registration documents—making it a state crime for a person to be an undocumented immigrant under federal law;<sup>15</sup>
- Makes it a criminal offense to attempt to hire or pick up day laborers to work at a different location if the driver is impeding the normal flow of traffic, for a worker to get into a car if it is impeding traffic, or for an undocumented immigrant to solicit work (by a gesture or nod) in any public place;<sup>16</sup>
- Mandates the impoundment of any vehicle used to transport, move, conceal, harbor, or shield an undocumented immigrant;<sup>17</sup> and
- States that the remaining portions of the bill are severable and will remain in effect even if certain portions are held to be invalid.<sup>18</sup>

This bill will dramatically expand police powers to stop, question, and detain individuals for not having proper identification. It has the potential to encourage racial profiling by local police and require all citizens who might, by appearances, be presumed to be undocumented to carry their papers at all times in order to avoid arrest. Additionally, it will strongly dissuade local municipalities and counties within Arizona from choosing to establish procedures and adhere to policies which would protect the due process rights of those suspected to be undocumented immigrants.<sup>19</sup>

CIR must include protections against these types of overly punitive and overreaching state and local actions. In the absence of a CIR that upholds our commitment to fairness and equality in a manner that preempts state and local efforts to whittle away our due process protections, we are in danger of bills like Arizona's S.B. 1070 being enacted in other jurisdictions.

### *b. Operation Streamline*

Operation Streamline is a Department of Homeland Security (DHS) program which was instituted in 2005 and mandates the federal criminal prosecution and imprisonment of all people who cross the U.S.-Mexico border unlawfully.<sup>20</sup> The program fundamentally transformed the prior enforcement practices of DHS Border Patrol agents, who had formerly voluntarily returned first-time border crossers to their home countries or detained them and formally removed them from the United States through the civil immigration system.<sup>21</sup> Before the institution of Operation Streamline, the U.S. Attorney's Office would reserve criminal prosecution for immigrants with criminal records and for those who made repeated

<sup>15</sup> *Id.* at 2-3, Sec. 3 § 13-1509.

<sup>16</sup> *Id.* at 5, Sec. 5 § 13-2928 (A)-(E).

<sup>17</sup> *Id.* at 5, Sec. 5 § 13-2929 (B).

<sup>18</sup> *Id.* at 16, Sec. 11(A).

<sup>19</sup> For an analysis of the Constitutional and practical implications of each provision of the Arizona bill, see ACLU OF ARIZONA, SECTION BY SECTION ANALYSIS OF SB 1070, 1-5 (2010), available at <http://acluaz.org/legislature.html>.

<sup>20</sup> JOANNA LYDGATE, THE CHIEF JUSTICE EARL WARREN INSTITUTE ON RACE, ETHNICITY & DIVERSITY, BERKELEY LAW SCHOOL, ASSEMBLY-LINE JUSTICE: A REVIEW OF OPERATION STREAMLINE 1 (2010), available at [http://www.law.berkeley.edu/files/Operation\\_Streamline\\_Policy\\_Brief.pdf](http://www.law.berkeley.edu/files/Operation_Streamline_Policy_Brief.pdf).

<sup>21</sup> *Id.*

attempts to cross the border.<sup>22</sup> Operation Streamline removed prosecutorial discretion and requires the criminal prosecution of all people who cross the border without documents, regardless of their specific actions.<sup>23</sup> In practice, the program mainly targets immigrant workers with no criminal history, and has strained the resources of judges, U.S. attorneys, defense attorneys, U.S. marshals, and court personnel.<sup>24</sup>

Resulting voluminous prosecutions have forced many courts to cut procedural corners. Magistrate judges are conducting *en masse* hearings, during which as many as 80 defendants will plead guilty at a time.<sup>25</sup> This is a clear threat to our values of dignity and respect, and an outright violation of our goal of providing due process to all people within our nation's borders.<sup>26</sup>

To uphold our commitment to fair treatment and due process of law, the U.S. Congress and President Obama should push forward a CIR bill that specifically allows for judicial, prosecutorial, and DHS discretion in the treatment of people who cross the U.S.-Mexico border without proper documentation. Such a provision will allow individual circumstances to be taken into account and will avoid wasting our federal government's resources.

### *c. Deportation Based on Drug Convictions*

All of us grow and change over time and need a chance to start over when things go wrong. To foster redemption, we must provide conditions that allow people to develop, to rebuild, and to reclaim full responsibility for their lives.

Despite social stigmatization of drug use, various studies of the American population show that experimentation with drugs is the norm rather than the exception.<sup>27</sup> However, the Immigration and Nationality Act (INA) currently provides that a conviction for a violation of a controlled substance law triggers deportation from, and bars admission to, the United States.<sup>28</sup> There is no provision for excluding old offenses, nor is there an exception for those who were under eighteen at the time of the crime or who were convicted of a petty offense.<sup>29</sup>

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<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> Indeed, in December 2009, the U.S. Court of Appeals for the Ninth Circuit held that Operation Streamline's *en masse* plea hearings in Tucson, Arizona, violate federal law. *United States v. Roblero-Solis*, 588 F.3d 692 (9th Cir. 2009).

<sup>27</sup> Nancy Morawetz, *Rethinking Drug Inadmissibility*, 50 WM & MARY L. REV. 163, 167 (2008) (citing, *inter alia*, Thomas M. Mieczkowski, *The Prevalence of Drug Use in the United States*, 20 CRIME & JUST. 349, 361, 388-89 (1996); Nat'l Inst. of Health, U.S. Dep't of Health & Human Serv., 2 MONITORING THE FUTURE: NATIONAL SURVEY RESULTS ON DRUG USE, 1975-2004: COLLEGE STUDENTS AND ADULTS AGES 19-45, at 30, 77-83 (2005); Nat'l Inst. of Health, U.S. Dep't of Health & Human Serv., MONITORING THE FUTURE: NATIONAL RESULTS ON ADOLESCENT DRUG USE: OVERVIEW OF KEY FINDINGS, 2006, at 47 (2006)).

<sup>28</sup> Morawetz, *supra* fn 27, at 166; MANUEL D. VARGAS, IMMIGRATION CONSEQUENCES OF NEW YORK CRIMINAL CONVICTIONS 3 (2006), available at <http://www.kcoba.org/Immigration%20Consequences%20of%20NY%20Criminal%20Convictions%20article%202006.pdf>.

<sup>29</sup> Morawetz, *supra* fn 27, at 166.

Thousands of lawful permanent residents and other long-time residents of our communities have been deported from the United States because of drug convictions,<sup>30</sup> and thus, the harsh drug deportability rules have likely affected thousands of United States citizen family members. Furthermore, more than half of the people affected by the admissibility rules are already in the United States and are therefore also more likely to have strong ties to this country through family and employment relationships.<sup>31</sup>

Indeed, last month, in *Padilla v. Kentucky*, the Supreme Court acknowledged the harsh effects of mandatory deportation laws and the limited discretion courts have to consider the individual circumstances of an individual's case, particularly in regard to drug convictions. The Court stated:

While once there was only a narrow class of deportable offenses and judges wielded broad discretionary authority to prevent deportation, immigration reforms over time have expanded the class of deportable offenses and limited the authority of judges to alleviate the harsh consequences of deportation. . . . Under contemporary law, if a noncitizen has committed a removable offense . . . his removal is practically inevitable but for the possible exercise of limited remnants of equitable discretion vested in the Attorney General to cancel removal for noncitizens convicted of particular classes of offenses. . . . Subject to limited exceptions, this discretionary relief is not available for an offense related to trafficking in a controlled substance.<sup>32</sup>

This year, CIR should reflect our national commitment to redemption and due process and embrace our nation's history as a country that has consistently benefitted from the influx of immigrants. Congress and President Obama should push forward a CIR bill that revises the current standards for barring immigrants based on past violations of drug laws and explicitly includes provisions allowing for greater discretion, and consideration of an individual's circumstances, in determining whether or not a person should be deemed deportable or inadmissible.

### **III. Conclusion and Recommendations**

The lack of due process standards in current immigration policies as evidenced by Arizona's immigration bill, Operation Streamline, and categorical bars on admissibility, runs counter to our values as Americans and is a source of deep concern. As a nation, we must continually strive to uphold our values of dignity and due process and to reject, and not repeat, violence and oppression.

As initial steps in upholding our commitment to due process, we specifically recommend that any CIR efforts in 2010 include explicit provisions that:

- protect against state and local actions, like Arizona's S.B. 1070, that encroach upon the federal government's authority to regulate and enforce

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<sup>30</sup> See HUMAN RIGHTS WATCH, FORCED APART: FAMILIES SEPARATED AND IMMIGRANTS HARMED BY UNITED STATES DEPORTATION POLICY § 5 (2007), available at <http://www.hrw.org/en/node/10856/section/7>.

<sup>31</sup> Morawetz, *supra* fn 27, at 181.

<sup>32</sup> *Padilla v. Kentucky*, No. 08-651, 2010 U.S. LEXIS 2928, at \*7-8, \*13-14 (Mar. 31, 2010).



immigration and that open the door to unconstitutional searches and seizures and unlawful discrimination;

- allow for judicial, prosecutorial, and DHS discretion in the treatment of people who cross the U.S.-Mexico border without proper documentation; and
- allow for greater discretion, and consideration of an individual's circumstances, in determining whether or not a person should be deemed deportable or inadmissible based on past violations of drug laws.

Thank you again for the opportunity to submit our comments. The staff of The Opportunity Agenda along with several of our colleague public interest organizations are available to answer questions, offer additional research, or to provide such additional assistance as may be useful to your efforts to domestically implement our human rights obligations.



## **Hearing on Resolution No. 162, a Resolution calling upon the United States Congress to pass and President Obama to sign a just and humane comprehensive immigration reform bill in 2010.**

### **Introduction**

My Name is George Fesser for over twelve years; I have been providing social work services to LGBT Immigrants in the NYC area. I am currently the Coordinator of Immigrant Services at the Lesbian Gay Bisexual & Transgender Community Center where I have worked for the past three years with LGBT immigrants from all over the world.

### **Current situation and challenges**

LGBT Immigrants that come for services at the Center are telling us that they are experiencing increased barriers to employment along with increased stigmatization and violence. They are also telling us that it is becoming increasingly difficult to access resources and information that can assist them towards obtaining legal documentation.

We are also hearing about the impact of immigration on bi-national couples and their families. Due to the current inability for an American Citizen to sponsor their foreign born partners, our clients experience the devastating impact on finances, health & mobility of their families. Often times the only option for nationals is to relocate abroad in order to keep their families together.

### **Community impact**

At the Center, I conduct weekly LGBT immigrant support groups for individuals from all over the world who are fleeing countries where being gay is illegal, punishable by prison, and in some instances punishable by death.

The vast majority of these LGBT immigrants suffer from symptoms related to Post Traumatic Stress Disorder and Major Depressive Disorders which place them at higher risk for HIV infection, Drug & Alcohol Use, Domestic Violence and many other risk factors that are commonly associated with disenfranchised communities.

### **Bethany's story**

I would like to take this opportunity to share the story of Bethany who is a 23-year-old woman who came to the Center seeking support because she had just arrived from Uzbekistan a few days earlier with a suitcase and \$500 in her pocket. According to the International Lesbian, Gay Association's human rights map, In Uzbekistan, the

penalty for homosexuality is imprisonment with no precise indication of time. When Bethany arrived at the Center she was worried that she could have been followed, and told us that she circled the block several times before entering our building on 13<sup>th</sup> street.

Latter when she sat down to share her story with one of our intake counselors, we understood why she was so paranoid. During her initial interview, Bethany spoke about brutalities that she endured at the hands of local police in her small town. Bethany told us about her arrest at a public park after a police officer saw her kissing her girlfriend. When Bethany and her girlfriend were arrested, they endured multiple instances of rape at the hands of police officers, and then they were handed over by these same police officers to criminals in the jail who also raped them. Bethany was lucky to have parents who supported her and got her out of the country. Bethany is now in NYC seeking assistance with filing for asylum.

Through her attendance in the LGBT immigrant support Groups, Individual Counseling, and the services that she is now receiving at the Bellevue program for survivors of torture, Bethany is now well on her way to getting her life back. Recently, Bethany was granted full asylum, and she is now working full time and receiving medical benefits from her employer. She continues to suffer from symptoms related to her trauma, but she is now connected to a vibrant supportive community of friends who are helping her build a new life for herself in the United States. On June 27<sup>th</sup>, 2010, Bethany is looking forward to walking proudly with her friends from the support group at the Heritage of Pride Parade in Manhattan.

### **Conclusion**

Moving forward, we must remember the stories of people like Bethany, who are simply trying to achieve freedom and peace in their lives and come here to "the home of the free" to live a life free of persecution. Most of us in this room would agree that the US immigration system is broken and in need of major reform. The reforms that are suggested in Resolution No. 162 are a step towards a comprehensive Immigrant reform bill. It is imperative, that this bill moves forward as is, and that we fight to ensure that the current language, which acknowledges the circumstances of LGBT Immigrants stay in the bill.



LA UNIÓN HACE LA FUERZA  
THE COMING TOGETHER OF  
LATIN AMERICAN INTEGRATION CENTER  
AND MAKE THE ROAD BY WALKING

April 26, 2010  
New York City Council  
Testimony of Patricia Suarez, Member, Make the Road New York  
On Resolution #162

Buenos dias, mi nombre es Patricia Suarez y soy miembro de Se Hace Camino New York. Soy un residente de Staten Island. Gracias al Comite de Inmigración, y el concejal Dromm por haber presentado esta resolucion tan importante el dia de hoy, y gracias por habernos invitado para testificar.

Se Hace Camino New York es una organización comunitaria que hoy cuenta con mas que 7,000 miembros, trabajando para que todos los inmigrantes de la ciudad puedan vivir con dignidad. Trabajamos en, Queens, Brooklyn, y Staten Island. La reforma migratoria ha sido una de las prioridades mas grandes de la organización por mucho tiempo, y vamos a trabajar hasta que lo logramos. El 21 de Marzo, nosotros llevamos 2,100 miembros a Washington para mostrar el presidente y el congreso que necesitamos una reforma migratoria comprensiva en el 2010.

Es difícil decir en pocas palabras porque una reforma migratoria es tan importante. Yo personalmente era indocumentada por un periodo en este pais, y ahora gracias a Dios soy una ciudadana, votando en las elecciones, y ejerciendo mi voz. Fundamentalmente, la situación migratoria en este pais es injusto. Es injusto que miembros de nuestra ciudad, miembros de nuestras familias, y nuestros amigos tienen que ser seres humanos de segunda clase. Ahora con la nueva ley de Arizona, eso es aun mas verdad. Personas indocumentadas trabajan, participan, compran, y quieren hacer mas para el pais, pero no pueden por falta de estatus. Trabajadores son vulnerables a la explotacion de empleadores. Niños no pueden seguir sus sueños. Familias viven en miedo de que uno de sus miembros va ser deportado. Es una situación que no podemos aguantar mas.

Por eso es importante que el dia de hoy el concejo de la ciudad tome esa resolucion apoyando una reforma migratoria. Tenemos que poner toda la presion posible en el congreso y el presidente Obama para realizar eso en el 2010, y ustedes, como lideres de la ciudad, estan tomando el paso correcto. Gracias otra vez, y si se puede.

+++++

Good morning, my name is Patricia Suarez and I'm a member of Make the Road New York. I am a resident of Staten Island. Thank you to the Immigration Committee and to the councilmember Dromm for having presented this resolution, and thank you for having invited us to testify.

Make the Road New York is a community organization with over 7000 members, working to ensure that all immigrants in the city can live with dignity. We work in Queens, Brooklyn, and Staten Island. Immigration reform has been one of our top priorities for a long time, and we are going to continue to work until it is passed. On March 21, we took 2100 members to Washington to show the President and Congress that we need comprehensive immigration reform in 2010.

It is difficult to say in a few words why immigration reform is so important. I was personally undocumented for some time in this country, but now thanks to God I am a citizen. I vote in the elections and I make my voice heard. Fundamentally, the situation in this country with regard to immigration is unjust. It is unjust that members of our city, members of our families, and our friends have to be second-class human beings. Now with the new law in Arizona, this is even truer. Undocumented people in this country work, participate, and buy, and they want to do more but they cannot because of a lack of status. Workers are vulnerable and exploited by employers. Children cannot follow their dreams of college. Families live in fear that one of their members will be deported. It is a situation that we cannot bear any longer.

That is why it is important that today the City Council has taken this resolution calling for immigration reform in 2010. We have to put all possible pressure on Congress and the President to make this a reality in 2010, and you, as leaders of the city, are taking the right steps. Thank you again, and si se puede!

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: April 26 10

(PLEASE PRINT)

Name: CIARAN STAUNTON

Address: 39-36 46th Sunnyside NY 11104

I represent: IRISH LOBBY For Immigration Reform

Address: Same

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Miguel Savarin

Address: 4012 77th Elmhurst, NY

I represent: Myself

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 4-26-2010

(PLEASE PRINT)

Name: Patricia Suarez

Address: 176 DuBois Ave.

I represent: S.I.N.Y. 10310

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: NERISSA A KUNAYEMAKORN

Address: \_\_\_\_\_

I represent: THE OPPORTUNITY AGENDA

Address: 368 BROADWAY, SUITE 302

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

162

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: Apr 26 2010

(PLEASE PRINT)

Name: BRENDAN FAY

Address: 22-22 28<sup>th</sup> ST, ASTORIA, NY 11105

I represent: THE CIVIL MARRIAGE TRAIL PROJECT

Address: 22-22 28<sup>th</sup> ST, ASTORIA, NY 11105.

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. 162

in favor  in opposition

Date: 4/26/10

(PLEASE PRINT)

Name: UDI OFEN

Address: ~~125~~ 125 BROAD ST, NY, NY 10004

I represent: NYCLU

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. 162  
 in favor  in opposition  
Date: 04/26/10

(PLEASE PRINT)  
Name: Afton Branche  
Address: ~~Brown St~~ 40 Exchange Place NY, NY  
I represent: Drum Major Institute for Public Policy  
Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition  
Date: \_\_\_\_\_

(PLEASE PRINT)  
Name: Fatima Shama  
Address: Commisloner  
I represent: Mayor's Office of Immigrant  
Address: Affairs

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. 162 Res. No. \_\_\_\_\_  
 in favor     in opposition

Date: \_\_\_\_\_

Name: George Tesser (PLEASE PRINT)

Address: 66 Madison Ave #73C

I represent: The LGBT Community Center

Address: 200 W 13th St

▶ Please complete this card and return to the Sergeant-at-Arms ◀

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. 162  
 in favor     in opposition

Date: April 26, 2010

Name: Rachel B. Triven (PLEASE PRINT)

Address: 40 Exchange Place

I represent: Immigration Equality

Address: see above

▶ Please complete this card and return to the Sergeant-at-Arms ◀