



FACTS ABOUT

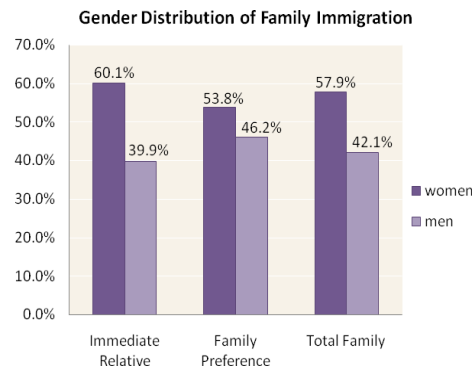
Family Immigration System AND Asian & Pacific Islander Women

The U.S. family immigration system is broken. It leaves millions waiting in the visa backlogs, some of whom will have to spend up to 22 years separated from their families.ⁱ Some of the longest wait times are for family members from China, India and the Philippines. In fact, 6 out of the top 10 countries with the most backlogs are in Asia, and Asians comprise 32 percent of all family-based immigrants.ⁱⁱ Recent studies have shown that more women than men are migrating into the U.S., and the majority of those in the backlogs are women.ⁱⁱⁱ Thus, API women and girls are doubly impacted by family immigration problems. The current system needs to be fixed to allow for humane and timely reunification of families.

COMPARING VISA SYSTEMS

The two most common means of applying for immigration to the United States are through family-based and employment-based visas. Under the family-based immigration system, U.S. citizens and lawful permanent residents (LPRs), or green card holders, can sponsor family members who belong to either the immediate relatives or one of the family preference eligibility categories. "Immediate relatives" is the preferable category because it is not subject to a category cap. It applies to spouses, unmarried minor children, and parents of U.S. citizens, while the "family preference" category has several subcategories, all of which face

different quotas that are severely outdated and do not meet current needs.



Source: Kelly Jefferys, *Characteristics of Family-Sponsored Legal Permanent Residents: 2004*, Table 1: Demographic Characteristics of All LPRS and Family-Sponsored LPRS: Fiscal Year 2004. Department of Homeland Security, October 2005.

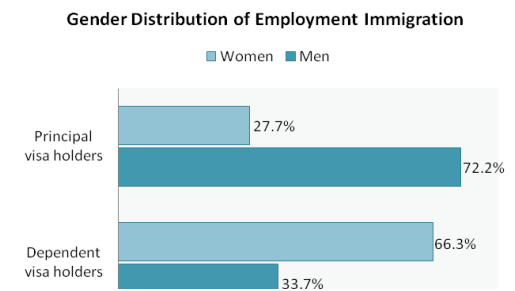
Immigrants who enter on an employment-based visa are sponsored by their U.S. employer. The immigrant worker—known as the principle visa holder—can also bring his or her spouse and unmarried children under the age of 21. Notably, principle visa holders are significantly more likely to be men because the employment system currently favors job skills in male dominated job markets. As dependents of the male principle visa holder, however, women are not legally allowed to work and are completely tied to their spouse. This creates an imbalance of power, which can make women more vulnerable to an abusive partner and unable to earn an income should their partner lose his job. Of the two systems, women have more agency under the family immigration system because they are able to work and gain financial authority within the family.

WOMEN IN THE IMMIGRATION SYSTEM

Women are significantly more reliant on family-sponsored immigration than men.

- 69.7 percent of all immigrant women attain legal status through family-based visas, compared to 60.6 percent of men.^{iv}
- Immigrants from Asia receive 39 percent of all family-based visas.^v
- 90 percent of immigrants from Asia come through family-immigration.^{vi}

Women are likely to be dependents, not principals, of employment-based visas.



Source: Kelly Jefferys, *Characteristics of Employment-Sponsored Legal Permanent Residents: 2004*, Table 1: Demographic Characteristics of All LPRS and Employment-Sponsored Principle LPRS: Fiscal Year 2004. Department of Homeland Security, October 2005.

- Less than 4 percent of all female LPRs enter as principal visa holders, compared to over 12 percent of all male LPRs.^{vii}
- The large disparity between men and women principle visa holders persists despite native-born and foreign-born women having similar attainments of bachelor's degrees (21.4% and 20.3% respectively).^{viii}

IMMIGRATION BARRIERS AND DIFFICULTIES FOR WOMEN

Women often rely on family immigration to enter the U.S. because of social constraints and their lack of access to capital and resources in their country of origin. In many countries, men have greater control over family decision making and have better access to higher educational and job training opportunities, which enables them to be the primary visa holder. Although foreign-born women have similar educational attainment levels as U.S.-born women, foreign degrees and technical skills are often non-transferable due to language and cultural differences. Thus, because of a family's economic needs, these immigrant women are chronically relegated to low-wage, laborious jobs—often without legal work authorization.

Immigration status can also be a barrier for women seeking to escape abusive relationships. Compared to the general U.S. population, the domestic violence rate for a foreign-born woman married to a U.S. citizen is three times higher.^{ix} Because of a 1986 law that requires an immigrant spouse to be married to a citizen spouse for at least two years before becoming eligible to apply for permanent status, many women remain in abusive relationships because they fear deportation.^x The Violence Against Women Act (VAWA) provides protection and conditional residency status for immigrant women who are victims of domestic violence, but many immigrant women with limited English skills are unaware that this law exists.^{xi} In addition, the complicated procedural requirements, and the shortage of lawyers who are knowledgeable about VAWA contribute to the silence of abused immigrant women.

RECOMMENDATIONS

Given that immigrant women are closely tied to the family immigration system, policies that are family-centered are also good for women. Conversely, reducing avenues for family-based immigration will harm women more than men.

Strengthen Family Immigration

Immigrant women make many contributions and positive impacts to communities. Economically, women often bring in an additional income, make it more likely for the family to open a small business, and purchase a home. They also provide more stability for the family and help the family put down permanent roots by initiating the citizenship process for their families. Women are more likely to invest in their children's education and send them to college.^{xii} Given that family is the basic unit of a society, family-friendly policies that benefit immigrant women will benefit communities and the country as a whole.

Reduce Immigration Backlogs

Backlogs are strenuous on families who have to spend years and even decades apart. Because women are overrepresented in family-based immigration, they are also overrepresented in the backlogs. Changing visa allocations or family categories to reduce backlogs will benefit women who are waiting to reunite with their families. For instance, reclassifying spouses and minor children of LPRs as "immediate relatives" rather than a "family preference" would remove the category cap (a country cap would still apply) and allow many women to reunite with their families. This would also free up visas in the family preference

categories for married and adult daughters of U.S. citizens.

Pass the Reuniting Families Act & the Uniting American Families Act

The Reuniting Families Act reforms the family immigration system to allocate visas more efficiently, alleviate wait times and backlogs, and provide protection for orphans, widows and widowers. In line with keeping families together, the Uniting American Families Act, which would allow U.S. citizens and LPRs to sponsor their same-sex partners for family-based immigration, should be passed as soon as possible.^{xiii}

OCT 2009

ⁱ U.S. Department of State, *Visa Bulletin* (July 2009).

ⁱⁱ U.S. Department of State, *Visa Bulletin, Section E: Active immigration visa applications registered for processing at consular offices abroad as of January 2009* (March 2009).

ⁱⁱⁱ New American Media. *Women Immigrants: Stewards of the 21st Century* (February 2009).

^{iv} Asian Pacific American Legal Center, *A Devastating Wait: Family Unity and the Immigration Backlogs* (2008).

^v Asian American Justice Center, *Asian Americans and Family Immigration* (2009).

^{vi} *Id.*

^{vii} Kelly Jefferys, DHS Office of Immigration Statistics, *Characteristic of Employment-Sponsored Legal Permanent Residents: 2004* (October 2005).

^{viii} Legal Momentum, Immigrant Women Program, *Women Immigrants and Family Immigration* (date?).

^{ix} Giselle Aguilar Hass, Nawal Ammar, and Leslye Orloff, *Battered Immigrants and U.S. Citizen Spouses* (2006).

^x Lora Jo Foo, *Asian American Women 2nd Edition* (2007), 146.

^{xi} Reauthorized in 2005 as H.R. 3402. Up for reauthorization in 2010.

^{xii} Stephan Fraiss, *Global Education of Girls Is Key to Development*, available at <http://www.womensenews.org/article.cfm/dyn/aid/663/context/archive>.

^{xiii} UAFA in the 111th Congress: H.R. 1024 introduced by Jerrold Nadler (D-NY), S. 424 introduced by Patrick Leahy (D-VT).