

H.R. 2709

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Introduction

Tony, an illegal Mexican immigrant, came to the United States when he was eight years old with the help of his father who also arrived illegally and sent money back to Mexico to pay crossing costs for Tony's family (My Immigration Story). Although Tony's father did not break any laws and the rest of his family lived in the U.S., Immigration and Customs Enforcement (ICE) deported him back to Mexico after 20 years of living in the US. However, Tony and his family's story is one of many cases in the U.S. where family members choose to enter the U.S. illegally due to the unreasonably extensive and complicated nature of the process for admission and naturalization in America, and then face the consequences of only trying to be with their family. Most immigrants would rather choose to immigrate to the U.S. legally, but America's broken immigration system cannot process their applications in a timely manner. U.S. immigration policy places family reunification as its highest priority and is also the "largest of four major avenues through which individuals qualify for admission and 'lawful permanent residence' in the U.S." (McKay). However, stories of waiting several years to several decades for family members to legally immigrate to the U.S. are common. Such waits also implicate that a "large portion of such individuals' prospective working years that make immigration a good investment will have passed by the time many ever arrive in the U.S." (Meissner et al, 22). This shows that the U.S.' current immigration policy, especially in regards to family reunification programs, need to be reexamined and potentially reformed. Independent task force reports have also shed some perspective and proposed realistic ideas and solutions for political leaders to consider when evaluating new pieces of immigration legislation. Although the volatile political climate may suggest otherwise, Americans widely agree on one thing: the current immigration policy must change to address the concerns, needs, and demands of Americans.

Background of the Problem

The Immigration and Nationality Act of 1965 (INA), otherwise known as the Hart-Celler Act, introduced and affirmed the priority Americans wanted to place on family reunification programs in immigration policy. However, political leaders of the time did not anticipate the degree such programs would be impacted that has led to backlogs in excess of a million applicants that current family reunification programs currently face at any given time (McKay). No institutional mechanisms were prepared or have been created to handle the amount of applicants received today and has resulted in much frustration of U.S. citizens, family members of U.S. citizens seeking immigration, and bureaucratic agents of the government. Some scholars consider the “multiplier” effect as the primary cause for the dramatic increase in family reunification program applicants, which explains the increase in “the number of future immigrants who come to the United States as a result of the admission of one current immigrant” (Jasso & Rosenzweig, 291). The civil rights components of family reunification programs were also persuasive and feasible due to the progressive political climate of the 1960’s. Political leaders in 1965 understood that then and they understand this today; but both sets have failed to create efficient legal procedures for such immigration, which family reunification is often considered an incentive for immigrants to naturalize. Since the INA, there has been a major shift from Europe to Asia as the primary source of immigrants to the U.S. (McKay). Asian families tend to be of larger sizes, which may explain the increase in demand for legal immigration to the U.S. by family members of U.S. citizens (Myers, 35).

The State of the Existing Family Reunification Programs

The purpose and vision of current family reunification programs are admirable and difficult to oppose, but the present infrastructure prevents the immigration process from reaching

its full potential and goals in an efficient and timely manner. U.S. family reunification programs often fail to meet its goals because of extensive delays and institutional obstacles. Family members of U.S. citizens seeking immigration to the U.S. from countries that have historically impacted U.S. family reunification programs, such as China and the Philippines, may have to wait several decades before beginning the immigration process (Meissner et al, 22). Presently, each country has a quota set by the U.S. of how many of its citizens can apply and are permitted to immigrate to the U.S., which contradictorily results in backlogging many applicants for different reasons and disrupts many family structures. This kind of failure mocks the explicit and implicit priority America prides itself on placing families first. The U.S. is committed to prioritizing family reunification in immigration policy because of the U.S.'s longstanding tradition of offering not only a better life to immigrants but for their families as well. Although the U.S. does not set a quota on the amount of spouses of U.S. citizens may seek admission, quotas of 226,000 immigrants under the category of other familial ties are disproportional to the population of 39 million immigrants presently living in the U.S, in which two-thirds are authorized to live in the U.S. (Caldera & Paige/Bush, 8). U.S. immigration agencies tend to process applicants as either under the family reunification program or on employment-based admissions, but often do not consider applicants on the basis of both considerations; the creation of the Standing Commission on Immigration and Markets could provide flexibility in the immigration system to develop the ways and means for skilled individuals who also have U.S. family ties to receive priority (Meissner et al, 40). The current program works to the extent that quotas are met with applications over a few days, but the rate and time in which applicants first apply for admission and finally receive permission to immigrate is incompatible with America's economic and social needs.

Reports of Independent Research and Analysis

Two independently published reports by the Migration Policy Institute (MPI) and the Council on Foreign Relations (CFR) have suggested possible immigration policy modifications and reforms. The Migration Policy Institute advocates a stronger and more detailed approach to reforming the system, whereas the Council on Foreign Relations suggests keeping the system simple and transparent. However, both resources offer perspectives that exist in America and offer insight to how problems of current family reunification programs can be alleviated or solved from the standpoints of political leaders and an independent bipartisan institute.

The MPI report recommends raising annual caps on per-country limits for the purposes of reunifying U.S. citizens with family members living in other countries and eliminating diversity visas to foster more immigration on family- and employment-bases (Meissner et al, 40). However, the MPI report lacks a figure of the degree that annual caps should be raised to and whether or not these caps would affect traditionally impacted countries, such as China and the Philippines. The CFR report recommends maintaining the centrality and priority of family reunification programs but also suggest that efforts should be focused on attracting talented and skilled individuals to the U.S. (Bush et al, 91). Both reports were published within the last two years and address the recent downturn in the U.S. economy; despite the recession, the MPI and CFR reports still recommend that family reunification maintain its centrality in U.S. immigration policy.

Both reports seem to suggest that family reunification programs should maintain its centrality in immigration policy. The concurrence of both reports implies that this notion is conceivable on both political sides. While the need for immigrants to complement science and engineering needs for the U.S. to remain competitive in the global market is understandable,

Americans must realize the sacrifice such a shift holds deeper implications. America has long represented the land where an immigrant, emphasizing one with low-skills in particular, has the opportunity to rise through socioeconomic ranks, but admitting only high-skilled immigrants may lead to a drastic imbalance in the labor pool. Admitting immigrants on the basis of family-based immigration policies generally bring high-skilled as well as low-skilled immigrants to the U.S. (Duleep). The U.S. should not seek to manipulate precise calculations of the skills of entering immigrants for solely the benefit of the national economy; such practice can lead to the dissolution of core family values in U.S. immigration policy. Instead, the U.S. has the option of referring to laissez-faire practice in addressing labor market demands and providing the institutions and pathways for immigrants to receive education and training to meet such market-driven demands.

H.R. 2709 – Reuniting Families Act

Presently, the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law in the U.S. House of Representatives is considering H.R. 2709. The bill primarily seeks to address recapturing lost immigrant visas to bureaucratic delay and making amendments to the Immigration and Nationality Act of 1965 in various areas (OpenCongress). Introduced in June 2009 by Congressman Michael M. Honda of the 15th District in California, H.R. 2709 is eligible for passage pending presidential and senatorial approval until the end of congressional session in late 2010.

H.R. 2709 addresses family-based and employment-based immigration and does not address diversity-based and refugee/asylum-based immigration. The bill seeks to establish the ceiling of worldwide level of employment-based immigrants at 140,000 plus unused employment-based visas from the previous year and unused employment-based visas from 1992-

2007 each fiscal year, instead of the current policy of permitting 140,000 plus unused employment-based visas from the previous year and the number of unused family-based visas each fiscal year (OpenCongress). Basically, unused visas would “roll over” and increase the number of available slots for those seeking immigration. The U.S. State Department estimates that there exist 326,000 unused employment-based visas between 1992-2007. In addition, the bill seeks to revisit the definition of an “immediate relative” to include the following changes: 1) “a child, spouse, or parent of a U.S. citizen or lawful permanent resident,” 2) a widow or widower of a U.S. citizen or resident seeking legal permanent residence if married at least two years at the time of the petitioner’s death or showing beyond a reasonable doubt that the marriage was entered into in good faith and not only to obtain immigration benefits if married for less than two years, and 3) an alien who is the child or parent of a U.S. citizen or resident and files a petition within two years after the petitioner’s death or 3a) in the case of the child, the child files a petition before the age of 21 (U.S. Congress). This provision expands the number of applicants who would be eligible for admission that is not subject to a ceiling.

The bill considers family members seeking immigration to the U.S. who have not been historically favored and protected by U.S. immigration. In addition to providing more opportunities for legal permanent residence, the bill would also extend more immigration visas to brothers and sisters of U.S. citizens and unmarried sons and daughters of U.S. citizens. Following the passage of this bill, 60,000 immigration visas would be available for the sons and daughters of permanent resident aliens, which is a demographic underserved by current immigration policy (U.S. Congress). H.R. 2709 will also extend safeguards for family-unity exceptions for qualified individuals who may face unlawful presence inadmissibility. Annual limits family-based and employment-based immigration of each country would be increased by

5-10% if this bill became law. Alien orphans and spouses of U.S. citizens would also receive relief in the following situations: “(1) petitions for immediate relative status; (2) parole eligibility; (3) permanent resident status adjustment; and (4) processing of immigrant visas” (U.S. Congress). Also, the bill would extend conditional permanent residence to alien fiancée/fiancé and minor children of alien fiancées/fiancés, in which the alien fiancée/fiancé must marry the petitioner within three months of admission in the U.S. to retain legal status for them and their minor children. The bill also redefines “child” to include stepchildren under the age of 21, which is different from current immigration policy that only considers stepchildren under the age of 18 eligible to immigrate to the U.S. as an “immediate relative” to the petitioner (U.S. Congress).

H.R. 2709 embeds two acts that hold underlying implications: the Filipino Veterans Family Reunification Act (FVFRA) and Uniting American Families Act of 2009 (UAFA). The FVFRA would exempt the children of naturalized Filipino veterans who fought in World War II from immigration ceilings. This provision would permit more applicants to be eligible for the immediate-relative family-based immigration that has no limit. The UAFA seeks to amend the Immigration and Nationality Act of 1965 to define a “permanent partner” as an individual 18 years or older who “(1) is in a committed, intimate relationship with another individual 18 or older in which both individuals intend a lifelong commitment; (2) is financially interdependent with the other individual; (3) is not married to, or in a permanent partnership with, anyone other than the individual; (4) is unable to contract with the other individual a marriage cognizable under this Act; and (5) is not a first, second, or third degree blood relation of the other individual” (U.S. Congress). This is a revolutionary approach to incorporate the relationships held by a U.S. citizen with another individual of the same gender into immigration policy.

However, H.R. 2709 cannot become law without the approval of other institutions but there are current dynamics that suggest that such a policy could become a reality. H.R. 2709 is co-sponsored by 79 other members of the House of Representatives that all are from the Democratic Party (OpenCongress). There is also S. 1085, a senatorial version of H.R. 2709, that is currently under the consideration of the Committee on the Judiciary in the Senate. President Barack Obama introduced several amendments as a junior senator to put greater emphasis on keeping immigrant families together so this may imply that President Obama would be willing support bills like H.R. 2709 and S. 1085 (Organizing for America). Numerous external organizations have endorsed H.R. 2709 as well, such as the following but not limited to: Arab American Institute, Center for Community Change, and National Gay and Lesbian Task Force Action Fund (“Reuniting Families Act”).

Pros and Cons of H.R. 2709 – Reuniting Families Act

Members of Congress and President Barack Obama have promised progress on many issues to the American public; immigration is a popular issue that invokes various emotions and positions from people of all backgrounds. There is a widespread consensus among policymakers and U.S. citizens that immigration reform is necessary and any efforts to reform immigration should reflect the U.S.’ standing commitment to reuniting families. Under current immigration law, numerous families are separated because of extensive visa backlogs, discriminatory policies, and unreasonable bureaucratic paperwork. H.R. 2709 seeks to remedy those institutional obstacles but such a proposal that calls for so many reforms does not come without opposition and criticism. Primarily, policymakers and U.S. citizens have been concerned with redefining an “immediate relative” to include “permanent partners” and the capacity of the country’s economy to absorb a large increase of permanent and temporary immigrants under the bill’s provisions.

Pros

Permitting more immigrants to enter the U.S. on employment-based visas is likely to affect the U.S. labor market and pool of native laborers. Immigrants are 30% more likely to start up businesses than non-immigrants (Fairlie 2008, 13). In the past, immigrants have created a variety of large and small businesses that bring revenue and jobs to the U.S. For example, Google, eBay, Yahoo!, and Intel are some of the most successful companies in the U.S. and were started up by immigrants (Brown). Previous research has shown that even low-skilled workers are able to make considerable gains in income and standard of living in several years (Brown). In addition, immigrant-owned businesses are likely to foster investments and trade linkages outside the U.S. and other countries.

Revising the definition of “immediate relative” extends eligibility for family members of U.S. citizens seeking to gain legal permanent residence to roughly 231,000 slots for family members of petitioners (U.S. State Department). Criticizing such a reform in an area of immigration policy that allots for unlimited immigration requires considering the fairness and utility of such an approach. The beneficiaries of this provision are primarily family members who hold closest ties to U.S. citizens and residents: spouses, parents, and children of U.S. citizens. By allowing the unlimited immigration of family members closest to petitioners, this provision succeeds in the basic tenets of family-based immigration. This provision also calls for increasing the age cap of the stepchildren of U.S. citizens or residents from 18 to 21 years of age; admitting young immigrants is an opportunity for the U.S. to receive individuals who can become highly educated and skilled in areas where U.S. markets needs more laborers.

Although passage of this legislation would probably reduce remittances sent abroad, it is unclear by how much and whether such a reduction would benefit or hurt the U.S. A reunited

family will keep the value of remittances typically sent to family members living in other countries inside the U.S. In 2008, Latin America received nearly \$46 billion and Mexico received about \$24 billion alone (“Reuniting Families Act”). Considering the recent economic downturn and largest deficit in U.S. history, the U.S. treasury would benefit from keeping as many U.S.-earned dollars inside the U.S. Figures such as \$28 billion and \$46 billion should not be lightly considered when the U.S. national deficit was \$1.9 trillion in 2009 and is still growing (Organizing for America). Although the practice of sending remittances to other countries is likely to continue as long as the U.S. depends on immigrant labor, the U.S. does stand to significantly benefit financially through permitting family members of U.S. citizens or residents to immigrate to the U.S.

The U.S. government has a history of undercutting benefits and privileges to naturalized Filipino WWII veterans; for example, Filipino veterans have been met with delays and denials when asking for benefits in the past. Until as recent as last year, Filipino veterans were not compensated for their service in the U.S. military (“American Experience”). If passed, this legislation would provide some remedy to the damage caused by previous U.S. foreign and domestic policies that affected Filipino WWII veterans. America has a long standing tradition to treat veterans with the proper extra care and attention; if such attractive immigration benefits should be available to the general populace, veterans who have proved their loyalty and given their time and energy to protect the U.S. should enjoy such benefits and be allowed to extend these benefits to their families.

The U.S. also has a history of implementing immigration policies that particularly affect and target members of the bi-national lesbian, gay, bisexual, and transgender (LGBT) community. Individuals with HIV/AIDS, which in particular affects the gay male population at

higher rates than other demographics, were barred from immigrating to the U.S. until January 2010 (Immigration Equality). Such discriminatory policies may work to the disadvantage of the U.S. For example, the member of a bi-national couple living in the U.S. who may be highly skilled may leave the U.S. to be with their partner as it would not be possible for the U.S. citizen to bring his or her partner to the states (Immigration Equality). Although there are no formal estimates on many skilled U.S. citizens and their families have immigrated from the U.S. to another country, the U.S. could lose 36,000 affected families that have been estimated to be separated between two countries (Ralls). At a time where the U.S. faces serious competition for attracting skilled immigrants from traditional source countries such as China and India and industrialized countries such as Canada and the United Kingdom, the U.S. should seek to do whatever is feasible to retain as many skilled workers.

Current immigration policy does not recognize the alien partner of a same-sex relationship with an American citizen to be eligible for legal immigration, which affects an estimated 36,000 LGBT families (Ralls). These bi-national LGBT families experience much frustration and interruption as a result of such restrictive and discriminatory immigration policies. The U.S. government has provided protections to members of the LGBT community in workplace discrimination and the ability to prosecute individuals who commit crimes on the basis of sexual orientation as hate crimes, but the U.S. government has yet to offer rights as important as immigration rights to the LGBT community. Generally, same-sex partnerships have a lower likelihood of having children in their families rather than heterosexual marriages. Given this likelihood, government-funded social resources traditionally afforded to the children of immigrants may not be necessary in the case of LGBT immigrants. Even if LGBT immigrants had children and enrolled their children in public schools, this would diversify

America's classrooms and expose American youth to the reality that not all parents are of the same sexual orientation. Same-sex partnerships are likely to seek adopting children; thus, the financial burden of raising these children is shifted from the government to private individuals. Opponents of permitting same-sex couples to raise children generally cite moral reasons and the fact that children will be raised with a familial structure; however, standards of morals are subjective and government adoption agencies already hold individuals accountable for bad parenting behavior. Social policy should not be averse to change unless it is proven without a preponderance of doubt that such a practice will result in negative effects.

Cons

In response to the recent economic downturn, many Americans are wary of incoming immigrants that are viewed as competitors for American jobs. The influx of the anticipated 326,000 immigrants who would immigrate to the U.S. from unused employment-based visas from 1992-2007 under the H.R. 2709 employment-based visas reform would probably cause concern to U.S. citizens (U.S. State Department). There is a possibility that there may be an initial cost to U.S. taxpayers to aid new immigrants in adjusting to life in the U.S. and there is no guarantee that these immigrants will voluntarily support themselves and/or cease to receive government support. Although some immigrants have support networks in the U.S., not all immigrants do and those who do not tend to rely heavily on state-funded services.

The bill's call to revising the definition of an "immediate relative" considers permitting widows and widowers of U.S. citizens and residents to immigrate to the U.S. without an annual cap. There is a possibility of immigration fraud under this provision but present resources cannot comprehensively estimate the degree of fraud. There is some reason to believe that fraud might take place due to historical phenomenon like "paper sons" and "picture brides" when Asian

immigrants were initially permitted to petition for their family members to immigrate to the U.S. Accepting this provision would rely heavily on the oversight of federal agencies and the effectiveness of the U.S. legal system. While the absence of fraud cannot be guaranteed, it should not be the sole decisive factor in adopting this bill.

Receiving countries benefit greatly from remittances sent by family members living in the U.S. in boosting its national budget and providing the monetary support for infrastructure and social development. Removing such a significant portion of a country's monetary resources could prove to be detrimental, especially if the country is a poor and developing country. The Council on Foreign Relations has suggested remittances contribute to the development of sending countries and discourages illegal immigration (Bush et al, 35).

The FVFRA provision meets the standing principles to admit immediate relatives for family-based immigration policy but also brings up an important economic consideration. Presently, there are roughly 18,000 surviving Filipino WWII veterans of which many have bi-national families ("American Experience"). The children of Filipino veterans from WWII are likely to be born between the decades of the 1940s and 1960s, which is the era of the "baby boomers." The U.S. already has a present dilemma with figuring out a way to deal with American baby boomers that are a powerful electoral bloc and receive many government-funded benefits (Myers, 73). It is likely that these potential immigrants have already passed their peak of productivity and may become a burden on U.S. taxpayers to support through social and health services. In addition, immigration applicants from the Philippines particularly impact the U.S. immigration system; giving priority to the children of naturalized Filipino WWII veterans would allow them to "leap frog" over many other Filipino applicants who may have been waiting for

several years or decades. The fairness of that practice could be controversial and is an issue that legislators should take as a serious matter.

Many states of the U.S. and foreign countries face the dilemma of whether to recognize same-sex partnerships as equal to marriage. If the U.S. government is willing to recognize same-sex partnerships as the same as marriage, this may hold serious implications for future court rulings and state and federal legislation. State legislators and U.S. citizens may cry a breach on states' rights in the federal government's will in dictating who can come over, as state and local governments often interact regularly with immigrants rather than the federal government. Implementing such a controversial provision could cause backlash from U.S. citizens who oppose gay marriage, political leaders of socially conservative countries, and major businesses leaders are against gay marriage. In addition, the U.S. does not recognize gay marriage at the federal level. Religious leaders argue the influx of homosexuals in a community will inevitably lead to the decline of family values, morals, and character. However, these views are subjective and typically based on religious faith and teachings. Religious intervention in government policies have been proven to be successful in the past with the Church of the Latter-Day Saints, which is based in Utah, contributing millions of dollars to ensure the passage of Proposition 8 in California; it is possible for religious institutions and leaders to influence the public and political leaders to prevent reforming immigration policies from including alien homosexual partners of U.S. citizens.

Conclusion

America prides itself on being a "nation of immigrants," but current immigration policies discourage prospective immigrants from seeking immigration through extensive delays and complex paperwork. This results in illegal immigration and the loss of skilled laborers to other

countries that streamline their immigration. There is no doubt that the current immigration system is not working: families are separated for several years to several decades and employers cannot hire much needed high-skilled laborers from other countries. H.R. 2709 is one way of approaching comprehensive immigration reform by Congressman Michael M. Honda and 70 other co-sponsors in the House of Representatives. Provisions in H.R. 2709 hold particular significance and meaning for individuals who would be affected. Filipino veterans have long suffered exclusion of benefits typically given to returning soldiers and have banded together in the hopes that they would live to see the day that they would be treated like any other veteran. Members of the LGBT community have also been the victims of discriminatory practices in immigration and other areas. However, several recent political events show hope that the present time may be ripe for change. Inclusion in immigration policy would be a milestone for both Filipino veterans and members of the LGBT community.

However, other dynamics may prevent or stall the passage of H.R. 2709 and other similar bills. Recent political events suggest that bills including controversial issues would face difficulty in passage and implementation. Healthcare and immigration reform have been major concerns for U.S. citizens and political leaders; some claim that one issue cannot be solved before the other issue. However, no progress will be made if there is no action on either issue. Congress may want to take time to draft perfect solutions, but many families cannot wait that long, if ever, for Congress to reach perfection.

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