

This is an excerpt from *Inside the Numbers: How Immigration Shapes Asian American and Pacific Islander Communities*, a report published by Asian Americans Advancing Justice—AAJC and Asian Americans Advancing Justice—Los Angeles in June 2019. The report is available for download: <https://advancingjustice-aaajc.org/inside-the-numbers-report-2019>

## ISSUE BRIEF: FAMILY IMMIGRATION

Family unity is a valued tradition and the foundation of America's immigration system, adding to the nation's economy and strengthening families and communities. When family members sponsor their relatives to immigrate, they provide support to their family members to adjust and settle into their lives in the United States. In return, these family members often work in family businesses; care for children and elderly family members; pool money for investments in homes, cars, or businesses; and generally provide a social safety net for each other.

### Visa Backlogs

The system has served our country well, but after half a century the system is in dire need of updating. Due to categorical and per-country caps explained in the "Immigration Pathways" discussion of this report, long backlogs have built up over time, forcing families to live apart for years and sometimes decades. The State Department reports that the worldwide total of aspiring immigrants waiting in line for family-based preference visas in fiscal year (FY) 2019 is 3,671,442. Comprising 76.2% of this number, the top 10 countries with the highest number of waiting list registrants include:

Country	Number of Waiting List Registrants
<b>Mexico</b>	1,227,897
<b>Philippines</b>	301,706
<b>India</b>	261,765
<b>Vietnam</b>	228,921
<b>China (mainland-born)</b>	186,307
<b>Bangladesh</b>	168,926
<b>Dominican Republic</b>	146,090
<b>Pakistan</b>	115,111
<b>Haiti</b>	94,484
<b>El Salvador</b>	64,656

Six of the top 10 countries are Asian countries. A total of 1,519,710 individuals, more than 40% of the people stuck in the family backlogs, are from Asia.<sup>96</sup>

Asian Americans are heavily impacted by the visa backlogs. Compared to the backlogs in other family preference categories, permanent residents have relatively short waits to be reunited with their spouse and children under 21. As of January 2019, U.S. Citizenship and Immigration Services (USCIS) was processing applications in the F-2A category that were filed in November 2016, which represents a wait time of over 2 years. The wait jumps to nearly 7 years for their unmarried sons and daughters over age 21 (F-2B), and about 11.5 years for unmarried sons and daughters over age 21 from the Philippines.<sup>97</sup>

There are nearly 3.7 million aspiring immigrants waiting for family preference visas, and more than 40% of the people stuck in the family backlogs are from Asia.

For U.S. citizens, the current wait to be reunited with their unmarried sons and daughters (F-1) is approximately 7.5 years. The Philippines has longer wait times in nearly all family preference categories. The wait for unmarried sons and daughters of U.S. citizens from the Philippines is nearly 12 years. For the married sons and daughters of U.S. citizens (F-3), the wait is approximately 12.5 years, and over 23 years for the Philippines. The longest waits are for the siblings of U.S. citizens (F-4): approximately 13.5 years overall, 14.5 years for India, and over 23 years for the Philippines.<sup>98</sup> These wait times represent average times for immigrants currently receiving green cards. In the years since these immigrants applied, many more people applied in the oversubscribed categories. For immigrants being sponsored now, the waits are much longer. While it is difficult to project exactly how long it will take in each category because data on attrition rates over many years are lacking, the categories with the longest lines, such as the F-4 preference category, are projected to have wait times of several decades at minimum.

These wait times are clearly untenable and create social and emotional burdens on families. Family members who are caught in the backlogs often put their lives on hold in their country of origin and put off marriage or the purchase of a home. Furthermore, arriving in the U.S. after years or even decades of delay puts immigrants at a disadvantage when it comes to investing in roots in the U.S. including restarting a career, starting a small business, or purchasing a home.

FIGURE 19: U.S. State Department, Bureau of Consular Affairs, "Annual Report of Immigrant Visa Applicants in the Family-Sponsored and Employment-Based Preferences Registered at the National Visa Center as of November 1, 2018."

**Family-Based Visa Preference Categories, Backlogs, and Most Impacted Asian Countries**

FY 2019

FIGURE 19

Visa Category	Who This Applies To	Annual Visa Limit	Total Number of Individuals in Backlogs FY 2019	Asian Countries Most Impacted, with Number of Individuals in Backlogs FY 2019
<b>Family First Preference (F-1)</b>	Unmarried sons & daughters of U.S. citizens	23,400	261,704	Philippines 17,535 Vietnam 4,579
<b>Family Second Preference (F-2)</b>	Family members of permanent residents, detailed below	114,200 (total for F-2A and F-2B subcategories)	470,092 (total for F-2A and F-2B subcategories)	See below for the breakdown in each subcategory
<b>F-2A</b>	Spouses and children of permanent residents	87,934 (77% of total F-2 visas)	145,861	Philippines 4,721 China 3,817 Vietnam 3,336
<b>F-2B</b>	Adult unmarried sons and daughters of permanent residents	26,266 (23% of total F-2 visas)	324,231	Philippines 46,646 Vietnam 8,671 China 6,694
<b>Family Third Preference (F-3)</b>	Married sons and daughters of U.S. citizens	23,400	689,924	Philippines 119,315 India 45,892 Vietnam 39,249 China 20,397 Pakistan 14,129
<b>Family Fourth Preference (F-4)</b>	Brothers and sisters of adult U.S. citizens	65,000	2,249,722	India 210,863 Vietnam 173,086 Bangladesh 160,345 China 153,106 Philippines 113,489 Pakistan 97,249

## Attacks on the System

### *Proposed Legislation: RAISE Act*

President Trump has sought to cut immigration by more than half and end the family-based immigration system as we know it. White House-backed legislative proposals, such as the Reforming American Immigration for Strong Employment (RAISE) Act, would end sponsorship of parents of U.S. citizens and all of the family-based preference categories. The proposed bill would lower the age of minor children from 21 to 18. The only remaining family-based sponsorship option would be U.S. citizens and lawful permanent residents sponsoring their spouse and children under 18 years of age. Additionally, the number of green cards allocated for family-based sponsorship would be capped at a mere 88,000 per year. In comparison, in FY 2017, around 749,000 people received green cards through the family-based system. This proposed bill also would cut off U.S. citizen children from sponsoring their undocumented parents. Currently a small number of parents may adjust status if they meet current strenuous waiver requirements. The proposed bill would cut off people currently waiting in line for their family-based visas, individuals who have already paid fees and waited in line for many years. Finally, the RAISE Act also proposes to end the diversity visa program and drastically limit the number of refugees welcomed into the U.S.<sup>99</sup>



### TESSA XUAN

“My story wouldn’t be possible without immigration.” My parents were born in mainland China. They came to America as international students. They met and married here. Once they naturalized, my dad sponsored my grandparents to immigrate. Growing up, since my mother worked in a different city and my father’s job required frequent travel abroad, my grandparents were often the ones who took care of us. My grandpa kept a vegetable garden in our backyard, and he took my sister to preschool every day on his bicycle. I remember watching him practice Tai Chi in our driveway in the evenings. “The presence of my grandparents in our home had a profound impact on all of our lives.”

The president himself chose to end the Deferred Action for Childhood Arrivals (DACA) program and then sought to trade relief for DACA recipients for legislation that would limit family-based immigration. The administration’s real goal is to lower the number of immigrants and people of color granted lawful permanent resident status and U.S. citizenship.

### *Proposed Administrative Rule Change: Public Charge*

The current administration also seeks to attack the family-based immigration system through administrative changes. The most prominent of these proposals is through proposed changes to the public charge rule, which as of this writing is not yet in effect. Public charge is the term in the Immigration and Nationality Act (INA) that refers to people who rely on government assistance as their primary means of support. If the government considers someone to be a “public charge,” that person could be denied entry or admission to the U.S., denied an extension or change to their nonimmigrant status, or denied lawful permanent resident status.<sup>100</sup> Under current law, officials look at the “totality of the circumstances,” using a variety of factors in deciding whether a person is likely to become a public charge. The only public benefits considered are cash assistance programs, such as Temporary Assistance for Needy Families, and long-term nursing home care paid for by the government.<sup>101</sup>

The Department of Homeland Security (DHS) has published a new proposed public charge rule that would make the test stricter. The agency proposes to add vital health, nutrition, and housing programs to the list of benefits considered under the rule. These include nonemergency Medicaid, the Medicare Part D Low-Income Subsidy (which helps low-income seniors afford prescription drug coverage), the Supplemental Nutrition Assistance Program (SNAP) or food stamps, and Section 8 housing vouchers and subsidized public housing.<sup>102</sup>

In addition to whether someone is currently using public benefits, the rule would weigh different factors such as age, health, family status, financial status (including income), and education and skills. For the first time, English language proficiency may be considered. If these changes are finalized, lower-income, older, disabled, or limited English proficient family members will be denied green cards, as would less-skilled or low-wage workers and people with chronic illnesses. If the rule goes into effect, U.S. citizens would face significant barriers to sponsoring their parents to immigrate.

If the proposed change to the public charge rule goes into effect, lower-income, older, disabled, or limited English proficient family members will be denied green cards, as would less-skilled or low-wage workers and people with chronic illnesses.

The impact of these proposed changes is already being felt. Since 1997, consular officials have accepted the sponsor's affidavit of support as the primary—and often the only—form of evidence necessary to satisfy the public charge test since by signing the affidavit the sponsor accepts financial responsibility for the immigrant. This may be changing, however, as the *Foreign Affairs Manual* was updated in January 2018, advising consulates that the sponsor's affidavit of support should no longer be considered sufficient on its own. Practitioners have noted an increase in visa denials based on public charge inadmissibility.<sup>103</sup>

## The Case for Continuing Family-Based Immigration

Attacks on the family-based immigration system that argue in favor of prioritizing the employment-based immigration system fail to recognize many of the positive though hard-to-quantify impacts of family reunification as the core of our immigration system. Reuniting families through the immigration system is not only humane—recognizing that for many people, families are a source of love and support—but also contributes to integration, stability, prosperity, and stronger communities. Having support networks increases the odds of people succeeding and contributing to their communities. Family members step in to provide support in times of personal and economic hardship. Together families buy homes and invest in family members' jobs and educations. Caretakers, who are predominantly women, spouses, mothers, grandmothers, and aunts, do often-unpaid and undervalued work that enables their family members to work outside the home and contribute to our economy.

This focus on family unity is one reason the U.S. has been able to attract talented immigrants. Family-based immigration encourages dynamism, learning, and flexibility. Immigrants start businesses in higher numbers than native-born Americans, yet entrepreneurial spirit is not something that is captured by a degree or a test. The vast majority of immigrants in the employment-based system (other than the millionaires who come through the EB-5 program) cannot start a business for many years. Additionally, workers who come through the employment-based programs are tied to their employer or their industry, whereas immigrants who come through the family-based system, the diversity visa program, or as refugees are able respond to dynamic labor market needs.

## Policy Recommendations

Family unity is a core American value, and our family-based immigration system has helped to create the strong, vibrant, and diverse American communities that make the U.S. the country that it is today. Rather than making it more difficult for families to stay together or reunify, we should celebrate our nation's diverse immigrant heritage by expanding opportunities for American families to thrive together. Congress should pass legislation to update the family immigration system and resolve the problem of the visa backlogs. We support the Reuniting Families Act, which would update our family-based immigration laws, clear the family backlogs, and lift the family and employment-based visa country caps. The bill would provide much-needed enforcement relief to preserve family unity by returning discretion to immigration judges and USCIS adjudicators, allowing them to waive inadmissibility or deportability criteria. The Reuniting Families Act would also resolve issues related to the treatment of widows, orphans, and stepchildren, and allow for same-sex sponsorship for people who are unable to legally marry in their country of origin.

The Diversity Visa Program must be maintained so that this pathway, which enables people to apply for a visa independent of the sponsorship of a family member or employer, remains open to people from countries with historically low rates of immigration to the U.S.

Furthermore, the administration should not move forward with the harmful and unnecessary changes to the public charge rule that would result in significant barriers to family reunification and community well-being.

We support the Reuniting Families Act, which would update our family-based immigration laws, clear the family backlogs, and lift the family and employment-based visa country caps.

## NOTES

<sup>96</sup> U.S. State Department, *Annual Report of Immigrant Visa Applicants in the Family-Sponsored and Employment-Based Preferences Registered at the National Visa Center as of November 1, 2018* (2018).

<sup>97</sup> The projections provided are based on the priority dates listed by the State Department in the Visa Bulletin for January 2019. Since processing time frames can fluctuate, it is important to consult the most up-to-date Visa Bulletin. U.S. State Department, "Visa Bulletin for January 2019."

<sup>98</sup> U.S. State Department, "Visa Bulletin for January 2019."

<sup>99</sup> U.S. Congress, Senate, *RAISE Act*, S. 354, 115th Cong., 1st sess. introduced February 13, 2017; Department of Homeland Security, "Table 10. Persons Obtaining Lawful Permanent Resident Status by Broad Class of Admission and Region by Country of Birth: Fiscal Year 2017," *2017 Yearbook of Immigration Statistics* (October 2, 2018).

<sup>100</sup> There are groups of people who are exempt from the public charge test: refugees, asylees, survivors of trafficking and domestic violence, witnesses of serious crimes, Violence Against Women Act self-petitioners, special immigrant juveniles, and certain other immigrants. Em Puhl, Erin Quinn, and Sally Kinoshita, "An Overview of Public Charge," *Immigrant Legal Resource Center* (December 2018).

<sup>101</sup> Protecting Immigrant Families (Center for Law and Social Policy and National Immigration Law Center), Fact Sheet, "Public Charge: A New Threat to Immigrant Families" (October 2018).

<sup>102</sup> Department of Homeland Security, "Inadmissibility on Public Charge Grounds," *Federal Register* Vol. 83, No. 196 (October 10, 2018).

<sup>103</sup> Ariel Brown, "Consular Processing Practice Alert on Public Charge and Affidavit of Support Issues," *Immigrant Legal Resource Center* (July 2018).