WRITTEN STATEMENT OF
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"America's Immigration System: Opportunities for Legal Immigration & Enforcement of Laws Against Illegal Immigration" Hearing

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY

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South Asian Americans Leading Together (SAALT) welcomes the opportunity to submit a statement for the record for the February 5, 2013 hearing on "America's Immigration System: Opportunities for Legal Immigration and Enforcement of Laws Against Illegal Immigration" before the House Judiciary Committee. Given the impact of immigration reform on South Asian Americans, it is important and timely for the House Judiciary Committee to examine avenues of immigration options and the state of enforcement measures. In this statement, SAALT focuses on the importance of holistic immigration reform for South Asian Americans, particularly through the family- and employment-based immigration system, and the impact of enforcement measures that profile our community.

SAALT is a national, nonpartisan, non-profit organization that elevates the voices and perspectives of South Asian individuals and organizations to build a more just and inclusive society in the United States. SAALT works with a base of individual members and advocates and is the coordinating entity of the National Coalition of South Asian Organizations (NCSO), a network of 41 organizations across the country that provide direct services to, organize, and advocate on behalf of South Asians in the United States.

South Asian Americans are the fastest growing major ethnic group in the United States, increasing by 81% from 2000 to 2010 to approximately 3.4 million people.[1] As almost three-quarters of South Asian Americans are foreign-born,[2] our community is made up of undocumented immigrants, dependent and temporary workers on various visas, refugees and asylum-seekers, lawful permanent residents, and United States citizens. According to the

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[1] South Asian Americans Leading Together (SAALT), *A Demographic Snapshot of South Asians in the United States* (July 2012) *available at* http://saalt.org/wp-content/uploads/2012/09/Demographic-Snapshot-Asian-American-Foundation-20121.pdf.
[2] *See* Gryn, Thomas and Gambino, Christine, U.S. Census Bureau, *Asia: 2011 American Community Survey Briefs* (October 2012) *available at* http://www.census.gov/prod/2012pubs/acsbr11-06.pdf; Asian American Center for Advancing Justice, *A Community of Contrasts: Asian Americans in the United States: 2011 available at* http://www.advancingjustice.org/pdf/Community_of_Contrast.pdf.

Department of Homeland Security, there were approximately 240,000 undocumented Indians alone in 2011, making India the seventh-highest country of origin for undocumented individuals in the United States.[3] Additionally, South Asians, especially those from Bangladesh, India and Pakistan, are often separated from their families for years at a time as a result of the family and employment visa backlogs. As a result, immigration reform is of the utmost importance to the South Asian community and it is essential that such reform encompass large-scale change that unites families, provides individuals and their family members with options to obtaining visas and citizenship, and ends unjust enforcement measures that have resulted in racial profiling of our community members, particularly in the past decade.

The United States is a nation that was built by and thrives upon the hard work of immigrants. Socially, culturally, and economically, South Asian Americans and all immigrants contribute to the strength of our nation and its success both nationally and internationally. The happiness and success of our community directly contributes to that of the country and without just and humane avenues towards these goals, our nation does not move forward as a whole. SAALT urges that comprehensive immigration reform make all-encompassing changes because only then will we create an immigration system that is just and humane for South Asian Americans, all immigrants, and the country as a whole.

COMPREHENSIVE IMMIGRATION REFORM MUST BE HOLISTIC IN ORDER TO TRULY BENEFIT SOCIETY

South Asian Americans contribute to our society in numerous capacities, socially, culturally, and economically. Our community members fill the gaps in low- and high-skilled jobs, start their own businesses, provide support to their loved ones, and desire an education and opportunity like any other American. Unfortunately, the current immigration system often does not allow South Asian Americans the opportunity to achieve these goals for the betterment of themselves, their families, or our society. Not only do they face numerous barriers to obtaining status, but they are often separated from their families, not provided with effective worker protections, suffer the consequences of harsh enforcement measures frequently based in racial and religious profiling, and denied due process, basic human rights, and ancillary services and benefits, such as health care. All of these issues make it increasingly difficult for South Asian Americans as well as many other immigrants to successfully contribute to our country and therefore, impinge upon our progress as a nation.

In order for South Asian Americans to effectively contribute to society, these barriers and penalties must be eradicated.   SAALT urges that immigration reform (1) creates accessible and affordable pathways to legalization and citizenship for all undocumented individuals; (2) keeps families together, eliminates visa backlogs, and increases caps for family and employment visas; (3) creates legislation that provides equal immigration benefits and protections to and prohibits discrimination against same-sex couples; (4) provides avenues and protections for immigrant workers and their families; (5) rejects enforcement-only approaches to immigration and terminates racial and religious profiling; (6) ensures due process and human rights standards for

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[3] Hoffer, Michael, Rytina, Nancy, and Baker, Bryan, U.S. Department of Homeland Security, *Estimates of the Unauthorized Immigration Populations Residing in the United States: January 2011* (March 2012) *available at* http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2011.pdf.

immigrants, including within the detention and deportation system; (7) creates policies that support the empowerment of women, including victims of domestic violence and trafficking; (8) provides access to services and benefits, including health care, regardless of immigration status; and, (9) promotes support for integration programs, including English as a Second Language, and naturalization.[4]

It is only with this holistic approach to immigration reform that South Asian Americans and all other immigrants will be able to effectively contribute to our society in a way that allows our nation to flourish, prosper, and succeed.

EMPLOYMENT-BASED IMMIGRATION CAN ONLY BE EFFECTIVE IN CONJUNCTION WITH FAMILY-BASED IMMIGRATION & OTHER REFORMS

A significant portion of the South Asian community in the United States is made up of both low-wage and high-skilled immigrants. These community members often face a range of immigration challenges that inhibit their ability to stay in the country, be reunited with family, and seek opportunities to advance their careers and establish new ventures. In particular, South Asian Americans make up significant portions of H-1B visa holders;[5] H-2B visa holders; L-1 visa holders;[6] science, technology, engineering and math graduates; and, entrepreneurs in the science and technology industry. Unfortunately, many of these immigrants face poor workplace conditions, sometimes including wage discrimination and theft,[7] barriers to job mobility,[8] delays in background checks, visa caps, and long wait times for employment-based green cards.[9] It is essential that immigration reform eliminate these restrictions that impinge on the development of our society by eliminating the backlog and country quotas, increasing visa caps where relevant,

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[4] These standards of comprehensive immigration reform have been called for by the National Coalition of South Asian Organizations (NCSO), a coalition of 41 groups around the United States that works closely with South Asian immigrants, including aspiring citizens. National Coalition of South Asian Organizations, *South Asian Organizations Call for Just and Humane Reform of the Immigration System* (February 1, 2012) *available at* http://saalt.org/wp-content/uploads/2012/09/South-Asian-Organizations-Call-for-Just-Humane-Immigration-Reform.pdf.

[5] In 2011, approximately 147,290 Indian nationals alone were admitted under the H-1B program. U.S. Department of Homeland Security, Office of Immigration Statistics, *2011 Yearbook of Immigration Statistics* (September 2012) *available at* http://www.dhs.gov/sites/default/files/publications/immigration-statistics/yearbook/2011/ois_yb_2011.pdf.

[6] In 2010, approximately 35,000 Indian nationals alone were issued L-1 visas. U.S. Department of State, Nonimmigrant Visa Statistics, *Nonimmigrant Visa Issuances by Visa Class and Nationality* (2010).

[7] National Council of Asian Pacific Americans, *2012 Policy Platform: Framing Issues and Recommendation to Improve the Lives of Asian American, Native Hawaiian and Pacific Islander Communities* (2012) *available at* http://ncapaonline.org/index_116_705981300.pdf.

[8] For example, H-1 and L-1 workers face difficulties changing jobs or obtaining promotions because their immigration status and green card application are tied to their sponsoring employer for a specific position. *See e.g.* U.S. Citizenship and Immigration Services, *Interim Guidance for Processing I-140 Employment-Based Immigration Petitions & I-485 & H-1B Petitions Affected by the American Competitiveness in the Twenty-First Century Act of 2000* (2005) *available at* http://www.uscis.gov/USCIS/Laws/Memoranda/Static_Files_Memoranda/Archives%201998-2008/2005/ac21intrm122705.pdf.

[9] *See* U.S. Department of State, *Visa Bulletin for February 2013*, No. 53, Volume IX (February 2013) *available at* http://www.travel.state.gov/visa/bulletin/bulletin_5856.html.

allowing for visa portability, expanding the number of annual employment-based green cards, and ensuring worker protections, to name a few.

However, these changes alone will not fix the problematic nature of our immigration system. In fact, changes to the employment-based immigration system alone do not necessarily benefit applicants in a holistic way. Many applicants for employment-based status also have family members for whom they would like to petition and the contributions of whom allow the worker applicant to further succeed and contribute to American society in a cultural, social, and economic manner. Family-based immigration is essential to ensuring the continued vitality of our society because America benefits when immigrant families come together and support each other.[10]

Immigration reform must unite families, not separate them and keep loved ones apart for months or years. As of November 2012, approximately 4.5 million people were awaiting their family-based immigration visas and approximately 4.6 million were awaiting their employment-based immigration visas.[11] Of these millions, approximately 332,846 are Indian, 161,896 are Bangladeshi, and 115,903 are Pakistani.[12] Though the available statistics are limited to the countries with the highest application rates, these numbers mean that more than 610,645 of the immigrants separated from their families while awaiting the resolution of these backlogs are South Asian. Additionally, some South Asian Americans have been known to wait nearly ten years for certain employment visas and eleven years before obtaining their green cards from a sponsoring U.S. citizen sibling.[13] For our community members without family or support in the United States, this waiting period is even more detrimental to their integration and success in this country. Furthermore, individuals from Bangladesh, India, and Pakistan are no longer eligible for diversity visas in 2013 because they have reached the cap over the last five years.[14]

Immigrants come to the United States to improve their lives and contribute their skills to the American economy. They work hard, pay taxes, buy property, and greatly contribute to the American economy, as well as our culture and diversity. However, many of their efforts are thwarted by our current immigration system. In order for our country to fully benefit from the strength of the South Asian community, families must not be divided – they must be united; workers, skilled and unskilled, must have immigration options; same-sex couples must be given the same immigration opportunities. In truth, all of the previously mentioned reforms must happen in order for our society to fully benefit. To invoke some change without others or worse, at the expense of others, will not solve the issue. It will only deepen the already existing problem and hinder our success as a nation.

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[10] *See* Asian American Justice Center, *The Economic Impact of Family-Based Immigration available at* http://www.advancingequality.org/attachments/wysiwyg/7/FamilyImmigrationEconomy.pdf.

[11] U.S. Department of State, *Annual Report of Immigrant Visa Applicants in the Family-sponsored & Employment-based Preferences Registered at the National Visa Center* (November 1, 2012) *available at* http://www.travel.state.gov/pdf/WaitingListItem.pdf.

[12] *Id.*

[13] U.S. Department of State, *Visa Bulletin for February 2013*, No. 53, Volume IX (February 2013) *available at* http://www.travel.state.gov/visa/bulletin/bulletin_5856.html.

[14] U.S. Department of State, *Instructions for 2013 Diversity Immigrant Visa Program* (2013) *available at* http://travel.state.gov/pdf/DV_2013_instructions.pdf.

ENFORCEMENT-ONLY APPROACHES ARE DETRIMENTAL TO SOCIETY, PARTICULARLY WHEN THEY ENGAGE IN PROFILING

For a significant amount of time, immigration enforcement has been on the rise, particularly in the last decade. While there have been fewer border apprehensions, this decrease seems to be a result of fewer people crossing the border under the current patrol programs.[15] On the other hand, deportation rates are now at their highest with over 400,000 people were deported in 2012 alone.[16] Similarly, the number of individuals in detention almost doubled from 2001 to 2010, rising to almost 392,000 individuals in 2010.[17] In fact, from 2009 to 2011, the number of Indian national detainees has almost doubled every year, rising to approximately 3,438 in 2011.[18] By next year, it is estimated that more than two million people will have been deported in the last six years – that will be more deportations than there were from 1892 to 1997.[19] Additionally, these deportations frequently separate families, often through enforcement against the parents of U.S. citizen children.[20] In fact, more families have been separated under enforcement measures over the last five years, than have ever been separated, rising to almost one-fourth of the total number of deportations from July 2010 to September 2012.[21] As previously mentioned, separating families only hinders the success of immigrants in the United States. Enforcement measures must be just and humane, not focusing on those who commit minor criminal offenses or unnecessarily separating families. Otherwise, these actions only further misdirect our resources and inhibit our success as a nation.

Specifically, enforcement-only methods that target minority and immigrant communities through racial and religious profiling not only violate our community's civil rights, but also destroy relationships with law enforcement and other government agencies and make all communities less safe. For example, programs such as 287(g) and Secure Communities allow local law enforcement agents to enforce federal immigration laws or check fingerprints of individuals against immigration databases with the Department of Homeland Security, respectively. In 2010, 27,871 individuals were deported through 287(g)[22] and, in 2011, 78,246 people were

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[15] Golash-Boza, Tanya, *Mapping the Shift from Border to Interior Enforcement of Immigration Laws During the Obama Presidency* (January 25, 2013) *available at* http://stopdeportationsnow.blogspot.com/2013/01/mapping-shift-from-border-to-interior_7232.html.

[16] U.S. Department of Homeland Security, *Removal Statistics, Immigration & Customs Enforcement available at* http://www.ice.gov/removal-statistics/.

[17] National Immigration Forum, *The Math of Immigration Detention: Runaway Costs for Immigration Detention Do Not Add Up to Sensible Policies* (August 2012) *available at* http://www.immigrationforum.org/images/uploads/MathofImmigrationDetention.pdf.

[18] Simanski, John and Sapp, Lesley M., U.S. Department of Homeland Security, *Annual Report: Immigration Enforcement Actions 2011* (September 2012) *available at* http://www.dhs.gov/sites/default/files/publications/immigration-statistics/enforcement_ar_2011.pdf.

[19] Golash-Boza, Tanya, *Mapping the Shift from Border to Interior Enforcement of Immigration Laws During the Obama Presidency* (January 25, 2013) *available at* http://stopdeportationsnow.blogspot.com/2013/01/mapping-shift-from-border-to-interior_7232.html.

[20] *Id.*

[21] *Id.*

[22] U.S. Department of Homeland Security, *287(g) Identified Aliens for Removal, U.S. Immigration and Customs Enforcement* (2010) *available at* http://www.ice.gov/doclib/foia/reports/287g-masterstats2010oct31.pdf.

deported through Secure Communities.[23] Additionally, local laws like Arizona S.B. 1070 and similar copycat laws allow law enforcement to ask individuals about their status where there is "reasonable suspicion" that the individual is undocumented.

These programs and thereby their resulting deportations are frequently the result of racial and religious profiling. Individuals in the South Asian community are likely to be stopped or asked about their status at disproportionate frequency based on stereotypes regarding those that are "foreign" or "un-American." Already, stories have emerged of those who are stopped for minor violations which are later dismissed, but only after removal proceedings are commenced, sometimes separating families for over a year. The South Asian community has already suffered many years of targeted enforcement, particularly post-9/11, which has furthered stereotypes about South Asians and pushed community members into the shadows. For example, following 9/11, the National Security Exit-Entry Registration System (NSEERS) required certain male nationals from predominantly Muslim and Arab countries to report to immigration authorities for interviews and processing. As a result, approximately 13,000 men were placed in removal proceedings, though not one was ever prosecuted for a terrorism-related crime.[24] This type of immigration enforcement program that results in profiling has proven ineffective in the past and diverts our limited governmental resources. Additionally, these programs deter South Asian Americans from reporting crimes, sharing information, or serving as witnesses based on their valid fears of being profiled and deported. They destroy our community's relationship with law enforcement and government generally, thereby, preventing us from reporting hate crimes and incidents of domestic violence. In turn, if immigrants are afraid to seek out the assistance of law enforcement and do not trust government agencies, this lack of communication and collaboration only makes it harder for law enforcement and government to do their jobs and thereby, make all of our communities and society less safe.

Additionally, programs such as employment verification have a detrimental impact on the South Asian workers and business owners as well as all workers regardless of immigration status, and therefore, further negatively impact our economy. The reliance that these programs place on government databases is highly problematic as these databases have a high error rate. For example, the Social Security Administration estimates that 17.8 million of its records contain discrepancies related to name, date of birth, and citizenship status, 12.7 million of which involve U.S. citizens.[25] Due to these errors, foreign-born lawful workers are thirty times more likely than native-born U.S. citizens to be incorrectly identified and unauthorized for employment.[26] On top of these issues with verification programs, there is also the risk that employers will misuse the verification process to violate workers' rights under the threat of reporting them to

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[23] U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security, *Secure Communities: IDENT/IAFIS Interoperability, Monthly Statistics through September 20, 2011* (October 14, 2011) *available at* http://www.ice.gov/doclib/foia/sc-stats/nationwide_interoperability_stats-fy2011-to-date.pdf.

[24] South Asian Americans Leading Together (SAALT), *In Our Own Words: Narratives of South Asian New Yorkers Affected by Racial and Religious Profiling* (March 2012) *available at* http://saalt.org/wp-content/uploads/2012/09/In-Our-Own-Words-Narratives-of-South-Asian-New-Yorkers-Affected-by-Racial-and-Religious-Profiling.pdf.

[25] Office of the Inspector General, Social Security Administration, *Congressional Response Report: Accuracy of the Social Security Administrations Numident File* (December 2006) *available at* http://oig.ssa.gov/sites/default/files/audit/full/pdf/A-08-06-26100.pdf.

[26] *Id.*

immigration or unjustly fire immigrant workers. These verification programs are counter-productive to our nation's economy and sustainability in that they negatively impact all workers regardless of their status and disproportionately impact immigrant workers.

Finally, worksite enforcement actions, such as workplace raids, create increasing risk and harm to all workers from U.S. citizens to visa holders to undocumented workers. With the current state of labor violations and the lack of worker protections, these actions drive down wages and labor conditions, interfere with workers' ability to enforce their rights, encourage employers to violate workplace conditions and wages under the threat of deportation, undermine the prosecution of labor violations, and discourage work sites from employing immigrants.[27] Without sufficiently protecting worker rights and enforcement mechanisms, these mechanisms only inhibit the ability of immigrants to work and further damage our economy.

Like that of employment-based immigration, enforcement mechanisms must be addressed with a holistic response to immigration reform. The problems within the current system must be addressed as a whole in order for immigration reform to truly benefit American society socially, culturally, and economically. To amplify an already enforcement heavy immigration system that engages in activities that profile immigrant communities, particularly the South Asian community, would be counter-productive and volatile to effective immigration enforcement as well as the safety of our nation. Immigration reform must reject these enforcement-only approaches to immigration, terminate racial and religious profiling, and ensure due process and human rights standards for immigrants, including within the detention and deportation system. Only with the combination of these changes to immigration enforcement and the previously mentioned pieces of immigration reform might our society move forward economically, socially, and culturally.

RECOMMENDATIONS

Clearly, the current immigration system is more than flawed, damaging our ability as a nation to move forward successfully. This system must be reformed in a comprehensive and holistic manner in order to truly allow our society and economy to succeed. To reform pieces of the system such as employment-based immigration or enhance enforcement that is already detrimental to immigrant communities would only deepen the problem without providing holistic solutions.

In order to thoroughly address these issues, SAALT urges that comprehensive immigration reform take a broad-scale approach to immigration by:

> (1) Creating accessible and affordable pathways to legalization and citizenship for all undocumented individuals;

> (2) Keeping families together, eliminating visa backlogs, and increasing caps for family and employment visas;

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[27] The American Civil Liberties Union, *ICE Worksite Enforcement: Up to the Job?*, (January 26, 2011) *available at* http://www.aclu.org/files/assets/ACLU_Statement_re_Worksite_Enforcement.pdf.

(3) Creating legislation that provides equal immigration benefits and protections to and prohibits discrimination against same-sex couples;

(4) Providing avenues and protections for immigrant workers and their families;

(5) Rejecting enforcement-only approaches to immigration and terminating racial and religious profiling;

(6) Ensuring due process and human rights standards for immigrants, including within the detention and deportation system;

(7) Creating policies that support the empowerment of women, including victims of domestic violence and trafficking;

(8) Providing access to services and benefits, including health care, regardless of immigration status; and,

(9) Promoting support for integration programs, including English as a Second Language, and naturalization.

Together, we can ensure that our country creates immigration reform that is holistic, just, and humane for South Asian Americans, all immigrants, and society as a whole. Thank you for the opportunity to submit this statement for the record.

For further information about the comprehensive immigration reform as it relates to the South Asian community, please contact Manar Waheed, SAALT's Policy Director at manar@saalt.org or (301) 270-1855.