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**U.S. COMMISSION ON IMMIGRATION REFORM**

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**Testimony of Barbara Jordan  
Chair, U.S. Commission on Immigration Reform  
Before the U.S. House of Representatives  
Committee on Ways and Means  
Subcommittee on Human Resources  
August 9, 1994**

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Mr. Chairman, Members of the Subcommittee, thank you for providing me the opportunity to testify this afternoon on the recommendations of the U.S. Commission on Immigration Reform. The Commission was established by the Immigration Act of 1990 to assess the implementation and impact of U.S. immigration policy. The Commission will present its first report to Congress on September 30, 1994. That report will focus primarily on steps needed to restore credibility to U.S. immigration policy and its enforcement.

While our mandate does not extend to the broad range of issues that this Committee is considering regarding welfare reform, there is an overlap in one area: immigrant eligibility for public benefits. I am pleased to share our preliminary findings and recommendations on this issue in the hopes that they will help inform your debate on welfare reform.

I would first like to say a few words about the Commission itself. We are a bipartisan group composed of nine members. I was appointed to the Commission by President Clinton. My eight colleagues were appointed by the Democratic and Republican leadership of the two houses of Congress.

Our work has not been easy. Distinguishing fact from fiction has been almost impossible, because of what has become a highly emotional debate on immigration. We have heard contradictory testimony, shaky statistics, and a great deal of honest confusion regarding the impacts of immigration. Nevertheless, we have tried throughout to engage in what we believe is a systematic, nonpartisan effort to reach conclusions drawn from analysis of the best data available. The recommendations that I present today have been adopted unanimously.

The Commission believes that legal immigration has been and can continue to be a strength of this country. Most legal immigrants are the spouses, children, parents, or siblings of a U.S. citizen or long-term permanent resident. A smaller number are sponsored by businesses that need their skills and talents. We take an affirmative decision to admit these individuals. It is with the expectation and desire that they will be integrated immediately into our social community and, eventually, through naturalization, into the political community as well.

The Commission believes that a clear and consistent policy on eligibility for public benefits is key to a credible immigration and welfare policy. The United States has the sovereign authority to make distinctions as to the rights and responsibilities of the various persons residing in its territory. We believe that distinctions regarding eligibility for public benefits should be

consistent with the objectives of our immigration policy-to support legal immigration in the national interest and to deter unlawful entries.

As far as legal immigrants are concerned, this logic has brought the Commission to a strong and, as I mentioned, unanimous conclusion: legal permanent residents should continue to be eligible for needs-tested assistance programs. U.S. law already bars the entry of those who are likely to become a public charge. We recognize, however, that circumstances may arise after entry which create a pressing need for public help-unexpected illness, injuries sustained due to a serious accident, loss of employment, a death in the family. The Commission is not prepared to lift the safety net out from under individuals who, we hope, will become integral parts of our social community. We, therefore, strongly recommend against any broad, categorical denial of eligibility for public benefits to legal immigrants on the basis of their alienage.

At the same time, the Commission strongly endorses initiatives to ensure that sponsors are financially responsible for the immigrants they bring to this country. If an immigrant cannot show that he or she has financial resources or a job in the U.S., the immigrant's sponsor must demonstrate a capacity and intention to support the new arrival. This is done through an affidavit of support. At present, this affidavit is a morally-binding document. The Commission believes that the affidavits of support signed by sponsors should be legally enforceable, with contingencies made if the sponsor's financial circumstances change significantly for reasons that developed after the immigrant's entry-for example, if the sponsor sustains a serious injury that prevents him or her from working. Mechanisms should be developed that would ensure that sponsors provide the support that they have promised.

While the Commission does not reject the concept of deeming, we do not believe deeming alone is the best way to ensure sponsor responsibility. We heard testimony that deeming can merely shift costs from one level of government to another. The immigrant is ineligible for federal programs, but he or she may retain eligibility for state and local benefits. Even if the federal government extends to states the authority to deem, a number of state constitutions would appear to preclude that action. Alternately, deeming leaves the immigrant whose sponsor abdicates responsibility with no financial resources at all. A legally-binding affidavit of support helps address both of these problems.

The Commission also recommends changes in immigration law to address more effectively violations of our public charge provisions. As I stated, when new circumstances arise after entry, we must maintain the safety net. However, when immigrants become dependent on public programs within the first five years after entry for reasons that existed before entry, they are legally deportable. We must have a greater capacity to enforce our law in this regard. At present, to prove deportability, the government must show that 1) the immigrant received public assistance, 2) the government billed the immigrant for these services pursuant to a specific statute, and 3) the immigrant failed to repay the funds. This standard is inappropriate given the way that public benefit programs work. The Commission recommends instead that deportability on the grounds of public charge be measured by sustained use of the public benefits and not on the basis of a government request for repayment of the aid.

The Commission believes that benefit eligibility determinations are complicated by the myriad statuses now afforded to individuals within this country. While the rights of lawful permanent residents, refugees, and asylees have been spelled out in immigration and benefit laws, the Executive Branch, Congress, and the courts have created various other statuses that may or may not denote benefit eligibility. The INA should specify categories of aliens by their work and benefit eligibility, such as: those eligible for work and needs-tested benefits; those eligible for work and only those benefits that accrue from employment; and those eligible for no benefits except those provided on an emergency basis or for compelling public health, safety, and welfare grounds. Every alien should then be assigned to one of these categories.

Let me add a word here about the Commission's recommendations regarding the eligibility of illegal aliens for public benefits. If an alien is in the U.S. unlawfully, he or she should not receive publicly-funded aid except in very unusual circumstances: where there is emergent need for specific assistance, such as emergency health care; where there is a public health, safety or welfare interest (such as immunizations, programs to prevent the spread of communicable diseases, child nutrition programs and school lunch programs); and where their eligibility is constitutionally protected.

Why this distinction between the eligibility of legal immigrants and illegal aliens? Illegal aliens have no right to be in this country. They are not part of our social community. There is no intention that they integrate. As human beings, they have certain rights-we certainly should not turn them away in a medical emergency. As a nation, it is in our interest to provide a limited range of other services- immunizations and treatment of communicable diseases certainly fall into that category. But, if illegal aliens require other aid, it should rightly be provided in their own countries.

One last observation. We have heard arguments that the safety net should be for citizens only, that we cannot afford to do more.

I believe firmly that citizenship in this country is something to be cherished and protected. I want all immigrants to become citizens. I want them to seek citizenship because it is the key to full participation in our political community-to know first hand and understand the American form of democracy. I want unnecessary barriers to naturalization-and there are many of them-to be removed. However, I do not want immigrants to seek citizenship because it is the only route to our safety nets. To me, that would be a debasement of our notions of citizenship.

From my perspective, the safety net provided by welfare programs should be for those members of our social community who are most in need. It would be far better if no one needed welfare. In deciding who should receive this help, I, for one, do not want to protect some Americans at the expense of others. That course of action is not consistent with the principles of equal protection under the law. Nor does it help us achieve that all too elusive goal-a united country.

I would be happy to answer any questions you may have.

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