Syllabus: Asian Americans and the Law

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INTRODUCTION

After twelve years in the United States, Sharon Seneriches, a domestic worker for a wealthy family in New York City, finally returned to the Philippines and united with the family she left behind. Lacking proper documents, she had not been able to see her husband or children for more than a decade. Likewise, her children—without proper visa qualifications—could not visit their mother in New York City. The Seneriches family endured this long separation with the hope that eventually they would unify as a family in the United States. This sacrifice was made for the financial prospects available in the United States.

In 2001, after obtaining her green card, Sharon triumphantly returned to the Philippines. Sharon’s new legal status allowed some of her dependents to obtain visas required to live permanently with her in the United States. Thus, after a two-month visit to the Philippines, Sharon returned to the United States, accompanied by her 20-year-old daughter JoAnn, 19-year-old son Mike, 18-year-old son Peter, and husband Frederico.

However, the migration of Sharon’s family did not come with complete joy because one member of the family did not qualify to enter the United States. Her oldest daughter, Ellen, turned 22 years old by the time she was considered. No longer considered a “child” under the rubric of the
immigration laws, Ellen belonged in a different visa preference category. Ellen qualified for a preference category that was lower than her younger siblings, one granted to unmarried adult children of permanent residents of the United States. In this category, she has to wait at least six more years⁴ to receive a visa.

Although left behind in the Philippines, Ellen still has the hope of eventually joining her family in the United States. However, in order to immigrate under the family-sponsored preference category, Ellen must put her life on hold. She cannot marry the man she has been dating for the last two years. If Ellen married her partner, her mother, who is a permanent resident, would no longer be able to petition for her entry. Alternatively, though, she could enter the United States legally as a skilled migrant.⁵ With this in mind, Ellen has pursued a medical degree. However, she still has years of schooling and training to complete before she can even qualify to apply as a skilled migrant.⁶ In the meantime, Ellen could also apply for a tourist visa.⁷ This temporary measure would give her the possibility of joining her family for the holidays. But unfortunately, Ellen’s recent application to obtain a tourist visa was denied at the U.S. Embassy in Manila.⁸

Sadly, Ellen’s story is not atypical. While conducting research in the Philippines, Professor Rhacel Parreñas met several young adult interviewees who could not petition for immediate visas to unify with their migrant parents in the United States.⁹ We refer to these young adults as the “overlooked second generation.”⁰ Out of 16 interviews conducted with

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3. This is an estimate based on interviews conducted with community members in our field research site in the Philippines.
5. See § 1153(b)(2)(B)(ii); see also Susan Martin et al., U.S. Immigration Policy: Admission of High Skilled Workers, 16 GEO. IMMIGR. L.J. 619 (Spring 2002) (describing the contributions of skilled immigrant labor).
8. Consequently, Ellen must wait six more months before she can reapply for the same visa. In considering her application for a tourist visa, the consulate was concerned that Ellen would stay in the United States indefinitely since her entire family had already immigrated into the United States.
9. For 18 non-continuous months between 2000 and 2002, Professor Parreñas conducted fieldwork in the Western Visayas region of the Philippines for her gender comparative study on the children of migrant workers. She interviewed 69 children whose parents were working outside of the Philippines. Among this sample, 16 children had parents who were migrant workers in the United States. Thus far, only six of those children have qualified to enter the United States. Due to their adult status, the rest of the children did not qualify for immediate visas. The interviews are on file with the authors.
10. Our discussion of the overlooked second generation bears significance to the new direction in immigration studies as we begin to focus on the children left behind in the homeland by their migrant parents. Additionally, there is a growing interest on the lives of the foreign dependents, or the
children of U.S.-based parents, ten subjects fell in this category. In addition, all the parents of these young adults have worked in the United States since their adolescence. On average, these families have been separated for 12.6 years. As we will discuss in further detail, among these subjects were (1) Ellen Seneriches; (2) 25 year-old Jeek Pereno, who has been repeatedly denied a tourist visa to the United States; (3) 21 year-old Norbert Silvedrio, whose parents have worked in New York City for the last 13 years; (4) 23 year-old Gailanie Tejada, whose parents work as a teacher and nursing aide at an elderly care facility in the Washington, D.C. area; and (5) Binky Botavara, who was 14 years old when her mother left for the United States to work as an elderly caregiver. After remarrying in the United States, Binky's mother filed for the immigrant visas of Binky and her siblings. Nonetheless, it was too late. As an adult child of a permanent resident, Binky no longer qualified for an immediate visa. As a result, Binky chose to forgo marriage in order to qualify for the highest possible preference category.

What legal entanglements prevent the overlooked second generation from uniting with their migrant families? The case of the overlooked second generation raises the question of the citizenship rights earned by labor migrants and the extension of any such rights to their children. As noted above, these young adults face formidable obstacles in joining their migrant parents in the United States. Further, as discussed below, the prolonged separation strips away the benefits of childhood that traditional families often take for granted.

The overlooked second generation has fallen through the cracks because of the loopholes and inadequacies embedded in U.S. immigration policies. The predicament of the Seneriches family illustrates the unintended consequences of U.S. immigration laws that are deficient in its measures to reconcile migrant workers with their families. Moreover, our

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11. Professor Parreñas' study was not exclusive to sons and daughters of U.S.-based migrant workers. Parents of her interviewees also worked as merchant marines or migrant workers in parts of Asia, Europe, the Middle East, and North America. She gained access to these interviewees through a diverse sampling from schools, community organizations, and public spaces in her field research site. Nonetheless, 10 of only 16 interviewed sons and daughters of migrant workers in the United States were part of the overlooked second generation. The interviews are on file with the authors.

12. This calculation is derived from the ten young adults interviewed in the Philippines who are part of the overlooked second generation.


studies show that these deficiencies have a greater impact on countries providing a larger flow of migrant workers. More specifically, families from Mexico and the Philippines—two migrant-heavy countries—are more likely to confront unification difficulties than other migrant ethnic groups. As we will discuss further, this greater likelihood is caused by the backlog generated by nationality limits imposed on immigrants from certain countries, affecting the admittance of relatives left behind.

This essay brings to light the plight of the overlooked second generation. It analyzes the limited citizenship rights of migrant parents whose labor have been maximized by the U.S. economy while prospects for immediate family unification are ignored by U.S. immigration laws. Furthermore, this essay discusses the hardships of migrant workers and how unintended consequences result in the limited integration of migrant workers and their families.

I. THE UNINTENDED CONSEQUENCES OF U.S. IMMIGRATION LAWS

The overlooked second generation represents a gaping hole in U.S. immigration laws. We argue that despite new laws, Asian migrant families (discussed below) have been affected more than others by the Government’s lack of attention to the familial consequences of employing migrant workers. Driven by economic incentives for low-cost labor, U.S. immigration laws serve as a valuable tool to satisfy labor shortages. Nonetheless, given the unintended consequences discussed below, an issue arises as to how foreign families left in the homeland are accounted for by immigration laws. Specifically, how adequately do laws accommodate the foreign dependents of the migrant workers who are sought to satisfy the

15. See Sarah Vaughan, Immigrant Visa Waiting List at 3.6 Million, in CENTER FOR IMMIGR. STUD. BULL. NO. 28 (1997), available at http://www.cis.org/articles/1997. In 1997, the two largest ethnic groups waiting to unify with permanent resident family members in the United States were Mexicans and Filipinos, totaling approximately 1.6 million. A significant number of these individuals are unmarried adult children.

16. See id.


19. It should be noted that the authors’ usage of the term “Asians” refers to the Asian ethnic groups discussed in this essay.

20. See, e.g., William R. Tamayo, When the “Coloreds” are Neither Black nor Citizens: The United States Civil Rights Movement and Global Migration, 2 ASIAN L.J. 1, 6 (describing massive deportations of Mexican migrant agricultural workers when labor demands subside); Trucios-Haynes, supra note 17, at 990-98 (discussing how Filipina nurses are utilized to satisfy a nationwide shortage of registered nurses).
labor shortages in the United States?

In order to explain how the overlooked second generation emerged from the immigration policies, we begin by examining the visa preferences established by the 1965 amendments to the Immigration and Naturalization Act (the "1965 Immigration Act") and the implementation of these preferences. Then, we show how maximizing immigrant labor exponentially increases the population of the overlooked second generation. We show that this is the case even with the establishment of family-sponsored preference categories in the 1965 Immigration Act. Accordingly, we argue that as economic incentives drive immigration laws, labor shortages are resolved at the expense of turning a blind eye to the unintended consequences of prolonged family separation.

Immigrant labor generally benefits the U.S. economy. This has been the case throughout history. In the 1800s, Chinese immigrants alone were reported to have paid approximately $14 million in taxes, duties, and licenses.21 Today, immigrants continue to influence the U.S. economy. According to the Urban Institute, "immigrants actually contribute a net surplus of $24.7 billion more than they contribute in taxes."22 This is partially caused by their low use of welfare services.23 For example, one in-home support services ("IHSS") worker saves California taxpayers approximately $30,000 a year because of "[t]he difference between the cost of keeping a patient in a nursing home and the typical salary of $7,000 a year earned by an IHSS worker who works 30 hours a week."24 Since immigrant workers currently make up 40 percent of the 170,000 IHSS workers in the United States, the inexpensive labor provided by immigrants saves California more than $2 billion per annum in welfare costs.25 Considering such benefits, it comes as no surprise that U.S. immigration policies allow for the liberal entry of foreign workers.26 Thus, as the demand for labor increases, so too does the flow of migrant workers to satisfy the shortages.

Nevertheless, declining immigrant visas become prevalent when labor demands are low. This ebb and flow is illustrated by the historical opening and closing of U.S. borders to Chinese immigrants beginning as early as the 1800s.27 Initially, Chinese workers immigrated to California to work in

23. See id. at 26-27.
24. Id.
25. See id. at 134.
26. See generally David Reimers, Still the Golden Door: The Third World Comes to America (1985).
27. See Keith Aoki, No Right to Own?: The Early Twentieth-Century "Alien Land Laws" as a Prelude to Internment, 40 B.C. L. REV. 37, 40-45 (1998).
the gold mines\textsuperscript{28} and build the transcontinental railroads.\textsuperscript{29} Throughout this time period, Chinese immigrants were depicted as perpetual foreigners who posed a threat to mainstream American society.\textsuperscript{30} While business owners benefited from Chinese labor, they eventually gave in to the massive labor union campaign against foreign workers.\textsuperscript{31} As the economic downturn continued in the 1800s, the anti-Chinese movement eventually culminated into the Chinese Exclusion Act of 1882.\textsuperscript{32} This illustrates how immigration laws are used pragmatically to address economic incentives.

The economic drive behind immigration laws still remain today, shadowed by the "anti-reproduction" and "pro-production" consequences\textsuperscript{33} of existing policies. In recent years, the increase in the use of temporary visas (e.g., H1-B visas) for admitting workers, but not their families, attest to this pattern of limiting the integration of migrant families in the United States.\textsuperscript{34} In the arena of globalization, migrant-intensive nations such as the United States incorporate immigrants under the guise of the "opposite turns of nationalism,"—the simultaneous denationalization of economies and renationalization of politics.\textsuperscript{35} According to political economist Saskia Sassen, nation-states maximize production in the global economy by lifting borders and welcoming the flow of capital, information, and labor; simultaneously, they close borders when it comes to the permanent integration of immigrants.\textsuperscript{36} Furthermore, integrating migrant workers, while excluding their dependents, preserves the wage requirement. The net result is a flexible army of cheap labor for the economy with benefits minimized for foreign workers.

As mentioned above, to accommodate the production demands of the U.S. economy, temporary visas are granted in increasing numbers to prospective labor migrants willing to fill labor shortages in the United States.\textsuperscript{37} In 1998, Congress passed legislation increasing the number of H1B visas to as many as 142,500 in the following three years.\textsuperscript{38} The H1-B
visa grants temporary residency to people who can fill particular "specialty occupations," but ties these workers to a particular employer.\textsuperscript{39} Essentially, a form of bonded labor, H1-B visas circumvent the "free-worker" rights articulated in the Contract Labor Law of 1885, which banned the importation of any form of contract labor in the United States.\textsuperscript{40} Without the flexibility in switching employers, these workers cannot bargain for better wage-rates or working conditions. Thus, H1-B visas maximize the production capabilities of the migrant workers. Moreover, there is little consideration given to the concerns or ambitions of the workers’ families. Specifically, H1-B visas allow the children and spouses of the migrant workers to be considered for entry only under a family-sponsored preference category. This fact, coupled with the meager wages\textsuperscript{41} earned by most H1-B visa holders, perpetuates the separation of migrant workers from their families.\textsuperscript{42}

Despite the continued use of temporary visas to satisfy labor shortages, humanitarian incentives can be seen in the evolution of immigration laws. Over time, the United States refined its posture towards immigration policies with the 1965 Immigration Act, which completely removed the national-origins quota system created in the 1920s.\textsuperscript{43} Instead of broad exclusionary practices, the Government introduced a layered preference system giving priority to immediate relatives of U.S. citizens.\textsuperscript{44} Immediate relatives were defined as (1) spouses, (2) unmarried minor children, and (3) parents of adult citizens.\textsuperscript{45} Nonetheless, this system still limited the immigration of relatives left abroad by hierarchical categories based on relationships with the citizen or permanent resident and the limited number of visas granted each year.\textsuperscript{46} The hierarchical preference categories include:

First preference: Adult unmarried sons and daughters of citizens.
Second preference: Spouses and unmarried children of lawful permanent resident aliens.

\textsuperscript{39} See id. (noting that high-tech computer programmers and physical therapists are two specialty occupations in demand).
\textsuperscript{40} See id.
\textsuperscript{42} See generally RHACEL SALAZAR PARREÑAS, SERVANTS OF GLOBALIZATION: WOMEN, MIGRATION, AND DOMESTIC WORK (2001).
\textsuperscript{43} See Hing, supra note 21, at 19-36.
\textsuperscript{44} See id. at 198.
\textsuperscript{45} See id.
\textsuperscript{46} See id.
Third preference: Professionals who possess exceptional ability in the arts or sciences. In order to qualify, proof is required from the Department of Labor to show that the potential immigrant does not displace an available worker.

Fourth preference: Married children of citizens.

Fifth preference: Siblings of adult citizens.

Sixth preference: Workers who can satisfy U.S. labor shortages.

Seventh preference: Displaced persons fleeing from a Communist country, a Middle Eastern country, and persons uprooted by a national catastrophe.\(^{47}\)

While this preference structure is still in place, individual preferences have changed.\(^{48}\) In 1980, the seventh preference was eliminated.\(^{49}\) Moreover, the third and sixth preferences were incorporated into an employment-based scheme in 1990.

The establishment of family-sponsored and employment-based categories for immigrant entry further opened the U.S. borders. Nevertheless, the 1965 Immigration Act provided few obvious opportunities for prospective Asian immigrants. Because the majority of immigrants permitted under the 1965 Immigration Act were intended to be relatives of U.S. citizens and legally permanent migrants from Europe, lawmakers thought this law would lead to the growth of the majority European stock.\(^{50}\) Thus, it is conceivable that the framers of the 1965 Immigration Act drafted family-sponsored provisions as a way of preserving the status quo of the ethnic make-up in the U.S. population at the time. Regardless, an unforeseen consequence of the 1965 Immigration Act was the rise in Asian immigration, as the framers underestimated the influx of Asian immigrants in response to the legislation. Many assumed that most immigrants would originate from Southern Europe, Greece, Italy, and Portugal.\(^{51}\)

Stepping back, the 1965 Immigration Act seemingly implemented the humanitarian incentive of family unification. Of the available visas, 75 percent were granted to relatives of U.S. citizens and permanent residents according to the preference categories.\(^{52}\) Significantly, these preference categories did not include the immediate relatives of U.S. citizens, who were not subject to any nationality limits. However, the beneficiaries of the preference categories were constrained by the annual limit of 20,000 immigrant visas granted for each country outside of the Western

\(^{47}\) See id. at 198-99.

\(^{48}\) See id. at 199.

\(^{49}\) See id.


\(^{51}\) See HING, supra note 21, at 39-42, 79.

\(^{52}\) See id. at 40.
Hemisphere, regardless of the country’s population. Thus, India was allocated the same amount of visas as Madagascar. By imposing this nationality limit, lawmakers ensured the diversity of immigrants, but also accounted for the possibility of an overflow of any one particular nationality.

Coupled with the elimination of the national quotas act, the immigrant visas allocated under the 1965 Immigration Act suggested a turn towards migrant unification and a move away from a purely economic perspective. Yet, the implementation of the nationality limit led to backlogs. More specifically, this limit created a severe backlog of potential migrants from more populous countries who were waiting to be united with their family members in the United States. According to the State Department, this backlog consists of almost four million individuals waiting to unify with their family members in the United States.

Due to the nationality limit, the 1965 Immigration Act unintentionally delays the unification efforts of foreign dependents with their U.S.-based relatives, particularly with foreign families from migrant-heavy countries. Thus, the more migrants the United States allows from migrant-heavy countries, the greater the backlog imposed on the migrants’ relatives. Consequently, the backlog for complete family unification is the longest for migrants from the largest migrant source countries of Mexico and the Philippines. The arbitrary nationality limits inadvertently result in the “othering” of relatives abroad waiting to unite with their families.

Alternatively, the 1965 Immigration Act created opportunities for the immigrant elite. The opening of borders on the basis of employment-based and family-sponsored preference categories transformed the face of Asian immigrant communities. For instance, the Filipino community underwent a dramatic change. Instead of merely a ready source of agricultural labor, the Philippines also became a source for doctors, nurses, and other professionals after 1965. As these professionals entered the United States and became naturalized, they took advantage of the family-based preference categories. As a result, by 1989, approximately 8 percent of Filipino immigrants arrived through employment-based categories while 88

53. See id.
54. See id.
55. See Vaughan, supra note 15.
56. See id.; see also Trucios-Haynes, supra note 17, at 990.
57. “Othering” refers to the process of alienating a racial group from the social landscape. See generally Trinh T. Minh-Ha, Woman Native Other: Writing Postcoloniality and Feminism (1987).
58. See HING, supra note 21, at 88-94.
59. See id.
60. See id. at 33.
61. See id. at 88.
62. See id.
percent arrived via family-sponsored categories. Nonetheless, these figures are misleading. They suggest that migrants, even from migrant-heavy countries, such as the Philippines, have unrestricted access to family unification in the United States. Although many immigrants enter through family-sponsored categories, these numbers do not reflect the waiting periods and backlogs prolonging family separation. Over time, high visa demands from anxious family members abroad develop into severe backlogs as applicants far exceed the number of available visas.

The evolution of the immigration scheme has not resolved the unintended consequences of backlogs and family separations. Beginning in 1990, the immigration scheme underwent major revisions (the “1990 Immigration Act”). The visa limits per country remained in place. However, family-sponsored and employment-based applicants were separated into two distinct categories. For example, family-sponsored applicants fall under only four preference categories: (1) unmarried children of citizens; (2) spouses and unmarried children of permanent residents; (3) married children of citizens; and (4) siblings of citizens.

Furthermore, the employment-based categories were substantially altered. There are now six different preference categories: (1) workers with extraordinary or outstanding ability; (2) members of a profession with an advanced degree; (3) skilled workers and professionals; (4) special immigrants; (5) employment creation via entrepreneurship; and (6) “K” special immigrants.

Nevertheless, while the immigration scheme underwent change, prolonged family separation created by backlogs remained constant. In 1993, siblings of U.S. citizens from the Philippines waited an average of 13 years. In 2002, the waiting period for this preference category increased to 21 years. For unmarried adult children like Ellen Seneriches, the waiting period could last as long as nine years. This lengthy waiting period reflects the existing inadequacies in current U.S. immigration laws.

63. See id. at 89.
64. See id. at 115.
65. See id.
67. See id. § 203(a)-(b).
68. See id. § 203 (a)(1)-(4). The second preference group lengthens the waiting period for adult sons and daughters of permanent residents. See id. § 203 (a)(2)(A)-(B).
69. See id. § 203 (b)(1)-(6).
70. BUREAU OF CONSULAR AFFAIRS, supra note 4.
71. Id.
72. Id.
Exacerbating the backlog is the narrow definition Congress affords "immediate family." According to this definition, only spouses, minor unmarried children of citizens, and the parents of citizens are unrestricted by visa limitations. Accordingly, not all family members are so lucky. For example, spouses and minor children of permanent residents are still subject to the visa preference system and, consequently, prolonged separations. According to the State Department, this group constitutes approximately 45 percent of individuals on the waiting list. Moreover, adult children of U.S. citizens and permanent residents have to wait years to receive approval. As a result, migrant workers and their families are held captive by administrative quagmires. Sharon Seneriches' family is one example of a split-household affected by such unintended consequences.

As noted above, many minor children also fall through the cracks in qualifying for higher preference categories because the relevant age of the dependent child is determined at the moment of consideration of the petition rather than on the day of filing. Therefore, a child petitioned by her migrant mother at the age of 17 would be ineligible for an immediate visa if the backlog extended the bureaucratic processing of visa applications past the year of minor eligibility. This loophole affected the 10 interviewees in the Philippines.

Furthermore, the backlog caused by deficient U.S. immigration laws calls into question the adequacy of the laws in accounting for migrant workers' families. The operative effects of pro-production and anti-reproduction prolong the separation of families, particularly from migrant-heavy countries. Despite this separation, the U.S. economy continues to benefit from the labor of workers such as Sharon. In the 1980s, the nursing shortage was a crisis. As a response to the demand for nurses, Congress enacted the Immigration Nursing Relief Act of 1989 ("IRNA"), granting permanent residency to foreign nurses working in the United States on temporary visas. At the time, 75 percent of the foreign nurses originated from the Philippines. However, while Congress passed IRNA, it neglected to address the prolonged waiting periods facing family members left behind in the Philippines.

In conclusion, the historical evolution of the immigration laws reveals that immigration policies have been heavily driven by economics and
continue to ignore the unintended consequences illustrated by the overlooked second generation. It comes as no surprise that given the state of the current laws, the susceptibility of backlogs, and the neglect to address them, prolonged periods of separation continue to haunt migrant families.

II. CASE STUDIES: THE OVERLOOKED SECOND GENERATION

Every year, tens of thousands of Filipinos enter the United States as permanent residents. In 2001, the United States admitted 53,154 immigrants from the Philippines. The annual numbers have fluctuated between 30,000 and 65,000 in the last ten years. However, as noted above, migrants seldom immigrate as a complete family unit. If they enter under employment-based categories, they often do so without all their family members. In addition, if they immigrate under family-sponsored categories, relatives are often still left behind. The case of the Seneriches family illustrates this point.

The fact that family members are often left behind in the origin country also raises questions about the quality of life for both ends of the migration spectrum. Looking at the “receiving end,” numerous studies have shown the emotional difficulties of “transnational mothers” and the added pressures of raising children from a geographic distance. Also, at the “sending end” of the spectrum, we found that growing up without parents poses distinct problems. The children of migrant workers suffer an incalculable loss when a parent disappears overseas; at the same time, they understand that the limited financial options for families in the Philippines initiate this loss. According to Jason Halili, an interviewee among the overlooked second generation: “[T]here are no opportunities for people unless you are filthy rich and your last name is Zobel. So people have no option but to go outside the country if they want to progress . . . So it was the hardest route to take, but . . . the best route to take.” As scholars of Filipino family migration have argued, children struggle with variegated feelings of emotional insecurities including loneliness, unfamiliarity, the loss of quality time spent with the family, and abandonment. Denied the care of their parents, they also feel that they are more likely to suffer from growing up without sufficient guidance and discipline. Extended lengths

82. See Pierrette Hondagneu-Sotelo & Ernestine Avila, “I’m Here but I’m There” The Meanings of Latina Transnational Motherhood, 11 GENDER & SOC’Y 548, 548-71 (1997). See generally PARREÑAS, supra note 42, at chs. 4 and 5.
84. See PARREÑAS, supra note 42, at 131-43.
of separation further aggravate these feelings.

For instance, Ellen Seneriches was only ten years old when her mother left for New York. She describes her loneliness over the physical distance of her mother as one that entailed the constant denial of wanting to "call her, speak to her, cry to her," and the dissatisfaction of having to rely on e-mails as their primary form of communication. Typically, children like Ellen often repress their longings to unite with their mothers. Knowing that their families have few financial options, they are left with no choice but to set aside their emotional shortcomings.

Although separated from her mother for as long as twelve years, Ellen has still managed to benefit from her frequent communication with her mother. In fact, Ellen and her mother exchange e-mails with each other at least two or three times a week. She even credits her mother for her success in school. Before attending medical school, Ellen graduated at the top of her class in both high school and college. According to Ellen, the key to her success has been the open communication she has maintained with her migrant mother. Moreover, Ellen always turns to her mother for advice about her problems. Significantly, she is more inclined to turn to her mother than seek the advice of her father at home.

Furthermore, children of migrant parents overseas often repress their feelings knowing that their mothers' care and attention have been diverted to other children. Such children are often forced to confront the jealousy of imagining their mothers caring for other children. However, this does not suggest that migrant mothers do not attempt to sustain ties with their children. On the contrary, migrant mothers often attempt to raise their children overseas and their children recognize and appreciate these efforts.  

Since the fortune of having a "super-mom" is not typical, it raises the questions of (1) whether children can withstand such geographical strains; (2) how they maintain solid ties with their distant parents; and (3) what circumstances lead some children to feel that such ties have been severed. Generally, frequent communication with migrant parents may ease much of the emotional insecurities arising from "transnational household" arrangements. However, children who lack these ties have greater difficulty adjusting to the separation. Additionally, those who feel that their migrant parents have provided insufficient care are more likely to feel abandoned.

85. Among a sample of 69 children in the Philippines, we found that many migrant mothers communicated with their children on a regular basis to ensure a proper upbringing. For instance, some children reported that their mothers routinely called to check whether they had eaten breakfast, applied lotion in the morning, and finished their homework. See also ARLE RUSSELL HOCHSCHILD, THE SECOND SHIFT (1989) (discussing the struggles of transnational mothers).

86. "Transnational households" refer to households with members located in two or more countries. See PARREÑAS, supra note 42, at 80-85.
This includes Jeek Pereno. Jeek’s life has been defined by sentiments of abandonment. Jeek was eight years old when his parents relocated to New York and left him, along with his three brothers, in the care of their aunt. Eight years later, Jeek’s father passed away, and two of his brothers (the oldest and youngest) joined their mother in New York. Visa complications prevented Jeek and his other brother from following—their mother has not once returned to visit them in the Philippines. Jeek solemnly emphasized: “Never. It will cost too much, she said.” At 25, he is now a merchandiser for a large department store in the Philippines. His mother has somewhat provided for her children, with her meager wages first as a domestic worker, and then as a nurse’s aide to send home $200 a month. However, Jeek is dissatisfied with his mother’s financial support, as he wishes for more guidance, concern, and emotional care.

Years of separation breed unfamiliarity amongst family members and Jeek does not have the emotional security of knowing that his mother has genuinely tried to improve their estrangement. For Jeek, perhaps a visit from his mother may provide this security after 17 years of separation. Regardless, his mother’s weekly phone calls do not suffice. Moreover, because he interprets his mother’s absence as indifference, he does not feel comfortable communicating with her openly about his unmet needs.

Jeek feels that his mother has not only abandoned him, but failed to leave him with an adequate surrogate since his aunt already had a family and children of her own. Jeek recalls: “While I do know that my aunt loves me and she took care of us to the best of her ability, I am not convinced that it was enough because we were not disciplined enough. She let us do whatever we wanted to do.” He also feels that his education suffered from a lack of discipline. Now, he regrets that he did not concentrate more on his studies. Having only completed a two-year vocational program in electronics, he doubts his competency to pursue a college degree. Today, he feels inadequate, with the limited option of going from one low-paying job to another.

Unfortunately, even while extended kin may provide a sufficient amount of guidance and discipline, one cannot assume that surrogate parents do so willingly. For example, the uncle of Gailanie Tejada, Guillermo Tremañ, saw his surrogate responsibilities as an unwanted burden. He states:

I never really chose to be anyone’s guardian. Just that, you know, this responsibility had to fall on my lap because I was here most of the time. It was like, hey, you know, they are my nieces. I just feel responsible... but it wasn’t really my responsibility because I was not their parent. But being the brother of one of the parents, I felt it was my responsibility because they weren’t there. And my mother was too old to deal with them.
In tears, Guillermo suggested that some guardians resent the unwanted responsibility. Moreover, this indifference leaves children susceptible to receiving inadequate care.

The case of Norbert Silvedirio is another example of the unintended consequences of U.S. immigration policies. Norbert is a 21 year-old college drop-out whose mother and father have worked in New York City as domestic workers for more than 13 years. Like Jeek, Norbert also feels that his schooling suffered from the lack of guidance caused by parental absence. Norbert’s interview illustrates this void:

I remember that I was in Grade 2 [when my parents left for the United States]. I was just left on my own. I was the one who looked after myself. [My older siblings] would just hand me my allowance and it was up to me to budget it. I would go to school everyday, but in high school, I would only go to class once in a while. I was always at the billiard hall. (Laughs) I think it would have been better if I grew up with them around. There was no one around to guide me. I just did what I wanted to do. I would go to school if I felt like it. My [older brother] would try to tell me to go to school, but I never really listened to him.

Without the option of following their parents to the United States, children like Norbert, Jeek, and Gallanie must rely on surrogate parents to provide guidance. However, as is the case with Guillermo, one cannot assume that extended kin are always willing to partake in such responsibilities. Alternatively, migrant parents do the best they can as transnational parents, as the monetary support they provide cannot, on its own, compensate for the emotional insecurities they have incurred on their children. Thus, migrant mothers, such as Sharon, must adjust to their roles as transnational mothers to ameliorate the insecurities of their children. These struggles underscore the added challenges for transnational families in their maintenance of strong intergenerational ties. Surely, these challenges can be addressed by more adequate and sensitive immigration laws. In the meantime, life goes on for families separated by legislative loopholes.

**CONCLUSION**

Looking at the overlooked second generation, we see that loopholes impede the full integration of immigrants into U.S. society. Although immigration laws are premised upon employment-based and family-sponsored preference categories, employment-based entry does not categorically result in the entry of the foreign dependents of the worker.87 Ellen’s case illustrates the unintended consequences caused by the government’s neglect of backlogs and pre-occupation with the growth of the local economy. Although liberals purport to support family unification,
evidence shows that many families are still systematically denied reasonable access to any of the welfare benefits their working members have rightfully earned. 88

As a solution, we propose some revisions in the implementation of the immigration laws concerning the dependents of legally permanent migrant workers. In doing so, we are not loosely advocating for an open-border policy, nor are we questioning the Government's decision to restrict the number of immigrants they allow from each country. Instead, we ask for greater consideration of the citizenship rights earned by those who contribute to the economic growth of the U.S. and the extension of such rights to their relatives left abroad. For instance, immediate relatives of migrant workers, entering under H1-B visas, should be granted temporary working visas. This would reduce the number of migrant families geographically split apart and increase family incomes in order to afford them the financial ability to reside in America.

Furthermore, we also suggest that the Government grant visas with priority given to dependent children of permanent migrant workers. The Government must realize that backlogs may inadvertently move a dependent to a lower preference category over time. Given their immaturity, this adolescent pool of potential immigrants should be addressed with primary concern in order to unite them with their parents. This can be done without increasing the annual limits imposed by the law if the age determination of family-sponsored migrants is made when the petition is filed, rather than when the petition is actually considered. Accordingly, families such as the Seneriches will not be penalized for originating from a migrant-heavy country.

Prior to the 1965 Immigration Act, many Asian immigrants in the United States left behind their spouses and children due to stringent immigration laws. 89 As a result, the number of split-households increased exponentially. 90 In these households, relationships were unusually dichotomous, with one spouse laboring in the United States while the other responsible for domestic affairs in the homeland. After the family-sponsored preferences were established with the 1965 and 1990 Immigration Acts, many assumed that if any split-households still existed, they remained by choice. 91 However, the dynamics of the overlooked second generation flies in the face of this assumption. Deceptively, the

89. See HING, supra note 21, at 76-78 (discussing the predominant Asian male immigrant community and the ways immigration policies excluded workers' families from unification prior to 1965).
1965 and 1990 Immigration Acts have increased the population of Asian immigrants in the United States, but not without the unintended consequences of workers without families.