

**NO CHILD LEFT BEHIND?  
U.S. IMMIGRATION AND DIVIDED FAMILIES**

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## 1. INTRODUCTION

It is a great irony that U.S. immigration law, whose cornerstone is family reunification, should divide so many parents and children. Compounding that irony, little information also exists on the extent and dynamics of family division or reunification at immigration and after. Anecdotes abound about children left behind: a parent's type of visa for legal permanent residence (LPR) does not provide visas for her children; a couple's oldest child turned 21 while the family waited for their green cards and thus could not accompany them; the minimum financial requirements for obtaining a green card (the affidavit of support) cannot be met if all the children are included in the application; and so on. Further anecdotes abound about the immediate aftermath: some children are left in the care of relatives in the origin country; some children are brought anyway to live undocumented lives; some children qualify for a temporary visa as students. And yet further anecdotes abound about the medium- and long-term consequences: some parents immediately petition to sponsor the excluded children under the child-of-LPR provisions; some parents wait until they naturalize to sponsor the excluded children under one of the provisions for children of U.S. citizens (numerically unlimited minor child; numerically limited first and third preferences for single and married adult children, respectively); some children are grown and qualify on their own (via an employment preference or marriage to a U.S. citizen).<sup>1,2</sup>

While all the anecdotes are founded in fact – all are consistent with one or another requirement or provision of U.S. immigration law – little is known about the pervasiveness of these situations. Could it be possible that a nontrivial proportion of the estimated eleven million

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<sup>1</sup> We use the term “child” to refer to children of any age. Parts of our discussion will focus on minors, who, for U.S. immigration purposes, are children who are unmarried and under 21 years of age.

<sup>2</sup> Concern with divided spouses and divided families underlies the marriage and family reunification provisions of U.S. immigration law (Jasso and Rosenzweig 1990:153). Official U.S. commitment to free marital choice and to family reunification is reflected in its signing of the Helsinki Accords of 1975.

undocumented persons in the United States are children of legal parents? What fraction of remittances are sent to excluded children left behind? And there are the deeper questions: If parents are unable to bring all their children with them, how do parents decide whom to bring and whom to leave, or whom to endow with a green card and whom not, and how to compensate the left-behind or unendowed? What characteristics of children do parents take into account? What rifts ensue between parents and children and between siblings?

Addressing these questions requires a new framework and new kinds of data. A useful framework would incorporate four dimensions: (1) children's need for a green card; (2) children's eligibility for a green card; (3) whether mechanisms for green card outcomes are rooted in law or in parental circumstances, behavior, and decision-making; and (4) the timing of green card dynamics – especially whether before or after parental admission to legal permanent residence.

The major impediment to answering these questions is data availability. Immigration researchers and policymakers have proposed two complementary approaches for improving the data base on immigrant behavior, involving, respectively, administrative data and surveys of legal permanent residents. With respect to administrative data, at least since the U.S. Select Commission on Immigration and Refugee Policy of 1979-1981, it has been an unrealized objective to achieve “reconstitution” of families in the microdata files covering annual cohorts of new legal permanent residents (Jasso and Rosenzweig 1987). These microdata files, which for the cohorts from 1972 to 2000 are available as public-use files, provide basic information on each new green card recipient, but no information on familial relations between them. For example, the data indicate who has a visa as an employment principal, who has a visa as the spouse of an employment principal, and who has a visa as the child of an employment principal, but do not link members of a family unit.<sup>3</sup> Unfortunately, this data linkage has not yet taken

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<sup>3</sup> The public-use microdata files on the 1972-2000 annual immigrant cohorts are sold by the National Technical Information System (NTIS). Announcement of these files last appeared in the 1996 Statistical Yearbook of the Immigration and Naturalization Service (U.S. INS

place.

Meanwhile, the New Immigrant Survey (NIS) was designed to obtain behavioral information from new green card recipients. After the completion of the second round of this panel survey there is information on both the spatial division of families at the time of immigration and subsequent attempts at immediate family reunification after immigration.<sup>4</sup> This paper uses data from the NIS. We first develop a taxonomic framework for studying green card dynamics that is attentive to the four main dimensions introduced above – desirability of (need for) a green card, eligibility for a green card, legal versus behavioral mechanisms, and the two temporal phases for uniting or dividing families. Next we review the existing main pertinent administrative and survey data relevant to understanding family reunification. We suggest as part of that discussion how such data can be combined and tweaked to provide substantial improvements in assessing how U.S. immigration law facilitates or hinders the unification of families. Finally, we report for the first time estimates from the NIS of how many of the children of immigrants at the time of immigration need and are eligible for green cards, as well as, for one visa category, how many of these children actually receive green cards and how many are “left behind.”

## **2. FRAMEWORK FOR STUDYING FAMILY GREEN CARD DYNAMICS**

### **2.1. Children’s Need for a Green Card**

Consider an adult applicant for legal permanent residence. This applicant may have

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1996:201).

<sup>4</sup> The synergies created by the two approaches would be large. To illustrate, if surveys provide demographic information on all of an adult immigrant’s children, this information can be linked to administrative information on whether the children receive green cards as accompanying children when the parents receive theirs, whether the children are sponsored after the parents receive their green cards, whether the children obtain green cards on their own (before or after the parents obtain theirs), or whether the children never obtain green cards. Of course, the payoff from the synergies would increase as survey rounds accumulate, administrative data improve, and linking survey and administrative data becomes easier.

children, and the children may be of any age. Some of the children do not need green cards to live permanently in the United States. They may already be legal permanent residents (LPRs); they may even already be citizens. Indeed, in the second most numerous class of admission to LPR – parent of a U.S. citizen – the prospective immigrant is sponsored by a U.S. citizen adult child.<sup>5</sup>

The visa applicant’s children may be citizens already by one of several pathways. First, they may have been born in the United States. Second, they may have acquired citizenship at birth through their other parent. Third, they may have derived citizenship if their other parent naturalized while the children were under 18 years of age. Fourth, they may have naturalized as adults. To illustrate the second of these pathways, suppose that a U.S. citizen goes to live for a time in a foreign country. There she marries a native of that country and has children. Her children acquire U.S. citizenship at birth. Later, when the family decides to return to the United States, she sponsors her husband for a green card. Suppose that husband is surveyed as an adult applicant for LPR (the focal immigrant); in this case, he has children but they do not need green cards because they are already U.S. citizens (indeed, U.S. citizens from birth).

Similarly, the visa applicant’s children may already have green cards. For example, our focal immigrant may have adult children who married and were sponsored by a U.S. citizen or LPR or who obtained an employment-based visa. It is also possible, though less likely, that our focal immigrant may be divorced and have children whose other parent obtained a green card and who received green cards as minor children of the other parent.

The foregoing discussion pertains to the children of visa applicants. Children born after parental admission to LPR are citizens if born in the United States. If born abroad they acquire green cards via provisions of U.S. law which make them available if the LPR parent returns to the United States within two years of the birth and brings the child at the first entry after the birth.

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<sup>5</sup> The “green card” is the paper evidence of legal permanent residence.

Two key questions are: Among visa applicants with children, what proportion have children who need green cards? And among all the children of all the visa applicants, what proportion need green cards?

## **2.2. Children's Eligibility for a Green Card**

Consider again the focal adult applicant for LPR. How do the applicant's children obtain green cards? We distinguish between (i) pathways for obtaining child visas at the same time as the immigrant parent(s) obtain them and (ii) pathways for obtaining child visas after parental admission to LPR.

### **2.2.1. Child's Eligibility for a Green Card at the Parental Pre-LPR Stage**

U.S. immigration law provides three main pathways to a green card for the minor children (unmarried and under 21 years of age) of an adult visa applicant. The first pathway pertains to a subset of visa categories in which visas are available for the minor children of the principal applicant.<sup>6,7</sup> These categories include all the numerically-limited preference categories (family and employment preferences), plus the diversity and most humanitarian categories. However, there are no accompanying-child visas for the minor children of applicants in the numerically-unlimited immediate-relative categories of spouse, parent, and child of a U.S. citizen<sup>8</sup> and, in the visa categories which provide visas for the principal's spouse and minor children, no visas for the minor children of the principal's spouse (if they are not also the principal's children). The

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<sup>6</sup> The principal is the prospective immigrant who qualifies for the visa. For example, in the employment categories, the principal is the one who qualifies for the particular type of employment visa. In this case, green cards are also available for the principal's spouse and minor children.

<sup>7</sup> A glimpse of the categories which do and do not provide visas for minor children may be obtained from Table 7 of any of the annual issues of the Yearbook of Immigration Statistics published by the Department of Homeland Security, such as DHS (2011). For an exact list, see Appendix 23-7, "Class of Admission under the Immigrant Laws, Code," in the USCIS Adjudicator's Field Manual, available on the website of the U.S. Citizenship and Immigration Services (U.S. Department of Homeland Security) -- <http://www.uscis.gov> .

<sup>8</sup> There are a few exception, such as for children of persons who enter as fiances to marry a U.S. citizen or for domestic abuse cases.

second and third pathways provide visas to subsets of children in these situations.

The second pathway pertains to the minor children of an adult immigrant admitted as the spouse of a U.S. citizen. These children, who may not receive green cards as their immigrant parent's accompanying children, may instead be sponsored by, and receive green cards as the children of, the parent's spouse-sponsor. This provision is straightforward for children who are the biological children of the parent's spouse-sponsor. For stepchildren and adopted children of the spouse-sponsor, there are special eligibility requirements. In brief, children qualify as stepchildren if they were unmarried and under 18 at the time of the parent's marriage; they qualify as adopted children if the adoption occurred before they turned 16 and they have lived with the sponsor for two years before the sponsor files the relative petition.<sup>9</sup>

The third pathway pertains to the minor children of the spouse of a principal in the numerically-limited preference categories and the diversity and other humanitarian categories. Biological children of the principal are of course included. Stepchildren and adopted children of the principal may qualify under the same eligibility rules as sketched above for children of the spouse of a U.S. citizen.

All three pathways for minor children – accompanying children of principals in selected visa categories (family and employment preferences, plus diversity and most humanitarian categories), inclusive of eligible stepchildren, plus biological and eligible stepchildren of the U.S. citizen sponsor of a spouse – lead to green cards for the children at the same time as the parent(s). But with few exceptions there are no visas for children who are married or 21 years of age or older (or, more precisely, whose age for immigration purposes is 21 or over). Thus, at the time that an adult is granted LPR, some of that adult's children may receive green cards, others

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<sup>9</sup> Exact requirements are on the websites of the U.S. Citizenship and Immigration Services (U.S. Department of Homeland Security) and of the Visas section of the Bureau of Consular Affairs (U.S. Department of State) – <http://travel.state.gov> and [www.uscis.gov](http://www.uscis.gov) . A useful source is Form I-130 (discussed below) and the associated instructions.

not.<sup>10,11</sup>

There is, however, a somewhat different pathway involving concurrent sponsorship but nonconcurrent visas. This pertains to the children (of any age or marital status) of an adult immigrant admitted as the spouse or parent of a U.S. citizen. In the case of a parent of U.S. citizen, the immigrant's children may be sponsored as siblings of a U.S. citizen by the parent's sponsor (under the numerically-limited family fourth preference). There are waiting times of varying duration, however, so even if the two petitions (for a parent and for a sibling) are filed at the same time, the green cards will not be granted at the same time. Similarly, in the case of a spouse of U.S. citizen, the immigrant's adult children can be sponsored as biological or stepchildren of the sponsor-citizen (under the numerically-limited family first or third preference category, for unmarried and married children, respectively).

Table 1 summarizes visa availability for the children of adult applicants for legal permanent residence.

– Table 1 about here –

### **2.2.2. Child's Eligibility for a Green Card at the Parental Post-LPR Stage**

A further set of pathways pertains to the aftermath of the focal adult immigrant's admission to LPR. As an LPR, the immigrant may immediately sponsor the immigration of unmarried children of any age (under the numerically-limited family second preference). Subsequently, when the focal immigrant becomes a U.S. citizen, the new citizen may sponsor the immigration of all children – minors (as numerically-unlimited immediate relatives) and nonminors (under the numerically-limited family first and third preference categories for

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<sup>10</sup> The Child Status Protection Act, enacted in August 2002, allows prospective immigrant children to retain, under certain conditions, their classification as a child. The pertinent conditions differ by class of admission, as will be discussed below. The relevant age is then, not the child's chronological age, but rather the "CSPA age."

<sup>11</sup> To our knowledge, two categories provide visas for the principal's unmarried children 21 or over. These are for retired NATO(6) civilian employees and retired employees of international organizations.



unmarried and married children, respectively). The numerically limited pathways involve waiting periods.

### **2.3. Price of a Green Card – Time and Money**

Green cards are not free. The visa process has many costs, including time and money. The process of applying for LPR lasts from the filing of the first application to the date of admission to legal permanent residence. In general, the duration of the visa process has two components. The first, relevant only for numerically-limited immigrants, is the wait for a visa to become available; in these cases the date that the first application is filed is known as the priority date. The second component affects all applicants and involves visa processing. The duration of the visa process is especially important for child immigrants, because they may “age out” of eligibility. As mentioned above, the Child Status Protection Act (CSPA), enacted in 2002, permits certain prospective child immigrants to retain eligibility after reaching age 21.

The visa process involves submission of multiple forms. For sponsored family immigrants (i.e., omitting the relatively few family immigrants who can self-petition), whether numerically limited or unlimited, the visa process starts when the sponsor files Form I-130, titled “Petition for Alien Relative.” For employment immigrants in the second and third preference categories, the visa process starts with labor certification. Employment immigrants in the first three preference categories submit a Form I-140, titled “Immigrant Petition for Alien Worker.” This form is filed by the employer, except in two special cases in which the prospective immigrant can self-petition.<sup>12</sup> In the case of diversity visas, the visa process starts with submission of the lottery entry form (usually during one month each autumn); submission was by mail thru DV-2004 (autumn 2002), and electronically afterwards using the E-DV, “DV Entry

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<sup>12</sup> Self-petition on the I-140 is permitted for one subcategory of employment first-preference cases (the subcategory of persons with “extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation”) and one subset of employment second-preference cases (those who obtain a national interest waiver).

Form.”

When a visa is available (immediately, if it is a numerically-unlimited visa), the prospective immigrant files the final major form in the visa process: either Form DS-230, titled “Application for Immigrant Visa and Alien Registration,” submitted by prospective immigrants who are abroad, or Form I-485, titled “Application to Register Permanent Residence or Adjust Status,” submitted by prospective immigrants who are in the United States.<sup>13</sup>

Who needs these forms, who files them, and how much do they cost? The petitions to establish eligibility for family and employment visas (Forms I-130 and I-140, respectively) are required for each worker or direct relative and are submitted by the sponsor (except in the self-petition cases already mentioned). For applicants in visa categories that permit accompanying minor children (discussed in Section 2.2.1 and summarized in Table 1), a single petition covers the principal, the principal’s spouse, and the principal’s children. To illustrate, in the case of an employment principal, a single petition covers the worker, spouse, and minor children. Similarly, in the case of the married child of a U.S. citizen, a single petition covers the married child, spouse, and minor children. The same holds for diversity applicants. A single lottery entry covers the person entering the lottery plus spouse and minor children (of course, two spouses may each submit a separate lottery entry).

In contrast, in visa categories that do not permit accompanying minor children (discussed in Section 2.2.1 and summarized in Table 1), separate petitions are required for each direct relative. As an example, consider a U.S. citizen sponsoring a spouse and the spouse’s children, who are eligible to be sponsored by the parent’s spouse-sponsor as stepchildren. In this case, the spouse-sponsor submits separate petitions for the spouse and each eligible stepchild. Similarly, in the case of an adult admitted as the parent of a U.S. citizen, the parent’s sponsor must file separate petitions for the parent and for each of the parent’s children (who are eligible as the

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<sup>13</sup> Some prospective immigrants already in the United States may elect to be processed abroad; others are not allowed to adjust status in the United States and must be processed abroad.

sponsor's siblings).

At the last stage of the process, the final form -- DS-230 for prospective immigrants abroad and I-485 for those seeking to adjust status in the United States – separate forms are required for each immigrating person.

The fees for the main forms, as of March 2013, are as follows: for Form I-130, “Petition for an Alien Relative,” \$420; for Form I-140, “Immigrant Petition for Alien Worker,” \$580; DS-230, “Application for Immigrant Visa and Alien Registration,” \$230 for family-based immigrants, \$405 for employment-based immigrants, \$330 for diversity immigrants; and I-485, “Application to Register Permanent Residence or Adjust Status,” \$985 (plus \$85 biometrics fee for persons between 14 and 79 years of age and reductions to \$635 for children under 14 filing with at least one parent). Of course, there are other forms for other situations, and these may have different fees. As well, fees are waived in certain cases, such as for refugees, and increased in others, such as for premium processing.<sup>14</sup>

To illustrate how the total financial application costs of family unification at immigration vary by visa type, consider the married child of a U.S. citizen (family third preference) adjusting to LPR along with a spouse and two children under 14 years of age: the fees for the family (for only the forms discussed here) total \$3,830 (\$420 for one I-130, plus two I-485s at \$1070 each and two I-485s at \$635 each). In the case of the spouse of a U.S. citizen adjusting with two children who are the stepchildren of the sponsor, the fees total \$3,600 (three I-130s at \$420 each, plus one I-485 at \$1070 and two I-485s at \$635 each).<sup>15</sup>

There is one additional important financial consideration – the affidavit of support.

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<sup>14</sup> The forms and fee schedules may be found on the websites of the U.S. Citizenship and Immigration Services (U.S. Department of Homeland Security) and of the Visas section of the Bureau of Consular Affairs (U.S. Department of State) – <http://travel.state.gov> and [www.uscis.gov](http://www.uscis.gov) .

<sup>15</sup> Of course, there are other costs in the immigration process, for example, costs associated with obtaining birth certificates, marriage certificates, divorce certificates, police and military records, medical examinations, etc.

Prospective immigrants must also show that they will not become a public charge. The sponsor of a family immigrant must sign a legally enforceable affidavit of support, guaranteeing support until the immigrant becomes a U.S. citizen or is credited with 40 quarters of work.<sup>16</sup> The sponsor must meet certain financial requirements. In broad stroke, the sponsor's income (and possibly assets) must exceed 125% of the Federal poverty level for the sponsor's household size, defined to include the sponsor, sponsor's dependents, relatives living with the sponsor, and all the prospective immigrants. The sponsor submits Form I-864, "Affidavit of Support," together with documentary evidence of meeting the financial requirements. The Federal poverty level for a household size of eight – to cover, for example, the case where the sponsor and the principal each have a spouse and two children – is \$49,537 in all parts of the United States except Alaska and Hawaii, where it is higher.<sup>17</sup>

#### **2.4. Legal and Behavioral Mechanisms in Obtaining Green Cards for Children**

Sections 2.1 and 2.2 discussed, respectively, children's need and eligibility for a green card. Combining these two dimensions yields four green card categories of children. In two of the four types, the child does not need a green card, so the child's eligibility is irrelevant. In the other two, however, the child's eligibility assumes great importance.

Consider now the degree of immediate family unification in the four cells. If the child does not need a green card, then the family is fully united. If the child needs a green card but is ineligible, the family is divided by the provisions of U.S. law. Finally, if the child needs a green card and is eligible for one, parental decisions determine whether the family will be united or

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<sup>16</sup> Affidavits of support are also required for certain employment immigrants, such as those sponsored by a U.S. citizen or LPR relative or by an entity in which such a relative has an ownership interest of 5% or more.

<sup>17</sup> Special rules apply for certain cases. For example, sponsors who are serving on active duty with the U.S. Armed Forces and who are sponsoring spouse and children need only meet 100% of the Federal poverty level. The requirement for an affidavit of support is waived if the prospective immigrant is the child of a U.S. citizen and would, under the Childhood Citizenship Act of 2000, acquire citizenship upon admission to LPR (the main requirement is age less than 18).

divided. Thus, both U.S. law and parental choice affect the unification of families at immigration and after immigration.

Table 2 provides a crude diagrammatic representation of these types of family green card dynamics. The table is based on a fourfold classification of the two binary variables, whether the child needs a green card and whether the child is eligible for one. The two cells at the bottom represent children who do not need a green card, depicted by upward-sloping lines. The top right cell represents children who need a green card but are ineligible for one; this cell is labeled “Divided by Law.” The upper left cell includes children who both need a green card and are eligible for one. Everything that happens in this upper left cell happens behaviorally, represented by waves. This cell is divided into two triangles, each depicting the two outcomes of parental decision-making. The two triangles are labeled, “United by Behavior” and “Divided by Behavior.”

– Table 2 about here –

This discussion leads immediately to two main questions: First, what proportions of children of adult immigrant applicants are in each cell? Second, when a child both needs and is eligible for a green card, what drives the parental decision to provide or withhold a green card?

*A priori*, all three outcomes – needing a green card, being eligible for one, and the parental decision – may be influenced by parental demographic, socioeconomic, and visa factors, while the second and third may be also influenced by the child’s characteristics (such as age, and for the parental decision, gender). For example, the probability that an adult visa applicant has a U.S.-born child should be higher for adjustee immigrants than for new arrivals, and the probability that an adult visa applicant has a child who both needs and is ineligible for a green card should be higher for an applicant in the employment first-preference category than for other immigrants (because the children are more likely to be 21 or older).

The representation in Table 2 focuses on a single child. But a visa applicant may have more than one child. The children in the family may be all U.S. citizens or all noncitizens or both. Accordingly, a family may have some children who need green cards and some who do

not; similarly, some of a family's children may be eligible, others not. And, within the subset of children who both need and are eligible for a green card, the family may obtain green cards for some and not others.

Need, eligibility, and legal versus behavioral mechanisms in Table 2 are applicable both before and after immigration. Prior to immigration - the pre-LPR phase - parents make decisions to include the children in the parental application or obtain concurrent visas for them as the children of sponsors or the stepchildren of principals (as discussed in Section 2.2.1 above and shown in Table 1). After immigration - in the post-LPR phase - parents make decisions to sponsor the child's immigration. This can be immediately for unmarried children of any age, via Family 2, or after naturalization, via immediate-relative provisions for minor children, Family 1 for unmarried children 21 and over, and Family 3 for married children.<sup>18</sup>

### **3. DATA AND PROCEDURES**

How much can be understood about the magnitudes and determinants of the three green card categories pertaining to the children of potential adult immigrants – need for a green card, eligibility for a green card, and obtaining a green card – at both the pre-LPR and post-LPR stages depends on available data. In this section, we review existing administrative and survey data sources in the United States and develop procedures for estimating children's need and eligibility for green cards and the legal and behavioral mechanisms involved in obtaining them.

#### **3.1. U.S. Administrative Data**

The United States collects, as part of the visa process, nontrivial amounts of information on prospective immigrants. Only a subset of this information, however, is stored as an electronic data base, and at the present time none is available to researchers. As discussed above, microdata files on annual cohorts of new legal immigrants in the period 1972-2000 are available for public

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<sup>18</sup> Of course, at the pre-LPR stage, parents may help lay the groundwork for noncurrent visas for the children (for example, the children of a visa applicant in the parent-of-U.S.-citizen category).

use. But the data required to examine family green card dynamics have not to our knowledge ever been assembled and stored as an electronic data base. In this section we review existing forms and records to see how informative they are with respect to family reunification and make suggestions about how such administrative data could be used and improved to shed additional light on the extent of divided families at immigration.

### **3.1.1. Pre-LPR Stage**

The visa process, as noted, generates the basic data that could be used to explore family unification and green card dynamics at the pre-LPR stage. The simplest approach would be to assemble a data file that includes for each principal applicant all the information available about the applicant's children. That information is as follows:

1. Children of applicants for family-based green cards. Form I-130, "Petition for Alien Relative," asks the sponsor to list all the children of the prospective immigrant, providing their name, relationship to the principal applicant, date of birth, and country of birth. Unfortunately, the information on Form I-130 is not sufficient for conclusively classifying the children in terms of either need or eligibility for a green card. With respect to need for a green card, Form I-130 does not ask whether each child is a U.S. citizen or already has a green card or is still alive. Thus, for example, children who acquired U.S. citizenship through their other parent cannot be distinguished from children who need a green card. With respect to eligibility for a green card, Form I-130 does not ask for the child's marital status; hence, one cannot be certain that a child under 21 is eligible for a visa. With respect to parental behavioral mechanisms, Form I-130 does not directly ask gender, although it may be inferred from relationship (as in "son" or "daughter").

2. Children of applicants for employment-based green cards. Form I-140, "Immigrant Petition for Alien Worker," asks for the same information as Form I-130, but adds information on whether the child will be applying for a visa abroad or adjusting status in the United States. As with the I-130, it is impossible to identify need for a green card among children not scheduled to receive green cards. Similarly, because there is no information on child's marital status, it is difficult to distinguish between children who are ineligible and children who though eligible are

not going included in the application.

3. Children of applicants for diversity-based green cards. The electronic lottery entry form, E-DV, asks for the same information as Forms I-130 and I-140 – name, relationship to principal, date and place of birth – plus gender, but requires the information only for unmarried children under 21 who are not already a U.S. citizen or legal permanent resident.<sup>19</sup> Accordingly, all the children listed on the lottery entry form both need and are eligible for a green card.

However, there is no information on other children.

4. Children in new-arrival Form DS-230. This form is filed by every prospective new-arrival immigrant. It asks for the name, date and place of birth, and current address of all children, as well as whether each child will be accompanying the filer or following to join. This form makes it possible to distinguish between recipients and non-recipients of green cards, but, among non-recipients it is impossible to conclusively establish need and eligibility (except for age-based ineligibility) or to explore parental behavioral factors (for example, gender-based green card allocation).

5. Children in adjustee Form I-485. This form is filed by every prospective adjustee immigrant. It provides, for all children, the name, relationship to filer, date and place of birth, A-number, and whether the child is applying with the filer.<sup>20</sup> As with DS-230, the information on this form does not permit conclusively identifying need or eligibility for a green card

6. Children in affidavit of support Form I-864. This form is filed by the sponsor. It provides, for every family member immigrating at the same time or within six months of the principal sponsored immigrant, their name, relationship to the principal immigrant, date of birth, and A-number and Social Security number, if any. This information does not permit identifying need or eligibility among nonrecipients.

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<sup>19</sup> The electronic submission process also requires a photograph for each unmarried child under 21.

<sup>20</sup> The A-number is the alien registration number, a unique identifier used by the U.S. government since 1940 for certain aliens, including legal permanent residents.



However incomplete the information collected in these administrative forms may be, it could be used to estimate, albeit crudely, some of the quantities and behaviors relevant to the issues of family unification and reunification. The information in the final three forms may be more accurate, as children may have been born after submission of the I-130, I-140, or E-DV forms. For example, the information in Forms DS-230 and I-485 could be used to obtain upper-bound estimates of the proportion of parents with at least one child who needs a green card and the average number of children who need green cards. The estimate would be an upper-bound estimate because the data do not indicate whether a foreign-born child already has LPR or U.S. citizenship.

Linking the initial form with the final form would provide superior information. For diversity-based immigrants, the information is almost complete. The adult visa applicant's Form DS-230 or I-485 provides the complete set of children. The diversity lottery entry form E-DV lists unmarried children under 21 who are neither a U.S. citizen nor LPR and thus both need and are eligible for a green card. Finally, the DS-230 or I-485 indicates which children are actually applying for a green card with the parent. Thus, the linked E-DV and DS-230 or I-485 exactly identify the subset in the upper left cell in Table 2 and enable study of parental decision-making which leads to a divided or united family. However, there is not enough information to correctly classify all the other children – some may or may not need a green card, and may be eligible or ineligible for one. For example, a 20-year-old listed on the final form but missing from E-DV may already be a U.S. citizen or, alternatively, may need a green card but be married and thus ineligible for one. Nonetheless, such linked data would provide much useful information, especially on the parental decision to include or exclude a child.

It would be valuable for the Departments of Homeland Security and State, first, to construct electronic data sets with the information provided in immigration application forms and, second, to enhance the forms by including the information currently missing, such as, on the I-130 and I-140, marital status and whether each child is a U.S. citizen or LPR.

### **3.1.2. Post-LPR Stage**

We now focus on the visa applicant after she has obtained her green card; some of her children may have obtained visas at the same time (included in the parent's or parent's spouse's application or sponsored by the parent's spouse, as discussed above). Indeed, some of those children may have become U.S. citizens. Under provisions of the Child Citizenship Act of 2000, children who are sponsored by a U.S. citizen parent and are under 18 years of age at parental admission to LPR obtain citizenship automatically. As discussed above, these would be children whose immigrant parent is a spouse-of-U.S.-citizen immigrant and whose other biological parent sponsored both them and their immigrant parent.

Children born to our focal applicant after immigration will likely not need green cards, as some will be citizens via birth in the United States and others will be born abroad but brought by their mother upon her return before the child turns two. If any unmarried children born before the parent's admission to LPR remain without green cards, they can be sponsored for a numerically-limited family second-preference visa. Later, upon naturalization, all children can be sponsored and any remaining minor children upgraded to numerically unlimited visas. Thus, in terms of the visualization in Table 2, eventually all children become eligible for green cards, and all the action shifts from legal mechanisms to behavioral mechanisms – ignoring delays associated with numerically-limited visas.

In all these cases of parents sponsoring children, the visa process starts with submission of Form I-130, "Petition for Alien Relative," already discussed above. Form I-130, besides obtaining the information discussed above about the prospective immigrant, also obtains two pieces of information relevant to present purposes: the sponsor's A-number and the names and relationship to the sponsor of any other relatives the sponsor is sponsoring.

Accordingly, in principle it would be possible to link the records of any visa applicant from the pre-LPR phase to the I-130s filed in the post-LPR phase. With the passage of time, the family configuration changes, with more children U.S. citizens and fewer children non-citizens. At naturalization, former visa applicants would again provide information on all children (name,

date and country of birth), so that linking the naturalization form N-400 would enable updating the family roster after immigration for a subset of immigrants.

### **3.2. New Immigrant Survey**

The New Immigrant Survey (NIS) is a set of planned longitudinal studies of several cohorts of U.S. legal permanent residents. To date, the NIS has carried out a short pilot panel study of the 1996 cohort and two surveys of the 2003 cohort. The surveys collect information on schooling, labor force participation, employment, religion, as well as marriage, fertility, language, and migration histories.

The questions addressed in this chapter – which children need a green card, which children are eligible for a green card, and how do parents decide which children receive green cards, at both the pre-LPR stage and the post-LPR stage – can be explored with NIS data, with varying degrees of precision.

Here we focus on the 2003 cohort (NIS-2003). The sampling frame consists of all new LPRs whose administrative records were compiled during the 7-month period May-November 2003. Two rounds of interviews have been conducted, the baseline round in 2003-2004 and the second round in 2007-2009. As will be discussed more fully, data from the first round can be used to explore family unification and green card dynamics at the pre-LPR stage, and data from both rounds jointly to explore family reunification in the post-LPR stage.

Baseline interviews were conducted approximately four months, on average, after admission to LPR (mean time elapsed between LPR and interview was 17 weeks and median time was 14 weeks). All respondents were interviewed in the language of their choice; a total of 95 languages were used. The analyses reported in this chapter pertain to the Adult Sample. At the baseline round, interviews were completed with 8,573 sampled immigrants in the Adult Sample, for a response rate of 68.6 percent; at the second round, interviews were completed with 3,903 sampled immigrants, for a response rate of 45.5 percent (or 46.2 percent, after adjusting for deceased or incapacitated respondents).

### **3.2.1. Pre-LPR Stage**

At the baseline round each sampled immigrant provided information on all biological children, stepchildren, and adopted children, including their month and year of birth, gender, country of birth, whether they are a U.S. citizen, and whether they are still living. The only important piece of information that was not collected was whether a noncitizen child had a green card; the rationale was that this is a sensitive subject and it would be better to wait until a future round to ask. Because, as well, there is information on whether the child's other parent is the respondent's spouse and the date of the marriage, it is also possible to estimate the number of children eligible to be sponsored as biological children or stepchildren (if the sampled immigrant parent cannot have accompanying children, as discussed in Section 2.2.1).

How damaging is the absence of information on whether children already have a green card? In general, it is far more likely that children of a visa applicant are U.S. citizens than that they have a green card. For example, if both parents are applying for LPR, they may well have a child who was born in the United States while the parents had temporary visas or were unauthorized, but there are not many scenarios in which such a child would have been granted LPR (without the parents also being granted LPR). The likelihood that a visa applicant's child has a green card is higher for visa applicants divorced from the child's other parent, who may have included the child on an LPR application, but it is not large. Thus, the absence of information on whether the immigrant's noncitizen minor children have green cards is not likely to affect estimates pertaining to the pre-LPR stage. It will, of course, hamper estimation at the post-LPR stage, for many minor children will obtain green cards at the same time as the parents. However, as will be seen, we can use a supplemental data source to obtain that information.

Identifying children already born and alive just before parental LPR. For exploring family green card dynamics at the pre-LPR stage, we need to define the set of surviving children just prior to parental immigration. To do this we use the birth and death histories in the NIS to determine which children were alive at the time of the respondent's admission to LPR and satisfy the following criteria for birth date: (1) born before 2002, (2) born in 2004, (3) born in

2002 and parental LPR was in 2003, or (4) both year of birth and year of LPR were the same and month of birth preceded month of LPR. This procedure indicated that among 5,592 respondents with biological children 5,211 had at least one child born before LPR and still alive at LPR.

Identifying children who need a green card just before parental LPR. We begin by noting that, as discussed above, it is not currently possible to identify children who need a green card just before parental LPR – the relevant question will be asked at a future survey round. Accordingly, we focus on children who are not U.S. citizens just before parental LPR. To the extent that it is unlikely that noncitizen minor children of visa applicants already have green cards, the number of noncitizen minor children is a good proxy for the number of minor children who lack a green card at the parental pre-LPR stage. But applied to all children, not only minors, the measure we construct produces an upper-bound estimate of the number of children who need a green card just before parental admission to LPR.

There are additional challenges. It is evident that any child who is not a citizen at the baseline round is not a citizen at the pre-LPR stage. However, it is possible that some children became U.S. citizens between parental LPR and the baseline round. How to identify them? There are two necessary but not sufficient conditions for being a noncitizen at the pre-LPR stage and a citizen afterwards – (1) the child must be foreign-born; and (2) the child's other parent must be a U.S. citizen. But the situation is complicated, because U.S. law on citizenship and nationality is complicated and because NIS data do not include all the information necessary to discern the child's eligibility for acquiring citizenship at birth or after birth, such as information on whether the parent was already a U.S. citizen at the child's birth plus residency requirements and marriage requirements.

Accordingly, we define two measures of green card need. The first is simple and includes only one criterion, that the child not be a citizen at the baseline round. The second adds foreign-born children who, though citizens at the baseline round, satisfy the criteria for acquiring derivative citizenship at admission to LPR – viz., the child's other biological parent is married to the immigrant parent and is a foreign-born citizen, and the child is under 18 at the time of

parental admission to LPR. There is some uncertainty, however, with the second measure, because if the other parent was already a U.S. citizen at the time of the child's birth and the child's birth occurred on or after November 1986, the child would have acquired citizenship at birth (assuming other conditions such as residency and marriage requirements are met).

Among the 5,211 respondents with at least one biological child alive at LPR, all but three provided all the information necessary for the two measures. Among these 5,208 respondents, 3,856 have at least one child who needed a green card by the first measure and 3,875 by the second measure (which includes children who may have become citizens at LPR).

Identifying minor children who *need* a green card just before parental LPR. Identifying the subset who are minors from among the set of biological children alive at parental LPR requires information on the marital status and age of each child. Missing data on child's age and/or marital status reduce the set of respondents with at least one child who needs a green card and for whom we can estimate whether they are or are not a minor to 3,796 out of 3,856 (3,815 out of 3,875 by the second measure). Within these sets, 2,619 respondents (and 2,638 by the second measure) have at least one child who is a minor.

Identifying children who *are eligible* for a green card just before parental LPR. There are three main requirements for eligibility for a green card as a minor child. The first is that the parent's visa class provides green cards for minors or that minors have access to a green card as the child of the parent's spouse (the sponsor in a spouse case or the principal in other cases, as discussed in Section 2.2.1 and shown on Table 1). The second requirement is that the child be unmarried. The third requirement pertains to age, and it makes estimating eligibility somewhat more complicated, due to the provisions of the Child Status Protection Act, enacted on 6 August 2002. Prior to the Act, it would have been a simple matter to discern eligibility – admission to LPR as a minor was restricted to unmarried children under 21 years of age.<sup>21</sup> The CSPA

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<sup>21</sup> To be precise, the CSPA was not the first legislation to alter, for immigration purposes, the definition of a child's age. The Patriot Act provided that if a petition was filed before September 11, 2001, child status would be retained for 45 days after turning 21.

provides rules for “freezing” a child’s age, and these rules both differ across visa category and depend on a number of other factors, such as the time elapsed between receipt and approval of Form I-130 and the date a numerically-limited visa becomes available. Indeed, the rules are regarded as sufficiently complicated that USCIS has issued several memoranda of guidance, including sample worksheets for particular cases.

Here are three examples, varying in complexity. First, consider the child-of-U.S.-citizen category. In the framework developed in this chapter, this category covers children of a spouse-of-U.S.-citizen prospective immigrant whose children can be sponsored as biological children or stepchildren of the U.S. citizen spouse-sponsor (Section 2.2.1 and Table 1). Under CSPA provisions, such children obtain relief from “aging out” if they were under 21 on 5 August 2002 and under 21 at the time that the I-130 was filed. The CSPA age for such children “freezes” at the date the I-130 was filed. This provision is relatively simple, at least for the family involved, for they know the date the I-130 was filed. Researchers, however, do not know the date the I-130 was filed. Fortunately, the NIS asked respondents the year the first application was filed which started the visa process. In the case of spouse-of-U.S.-citizen applicants, that first form was the I-130. Accordingly, we can use a simple procedure. Under the assumption that the U.S. citizen sponsor filed all I-130s at the same time (for spouse and children), we can estimate the CSPA age of the children of spouse-of-U.S.-citizen immigrants as their age when the first application was filed in their parent-immigrant’s case.<sup>22</sup>

For the second example, consider accompanying (or following-to-join) minors in the family and employment preference categories. In this case, CSPA age is defined as age when the numerically-limited visa becomes available less the time elapsed between filing and approval of Form I-130 or Form I-140. Accordingly, three pieces of information are required – receipt date

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<sup>22</sup> The exact wording of the NIS question is: “Now I have some questions about the process that led to your obtaining the immigrant visa you now have. In what year did you or your sponsor, or your spouse or parent, or your spouse’s or parent’s sponsor file the first application or petition to start the process?”

and approval date for Form I-130 or Form I-140 (for relatives and workers, respectively) and the date of visa availability. The family would have this information, but not researchers. It may be possible, however, at some future time to estimate the date the visa became available by subtracting average processing times for the I-485 and the DS-230 from the immigrant's date of admission to LPR (which, as noted above, is included with NIS data). Similarly, it may be possible to estimate the time elapsed between filing and approval of Form I-130 and Form I-140 from average processing times.

For the third and final example, consider accompanying (or following-to-join) minors in the diversity category. In this case, CSPA age is defined as age when the diversity visa becomes available less time elapsed between the first day of the lottery entry period and the date of the congratulatory letter received by lottery winners. Diversity visas are available during the entire fiscal year (as shown in the monthly Visa Bulletin), so that the midpoint of the fiscal year can be used as a rough estimate of the date of visa availability. The first day of the lottery entry period is published (on the State Department website), and the date the congratulatory letters are sent is probably a few days before the public announcement that winners have been notified.

Accordingly, for NIS-2003 we adopt the following procedure. If the date of admission to LPR is in Fiscal Year 2003 (i.e., before October 2003), the case is a DV-2003 case. The first day of the lottery entry period was 1 October 2001, and the announcement that winners had been notified was made on 18 June 2002. Thus, we estimate CSPA age as age on 1 April 2003 (the midpoint of Fiscal Year 2003) minus 259.1 days, or, equivalently, 8.5 months (the time elapsed between 1 October 2001 and 18 June 2002). The corresponding dates for a DV-2004 case are 7 October 2002 and 24 June 2003, again yielding 259.1 elapsed days, for a CSPA age equal to age on 1 April 2004 less 8.5 months.

There is an additional element of complexity. The NIS was in the field with the first round of the 2003 cohort between June 2003 and June 2004. The CSPA was very new, and it is not clear who knew about it. To illustrate, the official package of information sent to lottery winners abroad in DV-2004 as the final step in preparation for the visa interview abroad does not



mention it, and instead states categorically that the children must be “under the age of 21 at the time they enter the United States.”<sup>23</sup>

Given the uncertainty about whether visa applicants or case officers knew about the CSPA provisions and given the lack of precise information for calculating CSPA age, we estimate eligibility for a green card using both actual age and, in some visa categories, imperfectly estimated CSPA age. Estimates of the number of minor children eligible for a green card based on actual age are a lower-bound estimate. The true number would be larger, if some children obtained relief from “aging out.”

In Section 2.2.1 above we distinguished among three main pathways to a green card for minors: (1) those eligible for visas as the children of principals in family, employment, diversity, and some humanitarian categories; (2) those eligible for visas as the biological or stepchildren of the sponsor of an immigrant admitted with a spouse-of-U.S.-citizen visa; and (3) those eligible for visas as the stepchildren of principals in the categories that provide visas for the children of principals. Because of differences between biological and stepchildren in eligibility criteria and possibly parental behavior, a useful strategy may be to focus first on (1) biological children of principals (i.e., leaving for future study biological children of spouses of principals in cases where the children are not also the biological children of the principal), and (2) biological children of the U.S. citizen sponsors of spouses (i.e., leaving for future study biological children of immigrants with spouse-of-U.S.-citizen visas in cases where the children are not also the biological children of the immigrant’s sponsor).

In these two subsets – biological children (1) of both sponsor and spouse in the spouse-of-U.S. citizen category, and (2) of the principal in a category that provides visas for the principal’s spouse and children – the eligible children are exactly the same children identified as minors in the preceding section. Note that biological children of principals in the preference and

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<sup>23</sup> A recent New York Times front-page story observes that both prospective immigrants and their attorneys or other advocates are often unaware of provisions of law that would benefit them (Semple 2013).

diversity categories – and especially principals married to the child’s other parent – are the least likely to already have a green card, so that estimates are least likely to be affected by the absence of NIS information on whether the child already has a green card. Note also that, as discussed above, the pathway in which a U.S. citizen sponsors a spouse and children (biological or step) is more costly in terms of application fees, for each child in fact becomes the principal in their own case.

Identifying children who obtain a green card at the same time as their immigrant parent(s). If we know who is eligible for a green card and we know who was admitted to LPR, then we can analyze the parental decision to provide LPR to some children and not to others at the time of parental immigration. However, the NIS did not collect information on which children obtained green cards at the same time as the parent. This question was planned for a subsequent round. Nonetheless, a feature of the sampling design makes it possible to use a supplemental data set and estimate the number of minors who obtained green cards with their parent(s). Cases living at the same address as sampled immigrants were retained to assist in troubleshooting keypunch errors in the sampled members’ records, yielding a larger supplemental file including not only sampled individuals but also co-residents. It is thus possible to search the supplemental file to see whether any cases at the address have child-of-principal visas in the same visa category as the sampled immigrant. For example, if the survey data indicate that a male sibling principal has a son and a daughter who are not U.S. citizens and who are minors, the supplemental file can be searched for persons at the same address with visa codes corresponding to those for children of sibling principals. In this way, it is possible to estimate the proportion included from among eligible children and analyze the determinants of inclusion.

This procedure is not foolproof, for at least one reason. Accompanying spouses and children can “follow to join,” and thus it is possible that the children of principals admitted to LPR late in the sampling period will not have immigrated by the end of the sampling period. However, the problem can be statistically controlled by including the principal’s date of admission to LPR in regression models. Similarly, cases with the same address as immigrants

with spouse-of-U.S.-citizen visas can be searched for children with the visa codes of children of U.S. citizens.

### **3.2.2. Post-LPR Stage**

At the time of the baseline round, the NIS respondents are already at the post-LPR stage. Approximating the pertinent sets of children who *still* need a green card and who are eligible *after* parental immigration would be relatively straightforward using the NIS data alone were it not for the fact that the data do not provide information about children's green cards but only about their citizenship. Meanwhile, for those children who were eligible for a green card at parental LPR, information on whether they obtained a green card can be obtained from the search of the supplemental family file (discussed immediately above in the previous section).

Identifying children alive after parental LPR. This is simply the number of children on the fertility roster minus the number of children who have died. Note that this quantity includes children born after parental admission to LPR.

Identifying children who *need* a green card *after* their parent(s) have a green card. To begin, we distinguish between children born before parental LPR and children born afterwards. Among children born before parental LPR, the set of children still lacking a green card includes three subsets: (1) adult noncitizen children who do not have green cards; (2) minor children who were not eligible to receive green cards at parental LPR; and (3) minor children who though eligible did not receive a green card. Procedures followed at the pre-LPR stage, described in Section 3.2.1, yield estimates of the second and third subsets. For the first subset, the challenge remains to identify noncitizen children with green cards. One option is to assume that adult noncitizen children living abroad do not have green cards. NIS data provide information on children's current residence at the time of the baseline survey.

Accordingly, it seems safe to provisionally classify as still needing a green card those noncitizen children who did not receive green cards at parental LPR and who are living abroad after parental LPR. The preliminary protocol thus consists of three criteria: First, at the baseline round of the NIS the child is a noncitizen. Second, the child did not receive a green card at

parental LPR (from the supplemental file). Third, the child is living abroad (from the NIS baseline survey). This yields a lower-bound estimate of the number of children who still need a green card after parental LPR. Noncitizen children living in the United States may or may not have green cards. Including all the noncitizen children who did not receive a green card, regardless of place of residence, yields an upper-bound estimate.

As for children born after parental LPR, it is unlikely that they need a green card. As noted above, if they are born in the United States, they are citizens by birth. If born abroad, they receive LPR if they are brought to the United States by their mother on her first trip to the U.S. within two years of the birth.

Identifying children who *are eligible* for a green card *after* their parent(s) have a green card. This is more straightforward. Put simply, all unmarried children, of any age, are eligible for sponsorship in the family second-preference category. There is no need to correct for CSPA age. Later, however, when a new LPR naturalizes, CSPA age will again become relevant to eligibility as the minor child of a U.S. citizen. But the rule is simple. If the I-130 is filed before the (unmarried) child is 21, the child's age freezes at under 21. Of course, at naturalization, all children, married or not, become eligible for a green card as the child of a U.S. citizen (family first-preference for over-21 unmarried children and family third-preference for married children of any age).

Identifying children who obtain a green card *after* their immigrant parent(s) obtain a green card. At this point, the second-round data of the NIS become pertinent. The NIS asked at the second round a series of questions on sponsorship. The first question in this series asks: "Since you became a legal permanent resident, have you yourself filed a petition to begin the process to bring a relative to live permanently in the United States?" This question is followed by questions on origin country, relationship, and whether the visa process has concluded, then repeated for as many persons as the respondent may be sponsoring. Accordingly, for each adult immigrant, we know which children are being sponsored and can associate this information with the first-round information on the children.

## 4. PRELIMINARY RESULTS

### 4.1. Basic Characteristics of Children and Families of New Legal Immigrants with Biological Children

In this first application of the taxonomic framework, we focus on biological children of the new legal immigrants in the NIS-2003, leaving for future study their stepchildren and adopted children. Over two-thirds of the sample had biological children, 70 percent of the women and 63.7 percent of the men. We focus on the pre-LPR stage, as it is necessary to accurately characterize divided families at immigration in order to study the post-LPR phase of green card dynamics. Further, given the visa-specific character of eligibility and other rules, for a portion of the analysis we restrict attention to a single visa category, that for siblings of U.S. citizens.

Table 3 reports basic characteristics at the pre-LPR stage. As shown, among respondents with at least one biological child alive before parental LPR, approximately 68 percent of the adult male immigrants and 70-71 percent of the adult female immigrants have at least one noncitizen child. The other approximately 30 percent have no noncitizen children. The total number of biological children born and still alive before parental LPR is estimated at 12,261 (Table 3, Panel B). The total number of noncitizen children is over eight thousand (in the range of 8,249 to 8,308). Thus, among all the biological children of the NIS-2003 immigrants, approximately a third were already citizens. This is not surprising, given that (1) fifty-seven percent of the immigrants were already living in the United States and adjusting status to LPR and thus may have had children born in the U.S.; (2) the most populous visa category (spouse of U.S. citizen) involves marriage to a U.S. citizen who may transmit U.S. citizenship to offspring; and (3) the second most populous visa category (parent of U.S. citizen) involves the citizen offspring of the immigrant.<sup>24</sup>

– Table 3 about here –

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<sup>24</sup> Ranges in the estimates reflect the two measures of needing a green card discussed in Section 3.2.1 – one of them taking account of children who may have derived citizenship at their (and their parent's) LPR.

Among immigrants with at least one noncitizen child, 67-68 percent have at least one noncitizen minor child. If we restrict attention to minor children – children who are unmarried and under 21 years of age – slightly more adult male immigrants (72 percent) than adult female immigrants (64-65 percent) have at least one minor noncitizen child (Table 3, Panel A.2). The total number of minor noncitizen children is four thousand (in the range of 4,240 to 4,282). The smaller proportion of adult female immigrants with minor noncitizen children may reflect the larger proportion of adult female immigrants with parent-of-U.S.-citizen visas (two-thirds) and thus with older children.

Some of the minor noncitizen children are eligible for green cards, but not all, as we saw in Section 2.2.1 and Table 1. Given that eligibility depends on visa category, we report in Table 4 the estimates of noncitizen children and noncitizen minor children for each of the major visa categories, with each category’s proportion of the cohort and of the subset with biological children at LPR shown in parentheses by its name. Looking at the two most populous categories (spouse of U.S. citizen and parent of U.S. citizen), the proportion of immigrants with noncitizen children ranges from 41.9 percent to 84.8 percent, for spouses and parents, respectively. This variation is no surprise. It reflects different patterns of residence prior to LPR and hence different patterns of having children born in the United States, with immigrant spouses of U.S. citizens having high rates of already living in the United States and parents low rates (82.4%, 70%, and 30.8 percent among native-born spouses of U.S. citizens, foreign-born spouses of U.S. citizens, and parents of U.S. citizens, respectively – not shown).

– Table 4 about here --

Similarly, the proportion with minor noncitizen children reflects, in part, parental age. And it is no surprise that all the child-of-U.S.-citizen immigrants who have at least one noncitizen child also have at least one noncitizen minor child, while only 17 percent of the parent-of-U.S.-citizen immigrants have at least one noncitizen minor child.

The rightmost two columns of Table 4 report the children’s green card prospects. The column labeled “Directly” indicates whether minor children have direct access to green cards as

accompanying or following-to-join family members. As shown, and as already discussed in Section 2.2.1 and summarized in Table 1, none of the immediate-relative categories provide visas for children (with exceptions in the spouse-of-U.S.-citizen category for fiancé, widowed, or domestic abuse cases). Thus, there are no visas for the minor children of parents and minor children of U.S. citizens or for the minor children of spouses of U.S. citizens (except as noted above) unless the children are sponsored as biological or stepchildren of the immigrant's sponsor.

The column labeled "Indirectly" provides a glimpse into alternate pathways for obtaining a green card. As noted above, some minor children of spouses of U.S. citizens can be sponsored by the spouse's sponsor, and some minor children of spouses of principals in the family and employment preference categories, the diversity category, and some of the humanitarian categories qualify as children of the principal. Moreover, in some visa categories – such as a subset of humanitarian categories – minors qualify on their own as principals rather than as children of principals.

The next step is to search the supplemental file for children who received green cards in the relevant visa categories – viz., as accompanying children in the visa categories that permit them and as minor children of U.S. citizens when the parent is in the spouse-of-U.S.-citizen category. That is a large task, and below we illustrate it for one visa category.

First, however, it is illuminating to consider some overall estimates of the numbers of noncitizen children for adult immigrants in the visa categories which do not provide visas for children -- the number of children needing green cards "left behind." Consider first the case where the immigrant is the spouse of a native-born U.S. citizen. Using the estimates of the number of noncitizen children reported in Table 4 together with the estimate of the proportion of the subset with biological children at LPR (11.5%, reported in Table 4) and the subset sample size (5,208), we estimate that this group has 453 noncitizen children of all ages. The corresponding numbers for immigrants sponsored by a foreign-born U.S. citizen spouse and a U.S. citizen child are, respectively, 727 and 2,441 noncitizen children.

These figures – 453, 727, and 2,441 noncitizen children in the spouse and parent visa categories – are upper bounds for the number of “left-behind” children who are candidates for subsequent sponsorship as children of LPRs. They are upper bounds for two reasons: First, some of those noncitizen children may already have green cards. Those who are adults – as are most of the children of immigrants in the parent-of-U.S.-citizen category – may have obtained green cards on their own, via employment or marriage. As for the minor children of spouse immigrants, they may have been sponsored by the immigrant’s sponsor. Searching the supplemental file will make it possible to assess the number who obtained LPR when their parent did. Of course, none of the 2,441 noncitizen children of parent immigrants were eligible for green cards at parental LPR. Second, some of the noncitizen children are married. Using information on marital status in the NIS baseline round will make it possible to lower the upper bounds on the pool of candidates for sponsorship after parental LPR.

Of course, once the parent naturalizes, all children still lacking green cards, married and unmarried, are candidates for sponsorship.

..... **4.2. Illustration: Children Left Behind Among Children of Immigrants**

**Who Are Siblings of U.S. Citizens**

A good place to begin applying the framework is in a visa category in which noncitizen minor children are not likely to already have a green card. The sibling-of-U.S.-citizen category is appealing for this and other reasons. It is not too large, which is useful, given the time-intensive character of the search for green card recipients in the supplemental file (Section 3.2.1).

Moreover, the total number of visa codes is small, two each – for new arrival and adjustee – for the principal, spouse of principal, and child of principal. For example, the new-arrival codes are F41, F42, and F43 for the principal, spouse, and child, respectively; the corresponding adjustee codes are F46, F47, and F48.<sup>25</sup>

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<sup>25</sup> These are the same codes discussed earlier, which appear in Table 7 of any of the annual issues of the Yearbook of Immigration Statistics published by the Department of Homeland Security, such as DHS (2011), and in Appendix 23-7, “Class of Admission under the



Table 5 reports the category estimates for the children of sibling principals. Within the set with at least one child born and still alive when the sibling principal attains LPR, 97.2 percent have at least one biological noncitizen child. This reflects, in part, the low rates of already living in the United States (7.42% of sibling principals with biological children at LPR were already in the U.S.), and, in part, the long waiting period for this type of visa (14 years on average for the subset with biological children at LPR).

– Table 5 about here –

Within the set with at least one noncitizen child, 67.9 percent had at least one child eligible for LPR (i.e., one minor child). The proportion with minor noncitizen children is larger for male sibling principals than for female sibling principals (77 versus 60 percent). Given that their average age is similar (43.5 for men and 42.9 for women), this suggests different fertility timing patterns, with women having children at earlier ages than men.

The overall estimates, reported in Table 5, Panel D, indicate that almost all of the biological children are noncitizens – 612 out of 635. Almost half (310) are minors and thus eligible for a green card as accompanying children of the sibling principal. The remaining 302 nonminor noncitizens may include some green card holders, but that will not be known with certainty until the NIS asks the question on green cards at a future round, or they naturalize.

Of the estimated 310 children eligible for a green card at parental LPR, 293 received it. This figure indicates that, at least among sibling principals, few fail to obtain the green card for their children. The notion that there may be large numbers of immigrants who do not meet the financial criteria for including their children in the LPR application or who choose to leave their children in the origin country is not borne out among the sibling principals. Of course, the sibling category is well known to have the longest waiting times for visas, and the parents may become more financially secure with the passage of time. It will be interesting to see the extent

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Immigrant Laws, Code,” in the USCIS Adjudicator’s Field Manual, available on the website of the U.S. Citizenship and Immigration Services (U.S. Department of Homeland Security) -- <http://www.uscis.gov> .

of excluding children from LPR in the other visa categories and how it varies with parental age.

After parental LPR, who still lacks a green card? The upper bound is 319 children, consisting of the 17 minor children who were eligible at parental LPR but did not receive a green card and the 302 nonminor noncitizen children. As noted above, some of the 302 nonminor noncitizen children may have obtained LPR on their own. A useful piece of information, available in the NIS baseline data, pertains to current residence. As discussed above, assuming that noncitizen children living abroad do not have green cards will improve the lower bound on the estimate of the number of children who still lack a green card. The lower bound would be the 17 eligibles who did not receive LPR plus the subset living abroad among the 302 nonminor noncitizen children.

Among the children who still lack a green card after parental LPR, those who are unmarried are eligible immediately for sponsorship by their parents as children of LPRs (family second preference). Eventually, when the parent naturalizes, all children can be sponsored – minor children with unlimited immediate-relative visas, unmarried adults in the family first preference, and married adults in the family third preference. Whether the parents sponsor them now or wait to sponsor them later, whether they send remittances to the children living abroad or whether they bring the children to live undocumented lives – these are questions for further study.

## **5. CONCLUDING NOTE**

It is a great irony that U.S. immigration law, whose cornerstone is family reunification, should divide so many parents and children. Yet little is known about the mechanisms by which parents get green cards and children do not, in large part due to lack of data. This paper developed a framework for studying the green card dynamics associated with family division and unification, assessed existing administrative sources of data for their usefulness in shedding light on these phenomena, and provided some preliminary estimates of the numbers of children adult immigrants “leave behind” at immigration using the New Immigrant Survey. The framework is

attentive to four main dimensions – children’s need for a green card to live permanently in the United States, children’s eligibility for a green card, legal versus behavioral mechanisms in obtaining green cards for children, and the two temporal phases for uniting or dividing families, at parental LPR and after parental LPR.

We reported initial estimates of children’s need and eligibility for green cards in the 2003 cohort of new legal immigrants surveyed in the New Immigrant Survey, as well as, for one visa category – sibling of U.S. citizen -- children’s receipt of green cards. In broad stroke, over two-thirds of the 8,573 new NIS-2003 immigrants had biological children. The total number of children was estimated at 12,261. Among the children, approximately one-third were already U.S. citizens, and of the remaining two-thirds, approximately half were minors. The work ahead is to estimate the number of minor children eligible for green cards at the same time as their parents and the number who actually receive green cards at the same time as their parents, followed by study of post-LPR sponsorship of the children who still lack green cards. We showed that in the numerically unlimited visa categories of parent, spouse, and minor child of U.S. citizen there are no visas for the new immigrant’s children, but that minor children of spouses of U.S. citizens are eligible as the biological children or stepchildren of the immigrant’s spouse-sponsor.

In an initial application of the framework, we analyzed green card dynamics among new immigrants in the NIS-2003 cohort with sibling-of-U.S.-citizen visas. In this set, we estimated the total number of biological children at 635, of whom 612 were not already U.S. citizens. Among these 612, an estimated 310 were eligible to receive green cards at the same time as their parents, and 293 did so. Thus, among this sibling-visa subset of new immigrants, who are known to have low adjustee rates, very few have U.S. citizen children, and they have high rates of obtaining green cards for their eligible children. The stage is set for the post-LPR phase of family green card dynamics, as parents decide whether to sponsor their eligible children – those who are unmarried – and/or to wait until they naturalize, at which time all their children will be eligible.

Thus, there are two major lines for future research – analyzing family green card dynamics at the pre-LPR phase for all the immigrants in the NIS-2003 cohort and following them after LPR to observe their future sponsorship and their remittance behavior. As well, the framework provides concrete suggestions for improving, and making accessible to researchers, administrative data for studying family green card dynamics among all cohorts of immigrants to the United States. These studies will help illuminate the interplay between U.S. law and parental decision-making in uniting or dividing families.

Finally, our review of the administrative forms required for admission to permanent residence indicated that valuable information about the family dimension of immigration is being recorded. And, linking these forms would yield valuable data for scholars and policymakers if the data were also made available for analysis. Indeed, the government has a responsibility to evaluate the outcomes of its policies and laws, a responsibility sometimes codified in legislation. In this case, given that an explicit objective of U.S. immigration law is the reunification of families and that divided families have consequences for chain migration, for remittances, and for the number of undocumented residents, the government would seem to have a large stake in enabling pertinent research.

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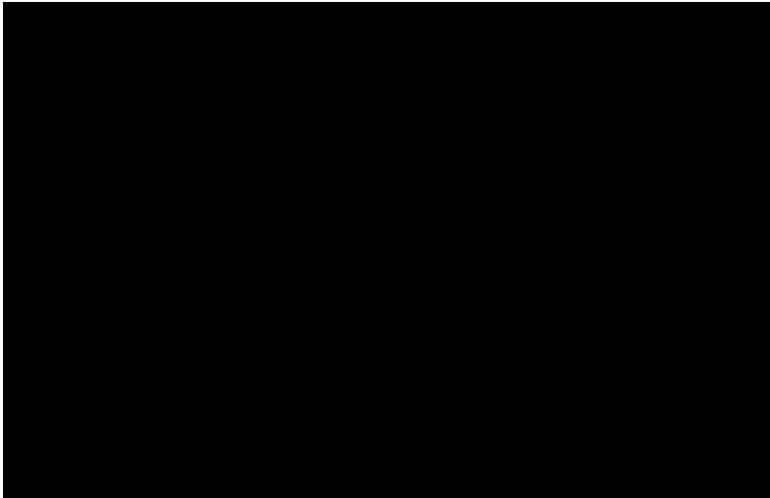
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**Table 1. Green Card Options for Noncitizen Children of Applicants for Legal Permanent Residence in the United States**

<b>Parent's Visa Category</b>	<b>Provides Green Card to Accompanying Child</b>	<b>Other Pathways to Green Card for Child</b>
<b>A. Children who are under 21 and unmarried (i.e., minor children) – concurrent visas</b>		
Spouse of U.S. citizen	No, with exceptions for special categories of fiance(e), widowed, or battered spouse visas	Parent's sponsor can sponsor child as biological child, stepchild, or adopted child (immediate relative)
Parent of U.S. citizen	No	None concurrent
Child of U.S. citizen	No	None
Unmarried child 21+ of U.S. citizen (Fam 1)	Yes	---
Spouse of LPR (Fam 2A)	Yes	---
Unmarried child, of any age, of LPR (Fam 2B)	Yes	---
Principal in most other categories (Fam 3, Fam 4, Emp, Div, Ref, etc.)	Yes	---
Spouse of principal in most other categories (Fam 3, Fam 4, Emp, Div, Ref, etc.)	No	Child may qualify as stepchild or adopted child of principal
<b>B. Children who are 21+ years of age or married – no concurrent visas</b>		
Spouse of U.S. citizen	No	Parent's sponsor can sponsor child as biological child, stepchild, or adopted child (Fam 1, Fam 3)
Parent of U.S. citizen	No	Parent's sponsor can sponsor child as a sibling (Fam 4)
Spouse of LPR (Fam 2A)	No	Parent's sponsor can sponsor unmarried biological child, stepchild, or adopted child (Fam 2B)
All other visa categories	No, with a few exceptions	None

*Notes:* Children of applicants for legal permanent residence (LPR) may already be U.S. citizens, either because they were born in the United States or because their other parent is a U.S. citizen and they acquired citizenship via the other parent (e.g., at birth or when the parent naturalized) or because they themselves naturalized. Noncitizen children whose other parent is a U.S. citizen may be sponsored under an immediate relative classification (if minor), Fam 1 (if unmarried), or Fam 3 (if married). Noncitizen unmarried children whose other parent is an LPR may be sponsored under Fam 2B. Children qualify as a stepchild if they were unmarried and under 18 at the time of the parent's marriage; they qualify as adopted children, if adoption occurred before child turned 16 and the child has lived with the sponsor for two years before the sponsor files the relative petition. Children of the parent of a U.S. citizen have the nonconcurrent option of sponsorship as a sibling by the parent's sponsor. Additionally, children may themselves obtain an employment-based visa or marry a U.S. citizen or LPR who can sponsor them.

**Table 2. Types of Children and Families**

<b>Child Needs Green Card</b>	<b>Child Is Eligible for Green Card</b>	
	<b>Yes</b>	<b>No</b>
<b>Yes</b>		
<b>No</b>		

*Notes:* As discussed in the text, this representation helps visualize the interplay between need for a green card and eligibility for a green card, as well as the operation of legal and behavioral factors.

**Table 3. Basic Characteristics of Children and Families of New Legal Immigrants with Biological Children, by Immigrant's Gender: NIS-2003**

<b>Characteristic</b>	<b>Men</b>	<b>Women</b>	<b>All</b>
<b>A. Pre-LPR Phase: Immigrants with at least one biological child born and still alive before LPR</b>			
<b>A.1. Immigrants with children not already U.S. citizens, within the set born and alive at LPR</b>			
Percent with at least one child	67.8-68.2	69.8-70.7	69.0-69.7
Average number of children	1.54-1.55	1.62-1.63	1.58-1.60
Average number of children, if > 0	2.27	2.31	2.30-2.29
Number of observations	2,325	2,883	5,208
<b>A.2. Immigrants with minor children, within the set not already U.S. citizens</b>			
Percent with at least one child	71.7-71.9	64.4-64.9	67.4-67.7
Average number of children	1.22	1.05-1.06	1.12
Average number of children, if > 0	1.70	1.63	1.66
Number of observations	1,659-1,663	2,137-2,152	3,796-3,815
<b>B. Overall estimates of children of immigrants at parental LPR</b>			
Number of children	5,312	6,929	12,261
Number of children not already U.S. citizens	3,578-3,594	4,657-4,699	8,249-8,308
Number of minor children not already U.S. citizens	2,020-2,029	2,243-2,275	4,240-4,282

*Notes:* Estimates based on weighted data, to adjust for sampling stratification. Ranges in the estimates reflect the two measures of needing a green card discussed in Section 3.2.1 – one of them taking account of children who may have derived citizenship at their (and their parent's) LPR.





All immigrants	69.0- 69.7	1.58- 1.60	2.30- 2.29	67.4- 67.7	1.12	1.66	---	---
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*Notes:* Estimates based on weighted data, to adjust for sampling stratification. Percentages in parentheses next to each visa category refer to the category's proportion of the cohort and of the subset with biological children at LPR. Ranges in the estimates reflect the two measures of needing a green card discussed in Section 3.2.1 – one of them taking account of children who may have derived citizenship at their (and their parent's) LPR.

<sup>a</sup> Green cards for minor children are available in fiancé, widowed, and domestic abuse cases.

**Table 5. Basic Characteristics of Children and Families of New Sibling Principal Immigrants with Biological Children, by Immigrant's Gender: NIS-2003**

Characteristic	Men	Women	All
A. Pre-LPR Phase: Immigrants with at least one biological child born and still alive before LPR			
A.1. Immigrants with children not already U.S. citizens, within the set born and alive at LPR			
Percent with at least one child	96.9	97.5	97.2
Average number of children	2.35	2.28	2.31
Average number of children, if > 0	2.42	2.34	2.38
Number of observations	128	137	265
A.2. Immigrants with children eligible for a green card, within the set not already U.S. citizens			
Percent with at least one child	77.0	59.9	67.9
Average number of children	1.45	1.03	1.23
Average number of children, if > 0	1.88	1.72	1.81
Number of observations	121	132	253
B. At LPR: Immigrants with children obtaining a green card, within the set of eligible children			
Percent with at least one child	93.4	95.5	94.4
Average number of children	1.74	1.68	1.72
Average number of children, if > 0	1.87	1.76	1.82
Number of observations	94	77	171
C. Overall estimates of children of sibling principals at parental LPR			
Number of children	309	326	635
Number of children not already U.S. citizens	301	312	612
Number of children eligible for a green card	175	136	310
Number of children who obtained a green card	164	130	293
Number of children still waiting for a green card	<137	<182	<319

*Notes:* Estimates based on weighted data, to adjust for sampling stratification.