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Community Economic Development Law

A Text for Engaged Learning

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Further Consideration: Immigrant Entrepreneurs — Contributions and Challenges

Jayesh Rathod

The narrative of the immigrant entrepreneur who rises from humble origins to achieve financial success is a recurring storyline in the economic history of the United States. Immigrant entrepreneurs are frequently portrayed as determined, resilient individuals, willing to work long hours and make considerable personal sacrifices to see their businesses grow. Moreover, specific immigrant communities have become associated with entrepreneurship in certain industries, including Korean Americans who run dry cleaners, Italian American restaurateurs, and convenience store owners of South Asian origin. The prevalence of these narratives and associations is validated by recent data indicating that immigrants to the United States are nearly 30 percent more likely to start their own businesses, as compared to native-born individuals.¹

Scholars have advanced various theories to explain why immigrants opt for self-employment in such large numbers. A bundle of arguments, known collectively as the “disadvantage theory,” posits that barriers in the traditional workplace drive immigrants toward self-employment.² These barriers include the immigrants’ limited proficiency in English, as well as the discrimination they face in hiring processes. Additionally, some immigrants—particularly those with professional credentials from their countries of origin—experience downward mobility in the U.S. job market. For these individuals, local and national professional licensing requirements can make it difficult to obtain positions commensurate with their level of expertise. Finally, for some immigrants, the path of self-employment is preferable to an unpredictable job market, particularly during periods of high unemployment.

As a complement to the “disadvantage” theory, others seek to understand immigrant entrepreneurship by examining the profile of immigrants to the United States. According to some scholars, immigrants who leave their families behind and journey to the United States typically have certain attributes, including initiative, a tendency for risk-taking, and perseverance—the same characteristics needed to launch and maintain a small business.³ The strength of the family unit and financial support from fellow immigrants have been cited as additional factors critical to the success of immigrant entrepreneurship.

While it is important to understand the forces that underlie self-employment trends and to applaud the success of immigrant entrepreneurs, community development practitioners must also consider the challenges that immigrant business owners face. In reality, immigrants face significant obstacles during the planning and start-up periods and also once their businesses are operating. Described below are three broad sets of challenges, relating to language difference, access to information and resources, and cultural and community divisions. Also included are examples of efforts that have been undertaken to address these challenges. In addition, the relevance of immigration status to small business formation and development is briefly addressed.

1. Robert W. Fairlie, ESTIMATING THE CONTRIBUTIONS OF IMMIGRANT BUSINESS OWNERS TO THE U.S. ECONOMY 31, U.S. Small Business Administration, Office of Advocacy (Nov. 2008).

2. Some of the seminal works on this subject were written by sociologist Ivan Light. See, e.g., Ivan Light, ETHNIC ENTERPRISE IN AMERICA (1972); *Disadvantaged Minorities in Self-Employment*, 20 INT’L J COMP. SOC. 31 (1980).

3. See, e.g., Caroline B. Brettell & Kristoffer E. Alstatt, *The Agency of Immigrant Entrepreneurs—Biographies of the Self-Employed in Ethnic and Occupational Niches of the Urban Labor Market*, 63 J. ANTHROPOLOGICAL RESEARCH 383, 384-85 (2007).

Language Access and Immigrant Entrepreneurs

In recent decades, the limited English proficient (LEP) population in the United States has grown steadily.⁴ This growth has been most pronounced in coastal metropolitan and border areas, which historically have been home to newer immigrants.⁵ Given the sizeable LEP population and the preponderance of immigrant entrepreneurs, it is unsurprising that language barriers affect many individuals seeking to establish and grow small businesses. For these immigrants, LEP status can be a cross-cutting challenge that encumbers many aspects of their work.

Nearly all immigrant entrepreneurs must interface with diverse government entities in order to establish the legal architecture for their businesses and to remain in compliance with existing laws. Understanding complex regulatory requirements can be a formidable obstacle for LEP individuals. The most fundamental tasks for new entrepreneurs—including registering or incorporating their businesses, obtaining licenses and permits, and entering into contracts—require individuals to understand written documents and instructions, fill out forms, speak with government representatives, and appear for examinations and hearings. Even after establishing their businesses, LEP entrepreneurs may have difficulty complying with recurring regulatory deadlines, tracking changes to regulations and standards, and communicating with customers, suppliers, proprietors, and other key individuals. Without interpretation or translation services or the support of bilingual family members and colleagues these processes and relationships are exceedingly difficult for LEP persons to navigate.

Some jurisdictions have passed language access laws or ordinances to facilitate access to government services and programs by LEP and non-English proficient (NEP) individuals.⁶ For example, in 2004 the District of Columbia city council enacted the D.C. Language Access Act, which requires most government agencies to provide in-person interpretation and translation of vital documents in specified languages commonly spoken in the District of Columbia. As a result of this law, D.C.'s Department of Consumer and Regulatory Affairs has translated a number of key business forms and informational documents into languages such as Amharic, Chinese, Korean, and Spanish. While such measures are laudable, significant gaps still exist. The D.C. Language Access Act, like most language access legislation, lacks a strong enforcement mechanism; compliance by agencies is even more difficult when budgetary cutbacks limit hires of bilingual personnel. Furthermore, community advocates and government representatives often become entangled in debates about the agencies to be covered, documents to be translated, and the languages chosen for interpretation and translation.

Apart from formal language access legislation, some jurisdictions have worked collaboratively with community-based organizations to make regulatory requirements more accessible to LEP immigrant entrepreneurs. For example, in Maryland, home improvement contractors are required to be licensed by the state. To obtain the license, contractors must

4. U.S. CENSUS BUREAU, U.S. DEP'T OF COMMERCE, LANGUAGE USE AND ENGLISH-SPEAKING ABILITY: 2000 2 (Oct. 2003) (noting the growth of the U.S. LEP population from 1980 to 2000).

5. *Id.* at 9 (reporting that “the highest percentages of . . . people who spoke English less than “Very well” were concentrated in California, Florida, and Texas”).

6. District of Columbia Language Access Act of 2004, D.C. CODE ANN. §§ 2-1931 *et seq.*; Hawai'i Language Access Law, HAWAII REV. STAT. §§ 371-31 *et seq.*; New York City Local Law No. 73, Ch. 10, § 8-1003 (2003); City of Oakland Equal Access to Services Ordinance, Oakland, Cal., Municipal Code Chap. 2.30.030 (Supp. Jan. 2004).

first pass a written exam administered by the Maryland Home Improvement Commission, which is a division of the state's Department of Labor, Licensing, and Regulation. Over the last 30 years, as the state's immigrant population has grown, a number of foreign-born residents have sought to establish themselves as home improvement contractors. For many of these immigrants, the exam was an insurmountable hurdle due to language limitations. Consequently, CASA de Maryland, a local organization that works with the immigrant community, began offering courses in Spanish to prepare Latino immigrant entrepreneurs for the test.⁷ This initiative is just one example of the many creative ways that state governments, in coordination with local organizations, can address language barriers faced by immigrant business owners.

Access to Critical Information and Resources

Many immigrant entrepreneurs lack access to information, resources, and networks that are critical to the development of successful businesses. These include basic information about small business ownership, reputable legal services, reliable sources of credit, and support from the broader business community. In these contexts, as well, language barriers can exacerbate existing access issues.

While immigrant entrepreneurs may have drive and determination, many have little information about how to establish a business and keep it running. In most urban centers, government offices and not-for-profit organizations offer informational materials and seminars on the basics of small business ownerships. Due to language barriers, isolation from mainstream information outlets, or insufficient outreach, immigrant entrepreneurs may simply be unaware of such services.⁸ Immigrants may also be unlikely to accept assistance from the government or unfamiliar organizations. Depending on their home country experiences, immigrants may be skeptical about the support that government agencies can provide. Moreover, immigrants who lack legal status will be especially reluctant to engage with government representatives. Of course, even if immigrants wish to avail themselves of these informational resources, language barriers may inhibit their access.

Likewise, many immigrant entrepreneurs lack access to valuable legal services. Even when LEP status is not an issue, business owners can benefit from the assistance of legal professionals to interpret confusing regulatory requirements and to prepare filings for the government. Some immigrants may not seek legal assistance simply because, from their frame of reference, it is not the type of work that lawyers do. Those who do want legal representation may be unfamiliar with free or low-cost legal service providers in their area or may have difficulty finding a reputable private attorney. The legal service providers may also lack the capacity to meet the demand for legal representation from immigrant business owners.

Access to credit is another significant challenge for immigrants who are aspiring entrepreneurs. Most small businesses have significant start-up costs, including rent payments, supplies, employee salaries, and basic capital expenditures. In order to cover these costs, immigrant entrepreneurs must typically obtain loans or lines of credit. Obtaining loans can be particularly difficult for new immigrants, who may have no credit history in the United States. Additionally, immigrants who reside in low-income or heavily minority areas may be denied credit due to systemic, discriminatory lending practices. Even when support is available from agencies such as the Small Business Administration, immigrants may not pursue these opportunities due to lack of information, reluctance to engage with

7. For more information about CASA de Maryland, see <http://www.casademaryland.org>.

8. CENTER FOR AN URBAN FUTURE, *A WORLD OF OPPORTUNITY* 32-33 (Feb. 2007).

the government, or the complexity of the application process. Once again, language difference—including the inability to communicate with lenders or to complete necessary paperwork—can make efforts to secure credit difficult. Due to these various barriers, many immigrant entrepreneurs have come to rely on loans from friends or kin. In some immigrant communities, these internal lending networks have become fairly sophisticated.⁹

Additionally, immigrant entrepreneurs tend not to be involved in mainstream business associations, including chambers of commerce or industry-specific associations.¹⁰ These groups can lend credibility to new enterprises, offer resources and guidance for business development, and provide for networking and information exchange. In many communities, existing organizations have failed to reach out to immigrant entrepreneurs and encourage their membership. Likewise, immigrants may be uncomfortable affiliating with these organizations due to cultural and language differences and lack of familiarity with how they operate. As a result, in most large metropolitan areas, ethnic-specific chambers of commerce have emerged. While these groups can provide valuable assistance to immigrant entrepreneurs, many lack the capacity to support the far-ranging needs of small business owners.

A final factor, closely intertwined with all of the barriers listed above, is access to and familiarity with technology. Immigrant entrepreneurs—particularly those with limited education or who are older—may be unfamiliar with computers and the Internet. Information technology provides a gateway to all of the aforementioned resources, services, and networks. Moreover, the Internet has become an indispensable marketing and communication tool for most small businesses. Many immigrant entrepreneurs need assistance in bridging the “digital divide.”¹¹

Organizations across the United States have begun to develop approaches to rectify these various information and resource deficits. Community-based organizations have been founded specifically to provide accessible information and services to immigrant business owners. In Jackson Heights, New York, for example, the organization *Empresarias Hispanas en Liderazgo* (Hispanic Women Entrepreneurs in Leadership) offers workshops and other forms of assistance to Hispanic entrepreneurs. The group’s success is closely linked to its ability to provide linguistically and culturally competent services in a supportive setting.¹²

Similarly, alternative entities have emerged to offer microfinance loans to immigrant entrepreneurs who do not qualify for conventional bank loans or who simply cannot navigate paperwork-intensive lending processes. Local economic development organizations offer smaller-sized loans at reasonable interest rates; these microlenders often supplement the loan with business planning and operations advice. The Latino Economic Development Center in Minnesota and ACCION New York are two organizations with established microlending programs focused on immigrant entrepreneurs.¹³

9. See, e.g., *Financing Small Business Creation: The Case of Chinese and Korean Immigrant Entrepreneurs*, 12 J. BUS. VENTURING 109 (1997).

10. CENTER FOR AN URBAN FUTURE, *supra* note 8 at 5 (noting how chambers of commerce have failed to connect with immigrant entrepreneurs).

11. Press Release, California Hispanic Chambers of Commerce, *California Hispanic Chambers of Commerce Announces Hispanic Business Broadband Initiative*, Sep. 2, 2008) (announcing a multifaceted strategy to close the “digital divide among minority businesses”), available at http://cetfund.org/files/080902_LatinoBusinessReviewbroadband-init.pdf.

12. CENTER FOR AN URBAN FUTURE, *supra* note 8 at 33.

13. See Thomas Lee, *Microlending’s Macro Effect*, STAR TRIBUNE, Apr. 15, 2007, at 1D (describing the work of Minnesota’s Latino Economic Development Center); Leslie Eaton, *Minor Loans Giving Major Help; Microcredit Catches On With Entrepreneurs in Need*, N.Y. TIMES, July 11, 1998, at B1 (profiling ACCION New York).

Cultural Difference, Xenophobia, and Community Relations

Cultural differences and xenophobia can present obstacles for immigrant entrepreneurs by creating divisions between immigrants and the communities in which they operate. Regrettably, many of the tensions between immigrant entrepreneurs and their neighbors are based on assumptions and stereotypes, as well as misinformation about the economic contributions that immigrant businesses make to their surrounding communities. Another contributing factor is the perception, often held by more established residents, that recent immigrants are outsiders, unwilling to assimilate and incapable of doing so.

Community members may resist immigrant-owned businesses that cater to specific ethnic or racial groups due to unfounded fears about the effect on the community. Drawing on racial or ethnic stereotypes, residents may express fear that businesses will draw in “undesirable” clientele. Similarly, residents may be concerned that a particular business will change the character of their neighborhood. For example, when it is permitted by zoning requirements, some immigrant entrepreneurs have established businesses such as nurseries or nail salons in their own homes. When these businesses sprout up in primarily residential neighborhoods, legitimate concerns often bleed into unfavorable stereotypes, leading to tensions in the community.

In other instances, community members may argue that the nature of the immigrant-owned enterprise is unsafe. For example, some communities have opposed the licensing of mobile food vendors on the grounds that such vendors do not comply with health and regulations. In Prince George’s County, Maryland, the county council cited health, traffic, and zoning concerns when it cracked down on mobile vendors of *pupusas*, a staple of El Salvadoran cuisine.¹⁴ While public health and safety concerns should be closely examined, opposition to such vendors may also be based on culturally rooted assumptions about proper business operations and insecurity about changing community demographics.

Once immigrant-owned businesses are established and begin to thrive, questions may arise about the economic value of immigrant businesses to the surrounding community. Such questions are based on perceptions of immigrants as outsiders who are somehow siphoning economic benefits away from the community. In reality, scholars have repeatedly found that immigrant entrepreneurs are to be credited for the revitalization of many struggling neighborhoods across the United States.¹⁵ Nevertheless, tensions persist, often rooted in perceptions that immigrants are disloyal or cannot be fully integrated into their communities. Consequently, when immigrant businesses succeed, particularly in more disadvantaged communities, resentment against immigrant entrepreneurs can build. The experience of Korean business owners in African-American communities in Los Angeles is a prime example of such tensions.

To address these types of divisions and tensions, enhanced communication between business owners and community members, as well as accurate information about economic contributions, is critical. In communities with ongoing tensions between specific ethnic groups, the establishment of a specific forum or communication mechanism can facilitate needed dialogue. For example, in the mid-1980s in Cleveland, a group of organizations formed the Greater Cleveland Roundtable Racial Unity Program to address long-standing racial divisions. Among the program’s recommendations were to conduct leadership and conflict resolution trainings and to establish a “Cool Line” to report inter-group tensions

14. Anita Huslin, *Stewing at the Food Truck: Some Latino Vendors in Prince George’s County Chafe at Crackdown*, WASH. POST, Oct. 25, 2007.

15. See, e.g., CENTER FOR AN URBAN FUTURE *supra* note 8 at 13-16.

or brewing conflicts.¹⁶ Such recommendations could be implemented to address many of the scenarios described above.

The Relevance of Immigration Status

Given the presence of millions of undocumented persons in the U.S., it is logical that some number of these individuals have pursued small business ownership. While little formal data exists, Professor Harry Pachon estimates that eight to ten percent of undocumented immigrants in the U.S. run their own businesses.¹⁷ Such figures are consistent with the “disadvantage theory,” insofar as federal law bars employers from hiring unauthorized workers, and arguably drives these workers towards self-employment.¹⁸

Although practices may vary from state to state, undocumented persons can typically create a formal business entity by obtaining an Employer Identification Number (EIN) from the Internal Revenue Service. As a first step, a noncitizen would apply for an Individual Taxpayer Identification Number (ITIN);¹⁹ while technically for tax processing purposes, the ITIN is often used by undocumented persons as a substitute Social Security Number for a broad range of purposes. Having obtained an ITIN, an aspiring business owner may then apply for an EIN. While the EIN application form (Form SS-4) requests a Social Security Number, the IRS appears to contemplate the use of an ITIN instead.²⁰

Undocumented entrepreneurs are likely to face hurdles even after the formation of their business entities. Whenever a Social Security Number or proof of lawful presence is requested—for obtaining business loans, mortgages, or government benefits—undocumented business owners must navigate complex issues. For these immigrants, technical assistance and legal guidance are particularly important. This guidance must also contemplate the collateral immigration consequences of any decisions made relating to the formation and operation of the small business.

Although immigrant entrepreneurs have made their mark throughout U.S. history, past successes should not overshadow the real challenges that immigrant business owners face today. Language barriers, limited access to information and resources, and complicated community relationships can all inhibit the establishment and growth of immigrant-owned businesses. Undocumented status adds another layer of complexity to these concerns. All of these challenges merit further study by advocates and scholars and call for the development and dissemination of practices that address the unique concerns of immigrant entrepreneurs.

16. *Greater Cleveland Roundtable Racial Unity Program*, in CAROLYN ASHTON, *COMMUNITY PROBLEM SOLVING CASE SUMMARIES, VOLUME II* (1989).

17. See Julia Boorstin, *Illegal Entrepreneurs; Maria Has No U.S. Visa, and Jose's Expires Soon. Yet, They Own a Profitable California Factory, Pay Taxes, and Create Jobs*, CNNMoney, July 1, 2005, http://money.cnn.com/magazines/fsb/fsb_archive/2005/07/01/8265279/index.htm.

18. See generally Immigration Reform and Control Act of 1986, 8 U.S.C. §§ 1324a *et seq.* (making it unlawful for employers to knowingly hire unauthorized workers).

19. See generally Internal Revenue Service, Individual Taxpayer Identification Number, <http://www.irs.gov/individuals/article/0,,id=96287,00.html> (last visited May 29, 2010). In practice, the ITIN is often used by undocumented persons as a substitute Social Security Number, for a wide range of purposes.

20. See David P. Weber, *Halting the Deportation of Businesses: A Pragmatic Paradigm for Dealing with Success*, 23 GEO. IMMIG. L. J. 765, 782 n.112 (2009).