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## Out of Sight, Out of Mind: United States Immigration Law and Policy as Applied to Filipino-Amerasians

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## OUT OF SIGHT, OUT OF MIND: UNITED STATES IMMIGRATION LAW AND POLICY AS APPLIED TO FILIPINO-AMERASIANS

Joseph M. Ahern

*Abstract:* In 1982 the United States Congress passed the Amerasian Immigration Act, 8 U.S.C. section 1154(f). The 1982 Act provides preferential immigration status to children in Asia fathered by U.S. service personnel in Korea, Vietnam, Laos, Kampuchea, and Thailand. Congress passed the 1982 Act because of the poor economic and social conditions experienced by Amerasians in their homelands. The 1982 Act, however, excludes Amerasian children from the Philippines. Equity dictates that if Congress provides preferential immigration status to one group it should grant those same rights to groups who are similarly situated. Amerasians in the Philippines experience similar economic deprivation and social discrimination as those Amerasians provided for under the 1982 Act. This Comment argues that Congress should amend the Immigration and Nationality Act and grant Filipino-Amerasians preferential immigration status under their own Filipino-Amerasian Immigration Act. This Comment also asserts that critical changes must be made to the regulations promulgated by the Immigration and Naturalization Service in order to streamline Amerasian immigration.

*I believe that we as Americans, and we, as our brother's  
keeper must fulfill our moral obligation to children born of  
U.S. citizens. After all these children are our children  
and must not be left out in the cold.*<sup>1</sup>

After decades of war and troop deployments in Southeast Asia, United States troops have left behind tens of thousands of Amerasian<sup>2</sup> children to face prejudice and poverty in their native countries.<sup>3</sup>

In response to their plight, the United States Congress enacted the 1982 Amerasian Immigration Act, which gave preferential immigration status to Amerasians in Korea, Vietnam, Laos, Kampuchea and Thailand.<sup>4</sup> The

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<sup>1</sup> 131 Cong Rec 1369 (Mar. 21, 1985) (Statement of Representative Smith).

<sup>2</sup> Pearl S. Buck, *East Wind: West Wind* (John Day Co., 1930). Buck coined the word "Amerasian" to describe the American-Asian children, "Into this tiny knot thou tied two worlds." *Id* at 275. See also Vernon Loeb, *The Philippines Children of America*, Philadelphia Inquirer A3 (Sept. 27, 1991). The Pearl S. Buck Foundation, founded by the late author and Nobel Laureate, has provided social services to Amerasian children since 1969. It currently has a caseload of nearly 3,200 in the Philippines.

<sup>3</sup> Marilyn T. Trautfield, *America's Responsibility to Amerasian Children: Too Little, Too Late*, 10 Brooklyn J Int'l L 55, 60 (1984). See also Ronald Low, *No Child Should Be Without Love and Protection: The Legal Problems of Amerasians*, 26 Howard L J 1527, 1536 (1983).

<sup>4</sup> See Preferential Treatment in the Admission of Children of United States Citizens, Pub L No. 97-

1982 Act, however, excludes Amerasians from the Philippines.

This Comment argues that the detrimental social and economic conditions of Amerasians in the Philippines is substantially similar to the conditions of the Amerasians who benefit from the 1982 Amerasian Immigration Act. Furthermore, the U.S. military involvement in Southeast Asia, which gave rise to the moral sentiment to assist Amerasians there, is not significantly different from the U.S. military involvement in the Philippines. Therefore, this Comment concludes that Congress should extend the 1982 Act's benefits to Filipino-Amerasians. This Comment also recommends methods by which the Immigration and Naturalization Service could streamline the immigration procedures for Filipino-Amerasians.

## I. AMERASIANS IN THE PHILIPPINES

### A. *The United States Military Involvement*

The plight of the Filipino-Amerasian is inextricably intertwined with America's almost century-long military presence in the Philippines.<sup>5</sup> After gaining control of the Philippines from Spain in 1898,<sup>6</sup> the U.S. obtained a renewable ninety-nine-year lease on twenty-three military base sites.<sup>7</sup> These original sites included the naval station at Subic Bay near Olongapo City and Clark Air Base near Angeles City.<sup>8</sup> Subic Bay became the home for the United States Seventh Fleet, and at one time was the largest naval supply depot in the world.<sup>9</sup> Clark Air Base was home to the U.S. Air Force's 3rd Tactical Fighter Wing.<sup>10</sup> During the Vietnam War, the U.S. launched many of its B-52 bombing flights from Clark.<sup>11</sup> In December 1991, the Philippine government instructed the United States to dismantle its military bases and complete its withdrawal of troops from the Philippines within one year.<sup>12</sup>

The U.S. bases constituted a significant part of the Philippines' national

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359, 96 Stat. 1716 (1982), codified at 8 USC § 1154(f) (1991).

<sup>5</sup> James B. Goodno, *The Philippines: Land of Broken Promises*, x (Zed Books, 1991).

<sup>6</sup> *Id.*

<sup>7</sup> Joseph Collins, *The Philippines: Fire on the Rim* 241 (Institute for Food and Development Policy, 1989).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Desmond Ball, ed., *U.S. Bases in the Philippines: Issues and Implications*, Canberra Papers on Strategy and Defense 3, 6 (1988).

<sup>11</sup> *Id.*

<sup>12</sup> Mark Fineman, *Close Subic Base By End of '92, Manila Tells U.S.*, Los Angeles Times A1 (Dec. 27, 1991).

and local economies. The U.S. government expended approximately \$350 million per year on direct military support, accounting for almost 4 percent of the Philippines' Gross Domestic Product.<sup>13</sup> The bases directly employed over 46,000 Filipinos, making the U.S. military the country's second largest employer.<sup>14</sup> Base-related jobs accounted for 80 percent of the jobs in Angeles City,<sup>15</sup> and produced 98 percent of Olongapo's gross revenues.<sup>16</sup> In addition, U.S. service personnel spent approximately \$100 million per year in the Philippine economy.<sup>17</sup>

### B. *The Creation of a Generation of Amerasians*

Despite the beneficial effect the U.S. bases had on the Philippine economy, the bases generated a major societal problem in the Philippines—thousands of indigent Amerasian children.<sup>18</sup> Most of these children resulted from the union of American servicemen and Filipina prostitutes.<sup>19</sup>

The areas surrounding U.S. bases in the Philippines had served as an outpost for "rest and recreation" since the Vietnam War. The "entertainment industry," a euphemism for various forms of prostitution, sprung up to take advantage of the presence of large numbers of U.S. soldiers. As of 1991, Olongapo City had 500 bars, nightclubs, massage parlors, and hotels. As many as sixteen thousand women worked as prostitutes.<sup>20</sup> Historically, the U.S. military tacitly approved of American servicemen's involvement with the Filipina prostitutes.<sup>21</sup>

While the relationship between the American soldiers and Filipina prostitutes may have been beneficial in some respects, it created a generation of unwanted Amerasian children. Hundreds of Amerasian children were born

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<sup>13</sup> *Id.*

<sup>14</sup> Ball, *U.S. Bases in the Philippines* at 37.

<sup>15</sup> *Id.*

<sup>16</sup> Susan Marquez Owen, *Men and Women of Sin City*, San Francisco Chronicle, "This World" 8 (Aug. 5, 1990). This article is a graphic narrative of the night life in Olongapo and Angeles that ultimately produced the vast majority of Filipino-Amerasians.

<sup>17</sup> Ball, *U.S. Bases in the Philippines* at 38 (cited in note 10).

<sup>18</sup> Loeb, Philadelphia Inquirer at A3 (cited in note 2).

<sup>19</sup> *Id.*

<sup>20</sup> Collins, *Fire on the Rim* at 243 (cited in note 7). See also Owen, San Francisco Chronicle at 8.

<sup>21</sup> Owen, San Francisco Chronicle at 12. Subic's public affairs officer admitted that the U.S. Navy generally turned a blind eye to its men's off base behavior. "It's not the Navy's job to baby-sit or teach its men moral behavior . . . We give them port briefings. We give them the situation on security, laws, customs, and that the goal is to be good guests. But you can't tell them to keep their noses clean, because we can't make moral judgments." *Id.*

each month.<sup>22</sup> In all, U.S. military personnel have fathered over 50,000<sup>23</sup> Amerasians in the Philippines.<sup>24</sup> In Olongapo alone, at least 2,000 abandoned Amerasian children walk the streets today.<sup>25</sup>

### C. *The Economic and Social Conditions of Filipino-Amerasians*

#### 1. *Poverty*

In general, Filipino-Amerasians face social stigmatization and severe economic distress. Many mothers of Amerasians abandon their children due to their inability to support them financially.<sup>26</sup> With little or no access to social services such as schooling or health care,<sup>27</sup> many of these children are left to starve in the streets. The children beg U.S. soldiers for coins, or market themselves as mail order brides to survive.<sup>28</sup> Not surprisingly, many of the Amerasian children become hardened criminals.<sup>29</sup>

Those children who stay with their families do not always escape poverty and abuse. Many must support their younger siblings through prostitution.<sup>30</sup> Furthermore, some mothers who keep their daughters force them into prostitution to generate money for the family.<sup>31</sup>

#### 2. *Widespread Ostracism*

Many Filipino-Amerasians face severe ostracism and abuse.<sup>32</sup> They experience excessive taunting at the hands of both Filipinos and American

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<sup>22</sup> Collins, *Fire on the Rim* at 244 (cited in note 7).

<sup>23</sup> See Sheila Tefft, *America's Troubled Legacy in the Philippines*, 84 *Christian Science Monitor* 1 (December 31, 1991). It is difficult to establish the exact number of Amerasians in the Philippines. This number is an estimate of the Pearl S. Buck Foundation based on recent Philippine censuses.

<sup>24</sup> Letter from William S. McCabe II, Nov. 23, 1991. Mr. McCabe is the Resident Director of the Pearl S. Buck Foundation in Manila. He has spent the last 25 years providing social services to Amerasians in the Philippines. This paper uses his insight and expertise as the basis of case histories of the current and past status of Filipino-Amerasians.

<sup>25</sup> Collins, *Fire on the Rim* at 279. Tefft, 84 *Christian Science Monitor* at 8.

<sup>26</sup> Fineman, *Los Angeles Times* at A1 (cited in note 12).

<sup>27</sup> See Anna Gomez, *Women's Groups Ask Aid to Children of U.S. Servicemen*, UPI Wire Story (Mar. 31, 1992).

<sup>28</sup> Letter from William S. McCabe, Nov. 23, 1991.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> Owen, *San Francisco Chronicle* at 8. Tefft, 84 *Christian Science Monitor* at 2. For example, Carol Gervacio's mother was a prostitute. At sixteen years old, the girl is on the street nightly prostituting herself to support her four younger siblings.

<sup>32</sup> Letter from William S. McCabe, Dec. 3, 1991.

servicemen.<sup>33</sup> This treatment takes a heavy emotional and psychological toll on the average Amerasian child,<sup>34</sup> causing anxiety and depression.<sup>35</sup>

Filipinos stigmatize Amerasians because they are illegitimate and are children of prostitutes. The condemnation of illegitimacy and prostitution that is prevalent in the Philippines stems from the traditional Catholic values that permeate the culture.<sup>36</sup> Because Catholic Filipinos tend to hold a woman's virginity in high regard, they perceive prostitution as grossly sinful.<sup>37</sup> Many Filipina prostitutes choose to abandon their Amerasian children because they are symbols of their "sinful" profession.<sup>38</sup>

Filipino-Amerasians are also denigrated because of their illegitimacy; which is also caused by the country's Catholic values. Catholic Filipinos abhor illegitimacy. Thus, Amerasians experience additional scorn because their parents were not married.<sup>39</sup>

### 3. African-American Amerasians

Filipino-Amerasians of African-American descent, who constitute approximately twenty-five percent of the Filipino-Amerasian population,<sup>40</sup> face the most extreme prejudice. Because Filipinos tend to admire the Caucasian physical appearance, dark-skinned Amerasians experience greater racism than those with lighter skin.<sup>41</sup>

The mothers of African-American Amerasians abandon their children at a much greater rate than Caucasian Amerasians.<sup>42</sup> Also, African-American

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<sup>33</sup> See Tefft, 84 *Christian Science Monitor* at 1.

<sup>34</sup> Letter from William S. McCabe, Dec. 3, 1991. Mr. McCabe writes: "There is discrimination locally against the Amerasians. Maybe it is more directed towards the half black but even the half white must contend with ridicule and mockery in a verbal sense. This has been patiently explained by older Amerasians, some working at the U.S. military installations. They have coped with this verbal abuse but others have not been able to stand these taunts and ribbing from the community. Thus, a number of the Amerasians have some emotional problems which are minuscule to really and truly being unable to cope with the reality of their life now and in the future. They have no father, a mother earning a living in an unsavory occupation or relegated to laundry work. This takes its toll on the children and sometimes rapidly, sometimes the onset of problems is delayed, but usually some emotional problem happens along the way for most of the Amerasians."

<sup>35</sup> *Id.*

<sup>36</sup> Owen, *San Francisco Chronicle* at 11.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> See McCabe Letter, Nov. 23, 1991.

<sup>40</sup> *Id.*

<sup>41</sup> See Tefft, 84 *Christian Science Monitor* at 2 (cited in note 23).

<sup>42</sup> *Id.*

Amerasians have significantly fewer opportunities for adoption.<sup>43</sup> African-American Amerasians also face severe employment discrimination,<sup>44</sup> that forces them even deeper into poverty.<sup>45</sup>

#### *D. Conditions Will Worsen with U.S. Withdrawal*

The American withdrawal from the Philippines will disrupt the economy of the entire archipelago. Consequently, the social and economic conditions of Amerasians in Olongapo and Angeles Cities will only worsen.<sup>46</sup> Almost 46,000 Filipinos will lose their jobs in the U.S. bases;<sup>47</sup> 55,000 bar girls in Olongapo have already been dislocated.<sup>48</sup>

Amerasian children, already at the bottom of the socioeconomic ladder, will suffer the most from the dislocation attending the American pullout. Amerasians will seek employment in other regions of the country where people are even less tolerant of them than in Olongapo and Angeles Cities. Thus, the withdrawal of the U.S. military will exacerbate the Amerasians' already precarious situation.

## II. THE INADEQUACY OF CURRENT IMMIGRATION OPTIONS FOR FILIPINO-AMERASIANS

U.S. immigration laws are inadequate to foster the immigration of Filipino-Amerasians. Under current U.S. law, Filipino-Amerasians can immigrate in one of two ways. First, they can compete with all aspiring Filipino immigrants for a limited number of general immigration visas. Second, those whom their natural fathers legitimate, may automatically immigrate as children of U.S. service personnel.<sup>49</sup>

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<sup>43</sup> *Id.*

<sup>44</sup> *Id.* For example, Lehera Bautista, the daughter of a African-American and a Filipina has been turned down for jobs and harassed by fellow students as well as her teachers because of her color. She feels helpless because of the discrimination.

<sup>45</sup> *Id.*

<sup>46</sup> The presence of the Amerasians coupled with the U.S. withdrawal is already straining Philippine social services. Filipino women's groups are lobbying Congress to help fund welfare services for the Amerasians. These women, some of whom are former prostitutes, plead with Congress to recognize its responsibility for the children and to provide social services. See Gomez, UPI Wire Story (cited in note 27).

<sup>47</sup> See Ball, *U.S. Bases in the Philippines* at 27 (cited in note 10).

<sup>48</sup> One former bar girl who is supporting two Amerasian children has been unable to find a job since the U.S. withdrawal began. She is unlikely to find work because she has no formal training or education. See Gomez, UPI Wire Story (cited in note 27).

<sup>49</sup> Immigration and Nationality Act of 1952, 8 USC § 1401(g) (1986).

### A. General Immigration Visas

U.S. immigration law places a ceiling on the total number of general immigration visas it will grant in any one year.<sup>50</sup> The Immigration and Naturalization Service (INS) allocates these visas to specific countries under a complicated allotment system.<sup>51</sup>

For Filipinos to apply for a general visa, they must visit the U.S. Consulate office in the Philippines, where the Consul issues a visa at its discretion.<sup>52</sup> Filipinos face fierce competition for these visas as over 300,000 await the chance to emigrate the U.S.<sup>53</sup>

Amerasians who could establish that they were an "immediate relative" of a U.S. citizen would be exempt from these numerical restrictions.<sup>54</sup> To establish "immediate relative" status, however, a child must demonstrate a "bona fide parent-child relationship" with their father.<sup>55</sup> In order to establish such a bona fide relationship, the child must provide evidence of an actual parent-child relationship with the citizen father.<sup>56</sup>

Because most Amerasians cannot locate their fathers, it is difficult for them to establish this bona fide relationship. Also, the Amerasians' poverty leaves few with enough money to obtain the documentation necessary to support their claims.<sup>57</sup>

### B. Immigration as a Child of United States Service Personnel

U.S. law provides for automatic citizenship for some children of U.S. service personnel.<sup>58</sup> To establish eligibility for this classification, the

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<sup>50</sup> Immigration and Nationality Act of 1952, 8 USC § 1151(a) (1991).

<sup>51</sup> See Immigration and Nationality Act of 1952, 8 USC § 1152(e) (1991).

<sup>52</sup> Immigration and Nationality Act of 1952, 8 USC § 1101(a)(16) (1991).

<sup>53</sup> Gordon F. Deong, Brenda Davis Root and Ricardo Abad, *Family Renunciation and Philippine Migration to the United States: The Immigrant's Perspective*, 20 Intl Migration Rev 598, 608 (Fall 1986). Most Filipinos immigrate based on their relationship to a U.S. citizen. Usually the head of the Filipino household immigrates first then brings family to the United States using preference visas.

<sup>54</sup> Immigration and Nationality Act of 1952, 8 USC § 1151(b) (1991).

<sup>55</sup> An applicant must show evidence of actual parent-child relationship with the citizen father. Immigration and Nationality Act of 1952, 8 USC § 1101(b)(1) (1991).

<sup>56</sup> See 8 CFR § 204 (1991). Evidence of a bona fide parent relationship includes, birth certificates, blood tests, documents showing continuous support for the child and affidavits.

<sup>57</sup> See Trautfield, 10 Brooklyn J Int'l L 53 (cited in note 3). The Amerasians use documentation to find their fathers. Once the father is found, groups like the Buck foundation try to get the father to legitimize the child.

<sup>58</sup> See 8 USC § 1401(g). This classification is exempt from the numerical limits of the general immigration visas.



Amerasian child must prove paternity. Under current law, an Amerasian child born out of wedlock<sup>59</sup> whose father was on active duty in the U.S. Armed Forces is considered to have been a U.S. citizen since birth.<sup>60</sup> To qualify for this status, the child must demonstrate 1) *clear and convincing* evidence of a blood relationship between the child and the father; 2) the father's U.S. citizenship; 3) the father's written agreement to provide financial support for the child until age 18; and 4) that the father acknowledged paternity in writing, has been declared the father in a court ruling,<sup>61</sup> or has adopted the child<sup>62</sup> or married the child's mother.<sup>63</sup>

The clear and convincing standard of proof, however, makes it extremely difficult for Filipino-Amerasians to establish paternity.<sup>64</sup> Furthermore, the American father must initiate the process, and since few Amerasians can locate or gain the support of their fathers, they are unable to establish their citizenship.<sup>65</sup> Moreover, only fifteen percent of Filipino-Amerasians have been able to take advantage of the provisions for children of U.S. service personnel.<sup>66</sup>

While the above options for Filipino-Amerasians are inadequate, these children could benefit greatly from a third option—preferential immigration legislation.

### III. PREFERENTIAL IMMIGRATION LEGISLATION: THE 1982 AMERASIAN IMMIGRATION ACT

Congress amended the Immigration and Nationality Act<sup>67</sup> in 1982 with the Amerasian Immigration Act,<sup>68</sup> which gave preferential immigration status

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<sup>59</sup> See *Barbara Lebrun v Richard Thornburgh*, 777 F. Supp. 1204 (D.N.J. 1991). In *Lebrun*, the district court held that the legitimate/illegitimate distinction under the INS statutes was archaic, inhumane and unfair and because it was an unreasonable distinction, the court held it was an unconstitutional violation of the Equal Protection Clause. *Lebrun* is an important decision because the legitimacy requirement of the Act was one of the more difficult obstacles facing Amerasians under the prior immigration laws.

<sup>60</sup> See 8 USC §§ 1401, 1409. 8 USC § 1401(g) states that a person born outside the U.S. to parents, one of which is an alien and the other a citizen parent serving in the U.S. Armed Forces, is a citizen at birth if paternity can be established under 8 USC § 1409.

<sup>61</sup> See 8 USC § 1409.

<sup>62</sup> See 8 USC § 1101.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> Loeb, *Philadelphia Inquirer* at A3 (cited in note 2).

<sup>66</sup> Tefft, 84 *Christian Science Monitor* at 1 (cited in note 23).

<sup>67</sup> 8 USC §§ 1101 et. seq.

<sup>68</sup> 8 USC § 1154(f).

to Amerasians from Korea, Vietnam, Laos, Kampuchea and Thailand. The 1982 Act did not include Filipino-Amerasians. The horrendous social and economic conditions of these Amerasians gave rise to the public sentiments that induced Congress to pass this landmark legislation.<sup>69</sup>

#### A. Conditions Giving Rise to the 1982 Act

##### 1. The Conditions of Amerasians in Asian Cultures

Throughout Southeast Asia, Amerasian children have experienced destitution and bigotry.<sup>70</sup> Most live in the squalor of poverty and unemployment,<sup>71</sup> stigmatized due to their illegitimacy and mixed race. Their mothers, many of whom are prostitutes, abandon these children due in part to the disdain with which society holds their profession.<sup>72</sup>

##### 2. The Condition of Amerasians in Vietnam

The conditions of Vietnamese-Amerasians in particular gave rise to the 1982 Act.<sup>73</sup> The U.S. participated in the Vietnam War from 1965 to 1975. During this period, U.S. service personnel fathered tens of thousands<sup>74</sup> of children with Vietnamese women.<sup>75</sup> Abandoned by their fathers and often by their mothers, these Amerasian children suffered extreme stigmatization, prejudice and economic deprivation.<sup>76</sup>

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<sup>69</sup> HR 808, 97th Cong, 1st Sess (Jan. 9, 1981), in 127 Cong Rec 1327 (Jan. 29 1981).

<sup>70</sup> See Richard T. Mermelstein, *Welcoming Home Our Amerasian Children: An Analysis of the New Amerasian Immigration Law*, 2 B U Int'l L J 299, 300 (1983).

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> See Amerasian Immigration Proposals: Hearing on S. 1698 Before the Subcomm. on Immigration and Refugee Policy of the Senate Comm. on the Judiciary. 97th Cong, 2d Sess 2 (1982).

<sup>74</sup> An estimated 20,000 Amerasians were born in Vietnam. This figure is an official estimate by the government of Vietnam. See *Vietnam Official Wants Talks on Amerasians*, New York Times A5 (July 31, 1984).

<sup>75</sup> See Trautfield, 10 Brooklyn J Intl L at 622 (cited in note 3). "The mothers write in detail of their relationships with the American fathers. Most of the letters tell the same story. A Vietnamese woman either married or lived with an American soldier, they had children together and then the husband/father returned to the U.S., never to be heard from again."

<sup>76</sup> See MaryKim Demanaco, *Disorderly Departure: An Analysis of the United States Policy Toward Amerasian Immigration*, 15 Brooklyn J Intl L 641, 649 (1989).

*a. Stigmatization Due to Illegitimacy*

In Vietnam, as in other Asian cultures, the father plays a significant role in a child's development.<sup>77</sup> A Vietnamese child derives its sense of personal identity, nationality, and race from its father.<sup>78</sup> Because the American fathers of Amerasian children cannot perform the traditional Vietnamese paternal duties, the Vietnamese exclude Amerasians from the mainstream of their society.<sup>79</sup> In Vietnam an illegitimate child does not legally exist because he or she is not a Vietnamese citizen.<sup>80</sup>

*b. Stigmatization Due to Racial Impurity*

Most homogenous Asian cultures disdain racial impurity.<sup>81</sup> Because the Vietnamese tend to regard the physical features of their people as symbolic of their national identity, many Vietnamese associate Amerasians with the dilution of their national character.<sup>82</sup> This phenomenon largely explains the harsh treatment of Amerasians in Vietnam.<sup>83</sup>

In Vietnamese society, Amerasians lack basic rights, live in the squalor of poverty, and are deprived of a solid sense of identity.<sup>84</sup> Most face a daily barrage of racial slurs.<sup>85</sup> Furthermore, Vietnamese-Amerasians typically are outcasts and excluded from full participation in education, marriage, and employment.<sup>86</sup>

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<sup>77</sup> *Id.*

<sup>78</sup> *Id.* at 648.

<sup>79</sup> See Ernest C. Robear, *The Dust of Life: The Legal and Political Ramification of the Continuing Vietnamese-Amerasian Problem*, 9 Dickinson J Int'l L 125, 127 (1989). "Without fathers, then, Amerasians have no real identity . . . and have been ostracized in the land of their birth." See also Demanaco, 15 Brooklyn J Int'l L at 648. A Vietnamese father registers the birth of his child in the family registry and gives the child a last name, registers his child in school, obtains working papers and secures employment for the child, and asserts paternity. The discrimination is not because the child's parents are unmarried; rather it is the absence of the father that leads to discrimination. See *The Amerasian Children*, 96 Cong, 2d Sess (1980), in 126 Cong Rec 14046 (June 11 1980) (Statement by Mr. Kostmayer: from a speech by John A. Shade, "Illegitimacy matters little - it is the absence of the father . . . the keystone to Asian society . . . Without the father, his child legally does not exist . . . [the children are] denied family, a name, food and shelter, education and citizenship."

<sup>80</sup> See Demanaco, 15 Brooklyn J Int'l L at 648 (1989).

<sup>81</sup> *Id.* at 649.

<sup>82</sup> *Id.*

<sup>83</sup> Immigration of Vietnamese-Amerasians, S Rep No 1601, 100th Cong, 1st Sess 11476 (1987). (Statement by Dale Bumpers). "Because of their prominent physical features in an extremely homogenous society, these children are often harshly ostracized."

<sup>84</sup> *Id.*

<sup>85</sup> Mermelstein, 2 B U Int'l L J at 301 (cited in note 70).

<sup>86</sup> See Amerasian Immigration Proposals at 64 (cited in note 73). (Comments of Rev. Alfred

*c. African-American Amerasians in Vietnam*

African-American Vietnamese-Amerasians face greater prejudice than those with white fathers. In public schools, teachers often refer to them as "niggers" and disparage the child's parents in front of the other students.<sup>87</sup> African-American Amerasians also have fewer job opportunities in Vietnam.<sup>88</sup>

*d. Economic Conditions*

The stigmatization of Amerasians in Vietnam induced many Vietnamese mothers to abandon their Amerasian children.<sup>89</sup> Consequently, at one time over 8,000 abandoned Amerasians lived on the streets of Ho Chi Minh City.<sup>90</sup> These children continually face severe racial abuse while wandering the streets in packs, hoping to avoid starvation.<sup>91</sup>

Vietnamese-Amerasians suffer economically due to discrimination from the government, as well. The Communist government denies Amerasian children and their mothers, jobs, food ration cards, and housing.<sup>92</sup> Few Amerasians are allowed into public schools, those who are, face harsh discrimination.<sup>93</sup> Due to these factors, Amerasian families constitute perhaps the lowest socio-economic class in Vietnam.<sup>94</sup>

*B. Passage of the 1982 Amerasian Immigration Act*

Congress enacted preferential immigration legislation for Amerasians in 1982.<sup>95</sup> Passage of this legislation embodied a recognition by the U.S. Government of its moral obligation to assist these children. This moral obligation stemmed from the U.S. military involvement in these regions and

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Keane).

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> See Demanaco, 15 Brooklyn J Int'l L at 648 (cited in note 76).

<sup>92</sup> See Trautfield, 10 Brooklyn J Int'l L at 62 (cited in note 3). "The [Vietnamese] government discriminates because they believe the children are American, not Vietnamese; as far as the Communist bureaucracy is concerned Vietnamese-American children are second class citizens. The children are ineligible to attend public schools and the children and their mothers are denied jobs and government (food) ration cards."

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> See Amerasian Immigration Proposals at 1 (cited in note 73).

the dire social and economic conditions these children faced.<sup>96</sup>

The 1982 Amerasian Immigration Act gave Amerasians from Korea, Vietnam, Laos, Kampuchea and Thailand (all countries in which the U.S. military was involved) preferential immigration status by making it easier for them to prove paternity than under the previous legal regime.<sup>97</sup>

Although the 1982 Act attempted to improve immigration prospects for children from many nations in Southeast Asia, it made no provision for Amerasian children from the Philippines. One of the early drafts of the legislation included Amerasians from the Philippines and Japan.<sup>98</sup> These provisions, however, did not survive the legislative process. Although nothing in the Act's legislative history specifically indicates why the final version excluded Filipino-Amerasians, one can speculate that Congress was concerned that the Act might induce a larger influx of Amerasians than it desired.<sup>99</sup>

Under the 1982 Act, in order to qualify for preferential status, a child had to (1) prove it was born in Korea, Vietnam, Laos, Kampuchea, or Thailand between January 1, 1951, and October 22, 1982; (2) give the Attorney General *reason to believe* that its father was an American citizen; and (3) secure sponsors willing to guarantee financial support for five years.<sup>100</sup> Unlike previous laws, the 1982 Act includes adult children rather than limiting its scope to children under the age of 18.

### 1. The "Reason to Believe" Standard

The adoption of the "reason to believe" standard for proving paternity was the key new element of the 1982 Act. Under the "clear and convincing" standard of the previous requirements for establishing a parent-child relationship with a U.S. serviceman, the Amerasian often faced the impossible task of producing stringent documentation to support his or her

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<sup>96</sup> See Amerasian Immigration Act at 27270 (Statement of Mr. Donnelly: "This legislation before us today recognized that they are not only the children of American soldiers, they are children of America. As a nation, we sent their fathers to Asia in our country's service, and we share the responsibility.") *Id.* (Statement of Mr. Rodino: "Enactment of this legislation is certainly long over due and it responds in an effective and practical manner to a most difficult humanitarian problem. In my judgment it recognizes a moral responsibility that we have to these children who have been fathered by Americans abroad.") (cited in note 1).

<sup>97</sup> See 8 USC § 1154(f) (1991). The lower standard of paternity proof is the crucial change from previous immigration statutes.

<sup>98</sup> S. Rep No 1698 at 5 (cited in note 73).

<sup>99</sup> *Id.*

<sup>100</sup> 8 USC § 1154(f) (1991).

case. By substituting "reason to believe" for the "clear and convincing" standard, the 1982 Act purported to make it easier for Amerasians to make the evidentiary showing necessary to immigrate. Furthermore, federal regulations promulgated under the 1982 Act gave INS officers specific guidelines on what sorts of evidence would satisfy the new "reason to believe" standard.<sup>101</sup>

## 2. Provisions for the Immigration of the Amerasians' Family Members

The 1982 Act lacked any provisions for permitting Amerasians' mothers or other family members to immigrate,<sup>102</sup> and required the mother or guardian to irrevocably release the immigrating child.<sup>103</sup> Because the Amerasian child would have to go to the United States alone, few opted to take advantage of their new preferential status.

In order to avoid family separations, most Amerasians tried to enter the U.S.<sup>104</sup> as refugees under the Refugee Act of 1980.<sup>105</sup> Most Amerasians, however, could not demonstrate the "well-founded fear of persecution" necessary to qualify for the Refugee Act's protection.<sup>106</sup>

Congress attempted to cure this problem of parental accompaniment in the Amerasian Homecoming Act, a 1987 amendment to the Immigration and Nationality Act.<sup>107</sup> The amendment permitted certain family members of Vietnamese-Amerasians to immigrate.<sup>108</sup> While this new legislation induced

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<sup>101</sup> 8 CFR § 204.2(g) (1991), Evidence sufficient to substantiate a claim that a U.S. citizen fathered the child includes but is not limited to:

- 1) A birth and baptismal certificate or other religious document;
- 2) local civil records;
- 3) affidavits from knowledgeable witnesses;
- 4) letters from, or evidence of financial support from the father;
- 5) photographs of the putative father, especially with the child; and
- 6) evidence of the father's U.S. citizenship

<sup>102</sup> *Id.*

<sup>103</sup> 8 USC § 1154(f) (1991).

<sup>104</sup> See 131 Cong Rec H 1369 (March 21, 1985). In the first three years after passage of 8 USC § 1154(f) only eighty-seven Amerasians immigrated under the Amerasian Immigration Act while 1,983 Amerasian children and their families emigrated as refugees. *Id.*

<sup>105</sup> See Daniel J. Steinbock, *The Admission of Unaccompanied Children into the United States*, 7 Yale L & Policy Rev 137 (1989). See Section 101(a)(42)(a) of the Immigration and Nationality Act, 8 USC § 1101(a)(42) (1982), where a refugee is defined as a alien with a well founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

<sup>106</sup> *Id.* at 161, 162.

<sup>107</sup> 8 USC § 1101.

<sup>108</sup> *Id.* Family members allowed to immigrate with the Amerasian includes their children, their children's spouses and children, their mothers, their mother's spouses and children, and under certain circumstances. other persons who have acted in effect as their mother, father or next of kin.

greater numbers of Vietnamese-Amerasians to immigrate to the United States,<sup>109</sup> it failed to address the immigration needs of Amerasians from any other country, notably the Philippines.<sup>110</sup>

#### IV. WHY THE UNITED STATES SHOULD EXTEND PREFERENTIAL IMMIGRATION BENEFITS TO AMERASIANS IN THE PHILIPPINES

As a matter of equity, if the U.S. gives special immigration benefits to some persons, it should extend those benefits to others who are similarly situated. The 1982 Amerasian Immigration Act and the 1987 Amerasian Homecoming Act signifies the United States' acknowledgment of a moral obligation to certain Amerasians in Southeast Asia.<sup>111</sup> This moral obligation stemmed from the U.S.'s long-standing and intensive military involvement coupled with the dire social and economic conditions of the children fathered by U.S. military personnel during this time.

Therefore, Congress should extend the benefits available to Southeast Asian Amerasians under the 1982 Act to Filipino-Amerasians if it finds: (1) that the U.S. military operations in the Philippines were substantially similar to the involvement of the U.S. military in Korea, Vietnam, Laos, Kampuchea and Thailand; and (2) that Filipino-Amerasians have experienced the same or similar social and economic hardships as Amerasians from these countries.

##### *A. Comparing the Military Involvement in Southeast Asia and the Philippines*

The extent and nature of the U.S. military presence in the Philippines is substantially similar to the involvement of the U.S. military in the Korean and Vietnam Wars, with respect to both actual military operations and the role of the military presence in the creation of the Amerasian problem. This similarity should trigger Congressional recognition of the same sort of moral obligation that gave rise to the 1982 Amerasian Immigration Act.

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<sup>109</sup> Dianne Klein, *Vietnam's Castoffs Come Home*, Los Angeles Times A1 (June 30, 1991). "Since the Amerasian Homecoming Act took effect in March of 1988, more than 12,000 Amerasians have entered the United States from Vietnam, three times as many as had arrived since the fall of Saigon in 1975."

<sup>110</sup> See Mermelstein, 2 B U Int'l L J at 311 (cited in note 70). See also Steinbock, 7 Yale L & Policy Rev at 131 (cited in note 105).

<sup>111</sup> See note 96 with accompanying text.

## 1. *Military Operations*

Although different in nature from the American military involvement in Vietnam and Korea, the military presence in the Philippines had been intensive, in both peacetime and wartime. The bases in the Philippines played a key strategic role for the U.S. in the Vietnam War. The U.S. launched its heavy bomber attacks against North Vietnam from Clark Air Force base.<sup>112</sup> Furthermore, the U.S. stationed tens of thousands of troops in the Philippines to provide combat support to the military operations in Vietnam. Moreover, the Philippines was a major hub of the military operations in Southeast Asia during the peak of the Vietnam War, when over 855,000 U.S. personnel were stationed throughout Asia.

Because most U.S. troops in the Philippines did not engage in combat, as did their counterparts in Indochina, one might argue that their involvement was substantially less intrusive and significant. The U.S. military in the Philippines during this time did engage in substantial air warfare from Clark Air Base. While the U.S. involvement in Vietnam was more significant in extent, it was less significant in duration than U.S. military operations in the Philippines. The U.S. military presence in the Philippines lasted five times longer than in Vietnam or other parts of Southeast Asia.<sup>113</sup>

## 2. *The Role of the Military Efforts in the Creation of the Amerasian Situation*

The U.S. inundated both Indochina and the Philippines with hundreds of thousands of American troops during the Vietnam War, which led directly to the births of tens of thousands of illegitimate Amerasians.<sup>114</sup> In both Indochina and the Philippines, American troops consorted with prostitutes in the areas surrounding U.S. bases.<sup>115</sup>

Many soldiers stationed in Vietnam also lived with Filipina prostitutes, as the Philippines was a frequent location for "rest and recreation" during the Vietnam War.<sup>116</sup> Meanwhile, Americans stationed at Subic Bay and Clark Air Base frequented the "entertainment" establishments of Olongapo and

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<sup>112</sup> See note 11.

<sup>113</sup> See notes 5 and 74 with accompanying text.

<sup>114</sup> Introduction of S 1698, 97th Cong, 1st Sess (Sept. 9, 1981), in Cong Rec 22733 (Oct. 1, 1991). Over 80,000 Amerasians have been born in Southeast Asia, including the Philippines.

<sup>115</sup> See notes 19 and 72 with accompanying text.

<sup>116</sup> See McCabe Letter, Nov. 23, 1991.



Angeles Cities. Due to the prolonged military presence of the United States in the Philippines, more Amerasians have been born in the Philippines than in all other Asian countries combined, including Vietnam.<sup>117</sup> Therefore, the American military had been as much, if not more, instrumental in creating the Amerasian problem in the Philippines than in Indochina.

*B. The Similarity of Economic and Social Hardships of Filipino-Amerasians and those in other Southeast Asian countries*

*1. Economic Adversity*

Filipino-Amerasians experience economic hardships similar to the hardships faced by Amerasians in other Southeast Asian countries, such as Vietnam. Mothers in both Vietnam and the Philippines have abandoned their Amerasian children with frequency.<sup>118</sup> Amerasian children in both countries have faced starvation on the streets, with little hope for economic advancement.<sup>119</sup> Amerasians have faced rampant unemployment in both countries,<sup>120</sup> and in both countries they receive inadequate health care, social services and education from the indigenous government.<sup>121</sup> In both countries, poverty forces Amerasians into prostitution and panhandling to support themselves or their families.<sup>122</sup>

*2. Societal Stigmatization*

Filipino-Amerasians experience the same sort of ostracism and prejudice that Vietnamese-Amerasians have experienced. The stigmatization of Amerasians in Asian countries such as Korea and Vietnam has been relatively well-publicized in the United States through the media, especially television programs.<sup>123</sup> The plight of Amerasians in the Philippines, however, has received less attention. In fact, some Americans perceive that Amerasians in the Philippines enjoy privilege and an easier life.

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<sup>117</sup> There were 31,000 Amerasians born in Southeast Asia and 50,000 in the Philippines. Tefft, 84 *Christian Science Monitor* at 1 (cited in note 23).

<sup>118</sup> See note 38 with accompanying text.

<sup>119</sup> See notes 27 and 91.

<sup>120</sup> See notes 44 and 86.

<sup>121</sup> See notes 27 and 79 with accompanying text.

<sup>122</sup> See notes 30 and 31 with accompanying text.

<sup>123</sup> "M\*A\*S\*H\*" broadcast an episode which illustrated the dire circumstances of Amerasians in Korea. See Trautfield, 10 *Brooklyn J Int'l L* at 55 (cited in note 3).

Although some Amerasians in the Philippines have been able to succeed in Philippine culture,<sup>124</sup> it is certainly not the norm. The mayor of Olongapo City is an Amerasian,<sup>125</sup> as are some members of the Philippine Congress.<sup>126</sup> Some of the Philippines' professional basketball stars are Amerasian.<sup>127</sup> Filipinos admire Amerasian entertainers because of their Western physical features.<sup>128</sup> This preference for Amerasian looks extends to large corporate entities, which like to hire Amerasian women in an attempt to create a "Western" image.<sup>129</sup>

Only a small number of Filipino-Amerasians, however, become politicians, famous entertainers or sports stars in comparison to the numbers of Filipino-Amerasians who face taunting and stigmatization.<sup>130</sup> As discussed above, Filipino-Amerasians, especially those of African-American heritage, experience severe discrimination in their homeland.<sup>131</sup> This discrimination arises from a cultural disdain and rejection of illegitimacy, and the quasi-religious condemnation of prostitution.

Although the societal characteristics which give rise to this stigmatization is different in important respects from the discrimination in other Asian countries, the result is the same—Amerasians must live as outcasts in their own country, with little hope for social and economic equality.<sup>132</sup> Therefore, the United States should recognize its moral obligation to Filipino-Amerasians, and extend preferential immigration benefits to them.

#### V. RECOMMENDED LEGISLATION TO FACILITATE EXTENSION OF PREFERENTIAL BENEFITS TO FILIPINO-AMERASIANS

Congress should amend the 1982 and 1987 Amerasian Immigration Acts to include Amerasians from the Philippines.<sup>133</sup> The legislation should

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<sup>124</sup> Letter from William S. McCabe, Dec. 3, 1991.

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

<sup>127</sup> *Id.*

<sup>128</sup> *Id.*

<sup>129</sup> Letter from William S. McCabe, Jan. 3, 1992.

<sup>130</sup> See note 33 with accompanying text.

<sup>131</sup> See note 40 with accompanying text.

<sup>132</sup> Amerasian Immigration Act at 27270 Statement of Mr. Fish: "A humane people cannot consign their sons and daughters to live lives as outcast in other lands" (cited in note 96).

<sup>133</sup> Other countries have addressed this problem by lowering the paternity requirements. For example, under French law any minor child born of a French father and a Vietnamese mother is deemed to have French nationality with the right to elect Vietnamese nationality. This extends even to children born in Vietnam of a unknown father and a native Vietnamese mother. These children are presumed to

permit Filipinos Amerasians to immigrate with their mothers or next of kin.<sup>134</sup> Allowing the parent to stay with the child will avoid the trauma of separation and ease the immigrant's transition into American society. The new legislation should also preserve the "reason to believe" standard for demonstrating paternity.<sup>135</sup>

New Amerasian immigration legislation, however, should go beyond simply adding Filipino-Amerasians to the existing law; new legislation should require also that the INS promulgate more specific guidelines for the sufficiency of evidence of paternity.

#### *A. Guidelines for Demonstrating "Reason to Believe"*

Opponents to new legislation argue that if Filipino-Amerasians are allowed to immigrate freely, 500,000 would apply.<sup>136</sup> Because there is a high degree of heterogeneity in the physical appearance of Filipinos,<sup>137</sup> opponents assert<sup>138</sup> that American officials would be unable to detect American heritage.<sup>139</sup>

Most Filipino-Amerasians have access to evidence, which they cannot utilize under current law,<sup>140</sup> and which would greatly assist them in demonstrating their American heritage. Many Filipino-Amerasians have a name,<sup>141</sup> photograph,<sup>142</sup> or personal letters or other communication from their natural fathers.<sup>143</sup>

The INS should consider this evidence, as well as testimony from the Amerasian's mother or close relatives, as valid for the purpose of demonstrating paternity.<sup>144</sup> Furthermore, once an alleged father is identified

be of French extraction or nationality. Thus, all a French-Vietnamese child had to do to prove paternity was to convince a tribunal that the child appeared to have French blood. This policy enabled approximately 20,000 French Eurasians to choose their citizenship. See Trautfield, 10 Brooklyn J Int'l L at 69-71 (cited in note 3). See also Robear, 8 Dickinson J Int'l L at 143 (cited in note 79).

<sup>134</sup> See note 108 with accompanying text.

<sup>135</sup> See note 101 with accompanying text.

<sup>136</sup> See McCabe letter, Nov. 23, 1991.

<sup>137</sup> See Mark Fineman, *Identity Doubts Linger: Amerasians at Home in Philippines*, Los Angeles Times A1 (Mar. 31, 1988). Because of the historical presence of Spanish and American colonists, many Filipinos exhibit marginally "Western" physical characteristics.

<sup>138</sup> *Id.*

<sup>139</sup> *Id.*

<sup>140</sup> Acceptable evidence includes birth certificates, photographs, and a blood test. See 8 CFR § 204.2(8) (1986).

<sup>141</sup> See Loeb, Philadelphia Inquirer, at A3 (cited in note 2).

<sup>142</sup> See McCabe letter, Nov. 23, 1991.

<sup>143</sup> *Id.*

<sup>144</sup> See Amerasian Immigration Proposals at 26 (cited in note 73).

and located, the INS could consider the results of blood or DNA tests to verify paternity.<sup>145</sup>

These regulations would enable U.S. Consular officers in the Philippines to better implement Amerasian immigration policy by reducing the discretion vested in them under current law.<sup>146</sup> In addition, relevant Congressional committees should exercise their oversight functions to insure that Consular officers refrain from arbitrary and capricious decision-making when implementing the new policies.<sup>147</sup>

### *B. Streamlining the Information Gathering Process*

In order to meet their burden of proof under any new regulations, Amerasians often need access to information held by the U.S. Department of Defense.<sup>148</sup> Amerasians need access to a myriad of information that could help them locate their fathers, such as the father's name, social security number, or last known address. Currently, Filipino-Amerasians have inadequate access to this vital information. The future looks brighter, however, in the wake of a recently decided Federal District Court case that confirmed that children of U.S. service personnel have the right to request certain Department of Defense information<sup>149</sup> under the Freedom of Information Act.<sup>150</sup>

Currently, under an agreement between the National Archives and Records Administration, the Department of Defense, and the War Babes organization, the National Personnel Records Center (NPRC)<sup>151</sup> is to provide

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<sup>145</sup> See 8 CFR § 204.2 (8).

<sup>146</sup> See note 52 with accompanying text.

<sup>147</sup> Cf. An appearance based identification program was used in Vietnam to identify children of United States citizens under the United Nations Orderly Departure Program for Vietnamese refugees. The program was ineffective because many of the magistrates were not willing to believe the truth of the evidence presented i.e. refuse certification of a child's claim when it was obvious the child was of mixed descent. There were also accounts of magistrates denying applications when it was evident that the child had American blood. Thus, to be effective any immigration procedure would have to be very liberal with well trained magistrates. See Demànaco. 10 Brooklyn J Int'l Law at 641 (cited in note 77).

<sup>148</sup> Currently, Filipino-Amerasians are assisted by public interest groups in the Philippines in compiling information on the child's father. For example, the Pearl S. Buck Foundation assists its clients by drafting information request which are sent to the U.S. Department of Defense. McCabe letter, Jan. 3, 1992.

<sup>149</sup> See *War Babes v Wilson*, 770 F.Supp. 1, 5 (D.D.C. 1990) in which the District Court held that disclosure of the whereabouts of United States service personnel was not an unwarranted invasion of the service personnel's privacy and the children's request was upheld.

<sup>150</sup> See Freedom of Information Act. 5 USC § 552(d) (1974).

<sup>151</sup> The National Personnel Records Center, a division of the U.S. National Archives and Records Administration, possesses all inactive records on all former federal and military personnel.

an Amerasian immigration-seeker with any addresses contained in the suspected father's records. Information available to any third-party requester<sup>152</sup> includes the serviceman's: a) name, b) place of birth, c) dates of service, d) assignments and geographical location of assignments, e) city/town and state of residence and the date of that address, f) official photographs, and g) any other information in the records relating to the veteran's official activities.<sup>153</sup>

A searcher, however, can meet significant obstacles in trying to get this information. The NPRC will search its records only if given the veteran's full name, social security number, branch of service and approximate dates of service. Unfortunately, many Filipino-Amerasians do not know their fathers' social security number or dates of service. Therefore, the NPRC's service is of only marginal utility.

In order to ease the Amerasians' ability to acquire information about their fathers, the NPRC should permit searches to access its databases if they have relevant information other than a full name or social security number. Thus, an Amerasian might be able to cross reference the database starting with a piece of information such as a surname, which he or she might be more likely to have.

Furthermore, NPRC should establish a sub-database for service personnel stationed in the Philippines during relevant time periods.<sup>154</sup> This would allow Amerasians to cross reference what little evidence they might have. Increasing access to the NPRC and creating a special database for servicemen based in the Philippines will better enable Amerasians to acquire evidence needed to establish paternity, or perhaps even to contact their American fathers.

### *C. Continued Exclusion of Amerasian Immigration from General Visa Limitations*

Like the earlier Amerasian immigration statutes, a preferential legislation for Filipino-Amerasians will not diminish the number of U.S. general immigration visas available to Filipinos at large. Therefore, Amerasian legislation would not affect the 300,000 Filipinos waiting to

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<sup>152</sup> Note that allowance of the third party requester is important because it allows social service groups such as the Pearl S. Buck Foundation to assist Amerasians in getting this information. See McCabe letter, Jan. 3, 1992.

<sup>153</sup> See *War Babes*, at 5.

<sup>154</sup> See discussion of date restrictions, *supra*, note 157.

emigrate to the United States.<sup>155</sup> This fact should alleviate the fear of the hundreds of thousands of general Filipino immigration-seekers that such new legislation would reduce their chances to enter the United States.<sup>156</sup>

#### *D. Date Restrictions for Filipino-Amerasian Applicants*

In order to placate fears that new Amerasian legislation would "open the floodgates" for Filipino-Amerasians, the Act could include a date restriction provision, as did the previous Amerasian immigration statutes. The new preferences could apply to Filipinos fathered by U.S. service personnel between September 16, 1966, and January 1, 1993.<sup>157</sup> This date restriction would limit the legislation's beneficiaries to those Amerasians born during the greatest concentration of U.S. military involvement in the Philippines.<sup>158</sup>

### VI. CONCLUSION

In the 1980's, the United States recognized its moral obligation to Amerasians in Vietnam and certain countries in Southeast Asia. The United States, however, neglects to extend these benefits to Amerasians in the Philippines, whose situation is similar to the other Amerasians with regard to their social and economic conditions, and the impact of the United States military in their country. The plight of Amerasians in the Philippines is no less urgent than those nations that now benefit from existing Amerasian legislation. Therefore, Congress should immediately amend the Immigration and Nationality Act to give Filipino-Amerasians the opportunity to immigrate

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<sup>155</sup> See note 53 with accompanying text.

<sup>156</sup> See Deong, *Intl Migration Rev* at 609 (cited in note 53). See also Pamela G. Hollie, *New Curbs on Entry into United States Angers Filipinos*, *New York Times* Sec 1, p. 15 (Feb. 21, 1982). This fear exists because of severe competition for the few visas that are available for Filipinos to emigrate to the United States. See note 53 and accompanying text. Filipino Americans who previously emigrated fear that allowing Amerasian immigration will make it more difficult to bring their own Filipino family members in the United States. It is likely that due to this fear many Filipinos attempt to discount the status and poor economic conditions of the Amerasian children.

<sup>157</sup> Date restrictions existed in the Amerasian Immigration legislation, in order to curb the number of potential applicants. These dates usually corresponds to the dates of heaviest U.S. military involvement. The September 16, 1966 date would correspond with the amended 25 year lease for the Philippine bases. See Ball, *U.S. Bases in the Philippines* at 1 (cited in note 10). The dates coincide with the United States military build up in Southeast Asia during the Vietnam War. The 1993 date coincides with the end of the U.S. lease. See, Lawrence E. Grinter, *The Philippines Bases: Continuing Utility in a Changing Strategic Context* 4 (Nat'l Defense U 1980).

<sup>158</sup> *Id* at 4.

to the United States. If the United States fails to do so, it will in effect be turning its back on its own children.