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SEPARATION OF NUCLEAR FAMILIES UNDER U.S. IMMIGRATION LAW

HEARING

BEFORE THE

SUBCOMMITTEE ON
IMMIGRATION AND BORDER SECURITY

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

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CONTENTS

MARCH 14, 2013

Page

OPENING STATEMENTS

The Honorable Trey Gowdy, a Representative in Congress from the State of South Carolina, and Chairman, Subcommittee on Immigration and Border Security 1
The Honorable Zoe Lofgren, a Representative in Congress from the State of California, and Ranking Member, Subcommittee on Immigration and Border Security 3

WITNESSES

Randall Emery, President, American Families United
Oral Testimony 5
Prepared Statement 7
Mathi Mugilan Paguth Arivalan, Lawful Permanent Resident
Oral Testimony 21
Prepared Statement 22
Demetrios G. Papademetriou, Ph.D., President, Migration Policy Institute
Oral Testimony 23
Prepared Statement 25
Clarissa Martinez-De-Castro, Director, Immigration and Civic Engagement, National Council of La Raza
Oral Testimony 29
Prepared Statement 31

LETTERS, STATEMENTS, ETC., SUBMITTED FOR THE HEARING

Material submitted by the Honorable Zoe Lofgren, a Representative in Congress from the State of California, and Ranking Member, Subcommittee on Immigration and Border Security 47
Prepared Statement of the Honorable Bob Goodlatte, a Representative in Congress from the State of Virginia, and Chairman, Committee on the Judiciary 114

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

Prepared Statement of the Honorable Trey Gowdy, a Representative in Congress from the State of South Carolina, and Chairman, Subcommittee on Immigration and Border Security 117
Prepared Statement of the United Auto Workers 119
Prepared Statement of MinKwon Center for Community Action 121

SEPARATION OF NUCLEAR FAMILIES UNDER U.S. IMMIGRATION LAW

THURSDAY, MARCH 14, 2013

HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON IMMIGRATION AND BORDER SECURITY
COMMITTEE ON THE JUDICIARY
Washington, DC.

The Subcommittee met, pursuant to call, at 1:50 p.m., in room 2237, Rayburn Office Building, the Honorable Trey Gowdy (Chairman of the Subcommittee) presiding.

Present: Representatives Gowdy, Goodlatte, King, Amodei, Labrador, Holding, Lofgren, Jackson Lee, Gutierrez, and Garcia.

Staff present: (Majority) Andrea Loving, Counsel; Allison Halataei, Parliamentarian & General Counsel; Graham Owens, Clerk; and (Minority) Tom Jawetz, Counsel.

Mr. GOWDY. The Subcommittee on Immigration and Border Security will come to order. This is a hearing on the separation of nuclear families under U.S. immigration law. Unfortunately because of a meeting that the minority Members will be having with the President, we will stand in recess until 3:45.

[Recess.]

Mr. GOWDY. On behalf of all of us, thank you again for your indulgence. We will begin.

This is the Subcommittee on Immigration and Border Security. We will now proceed with the hearing on the separation of nuclear families under U.S. immigration law. And again, on behalf of all of us, thank you for being here.

I will now recognize myself for an opening statement.

Family is the fundamental unit of society. Family is where we go to multiply joy and mitigate grief and share all of the emotions in between.

A brief moment of personal indulgence. My mother-in-law fell on Monday and broke her hip, and even though there are wonderful nurses and doctors at the hospital, it will be family that stays with her around the clock. It will be family that will take my daughter to school. It will be family that will do the grocery shopping for her, and clean the house, and cut the grass.

We all claim to support pro-family agendas, and we analyze tax policy, and health care policy, and virtually all of the forms of policy against the backdrop of whether or not it incents or disincentivizes family. So it is appropriate that we also analyze our im-

migration policy, whether it is friendly to this thing we call family, the fundamental unit of our culture and society.

We have heard the statistics about U.S. green card backlogs and the time it takes for individuals trying to come to the U.S. legally. In fact, under the current process, if you have applied for a green card on the basis of being a brother or sister of an adult U.S. citizen, the wait could be nearly 25 years.

Members of the U.S. Commission on Immigration Reform now believe there to be a wait for spouses and unmarried minor children, but they do not necessarily share the same view about other family members. In its 1997 report, the Commission stated the natural interest in the entry of nuclear family members outweighs that of more extended family members.

The Commission also addressed the wait time for the spouse and unmarried minor children of lawful permanent residents, stating that no spouse or minor child should have to wait more than 1 year to be reunited with a U.S. petitioner. But the current green card wait time for the spouse and unmarried minor children of an LPR is actually around two and a half years, and there around 220,000 people waiting. So why is there a wait?

When Congress created the kind of green card system in the Immigration Act of 1965, limits were placed on the number of green cards available for certain classes of people each year. For instance, each year's family-sponsored green card limit for spouses and children of lawful permanent residents in the U.S. is 114,200, plus any unused green cards from the category allotted for unmarried adult children of U.S. citizens.

This preference category known as family-based second preference is further divided into 2A preference for spouses and unmarried children of LPRs and 2B preferences for unmarried adult children of LPRs. So if the number of green cards available in any given year for the family-based 2A preference category is less than the number of people who apply for a green card in that category, a backlog is created.

At this point, the top five countries with the highest family-based 2A preference waiting list totals are: Mexico, the Dominican Republic, Cuba, Haiti, and the Philippines, with the rest of the countries making up the remaining 32 percent.

Another reason for the wait is the conscious congressional decision not to allow immediate green cards for the family-based 2A preference category in order to help prevent marriage fraud. Since these marriages occur after the LPR has become an LPR, there is a real threat that if green cards were immediately available, marriage fraud would become more prevalent. Ideas differ as to how to reduce the green card wait time for the family-based 2A preference, and I am sure we will hear some of those differing views from our witnesses today.

Some individuals believe spouses and unmarried children of LPRs should be considered the same as immediate relatives of U.S. citizens and, thus, receive a green card immediately. Some believe the current situation is fine and that a few years' wait time is a fair price for the benefit of a U.S. green card, which then leads to citizenship. And still yet, others believe that the correct answer lies

somewhere in between. So I look forward to today's witness testimony to learn more about this issue and possible remedies.

And at this point, I would recognize the gentlelady from California, the Ranking Member of the Subcommittee, Ms. Lofgren.

Ms. LOFGREN. Thank you very much, Mr. Chairman. I am very sorry to hear about your mother-in-law, but I know that you will all take good care of her.

I also would like to note that this is the fifth hearing this Congress that we have had focusing on our broken immigration system, and I think each hearing has been productive and provided useful information. And today is a critical hearing to focus in on the important issue of the separation of families under U.S. immigration law.

As you know, family reunification has been really the bedrock of the American immigration system, at least since 1965 when the law as we currently know it was framed, although there have been some changes since. I think the focus on the family was not an accident on the part of Congress. As you have noticed, it is families that support us. It is family that are most dear to us. Really it is families that make the Nation work more than any other abstraction.

As you have mentioned, under the immigration laws, the parents, spouses, and minor children are U.S. citizens. They are immediate relatives under the law and can join their family here. But the system further limits immigration to 7 percent per country, and I would note that that also leads to very odd results in some ways because you have the same number of visas allocated to Iceland with a population of 350,000 as you do to the population of India, with 1.2 billion. And so there are anomalies that are caused by that.

Now, we have seen some improvements in the amount of time that spouses and minor children are separated. But I still think what does America gain if a husband and wife are separated, or if children are separated from a parent? I do not think that is what the Congress intended when we crafted these laws originally, and I do not think those separations really serve any valid purpose for the country.

During a prior hearing, one of the Members of the full Judiciary Committee mentioned an adult son or daughter as chain migration. I want to note again I do not consider my son or daughter remote from me. I think that the sons and daughters of moms and dads are about as nuclear family as you can get. And it is not you, but I just wanted to restate my concern in that way.

I think also our problems have been aggravated by changes that we made in the law in 1996, and I will just give you one example. In the '96 Act, we established something called the 3 in 10-year bar. I said at the time that it would just create more unlawful immigration, and I would like to say how unsatisfactory are the words "I told you so."

You can imagine that if you are out of status for 6 months, that you have to leave the United States, leave your American citizen spouse for as much as 3 years. If you are out of status for a year, you have to leave for 10 years. Now, if you leave for 10 years when your child is 5, by the time you get back, your child will be grown.

And so, what has happened is that people have declined to ruin their families in that way.

The Migration Policy Institute has done some studies on that, and it is a significant proportion of the undocumented population, that were it not for the mistakes we made in the '96 Act, they would be lawfully present here. They would have been able to qualify under the Act.

So I think this is a very important hearing. I look forward to working with you, Mr. Chairman, in making our system work better and serve America better than it does.

And with that, I yield back.

Mr. GOWDY. I thank the gentlelady from California.

Now, we will introduce the witnesses. I will introduce you en banc, and then recognize you individually. Many of you have testified before. The light system means what it traditionally means in life: green, go, yellow, see if you can wrap up within the next 30, 45 seconds, and then red, go ahead and wrap up as quickly as you can.

I will start by introducing Mr. Randell Emery. Mr. Emery is the president of American Families United. He co-founded the organization in 2006 and first took an interest in legislative immigration issues when his application for his wife's green card was delayed by more than 3 years.

Mr. Emery is employed by a global professional services firm and holds a bachelor of science in management information systems from the Pennsylvania State University.

Mr. Mathi Paguth Arivalan—and if I mispronounced that, and I am 100 percent certain I did, I apologize—is a legal permanent resident currently working as a software consultant for Newsmax. He was born in India and currently resides in Delray Beach, Florida.

He is a graduate of the University of Madras and came to the United States legally in 2005 to work on his inter-company transfer visa, which is an L-1 visa, and received his permanent resident status in 2009. He was married a month ago to a Malaysian citizen, and who is currently awaiting her green card to join him in the United States.

Mr. Demetrios Papademetriou—I may have added a syllable in there, and for that I apologize. Well, there is a first for everything—is a native of Greece. He is president and co-founder of the Migration Policy Institute, a Washington-based think tank dedicated exclusively to the study of international migration. He is also president of the Migration Policy Institute, Europe.

He received a Ph.D. in political science, international relations, and comparative public policy for Europe from the University of Maryland in 1976.

And last, but certainly not least, is Ms. Clarissa Martinez-DeCastro. She is the director of Civic Engagement and Immigration at the National Council of La Raza. Ms. Martinez oversees the organization's work to advance NCCR immigration policies, as well as efforts to expand Latino policy advocacy in electoral participation.

She is a naturalized United States citizen, a graduate of Occidental College and Harvard's Kennedy School of Government.

Welcome to all of you.

Mr. Emery, we will recognize you first and then go from your right to left, my left to right, for your opening statements.

Mr. Emery.

TESTIMONY OF RANDALL EMERY, PRESIDENT, AMERICAN FAMILIES UNITED

Mr. EMERY. Thank you, Chairman Gowdy, Ranking Member Lofgren, and all the members of the panel. My name is Randall Emery. I am president and co-founder of American Families United. We are the premier grass roots organization advocating for nuclear families and immigration reform.

AmericanFamiliesUnited.org was founded by U.S. citizens in 2006 because our rights as U.S. citizens, as husbands and wives, mothers and fathers, are not respected by U.S. immigration law. We created American Families United because we could not find another voice working on our very specific issues. As U.S. citizens, we immediately make common cause with lawful permanent residents who face indefensible delays in uniting with their spouses and kids.

It is often said that our immigration laws are broken, but not why. It is simple: our laws contradict our values.

Today's hearing is on the separation of nuclear families. Let me give a brief history of the F2A backlog that spouses and minor children of legal permanent residents.

We hear all the time about illegal immigration, but it has been nearly a quarter century since Congress last increased legal immigration. In 1990, if someone got a green card today and got married tomorrow, the minimum wait was 1 year. Congress thought that was too long. The House version of the 1990 act would have made nuclear families of legal permanent residents a numerically unlimited category.

Speaking on behalf of American Families United, we are proud of Governor Romney for proposing to return to this idea in his 2012 campaign. We are very encouraged of news reports that Senator Rubio has also proposed making the F2A category into immediate relatives under the law.

In 1995, the Jordan Commission asked the State Department for a formal count. How many people are we talking about? The official estimate was 1.1 million with more than 800,000 in the U.S. and another 300,000 waiting abroad facing a minimum wait of 3 years. The Jordan Commission found that this contradicted our national interests in warmly welcoming new Americans. But others said the backlog would go away on its own. It has not.

From 1990 to about 2006, the length of the time legal immigrants who marry, as Mat here did, increased from a year to nearly 8 years. How could the total number of people waiting have been declining when the time they must wait increased? But after about 2006, something weird happened with priority dates. They moved rapidly forward. A delay that had been 7 or 8 years is now 2 years and 4 months. It is still far too long, yet it is not the whole story.

A shorter waiting time does not mean fewer people are waiting. It means something much worse. People we should have welcomed were pushed into the shadows. The State Department's annual

waiting list says there are now 220,000 husbands and wives, parents and kids in this line, but that does not include hundreds of thousands of applications for nuclear family immigration held at USCIS.

We want the Committee to see the iceberg below the surface. These are some of the stories shared with us. An engineer from Russia, whose wife was in a car accident. He took "for better or for worse, in sickness and in health" seriously, and literally tried to commute between Oklahoma and the hospital in Kazakhstan. She was out of the United States so long that his marriage vows cost him his green card.

An elevator mechanic from Jamaica, he married a foreign student from Trinidad. They had a baby. She stopped going to school. By the time they found out the law required her to wait outside the country, she was already facing a 3-year ban. Then she learned her mother was dying, so this wife of a legal immigrant and mother of a U.S. citizen could accept exile from her husband, the father of their child, or she could never see her mother again, who would never meet her granddaughter.

And take my own story. I am a U.S. citizen. My wife is here legally. We got married. We were interviewed for a green card and told to come back in a few months while they did the background check. We did what we were told, but they had not finished the background check. So some people would want to arrest, deport, and exile her for 10 years because of their bureaucratic delay.

Let us be clear. One of the best things Congress could do about illegal immigrants is to stop making more of them.

American Families United has met with dozens of U.S. representatives and senators in their offices. I want to particularly thank Congresswoman Lofgren and especially Mr. Gutierrez, as well as Mr. Amodei and Judge Poe, for meeting with us on Valentine's Day.

We support comprehensively fixing our immigration laws. Legalization means waivers of inadmissibility for millions of people, but new laws must reflect old values: marriage, family. We urge this Committee to recognize that nuclear families of legal permanent residents are immediate relatives. We also urge due process waiver reform because the families of U.S. citizens should be treated at least as generously as anybody else in comprehensive immigration legislation.

Thank you.

[The prepared statement of Mr. Emery follows:]

Testimony of Randall Emery

President, American Families United

To a hearing on

The Separation of Nuclear Families under U.S. Immigration Law

Thursday 3/14/2013 - 1:30 p.m.

2237 Rayburn House Office Building

Subcommittee on Immigration and Border Security

Thank you Chairman Gowdy, ranking member Lofgren, and all the members of the panel. My name is Randall Emery. I am a US citizen. I am president and co-founder of American Families United. We are the premier grassroots organization advocating for nuclear families in US immigration reform.

American Families United was founded by US citizens in 2006 because our rights as US citizens – as husbands and wives, mothers and fathers – are not respected by US immigration law. We could not find another voice working on the specific oversights in US immigration law that threatened our right as US citizens to live with our families in our country.

We immediately made common cause with legal permanent residents – and are here today – because our values demand no less. These are people who got their green cards and then got married – and were shocked by the indefensible delays they face in living together as nuclear families in the country that claims to welcome them as legal permanent immigrants.

It is often said that our immigration laws are broken, but not why. It's simple: our laws contradict our values.

On the one hand, we welcome legal immigrants as permanent residents and urge them to become US citizens – so that "they" become "us". On the other hand, our laws block some of the most basic human values for both legal immigrants and US citizens – marriage and family.

Today's hearing is on the separation of nuclear families under US immigration law. Let me take a moment to give a brief history of the F2A backlog, the spouses and minor children of legal permanent residents.

It has been nearly a quarter century since the Congress last increased legal immigration, even though the country's population has grown by a quarter and our economy is nearly 60% larger. America is a positive sum proposition. Isn't that why we get married and have children?

In 1990, if someone got a green card today and got married tomorrow, the minimum wait was one year. The House of Representatives passed a version of the Immigration Act of 1990 that would have made this category numerically unlimited, although the Senate would only agree to a substantial increase.

Speaking on behalf of American Families United, we are proud of Governor Romney for proposing to return to this idea in his 2012 campaign, and we were very encouraged at news reports that Senator Rubio has also proposed making the F2A category into Immediate Relatives under the law.

In 1995, the bipartisan US Commission on Immigration Reform examined this issue. Known as the Jordan Commission, they were the first to ask the State Department for a formal count: **how many people are we talking about?**

At that time, the official estimate was 1.1 million, with more than 800,000 in the US and another 300,0000 waiting abroad, facing a minimum wait of 3 years. The Jordan Commission found both those numbers contrary to our national interest in warmly welcoming new Americans, and recommended that Congress recognize that the unification of nuclear families should have priority.

But others said at the time that this backlog was merely temporary and would go away on its own.

By the end of the 1990s, it was clear that the separation of nuclear families had become a permanent feature of US immigration policy. The State Department has explained that their 1997 estimate of more than a million was very low, for two reasons:

> First, they had not properly counted the numbers of nuclear family members waiting in the United States, since the then-INS does not count applications until a visa is nearly available. Neither does the USCIS now.
>
> Second, the delay is so long that families often increase while waiting – that is, a husband might visit his wife, who was counted as one person waiting but when her priority date finally arrives, the family has children. This is particularly true for Mexico.

For many years, the only way to see the scale of human misery created by this failure of our laws was to watch the priority dates – or the way we in American Families United have seen it, with people like Mat, here, who come to us for help and join our cause. We want to show the Committee most of the iceberg is below the surface.

In December 2000, the minimum worldwide wait for the spouse of a legal permanent resident was 4 years and 5 months. For Mexico, it was 6 years and two months. That was when Congress passed the LIFE Act, which created the V visa that allowed spouses and minor children of legal permanent residents to wait for their green cards in the US – but only up until the date of enactment. American Families United supported last year's STEM bill, which would have revived the V visa. But it is important to realize that the LIFE Act did not solve the problem.

The worldwide wait for the nuclear families of legal immigrants peaked in July 2006 at 6 years and nine months. For Mexico, it peaked in July 2003 at 7 years and 8 months.

How could the total number of people waiting have been declining, when the time they must wait increased?

Over the next few years – from 2003 to 2010 – something happened, which you can see in the dry charts of the priority dates, but which we at American Families United heard directly from the people affected. Literally hundreds of thousands of people who should have been welcomed as American families were pushed into the shadows or forced to leave their new country: exiled – or outlawed.

Month by month, the State Department moved the priority dates forward, in order to bring in that month's portion of annual immigration in this category. By July 2010, the delay that had been nearly 7 years worldwide, had become just two years. For Mexico, what had been a nearly 8 year delay had ostensibly declined to a little more than 3.

Today, the State Department's Visa Bulletin pegs both Mexico and the worldwide wait in this category the same: 2 years, 5 months. That's the delay Mat is facing. It's far, far too long. Yet it's not the whole story.

It is not true that a shorter waiting time means fewer people are waiting. It means something much worse.

Since 2010, the State Department has published an annual Waiting List. Last November, they officially counted 220,313 people waiting in this category.

But it has to be said clearly: this is misleading, because the State Department count does not include hundreds of thousands of applications for nuclear family immigration held at USCIS. There is no consolidated count for nuclear family unification.

Outside of the comprehensive immigration debate, there is no discussion of how many of the undocumented population has been eligible for legal immigration for many years. So it isn't so much that they violate the value of the rule of law. Instead, our immigration laws fail the test of American values.

So let me briefly show the Committee the human face of these numbers through stories shared with us.

Consider the example of an engineer from Russia, who was working in Oklahoma. He married his sweetheart from back home, who was working in Kazakhstan. At the time, the minimum time they had to wait fluctuated each month between 5 and 6 years. But then she was hit by a car. Many of her bones were broken. He literally tried to commute between Kazakhstan and Oklahoma, to continue his career while obeying that part about "for better, for worse, in sickness and in health". But he spent so much time at her bedside that he lost his permanent residence status in the US – and America lost ***that*** guy, someone who flew halfway around the world three times a month to try to keep his commitment to his new country as well as his new bride.

Just one more example, of many: an elevator repairman, a skilled mechanic from Jamaica, owns his own business. He married a foreign student from Trinidad. They had a baby – so she was the mother of a US citizen, and the wife of a legal permanent resident. But as often happens, it never occurred to her that US immigration law does not respect those fundamental values. She learned that her mother in Trinidad was dying – so she faced the dilemma: she could

bring the only granddaughter to her dying mother, and be exiled from her husband, raise that little girl apart from her father for ten years – or she could remain in the US, never see her mother again, and be permanently outlawed.

Now, some might ask: why can't these people just wait to become US citizens?

There are two things to say to that. First, America welcomes legal immigrants. That's why they are legal, after all.

It defies our national interest to tell a new American that they cannot marry, cannot really start a new life in the United States, until they become a US citizen. What national interest could it possibly serve, to tell husbands and wives that they must sleep in separate countries for five years?

Second, even naturalization does not help in many thousands of cases. We know – that's why American Families United was founded by ***US citizens*** whose spouses have been caught by the fish hooks and bear traps that litter US immigration law and policy. We know that nuclear families are often forced apart because our immigration laws are like death penalty trials with traffic court rules of evidence, with catastrophic consequences to US citizen families.

That's why on Valentine's Day – which happened to be Mat's wedding day – AFU members met with 53 Congressional offices, including personal meetings with 5 US Senators and, in fact, we have met with several members of this Committee: with ranking Member Lofgren, in her California office; with Congressman Gutierrez – thank you again for your public support, Congressman Poe, Congressman Amodei, and others here in DC; and with the staff of Congressman Gowdy, Congressman Holding, and Congressman Garcia.

As those of you who met with us recall, we have a very specific ask for due process waiver reform: that US citizens' families be treated at least as generously as anybody else in comprehensive immigration reform.

American Families United's full legislative agenda is on our website, AmericanFamiliesUnited.org.

For this Committee hearing, let me emphasize just two parts: immediate relative status for the nuclear families of legal permanent residents, and – please, do not forget – due process waiver reform, so that the families of US citizens are at least not treated worse than others in comprehensive reform legislation.

Thank you.

Supporting Material:

From the Executive Summary of *Legal Immigration: Setting Priorities*, the 1995 Report of the bipartisan US Commission on Immigration Reform http://www.utexas.edu/lbj/uscir/reports.html (Page XV)

> By the end of this fiscal year, 824,000 spouses and minor children of aliens legalized under IRCA will be waiting for visas. The number of new applications has fallen to only a handful for this group. However, since the filing of applications by the legalization beneficiaries, a backlog of 279,000 (or about 80,000 per year) spouses and minor children of other LPRs has developed. Under our current system, it would take more than a decade to clear the backlog, even with substantial naturalization. In the meantime, when an LPR sponsors a spouse and/or minor child, that individual goes to the end of the waiting list of 1.1 million.

History of the F2A backlog, the spouses and minor children of legal permanent residents:

Minimum wait (summarized from the State Department Visa Bulletin Archives)

December 1995
http://dosfan.lib.uic.edu/ERC/visa_bulletin/9512bulletin.html

Worldwide August 92; Mexico February 92

Worldwide: 4 years, 5 months
Mexico: 4 years, 10 months

December 1999
http://dosfan.lib.uic.edu/ERC/visa_bulletin/9912bulletin.html

Worldwide September 1995; Mexico June 1994

Worldwide: 4 years, 3 months
Mexico: 5 years, 7 months

December 2000 (when LIFE Act created the V Visa):
Worldwide: July 96; Mexico October 94.

Worldwide: 4 years, 5 months
Mexico: 6 years, 2 months

July 2001

Worldwide September 96; Mexico October 94

Worldwide: 4 years, 9 months
Mexico: 6 years, 3 months

July 2002

Worldwide April 97; Mexico November 94

Worldwide: 5 years, 2 months
Mexico: 7 years, 8 months

July 2003

Worldwide: May 98; Mexico December 95

Worldwide: 5 years, 2 months
Mexico: 7 years, 8 months

July 2004

Worldwide: March 2000; Mexico August 97

Worldwide: 4 years, 3 months
Mexico: 6 years, 11 months

July 2005

Worldwide: May 2001; Mexico May 98

Worldwide: 4 years, 2 months
Mexico: 7 years, 2 months

July 2006

Worldwide: September 99; Mexico September 99

Worldwide: 6 years, 9 months
Mexico: 6 years, 9 months

July 2007

Worldwide June 02; Mexico August 01

Worldwide: 5 years, 1 month
Mexico: 6 years, 11 months

July 2008

Worldwide: August 03; Mexico **UNAVAILABLE**

Worldwide: 4 years, 11 months
Mexico: Unavailable

July 2009

Worldwide: December 04; Mexico June 02

Worldwide: 4 years, 8 months
Mexico: 7 years, 1 month

July 2010

Worldwide July 08; Mexico June 07

Worldwide: 2 years
Mexico: 3 years, 1 month

July 2011

Worldwide: March 08; Mexico February 08

Worldwide: 3 years, 3 months
Mexico: 3 years, 4 months

July 2012

Worldwide: February 2010; Mexico February 2010

Worldwide: 2 years, 4 months
Mexico 2 years, 4 months

March 2013:

Worldwide: November 2010; Mexico November 2010.

Worldwide: 2 years, 5 months
Mexico: 2 years, 5 months

American Families United
www.americanfamiliesunited.org
c/o Morrison Public Affairs Group
b.a.m@att.net
301-263-1142

Inadmissibility Waivers Based on Family and Community Equities. Current waiver provisions for the various grounds of inadmissibility vary widely in standards and applicability. Most create bright lines between eligibility and ineligibility which fail to account for the widely varying facts of each case. We propose an overall waiver section applicable to all grounds of inadmissibility that are not based on prospective conduct. The provision creates a balancing test of positive and negative factors to be applied in each case. Central to these factors are the strength of family and community ties compared to the seriousness of the misconduct involved.

Legislative Language

SEC. XXX. WAIVERS OF INADMISSIBITY. Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by inserting the following subsection (c)—

"(c)(1) Notwithstanding any other provision of law, the Secretary of Homeland Security or the Attorney General shall waive the effect of the following statutory provisions unless it is found that the balance of favorable and unfavorable factors on the totality of the evidence weighs against granting the waiver:

"(i) Any one or more grounds of inadmissibility (including any requirement of permission to reapply for admission and any application for relief from removal) set forth in subsections (a)(2), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), and (a)(10)(except subparagraph (A)) to permit an alien to receive an immigrant visa or be adjusted to the status of lawful permanent resident; or
"(ii) Any one or more grounds of removability set forth in section 237, except subsection (a)(4).

"(2) Favorable factors shall include:

"(i) The amount of time that has passed since the events or conduct that is the basis of the inadmissibility;
"(ii) The extent of rehabilitation and remorse demonstrated by the alien since such events or conduct;
"(iii) The duration of legal residence in the United States;
"(iv) The presence of family members entitled to live legally in the United States;

"(v) The provision of economic and social support to family members entitled to live legally in the United States;
"(vi) Property owned by the alien in the United States for personal or business use;
"(vii) Social, economic or cultural contributions made by the alien to his community in the United States or abroad;
"(viii) Honorable service in the armed forces of the United States or of an ally of the United States;
"(ix) The extent of any hardship that would be suffered by the alien or any person entitled to live legally in the United States due to the alien's inadmissibility; and
"(x) Any specific benefit that would accrue to the government or citizens of the United States by permitting the alien to become a lawful permanent resident.

"(3) Unfavorable factors shall include:

"(i) The seriousness of the conduct that is the basis of the inadmissibility;
"(ii) Commission of serious crimes or significant immigration violations in addition to the conduct that is the basis of the inadmissibility;
"(iii) Specific harm caused to the national interest of the United States by conduct of the alien;
"(iv) Any specific detriment that would accrue to the government or citizens of the United States by permitting the alien to become a lawful permanent resident.

"(4) The absence of one or more favorable factors shall not be construed as a negative factor and a single favorable factor can provide sufficient basis to grant a waiver.

"(5) Permitting spouses and minor children to live together in the United States if one of the spouses is a citizen or lawful permanent resident is a specific benefit to the government and citizens of the United States and shall be given conclusive weight in favor of granting waivers in the absence of unusually serious negative factors."

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Mr. GOWDY. Thank you, sir.
Mr. Arivalan.

TESTIMONY OF MATHI MUGILAN PAGUTH ARIVALAN, LAWFUL PERMANENT RESIDENT

Mr. ARIVALAN. Thank you, Chairman Gowdy, Ranking Member Lofgren, and all the Members of this distinguished Committee. My name is Mathi Magulin Paguth Arivalan. I am a legal permanent resident of the United States. I hope to become a United States citizen one day.

I was born in India. I am a Tamil. That means I am a member of one of the oldest continuous nationalities on earth, as venerable as the ancient Hebrews, older than the Romans, nearly as old as the Egyptians, who built the pyramids. Tamils are scattered across most of South Asia: India, Malaysia, and, most painfully, Sri Lanka. It is exciting to me as a legal immigrant of this country to think that I am bringing one of the world's oldest people to one of the world's youngest nations.

I am also married. I hope you do not mind if I exercise one of the prerogatives enshrined in the Bill of Right. I want to petition the government for a redress of grievances.

I came to the United States on an L visa in 2005 as a software consultant. I got my green card in 2009. These days I work for Newsmax, which I expect most of you are familiar with. I am well-known in the Tamil community, which is worldwide. It was through my work in human rights, particularly after the genocide against Tamils in Sri Lanka, that I met Bhavaneswari. She is also a Tamil, born and raised in Malaysia. We fell in love. We got married on February 14th. Of course you all recognize that is a marvelous bit of multiculturalism. I did not grow up celebrating Valentine's Day, but I think it will also be our wedding anniversary.

What I have to tell this Committee that I was shocked to discover when I was about to file a petition to bring Bhavaneswari to America, my new country, as my new wife, that the minimum wait in this category is more than 2 years. I understand that this delay has been as long as 8 years for some people.

Let me explain why that shocked me. After all, I have been working legally in this country for about 8 years. I know many professionals who work here on various visas—L1, H1B. They can bring their wives to the United States almost immediately. But I have made a commitment to the United States by becoming a legal permanent resident. As a Tamil, I cannot say that that there is any other nation on earth that is truly my home, but is that not America's story that this is a land where those who are not at home anywhere can make one?

So I was shocked to find that because I made a commitment to America, my wife must wait in another country for years. If I was just a temporary worker, my wife would not have been 12,000 miles away.

I did what any red-blooded American would do. I went on the Web and used Google. I found AmericanFamiliesUnited.org and realized that my problem was not unique. It was, in fact, a feature of U.S. immigration law. I cannot believe that was the intent of Congress. This organization was formed to fix it, so I joined.

All I know is what I see in the media, but we are very hopeful that Congress will comprehensively reform immigration laws to reflect the very values that attracted me to this country. Thank you.

[The prepared statement of Mr. Arivalan follows:]

Prepared Statement of Mathi Mugilan Paguth Arivalan, Lawful Permanent Resident

Thank you Chairman Gowdy, ranking Member Lofgren, and all the members of this distinguished Committee. My name is Mathi Mugilan Paguth Arivalan. I am a legal permanent resident of the United States. I hope to become a US citizen one day.

I was born in India. I am a Tamil. That means I am a member of one of the oldest continuous nationalities on earth—as venerable as the ancient Hebrews, older than the Romans, nearly as old as the Egyptians who built the Pyramids. Tamils are scattered across much of South Asia—India, Malaysia, and, most painfully, Sri Lanka.

It is exciting to me, as a legal immigrant to this country, to think that I am bringing one of the world's oldest peoples to one of the world's youngest nations.

I am also married. I hope you don't mind if I exercise one of the prerogatives enshrined in the Bill of Rights, and petition the government for a redress of grievances.

I came to the United States on an L visa in 2005, as a software consultant. I got my green card in 2009. These days, I work for Newsmax, which I expect most of you are familiar with.

I am well-known in the Tamil community, which is worldwide. It was through my work in human rights, particularly after the genocide against Tamils in Sri Lanka, that I met Bhavaneswari. She is also a Tamil, born and raised in Malaysia.

We fell in love—and we got married on February 14th. Of course you all recognize that is a marvelous bit of multiculturalism. I did not grow up celebrating Valentine's Day, but I think I like that it will also be our wedding anniversary.

But I have to tell this Committee that I was shocked to discover, when I filed a petition to bring Bhavaneswari to America, my new country, as my new wife, that the minimum wait in this category is more than two years. I understand that this delay has been as long as 8 years for some people.

Let me explain why that shocked me. After all, I have been working legally in the United States for 8 years. I know many professionals who work here on various visas: L–1, H–1B. **They** can bring their wives to the United States almost immediately.

But I have made a commitment to the United States by becoming a legal **permanent** resident. As a Tamil, I cannot say that there is any nation on earth that is truly my home—and isn't that America's story, that this is the land where those who are not at home anywhere, can make one?

So I was shocked to find that **because** I had made a commitment to America, my wife must wait in another country for years. If I was just a temporary worker, my wife would not be 12,000 miles away.

I did what any redblooded American would do—I went on the Web, and used Google. I found *AmericanFamiliesUnited.org*—and realized that my problem was not unique. It is in fact a feature of US immigration law. I cannot believe that was the intent of Congress. This organization was founded to fix it. I joined.

All I know is what I see in the media, but we are very hopeful that Congress will comprehensively reform immigration laws to reflect the values that attracted me to this country.

Mr. GOWDY. Thank you, sir.

Mr. Papademetriou. I will get it in another 6 or 7 weeks.

TESTIMONY OF DEMETRIOS G. PAPADEMETRIOU, Ph.D., PRESIDENT, MIGRATION POLICY INSTITUTE

Mr. PAPADEMETRIOU. I have to keep coming back. That is the only way to do it.

Mr. Chairman, Ms. Lofgren, Mr. Gutierrez, Mr. Labrador, it is a pleasure to testify before you on this particular issue. I think that following the statements of the Chairman and the Ranking Member, it is clear that we all agree that how a country approached immigration and how it treats its immigrants is a powerful statement to the world about the values and the principles on which it stands.

And indeed when it comes to family, our commitment to families is very deep. From the total number of legal permanent residents, people who come to the United States, about two-thirds of all visas go to families of U.S. citizens. And if you add all of the family members that accompany to join others throughout the immigration system, the total proportion goes up to 80 percent. So 80 percent of the total number of the 1.1 roughly visas that we issue each year essentially goes to family members.

And you have all suggested and seem to agree that indeed that is extremely important. And you have also talked about the second preference, the backlogs. The first of the 2 second preference subcategories, 2A, gets about 77 percent of the about 115,000 visas that are available in the category. The 2 big categories, which is the unmarried adult children 2A is spouses and unmarried minor children. The 2 big categories gets the remainder, about 23 percent.

So it is not, you know, unusual that the delays, the backlogs that have been created are distributed unequally—a little over 200,000 for the 2A and about 500,000 for the 2B. And the average waiting times is a little over between 2 and a two and a half years for 2A, about 8 years for 2B. And for the Filipinos and the Mexicans, on the 2B the Filipinos would be 11 years and Mexicans 20 years. We can all do that math.

These numbers, of course, come from the National Visa Center of the Department of State, and these are the people waiting abroad, and they have filed a petition. They qualify under the law, and they are waiting in line.

There is another number, which is not known, some people suggest a very large number—I make no judgments in this because we have not studied at the Migration Policy Institute—where people apply for adjustment of status from within the United States under Section 245(i) of the INA.

Last year, 12,000 people actually joined, you know, the ranks of green card holders for this particular route. It is a significant number, but much smaller than the number for all of the other visas.

Now, I know that we all believe deeply within us that there is a great deal of exceptionalism within our country, and indeed there is. But I do want us to all know that among advanced industrial democracies, all the European countries—Canada, Australia, and what have you, New Zealand—we are the only ones who have either numerical limits or waiting lists for spouses and minor children of green card holders, the only ones. Even if you were to take the example of Germany, which is not exactly, you know, at least until very recently, a place that is very friendly to immigration, spouses and minor children can join their loved ones, their spouse,

or their parent without any delays, except administrative delays. And these tend to be very, very short, from 28 days to about 3 months, with the exception of Canada where the delays can go as far as 30 months.

So what I have tried to suggest in this brief review is that we need to do something about this particular change; otherwise, we are going to not only keep families separate, but also we are going to contribute to this population that is in the United States illegally.

I have 2 suggestions for you to consider. The first one is to create a second category within the immediate relatives category. You can call it IR2. And the second one is to revisit the V visa, which is the temporary visa. And we can do that relatively easily. Congress can do and undo whatever it wishes, and we can take care of the problem.

Thank you very much.

[The prepared statement of Mr. Papademetriou follows:]

Testimony of

Demetrios G. Papademetriou
President
Migration Policy Institute

The Separation of Nuclear Families under U.S. Immigration Law

Before the
Subcommittee on Immigration and Border Security
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C.

March 14, 2013

Mr. Chairman, Mr. Ranking Member, Members of the Subcommittee:

I am Demetrios Papademetriou and I am President of the Migration Policy Institute, an independent, non-partisan think tank in Washington that analyzes U.S. and international migration trends and policies. MPI, which I co-founded in 2001, grew out of the International Migration Policy Program at the Carnegie Endowment for International Peace.

Thank you for the opportunity to testify today on "The Separation of Nuclear Families under the U.S. Immigration Law." Because this hearing focuses narrowly on one particular facet of the legal immigration system, I will be brief.

How a country approaches immigration and how it treats its immigrants is a powerful statement to the world about its values and the principles by which it stands. Our country's commitment to American families is reflected in the emphasis U.S. immigration law places on the (re)unification of families. In fact, about two-thirds of all permanent immigration visas are allocated directly to family members through the family unification system; this number increases to about 80 percent if you include the family members of immigrants admitted for employment, as refugees, or for other purposes.

The way in which the United States allocates family visas is very complex. As you undoubtedly know, there are six categories for non-citizens applying for lawful permanent residence through the family-based channel. The Second Preference, which is the category reserved for the close family members of lawful permanent residents (LPRs), is the focus of today's hearing and thus the focus of my remarks.

The Second Preference category allocates about 115,000 visas to the spouses and unmarried children of LPRs, and is broken down into two sub-classes: 2A and 2B. About 77 percent of Second Preference visas go to the spouses and minor (under age 21) unmarried children of lawful permanent residents in the 2A sub-class, while the remainder goes to the unmarried adult children of this class of immigrants (designated 2B). The category's numerical limitations have created a waiting list ("backlog") of about 700,000 persons, divided the following way: the 2A category accounts for slightly more than 200,000 persons; the 2B category for nearly 500,000.

The 700,000 figure is a (close) approximation of the likely total number of those waiting on visa lists because of the way petitions are counted. The numbers we all use come from the State Department's National Visa Center, which reports the total number of applications the State Department has received and has placed on the appropriate visa waiting lists. There is a second way in which applicants can apply for an immigrant visa. Applications for adjustments of status under the *Immigration and Nationality Act's* Section 245 (which allows a lawfully present individual to adjust status from within the United States), are processed by U.S. Citizenship and Immigration Services (USCIS) and are not part of the total that is reported by the State Department. For the Second Preference, the number of adjustments of status processed by USCIS is a fraction of those processed by the State Department (fewer than 12,000 in fiscal 2011) but the pool of applications that are with USCIS is thought to be much larger than that.

These numbers translate into average waiting times of somewhat more than two years for the 2A class. That means that a spouse or unmarried minor child of a US permanent resident with a petition for a 2A visa will *likely* have to wait a little more than two years. (The reason that this is a "likely" waiting time is because as LPRs become U.S. citizens, they and their spouses and minor children become exempt from numerical limitations.) Waiting times for the 2B class are much longer, at roughly eight years; applicants from the two heaviest users of the family immigration system—Mexico and the Philippines—currently have to wait 20 and 11 years respectively to reunite with their lawful permanent resident spouse or parent who is already in the United States.

I have been a student of the U.S. immigration system for several decades; my Institute and I also study immigration systems around the world, particularly those that are more nimble in adjusting their immigration policies than we are. The United States is unique in the length of the waiting time it imposes to reunite permanent residents with their spouses and minor children.

As this brief review of the Second Preference backlog makes clear, our commitment to (re)unifying the nuclear families of green card holders is almost a false promise in that it keeps nuclear families apart for substantial periods of time. This is not only how *not* to keep commitments; it is also a powerful incentive to break immigration laws. The needed fix is rather simple: decide to adjust the relevant parts of the immigration formula by focusing on the fundamental principle behind that part of the system—*keeping the closest members of families (spouses and minor children) together.*

- The proposed adjustment can take one of two forms.

    1. Nuclear families of LPRs (2A) could be moved into the Immediate Relative (IR) category of the immigration system. Unlike U.S. citizens, who can reunify with spouses, minor children, and parents, lawful permanent residents could only reunify with spouses and unmarried children. In effect, we would have two IR categories, IR-A, and IR-B.

    2. An alternative would be to change some of the conditions of the "V" non-immigrant visa. That visa targets precisely the population that is the subject of this hearing: Spouses and unmarried children of lawful permanent residents. The V visa was part of the *Legal Immigration Family Equity Act* in 2000. To qualify for the visa requires that one meets six criteria. Three among them are relevant to this discussion: (a) the petitioner must have filed a petition before December 20, 2000, the law's enactment date; (b) the petition's priority date must be at least three years old; and (c) the priority date must not be current. Amending the visa to remove these three requirements would allow the spouses and unmarried children under the age of 21 of LPRs to enter and stay legally in the United States with the right to work while waiting for their priority date to become current or for the principal to become a citizen. Of course, other things will also have to be dealt with (such as protecting children who "age out" or marry in the interim), but these should be easy to do once the decision to anchor the change on the fundamental principle of family unity is made.

To summarize, either adjustment option you choose to follow will advance the fundamental principle that this brief testimony proposes that you embed at the core of the U.S. immigration system: (re)unifying the closest family members of both U.S. citizens and green card holders. It is a good principle to stand on as you consider changes to U.S. immigration laws.

I thank you, Mr. Chairman, for the opportunity to testify and would be pleased to answer any questions.

Mr. GOWDY. Thank you, sir.
Ms. Martinez.

TESTIMONY OF CLARISSA MARTINEZ-DE-CASTRO, DIRECTOR, IMMIGRATION AND CIVIC ENGAGEMENT, NATIONAL COUNCIL OF LA RAZA

Ms. MARTINEZ-DE-CASTRO. Thank you, Chairman Gowdy and Ranking Member Lofgren, Members of the Committee, for the opportunity to be with you today.

Given that my fellow witnesses have done a great job, I think I am going to try to concentrate on adding some context of how why this issue is so important and how we are looking at it.

First, as a way of background, let me say NCLR is the largest national Hispanic civil rights and advocacy organization in the country with a network of nearly 300 community-based organizations who serve millions of Americans annually. These are groups who are in the trenches and seen the results of what is happening with inaction in the immigration system.

Without a doubt, immigration is a galvanizing issue for the Nation's Hispanic community, 75 percent of whom are United States citizens. The toxic rhetoric in the debate has affected us all regardless of immigration status, and that is why I believe Latino voters responded the way they did in the last election in a way that I believe also has created an opportunity to try to get to a solution.

Our community is very engaged in watching this debate very closely, and it matters not just to the voters today, but the average 900,000 Latino citizens who are going to be turning 18 every year between now and 2028.

We believe that immigration to the United States should be orderly and legal. And as part of the opportunity that Congress has right now to get immigration reform right, we believe that we should have a system that, number one, restores the rule of law by creating a path to legality and citizenship while also combining smart enforcement meshers that respect rights and increase security.

Number two, a system that preserves the rule of law through functioning legal immigration channels that uphold the unity of all families and respond to the needs of employers and the American workforce. And number three, and not least, is a system that strengthens the fabric of the country by promoting immigrant integration. Family-based immigration is something that is important in all of these 3 categories.

We understand that the various components of the immigration system are designed to work in tandem. Therefore, once we restore the rule of law, our ability to preserve it will rest on whether or not we have a functioning legal immigration system that does not create incentives to go around it. The cornerstones of that system have been family and employment-based migration. And while some see these as competing categories, the reality is that they are highly complementary and intertwined in both advanced national goals of strengthening family values and achieving global economic competitiveness.

Keeping families strong is a fundamental value of American life. It also promotes the economic stability of immigrants in their inte-

gration into our country, which is a goal we have as a Nation. In every wave of immigrants that have to America, the family unit has been critical both to the survival of immigrants in a strange land also to their success in adapting and contributing to their newly-adopted country.

We would be undermining ourselves if we walked away from family unity as a guiding principle for our immigration policy. And close relatives are able to make vital contributions to the U.S. economy as workers and as entrepreneurs, and have helped revitalize many cities and revitalize and re-energize U.S. small business culture. Put plainly, family-based immigration is an economic and social imperative. And to fully reap its rewards, we must address the problems causing the unnecessary separation of families.

Problem number 1, due to a lack of available visas, there is about 4.3 million relatives of U.S. citizens waiting outside to reunite. LGBT families, problem number 2, are completely excluded. Problem number 3, hundreds of thousands of U.S. citizens and lawful permanent residents have been separated from family members due to the increase in deportations.

We can solve these problems, and we definitely need to look at broadening the lanes. Modern families are complicated and diverse, and we must have an immigration system for the 21st century that reflects those complexities and includes a mix of permanent and temporary family and business.

I urge the Subcommittee to think in terms of both/and as opposed either/or, and in so doing, to remember the principles that should guide us: to restore the rule of law, to preserve it, and to advance immigrant immigration. And we need both family and employment-based immigration to achieve that. It is a challenge, but I think it is something that is doable, and definitely this body has the power to do something about it.

Thank you very much.

[The prepared statement of Ms. Martinez-De-Castro follows:]

NCLR
NATIONAL COUNCIL OF LA RAZA

STRONG FAMILIES: AN ECONOMIC AND SOCIAL IMPERATIVE FOR SUCCESSFUL IMMIGRATION REFORM

Presented at

"The Separation of Nuclear Families under U.S. Immigration Law"

Submitted to
Subcommittee on Immigration and Border Security
U.S. Committee on the Judiciary

Submitted by
Clarissa Martinez-De-Castro
Director, Immigration and Civic Engagement
National Council of La Raza

March 14, 2013

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Chairman Gowdy and Ranking Member Lofgren, thank you for the opportunity to appear before the subcommittee today and provide testimony on behalf of the National Council of La Raza (NCLR). NCLR is the largest national Hispanic civil rights and advocacy organization in the United States, an American institution recognized in the book *Forces for Good* as one of the highest-impact nonprofits in the nation. We represent some 300 Affiliates—local, community-based organizations in 41 states, the District of Columbia, and Puerto Rico—that provide education, healthcare, housing, workforce development, and other services to millions of Americans, including immigrants, annually.

NCLR has a long history of fighting for sensible immigration laws, evidenced through our work in the Hispanic community, in the states and in Washington, DC. Most of our Affiliates teach English, provide health care services, promote financial literacy, and otherwise ease the integration of immigrants into the mainstream. We support and complement the work of our Affiliates in communities by advocating for public policies here in Washington and increasingly at the state level.

NCLR contributed to shaping the Immigration Reform and Control Act of 1986, the Immigration Act of 1990 to preserve family-based immigration, and the Nicaraguan Adjustment and Central American Relief Act (NACARA), and we led four successful efforts to restore safety net systems that promote immigrant integration. We have worked with Presidents Reagan, both Bushes, and Clinton, to achieve the best results possible for our community and for the country. We know that working with both parties is the only way to get things done. We thank the Congressional Hispanic Caucus for their leadership on this issue, as well as other members of Congress working to achieve immigration reform this year. It is clear that everyone, not just the Hispanic community and not just immigrants, has a stake in and stands to benefit from having a well-functioning and fair immigration policies.

As the recent election clearly demonstrated, the issue of immigration is a galvanizing one for the nation's Hispanic community. There is a precious opportunity to address it humanely and responsibly. Toxic rhetoric in public discourse on this issue has affected us deeply, regardless of immigration status, and we see getting this debate on the right course as a matter of fundamental respect for the presence and role of Latinos in the U.S. Latino voters generated the game-changing moment for immigration last November, creating an opening to finally achieve the solution our country longs for. And the Latino community's role is growing. An average of 878,000 Latino citizens will turn 18 each year between 2011 and 2028. Our community is engaged and watching this debate closely.

Congress has a unique, historic opportunity to pass immigration reform this year. Not only does fixing our broken immigration system benefit immigrants themselves, but it is in the interest of our country. Immigration to the United States should be orderly and legal, promote economic growth and family unity, and reflect our nation's values. The moral, economic and political imperatives for action are aligned, and Congress has an opportunity and a responsibility to deliver immigration reform that:

- **Restores the rule of law** by creating a path to legalization and a roadmap to citizenship for the 11 million aspiring Americans, as well as smart enforcement that improves safety and

security, supports legal immigration channels, prevents discrimination and respects due process;

- **Preserves the rule of law** by restoring integrity and confidence in workable legal immigration channels that uphold the principle of family unity for all America's families, and strengthen our economy by responding to employment needs while upholding wages, labor rights, and protections for the American workforce;
- **Strengthens the fabric of America** by adopting proactive measures that advance the successful integration of new immigrants.

The Family Immigration System is Outdated

The various components of our immigration system are designed to work in tandem, and we welcome the current Congressional debate to fix this system from top to bottom. As part of this debate, it is essential that we acknowledge that once we restore the rule of law, our ability to preserve it will rest on having a functioning legal immigration system that does not create incentives to go around it. To this day, that system has been largely based on family- and employment-based immigration, and both have generally served our country well. While some may choose to see these as competing categories, the reality is that they are highly complementary and speak to national goals of strengthening family values and achieving global economic competitiveness.

The U.S. has been successful as a nation of immigrants because we allow and encourage those who come to our shores to fully participate in American life. By encouraging citizenship and civic participation, we strengthen immigrants' connection to the nation and strengthen our common social bonds. Our country has recognized that family unification must be a core principle of our immigration policy. Keeping families together is a fundamental value and interest, and we must maintain our historic commitment to keeping families strong and united. We must address the unnecessary separation of families who are kept apart by extraordinarily long wait times for certain family visas, who are excluded from the system, like bi-national same-sex couples, or who are torn apart by current enforcement policies.

Currently, U.S. citizens and Legal Permanent Residents (LPRs) are able to sponsor close relatives, provided they meet certain eligibility requirements, demonstrate they can support themselves, and legally commit to support the family member they are seeking to bring to the U.S. Due to the inadequate numbers of visas allocated for family unification, 4.3 million relatives of U.S. citizens and legal permanent residents are stuck waiting outside the U.S. for visas to become available; many waiting years or even decades. For example, U.S. citizen parents who petition for their adult child from Mexico must wait almost twenty years to be reunited. In that time, it is nearly impossible for the son or daughter to visit the United States, resulting in decades of family separation. For LPRs, the only opportunity for reunification is with immediate family, meaning spouses, minor children, and unmarried sons and daughters. But while LPRs have been vetted, and accepted as permanent residents in our country, they often have to wait two years or more to reunite with a spouse or child.

Faced with extraordinary wait periods, Latino families are disproportionately affected by separation due to our broken immigration system. Mexico is the country with the highest number of individuals in the family-sponsored waiting list. Unmarried sons and daughters of U.S. citizens in Mexico, Dominican Republic, El Salvador, Cuba, and Colombia make up 47.4% of the individuals in that category's waiting list. The spouses and children of LPRs in Mexico, the Dominican Republic, and Cuba make up 57.7% of the waiting list in that category.

Not only do the long wait periods create untenable situations for families, it also should disabuse anyone of the notion that the family immigration system enables "chain migration," the misconception that family members petition endlessly for each other resulting in exponential growth in overall immigration. The reality is that the typical immigrant sponsors two family members, and that is after they have achieved legal permanent residency or, as is required for most of these categories, citizenship, a process that involves an average wait of at least five years but that for most immigrants takes much longer.

The Economic Benefits of Family Immigration

Keeping families together and strong is a core principle and a fundamental value of American life. It also promotes the economic stability of immigrants and their integration into our country, and we must continue our historic commitment to this idea. In every religion, in every culture, in every wave of immigrants that have come to this country, the family unit has been critical both to the survival of immigrants in a strange land, and to their success in adapting and contributing to their newly adopted nation. We would be undermining ourselves as a nation if we walked away from family unity as a guiding principle for our immigration policy. These close relatives are able to make vital contributions to the U.S. economy as productive workers and entrepreneurs. Family-based immigrants have a higher occupational mobility than employment-based immigrants and are able to fill gaps in our economy. Immigrant families are also more likely to start small- and medium-sized businesses as they benefit from family networks and pooled resources. Research shows that immigrant families work together not only to accelerate the integration of new immigrants, but they also form businesses together. Prior testimony from conservative policy organizations notes "a large majority of immigrant-owned businesses in the United States are individual proprietorships relying heavily on family labor," and family based immigration has contributed to reenergizing small business culture in the U.S.[1] Immigrant-owned family businesses are a driving force behind revitalization in cities across our country and spur job growth in nearly every major metropolis. This is why a number of mayors and local elected officials have praised the economic impact of immigrant families on their communities and expressed interest in programs that attract immigrants to revitalize cities. New York Mayor Michael Bloomberg, who we just honored in our national awards ceremony, and Chicago Mayor Rahm Emanuel both agree that immigrants and their families strengthen cities, strengthen neighborhoods, and improve the quality of life for all of us.

Immigrants who enter the U.S. through the family based immigration system have an advantage in that families act as a resource for integration. Families have served as powerful integrating

[1] Testimony of Stuart Anderson, on behalf of the National Foundation for American Policy, before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, May 2007.

institutions; serving as resources for employment, access to credit, and as a one stop shop for support and information for newcomers. This allows immigrants to integrate into our society and become productive taxpayers more quickly.

Current Immigration Laws Separate Families

Despite the many compelling reasons for ensuring that families are united, our current immigration system separates mixed status families—that is, families made up of U.S. citizens or Legal Permanent Residents (LPRs) who are the spouses, children, parents, and siblings of undocumented immigrants.

The rapid increase in deportations over the last four years is having a devastating effect on families. Our deportation policies literally destroy families and force U.S. citizens into public assistance, foster care, or exile from the United States. Hundreds of thousands of U.S. citizens and lawful permanent residents have been separated from family members. For example, between July 1, 2010 and September 31, 2012, the Department of Homeland Security (DHS) deported 204,810 parents of U.S. citizens.

In mixed status families, many have tried to adjust their immigration status, and have spent fortunes in immigration fees and lawyers' fees, but have failed. As one U.S. citizen married to an undocumented immigrant stated, "People who don't have undocumented family members don't believe me when I tell them he can't get papers."[2] It is commonly believed that if a U.S. citizen marries an immigrant, the foreign-born spouse is quickly or even instantly granted U.S. citizenship. The reality is that for most people who entered without a visa, or who overstayed a visa, it is very difficult and often impossible to obtain legal status. Anyone who has been in the U.S. for more than six months out of legal status is barred from reentry for three years, and those who have been out of status for one year or more are barred from reentering for ten years, due to provisions in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA).

So when you hear on talk radio, "why don't these people go out and come back the right way?," the answer is that, because of IIRIRA, we have created an incredible disincentive for those with legal claims to adjust their status, to get legal, because they would face exile from their families, and therefore push them to remain in the undocumented underground.

This puts many families who seek to adjust the status of their loved one through legal channels in a terrible catch-22. They must leave the United States in order to apply for an immigrant visa at a U.S. consulate, but once they depart the U.S. for that visa, they may be barred from reentering for as long as ten years. At NCLR, we know of countless stories of U.S. citizens and permanent residents who are separated from their spouses because of the three- and ten-year bars to reentry.

[2] Rojas, Leslie Berestein, "Why it's so hard to obtain legal status, even through marriage and family." KPCC *The MultiAmerican*, Southern California Public Radio, November 25, 2011. http://www.scpr.org/blogs/multiamerican/2011/11/25/7718/why-its-so-difficult-to-obtain-legal-status-even-t/ (accessed March 12, 2013).

For many of these spouses, they never imagined that by trying to follow the rule of law their family would be ripped apart.

Take the case of Elizabeth, an American citizen from Cleveland, Ohio. Elizabeth served in the National Guard and the Marine Corps. She served in Afghanistan during Operation Enduring Freedom. After she left the Marines, Elizabeth fell in love and married Marcos. The very same day Elizabeth and Marcos celebrated the news that they had a second child on the way, Marcos was stopped on his way to work. Marcos was undocumented. He was deported a month later. Elizabeth was left behind, without the family's breadwinner, pregnant and with a small child. That was three years ago. She is someone who takes pride in following the rules, in going through the system and following available processes. She has done exhaustive research and gotten legal assistance. As she tells it, "we want to do it the right way, but every door has been slammed in our face." Marcos has been declined a consular interview until 2020. Elizabeth has even considered moving to Mexico, so the children can be with both mom and dad, but this is her country. She is fighting to keep her family afloat, bring it back together. She traveled to DC last week and walked the halls of Congress, for the first time ever, with many other family members that share similarly devastating stories.

This forced separation of families has increased exponentially as a result of current enforcement policies. By nearly every standard, more is being done than ever before to enforce immigration laws. Measured in terms of dollars, not only are we spending more on immigration enforcement than at any time in history, but the federal government today spends more on enforcing immigration laws than on all other categories of federal law enforcement combined. Measured in qualitative terms, never before has our country used a broader array of enforcement strategies than we do today.

The way in which these policies are being carried out is destroying the fabric of immigrant communities across the nation. And the magnitude of that devastation goes beyond immigrant communities, as the lives and fate of immigrants are fundamentally interwoven with those of citizens, as Elizabeth's story illustrates. Most undocumented immigrants are long-term U.S. residents; two-thirds have lived here for a decade or more. They work hard, pay taxes, and otherwise abide by our laws. They provide for U.S. citizen spouses and children; they are our fellow churchgoers and children's playmates. Some of them came to this country as children, and this is the only country they know and consider home. The interests of our country are best served by allowing these long-term residents to come forward, pass a background check, pay taxes, learn English, and earn the ability to apply for citizenship just like every other group of immigrants before them. An immigration bill must not create a permanent subclass of individuals who are expected to support the rest of us in our pursuit of the American Dream without having access to it themselves.

The Solution

Our visa policies have to conform with reality, so that in ten years' time, we are not back here talking about legalizing another population of undocumented immigrants who, like those today, had no option to come in legally, and came illegally instead. This is the key difference between

the immigration debate in 2013 and the immigration debate in 1986. Back then, we legalized a portion of the undocumented, myself included, and put in place a new regime of workplace enforcement that did not on its own curtail illegal immigration. A key missing aspect of the 1986 legislation is that it did not fix the underlying legal immigration system, resulting in a continuing mismatch between the supply of immigration visas, and the demand for legal immigration as determined by families and our vibrant economy. You have a chance to do it right this time, and the decisions you make in the coming weeks and months are very important. In order for our visa policies to comport with and effectively regulate reality, they have to be both generous and flexible.

We know from the history of people coming to this country that some people will come for jobs intending to go home some day. Some people will come with their families, intending to make this their permanent new home. Some who come permanently will decide to leave. Some who come temporarily will decide to stay. And factors like love, families, children, and careers, inevitably make matters complex. We have to have an immigration system in the 21st Century that reflects those complexities and includes channels that address a mix of permanent and temporary, of family and business, of education and marriage channels, and that does not lock individuals out of legal status or citizenship, if they play by the rules.

NCLR supports employment-based immigration because done right it can help strengthen our economy. But we must be careful not to pursue improvements in this area by undermining family immigration or denying the powerful role the latter plays in the social and economic integration of immigrants in our country. Let's remember the principles that should guide us—to restore the rule of law, preserve the rule of law, and strengthen the fabric of America. This can only be accomplished with a functioning family immigration system, working in complement with our employment-based immigration system.

I would urge this Subcommittee to think in terms of both/and, rather than either/or. Undue restrictions on employment-based legal immigration have the potential to rob the American economy of talent that can create jobs and improve our national well-being, and could lead to unintended consequences, like off-shoring of jobs or incentives to work around the limits of our legal immigration system. But you must also realize that undue restrictions on family immigration have the exact same potential, in addition to keeping families separated, or encouraging them to break the law because they have no other choice, and slowing the integration and success of immigrants in our country.

For example, creating a visa program for graduates in Science, Technology, Engineering and Math (STEM) fields is a good idea that both parties embrace. But if we are reducing other legal immigration channels in order to create a new one, we are forcing ourselves into a trap, a false choice. We are not for unlimited immigration, we are not for open borders, we are not for immigration on demand. But as with any sensible regulation of an aspect of the American economy, that regulatory regime has to be based in reality and responsive to the market forces of supply and demand. If we are going to end illegal immigration, which should be our shared goal, then we must have a flexible, dynamic, and multi-pronged legal immigration system that creates incentives to follow the rules rather than incentives to go around the system.

We should also realize that in 2013, many states and many countries recognize the reality that some couples, some families, and some long-term committed relationships involve same-sex couples. If our immigration laws exclude same-sex couples, we are forcing people who can contribute to our country to leave, or creating incentives for reunification outside our legal system rather than within the structure of sensible laws.

My husband's great grandfather came from Russia as part of a family unit in the 1880s. Another great grandfather came as a young man from Canada seeking business opportunities. My parents came in the early 80s, but eventually went back. I stayed, was able to get an education, became a citizen, married, and have made my life here. My family and my husband's family include PhDs, factory workers, and office workers; gay and straight people; different religious denominations and political orientations—just like every other American family. We need a legal immigration system as varied and colorful as my modern family, in order to do the job or regulating immigration in 21st Century America. Is a huge challenge, but failure is not an option.

Mr. GOWDY. Thank you, ma'am.

The Chair would now recognize Mr. King for his 5 minutes' worth of questions.

Mr. KING. Thank you, Mr. Chairman. I appreciate the testimony here of the witnesses. And I was just reflecting on restore the rule of law, Ms. Martinez, and I recall being a bit astonished listening to a hearing in the Ag Committee a few years ago when one of your colleagues from your organization testified that we had people that were getting overweight because they had food anxiety. And if we just give them more food stamps, they would not eat as much and tend to lose weight, and that would solve the obesity problem. But when I hear a discussion about restoring the rule of law by suspending the rule of law, it is awfully hard for me to wrap my mind around that rationale.

So I would ask you instead a pointed question, and that is, do you have any estimation or any position in your organization on what you think the population of the United States should be in a generation or two or three? Do you have any position on that? And the second question is, do you have a position on how many legal immigrants should be brought into the United States each year?

Ms. MARTINEZ-DE-CASTRO. Well, I am not a demographer, so I think I would be hard pressed to say what the population of our country should be. What I do——

Mr. KING. Is that something you have considered, though? Is that part of the discussion matter or is it just outside the zone of what you focus on as an organization?

Ms. MARTINEZ-DE-CASTRO. In the context of immigration, obviously unless we are going to start regulating how many children Americans can have, the issue of how large or country should be, I think it is a whole other discussion.

Mr. KING. We are not going to down there. Okay. I do not think we are going to get that answer. And you do not have a position on where about 1.2 million immigrants are brought into the United States. Do you believe that number should increase or decrease?

Ms. MARTINEZ-DE-CASTRO. So on the issue of immigration specifically, there are about, as you said, a million immigrants that are coming into our country both from the employment system and the family system. That is 0.3 percent of the current American population.

So I think that we have the ability to actually broaden those lanes a little bit in a way that responds to the needs of the economy and the needs of our families.

Mr. KING. So you would see the number perhaps going up.

Ms. MARTINEZ-DE-CASTRO. I am sorry?

Mr. KING. You see the number perhaps going up at greater than 1.2 million, but marginally. Do I hear that answer right?

Ms. MARTINEZ-DE-CASTRO. I think that it should go up.

Mr. KING. Okay, I hear that. Now, are you familiar with Milton Friedman's argument that, and he used a shorter phrase of this, and you have not used this, but an open borders policy. We understand what that vernacular means in our society today. But Milton Friedman's statement that an open borders policy is not compatible with the welfare state. Are you familiar with that argument?

And you have made the argument that the demands of labor should direct, at least to a significant degree, the flow of traffic across our borders into the United States. And you have made a cast that there are 4.3 million people that are waiting in line outside the United States. I think that is important.

But do you agree with Milton Friedman that a welfare state and an open borders policy are incompatible?

Ms. MARTINEZ-DE-CASTRO. I am not familiar with the full argument. What I would say is that our organization does not support open borders, nor do we think that Congress will ever get to support something like that. So in a way, I do not think that it is necessary to go down that road because that is not what we are talking about here. We are talking about——

Mr. KING. But it is. We do have a welfare state here, and it looks like our President is seeking to guarantee a middle class standard of living for anyone who might be inside the United States of America. And we have 80 different means test of welfare programs here in the United States.

I do not know how you better define a welfare state than that. I just did not think it was arguable that this is a welfare state, but do you understand that it is incompatible to have an open borders policy and a welfare state at the same time?

Ms. MARTINEZ-DE-CASTRO. We do not have an open borders policy, and my argument does not support one.

Mr. KING. Thank you. And I would ask then, Mr. Emery, do you have a position on these questions that I have asked, primarily whether the number of illegal immigrants should go up or down?

Mr. EMERY. No, sir. We do not have a position on how Congress should prioritize the numbers or how big they should be. But we think that our laws should respect our values. And we ask the question does anybody here think that our current laws do that now? So that is why we are advocating that the legal permanent residents be uncapped, and also that in the context of comprehensive reform, that there is due process waiver reform for U.S. citizens so that U.S. citizens are treated at least as well as anybody else.

Mr. KING. Can you explain to me Ms. Martinez's position that we can restore the rule of law by exempting people from it?

Mr. EMERY. I am sorry. No, I do not know that I can speak for her.

Mr. KING. It is not really a rhetorical question. It is something that this Congress needs to understand. There seems to be people in this Congress that can take the position that they respect, and defend, and protect the rule of law. And one of the ways we are going to do that is to suspend the rule of law for a certain class of people.

I heard testimony here that once we restore the rule of law. We have the rule of law. It has been eroded by a lack of enforcement.

But let me make another point that I would ask you to comment on, and that is that each of the times that I hear from witnesses on this subject matter, there is an advocacy for expanding one or more of the visa categories. And each time that advocacy takes place, there seems to be a disregard for the overall number of Americans that might come into the United States, what is that

proper number, the 4.3 million or more, and I actually think it is more, that are waiting in line outside the United States. That is the back of the line.

How many people would come here if we had a policy that could process them more quickly than Mr.—I did not follow your last name. I do not have my glasses on, but the gentleman said.

So my question back to you then is, do you have a position on that total number of legal immigrants or do you at least understand that the advocacy we are hearing here is a peace of the jigsaw puzzle that only views opening up certain visa categories without regard to the overall number.

Mr. GOWDY. You can answer the question.

Mr. EMERY. As I said, we do not have a specific position on that, but for us it is really about values. And we do not see that the moral argument for Mat to have his wife here is less for a resident than for a citizen. Again, it is up to Congress to set these priorities and to deal with them. Our concern is really this most basic fundamental value of husbands and wives and moms and dads being with their kids.

Mr. KING. Thank you, Mr. Chairman. I yield back.

Mr. GOWDY. Thank you to the gentleman from Iowa.

The Chair would now recognize the gentlelady from California, the Ranking Member, Ms. Lofgren.

Ms. LOFGREN. Well, thank you very much, Mr. Chairman.

I am wondering, Mr. Papademetriou, sometimes people talk about chain migration, and there may be a myth out there that someone here can petition for their grandparents, and their aunts, and their uncles, and their cousins. Can you tell us who can petition for a relative?

Mr. PAPADEMETRIOU. Yes, a U.S. citizen.

Ms. LOFGREN. And who they can petition for?

Mr. PAPADEMETRIOU. Right. A U.S. citizen can petition for their immediate relatives defined as minor children under 21, spouses, and parents. And this is numerically unlimited. And then they can petition for their unmarried adult children. This is numerically limited. There are only about 23,000 or so visas that we dedicate to that. They can petition for their married adult children. That is the 3rd preference, and that is, again, around 23,000 or so visas. And they can petition for their siblings. That is the 4th preference, and that is about 6,500, 6,600 visas.

The reason I keep saying "about" is because as you all know, you know, if one category does not use the few numbers, they move them. They move this way and they also move the other way.

And, of course, today's topic, which is the 2nd preference, and this is the spouses and unmarried minor children, category 2A, the 2nd preference. And spouses—I am sorry—and unmarried adult children, which is 2B. That is it. Everybody is somebody's uncle, so, you know——

Ms. LOFGREN. But no cousins, no grandparents.

Mr. PAPADEMETRIOU. No cousins——

Ms. LOFGREN [continuing]. No aunts, and no uncles.

Mr. PAPADEMETRIOU [continuing]. Or things like that.

Ms. LOFGREN. Thank you for clarifying that. You know, Congress makes the laws. We made some mistakes in '96 when we amended

the act, in my judgment. And now we have a chance to remedy some of the mistakes that we have learned about since that time.

One of the things that I think is important is that if we have a system, that it be honest, and that it work. And looking at the question of 4th preference, I recently asked about the backlog in 4th preference and was told that if you petitioned for your brother or sister who lived in Mexico, that it would be 150 years until a visa number became available. Now, that strikes me as kind of a fraud to tell people, you know, when you are 150 years, because I do not think any of us are going to get there, that there is a 60-year wait when it comes to someone born in the Philippines.

I mean, is that a viable situation to have 150-year wait?

Mr. PAPADEMETRIOU. I think waits for more than 10 years, and if we can actually wait that long, do not make any particular sense because they basically violate, you know, a number of principles. And I do not know, you know. The reason that you are using this very high number is because of the per country limits, et cetera, et cetera.

But if you put those things aside, the Filipino would have to wait about 25 years on average again, but there will still be those extremes. Same thing with the Mexican.

So fundamentally, if somebody has to wait for these kinds of years, it makes no sense for us to have anything like that, you know, in legislation.

Ms. LOFGREN. Right. It just does not work, yeah.

Mr. PAPADEMETRIOU. So, you know, you are going to have to come up with something else, you know, either by, you know, fundamentally, you know, reducing the number of years or, again, these laws. You are lawmakers. You can make them and unmake them, you know.

Ms. LOFGREN. Right.

Mr. PAPADEMETRIOU. And at the end of the day, you know, these are going to be things on which you can agree. And ultimately, laws are not made in a vacuum. They are going to be made, you know, with the full understanding of what really is the best toward the society.

Ms. LOFGREN. Thank you. You know, a lot of times, I come from Silicon Valley. And people advocate for high-skilled immigration, people with their Ph.Ds. And I agree with that. I mean, the geniuses that come in and are graduating from Stamford every year in the sciences is just awesome. But I think it is easy to assume that some of our most famous high-skilled immigrants, actually they came as children. I mean, you think about Sergei Brin, the co-founder of Google, he came to the United States with his parents when he was 6, and I met his mother, who is a lovely woman. They still live in the Bay area. Or Pierre Omadar, who is—I can never pronounce his name, but he came as a child. He was born in Paris. Or Jerry Yang, who founded Yahoo!, who actually grew up in East San Jose. He came when he was 10 years old.

So when we think about the balance that is necessary, I do not think we need to fight each other because, you know, innovators come in various routes. They come because they went to a school at a great university, but they also came with their parents. And

sometimes I say this, but I thank Sergei and his family, that Google is in Mountain View instead of Moscow, where he was born.

So I am hopeful, Mr. Chairman, that we will make progress. These are difficult and important questions that we face. I am mindful of Mr. King's question. You know, two and a half million die in America every year, too, so we need to take a look at the entire demographic picture and the fact that we are not in the demographic dead spiral that Russia is in, that Japan is in, and the like.

I yield back.

Mr. GOWDY. I thank the gentlelady.

The Chair would now recognize the gentleman from Idaho, Mr. Labrador.

Mr. LABRADOR. Thank you, Mr. Chairman.

Mr. Emery, one suggested legislative fix for the F2A preference category is to allow spouses and minor children of legal permanent residents to be treated as immediate relatives. Do you think that might encourage fraud?

Mr. EMERY. Well, I guess I would have to think about how does it work for the skilled workers now. I mean, I am not expert on that area, but do we find a whole lot of fraud with people who come in H1B visas? If we do, I have not heard about it.

Mr. LABRADOR. But we find a lot of fraud in people coming here even on immediately relative visas. So the question is, because I do not disagree with your policy prescription. I actually think it is a good prescription. But we have to think prospectively about future flow of immigration, what it is going to encourage. When we change our law, you do it so you can encourage certain behavior and also discourage certain behavior.

So if we know that in the immediate relative category there is a substantial amount of fraud, is that something that we should be thinking about when we are changing these categories?

Mr. EMERY. Well, I can only speak from experience. And, you know, my experience is that people are married and fight against incredible odds to be together. And it is a real testament to marriage. That is the personal experience I have.

Mr. LABRADOR. That is great. Thank you. Thank you.

Ms. Martinez, same question to you, because, again, I do not disagree with the policy prescription. I actually think it is a good idea to change the category. But as you are thinking about changing the law, you have to think about all the consequences of that change. Do you think it would encourage fraud, and if it does or does not encourage fraud, what do we do to make sure that we do not have more fraud in the immigration system?

Ms. MARTINEZ-DE-CASTRO. I am not sure that the change in the law itself would encourage more fraud. I think as with any program, and as you know as lawmakers, there are very entrepreneurial people out there that may try to find a way around things. But, you know, we can pose the same question as a program like Medicare. We know there is fraud in the Medicare program. That does not mean we do away with the program. We try to figure out what mechanisms we can put in place to make sure that we prevent those very entrepreneurial creating people from gaming the system while making sure that the incentives are maximized. And

I agree completely with your framing about law creates incentives to do one thing or another.

And so I believe that really the case in front of you all here, we are not really talking about more immigration or less immigration. We are talking about putting a system in place that is going to regulate the immigration that is happening and that is in our best interests to make sure that it is going through legal channels, where people are being vetted, where people are being counted, where we know where they are going.

And so an expansion in the program or reclassifying some of these categories would actually create the incentives for people to go through the system, which is what we want. And then we can concentrate on those very entrepreneurial people who want to try to game it.

Mr. LABRADOR. So if we are going to increase the number of immigrants, which we would if we changed the F2A category, and again, I agree with the policy, are there any categories in a family-based system that maybe we should be thinking about not having anymore?

Ms. MARTINEZ-DE-CASTRO. That is a very difficult question, and the reason I say that is because if you are a person whose only family in the world is a brother or a sister, that is your immediate family.

Mr. LABRADOR. But if you are a person whose only family is a brother or sister, why did you leave your brother or your sister?

Ms. MARTINEZ-DE-CASTRO. Well, it happens, right? It happens. I can speak to that experience.

Mr. LABRADOR. There are a lot of examples, but I think if we are going to be increasing the number of visas, which I think we should for some categories, I think at some point we also have to make the policy decision of what is in the national interests for the United States, because our immigration policy is not for the interests of the individual.

Ms. MARTINEZ-DE-CASTRO. That is right.

Mr. LABRADOR. It is the national interests of the United States. Do you agree with that?

Ms. MARTINEZ-DE-CASTRO. I agree that it should be in the national interest, and I think the national interest here is that each of the different programs that we have, and I agree that we need to figure out how to simplify because things are extremely complicated.

Mr. LABRADOR. Yes.

Ms. MARTINEZ-DE-CASTRO. But each of the programs we have has the goal of encouraging people or giving people hope to stand in a line that might have a chance to go through. And so to the extent that we make arbitrary decisions that take those things away, we are also creating incentives for people to go around them.

Mr. LABRADOR. I do not think it is an arbitrary decision to determine what is in the national interest, which family members are in the national interest. We do not allow uncles. We do not allow aunts. So at some point we have to make a policy decision here in Congress.

Anyway, thank you, Mr. Chairman.

Mr. GOWDY. I thank the gentleman from Idaho.

The Chair would now recognize the gentlelady from Texas, Ms. Jackson Lee.

Ms. JACKSON LEE. Let me thank the Chairman and the Ranking Member, but also the courtesy of my friend, Mr. Gutierrez, and to all of the colleagues that are here.

Mr. Chairman, let me acknowledge the importance of these hearings, and thank you and your staff, along with Ms. Lofgren, for ensuring that we have a very, very solid record on some of the important work that this Congress has to do. And I want to thank the witnesses.

And as I was being briefed by staff, I want to make sure that it is very clear in this immigration story, this immigration journey, that they view America as the land of opportunity. And I believe that when we speak of our country as we live in it, none of us will ever describe our Nation as a welfare state. We describe it as a place where can finish education to the public system, that we can get a higher education, the best education for reasonable resources expended. We view it as a place that you can move from poverty to opportunity. And that story is larger than us. It goes all around the world.

That is why people may leave a beloved family member behind. I hear the stories every day. It is not a celebratory case when someone has an opportunity to come to the United States, but not their family. They sacrifice because of what they believe the values of this Nation are all about.

Mr. Papademetriou, you had a sentence that I think is really the statement. How a country approaches immigration and how it treats its immigrants is a powerful statement to the world abut its values and the principles upon which it stands.

I have a short period of time. I just want to ask you. Is America overwhelmed with immigrants?

Mr. PAPADEMETRIOU. No, it is not overwhelmed by immigrants. And we take far fewer immigrants on per capita basis that many other countries do. For instance, Canada takes 3 times as many immigrants per Canadian more so than we do. Australia does likewise.

So the issue is not more or fewer. The issue is a system that makes sense, as Ms. Lofgren said, that has clear rules, that those rules can be understood by everyone, and that it does not ask people to do things that will be completely unnatural in the regular course of their lives. And separating spouses from minor children is unnatural.

Ms. JACKSON LEE. Let me follow that up with Ms. Martinez, who said the same thing. If we have a system that establishes the rules, do you believe both advocates and those who seek in this country will follow the rules in most part?

Ms. MARTINEZ-DE-CASTRO. I think if the rules are clear and fair, people have an incentive to do that. Even if you think about the current population in our country who is undocumented, when you think about people who were willing to risk their lives, literally and not figuratively, to come here for either the opportunity of a job or to reunite with a loved one. And many times, having to spend not only their life savings, but the life savings of their home network or families to be able to pay a smuggler.

If there was a real line that people believed in, whether it was employment based or family based, to be able to wait and come here, I think that when you put in the balance the risks to your life and the life savings of a community, then it creates an incentive to come in legally. But that is why it is so important that our legal immigration system work properly.

Ms. JACKSON LEE. And it should respond to this crisis of separating our families.

Let me ask both Mr. Emery and Paguth. I am trying to see. In a hearing that I had in my district, I was told the story of a father who was placed on a plan and literally told to sell—let me temper that down—to give away his American-born children. And you are speaking of a legal status of a legal permanent resident and the numbers being such that you cannot have your wife. And so to fix that, I think our witnesses are talking, is the adding of those numbers so that you have a fair, legal process.

Mr. Emery, can both of you speak to that very quickly?

Mr. EMERY. Yes.

Ms. JACKSON LEE. The tearing apart of families?

Mr. EMERY. Yes, we see it all the time. And again, it is not just the permanent residents. It is U.S. citizens, too. And that is why we are advocating for exactly what you are saying, for permanent residents to be able to bring their spouses here without any delay, and also for U.S. citizens to have process waiver reform so that they are treated at least as well as other groups in immigration reform.

Ms. JACKSON LEE. Can the gentleman answer quickly, please?

Mr. ARIVALAN. I agree with Mr. Emery. I am here because I did not want to my marriage to fail. Two years plus visa processing time of 6 months to a year is a long time for any marriage. It is a huge hardship on any marriage. And it would have a negative effect on any relationship for that matter.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman. This gentleman I think is a legal permanent resident because he wants to be a citizen. A work permit would allow him to have his wife. This is a process that we need to fix.

And I thank the Chairman and Ranking Member very much. I yield back.

Mr. GOWDY. I am going to briefly yield to the gentlelady from California before we go to the gentleman from Nevada.

Ms. LOFGREN. I would just like to ask unanimous consent to place into the record 17 statements from various religious and civil rights groups.

Mr. GOWDY. Without objection.

[The information referred to follows:]

Principles for Children in Immigration Reform

As our nation's leaders move forward with the important task of reforming the federal immigration system it is critical that they consider the specific needs of children and youth. Children of immigrants currently comprise 1 in 4 of all children in the U.S. and represent the fastest growing segment of the chil population. The number of unaccompanied immigrant children entering the U.S. has also reached record setting numbers in recent years, with more than 14,000 children coming into the custody of the Office of Refugee Resettlement in fiscal year 2012.

Despite the significant impact of immigration policy on children's lives, children have historically been disregarded and often intentionally excluded in U.S. immigration policy decisions. Even the youngest children have few special protections under current immigration law and their best interests are often considered irrelevant in critical decisions regarding their own or a parent's ability to enter or stay in the United States. Furthermore, complicated laws determining immigrant eligibility for federally funded services have created significant barriers for children in immigrant families. As a result, both children who are immigrants themselves as well as U.S. citizen children with immigrant parents continue to face high rates of family separation, emotional trauma, economic instability, poor educational outcomes, and limited access to critical services and programs.

The consistent failure of immigration policies to consider children's well-being, protect children's rights, and promote family unity has had devastating outcomes. The Department of Homeland Security reports that 205,000 parents of U.S. citizen children were deported in the 26 months between July 2010 and September 2012. It is estimated that 5,100 children are in the U.S. child welfare system due to a parent's immigration detention or deportation, and thousands of U.S. citizen children have moved abroad with their deported parents. Currently, 5.5 million children in the U.S. live in mixed-legal status families and are at risk of being separated from a parent at any time, and 1 million undocumented children under the age of 18 face limited access to a higher education and only temporary legal means to join the workforce

Unaccompanied immigrant children are a particularly vulnerable segment of the child population. These children cross our borders every day seeking refuge, safety, and protection, and often reunification with family members. In addition to facing harm in their own countries, they also endure dangerous journeys where they are subject to violence, abuse, exploitation, and the high risk of becoming victims of trafficking. Once entering the U.S. these children encounter a new set of risks as they confront our complex laws and systems. Unaccompanied immigrant children are subject to the same harsh conditions as adults in border patrol stations, face immigration courts alone without guaranteed legal representation, have to defend against removal by proving eligibility for forms of relief designed almost exclusively for adults and which require the same burden of proof adults must meet, and are often repatriated or released without assessment of their safety and irrespective of their best interests.

The fact is that America's future prosperity will depend on our ability to ensure that *all* children have a fair shot at achieving their full potential. As the youngest and most vulnerable members of our society, children are the most deserving of protection under the law, and every child should have access to the services and resources they need to grow and thrive. **Thus, any long-term solution to our immigration system must take iuto account the unique needs of childreu and protect and promote their fundamental rights and overall well-being.**

As advocates for children, we urge Congress and the Administration to incorporate the following principles in immigration reform:

- **A direct, clear, and reasonable pathway to citizenship.** Any pathway to citizenship must be open, affordable, safe, and accessible to children in need of status, including beneficiaries of Deferred Action for Childhood Arrivals (DACA), undocumented children under the age of 21, and unaccompanied immigrant children.

- **Protection and promotion of children's fundamental rights**. Our immigration system must uphold children's constitutional rights and ensure equal access to critical public services, programs, and economic supports for children and their families. The protection of fundamental rights also includes ensuring all children receive legal representation before all immigration authorities and, for all unaccompanied children, the appointment of an independent child advocate from the moment of detention throughout the course of any immigration or other relate court proceedings.

- **Ensure that enforcement efforts have appropriate protections for children.** In all enforcement actions, including those along the border, the best interests of the child should be a primary consideration and children must be given the benefit of the doubt during any investigation, inquiry or detention. There should be appropriate and accountable training policies and protocols for interacting with and screening children that reflects a humanitarian anc protection-oriented approach, prohibits the use of force with children, and creates reasonable anc safe conditions for children while in or released from the custody of all arms of the federal government.

- **Keep families together.** All policies regarding admissibility, enforcement, detention, and deportation of children and their parents must duly consider the best interests of children, including enabling immigration judges to exercise discretion in admission and removal decisions based on the hardship to U.S. citizen and lawful permanent resident children. The immigration system must be updated by resolving current backlogs and ensuring family-based immigration channels are adequate for future migration without lengthy family separation.

Endorsing Organizations

National and International

Alianza por los Derechos Ninas Ninos y Adolescentes
Alliance for a Just Society
American Civil Liberties Union (ACLU)
American Federation of Teachers (AFT)
American Immigration Council
Americans for Immigrant Justice, formerly Florida Immigrant Advocacy Center
America's Promise Alliance
Asian & Pacific Islander Institute on Domestic Violence

Asian American Justice Center (AAJC), member of Asian American Center for Advancing Justice
ASISTA Immigration Assistance
Association for Childhood Education International
Association of Farmworker Opportunity Programs (AFOP)
Ayuda
Breakthrough
Capital Area Immigrants' Rights Coalition
Casa Esperanza
Catholic Legal Immigration Network, Inc. (CLINIC)
Center for Gender & Refugee Studies
Center for Law and Social Policy (CLASP)
Center for the Vulnerable Child
Children's Defense Fund (CDF)
Christian Church (Disciples of Christ) Refugee and Immigration Ministries
Church World Service
Clergy and Laity United for Economic Justice
Concerned Educators Allied for a Safe Environment (CEASE)
Congressional Coalition on Adoption Institute (CCAI)
Department of Anthropology, Georgetown University
Emory Child Rights Project
First Focus
Foster Care to Success Foundation
Foster Family-based Treatment Association
Franciscan Action Network
Franciscan Federation
Franciscan Friars
Franciscan Friars, TOR
Franciscan Sisters
Franciscan Sisters of Little Falls Leadership
Franciscan Sisters of the Atonement (International)
Franciscans for Justice
Futures Without Violence
HAIS (Hebrew Immigrant Aid Society)
Healthy Teen Network
Hoyas for Immigrant Rights
Immigration Equality
Immigrant Legal Resource Center
IMUMI (Instituto para las Mujeres en la Migración)
International Detention Coalition
Kids in Need of Defense (KIND)
Leadership Team of the Felician Sisters of North America
Legal Services for Children
LULAC Council 7226
Lutheran Immigration and Refugee Service

Lutheran Social Services of New England
Main Street Alliance
MomsRising.org
NAFSA: Association of International Educators
NAKASEC
National Asian Pacific American Women's Forum (NAPAWF)
National Association for the Education of Homeless Children and Youth (NAEHCY)
National Center for Adoption Law & Policy
National Domestic Workers Alliance (NDWA)
National Education Association (NEA)
National Immigrant Justice Center
National Immigration Law Center (NILC)
National Latina Institute for Reproductive Health
National Latino Children's Institute
OneAmerica
Providential Support Service
Sin Fronteras (International)
Sisters of Saint Francis of Perpetual Adoration (International)
Sisters of St. Francis (International)
Southern Poverty Law Center
Tahirih Justice Center
TESOL International Association
The Advocates for Human Rights
The Coalition to Abolish Slavery & Trafficking (CAST)
The Episcopal Network for Economic Justice
The Young Center for Immigrant Children's Rights
U.S. Committee for Refugees and Immigrants
United Methodist Church, General Board of Church and Society
United Methodist Women
United States Conference of Catholic Bishops (USCCB)
United We Dream
Women's Refugee Commission
Youth Law Center

State and Local Organizations

Arizona
Children's Action Alliance
Coalicion de Derechos Humanos
Kino Border Initiative
No More Deaths
Somos America/We Are America Coalition
The Florence Immigrant & Refugee Rights Project
University of Arizona, Center for Latin American Studies

Arkansas
Arkansas Advocates for Children and Families

California
Asian Pacific American Legal Center, a member of the Asian American Center for Advancing Justice
California Immigrant Policy Center
California Pan-Ethnic Health Network
California Primary Care Association
Children's Defense Fund
Children's Hospital Oakland
Children Now
CLUE Santa Barbara
Coalition to Abolish Slavery & Trafficking
Esperanza Immigrant Rights Project, Catholic Charities of Los Angeles, Inc.
Families & Criminal Justice (formerly the Center for Children of Incarcerated Parents)
Immigration Center For Women and Children
Kids in Common, a program of Planned Parenthood Mar Monte (California and Nevada)
Latino Health Alliance
Modoc Child Care Council
Public Counsel
Southwestern Law School Immigration Clinic
The Children's Partnership
United Advocates for Children and Families
University of California Davis School of Law Immigration Clinic

Colorado
Immigrant Legal Center of Boulder County
Rocky Mountain Immigrant Advocacy Network
Servicios de La Raza
Sisters of St. Francis

Delaware
Delaware Family Voices

Florida
The Center on Children & Families, University of Florida Levin College of Law
UNO Immigration Ministry

Georgia
Georgia Rural Urban Summit

Illinois

Center for the Human Rights of Children, Loyola University Chicago
Chicago Legal Advocacy for Incarcerated Mothers
Franciscan Sisters of Chicago
Illinois Coalition for Immigrant and Refugee Rights

Indiana
Justice & Peace Office for Oldenburg Franciscans

Iowa
Iowa Justice For Our Neighbors
Luther College Office for Campus Ministries
Unitarian Universalist Fellowship of Ames

Louisiana
Jesuit Social Research Institute, Loyola University New Orleans

Maine
Maine Children's Alliance
University of Maine School of Law, Cumberland Legal Aid Clinic (Refugee and Human Rights Clinic)

Maryland
Advocates for Children and Youth
Grossman Law, LLC

Massachusetts
Applied Developmental & Educational Psychology Department, Boston College Lynch School of Education
Center for Human Rights and International Justice, Boston College
Immigrant Integration Lab, Boston College
Migration and Human Rights Project, Boston College
Political Asylum/Immigration Representation Project

Michigan
Casa Latina
CMSJ Consulting L3C
Washtenaw Interfaith Coalition for Immigrant Rights

Minnesota
Immigrant Law Center of Minnesota
Interfaith Coalition on Immigration
Law Office of Allison Anastos
Sisters of St. Francis, Rochester

Montana

Sisters of St. Francis, Savannah

Nebraska
Center for Legal Immigration Assistance
Nebraska Families Collaborative

New Mexico
For Families LLC
New Mexico Children Youth and Families Department
New Mexico Forum for Youth in Community
New Mexico Voices for Children
Pegasus Legal Services for Children

New Jersey
Advocates for Children of New Jersey
American Friends Service Committee
Family Voices NJ
IRATE & First Friends New Jersey
Missionary Sisters of the Immaculate Conception
Reformed Church of Highland Park, NJ
Rutgers School of Law - Camden
Statewide Parent Advocacy Network
Stockton College

New York
Catholic Charities
Coalition for Asian American Children & Families
Feerick Center for Social Justice (Fordham University Law School)
Legal Aid Society (NYC)
Maya Media Corp.
Northern Manhatten Coalition for Immigrant Rights
The Door's Legal Services Center

North Carolina
Action for Children NC
North Carolina Immigrant Rights Project

Ohio
Church of Our Saviour Episcopal/La Iglesia de Nuestro Salvador
Franciscan Sisters of the Poor
Sisters of St. Francis, Sylvania

Oklahoma
University of Tulsa College of Law Legal Clinic

Oregon
Immigration Counseling Service (ICS)

Pennsylvania
Advocacy Committee of the Sisters of St. Francis of Philadelphia
Advocacy for Justice and Peace Committee of the Sisters of St. Francis of Philadelphia
HIAS Pennsylvania
Pennsylvania Council of Churches
Sisters of St. Francis of Philadelphia
Sisters of St. Joseph Welcome Center

Rhode Island
Family Voices Rhode Island
Rhode Island KIDS COUNT

South Carolina
South Carolina Appleseed Legal Justice Center
South Carolina Department of Social Services

Tennessee
Franciscan Friars

Texas
Alternatives Centre for Behavioral Health
American Gateways
Cabrini Center for Immigrant Legal Assistnace of the Archdiocese of Galveston (Houston)
Center for Public Policy Priorities
Diocesan Migrant & Refugee Services, Inc. (DMRS)
Dominican Sisters of Houston
Fabens ISD
Human Rights Initiative of North Texas
Paso Del Norte Civil Rights Project
Texans Care for Children

Utah
Voices for Utah Children

Virginia
Voices for Virginia's Children

Washington
Children's Alliance
Episcopal Church

OneAmerica
PAVE
Stop the Checkpoints
Washington Department of Corrections

Wisconsin
Capuchin Justice & Peace Office, Milwaukee
Wisconsin Council on Children and Families

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40 Exchange Place
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The Need for LGBT-Inclusive Comprehensive Immigration Reform

Testimony Submitted to U.S. House Subcommittee on Immigration and Border Security

Hearing: "The Separation of Nuclear Families under U.S. Immigration Law."

Thursday March 14, 2013

Statement of Rachel B. Tiven, Esq., Executive Director, Immigration Equality

Immigration Equality is a national organization that works to end discrimination in U.S. immigration law, to reduce the negative impact of that law on the lives of lesbian, gay, bisexual, transgender ("LGBT") and HIV-positive people, and to help obtain asylum for those persecuted in their home country based on their sexual orientation, transgender identity or HIV-status. Immigration Equality was founded in 1994 as the Lesbian and Gay Immigration Rights Task Force. Since then we have grown to be a fully staffed organization with offices in New York and Washington, D.C. We are the only national organization dedicated exclusively to immigration issues for the LGBT and HIV-positive communities. More than 38,000 activists, attorneys, faith leaders, and other constituents subscribe to Immigration Equality's emails and action alerts, and our website has over 380,000 unique visitors per year. The legal staff fields over 3,700 inquiries a year from individuals throughout the entire U.S. and abroad via telephone, email and in-person consultations.

We applaud the House Subcommittee on Immigration and Border Security for convening this hearing today. Family unity has been at the heart of U.S. immigration law for more than half a century and we believe that it should remain at the heart of Comprehensive Immigration Reform ("CIR"). Under the current family preference immigration system, many family members have to wait years or even decades for their priority dates to become current so that they can join their American family members in the United States. We support efforts to reduce this unconscionable backlog that keeps families apart.

Under the current immigration system, LGBT families are systematically excluded. No matter how long a same-sex couple has been together, regardless of whether they are raising children together, and even if they are legally married, these families are completely shut out of the U.S. immigration system. No immigration reform can be considered comprehensive if it leaves out this entire class of families.

CIR Must Include the Uniting American Families Act

Although Immigration Equality works on many issues affecting the LGBT immigrant community, no issue is more central to our mission than ending the discrimination that gay and lesbian binational couples face. Because there is no recognition of the central relationship in the lives of LGBT Americans, they are faced with a heart-rending choice that no one should have to make: separation from

the person they love or exile from their own country. Inclusion of the Uniting American Families Act ("UAFA")[1] within CIR would provide a pathway to legalization to LGBT families.

Family unification is central to American immigration policy because Congress has recognized that the fundamental fabric of our society is family. Family-based immigration accounts for roughly 65% of all legal immigration to the United States.[2] Family ties transcend borders, and in recognition of this core value, the American immigration system gives special preference for the spouses of American citizens to obtain lawful permanent resident status without any limit on the number of visas available annually. Lesbian and gay citizens are completely excluded from this benefit.

An analysis of data from the 2000 Decennial Census estimated that approximately 36,000 same-sex binational couples live in the United States.[3] This number is miniscule compared to overall immigration levels: in 2011, a total of 1,062,040 individuals obtained lawful permanent resident status in the United States.[4] Thus, if every permanent partner currently in the U.S. were granted lawful permanent residence in the U.S., these applications would account for .03% of all grants of lawful permanent residence.

The couples reported in the census are, on average, in their late 30s, with around one-third of the individuals holding college degrees.[5] The average income level is $40,359 for male couples and just over $28,000 for females. Each of these statistics represents a real family, with real fears and real dreams, the most fundamental of which is to remain together.

One of the striking features of the statistical analysis performed of the 2000 census is how many same-sex binational couples are raising children together. Almost 16,000 of the couples counted in the census – 46% of all same-sex binational couples – report children in the household.[6] Among female couples, the figure is even more striking, 58% of female binational households include children. The vast majority of children in these households are U.S. citizens.[7] Behind each of these statistics is a real family, with real children who have grown up knowing two loving parents. In each of these households, there is daily uncertainty about whether the family can remain together, or whether they will have to move abroad to new schools, new friends, and even a new language.

Every day Immigration Equality hears from lesbian and gay couples who tell us painful tales of trying to maintain their families despite almost impossible odds. For example:

> *Adi Lavy and Tzila Levy are a loving, married couple, living in Brooklyn, New York. Adi is a U.S. citizen and Tzila a citizen of Israel. The couple met in 2010 and recently married in Brooklyn, New York. Adi has suffered from chronic kidney disease since the age of seventeen. Tzila is Adi's primary source of care and emotional support, and she entered the U.S. on a visitor's visa in order to care for her wife while Adi receives life-saving treatment from a respected expert in her illness. Because their marriage is unrecognized by the federal government, no other visa was available to Tzila.*

> *Adi's health has continued to deteriorate and she has been placed on the kidney transplant list. Tzila extended her visitor visa to remain at Adi's side, but as the end of Tzila's authorized stay approached, Adi and Tzila were left without a permanent solution for their family. In November 2012, the couple submitted a spousal petition for a green card. In January 2013, the family's request was denied because Adi and Tzila's family ties are not recognized under U.S. immigration law. Adi fears that she and her wife could be torn apart. She fears being left alone to face her chronic health issues without her primary caregiver and emotional support. Without a lasting immigration solution, this family will continue to face a life filled with uncertainty and fear.*[8]

While Adi and Tzila continue to live with the daily uncertainty and stress of whether they can remain together or not, other same-sex couples are even less fortunate.

> *Richard Dennis, a U.S. citizen, and his partner Jair Izquierdo, a citizen of Peru, lived together in New Jersey for five years. They celebrated a civil union in 2008, but because under our immigration laws, the two are legal strangers, Richard could do nothing to keep Immigration and Customs Enforcement from enforcing an old removal order based on a denied asylum application. Although Jair had no criminal record, and wanted nothing more than to be with his long-term partner Richard, in December 2010, he was removed to Peru. He has since applied for humanitarian parole to return to the U.S. but that application has been denied. The couple does not believe it would be safe for them to live openly as a family in Peru. Until the laws in the U.S. change, this loving family faces permanent separation.*[9]

The lack of recognition of same-sex relationships affects not only the individual family, but the larger community as well. In many instances, large companies are unable to retain talented workers who are forced to leave the United States to maintain their relationships. That is why a growing number of businesses have endorsed the Uniting American Families Act. On January 1, 2013, a diverse group of businesses signed onto a letter to the House and Senate supporting passage of UAFA or CIR that includes UAFA stating:

> "We have each worked to help American employees whose families are split apart because they cannot sponsor their committed, permanent partners for immigration benefits. We have lost productivity when those families are separated; we have borne the costs of transferring and retraining talented employees so they may live abroad with their loved ones; and we have missed opportunities to bring the best and the brightest to the United States when their sexual orientation means they cannot bring their family with them."[10]

The coalition includes over 30 businesses, such as American Airlines, Dow Chemical, Intel, Nike, and Goldman Sachs. To these companies it is clear that respecting relationships across international boundaries is not only the right thing to do, it also makes economic sense and helps to recruit and retain the most talented employees in their companies. There are currently at least two dozen countries that

allow their citizens to sponsor long-term, same-sex partners for immigration benefits.[11]

No Comprehensive Immigration Reform can be truly comprehensive if it leaves out thousands of LGBT families. We urge the House to include UAFA language in any CIR bill.

Conclusion

We applaud the House for convening this hearing and for considering needed reforms to the family unification system. Too many individuals in the United States – lesbian, gay, bisexual, transgender, and straight – cannot fully access the American dream because of our antiquated immigration system. For LGBT families with young children, undocumented youth, and asylum seekers, it is time to pass rational, humane, *comprehensive* immigration reform that fully respects the unique needs and contributions of LGBT immigrants.

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[1] UAFA would add "permanent partner" as a category of "immediate relative" to the INA. "Permanent partner" is defined as any person 18 or older who is:

1. In a committed, intimate relationship with an adult U.S. citizen or legal permanent resident 18 years or older in which both parties intend a lifelong commitment;
2. Financially interdependent with that other person;
3. Not married to, or in a permanent partnership with, anyone other than that other person;
4. Unable to contract with that person a marriage cognizable under the Immigration and Nationality Act; and
5. Not a first, second, or third degree blood relation of that other individual.

As with current marriage-based petitions, permanent partners would be required to prove the bona fides of their relationships and would be subject to strict criminal sanctions and fines for committing fraud.

[2] In 2011 family-based immigration accounted for 688,089 grants of lawful permanent resident status, Department of Homeland Security, Annual Flow Report, April 2012, Table 2, at 3available at http://www.dhs.gov/xlibrary/assets/statistics/publications/lpr_fr_2011.pdf

[3] Family, Unvalued: Discrimination, Denial, and the Fate of Binational Same-Sex Couples Under U.S. Law, joint report by Human Rights Watch and Immigration Equality, 2006, at 17, 3 available at http://www.hrw.org/en/reports/2006/05/01/family-unvalued .

[4] Department of Homeland Security, Annual Flow Report, March 2009, available at http://www.dhs.gov/xlibrary/assets/statistics/publications/lpr_fr_2008.pdf .

[5] Family, Unvalued, at 176.

[6] *Id.*

[7] *Id.* In female binational households, 87% of the children were U.S. citizens; in male households, 83% were U.S. citizens

[8] *See* Erica Pearson, "Newlywed lesbians from Brooklyn hope feds decide on green-card bid after Supreme Court weighs in

on DOMA," NY Daily News, December 12, 2012 available at http://www.nydailynews.com/new-york/lesbian-couple-waiting-doma-decision-article-1.1218693 .

[9] *See*, Mara Gay, "Gay Couple Separated by Deportation Fight for Legal Status," January 5, 2011, http://www.aolnews.com/2011/01/05/gay-couple-separated-by-deportation-fight-for-legal-status/ .

[10] Available at http://immigrationequalityactionfund.org/images/BusinessCoalition_signonletter.pdf .

[11] These countries include Australia, Belgium, Brazil, Canada, Denmark, Finland, France, Germany, Iceland, Israel, the Netherlands, New Zealand, Norway, Portugal, South Africa, Spain, Sweden Switzerland, and the United Kingdom. *See* Family, Unvalued.

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FIRST FOCUS CAMPAIGN FOR CHILDREN
STATEMENT FOR THE RECORD

SUBCOMMITTEE ON IMMIGRATION POLICY AND BORDER SECURITY:
"THE SEPARATION OF NUCLEAR FAMILIES UNDER U.S. IMMIGRATION LAW"

March 14, 2013

Chairman Gowdy, Ranking Member Lofgren, and Members of the Subcommittee on Immigration Policy and Border Security, thank you for the opportunity to submit this statement on the impact of the United States immigration system on nuclear families.

The First Focus Campaign for Children is a bipartisan children's advocacy organization dedicated to making children and families a priority in federal policy and budget decisions. Our organization is committed to ensuring that our nation's immigration policies promote child well-being by ensuring that families stay together and that all children have the opportunity to live a healthy and successful life in the United States.

Although children of immigrants comprise 1 in 4 of all children in the U.S. and are the fastest growing segment of the child population,[1] current U.S. immigration law often ignores the unique needs and rights of children and provides few protections for children in mixed legal status families. In fact, families have been separated for years at a time due to an outdated family-based immigration system as well as policies regarding bars to re-entry and cancellations of removal that fail to consider the best interest of children. Immigration enforcement practices have also continued to tear families apart at record-setting numbers in recent years, leaving hundreds of thousands U.S. children to suffer as a result of enforcement efforts.[2] As Congress moves forward on immigration reform, it is critical that both the immigration system as well as immigration enforcement practices be reformed to promote family unity and child well-being.

The Failure of Immigration Law to Value Children

Family-based Immigration Channels

The current family-based immigration system allows U.S. citizens and legal permanent residents to petition for immigrant visas for certain family members. Though the backlog for family-based immigration means families can wait as long as 20 years for a family member to receive a visa, U.S. citizen children face an even larger obstacle to family-based immigration. A child-parent relationship is prioritized in family-based immigration, but only if the parent has legal immigration status and is petitioning on behalf of their child. A U.S. citizen child cannot file a petition for their undocumented parents to obtain lawful immigration status until the child is over 21-years-old,

and thus no longer a child. This is also the case for child asylees and refugees; while adult asylees and refugees can petition for status for their spouses and children, child asylees and refugees cannot petition for status for their parents.

Waivers of Inadmissibility
Even in cases when an immigration visa is available, certain grounds of inadmissibility may prevent a beneficiary from being able to immigrate to the United States to be with their child. Waivers exist to overcome grounds of inadmissibility in instances when a potential beneficiary can establish hardship to adult U.S. citizen family members, such as spouses and parents.[3] However, existing immigration statutes make hardship to children irrelevant in these cases.[4] This exclusion of U.S. citizen children within hardship standards extends to the Administration's new state-side visa waiver policy. . The new policy provides certain unlawfully present individuals with a "provisional waiver" to the 3- or 10- year unlawful presence bar *before* departing the United States to process their waiver if the individual can demonstrate hardship to a U.S. citizen spouse, parent or child over the age of 21.[5] U.S. citizen children under the age of 21 are explicitly excluded from consideration under the hardship rule even despite the fact that research has documented that young children are the most likely to experience severe long-term impacts to their economic and social well-being as a result of separation from a parent.[6]

Cancellations of Removal
Additionally, undocumented parents who face deportation often cannot receive a cancellation of removal even if that deportation would separate them from their U.S. citizen child. When seeking a cancellation of removal, an individual must prove "exceptional and extremely unusual hardship"[7] to a U.S. citizen spouse, parent or child. If that hardship is to children, it must be "substantially different from, or beyond that which would normally be expected from the deportation of an alien with close family members here."[8] It is not enough to prove hardship to a child to stop a parent's deportation; that hardship must be worse than it would be for any other citizen. This means that under current immigration law, children are expected and required to suffer vastly more than other individuals. Immigration policy is unlike most of our other laws in this way. Most law recognizes the unique needs of children and is designed to protect children, but immigration law takes a distinctly different approach and requires children to suffer more than other individuals.

Immigration Enforcement & Family Separation
Promoting family unity within immigration reform also requires that immigration enforcement policies be reformed to ensure that protections are in place to prevent the separation of families as well as the inappropriate termination of parental rights of detained or deported parents with children in the U.S. child welfare system. According to the Department of Homeland Security, nearly 205,000 parents of U.S. citizen children were deported in the 26 months between July 1, 2010 and September 31, 2012.[9] As a result, thousands of U.S. citizen children have moved abroad to be with deported parents, and an estimated 5,100 children are in the U.S. child welfare system.[10] The conflicting policies as well as a lack of coordination between the immigration enforcement and the child welfare systems means that children in foster care are at increased risk of being permanently separated from their detained or deported parents.

Prioritizing Children and Keeping Families Together in the U.S. Immigration System

Recognizing the need for immigration reform to consider the interest of children, First Focus co-led an effort to develop a set of children's principles for immigration reform which have been endorsed by over 200 organizations. The principle on family unity reads as follows:

"Immigration reform should…[k]eep families together. Decisions regarding admissibility, enforcement, detention, and deportation of children and their parents must duly consider the best interests of children. Immigration judges should be allowed to exercise discretion in admission and removal decisions based on the hardship to U.S. citizen and lawfully permanent children, while current backlogs should be resolved and family-based immigration channels should be made adequate for future migration without lengthy family separation."

Specifically, the First Focus Campaign for Children recommends the following family-focused provisions be included in immigration reform:

- Ensure that immigration judges are able to consider hardship to U.S. citizen children in decisions regarding a parent's admissibility, detention, or removal by reforming laws regarding cancellations of removal and waivers of inadmissibility. (HR 406, 113th Congress)
- Reform immigration enforcement policies to prevent the detention of parents whenever possible and in cases when a parent must be detained or removed, ensure that parents are granted due process rights and are able to make decisions regarding their child's care. (S 1399, 112th Congress; HR 2607, 112th Congress)
- Ensure that child welfare agencies have protocols in place to promote the reunification of system-involved children with parents who are involved in immigration proceedings. (HR 6128, 112th Congress)

Conclusion

We believe that the immigration system as well as immigration enforcement policies must be reformed to better align with American values of protecting the best interests of our children. Without these changes, children in immigrant families will continue to be treated as collateral damage under current laws that disregard their needs and deny their basic rights. Instead of allowing for and encouraging these adverse outcomes for children, our federal immigration laws should protect and advance the interests of our nation's children.

Thank you again for the opportunity to submit this statement. Should you have any further questions, please contact Wendy Cervantes, Vice President of Immigration and Child Rights Policy at wendyc@firstfocus.net.

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[3] Immigration and Nationality Act §212(a)(9)(B)(v), 8 U.S.C. §1182(a)(9)(B)(v)(2006).

[4] *Ibid*

[5] Federal Register. Department of Homeland Security Final Rule. January 2, 2013. *Provisional Unlawful Presence Waivers of Inadmissibility for Certain Immigrant Relatives.* Retrieved from https://www.federalregister.gov/articles/2013/01/03/2012-31268/provisional-unlawful-presence-waivers-of-inadmissibility-for-certain-immediate-relatives

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Testimony

Of

Most Reverend José H. Gomez

Archbishop of Los Angeles

Chairman, U.S. Conference of Catholic Bishops

Before the

House Subcommittee on Immigration and Border Security

on

March 14, 2013

I am Archbishop Jose Gomez, Archbishop of Los Angeles, CA, and chairman of the U.S. Conference of Catholic Bishops' (USCCB) Committee on Migration. I testify today on behalf of the Committee of Migration on the Catholic Church's perspective on the immigration needs of spouses and children of lawful permanent residents (LPR).

Mr. Chairman, I am pleased to have the opportunity to give a statement today on this important topic. I would like to thank Chairman Trey Gowdy and Ranking Minority Member Zoe Lofgren for holding this hearing on an issue that is of such vital importance to our nation.

We are hopeful that today's hearing helps to ensure a process that will result in the enactment of comprehensive immigration reform that incorporates family-based immigration law principles. Our nation cannot wait any longer to repair our broken immigration system, which does not accommodate the migration realities we face in our nation today, or respect the basic human rights of migrants.

In order to achieve real reform, the Obama Administration and Congress must work together on a comprehensive package that would provide a path to citizenship for undocumented migrants and their families in the U.S., provide legal means for migrants to enter our nation to work and support their families, and reform the system whereby immigrants come to the United States to reunite with close family members.

Mr. Chairman, in January 2003, the U.S. and Mexican Catholic bishops issued a historic joint pastoral letter on the issue of migration entitled *Strangers No Longer: Together on the Journey of Hope*. Among its many recommendations, it outlines the elements which the bishops of both nations believe are necessary to reform U.S. and Mexican immigration policy in a comprehensive and just manner.

My testimony today will focus on many of the recommendations contained in the U.S.-Mexican bishops' joint letter.

Specifically, my testimony recommends that Congress—

- Maintain the current family preference categories at adequate levels, including 3rd and 4th preferences to allow family members to unite within a reasonable period of time.

- Reduce backlogs and waiting times in the family preference system so families can be reunited by moving the 2A category into immediate relatives, increasing per-country caps, and maintaining and using unused visas each year.

- Maintain the Diversity Immigrant Visa Program.

I. Catholic Social Teaching and Migration

The Catholic Church is an immigrant church. More than one-third of Catholics in the United States are of Hispanic origin. The Church in the United States is also made up of more than 58 ethnic groups from throughout the world, including Asia, Africa, the Near East, and Latin America.

The Catholic Church has a long history of involvement in the immigration issue, both in the advocacy arena and in welcoming and assimilating waves of immigrants and refugees who have helped build our nation throughout her history. Many Catholic immigration programs were involved in the implementation of the Immigration Reform and Control Act (IRCA) in the 1980s and continue to work with immigrants today. In fact, the U.S. Conference of Catholic Bishops (USCCB) was a national coordinating agency for the implementation of IRCA. We have a strong working relationship with the Department of Homeland Security (DHS) and with U.S. Citizenship and Immigration Services (USCIS), the agency that would be largely responsible for implementing any new legalization and temporary worker programs. In 1988, the United States Conference of Catholic Bishops (USCCB) established the Catholic Legal Immigration Network, Inc. (CLINIC) to support a rapidly growing network of community-based immigration programs. CLINIC's network now consists of over 212 members serving immigrants and their families in over 300 offices.

The Church's work in assisting migrants stems from the belief that every person is created in God's image. In the Old Testament, God calls upon his people to care for the alien because of their own alien experience: "So, you, too, must befriend the alien, for you were once aliens yourselves in the land of Egypt" (Deut. 10:17-19). In the New Testament, the image of the migrant is grounded in the life and teachings of Jesus Christ. In his own life and work, Jesus identified himself with newcomers and with other marginalized persons in a special way: "I was a stranger and you welcomed me." (Mt. 25:35) Jesus himself was an itinerant preacher without a home of his own as well as a refugee fleeing the terror of Herod.
(Mt. 2:15)

In modern times, popes over the last 100 years have developed the Church's teaching on migration. Pope Pius XII reaffirmed the Church's commitment to caring for pilgrims, aliens, exiles, and migrants of every kind, affirming that all peoples have the right to conditions worthy of human life and, if these conditions are not present, the right to migrate.[1] Pope John Paul II states that there is a need to balance the rights of nations to control their borders with basic human rights, including the right to work: "Interdependence must be transformed into solidarity based upon the principle that the goods of creation are meant for all."[2] In his pastoral statement, *Ecclesia in America,* John Paul II reaffirmed the rights of migrants and their families and the need for respecting human dignity, "even in cases of non-legal immigration."[3]

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[1] Pope Pius XII, *Exsul Familia (On the Spiritual Care of Migrants)*, September, 1952.
[2] Pope John Paul II, *Sollicitudo Rel Socialis,* (On Social Concern) No. 39.
[3] Pope John Paul II, *Ecclesia in America (The Church in America)*, January 22, 1999, no. 65.

In an address to the faithful on June 5, 2005, His Holiness Benedict XVI referenced migration and migrant families; "... my thoughts go to those who are far from their homeland and often also from their families; I hope that they will always meet receptive friends and hearts on their path who are capable of supporting them in the difficulties of the day."

During his visit to the United States in April 2008, His Holiness Benedict XVI chose migration and immigration as one theme of his visit, citing the importance of keeping families together and addressing the issue not only nationally, but regionally and globally as well: "The fundamental solution is that there would no longer exist the need to emigrate because there would be in one's own country sufficient work, a sufficient social fabric, such that no one has to emigrate. Besides this, short-term measures: It is very important to help the families above all." (Interview with His Holiness Pope Benedict XVI on his flight to America, April 15, 2008.)

In our joint pastoral letter, the U.S. and Mexican Catholic bishops further define Church teaching on migration, calling for nations to work toward a "globalization of solidarity." "It is now time to harmonize policies on the movement of people, particularly in a way that respects the human dignity of the migrant and recognizes the social consequences of globalization."[4]

The U.S. and Mexican bishops also point out why we speak on the migration issue. As pastors, we witness the consequences of a failed immigration system every day in the eyes of migrants who come to our parish doors in search for assistance. We are shepherds to communities, both along the border and in the interior of the nation, which are impacted by immigration.

For these reasons, the Catholic Church holds a strong interest in the welfare of immigrants and how our nation welcomes newcomers from all lands. The current immigration system, which can lead to family separation is morally unacceptable and must be reformed.

II. Policy Recommendations

Mr. Chairman, the U.S. Catholic bishops believe that any comprehensive immigration reform bill should be centered on family-based immigration principles. Family reunification, upon which much of the U.S. immigration system has been based for decades, should remain the cornerstone of U.S. immigration policy. Immigrant families contribute to our nation and help form new generations of Americans. Even while many migrants come to the United States to find employment, many come as families. In my testimony, I attempt to spell out in more detail our recommendations in this regard, as well as point out the family immigration policy provisions the U.S. Conference of Catholic Bishops (USCCB) would oppose in any immigration reform bill.

A. Retain Existing Family Preferences at Adequate Levels

Mr.Chairman, the U.S. bishops strongly feel that the current structure of the family-based immigration system should be maintained. We understand that the subcommittee could consider eliminating certain categories, such as the third and fourth preference—adult married children

[4] *Strangers No Longer: Together on the Journey of Hope. A Pastoral Letter Concerning Migration from the Catholic Bishops of Mexico and the United States,"* January 23, 2003, n. 57.

and brothers and sisters of U.S. citizens. For the sake of family unity the USCCB asks that you maintain the third and fourth family-based preference, as married adult children and siblings are part of the family unit and are an important group in any family-based immigration reform effort. The wait times for these particular categories are extremely long: for example, siblings of Filipino descent faces an almost twenty-four year wait to be reunited with a U.S. Citizen sibling, and a married adult child of Mexican descent faces a twenty-year wait to be reunited with their U.S. Citizen parent.[5] Siblings and married adult children are important parts of the family unit. Additionally, as I will explain, we ask that you eliminate the backlog in this category as well.

Mr. Chairman, we are opposed to the inclusion of the Uniting American Families Act (UAFA) in comprehensive immigration reform legislation, which would add another category to the structure for persons in same-sex relationships. USCCB feels that this should not be part of the family-immigration debate. The addition of this category would erode the unique meaning of marriage by allocating spousal immigration benefits to persons in same-sex relationships. The inclusion of this provision would unnecessarily introduce controversy into an already divisive debate. We should not jeopardize the success of comprehensive immigration reform by using it as a vehicle to advance an issue that is already the source of polarizing debate in the states and in the courts.

Mr. Chairman, we also oppose the introduction of a point system as a replacement for, or as a supplement to, the family-based system. During the 2007 immigration reform debate, the U.S. Senate strongly considered replacing the family-based immigration system with a "point" system, which would have allocated visas to applicants based on the number of points they scored on different criteria. This idea was based on the Canadian model, which currently employs that system.

We oppose the imposition of such a point system, which we fear would place higher value on highly-educated and skilled immigrants than on family ties. We reject the premise that the family-based system has historically not worked in the best interest of this nation. Indeed, there is evidence that immigrant families represent the backbone of communities in this nation, especially in urban areas. They have started and maintained family businesses, from restaurants to dry cleaning stores and from auto mechanic businesses to pastry shops. Immigrant families also take care of each other and ensure that all members of the family are provided for, as well as contribute their talents to the strengthening of local neighborhoods.

Family reunification has been the cornerstone of the U.S. immigration system since the inception of our republic. It would be foolhardy to abandon this system, as the family unit, based on the union of a husband and a wife and their children, represents the core of our society and culture.

B. *Reducing Existing Backlogs in Family Categories*

The U.S. family-based immigration system, which helps keep families together, is in urgent need of reform. The current visa quota system, last revised by Congress in 1990, established statutory ceilings for family immigration that are now inadequate to meet the needs of immigrant families wishing to reunite in a timely manner. The result has been waiting times on average of

[5] Department of State, Visa Bulletin for January 2013, Number 52, Volume IX

eight years for adult children to be able to reunite with their U.S. Citizen parents, and the wait is currently twenty years for or more for the adult children of Mexican descent to reunite with their U.S. Citizen parents.[6] These "backlogs" create obstacles that force families to live for years apart without the ability to legally live with their loved ones. Such lengthy waiting times are unacceptable and actually provide unintentional incentive for some migrants to come to the United States illegally. Substantial changes must be made to the U.S. family-based immigration system so that it will meet the goal of facilitating, rather than hindering, family unity. Failure to address this problem will lead to renewed backlogs which once again will lead to illegal immigration and visa overstays. Eliminating the backlogs to individuals currently waiting will help to continue to promote family unity and family-based immigration principles and will also help prepare the way for implementing comprehensive immigration reform.

Classify Spouses and Children of LPRs as Immediate Relatives. Currently, the spouses and minor children of legal permanent residents (LPRs) are classified in family-based category/preference 2A. For individuals to legally immigrate to the United States under this category, the current wait is two and half years.[7] The wait time for the immediate family members of legally permanent residents is very difficult for families with minor children as it forces separated spouses to act as de facto single parents. The separation of immediate nuclear families is destructive to the family unit and creates family tension, pain and isolation. This particular type of family separation has also been mentioned extensively as an obstacle that is currently keeping high skilled workers from working and settling down permanently in the United States.[8] Due to the particularly close and important relationship between spouses and between parent and child, we advocate for a reclassification of spouses and minor children of LPRs to "immediate relative" status. This reclassification will enable a much quicker reduction of the backlog for this category and also will help to promote family unity as well as incentivize LPRs to remain and work in the United States. We believe that the visas in this category could be used, or "spill down" to other categories in the family-based system.

Increase the per-country limits on annual visa quotas in this category. The current per-country limits for annual visas places a strict limit on the numbers that may come from certain countries, especially from emerging-market countries such as China, India, Mexico and the Philippines. Currently, if legal permanent residents (LPRs) happen to be one from one of the above mentioned countries, they automatically and unfairly are subject to waits of nine to twenty-one years to be reunited with their adult children.[9] The USCCB believes in the sanctity of the family and the right of families to be together, regardless of which country family members originate. For this reason the USCCB advocates for an increase in the per-country limits on annual visa quotas in this category.

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[6] Department of State, Visa Bulletin for January 2013, Number 52, Volume IX
[7] Department of State, Visa Bulletin for January 2013, Number 52, Volume IX
[8] See Hearing on the U.S. Immigration System Committee of the House Judiciary Tuesday, February 5, 2013, testimony of Dr. Puneet Arora, Immigration Voice
[9] Department of State, Visa Bulletin for January 2013, Number 52, Volume IX

Recapture unused visas and roll-over the remaining unused visas into the next year.
We ask that you examine recapturing the current visas that go unused and proposed that these annual unused and unclaimed family-based and employment-based visas should be re-utilized and a mechanism should be created and put in place that guarantees that future unused visas are not wasted.

C. Maintain the Diversity Immigrant Visa Program
We ask that you continue to operate the Diversity Immigrant Visa Program. The Diversity Immigrant Visa Program provides lawful permanent residence to immigrants from what are designated low-admission countries. Structured as a lottery system, the Program has a statutory annual numerical limitation of 55,000 visas[10] for applicants from countries with low rates of immigration to the United States.[11] Citizens from any country emigrating more than 50,000 immigrants to the United States in the preceding five years are ineligible to receive benefits under the program.[12] The Program offers many benefits to the United States and intended beneficiaries, such as cultural exchange and the furthering of the U.S.'s foreign policy interests. Additionally, the Program gives individuals hope for reunification with family in the United States. To this point, the USCCB has witnessed many instances[13] where individuals have petitioned to come to the United States on family-based visas but have faced up to twenty year waits, particularly if they are the siblings or extended relatives of U.S. Citizens. Some individuals were able to apply for Diversity Visas and after many attempts were united with family members in the United States. For this reason, Mr. Chairman, we ask that you maintain the Diversity Immigrant Visa Program.

III. Conclusion

Mr. Chairman, we appreciate the opportunity to testify today on the issue of family-based immigration reform with particular focus on spouses and minor children of LPRs. Now is the time to finally enact such reforms, and we must do it right.

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[10] In 1997, Congress passed The Nicaraguan Adjustment and Central American Relief Act (NACARA) which provides that up to 5,000 of diversity visas allocated each fiscal year be made available for use under the NACARA program. The reduction to 50,000 of available visas began with DV-2000.

[11] Pub. L. No. 101-649, § 131.

[12] Individuals from countries with more than 50,000 immigrants in the employment or family-based visa categories in the prior five years are not eligible. In FY 2011, individuals from the following countries were ineligible: Brazil, Canada, China, Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, India, Jamaica, Mexico, Pakistan, Peru, the Philippines, Poland, South Korea, United Kingdom, and Vietnam.

[13] Ambassador Johnny Young, Executive Director of Migration Refugee Services (MRS) of the USCCB has testified about his personal experiences with individuals who have been able to reunite with their U.S. Citizen relatives through the Diversity Immigrant Visa Program. See Ambassador Young Testimony on Diversity Immigrant Visa Program before the House Judiciary Subcommittee on Immigration Policy and Enforcement, April 5, 2011 (attached)

Mr. Chairman, we urge you and the committee to consider our recommendations as you consider the myriad issues in this vital area. We are hopeful that, as our public officials debate this issue, that migrants, regardless of their legal status, are not made scapegoats for the challenges we face as a nation. Rhetoric that attacks the human rights and dignity of the migrant are not becoming of a nation of immigrants. Neither are xenophobic and anti-immigrant attitudes, which only serve to lessen us as a nation.

Mr. Chairman, the U.S. Catholic bishops strongly believe that family-base immigration reform should be a top priority within the comprehensive immigration reform debate for Congress and the Administration and should be enacted this year. We look forward to working with you and the administration in the days and months ahead to fashion an immigration system that upholds the valuable contributions of immigrants and reaffirms the United States as a nation of immigrants. Thank you for your consideration of our views.

March 13, 2013

An Open Letter to President Obama and to All Members of Congress

We, the undersigned immigrants' rights, civil rights, and faith-based organizations, write to strongly urge you to protect and strengthen the family-based immigration system as you develop immigration reform legislation. We believe that all families belong together, regardless of immigration status. Family is a cornerstone of American values but our broken system often hurts families by keeping loved ones apart for years through red tape, bureaucracy, and harsh enforcement tactics.

As of November 2012, nearly *4.3 million* loved ones are waiting in the family visa backlogs. Mexico has the largest backlog with more than 1.3 million close family members in line. Family members from Asian countries – the top four being the Philippines, India, Vietnam and mainland China – also face devastatingly long wait times, with more than 1.8 million loved ones combined waiting abroad for the chance to reunite. Some family members have been waiting years, even decades, to be reunited with their family in America. Forcing families to live apart for years and even decades is simply un-American. Imagine living apart from your spouse, daughter, son, or brother and sister for years, decades even.

Strengthening the current family-based immigration system is good for our economy and is commonsense policy for the United States. A robust family-based immigration has significant economic benefits, especially for long-term economic growth of the United States. Family-based immigrants foster innovation and development of new businesses, particularly small and medium-sized businesses that would not otherwise exist, creating jobs for American workers and raising revenues for our recovering economy. Families also provide support and care for young children and the elderly, allowing others to focus on building the businesses and contributing to American society

Our American values have been and should continue to be rooted in a strong family-based system. We strongly oppose any efforts to further limit the definition of family and believe U.S. citizens deserve to be able to continue to sponsor their siblings and married children for legal permanent residence. Our country has had a long history of reuniting families, who are looking for new and prosperous opportunities in the U.S. An immigration system that truly reflects our nation's values must be inclusive by recognizing that strong families create a much-needed foundation for our communities and our economy to grow and succeed.

We urge you to support commonsense solutions to improve and strengthen our family-based immigration system to help reunite American family members.

Sincerely,

Arab American Institute
Asian American Institute, member of Asian American Center for Advancing Justice
Asian American Justice Center, member of Asian American Center for Advancing Justice
ASISTA Immigration Assistance

American Immigration Council
American Immigration Lawyers Association
American Jewish Committee
Asian Law Caucus, member of Asian American Center for Advancing Justice
Asian Pacific American Labor Alliance, AFL-CIO
Asian Pacific American Legal Center, member of Asian American Center for Advancing Justice
Association of Asian Pacific Community Health Organizations
America's Voice Educational Fund
Asian & Pacific Islander American Health Forum (APIAHF)
BPSOS
Border Action Network
Casa de Esperanza: National Latin@ Network
Center for Community Change
Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA)
Causa, Oregon's Immigrant Rights Organization
Church World Service
First Focus Campaign for Children
HIAS (Hebrew Immigrant Aid Society)
Hmong National Development
Illinois Coalition for Immigrant and Refugee Rights
Immigrant Law Center of Minnesota
Immigrant Legal Resource Center (ILRC)
Japanese American Citizens League
Kids in Need of Defense (KIND)
The Leadership Conference on Civil and Human Rights
Lutheran Immigration and Refugee Service
League of United Latin American Citizens
NAPAFASA
National Asian Pacific American Bar Association (NAPABA)
National Asian Pacific American Women's Forum
National CAPACD
National Council of La Raza (NCLR)
NALEO Educational Fund
National Immigration Forum
National Immigration Law Center
National Korean American Service & Education Consortium (NAKASEC)
National Queer Asian Pacific Islander Alliance
OneAmerica
OCA- Asian Pacific American Advocates
PICO National Network
Pineros y Campesinos Unidos del Noroeste (PCUN)
Sojourners
South Asian Americans Leading Together (SAALT)
Southeast Asia Resource Action Center (SEARAC)
Service Employees International Union
Southern Poverty Law Center

The Center for APA Women
The Episcopal Church
The National Federation of Filipino American Associations (NaFFAA)
United Auto Workers
United Food and Commercial Workers (UFCW)
United Methodist Church, General Board of Church and Society
United We Dream
U.S. Committee for Refugees and Immigrants (USCRI)
Women's Refugee Commission

COALITION FOR HUMANE IMMIGRANT RIGHTS OF LOS ANGELES

March 13, 2013

The Honorable Trey Gowdy
Subcommittee on Immigration and Border Security, Chairman
2138 Rayburn House Office Building
Washington, DC 20515

The Honorable Zoe Lofgren
Ranking Member of Subcommittee on Immigration and Border Security
1401 Longworth House Office Building
Washington, DC 20515

Re: Hearing of the U.S. House of Representatives Judiciary Subcommittee on Immigration and Border Security: "The Separation of Nuclear Families under U.S. Immigration Law"

Dear Chairman Gowdy:

The Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA) is a regional organization whose mission is to advance the human and civil rights of immigrants and refugees in Los Angeles. CHIRLA advocates on behalf of this community through policy & advocacy, organizing, education and community building. On behalf of CHIRLA, I am writing to express our views on the upcoming hearing on immigration to be held on March 13 in the House of Representatives Judiciary Subcommittee on Immigration and Border Security: "The Separation of Nuclear Families under U.S. Immigration Law."

We believe that immigration reform must include a direct road map to full citizenship for the 11 million people who aspire to be citizens and that family unity must be a cornerstone of such reform. Currently, our broken immigration system is hurting families by keeping loved ones apart for years through red tape, bureaucracy and draconian enforcement tactics.

One of the shortcomings of our immigration system is the outdated national origins quota within the family visa system, which has not been updated for more than two decades., For several years now, the number of visas available by law each year is less than the number of prospective immigrants getting in line to wait for a visa, thereby exacerbating an already harmful situation for American families A recent report by the National Asian American Survey indicates that of the five countries with the longest backlogs for visas, four are in Asia.

In addition to the inadequate visa numbers that keeps families separated, there are legal barriers within the current immigration law that prevent families from migrating through legal channels. Prominent examples, of these legal barriers are what are known as the three-year, ten year, and permanent bars. These prohibit anyone who leaves the country after having been here a minimum of six months without permission from re-entering the country for three years; those here for twelve months or more are prohibited from re-entering the country for ten years while certain individuals with multiple border crossings are permanently barred from entry. This is regardless of whether they have qualified for an immigrant visa through family or employer sponsorship Further, the Defense of Marriage Act (DOMA), which denies federal benefits and protections to legally married same-sex couples, acts as a barrier to family reunification and an individual's ability to sponsor a same-sex spouse or partner for legal residency and eventual citizenship.

COALITION FOR HUMANE IMMIGRANT RIGHTS OF LOS ANGELES

Families who are residing in the U.S are also fearful of being separated due to the current draconian enforcement tactics that have resulted in more than 1.5 million deportations since 2008. A significant number of immigrants who were deported are parents of U.S. born children, it is estimated that from July 2010 through September 2013 nearly 23% of all deportations were issued for parents with citizen children.

We urge all the members of this subcommittee to bring forth constructive ideas to this hearing to affect in a positive way the current discourse on the debate on immigration reform. CHIRLA is committed to working with Members of Congress towards fixing our immigrant system with common sense solutions. We strongly believe that an immigration reform proposal must guarantee that the principle of family unity is engrained in all aspects of immigration law. To that end, we urge the following principles to be embodied in any immigration reform proposal:

- Overhaul the current family visa system to reduce the dreadful waiting period and existing backlogs of family-sponsored visas to facilitate a speedy reunification for all families.
- Eliminate discrimination in the current family visa system. Family visa system must not discriminate by race, country of origin, gender, sexual orientation, religious affiliation, age, health or economic status.
- Invest resources and staff in U.S. Citizenship and Immigration Services to clear the existing backlog of family visas and create a modern, cost-effective, and efficient immigration process.
- Safeguard the interests of children by immediately reuniting them with their parents and guardians previously deported.

If you have any questions, please contact Rita Medina at rmedina@chirla.org or Joseph Villela at jvillela@chirla.org.

Sincerely,

Joseph Villela
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Statement of the American Immigration Lawyers Association
Submitted to the
Committee on the Judiciary of the U.S. House of Representatives Subcommittee on Immigration and Border Security

Hearing on March 14, 2013
"The Separation of Nuclear Families under U.S. Immigration Law"

The American Immigration Lawyers Association (AILA) submits the following testimony to the Committee on the Judiciary. AILA is the national association of immigration lawyers established to promote justice and advocate for fair and reasonable immigration law and policy. AILA has over 12,000 attorney and law professor members.

Family unification has always been the cornerstone of the U.S. legal immigration system. Keeping families strong and united is a core national value and interest. Under our current out dated system, unreasonable and unnecessary backlogs have kept families separated for years. A properly working family-based immigration system is foundational to ensure that future generations of immigrant families continue their track record of success in building up America.

Family-based immigration is not only about keeping close family members together. When it works properly, it furthers America's economic and social interests while advancing fundamental American values. Often times, immigrants who arrive through the family-based system have employable skills or are business innovators themselves. Moreover, studies have shown that close family relationships facilitate entrepreneurship because family members can support in caring for children and working in family-owned businesses.

Unfortunately, the current immigration system has kept families separated and uncertain about their future through backlogs and delays. A popular misconception about the immigration system is that family members who would like to immigrant can simply get into a line to obtain a visa, and then get their green card in a reasonable period of time. Apart from immediate relatives of U.S. citizens, close family members of U.S. citizens and legal permanent residents are forced to navigate extremely long delays in the visa application process due to the insufficiency of the number of visas available per year – numbers which were set by Congress in 1990. For example, a U.S. citizen parent typically has to wait about seven years to bring an adult child; almost 20 years for those coming from Mexico. Brothers and sisters of U.S. citizens typically wait about 12 years; almost 24 years for those coming from the Philippines. These long delays create uncertainty and burdens for families as they weigh moving forward in their lives with the impact life decisions will have on their application. In the case of N (See Appendix Case Example #1), after waiting for 5 years on her parents' petition for her, she decided to get married, which voided the petition. She now has to wait at least a decade to join them.

Creating a rational, orderly, effective system that comports with 21st century realities are essential for America. The U.S. has long benefited from family-based immigration to strengthen economic resources, enhance the cultural melting pot, and bolster democracy, all which needs to continue as we embrace new challenges and competition.

Moving forward in reform, it is essential not to undermine one of the most important sources of immigrant strength and vitality – their broad-based families. Our family-based immigration system should work to reunite loved ones and provide stability to families. It should also reflect our values of fairness and inclusion, and reflect the realities of close ties and relationships that exist among family members beyond spouses and minor children. The ties that hold together siblings or elderly parents and adult children cannot be dismissed. Siblings and adult sons and daughters are in some cases, the closest family tie to a U.S. citizen or lawful permanent resident. In the case of Susan (See Case Example #2), the backlog in visas available to siblings keep Susan and her brother, her closest remaining family tie, separated, a separation felt more poignantly in the last 6 years with the deaths of parents and a grandparent. The current family-based system is insufficient to meet the needs of families and requires improvements such as the expansion of family categories and the addition of visa numbers.

Proposals to strip away support by eliminating or restricting family-based immigration would tear apart existing family structures and foster social isolation and disconnection, rather than acculturation. Yet, some proposals call for limitations in the family-based visa categories in order to increase employment visa categories. This approach is premised on the faulty assumption that American can only absorb a fixed number of immigrants at a given time when in fact, our nation's needs are constantly changes – sometimes expanding and other times contracting. Adult children and siblings have been shown to have a direct impact on immigrant entrepreneurship. They help build family-owned businesses. They also provide critical care for elderly parents and minor children.

The social and economic benefits that family-based immigration has provided America are numerous. And, because of the immeasurable value added to our communities by immigrants with existing family ties, the benefits of family-based immigration cannot be measured in comparison to the benefits of employment-based immigration. America benefits the most when the family- and employment-based systems are each working effectively. And a well-functioning family-based system strengthens the employment-based system by allowing workers to maintain their family unit in the U.S. Less family-friendly policies may dissuade high-skilled immigrants, who also have families, from choosing to invest in America's economy with their talents and resources. Our immigration system must be flexible and capable of meeting the needs of both American businesses and families.

Other critically needed improvements in the system include:

- Re-classifying the children and spouses of lawful permanent residents as "immediate relatives" allowing them to immediately qualify for a visa.
- Recapturing unused family-based and employment-based visas that were authorized but not allocated due to bureaucratic delay.
- Increasing the per country limits of family visas from 7% to at least 15% to help ease family green card backlogs.
- Allowing same-sex partners to reunite.
- Allowing orphans, widows and widowers to immigrate despite death of a petitioner.

Appendix- Case Examples

Case Example #1 N
N is the daughter of M and J, from Thailand. After immigrating to the US in the 1990's based on M's skill as a traditional Thai chef, M and J opened their own Thai restaurant. In 2002, they filed a petition for their adult daughter, N, to immigrate and join them. N was over the age of 21 when M and J immigrated initially, and therefore, could not accompany them to the U.S. for M's job.

By the time the petition on N's behalf was approved in 2005, the "priority date" in the category for an unmarried daughter of a lawful permanent resident was backlogged to 1995. M and J considered naturalizing, but between the demands of running their own restaurant and the high cost of the application fees, did not do so until 2010.

In 2009, however, N decided to get married. As a married daughter of permanent residents, her parent's immigrant petitions became immediately void, and she lost her place in the immigrant visa quota backlog, losing 5 years of priority.

M and J have now become US citizens and have re-filed immigrant petitions for their married daughter, but their priority date of January 2013 is in a category that is backlogged to July of 2002, meaning that it will be at least a decade or more before their daughter can join them.

Case Example #2 Susan
Susan, came to the U.S. on a student visa in August 1988. She completed a graduate degree and was sponsored for an H-1B visa and later, a green card by a corporation. She became a permanent resident in 1993, worked, and paid taxes. In 1998, Susan made a commitment to the United States, took the oath of allegiance, and became a naturalized citizen. After Susan became a citizen, she filed a petition for her mother. Susan's mother was later diagnosed with breast cancer and died in 2007.

In February 2006, Susan filed a sibling petition (I-130) for her brother Tim. Though their step-father was deceased and their mother was fighting cancer, Susan's brother was a determined university student. Susan was working long hours in the U.S. and trying to provide support to her brother and her mother from afar. The family determined that it would be best for Susan and her brother to be together. As of April 2013, green cards are available to brothers and sisters of U.S. citizens who began the process in April of 2001, five years before Susan began the process for her brother. To date, a visa has not been made available and, during the almost decade-long wait, Susan's brother finished a bachelor's degree.

Susan and her brother are very close, and given the age difference between them, Susan has always helped to take care of him. Once she settled in the U.S., Susan would visit her family every year. She called her family weekly and wrote to her brother frequently. Each school year, she bought him a new supply of clothes, books, and educational toys. When Susan's brother was 12 years old, he traveled to the U.S. to spend Christmas with her. The following year, he spent the summer with his sister. He has made many visits to the U.S. since that time. In the past six years, Susan and her brother have experienced three deaths of parents and a grandparent –it has been a difficult time for them to be apart. They maintain contact through weekly calls, either via regular phone lines, Skype, or Facebook.

Written Statement of Mee Moua
President and Executive Director
Asian American Justice Center,
A Member of the Asian American Center for Advancing Justice

House Committee on the Judiciary
Subcommittee on Immigration and Border Security

Hearing on: "The Separation of Nuclear Families Under U.S. Immigration Law"

March 14, 2013

Today the House Subcommittee on Immigration and Border Security will hold a hearing titled "The Separation of Nuclear Families Under U.S. Immigration Law." On behalf of the Asian American Justice Center (AAJC) and the other affiliate members[1] of the Asian American Center for Advancing Justice, a non-profit, non-partisan affiliation representing the Asian American and Pacific Islander (AAPI) community on civil and human rights issues, we thank you for holding this important hearing. We urge you to use today's hearing to focus on positive commonsense solutions for our broken immigration system so that families are kept together and that family reunification remains a tradition in America's immigration system.

Existing Family-Based Immigration System

Families are the backbone of our country and their unity promotes the stability, health, and productivity of family members contributing to the economic and social welfare of the United States as a whole. In addition, the ability to reunite with family members is important to attracting and retaining the most talented and hardest working immigrants the world has to offer.

Our current immigration system is built on the American values of family by allowing a family member who is a United States citizen or permanent resident to sponsor their close loved ones to come to the U.S. Qualifying relationships are grouped into two main categories – immediate relatives and other close family members. Currently, under the law, spouses, unmarried minor children, and parents of U.S. citizens are considered "immediate relatives." Other close family members of citizens and legal permanent residents (also called "green card holders" or "LPRs") are also allowed to immigrate. These include unmarried adult children of citizens, spouses and unmarried children of permanent residents, married adult children of citizens, and brothers and sisters of citizens.

Currently, the annual ceiling for family-based immigration is 480,000 individuals per year. This number is divided into immediate relatives of U.S. citizens as well as the close family members in the four different family preferences listed above. There is also a cap on how many people are

[1] In addition to AAJC, the other members of the Asian American Center for Advancing Justice are Asian American Institute in Chicago, Asian Law Caucus in San Francisco, and Asian Pacific American Legal Center in Los Angeles.

allowed into the United States from any one country. A combination of these visa ceilings as well as the per-country cap often contributes to long waits for the average immigrant family.

As of November 2012, nearly 4.3 million close family members were waiting in the family visa backlogs. Latino and Asian American families are most impacted by these long backlogs. Of the nearly 4.3 million family members in the backlogs, more than 1.3 million are from Mexico alone. Other countries including the Dominican Republic and El Salvador also have significantly large numbers of family members waiting to join loved ones in the U.S. Some family members have been waiting years, even decades, to be reunited with their family in America. Forcing families to live apart for years and even decades is simply un-American. Imagine living apart from your husband or wife or daughter or son for years, decades even. These lengthy separations are heart-breaking and strain familial ties.

Asian American Families Are Disproportionately Impacted By Our Broken System

The family immigration system is a critical part of our immigration system and a very important issue to the Asian American community. U.S. immigration policy has directly impacted our community dating back to 1882 when Congress explicitly prohibited Chinese Americans from settling in the U.S. It would take Congress another 80 years before fully repealing these exclusionary laws. As a result, approximately 60% of Asian Americans are foreign born, the highest proportion of any racial group nationwide.

Our current system disproportionately harms Asian American families, resulting in massive backlogs and heartache. While Asian Americans make up a growing population of 6% in the U.S., they sponsor more than one third of all family-based immigrants. Of the almost 4.3 million close family members of U.S. citizens and legal permanent residents waiting to be reunited with their loved ones, over 1.8 million are AAPI. Of the top five countries with the largest backlogs, which include potential active members to our society including high-skilled and low-wage workers, four are Asian nations - the Philippines, India, Vietnam, and China.

Immigrants like Marichris Arce from the Philippines, now a naturalized U.S. citizen, know firsthand the impact of the broken family system. Ms. Arce was separated from her parents and younger siblings for six years while she waited for her visa to be processed. She later married and lived an ocean away from her husband for seven years for the same reason. Due to the difficulty in obtaining a visa, Marichris' husband missed the birth of their first child and only saw his daughter for six weeks each year for the first four years of their daughter's life.

Family-Based Immigration Benefits American Communities and Businesses

Protecting and strengthening the current family-based immigration system is economically sound policy for the U.S. Family-based immigration has significant economic benefits, especially for long-term economic growth. Family-based immigrants foster innovation and development of new businesses, particularly small and medium-sized businesses that would not otherwise exist, creating jobs for American workers.

Family members help to take care of young children and elderly parents so that other family members can focus on working and building businesses. Brothers and sisters support each other's dreams, help each other find jobs and provide both emotional and financial support and care for each other's families. Improving our family-based immigration system will make the U.S. even more attractive to employment-based immigrants who may want the flexibility to bring loved ones to the U.S. once they are established here. Workers who have the support and encouragement of their family members are more likely to be productive and successful as they strive to integrate into our communities. Lengthy family separations are stressful and take a personal toll on workers. It forces many immigrant workers who are separated from their families to send money overseas rather than being able to invest all of it in their local communities.

America has always recognized that family members play an important role in helping immigrants build communities. Family members help new Americans integrate into our communities and become part of our national fabric. They provide an important safety net, not just for the immigrants but also for the U.S. citizen relatives. They take care of one another in times of economic, physical or emotional hardship.

Immigration Is Not A Zero-Sum Game

Our current family-based immigration system has not been reformed in over twenty years, and now we have an outdated system that does not reflect our current reality. Some have proposed drastically changing the current family-based immigration system. But any proposed reforms should reflect our values as a nation and ensure diversity, inclusion and the protection of simple human rights. While the backlogs are truly a problem in that they separate and keep families apart, one simple solution is to raise the number of available visas to meet the demand of immigrants and their families waiting in the United States.

Eliminating the family immigration categories or limiting the scope of families will only create greater strain on families and leave people with no legal means to reunite with their loved ones. Americans should not have to choose between living and working in the U.S. with no family support and living in a country that offers little to no opportunities for families. Brothers and sisters, along with children of all ages are an inextricable part of any family. Denying this imposes upon many immigrants an unacceptably narrow concept of family, and downplays the valuable contributions made by all family members. Any policy that would permanently keep parents from children and brothers and sisters from each other goes against our identity as a nation, which has always recognized the importance of family unity. All families, including LGBT families, should be given the opportunity to work and live together to achieve the American dream.

The current process for family sponsorship is a long and rigorous one, and hardly an open door. Researchers have found that, on average, an immigrant will bring in 2.1 additional immigrants.[2] One of the limitations on the ability of immigrants to bring in family, in addition to the strict

[2] *See e.g.*, Bin Yu, "Immigration Multiplier: A New Method of Measuring the Immigration Process," Population Association of America, 2006 Meeting. http://paa2006.princeton.edu/download.aspx?submissionId=61643

quota assigned each category, is that our laws require the sponsor of a family member to sign an affidavit of support guaranteeing they will take care of the family member being brought in. Sponsors must also prove they have enough income to cover that pledge. This provides a limit on sponsorship and a strong incentive for the sponsors to help ensure the family member they are bring in will integrate and be self-sufficient. Opponents of immigration often claim, mistakenly, that each immigrant can bring in extended family members, such as cousin, uncles, and aunts. That simply is not true.

As we see in our own communities across the nation, family-based immigrants contribute greatly to the U.S. economy by developing areas and businesses that would not otherwise be developed. Arguments made for high-skilled immigrants at the expense of family-based immigrants do not take into account that "[m]any of the immigrants we associate with financial success and entrepreneurial spirit actually immigrated to the U.S. through their family relationships, not their skills. For example, Sergey Brin, the founder of Google, moved to the U.S. with his mathematician parents when he was six years old. Similarly, Pierre Omidyar, the founder of eBay, was born in Paris to Iranian parents and arrived in the U.S. as a young child. Jerry Yang, founder of Yahoo, came to the U.S. at age 10 with his family."[3] These are just a few examples. According to a report by the Partnership for New American Economy, over forty percent of the 2010 Fortune 500 companies were founded by immigrants or children of immigrants. Any proposal that aims to dismantle the family immigration system in the name of the U.S. economy does not understand the actual needs of American businesses, small and large.

Commonsense Policy Solutions

Our American values demand a strong family-based system. Since our country's founding, entire families would immigrate to the U.S. in search for opportunity. Forcing families to live apart for years and even decades is simply un-American. An immigration system that truly reflects our nation's values must recognize that strong families, including LGBT families, create a much-needed foundation for our communities and our economy to grow and prosper.

We urge the Subcommittee to consider positive solutions such as those contained in H.R. 717, the Reuniting Families Act, which was recently introduced by Representative Mike Honda and 61 cosponsors, and has long been supported in the Senate. The bill contains commonsense reforms that are needed to help Americans reunite with their loved ones but at the same time preserves and enhances the current family-based system.

We look forward to working with the Subcommittee as it develops and moves immigration reform legislation through Congress.

Thank you.

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[3] *Rebooting the American Dream, The Role of Immigration in a 21st Century Economy,* Immigration Policy Center, Retrieved March 12, 2013, from http://www.immigrationpolicy.org/sites/default/files/docs/IPC_-_Rebooting_the_American_Dream_110811.pdf

Written Statement of Antonio M. Ginatta

Advocacy Director, US Program

Human Rights Watch

to

the US House of Representatives, Committee on the Judiciary,

Subcommittee on Immigration and Border Security

Hearing on: The Separation of Nuclear Families under US Immigration Law

March 14, 2013

Mr. Chairman, Members of the Subcommittee, thank you for the opportunity to submit a statement on today's hearing on the separation of nuclear families under US immigration law. Human Rights Watch is an independent organization dedicated to promoting and protecting human rights around the globe. We have been reporting on abuses in the US immigration system, including violations of the right to family unity, for over 20 years. On February 1, we issued a briefing paper entitled, "Within Reach: A Roadmap for US Immigration Reform that Respects the Rights of All People," which we wish to submit for the record.[1] Our testimony will discuss a number of the recommendations that are developed in greater detail in the briefing paper, and which we think should guide any effort to reform our current, deeply flawed, immigration system.

The Universal Declaration of Human Rights states that "[t]he family is the natural and fundamental group unit of society and is entitled to protection by society and the State."[2] Family unification has rightly been at the heart of discussions about US immigration policy for over 50 years. A commission appointed by Congress to study immigration policies in 1981 concluded, "Reunification of families serves the national interest not only through the humaneness of the policy itself, but also through the promotion of the public order and well-being of the nation. Psychologically and socially, the reunion of family members ... promotes the health and welfare of the United States."[3]

Yet for years, the current US immigration system has split up countless families and left others to live under the constant threat of separation.

The United States is home to 40 million immigrants—11 million of whom are unauthorized.[4] Nearly 17 million people live in families in which at least one member is an unauthorized

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[1] "Within Reach" can also be downloaded at http://www.hrw.org/news/2013/02/01/us-immigration-reform-should-uphold-rights.

[2] Universal Declaration of Human Rights, adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948), art. 16(3).

[3] US Select Committee on Immigration and Refugee Policy, "U.S. Immigration Policy and the National Interest," 1981, p. 112, quoted in Chris Duenas, "Coming to America: The Immigration Obstacle Facing Binational Same-Sex Couples," *Southern California Law Review*, vol. 73 (2000), pp. 811–841.

[4] Pew Hispanic Center, "Unauthorized Immigrant Population: National and State Trends, 2010," February 1, 2011, http://www.pewhispanic.org/files/reports/133.pdf (accessed January 8, 2013). The Pew Hispanic Center updated its estimate of the unauthorized immigrant population more recently to 11.1 million in 2011. Pew Hispanic Center,

immigrant.[5] Despite these family relationships, most unauthorized immigrants have no realistic way to gain legal status under existing law. Some of these immigrants have valid applications for legal status filed by their US citizen or permanent resident family members, but low numerical limits for family visas and processing inefficiencies have led to a massive backlog. An adult son or daughter from Mexico, for example, may wait almost 20 years after a petition is filed by a US citizen parent. This backlog creates tremendous pressure throughout the immigration system, leading to increased illegal immigration and visa overstays.

Others are ineligible to apply for legal status, despite their family relationships, because of the length of time they have been in the US without status or because of the way in which they entered the country. Even spouses of US citizens, if they entered unlawfully, cannot gain legal status without leaving the country—and that can trigger a10-year bar to returning. A common misconception is that having a US citizen child can enable an unauthorized immigrant to immediately gain legal status. A US citizen can apply for a parent to gain permanent resident status only once he or she turns 21, and even then a parent who has been in the US without status for over a year will have to leave the country and wait 10 years to apply for legal status. A recent change in administrative policy will allow some relatives (excluding parents of US citizens) to apply for a waiver of the 10-year bar, which requires proof of extreme hardship to a US citizen relative, before leaving the country. But this change only gives people the option of applying for the waiver in advance and is limited to a small number of unauthorized immigrant family members. It does not eliminate the general bar most relatives face to gaining legal status.

Moreover, some immigrants are completely barred from getting a visa through their US citizen spouse or partner due to the Defense of Marriage Act (DOMA), which excludes lesbian and gay couples from the US government's definition of "spouse."[6] Thousands of US citizens and their foreign same-sex spouses or partners face enormous hardships, separation, and even exile because this discriminatory policy deprives these couples of the basic right of family unity. This policy not only separates loving partners from one another, it also splits parents from children (many of whom are US citizens). Data from the 2000 census showed that almost 16,000

"Unauthorized Immigrants: 11.1 Million in 2011," December 6, 2012, http://www.pewhispanic.org/2012/12/06/unauthorized-immigrants-11-1-million-in-2011 (accessed January 8, 2013).

[5] Ibid.

[6] Human Rights Watch, *Family Unvalued: Discrimination, Denial, and the Fate of Binational Same-Sex Couples Under U.S. Law*, May 2, 2006, http://www.hrw.org/reports/2006/05/01/family-unvalued-0.

binational, same-sex couples (46 percent of the total) reported having children in their household.[7] Each of these households represents a real family, whose lives are made difficult and uncertain by discriminatory US immigration policy.

This policy violates the basic human rights of freedom from discrimination and respect for family life. To disregard same-sex relationships for immigration purposes sends a message, as the South African Constitutional Court put it, "that gays and lesbians lack the inherent humanity to have their families and family lives in such same-sex relationships respected or protected.... The impact constitutes a crass, blunt, cruel and serious invasion of their dignity."[8]

Under current immigration law, most unauthorized immigrants with US citizen family members are under a constant threat of deportation. In most cases, immigration judges are not even empowered to take family unity into account. Non-permanent residents who have resided in the US for 10 years, have good moral character, and can demonstrate a US citizen or permanent resident spouse, child, or parent, would suffer "exceptional and unusual hardship" in the event of deportation are eligible to apply for "cancellation of removal" and receive permanent resident status. But such cancellation is capped at only 4,000 per year and the "exceptional and unusual hardship" standard, instituted in the 1996 amendments, is meant to encompass hardship that is substantially beyond what would normally result from family separation. Even under the existing standard, grant rates vary widely across the country, and Congress has severely limited judicial review of these decisions, which would help maintain greater consistency.

The limits of existing law are evident in the fact that in just the past two years, the US government has carried out over 200,000 deportations of people who said they had US citizen children.[9] These parents have almost no way to return legally. Immigrants can be barred from the US for 10 years, or for life, if they leave after having been in the country for at least a year without authorization.

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[7] Ibid., p. 176.

[8] *National Coalition for Gay and Lesbian Equality and others v Ministry of Home Affairs and Others*, Constitutional Court of South Africa, CCT 10/99, at 54 and 42.

[9] Seth Freed Wessler, "Nearly 205K Deportations of Parents of US Citizens in Just Over Two Years," *Colorlines*, December 17, 2012, http://colorlines.com/archives/2012/12/us_deports_more_than_200k_parents.html (accessed January 22, 2013).

Immigration law is particularly harsh on people who face deportation after criminal convictions, even for lawful permanent residents convicted of minor or old offenses. Amendments that went into effect in 1996 stripped immigration judges of much of the discretion they once had to balance family unity against the seriousness of the crime. As a result, many lawful permanent residents, after serving whatever sentence is imposed by the criminal justice system, feel they are further punished with exile. If they return without permission to the US, they are often charged with the federal crime of illegal reentry, punishable by up to 20 years in prison.

Recommendations:

- Adjust the country quotas and number of family-based preference visas available to reduce the current backlog.
- Allow non-citizens eligible for a family visa to apply for adjustment without having to leave the country and triggering unlawful presence bars, and expand the waiver provisions to allow waiver of the unlawful presence bars if a person can prove extreme hardship to a US citizen child.
- End the discrimination against binational same-sex couples and ensure that they receive the same recognition and treatment afforded to binational opposite-sex couples in US immigration policies providing for family unification.
    - In particular, allow foreign, same-sex permanent partners or spouses of US citizens to be recognized as "spouses" under US immigration law.
- Restore and expand the power of judges to consider family unity in any removal decision by removing the cap on cancellation of removal for non-permanent residents and by returning to the pre-1996 standard of "extreme hardship" to the non-citizen or to the non-citizen's spouse, parent, or child.
- Restore discretion to immigration judges to weigh evidence of rehabilitation, family ties, and other equities against a criminal conviction in deciding whether to deport lawful permanent residents.
- Allow for judicial review of decisions involving waivers based on hardship to families.
- Create avenues for immigrants who are currently inadmissible to apply for permission to gain legal status if they have lawfully present family in the US and can currently demonstrate good moral character.
- Ensure that unauthorized immigrants who under existing law may be barred from the United States, such as for immigration offenses or criminal convictions, are given the opportunity to

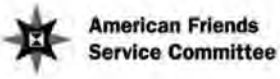
overcome these bars and apply for legalization if they are able to offer evidence of current good moral character, long residence in the United States, family ties, military service, and similar factors in their favor.

Statements from members of the Interfaith Immigration Coalition for the House Committee on the Judiciary, Subcommittee on Immigration and Border Security Hearing: "The Separation of Nuclear Families Under U.S. Immigration Law"

March 14, 2013

Statements submitted from:

1. American Friends Service Committee
2. American Jewish Committee (AJC)
3. Church World Service
4. Disciples of Christ
5. The Episcopal Church
6. Franciscan Action Network
7. Friends Committee on National Legislation
8. Lutheran Immigration and Refugee Service
9. Sojourners
10. The United Methodist Church



American Friends Service Committee statement for the Congressional Record pertaining to the House of Representatives Judiciary Committee – Immigration and Border Security Subcommittee Thursday, March 14, 2013

The American Friends Service Committee (AFSC) is an almost 100-year old faith-based organization grounded in Quaker belief in the dignity and worth of every person. AFSC provides direct legal services and engages in organizing with immigrants and allies along with advocacy and movement building throughout the U.S. We directly support immigrants and refugee workers and their communities to organize themselves, to seek out and raise their issues as a way to affirm their aspirations and needs, and to continue to make contributions to this nation.

Our immigration policy recommendations are grounded in AFSC's history and values as a faith-based organization and in the voices of the communities with whom we are deeply connected. We believe that the basis of U.S. immigration policy should be the protection of human rights and equal opportunity, not structures that result in the forced separation of families and communities. Humane immigration policy must recognize the distinctly important and valuable role of family ties by supporting reunification of immigrant and migrant families.

Today, approximately 9 million people live in mixed immigration status families that include U.S. born children and unauthorized immigrants. These families live in fear of long-term separation because of harsh immigration laws that pull family units apart. The permanent resident visa system is based on an obsolete framework that arbitrarily caps the number of visas available each year without regard to needs of family reunification or current economic realities. The current policy serves to increase the size of the undocumented population, as many immigrants – especially women – join their families before eligibility to submit applications for residence in order to avoid long family separations lasting up to ten years.

AFSC offers the following policy recommendations:

- Allocate additional visas to eliminate the years-long delay for those awaiting visas and expedite the processing of pending visa applications;
- Meet the global demand of immigrants to be reunited with their families by eliminating the cap on the total number of family-based visas available;
- Eliminate harsh obstacles to immigrating, including prohibitions on returning to the U.S. based on prior immigration history, past criminal records, and high-income requirements for immigrant sponsors;
- Provide the same benefits to same-gender partners that are available to heterosexual partners;
- Allow applications to be filed from within the U.S. so that families are not separated due to consular processing requirements.
- End arrests, detention, and deportation of immigrants.

AFSC urges the Committee to exert visionary leadership and to support new immigration policies that respect the human rights and equal economic opportunity of all in our communities. Thank you for this opportunity to submit testimony.

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American Jewish Committee (AJC)

Submitted on behalf of AJC to
The House Judiciary
Subcommittee on Immigration and Border Security

Hearing on
The Separation of Nuclear Families under U.S. Immigration Law

March 14, 2013

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Since its founding in 1906, AJC has been outspoken in support of fair and generous immigration policies. As American Jews, we recall how our parents and grandparents made their way to this country seeking a better life, and know that we have prospered in and contributed to this country. That same opportunity should be available for others. Comprehensive immigration reform will strengthen America's global competitiveness as well as allow hard-working immigrants an opportunity to succeed in the United States, for themselves and for future generations—and, at the same time, promote respect for the rule of law and protect our national security.

In advocating for fair, effective and humane immigration policies, AJC acts in accord with the American Jewish community's longstanding interest in, and commitment to, a United States immigration and refugee policy that represents our nation's best traditions. According to Jewish tradition, "strangers" are to be welcomed and valued, as we were once "strangers in the land of Egypt." The Torah tells us: "The strangers who sojourn with you shall be to you as the natives among you, and you shall love them as yourself; for you were strangers in the land of Egypt" (Leviticus 19:33-34).

AJC affirms our commitment to the passage of a common-sense comprehensive immigration reform bill that serves our nation's interests and upholds our Constitution. In providing a holistic approach to reforming our immigration system, this bill should include: a path to legalization and eventual earned citizenship for immigrants already in the U.S.; adjustment of quotas for future flows of immigrants, including high and low-skilled employment visas; facilitation and support for immigrant integration; smart and humane enforcement measures that bolster our national security; reform of detention policies, due process protections, and special protection for asylum seekers, refugees and vulnerable populations; and, critically important, it is imperative that this bill include reforms that favor reuniting families.

Family is the cornerstone of American society. Allowing immigrant families to more easily reunite with their loved ones strengthens our economy and promotes a strong social fabric in our communities. Promoting family unity incentivizes integration and economic development, as families provide strong foundations for learning English, purchasing a home, pursuing job opportunities, starting a business, preparing children for college, and strengthening the foundation of our communities. When families are together, the money they earn fuels the U.S. economy through taxes, investments, and the purchasing of goods and services. Because of the strong economic and social value of family unity, enhancement of the family immigrant visa category must be a priority of immigration reform.

Right now, many immigrant families remain separated for years – sometimes even decades – because of bureaucratic visa delays. It is essential that—along with other measures directed at repairing our broken immigration system—we reform the immigration system to expedite the visa process in favor of family reunification. This includes making family-based visas more accessible, reducing the current backlog of family-based visas, increasing the per-country numerical limitation for family-sponsored immigrants from 7 percent to 15 percent of admissions, and generally reorienting the visa system to prioritize family unity. These reforms would help ensure that immigrant families reunite more quickly and protect families from being separated, thus promoting family stability and fostering economic growth. Further, we must ensure that family-based visas are not placed in competition with other visa categories, an approach that would be inimical to the goal of family unity and a better functioning immigration system.

In sum, AJC calls upon our elected officials to enact immigration reform legislation that provides an opportunity for hard-working immigrants who are already contributing to this country to come out of the shadows, regularize their status upon satisfaction of reasonable criteria and, over time, pursue an option to become lawful permanent residents and eventually United States citizens; reforms our family-based immigration system to significantly reduce waiting times for separated families who currently wait many years to be reunited; establishes new legal avenues for workers and their families who wish to migrate to the U.S. to enter our country and work in a safe, legal, and orderly manner with their rights fully protected; reduces the use of detention for immigrants, especially vulnerable groups and those seeking asylum; and ensures that border protection policies are consistent with humanitarian values and with the need to treat all individuals with respect, while allowing the authorities to carry out the critical task of identifying and preventing entry of terrorists and dangerous criminals, thereby bolstering our national security.

As a faith-based organization, we call attention to the moral dimensions of public policy and pursue policies that uphold the human dignity of each person, all of whom are made *b'tselem elohim*, in the image of G-d. We engage the immigration issue with the goal of fashioning an immigration system that facilitates legal status and family unity in the interest of serving the inherent dignity and rights of every individual, even as it enhances out national security and promotes respect for the rule of law. It is our collective prayer that the legislative process will produce a just immigration system of which our nation of immigrants can be proud.

AJC appreciates the opportunity to submit this statement and welcomes your questions and comments.

Church World Service statement for the Congressional Record pertaining to the House Judiciary Committee Hearing on Thursday, March 14th, 2013

As Congress considers how to best fix the U.S. immigration system, Church World Service (CWS), a 67-year old humanitarian organization, urges all members to work together to enact immigration reforms that strengthens family unity and provides a pathway to citizenship for undocumented immigrants.

The CWS network of 37 protestant denominations and 36 refugee resettlement offices across the country welcomes newcomers by helping them integrate into their new communities. We advocate for immigration reform not only because it is the right thing to do to improve the lives of our immigrant brothers and sisters, but also because it is the smart thing to do for our economy and communities.

Immigration reform must prioritize family unity, which is integral to the economic contribution of immigrants and key to the function of our immigration system. When families are separated by visa backlogs, bars to re-entry, and no option to adjust status, our immigration system, by failing to function in a timely way, necessitates illegal entry. To reform the family-based visa system, we urge Congress to:

1. Protect and strengthen current family immigration categories (spouse, children, parents, and siblings)
2. Increase family-based visas, including a temporary increase to clear the backlog with integrity
3. Recapture unused visas for use in the following year
4. Increase the per-country cap from 7 percent to 15 percent to reduce backlogs
5. Reclassify the spouses and minor children of Lawful Permanent Residents (LPRs) as immediate relatives, and re-allocate the remaining visas available to the other existing family categories
6. Add to the list of family immigration categories permanent partners of U.S. Citizens and LPRs

To truly fix the immigration system, we must recognize and respond to the reasons why this country needs immigrants, and the reasons why people want to immigrate to the United States. There are two key factors that benefit the United States and simultaneously improve the lives of immigrants: family unity and economic opportunity. These are inseparable and co-joined factors that cannot exist without one another.

Family unity spurs integration, as families provide strong foundations for learning English, purchasing a home, pursuing job opportunities, starting a business, preparing children for college, and contributing to communities. When families are together, the money they earn fuels the U.S. economy through taxes, investments, and the purchasing of goods and services. A key example of this are immigrant-owned companies, many of which are run by families, contribute more than $775 billion dollars annually to U.S. gross domestic product, creating jobs that are essential to economic growth.[1]

Visa backlogs force LPRs to wait more than two years to be reunited with their spouse or minor child, and U.S. Citizens to wait as long as 24 years to be reunited with their sister or brother. CWS urges Congress to authorize additional visas so that families can be reunited in a timely manner. We are opposed to any reduction in family visas or proposals that claim a false-choice between family and employment visas.

CWS is committed to working with all members of the House and Senate to enact immigration reform that will keep families together and provide a pathway to citizenship for undocumented immigrants. Such reform would mark real progress. We need to make our immigration system work better for our economy and for the fabric of our communities – families. We urge all members of the House Judiciary Committee to strive toward this goal.

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[1] *Open for Business*. The Partnership for a New American Economy. <http://www.newamericaneconomy.org/sites/all/themes/pnae/openforbusiness.pdf>.

Christian Church (Disciples of Christ)
IN THE UNITED STATES AND CANADA

Refugee & Immigration Ministries

Statement in Support of Family Based Immigration
from Christian Church (Disciples of Christ) Refugee & Immigration Ministries

The Christian Church (Disciples of Christ) is an immigrant denomination of approximately 700,000 members and 3,500 congregations. Born from a movement on the American frontier, it was founded on the principles that all are welcome at the Table of Christ, and includes a large number of congregations with first generation Americans. Throughout our history, Disciples have had specific ministries of welcome to immigrants coming to the United States and Canada, which have been carried out by congregations, regions, and general ministries.

As a denomination, we recognize that immigration has played a major role in the development of our countries and in the advancement of our economies, and we recognize the strength of the United States emerges from the diversity of its immigrants. Repeatedly, our General Assemblies have called upon Disciples members and ministries to reflect from a faith perspective and with intentionality on current immigration issues and to "advocate immigration reform legislation that is just, humane and compassionate" (resolution on "Faith and Our New Neighbors," 2007.) This includes support at this time for immigration reform that prioritizes family unity and creates a pathway to full citizenship.

President of Disciples Home Missions, Rev. Dr. Ronald J. Degges, comments that "As Christians committed to God's call to welcome the stranger and to promote the wholeness and well being of families, Disciples leaders and governing bodies have for years called upon our political leaders to move beyond our current system that demonizes our neighbors, divides us against one another, and devastates children by tearing apart their families. We therefore welcome an opportunity to achieve immigration reform that is not only comprehensive and bipartisan, but also consistent with our basic values of justice and compassion."

Rev. Dr. Sharon Stanley, Director of Disciples Refugee and Immigration Ministries, agrees. "Family unity is not only a national issue, but a personal and church issue as well. In our daily work and in our congregations, we constantly encounter immigrants whose parents and children, and grandparents and spouses, have been torn apart from one another for years.

Such separation causes wrenching pain, and diminishes families' abilities to focus upon education, progress, and contributions to our society." Family unity challenges impact both refugees and immigrants, as we see each category often waiting years and as long as decades for family members, and even spouses, to gain permission to join their parents, spouse, or other relatives.

In response, we urge Congress consider humane legislation that increases the numbers of family based visas, and insures that families long suffering from separation will be reunited. Immigration reform legislation must raise the per country visa limits from 7 to 15 percent of total admissions in order to reduce wait times, reclassify spouses and minor children of lawful permanent residents as immediate relatives, remove the bar for spouses, children, or parents of U.S. citizens and LPRs, admit surviving family members of deceased family petitioners, and remove any cap on the total number of family-based visas. Further, visas lost to bureaucratic delays must be recovered to reduce the current backlogs.

Our prayers are with Congress during this time of hearings and legislative developments. Please know that we, and our church communities, support you in your work. Please feel free to contact us further through: Refugee & Immigration Ministries of the Christian Church (Disciples of Christ), Rev. Dr. Sharon Stanley, RIM Director, sstanley@dhm.disciples.org, or 202-957-7826. Or, you may reach our Immigration Legal Counsel, Mrs. Tana Liu-Beers, at:tana@dhm.disciples.org; or 317-289-1407.

THE
Episcopal
CHURCH

TESTIMONY OF ALEXANDER D. BAUMGARTEN AND KATIE CONWAY ON BEHALF OF THE EPISCOPAL CHURCH[1]

MARCH 14, 2013

We thank Representative Gowdy, Chairman of the House Judiciary Subcommittee on Immigration and Border Security, and Ranking Member Lofgren for the opportunity to submit this testimony. We welcome this hearing, "The Separation of Nuclear Families under U.S. Immigration Law," and wish to voice our strong support for the protection of family unity, the right to family reunification, and an inclusive view of family in all immigration policies. The Episcopal Church has been engaged in the ministry of welcoming immigrants and refugees for more than a century, walking with refugees and immigrants as they begin their new lives in our communities, and bearing daily witness to the human implications our nation's immigration laws.

Rooted in our understanding of the Christian imperative to "welcome the stranger," the Episcopal Church's highest governing body, the General Convention, has passed multiple resolutions affirming the right to family unity, and the right of families to reunify without undue delay. In summer 2012 this commitment to family unity for all U.S. citizens and Legal Permanent Residents (LPR) was strengthened even further through resolution D011, "Reform Unequal Immigration Law," through which the Church pledged to support legislation that would expand our nation's definition of family under immigration law to include the same-sex permanent partners and spouses of U.S. citizens and LPRs. This resolution also committed our dioceses and congregations to renewed advocacy on behalf of families and individuals of all sexual orientations who are facing unwanted moves, deportation or separation due to our nation's immigration laws. There are an estimated 32, 300 binational, same-sex couples residing in the United States today, more than 45% of whom are raising children[2]. We believe that these families share the same right to dignity and fair treatment as other families, and therefore deserve to have their status as a family recognized and protected by our nation's immigration laws.

Through pastoral care to members of our congregations and our ministry to resettle refuges, we witness daily the profound joy of reunification for families long separated, as well as the devastation of families kept apart. Keeping families apart through per-country caps, decades-long backlogs, redistribution of family visas to the employment system, failure to recapture visas lost to bureaucratic delay, and failure to recognize the immigration claims of same-sex partners harms the U.S. economy, fractures our communities, and denies the legacy of family immigration that has defined our nation. Families have always served as the foundation for strong communities, and the role they play in creating healthy individuals and aiding integration should not be diminished or disregarded. Family members help one another integrate, pursue job

[1] Alexander D. Baumgarten is the Director of Government Relations, and Katie Conway is the Immigration and Refugee Policy Analyst for the Episcopal Church, a multinational religious denomination based in the United States with members in 15 other sovereign nations.
[2] *By the Numbers* Immigration Equality http://immigrationequality.org/about/

THE
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opportunities, start their own businesses, and contribute economically, socially, and spiritually to our communities.

We believe that an inclusive view of family is especially important in the context of our nation's commitment to welcoming and resettling refugees. Because of the violence and persecution refugees have faced in their countries of origin, many refugee families do not fit our traditional definition of "nuclear" families. Refugee families have often experienced the loss of a spouse, the loss of parents, and decades-long separation from children and grandchildren. These divided families in particular could face permanent separation if our nation's definition of family were to be narrowed or family categories eliminated. For refugees who have resettled in the United States, a sibling or a married adult child could be the only remaining family member with whom they can reunite, yet this reunification under our current system would take decades. In cases where a principal refugee sponsors his or her child and that child has a child of his or her own (derivative of a derivative), that initial refugee's grandchild would not qualify for reunification, resulting in permanent separation.

Our immigration system must be transformed to into a just and humane system that discerns between those who enter without inspection to do us harm and those who enter because our system cannot provide them with a clear and timely path to reunification with their loved ones or legal employment. The Episcopal Church recognizes the necessity of enforcement policies and the responsibility of the government to protect its citizens, but we also believe we must work to change our nation's laws if they do not respect the dignity of human beings or respond to the needs of communities. This call to right relationship within human communities is a cornerstone of the Judeo-Christian scriptural and ethical tradition, and finds expression for Episcopalians in the promise each makes at baptism to "strive for justice and peace among all people and respect the dignity of every human being." Destructive enforcement programs like Secure Communities that encourage racial profiling and tear families apart at great fiscal and human cost should be terminated, and alternatives to detention that allow families to remain together throughout immigration proceedings should be prioritized.

Thank you for carrying the costly burden of public service, and for the opportunity to submit these views to the Subcommittee.

Respectfully submitted,

Alexander D. Baumgarten and Katie Conway

Franciscan Action Network
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FRANCISCAN ACTION NETWORK URGES SUPPORT FOR FAMILY REUNIFICATION

Submitted to House Judiciary Committee Hearing on Separation of Nuclear Families Under U.S. Immigration Law

Franciscan Action Network strongly supports the position of the US Conference of Catholic Bishops and the Interfaith Immigration Coalition that family unity is an essential component of common sense, compassionate immigration reform. Families are the basic unit of communities, and thus, of a strong United States society.

Many of our members have witnessed the devastating impact that family separation, through detention and deportation and due to long waiting lines for family visas, have on immigrant families. Backlogs at USCIS and limited number of visas force family members to make a terrible choice between being separated for an extended period of time, stretching into many years, or illegally entering the country. Families being torn apart will not fix our immigration system. Families who have been reunited are grateful, even more willing to be productive, and desire to be responsible US citizens.

We support changes which would expedite family reunification, increasing per country caps to 15% to reduce long waiting times, and eliminating the cap on number of family visas available. Existing family backlogs must be quickly reviewed, resolved and processed. Annual unused and unclaimed family-based and employment-based visas should be recaptured, and provision made to ensure that future unused visas are not wasted. Do not put family based visas in competition with skilled worker visas; increase the number of worker visas as well as the number of family visas.

If by "nuclear" families is meant parents and children, those who currently benefit from a family-based system include: immediate relatives (spouses, unmarried minor children, parents of US citizens; spouses and minor children of LPRs; unmarried adult children of LPRs; married adult children of US citizens; siblings of US citizens. Do not narrow the family preference categories, but retain them at adequate levels. Work for immigration reform whose goal is to keep families of several generations together and provides a common sense, humane pathway to citizenship for those who desire it and qualify for it. We urge that point systems not be used to determine eligibility for visas since such systems tend to put family immigration migrants at a great disadvantage.

Thank you for your serious consideration of the impact of family separation on immigrant families.

Sister Marie Lucey, OSF
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FRIENDS COMMITTEE ON NATIONAL LEGISLATION
. . . a Quaker lobby in the public interest

March 12, 2013

Friends Committee on National Legislation statement for the Congressional Record
House Judiciary Subcommittee on Immigration and Border Security Hearing
Thursday, March 14, 2013

The Friends Committee on National Legislation, founded in 1943, is guided by the spiritual values of the Religious Society of Friends (Quakers). Our work on immigration is led by the call for right relationships among people and between individuals and God. We believe that respect for human and civil rights is essential to safeguarding the integrity of our society and the inherent dignity of all human beings. We recognize that governments have an indispensable role in upholding these rights and citizens have the responsibility to make governments more responsive, open, and accountable.

Therefore, we call for humane comprehensive immigration reform. We have seen the degeneration of the U.S. immigration system over the last three decades. Overly punitive laws, in tandem with increased enforcement and an inefficient bureaucracy, have led to systemic violations of rights: indiscriminate raids, detention without due process, worker exploitation, and families separated for years or even decades. Humane immigration reform would restore integrity to the U.S. tradition of welcoming immigrants and provide real solutions to a broken immigration system. We believe that fundamental and comprehensive reform of U.S. immigration policy is needed in order to:

- Create an orderly, equitable, and efficient legal immigration system;
- Enforce employment and labor rights for all workers, regardless of immigration status;
- Protect human and civil rights for immigrants currently living in the United States;
- Support communities with large concentrations of immigrants and facilitate immigrant integration; and
- Align enforcement with humanitarian values.

Recognizing the critical role of family in the development of healthy individuals and communities, FCNL believes that immigration policies should make reunification of spouses, parents, children, and siblings a top priority, and should include families headed by same-sex couples as well as opposite-sex couples. Reform of the family immigration system should retain

family preference categories at adequate levels, augment per-country caps, remove bars to reentry and adjustment of status for those seeking to reunite with family, and eliminate lengthy visa backlogs by recapturing immigrant visas lost to bureaucratic delays and rolling them over to the next fiscal year. Family visas should not be placed in competition with employment visas. Spouses and minor children of lawful permanent residents should be reclassified as immediate relatives to ensure that these individuals are reunited as quickly as possible.

FCNL welcomes the Bipartisan Framework for Comprehensive Immigration Reform released on January 28 by eight U.S. Senators. We congratulate the authors of the Framework, who reached across party lines to acknowledge the need to fix our broken immigration system, and to propose some practical solutions. We support the recommended improvements in the processing of family visas that would help keep families together by reducing backlogs, and we look forward to working with Congress and members of the subcommittee on the details of reform legislation.

Lutheran Immigration and Refugee Service

LIRS Statement for Hearing: "The Separation of Nuclear Families under U.S. Immigration Law"

House Committee on the Judiciary, Subcommittee on Immigration and Border Security
March 14, 2013

Lutheran Immigration and Refugee Service (LIRS), the national organization established by Lutheran churches in the United States to serve uprooted people, is pleased by Congressional and Administrative efforts to draft and enact comprehensive immigration reform. People of faith have long called for an immigration system that upholds family unity.

"LIRS and Lutherans all over America strongly believe that our nation's immigration system must stop tearing families apart and must instead protect family unity for all migrants and refugees," said Linda Hartke, LIRS President and CEO. "Every immigrant entrepreneur I have the privilege to meet is eager to tell me the story of how their family made it possible for them to succeed and give back to this country that welcomed them. Immigrants who come here with their families foster innovation and development of new businesses, particularly small and medium-sized businesses that would not otherwise exist, creating jobs for American workers and raising revenues for our recovering economy. Families also provide support and care for young children and the elderly, allowing others to focus on working and contributing to American society."

"Families being whole and healthy are of vital importance to Lutheran congregations and local communities. The love, commitment, and support of family is a great gift that creates purpose for individuals, is central to our faith, and grounds the very structure of our society," said the Rev. Dr. Gerald L. Mansholt, Bishop of the Central States Synod of the Evangelical Lutheran Church in America (ELCA). "There is no reason to believe that immigrant families are any different."

Although family unity is one of the primary goals of our immigration laws, the current system forces families to wait much too long to be together. Adult siblings of U.S. citizens can wait decades to reunite. Spouses and minor children of lawful permanent residents, or "green card holders," can wait years to be together. This month, certain family members who filed a visa petition before July 15, 1989 were finally able to begin the process of joining close relatives in the United States.[1] To separate families for this long is contrary to our American values and the moral imperative to keep families together.

Every day, LIRS's broad national network of service partners witness the importance of family unity across the diverse migrant communities who come to call the United States home – from refugees fleeing persecution to children who arrive alone to survivors of torture locked behind bars while they await justice. No matter how they came to be in our communities or where they came from, the love and support of family is essential to the long-term success and integration of new and aspiring Americans. Refugees and asylees in particular rely on our family-based immigration system to petition for a parent, married child, or sibling with whom they may only be able to reconnect years

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[1] *Visa Bulletin*, Department of State, http://travel.state.gov/visa/bulletin/bulletin_5885.html (March 2013)

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after coming to the United States and becoming citizens. Survivors of conflict and trauma benefit greatly from the ability to reunify with a close relative who can provide strength and comfort or even specialized care. The pain and frustration caused by our current inadequate system can also create an incentive for family members to migrate unlawfully.

In 2007, the Bush Administration proposed a major reduction in family-based immigration. Subsequently, the Comprehensive Immigration Reform Act of 2007 (S. 1348 in the 110th Congress) would have eliminated the ability of U.S. citizens to petition for adult children and siblings.. The bill proposed granting visas on a points-based system, devaluing family ties to the United States and reducing family-based visas to 200,000 people per year. After painstaking deliberation, LIRS opposed this bill, believing that this dramatic elimination would invariably change the face of America and fracture families whose prospects for full economic and social integration would be diminished if they were never able to reunite with their families.

LIRS also rejected later similar immigration reform bills in 2007 and refused to compromise on core American values of family unity, workers' rights, and basic dignity in exchange for temporary, though important, provisions that would have improved the status quo for a significant number of immigrants. In the 113th Congress, LIRS supports legislation such as the Reuniting Families Act, H.R. 717, the passage of which would allow immigrants and their families to utilize legal immigration channels more efficiently, alleviate pressure on U.S. borders and continue to foster the development of vibrant American communities.

Congress is in the midst of a once-in-a-generation opportunity to create a fair, compassionate, and workable immigration system. Immigration reform legislation must protect and improve the legal immigration channels currently available to the close family members of new and aspiring Americans. LIRS and our faith-based, ethnic, and immigrant rights partners stand ready to champion a reformed immigration system that is responsive to the needs of our economy and social fabric.

LIRS Recommendations to Congress:

- Protect the ability of close family members of U.S. citizens (spouses, married and unmarried children of all ages, parents, and siblings) and legal permanent residents (spouses and unmarried children) to reunify.
- Provide for faster reunification for the spouses and minor children of lawful permanent residents by reclassifying them as immediate relatives.
- Make available unused and unclaimed family-based and employment-based visas and ensure that future unused visas are not wasted.
- Swiftly review, resolve, and process family visa backlogs, ending the hardships faced by families who remain separated.
- Allow the spouse or child of a refugee to bring their children to the United States or follow to join the spouse or parent who was originally awarded refugee status. Admit children who have been living under the care of a refugee awarded status if it is in the best interest of that child join the refugee caregiver in the United States.

- Raise the per-country visa limits from seven to fifteen percent of total admissions to reduce long wait times for certain nationalities.
- Provide due relief for surviving relatives of refugees and asylees and the surviving spouses and stepchildren of U.S. citizens.
- Ensure that families with children who become adults during the course of seeking visas are not subject to processing delays, and prevent delays for individuals whose family relationship or marital status changes while waiting for approval.
- Give the government authority to ameliorate hardship faced by families who might otherwise be forced apart by detention or removal from the United States.

Additional LIRS Resources

- The February 14, 2013 statement in support of the Reuniting Families Act, H.R. 717: www.bit.ly/YaFLMz
- The January 29, 2013 press release on President Obama's speech outlining a vision for immigration reform may be read here: www.bit.ly/VxQHYW
- The January 28, 2013 press release on the release of the bipartisan principles for immigration reform in the Senate may be read here: www.bit.ly/WltPPX2
- The Frequently Asked Questions resource on Family-Based Immigration may be read here: www.bit.ly/11Jqt2Z

LIRS is nationally recognized for its leadership advocating on behalf of refugees, asylum seekers, unaccompanied children, immigrants in detention, families fractured by migration and other vulnerable populations, and for providing services to migrants through over 60 grassroots legal and social service partners across the United States. For more information, please visit www.lirs.org.

If you have any questions about this statement, please feel free to contact Brittney Nystrom, LIRS Director for Advocacy at (202) 626 7943 or via email at bnystrom@lirs.org.

sojourners

March 13, 2013

In anticipation of the hearing being held Thursday, March 14, by the House Subcommittee on Immigration and Border Security, Sojourners has released the following statement:

Families come in many shapes and sizes but all of them matter. As Christians and Americans, preservation and protection of family is a central value and family unity should be prioritized in any comprehensive immigration reform package. Each individual should be offered the option to reside close to their loved ones through a legitimate and transparent process which seeks to safeguard a family's wellbeing and security. It is family that sustains and fuels immigrant's efforts and enables them to be positive contributors to our communities and our economy.

Our current impractical system separates thousands of families leaving children and parents devastated as they are separated from their loved ones. The huge backlogs at U.S. Citizenship and Immigration Services (USCIS) and lack of legal avenues to migrate have separated families for prolonged periods of time burdening family members with difficult choices. Oftentimes, undocumented immigrants are forced to choose between being separated from their family members for an indefinite period of time or putting their lives a risk to reunite with relatives as they cross the border unauthorized.

A just immigration system must improve and strengthen the current immigration process by looking at the harmful issues that exist including huge backlogs, bars to re-entry and the lack of options to adjust status through immediate family members, all of which exacerbate lengthy waiting periods and make it unfeasible for those who want to apply legally. We urge Congress to protect families as they develop a comprehensive package that provides a path towards citizenship for the 11 million aspiring Americans currently residing in the United States.

As Christians, we believe our immigration should respect the God given dignity of every person and that means not separating them from their families. Communities thrive when families who want to live together are able to. Creating an immigration

Sojourners' mission is to articulate the biblical call to social justice, inspiring hope and building a movement to transform individuals, communities, the church, and the world. For more information about Sojourners or Jim Wallis, President and CEO of Sojourners, please visit www.sojo.net.

General Board of Church and Society of The United Methodist Church
Statement for the Congressional Record for the
House Judiciary Committee Hearing
Thursday, March 14th, 2013

The General Board of Church and Society of The United Methodist Church has long advocated for just and humane immigration reform that provides a pathway to full citizenship for undocumented immigrants and reunifies families separated by migration. United Methodists have witnessed the brokenness of the current immigration system firsthand. United Methodists serve immigrant communities through such ministries as Justice for Our Neighbors, which provides free legal counsel for low-income immigrants. Many United Methodist churches are located in immigrant communities and led by immigrants. Therefore, we advocate for policies that will uphold the basic dignity of all immigrants and protect their civil and human rights.

The United Methodist Church believes that "at the center of Christian faithfulness to Scripture is the call we have been given to love and welcome the sojourner…to refuse to welcome migrants to this country and to stand by in silence while families are separated, individual freedoms are ignored, and the migrant community in the United States is demonized…is complicity to sin." ("Welcoming the Migrant to the U.S.", 2008 *Book of Resolutions*)

The time for humane reform is now. For far too long, the United States has continually increased border and interior enforcement efforts. Last year alone, the U.S. spent more than $18 billion on immigration enforcement, more than all other federal law enforcement agencies combined.[1]

What is true throughout Scripture remains true today: families are the cornerstone of a strong and growing society. Family stability strengthen individuals, neighborhoods, and entire communities. It is through families that individuals learn basic skills to flourish in life, and importantly, that they gain their values and morality. Family unity is the primary way individuals integrate into the larger society. Families provide strong foundations for learning English, purchasing a home, pursuing job opportunities, starting a business, preparing children for college, and contributing to communities. When families are together, the money they earn fuels the U.S. economy through taxes, investments, and the purchasing of goods and services. Therefore, any reform to the immigration system must make family unity it's cornerstone and those reforms must include:

1. Protect and strengthen current family immigration categories (spouse, children, parents, and siblings)
2. Increase family-based visas, including a temporary increase to clear the backlog with integrity
3. Recapture unused visas for use in the following year
4. Increase the per-country cap from 7 percent to 15 percent to reduce backlogs
5. Reclassify the spouses and minor children of Lawful Permanent Residents (LPRs) as immediate relatives, and re-allocate the remaining visas available to the other existing family categories

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[1] *Immigration Enforcement in the United States: The Rise of a Formidable Machinery*. The Migration Policy Institute. <http://www.migrationpolicy.org/pubs/enforcementpillars.pdf>.

6. Add to the list of family immigration categories permanent partners of U.S. Citizens and LPRs

Policies that prevent family unity only further damage the immigration system and negatively impact the economy. Under the current visa system, only U.S. citizens are allowed to sponsor their spouse, children, parents, and siblings; and Lawful Permanent Residents (LPRs) can only sponsor their spouse and children. In addition, visa backlogs can be as long as seven years for a spouse or minor child of LPRs, and as long as 27 years for a sibling of a U.S. citizen. Under these constraints, the notion of 'chain migration' is a myth. Therefore, we vigorously oppose any attempt to reduce family visas or put them in competition with other types of visas.

United Methodists across the country stand ready to work with all members of the House and Senate to enact immigration reform that will keep families together and provide a pathway to citizenship for undocumented immigrants. We need reform that is humane and effective and we urge all members of the House Judiciary Committee to strive toward this goal.

Mr. GOWDY. The Chair will now recognize the gentleman from Nevada, Mr. Amodei.

Mr. AMODEI. I arrived late, and I missed some of your testimony, so I will be brief with that. I do think I missed anybody's testimony that the ways things are now are okay, right? Is there anybody here on this panel that thinks it is okay the way it is now?

Okay. The record should reflect a negative response.

You have talked about it is unnatural, Mr. Papademetriou, to separate families, kids, and parents, and stuff like that. When you talk about if this is going to be the precipitating Congress for doing something to change what is unacceptable now, what role do you think national interests ought to be in setting that policy when you compare it with, you know, separating people? What role does the national interest play in discussing that policy?

Mr. PAPADEMETRIOU. It is a critical role that the national interests will play, but I do not see the national interest being antithetical to keeping nuclear families together.

Mr. AMODEI. Okay. Well, I do not think I intimated that you had to pick one or the other.

Mr. PAPADEMETRIOU. Okay.

Mr. AMODEI. But you do acknowledge that nation interests should be part of that discussion.

Mr. PAPADEMETRIOU. Absolutely, sir.

Mr. AMODEI. Ms. Martinez, you indicated you thought that things should be clear and fair, which is a pretty good place to start. Has your organization proposed any legislation when we talk about this issue to say if you are admitted under the circumstances that Mr.—listen, people mangle my last name all the time, so you I am not going to——

Mr. ARIVALAN. You can just call me Mat.

Mr. AMODEI. Okay, good. Big buy, how about that? [Laughter.]

Have you got any proposals for how that works if you are being admitted as a married person or separated from your children, what the process should be before you are allowed to come into the country in terms of making that something that is more transparent to folks as opposed to what sounds like a surprise for a lot of people?

Ms. MARTINEZ-DE-CASTRO. I think that we are dealing with a couple of different problems. I mentioned 3 of them, and the situations for each is different. In some of these categories, the process itself may not be necessarily the most difficult part, but the reality that the lane in which people are coming into is too narrow, and, therefore, the wait starts getting really long. So I think that is one of the proposals is took particularly at the immediate relatives, the spouses and small children, of legal permanent residents and figure out how to expedite or how to minimize those waits.

I think when we are talking about, for example, how the laws apply or exclude LGBT families, are talking about a different set of issues, and those are families that are summarily excluded from being able to use these mechanisms right now.

And then when we are talking about the separation of nuclear families as a result of the 3- and 10-year bars that Ms. Lofgren mentioned, or as a result of deportation policies, I think it is another set of issues, but that hopefully within the context of immi-

gration reform, as we create a rigorous path to earn legality, we also start addressing some of those.

Mr. AMODEI. I will just finish with this because I know we are getting short on time. I do not think I have heard anybody talk about things are okay in this meeting or otherwise. Nobody, regardless of what their politics are, say things are okay. But I would remind you that as you go to what would be an improvement over the system, that solutions are something in the context of we are talking about families today.

But you, and thank you for your comments about open borders and not open borders, because it is kind of like having a speed limit sign out there saying it is 55, but we are telling you right now nobody is enforcing the traffic laws. It does not matter what your traffic laws are if they are not enforceable, if they are not transparent, they are not predictable, clear and fair, I think is the phrase you used.

So even though we are concentrating on nuclear family issues today, it is like specifics, I think, in terms of allowing folks from wherever they happen to be from in getting down to something that can actually move will be helpful. And I do not mean to be trite, but it is like I do not think anybody disagrees that there is a problem. It is like what is the idea for the solution in terms of how do you change this with respect to that, but in the global sense?

So thank you, and thank you, Mr. Chairman.

Mr. GOWDY. I thank the gentleman.

I want to now recognize the gentleman from Illinois and then try to also get in the gentleman from Virginia. Mr. Gutierrez?

Mr. GUTIERREZ. Well, thank you. I want to thank all of the panelists, and I want to say to Mr. Emery, thank you for the invitation. It was wonderful to be there with Mr. Labrador and others are you made your presentation.

I want to say, Mr. Chairman, thank you. I am sure the gentlelady, the Ranking Member, could probably persuasively argue otherwise, but I think this is a pretty hard panel to beat. I fills our record with the necessity of American citizens and their need to keep their families together. And I got to tell you, thank you for putting together a panel that really, I think, helps all of the Members begin to understand the complexity of our broken immigration system, and how it really impacts American citizens, and families, and marriage. I for one am a strong supporter in the institution of marriage, and I think that here we have given testimony about how our immigration system undermines marriage.

I want to also take an opportunity to say to Chairman Goodlatte, I want to thank you. I read your Christian Science Monitor interview. I want to thank you. I think that your expressions are ones that fill me with hope, and I think should fill all of these panelists with hope that we can find a bipartisan solution that keeps our borders secure and does not open our borders, but has a compassionate understanding that there are families being disrupted.

I would like to ask Ms. Martinez, how many people have been deported during the last 4 years?

Ms. MARTINEZ-DE-CASTRO. Just in the last 4 years——

Mr. GUTIERREZ. Sure.

Ms. MARTINEZ-DE-CASTRO [continuing]. It is 1.6 million.

Mr. GUTIERREZ. 1.6 million. Were there 1.6 million people deported in the previous 4 years, or were there less or more, if you know?

Ms. MARTINEZ-DE-CASTRO. No. I mean, one thing that we know, and it is has been documented very well by the Department of Homeland Security, in studies, and by a number of other entities, is that this is the biggest fight that we have seen in deportations of any previous Administration.

And so, the reality is that we need enforcement of our immigration laws. There is no question about it. But I think that one of the things that we need to do to be able to restore the rule of law is understand that we cannot restore the law any more by simply continuing to do enforcement, enforcement, enforcement, without in a pragmatic way that addresses reality, dealing with the population who is here, two-thirds of whom have been here for 10 years and are part of U.S. citizen families.

And so, therefore, to restore the rule of law, we need that two-pronged approach. And we have done a great deal of investment, boots on the ground, and other policies on enforcement. The piece that remains undone is what we do about the population that is here?

Mr. GUTIERREZ. To follow up with you, I recently read that we spend $18 billion a year on enforcement on homeland security. Could you share with us what that means in respect to, like, the FBI and other enforcement agencies at the Federal level?

Ms. MARTINEZ-DE-CASTRO. Actually if you give me the opportunity, it was actually the Migration Policy Center who did a whole report on that, and Demetrios probably is probably a bigger expert on those figures than I am.

Mr. GUTIERREZ. Mr. Demetrios, please.

Mr. PAPADEMETRIOU. Fourteen billion dollars for all of the other Federal enforcement agencies.

Mr. GUTIERREZ. We spent $18 billion on what exactly?

Mr. PAPADEMETRIOU. You know, that is the budget for interior enforcement for border enforcement.

Mr. GUTIERREZ. And we spend $14 billion on what in comparison to that——

Mr. PAPADEMETRIOU. FBI, DEA.

Mr. GUTIERREZ. So we spend more money on enforcement on immigration than we do on the Secret Service to protect the President, to protect our currency, the FBI, the marshals.

Mr. PAPADEMETRIOU. All of that.

Mr. GUTIERREZ. And yet we see it is had a devastating effect on our families.

I just wanted to try to have a little balance in terms of there is enforcement. It is expanding. It is expanding even though we have huge communities of people demanding a change. It has continued to expand, and the number of dollars that we use and the devastating effect. And I think Mr. Emery, and I think the witnesses we have, we see the devastating effect because I know.

So I joined the gentlelady, Jackson Lee, this past weekend in Houston. I now join Congressman Vargas in San Diego. And I just want to assure my colleagues that although much has been said,

we are for secure borders. We are for the rule of law. We are also for a compassionate, understanding immigration system that keeps our families together. We have record deportation and we have record strife on our poor immigrant families across this Nation.

Thank you so much, Mr. Chairman.

Mr. GOWDY. I thank the gentleman from Illinois.

We have votes pending, so in lieu of asking questions, I will just make a few observations.

I first want to thank all of the witnesses for their compelling testimonies that impact the basic fundamentals of life when you are talking about family and spouses.

I also want to confess a certain bias. As a former prosecutor, it was not so much respect for the rule of law as much as it was adherence to the rule of law. You could respect something and then still not adhere to it. And I cannot tell you the number of times I had to prosecute laws that I did not agree with. I would not have written the law that way. I would have written it differently. But yet I took an oath to enforce law, not just respect it, but enforce it.

And if we are going to have a remedy that satisfies all of us, we are going to have to convince our fellow citizens that this is the last time as a Nation we have a conversation. In other words, we can pass something, but if everybody still says, well, I do not agree with this part of it; therefore, I may respect it, but I am not going to adhere to it, we are not going to get it done.

So I appreciate the commentary on respect for the rule of law. That respect has to manifest itself in an adherence. I would imagine that is one of the reasons that we are a destination point for people who want to improve their lives is because we are a Nation of laws. It is the greatest equalizer in the world, and as sure as you may want to benefit from the non-application of the law today, you will be clamoring for the full application of another law tomorrow.

So with that, I want to thank all of our panelists. And let me now go to—Mr. Goodlatte, I will yield to you a minute of my time if you want it. If not, I will go to the gentleman from Florida.

Mr. GOODLATTE. Well, I am just going to thank you for holding this hearing and second your comments. I appreciate the remarks of the gentleman from Illinois.

This panel is a very moving panel, and I appreciate their testimony. I would just say that as we address this issue, we need to keep people who are trying to go through the process legally at the forefront of our minds. That does not mean we can ignore the problem with people who are not lawfully here. But we need to make sure that as we do this work, we are keeping in mind the highest priority, which is we are a Nation of immigrants, and we are going to make sure that we treat those immigrants like people we have always benefited from wanting to come to this country. And I agree with you, we are also a Nation of laws, and we have to find a way to bring those two things together to make this work.

I will yield back.

Mr. GOWDY. Thank you, Mr. Chairman.

The Chair would now recognize the gentleman from Florida and thank him for his patience.

Mr. GARCIA. Thank you, Mr. Chairman. I do not have very much more to add. I think what I would like this Committee, because I agree with Mr. Goodlatte. But what I think is very important to remember is that in the end we are a country of immigrants that needs immigrants. And if these hearings were being held because we are trying to figure out ways to get people to migrate to America, we would be in far worse trouble than having hearings when we are trying to filter who we want to come in because so many want to come in.

Thank you very much for being here. I enjoyed the testimony and appreciated your good work.

Mr. GOWDY. I thank the gentleman from Florida.

I would also ask unanimous consent to put the full statement of Chairman Goodlatte into the record.

Without objection.

[The prepared statement of Mr. Goodlatte follows:]

Prepared Statement of the Honorable Bob Goodlatte, a Representative in Congress from the State of Virginia, and Chairman, Committee on the Judiciary

Thank you, Chairman Gowdy.

The objective of immigration law is to regulate who enters the country and to ensure that their entrance is in the interest of the United States. While much of the discussion about reforming immigration centers on what to do with the estimated eleven million unlawful immigrants in the United States, no less deserving of careful reflection are the nuclear family members of lawful permanent residents waiting in backlogs to enter the U.S.

Today's hearing focuses on the nuclear family and how greencards are issued for the spouses and unmarried minor children of lawful permanent residents (LPRs).

Current law allows the spouse and unmarried minor children of a U.S. citizen to immediately receive greencards—there is no cap on the number of greencards that can be issued to them each year.

In addition, when a foreign national becomes a lawful permanent resident, their spouse and minor children at the time also get green cards. But if LPRs marry foreign nationals after they get their greencard, only about 88,000 greencards are available each year to their spouses and minor children. Therefore backlogs develop.

At this time nearly 220,000 spouses and minor children are waiting for those greencards. And they must wait outside the U.S.

The State Department is currently issuing greencards for spouses and children of LPRs whose applications were received in or before November 2010. So there is a nearly two and a half year wait for those spouses and children.

In the past, the wait time has been as high as six years. A decade ago Congress adjusted our immigration policy to address concerns about families being apart for so many years.

The "Legal Immigration Family Equity (LIFE) Act of 2000," created a temporary visa to allow the spouse or minor child of a lawful permanent resident to wait inside the United States if they had been waiting at least three years outside the U.S. The V visa, as the LIFE Act visa is known, has since expired.

Last year the House passed a bill that would have reauthorized the V visa and reduced wait times even more. The "STEM Jobs Act of 2012," contained a provision lowering the wait requirement for a V visa from three years to one year. While that particular provision had some problems—including the fact that it cost approximately $3 billion over 10 years in the form of federal government benefits—the underlying principle that nuclear families should be together is an important one that Congress should promote.

So today we examine the issue and possible changes to the law that could be made to help reduce the greencard wait times of spouses and children of LPRs, while at the same time discouraging marriage fraud. I look forward to hearing what the witnesses have to say.

Thank you Mr. Chairman and I yield back the balance of my time.

Mr. GOWDY. Again, on behalf of all of us, thank you for your indulgence with our taking a break for our colleagues to meet with the President. And thank you for your indulgence with our having to go vote. Thank you for your collegiality with one another and also with the Subcommittee.

And with that, we are adjourned.

[Whereupon, at 5 p.m., the Subcommittee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

Prepared Statement of the Honorable Trey Gowdy, a Representative in Congress from the State of South Carolina, and Chairman, Subcommittee on Immigration and Border Security

Family is fundamental unit of society. Family is where we go to multiply joy, mitigate grief and share all the emotions in between. My mother in law fell and broke her hip Monday and even though there are wonderful nurses at the hospital it will be family that sits with her round the clock. And family will help get our daughter to school on time, and family will cut the grass and make the meals. We all claim to support pro-family agendas. And we analyze tax policy and healthcare policy and virtually all other forms of policy against a backdrop of whether it incents or disincentives family. So it is appropriate that we also analyze our immigration policy to see whether it is friendly to this thing we call family, the fundamental unit of our culture and society. We have heard the statistics about U.S. Green Card backlogs and the time it takes for individuals trying to come to the U.S. legally. In fact, under the current process, if you have applied for a Green Card on the basis of being a brother or sister of an adult U.S. citizen, the wait could be nearly 25 years.

Members of the U.S. Commission on Immigration reform did not believe there should be a wait for spouses and unmarried minor children, but did not necessarily share the same view about other family members. In its 1997 report, the Commission stated, "the national interest in the entry of nuclear family members outweighs that of more extended family members."

The Commission also addressed the wait time for the spouse and unmarried minor children of lawful permanent residents (LPRs), stating that "no spouse or minor child should have to wait more than one year to be reunited with their U.S. petitioner."

But the current greencard wait time for the spouse or unmarried minor child of an LPR is actually around two and a half years. And there are around 220,000 people waiting.

Why is there a wait? When Congress created the current greencard system in the "Immigration Act of 1965," limits were placed on the number of greencards available to certain classes of people each year.

For instance, each year's family-sponsored greencard limit for spouses and children of lawful permanent residents in the U.S. is 114,200 plus any unused greencards from the category allotted for unmarried adult children of U.S. citizens. This preference category, known as family-based second preference, is further divided into 2A Preference—for spouses and unmarried children of LPRs—and 2B Preference—for unmarried adult children of LPRs.

So if the number of greencards available in any given year for the family-based 2A preference category is less than the number of people who apply for a greencard in that category, a backlog is created.

At this point, the top five countries with the highest family-based 2A preference waiting list totals are Mexico (40%), Dominican Republic (11.4%), Cuba (6.3%), Haiti (5.3%) and the Philippines (4.3%). All other countries make up the remaining 32%.

Another reason for the wait is the conscious Congressional decision not to allow immediate greencards for the family-based 2A preference category in order to help prevent marriage fraud.

Since these marriages occur after the LPR has become an LPR, there is a very real threat that if greencards were immediately available, marriage fraud would be prevalent.

Ideas differ as to how to reduce the greencard wait times for the family-based 2A preference. And I am sure we will hear some of those differing views from our witnesses today.

Some individuals believe that spouses and unmarried children of LPRs should be considered the same as immediate relatives of U.S. citizens and thus receive a greencard immediately. Some believe that the current situation is fine—that a few years wait time is a fair price for the benefit of a U.S. greencard which then leads to citizenship. And still others believe that the correct answer is somewhere in between.

So I look forward to the witness testimony today, to learn more about the issue and the possible solutions.

I yield back the balance of my time.

Statement of the United Auto Workers
Submitted to the
Committee on the Judiciary of the U.S. House of Representatives Subcommittee on Immigration and Border Security
Hearing on March 14, 2013
"The Separation of Nuclear Families under U.S. Immigration Law"

The International Union, United Automobile, Aerospace & Agricultural Implement Workers of America (UAW), submits the following testimony to the House Judiciary Committee. The UAW is one of the largest and most diverse unions in North America, with members in virtually every sector of the economy. The UAW has more than one million active and retired members in the United States, Canada and Puerto Rico.

From our earliest days, the UAW has been a leader in the struggle to secure economic and social justice for all people. Our commitment to improve the lives of working men and women extends beyond our borders to encompass families from around the globe and keeping families together is integral in helping shape the future of American economic stability and protecting and preserving American family values.

According to recent reports by the Partnership for a New American Economy and the Asian American Justice Center respectively, immigrants are more than twice as likely to start a business in the United States as non-immigrants, and in 2011, immigrants started 28 percent of all new businesses while only accounting for 13 percent of the U.S. population. Family-based immigrants are more likely than other demographics to start small and medium-sized business, creating jobs for immigrant and native-born workers.

The UAW supports reform and expansion of family-based visas. While currently there are proposals to limit family-based visa categories to increase employment-based visas, it is crucial for Congress to prioritize family unity for immigrants. Family separation hinders the acculturation of immigrants whose broad-based families are sources for their strength and vigor. Current immigration laws force siblings, spouses, and children to wait many years before reunifying, creating vacuums of support networks where instead there could be relatives to help immigrants integrate to new surroundings and culture.

Critically needed improvements in the system include:

- Re-classifying the children and spouses of lawful permanent residents as "immediate relatives" allowing them to immediately qualify for a visa;
- Recapturing unused family-based and employment-based visas that were authorized but not allocated due to bureaucratic delay;
- Increasing the per country limits of family visas from 7% to at least 15% to help ease family green card backlogs
- Allowing same-sex partners to reunite; and
- Allowing orphans, widows and widowers to immigrate despite death of a petitioner.

Furthermore, we support a pathway to citizenship and are fully committed to making that a reality. Reform of our immigration laws must reflect America's values as a democratic society, and not create a

second class of workers, whether through a temporary worker program or by restricting the ability of the undocumented to someday attain citizenship.

In conclusion, the UAW appreciates the opportunity to submit our views to the Committee on the Judiciary of the U.S. House of Representatives Subcommittee on Immigration and Border Security regarding The Separation of Nuclear Families under U.S. Immigration Law. We look forward to working with Members of the Subcommittee and the entire Congress as you consider these important issues.

Signed,

Cindy Estrada

Vice-President

United Auto Workers

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MinKwon Center for Community Action
Statement for the Record
House Committee on the Judiciary
Subcommittee on Immigration and Border Security
Hearing on "The Separation of Nuclear Families under U.S. Immigration Law"
March 20, 2013

The Minkwon Center for Community Action respectfully submits this statement for the record of the hearing on March 14, 2013 before the Subcommittee on Immigration and Border Security of the House Committee on the Judiciary on "The Separation of Nuclear Families under U.S. Immigration Law."

The MinKwon Center for Community Action (formerly YKASEC) was established in 1984 to meet the needs and concerns of the Korean American community through five program areas: Community Organizing & Advocacy, Social Services, Civic Participation, Youth Empowerment, and Culture. Since our founding, we have made a profound presence in the Korean American, Asian American, and immigrant communities through various grassroots organizing, education, and advocacy initiatives that address important community issues at the national, state, and city levels. We place special emphasis on meeting the needs of our marginalized community members including the youth, the elderly, recent immigrants, low-income residents, and limited English proficient residents.

OVERVIEW

The Asian Pacific American (APA) population is one of the fastest growing in the United States. From 2000 to 2010, the APA population increased by 43%[1]. Making up over a quarter of the foreign-born population in the U.S., APAs now account for the second largest group of incoming immigrants at over 40%. To date, two-thirds of APA adults in the U.S. are foreign born, and three-fifths are eligible to vote. After the historic 2012 elections, national exit polling data demonstrated that an overwhelming two-thirds of the APA population favored comprehensive immigration reform[2].

In fact, a recent report from the National Asian American Survey (NAAS) focused on family reunification reported that a majority of APAs (54%) believe the extensive backlogs are a crisis in our communities. This is a critical issue for our community: Of the 11 million undocumented immigrants in the country, 1.3 million are APA. And of the five countries with the longest backlogs for family visas, four are in Asia (Philippines, China, India, and Vietnam). Due to substantial backlogs for issuing family visas, 4.3 million people are currently waiting overseas, 1.8 million of which are from Asian nations[3]. Even in Flushing, our home base, over 70% of the Korean community is foreign-born[4]. As such, the issue to be addressed relates disproportionately to APA children and families and raises grave concerns to the MinKwon Center.

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[1] The Asian population in the United States has grown from 10.2 million to 14.7 million between the years 2000 and 2010. *American's Asian Population Patterns: 2000 – 2010* (Proximity, Feb. 28, 2013), http://proximityone.com/cen2010_asian.h

2 "Press Release: New Findings: Asian American Vote in 2012 Varied by Ethnic Group and Geographic Location - AALDEF." Press Release: New Findings: Asian American Vote in 2012 Varied by Ethnic Group and Geographic Location - AALDEF. N.p., 17 Jan. 2013. Web. 19 Mar. 2013 <http://aaldef.org/press-releases/press-release/new-findings-asian-american-vote-in-2012-varied-widely-by-ethnic-group-and-geographic-location.html>

3 Hershberger, Matt. "Survey: Asian Americans Concerned with Legalization, Family Backlogs."Immigration Impact. N.p., 8 Feb. 2013. Web. 18 Mar. 2013. <http://immigrationimpact.com/2013/02/08/survey-asian-americans-concerned-with-legalization-family-backlogs/>.

[4] 2007-2011 American Community Survey 5-Year Estimates
http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_11_5YR_B16001&prodType=table

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KEY CONCERNS WITH THE SEPARATION OF FAMILIES

As the political landscape has shifted and momentum for comprehensive immigration reform has accelerated dramatically, we were pleased to see that early proposals recognized the need to strengthen American families by reducing backlogs in family visa categories. However, with so many APA families at stake, the MinKwon Center is concerned about the lack of specificity in the proposal and request that the actual bill contain several presently unstated elements. In addition, the MinKwon Center finds the recent discussions to reduce the number of available family-based visas in favor of work-based visas are misleading and unconstructive. The need for family-based visas and work-based visas are complementary issues that must not be pitted against one another. The increase of either visa category should not be viewed in a zero-sum worldview. This false dichotomy harms the very foundation that our immigration system was built upon. In the following, these issues will be outlined.

Stringent caps on family preference visas separate the families of U.S. citizens, Legal Permanent Residents (LPRs), and green card holders.

Currently, families are divided by visa waiting periods and processing delays that can last decades. For example, the wait for Korean immigrants could extend more than 13 years, while the wait for Filipino immigrants can span up to a startling 23 years[5]. APA families in particular are more likely than other groups to be caught in the backlogs for family unification with an average wait period of at least 7-9 years. While our immigration system already recognizes that spouses, children (under 21), and parents deserve priority as "immediate relatives," under the current law this only applies to U.S. citizens. Since APAs make up the second largest group of foreign-born populations in the U.S. – in part because of the U.S. exclusionary acts that targeted Asian countries until 1965 – many are not yet naturalized and as such, are subjected to stringent caps separating them from immediate family members. These restrictive caps oblige relatives of LPRs to wait on decade-long lines that accept no more than 7% of applications from each country annually.

Even the delay in visas for relatives of U.S. citizens is too considerable to ignore. To date, APA families are still the most likely to have close family members remaining abroad, accounting for nearly one-third of all family-based immigration visas in the U.S.[6] – regardless of citizenship status. Unless we make family unification the bedrock in any immigration reform package, we will only contribute to the detrimental practice of separating parents and their children from one another.

Strict triggers invalidate immigration applications and extend backlogs for many years.

In many cases, the long waiting period triggers rules that revoke an individual's application or extends their wait time for many more years. While these triggers were originally established to prevent immigration abuse, they have instead placed additional barriers that needlessly keep families apart.

For instance, many children of LPRs 'age out' of their immigration category once they turn over 21 years of age. Consequently, these children, who had been waiting since they were minors, must now endure an additional wait of 4-10 years before reuniting with their parents. For cases when one's U.S. petitioner passes away, or when one is married, their immigration applications are similarly

5 "Visa Bulletin For April 2013." Visa Bulletin For April 2013. N.p., 8 Mar. 2013. Web. 19 Mar. 2013. <http://travel.state.gov/visa/bulletin/bulletin_5000.html>.

6 "A Devastating Wait: Family Unity and the Immigration Backlogs." Advancing Equality. Asian Pacific American Legal Center, 2008. Web. 18 Mar. 2013. <http://www.advancingequality.org/attachments/files/117/APALC_family_report.pdf>.

invalidated. Rather than recognize the sad nature of these cases, our broken immigration system only goes further to hurt families and individuals who come here seeking opportunity and freedom from oppression.

Excessive backlogs leave virtually no realistic paths for legal entry in our immigration system.
Each year, the quota of visas available to immigrants in each of the family preference categories does not meet the need for these visas. With quotas set inadequately low and with processing inefficiencies that lead to even greater backlogs, existing rules do not grant many applicants a realistic path to gain legal entry in the U.S. By ignoring these ever-expanding backlogs, we create tremendous pressure throughout the immigration system – effectively driving people to risk either entering the U.S. illegally or illicitly overstaying their visas in order to be with their families. Consequently, this further reduces their chances of receiving green cards in the future. In fact, these illicit acts often induce an unlawful presence bar that bans an individual from entering the country again for up to 10 years. With nearly 17 million families in which at least one member is undocumented in the U.S.[7], this is prevailing evidence that our current system is broken and that immigrants cannot simply 'get in line' to see their families.

One of the MinKwon Center's clients, the Kim family, serve as a stark example of this problem: Mr. Kim came to the U.S. with a green card over 20 years ago while his wife still resided in Korea with their 2 month year old twins. While he had a green card sponsored by his mother at the time, his wife and children were granted an 11 year waiting period. Unable to wait over a decade and miss the twins' most formative years, the wife and children eventually came to the U.S. on a tourist visa. Today, the twins are over 21 years old and having aged out of the process now live in the shadows as undocumented immigrants. While the MinKwon Center has helped the twins apply for temporary status under Deferred Action, it is clear that a more permanent and inclusive resolution is needed both for their sake as well as for their mother.

Limiting the number of family preference visas available for each country adversely affects our economy.
Since the enactment of the Immigration and Nationality Act of 1965, family ties have been critical to the social and economic incorporation of new immigrants. For immigrants who enter the U.S. sponsored by a family-based visa, they have an automatic support system that provides them with the resources needed to adapt to the work environment here and either find a job or start their own business. A 2013 Immigration Policy Center case study found that "extended immigrant families and close-knit immigrant communities ease the economic assimilation of new immigrants and promote investment in U.S. human capital as well as the formation of businesses."[8] In fact, research supports that immigrants are 30% more likely to start new businesses than native-born Americans[9]. Earnings between immigrants who gained entry with family-based visas and those that entered with skilled-based visas are found to eventually equalize following an initial earnings gap. As further evidence that families play a critical role in immigrants contributing to business development and community

[7] Batalova, Jeanne, and Alicia Lee. "Migration Information Source - Frequently Requested Statistics on Immigrants and Immigration in the United States." The Migration Information Source. N.p., Mar. 2012. Web. 18 Mar. 2013. <http://www.migrationinformation.org/usfocus/display.cfm?ID=880>
[8] "The Advantages of Family Based Immigration." Immigration Policy Center. N.p., 14 Mar. 2013. Web. 18 Mar. 2013. <http://www.immigrationpolicy.org/just-facts/advantages-family-based-immigration>.
[9] Moua, Mee. "The Case for Family-Based Immigration." N.p., 06 Feb. 2013. Web. 18 Mar. 2013. <http://www.huffingtonpost.com/mee-moua/immigration-families_b_2619403.html>

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improvement, that same study goes on to report that family-sponsored immigrants have become the most upwardly mobile of all American workers[10].

Additionally, family visas play an important role in complementing high-skilled visas. Family-friendly policies will help attract more skilled workers to the U.S. Skilled workers will most likely opt to settle in countries that will welcome their families as well. Ever since 1965, the U.S. has rightfully based their system on the corresponding factors of family ties and/or the work skills of prospective immigrants. As we push for CIR now, it is important that we do not lose sight of this for our families and for our economy at large.

RECOMMENDATIONS

The time is now to enact broad, humane immigration reform that advances inclusion, fairness, and equality for immigrants and all communities. Such reform must include the following guiding principles:

- Increasing caps for family-based preference visas, especially for countries with the most egregious wait periods. These visas can come from recapturing unused family, employment, or diversity-based visas;
- Expanding the immediate relative category to include family members of LPRs and green card holders;
- Opening a path of return for U.S. citizens' and residents' immediate family members who have been deported, and allowing immediate relatives to adjust their status in the U.S., regardless of the manner in which they entered the US;
- Eliminating unlawful presence bars that would separate individuals from their families for 3 to 10 years;
- Allowing U.S. citizens and LPRs to sponsor same-sex partners for immigration to the U.S., providing an immediate fix for many same-sex couples and their families who currently face separation or exile.

CONCLUSION

As Congress and the President look to enact immigration reform in 2013 and beyond, we hope they will understand that any bill must include the above legislative fixes if it is to achieve a permanent solution to the many problems within our immigration system today. We must remember America's immigration system was built on the fundamental belief that families should be kept together. The MinKwon Center for Community Action stands ready to work with this Committee to ensure that the long overdue reform of our immigration system recognizes the vital contributions immigrants make to this country and promotes dignity and respect for immigrants and their families.

10 "The Advantages of Family Based Immigration." Immigration Policy Center. N.p., 14 Mar. 2013. Web. 18 Mar. 2013 <http://www.immigrationpolicy.org/just-facts/advantages-family-based-immigration>.

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