

## Relief for the Families of U.S. Citizens and Legal Residents: Alleviate the Backlogs

**The Issue:** Our permanent immigration system is in dire need of serious repair. Unreasonable and unnecessary backlogs for family-based visas now exist, as a result of arbitrary limits, outdated information, and administrative delays. These arbitrary limits and backlogs have led to the following crisis:

- Many families have been kept apart for years, even decades, while waiting for green cards to become available and be processed.
- Even spouses of permanent residents must wait 7-10 years to come to the U.S. legally, while most others, including adult sons and daughters of U.S. citizens, are forced to wait between 4-22 years.
- As a result of these long waits, many family members who apply for visas in the prime of their lives are not granted admission until they reach retirement age, undermining their economic contribution to our country and encouraging some frustrated relatives to resort to illegal migration.
- Because of current ‘bars’ to relief in our immigration law, many hard-working immigrants who pay taxes, speak English, and desperately want to become full-fledged members of our community are unable to legally immigrate even if there is an employer or family member who is willing to sponsor them. For example, the “three and ten year bar” is one of the biggest obstacles preventing individuals hoping to legally immigrate through the family-based immigration system.

This unreasonable and untenable situation destroys families and unravels the unique social fabric which has helped to make our country so strong and prosperous.

**Long-term relief:** Legal, family-based immigration furthers America’s economic and security interests while advancing core American values. Family immigration within a highly regulated and tightly controlled system fosters economic growth. Families tend to pool their resources to start businesses, purchase homes, and send family members to college. When the legal system keeps families separated for years and sometimes decades, it creates an incentive for family members to enter the country or remain in the country unlawfully. Creating a rationale, orderly system that comports with 21<sup>st</sup> century realities will obviate this incentive and strengthen respect for the rule of law. Moreover, our country values family unity as a cornerstone of our society. Reforming our family-based system will reunite loved ones and promote stability within families.

The following proposals would alleviate the current crisis in our family immigration system:

### **Eliminate arbitrary limits on family-based immigration.**

Under current law there are 480,000 family-sponsored immigrant visas available annually. However, this number is reduced by the amount of immediate relative visas and humanitarian paroles granted the previous year. The law provides for a floor of 226,000 family-based visas and in recent years, our system has become so overtaxed that only the minimum number of visas has been available for legal immigration through the family-based visa categories. Because this arbitrary limit has not kept pace with current demand for family-based visas, lengthy backlogs have kept U.S. citizen family members waiting to immigrate for many years. The following include several possibilities for altering this system to help decrease the backlogs:

- **Don't count visas for immediate relatives of U.S. citizens against the total number of available visas:** Based on the framework of our current law, the number of available visas could be increased by not deducting immediate relatives and humanitarian paroles from the overall cap. The numbers that remain would then flow through the rest of the family-based immigration preference system.
- **Treat spouses and minor children of lawful permanent residents as 'immediate relatives':** Currently, the immediate family members of lawful permanent residents are forced to wait from over 5 years to 8 years for a visa. If the spouses and minor children of legal permanent residents were included in the definition of immediate relative, fewer people would be forced to share the 226,000 visas that are left over for the rest of the family visa categories and nuclear family members would be united within a more humane time frame.
- **Increase the number of visas allotted for countries with high backlogs:** Under current law, there are per-country limits on the number of available visas. Because of high demand for visas and the arbitrary limits on the number of visas per country, certain countries have extremely long backlogs. An increase in the 'per country limits,' especially for countries with unusually high backlogs could significantly reduce these delays.
- **Expand derivative eligibility to include immediate relatives so that a separate petition and visa number is not required:** Currently, immigrants who fall under the 'immediate relative' category cannot bring their spouses and unmarried children as 'derivatives' on their application even though immigrants in the other family-based immigration categories are permitted to do so. An advantage of derivative status is that a child or spouse does not require a separate petition which promotes efficiency and allows more people to immigrate.

**Give the government the discretion to allow hard-working immigrants who are currently barred from relief to utilize the legal immigration system.**

Under current law, several bars to immigration relief including the 'three and ten year bar' and the 'permanent bar' prevent many undocumented immigrants from immigrating through the family-based system. In considering whether an undocumented immigrant with close family ties in the U.S. should be permitted to cure their unlawful status, the government should consider factors such as the immigrant's length of residence in the United States; history of employment and business ties; family ties in the United States; military service; community contributions; and any adverse impact on U.S. employers, businesses, organizations, the local community, or other national or local interests in the event of the immigrant's deportation from the U.S. Expanding the government's discretion to weigh the circumstances of each case will allow more deserving immigrants to reunite with their families. In addition to providing a more expansive waiver for the 'three and ten year bar' and the 'permanent bar,' Congress should also give the agency and immigration judges enhanced discretion to waive other bars to admission or relief that exist under current law such as the bar to admission based on a 'false claim to citizenship.'

**Congress can and must provide short-term relief to alleviate the crisis in our legal immigration system:**

- We should give the government the discretion to allow hard-working immigrants who are currently barred from relief to utilize the legal immigration system and reunite with their families by providing an expanded waiver to the 'three and ten year bar' and the 'permanent bar.'
- Current backlogs should be reduced by increasing the number of visas allotted per country and changing the way we count visas against our current caps.