

January 15, 2010

## **FOCUSING ON THE SOLUTIONS**

### **Family Immigration: Repairing our Broken Immigration System**

*In “Breaking Down the Problems, What’s Wrong with Our Immigration System?” the Immigration Policy Center laid out key structural problems WITHIN immigration law, as well as the inadequate, enforcement-only responses that have given rise to our current immigration crisis. Genuine immigration reform requires a thoughtful, coordinated approach that restores balance to the process, giving America the tools it needs to remain a leader in a rapidly changing world.*

Family unification has always been a pillar of the U.S. legal immigration system. Since the first European settlers landed in the U.S., immigrants have come with their families to build better lives in America. Each year the U.S. grants visas to a limited number of people who have close family ties to U.S. citizens and legal permanent residents (LPRs or green card holders). Family-based immigration is capped at 480,000 visas per year. The immigration system grants green cards to an unlimited number of parents, spouses, and minor children of U.S. citizens. The only other family members who qualify are spouses and minor children of LPRs and siblings of U.S. citizens. These families must go through the family preference system, which limits the number of visas available for each “preference.” Because there are more people who qualify than visas available through the preference system each year, many close family members of U.S. citizens and legal permanent residents are waiting in long backlogs. For example, spouses and minor children of legal permanent residents must wait 7 to 10 years to unite their families. Yet each year some of these visas are lost rather than going to qualified applicants.

#### **Fixing the family-based immigration system is important because:**

- A well-functioning family-based immigration system is a critical component of ending illegal immigration because it removes a key motivation for entering illegally.
- Family-based immigrants work, become entrepreneurs, and contribute to our economy. Research has shown that family-based immigrants possess important skills and are adaptable to the labor market.
- Research has shown that family-based immigration enhances an individual’s ability to integrate and thrive in the U.S. Immigrant families are vital emotional, psychological, and cultural resources that shelter and sustain family members, as well as entire immigrant communities. Stripping away this support would foster social isolation and disconnection among immigrants rather than acculturation.

**The family-based immigration system interacts with the legalization component of comprehensive immigration reform:**

- Clearing the backlogs of law-abiding families who have been waiting to come legally to the U.S. ensures that immigrants who came illegally are not given preferential treatment.
- Failure to address this problem leads to numerous complications in other immigration categories. For instance, the failure to allow family unification under the Immigration Reform and Control Act of 1986 (IRCA) legalization program led many desperate family members to enter the United States illegally, helping create the seeds of our current immigration crisis.

**Principles for reform of the family immigration system:**

- **Family unification must remain a fundamental pillar of U.S. immigration policy.** Proposals that sacrifice family immigration for the sake of employment-based immigration create an unfair and erroneous dichotomy. Family immigrants work and contribute to the U.S. in many ways. Both the family-based and employment-based immigration systems can be fixed without sacrificing one for the other.
- **The current backlog of family-based immigrants must be cleared, and law-abiding families must be reunited in a humane and reasonable timeline.** There are several possible options to clear the backlogs and promote family unification, including moving spouses and minor children of LPRs into the “immediate relatives” category, not counting immediate relatives against the family cap, and increasing the per-country caps. Any combination of these or other solutions must be part of comprehensive immigration reform if it is truly going to fix the broken immigration system.
- **The spouses and minor children of legalized immigrants must be issued visas at the time of the primary applicant’s legalization.** The IRCA legalization program did not allow for spouses and minor children of legalization applicants to legalize as derivatives. As a result, special provisions had to be put into place later to protect them from deportation. Also, when legalized immigrants became LPRs and petitioned for their spouses and minor children, the backlogs in those categories skyrocketed. Including spouses and children in the legalization provisions will help to prevent future backlogs.
- **Unused and unclaimed family-based visas must be recaptured, and a mechanism to ensure that future unused visas are not wasted must be created.** Congress authorizes a set number of visas to be made available annually. When these visas go unused, the problems with backlogs only worsen. Recapturing visas would not overstep the numerical limits set by Congress, but it would alleviate some of the consequences of visa oversubscription.
- **The numerical caps on family-based immigration must be revisited and brought in line with current realities.** The last adjustments to the numerical caps were made in 1990. These numbers must be reconsidered and brought up to 21<sup>st</sup> century requirements.
- **USCIS must receive the resources necessary to resolve backlogged family immigration cases and ensure that processing backlogs do not reoccur.** True reform means eliminating the circumstances that led to the problems in the first place. U.S. Citizenship and Immigration Services (USCIS) must have the resources it needs to unite families and avoid future problems.