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Testimony 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

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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 sister, her closest remaining family tie, separated, a separation felt more poignantly in the last 6 years with the deaths of their parents and 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 1983. She completed a graduate degree and was sponsored for an H-1B visa and later, an employment based green card. She later became a permanent resident, worked, and paid taxes and eventually, 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 sibling petition for her younger sister.

Though their father was deceased and their mother was terminally ill, Susan's sister was a determined university student. Susan was working long hours in the U.S. and trying to provide support to her sister and her mother from afar. The family determined that it would be best for Susan and her sister 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 sister. To date, a visa has not been made available and, during the almost decadelong wait, Susan's sister finished a bachelor's degree.

Susan and her sister are very close, and given the age difference between them, Susan has always helped to take care of her. Once she settled in the U.S., Susan would visit her family every year. She called her family weekly and wrote to her sister frequently. Each school year, she bought her a new supply of clothes, books, and educational toys. When Susan's sister was 12 years old, she traveled to the U.S. to spend Christmas with her. The following year, she spent the summer with her sister. She has made many visits to the U.S. since that time. In the past six years, Susan and her sister have experienced three deaths in the family 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.