April 13, 2011

The Honorable Janet Napolitano
Secretary
U.S. Department of Homeland Security
Washington, DC 20528

Dear Secretary Napolitano:

We, the undersigned organizations, believe that family unity is the cornerstone of American society and urge you to take immediate action to help protect American families. In recent years, we have been extremely troubled by the number of families who have been separated as a result of current U.S. immigration laws and policies. For example, a 2009 Department of Homeland Security (DHS) Office of Inspector General report estimated that between fiscal years 1998 and FY 2007, the federal government deported over 108,000 parents of U.S. citizen children.

While many individuals waiting to reunify with family members in the United States reside overseas, some are already living in the United States, working and contributing to our communities. Current immigration law requires many unauthorized immigrants seeking to obtain permanent residence to return to their home countries to obtain their visas. However, as a result of their time in the United States as undocumented immigrants, when they leave the United States, they trigger three and ten-year bars to admission. Unlawful presence bars can be waived, but these waiver applications must be submitted abroad after immigrants have departed the United States.

Concerns about facing the unlawful presence bars and the uncertainty of the waiver process discourage immigrants from coming forward. Consequently, to stay with their families, many remain in the shadows and risk deportation rather than seek the waivers overseas. In the Appendix, you can find two stories of American families impacted by the unlawful presence waiver requirements.

In the absence of a broader immigration reform, policy changes are urgently needed. We therefore recommend that DHS allow eligible family members to apply for unlawful presence waivers from inside the United States. Such a change would help uphold family unity and encourage immigrants to come forward and get right with the law.

Thank you for considering this recommendation and we look forward to hearing your feedback.

Sincerely,

Accion Colombia
American Families United
American Immigration Council
American Immigration Lawyers Association
American Jewish Committee
America's Voice
Asian American Institute, Member of the Asian American Center for Advancing Justice
Asian American Justice Center, Member of the Asian American Center for Advancing Justice
Asian Law Caucus, Member of the Asian American Center for Advancing Justice
Asian Pacific American Legal Center, Member of the Asian American Center for Advancing Justice
Atlanta Mennonite Fellowship
Boat People SOS
Casa Esperanza
Catholic Social Services Immigration Program
Church World Service, Immigration and Refugee Program
Daya Inc.
Disciples Justice Action Network
Florence Immigrant & Refugee Rights Project
Florida Immigrant Advocacy Center
Franciscan Action Network
Hebrew Immigrant Aid Society
Hispanic Association of Colleges and Universities
Hispanic Federation
HOLA (Hispanas Organizadas de Lake y Ashtabula)
Immigrant Legal Advocacy Project
Immigration Equality
Interfaith Coalition on Immigration (Minnesota)
Interfaith Worker Justice
Irish Apostolate USA
League of United Latin American Citizens
Lutheran Immigration & Refugee Service
Massachusetts Immigrant and Refugee Advocacy Coalition
Mennonite Central Committee U.S. Washington Office
Mexican American Legal Defense and Educational Fund
Missouri Immigrant and Refugee Advocates
Muslim American Society Immigrant Justice Center
Muslim Public Affairs Council
National Advocacy Center of the Sisters of the Good Shepherd
National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund
National Center for Transgender Equality
National Council of La Raza
National Immigrant Justice Center
National Immigration Forum
National Immigration Law Center
National Korean American Service & Education Consortium
Nebraska Appleseed Center for Law in the Public Interest
NETWORK
New Sanctuary Movement NYC
New York Immigration Coalition
No More Children Left Behind
No More Deaths
North Carolina Immigrant Rights Project
Northwest Immigrant Rights Project
OCA
OneAmerica
Raksha, Inc.
Redlands Christian Migrant Association
SEIU
Sikh American Legal Defense and Education Fund
South Asian Americans Leading Together
Southeast Asia Resource Action Center
Southeastern Counseling Center/El Centro del Sudeste Para Consejo
Social Justice Guild of the First Existentialist Congregation of Atlanta
TrikoneNW
UFCW
Unitarian Universalist Association of Congregations
United Church of Christ, Justice and Witness Ministries
United Methodist Church, General Board of Church and Society
United Sikhs
Wilco Justice Alliance
Women's Refugee Commission
World Organization for Human Rights USA
World Relief
Appendix

American Families Impacted by the Unlawful Presence Waiver Requirements

Angelica Ramirez and Randy Thomas*
In 1998, Angelica Ramirez, a young Guatemalan woman, entered the United States without proper authorization. In 2001, she met Randy Thomas, a U.S. citizen. In 2003, they married and now have four children together. Randy, however, has been diagnosed with end stage renal failure, and he was later forced to stop working because of his illness. He now depends on his wife to care for him. To add to the family’s hardship, the couple’s 5 year old son was born with spina bifida and requires specialized care. In May 2008, a few months short of the 10 years needed for Angelica to be eligible for immigration relief, DHS placed her into immigration removal proceedings. Months later, in recognition of the severity of the family’s situation, DHS agreed to terminate her removal proceedings.

Although she is no longer in removal proceedings, Angelica remains in limbo, unable to work in the United States and with an uncertain future. She has an approved family visa petition, but the U.S. Consulate in Guatemala told her that it would take at least one year to process her application. Her family cannot survive without her for such a long time. Moreover, her husband could die within the year, leaving her outside the United States and without an anchor for the necessary waiver.

Michael Ata and Jeanette Smith*
In the early 1990s, Michael Ata came to the United States from Ghana to study computer science. Fearing that he would harmed if he return to Ghana, Michael filed for asylum. However, his attorney mishandled his case. In 1997, Michael was detained by immigration authorities. Although he was later released, he was given a deportation order.

In 2001, Michael married Jeanette Smith and they now have a 6 year old son. Jeanette is a U.S. citizen and she thought they could help legalize Michael’s status once they were married. But for more than 10 years, they have been struggling to resolve Michael’s legal status. Four years ago, the government raided the family’s home. For fear of being permanently separated, since then Michael has lived apart from his wife and son. It is very painful for Jeanette and her son to live apart from Michael, but the family is reluctant to apply for a waiver. They fear that he would get stuck in Ghana if the government did not grant his waiver.

* Names changed to protect the individuals’ identity.