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**WRITTEN STATEMENT OF  
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**“The Separation of Nuclear Families under U.S. Immigration Law” Hearing**

**UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON THE JUDICIARY**

**March 14, 2013**

South Asian Americans Leading Together (SAALT) welcomes the opportunity to submit a statement for the record for the March 14, 2013 hearing on “The Separation of Nuclear Families under U.S. Immigration Law” before the House Judiciary Committee. Comprehensive immigration reform greatly impacts South Asian Americans and as such, it is important and timely for the House Judiciary Committee to examine avenues of immigration options, including family-based immigration as well as inclusive, holistic options for all immigrants. In this statement, SAALT focuses on the importance of holistic immigration reform for South Asian Americans, particularly the need to reunite families in a timely and humane manner, rather than keeping them apart for years or decades on end.

SAALT is a national, nonpartisan, non-profit organization that elevates the voices and perspectives of South Asian individuals and organizations to build a more just and inclusive society in the United States. SAALT works with a base of individual members and advocates and is the coordinating entity of the National Coalition of South Asian Organizations (NCSO), a network of 41 organizations across the country that provide direct services to, organize, and advocate on behalf of South Asians in the United States.

South Asian Americans are the fastest growing major ethnic group in the United States, increasing by 81% from 2000 to 2010 to approximately 3.4 million people.<sup>1</sup> As almost three-quarters of South Asian Americans are foreign-born,<sup>2</sup> our community is made up of undocumented immigrants, dependent and temporary workers on various visas, refugees and asylum-seekers, lawful permanent residents, and United States citizens.

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<sup>1</sup> South Asian Americans Leading Together (SAALT), *A Demographic Snapshot of South Asians in the United States* (July 2012) available at <http://saalt.org/wp-content/uploads/2012/09/Demographic-Snapshot-Asian-American-Foundation-20121.pdf>.

<sup>2</sup> See Gryn, Thomas and Gambino, Christine, U.S. Census Bureau, *Asia: 2011 American Community Survey Briefs* (October 2012) available at <http://www.census.gov/prod/2012pubs/acsbr11-06.pdf>; Asian American Center for Advancing Justice, *A Community of Contrasts: Asian Americans in the United States: 2011* available at [http://www.advancingjustice.org/pdf/Community\\_of\\_Contrast.pdf](http://www.advancingjustice.org/pdf/Community_of_Contrast.pdf).

Though South Asian Americans are often framed as benefiting exclusively from policy reform related to skilled workers or graduates of science, technology, engineering, and math (STEM), the truth of the matter is that we are impacted by all facets of immigration. We are janitors and domestic workers, taxi drivers and day laborers, as well as doctors and engineers. We are family members who want to see and be with our loved ones, who have ambitions to succeed in our chosen professions. We are undocumented individuals as well as visa holders, legal permanent residents, refugees and asylees, and American citizens. We encompass a multitude of professions and statuses, but more importantly, we are people with families whose support is critical to our contributions and success as Americans.

According to the Department of Homeland Security, there were approximately 240,000 undocumented Indians alone in 2011, making India the seventh-highest country of origin for undocumented individuals in the United States.<sup>3</sup> Additionally, South Asians, especially those from Bangladesh, India and Pakistan, are often separated from their families for years at a time due to the family and employment visa backlogs. As a result, immigration reform is of the utmost importance to the South Asian community and it is essential that such reform encompass large-scale change that unites families, provides individuals and their family members with options to obtaining visas and citizenship, and ends unjust enforcement measures that have resulted in racial profiling of our community members, particularly in the past decade.

The United States is a nation that was built by and thrives upon the hard work of immigrants. South Asian Americans, like all other communities, are not a monolithic population whose immigration concerns can be limited to one form of immigration; though we share commonalities, we make up a range of people with various needs, across all layers of immigration reform. Socially, culturally, and economically, South Asian Americans and all immigrants contribute to the strength of our nation and its success both nationally and internationally. The happiness and success of our community directly contributes to that of the country and without just and humane avenues towards these goals, our nation does not move forward as a whole. SAALT urges that comprehensive immigration reform make all-encompassing changes because only then will we create an immigration system that is just and humane for South Asian Americans, all immigrants, and our nation as a whole.

### **COMPREHENSIVE IMMIGRATION REFORM MUST BE HOLISTIC IN ORDER TO TRULY BENEFIT SOCIETY**

South Asian Americans contribute to our society in numerous capacities, socially, culturally, and economically. Our community members fill the gaps in low- and high-skilled jobs, start their own businesses, provide support to their loved ones, and desire an education and opportunity like any other American. Unfortunately, the current immigration system often does not allow South Asian Americans the opportunity to achieve these goals for the betterment of themselves, their families, or our society. Not only do they face numerous barriers to obtaining status, but they are often separated from their families, not provided with effective worker protections, suffer the consequences of harsh enforcement measures frequently based in racial and religious profiling,

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<sup>3</sup> Hoffer, Michael, Rytina, Nancy, and Baker, Bryan, U.S. Department of Homeland Security, *Estimates of the Unauthorized Immigration Populations Residing in the United States: January 2011* (March 2012) available at [http://www.dhs.gov/xlibrary/assets/statistics/publications/ois\\_ill\\_pe\\_2011.pdf](http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2011.pdf).

and denied due process, basic human rights, and ancillary services and benefits, such as health care. All of these issues make it increasingly difficult for South Asian Americans as well as many other immigrants to successfully contribute to our country and therefore, impinge upon our progress as a nation.

In order for South Asian Americans to effectively contribute to society, these barriers and penalties must be eradicated. SAALT urges that immigration reform (1) creates accessible and affordable pathways to legalization and citizenship for all undocumented individuals; (2) keeps families together, eliminates visa backlogs, and increases caps for family and employment visas; (3) creates legislation that provides equal immigration benefits and protections to and prohibits discrimination against same-sex couples; (4) provides avenues and protections for immigrant workers and their families; (5) rejects enforcement-only approaches to immigration and terminates racial and religious profiling; (6) ensures due process and human rights standards for immigrants, including within the detention and deportation system; (7) creates policies that support the empowerment of women, including victims of domestic violence and trafficking; (8) provides access to services and benefits, including health care, regardless of immigration status; and, (9) promotes support for integration programs, including English as a Second Language, and naturalization.<sup>4</sup>

It is only with this holistic approach to immigration reform that South Asian Americans and all other immigrants will be able to effectively contribute to our society in a way that allows our nation to flourish, prosper, and succeed.

**FAMILY-BASED IMMIGRATION IS AN ESSENTIAL PART OF OUR SYSTEM THAT REQUIRES IMPROVEMENT, NOT LIMITATION, IN ORDER FOR OUR NATION TO SUCCEED**

Family unity is the foundation of our nation, both historically, culturally, and legally. America was built upon the hard work and support of families with a historic understanding of the importance of family unity in relation to our success. Our immigration laws also took this importance to heart by creating a system which valued the importance of families, by allowing individuals to bring their family members to the United States through our family-based system. However, for years, the problems within our family-based system have been raised in our national discourse due to the long wait these individuals suffer because of the backlogs and visa caps. Many individuals wait an extended period of time for decisions on their relative petitions because of the backlogs created by the lack of resources needed to adjudicate the high volume of applicants. Additionally, millions of relative petitions are already approved, but the beneficiaries of the petitions remain separated from their families and placed on a waiting list because of statutory limits on the total number of visas and the visa caps per country. These applicants wait years and even decades, separated from their families because of the inadequacies of our family-based immigration system.

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<sup>4</sup> These standards of comprehensive immigration reform have been called for by the National Coalition of South Asian Organizations (NCSO), a coalition of 41 groups around the United States that works closely with South Asian immigrants, including aspiring citizens. National Coalition of South Asian Organizations, *South Asian Organizations Call for Just and Humane Reform of the Immigration System* (February 1, 2012) available at <http://saalt.org/wp-content/uploads/2012/09/South-Asian-Organizations-Call-for-Just-Humane-Immigration-Reform1.pdf>.

Like all Americans, South Asians also value the importance of family and as a result, we rely heavily on the family-based immigration system. Though South Asians are often stereotyped as being primarily impacted by the employment-based immigration system, the truth is that an incredible number of South Asian Americans are impacted by the family-based system as well. In many ways, the family-based system is the cornerstone of South Asian immigration into the United States. Since over two-thirds of South Asian Americans are foreign-born, individuals living in the United States usually have many family members still overseas. These individuals often rely on our family-based immigration system by attempting to reunite their families through one of the existing avenues for sponsorship. In fact, in 2012, almost 25,000 South Asian immigrants were granted status through our family-based immigration system.<sup>5</sup>

Unfortunately, many individuals, including South Asians wait extraordinarily long periods of time in order to be reunited with their families as a result of the current backlogs and caps on family-based visas. As of November 2012, approximately 4.3 million people were awaiting their family-based immigration visas.<sup>6</sup> Of this number, approximately 1.8 million were from Asian countries,<sup>7</sup> of which 332,846 are Indian, 161,896 are Bangladeshi, and 115,903 are Pakistani.<sup>8</sup> Though the available statistics are limited to the countries with the highest application rates, these numbers mean that more than 610,645 of the immigrants separated from their families are waiting to join American citizens or green card holders of South Asian descent.

Specifically, many South Asians come to the United States through the third and fourth preference categories for family-based immigration visas, which encompass married sons and daughters of U.S. citizens (and their spouses and children) and brothers and sisters of U.S. citizens (and their spouses and children). Individuals from India make up 7.8% (65,134) and 9.3% (230,799) of applicants awaiting their third and fourth preference category visas respectively; individuals from Pakistan account for 2% (16,752) and 3.7% (91,286) of applicants awaiting their visas in these categories respectively; and, individuals from Bangladesh make up 6.1% (150,757) of applicants awaiting their fourth preference category visa. In fact, these categories are the only easily accessible statistics for South Asians on the waiting list of family-based visas because these are the categories in which South Asians make up a substantial percentage of the applicants. Notably, South Asians sometimes wait nearly eleven years before obtaining their green cards from a sponsoring U.S. citizen sibling.<sup>9</sup> Additionally, some of our partner South Asian organizations have worked with individuals desperately waiting to be reunited with their families, such as an elderly couple waiting over seven years to be reunited with their adult son and his family and an individual who has been waiting to reunite with his

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<sup>5</sup> Department of Homeland Security, *Report of the Visa Office 2012* available at [http://www.travel.state.gov/visa/statistics/statistics\\_5861.html](http://www.travel.state.gov/visa/statistics/statistics_5861.html).

<sup>6</sup> U.S. Department of State, *Annual Report of Immigrant Visa Applicants in the Family-sponsored & Employment-based Preferences Registered at the National Visa Center* (November 1, 2012) available at <http://www.travel.state.gov/pdf/WaitingListItem.pdf>.

<sup>7</sup> Asian American Justice Center, *Asian Americans and Family-Sponsored Immigration* (February 14, 2013) available at [http://www.advancingequality.org/files/Reuniting\\_Families\\_Factsheet\\_-\\_Asian\\_Americans\\_and\\_Family\\_Sponsored\\_Immigration\\_%282.13.13%29.pdf](http://www.advancingequality.org/files/Reuniting_Families_Factsheet_-_Asian_Americans_and_Family_Sponsored_Immigration_%282.13.13%29.pdf).

<sup>8</sup> *Id.*

<sup>9</sup> U.S. Department of State, *Visa Bulletin for February 2013*, No. 53, Volume IX (February 2013) available at [http://www.travel.state.gov/visa/bulletin/bulletin\\_5856.html](http://www.travel.state.gov/visa/bulletin/bulletin_5856.html).

sister and her family for over fifteen years.<sup>10</sup> For our community members without family or support in the United States, this waiting period is even more detrimental to their integration and success in this country.

It also must be noted that family-based immigration not only enhances our nation culturally, but also economically. While many South Asians applicants apply for employment-based status as well, these applicants frequently have family members that they would like to petition for and whose presence and support would only further allow them to succeed and contribute to American society in a cultural, social, and economic manner. Additionally, those on employment-based visas are not the only immigrants who become entrepreneurs in the United States; in fact, many immigrants who arrive through the family immigration system have become entrepreneurs and innovators. As mentioned by Representative Zoe Lofgren during the February 5, 2013 House Judiciary Committee hearing on immigration, the founders of the Google, Yahoo, Intel, and eBay did not come to the United States through our employment-based immigration system; these entrepreneurs entered through other immigration options such as family-based visas, as refugees, or as the children of refugees.<sup>11</sup> Family-based immigration is essential to ensuring the continued vitality of our society economically and culturally because America benefits when immigrant families come together and support each other.<sup>12</sup>

It is time for our family-based immigration system to return to its roots with reform that places the value on family unity all Americans deserve. American families are configured in ways that recognize and respect both biological and interpersonal relationships between individuals. These families may include single parents, same-sex couples, adopted children, and multiple generations of family members. Families must be acknowledged and understood in our immigration laws in much the same way that they exist within our society. In essence, the family-based immigration system must reflect the standard we set for ourselves as Americans when it comes to familial relationships and family unity. Until our system values the support and assistance of family as we know it, we continue to hinder our own success.

## **REFORM OF OUR FAMILY IMMIGRATION SYSTEM SHOULD ALIGN WITH THE REUNITING FAMILIES ACT**

In order for our immigration system to be improved in a way that benefits our nation culturally and economically, it is essential that our family-based system be reformed in an effective and thoughtful manner. Family-based immigration is not only a humane piece of our nation's history and values, but it also has significant economic benefits for the long-term growth of our nation. There are many reform measures that must take place in order to strengthen our family-based

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<sup>10</sup> See e.g., National Coalition of South Asian Organizations, *South Asian Organizations Call for Just and Humane Reform of the Immigration System* (February 1, 2012) available at <http://saalt.org/wp-content/uploads/2012/09/South-Asian-Organizations-Call-for-Just-Humane-Immigration-Reform1.pdf>

<sup>11</sup> Jennifer Martinez, *House Republicans Place Priority on Immigration Fix for High-Skilled Workers* (February 5, 2013) available at <http://thehill.com/blogs/hillicon-valley/technology/281229-house-republicans-place-priority-on-immigration-fix-for-high-skilled-workers#ixzz2MVzjwGFp>; see also, Matt Hershberger, *Survey: Asian Americans Concerned with Legalization, Family Backlogs* (February 8, 2013) available at <http://immigrationimpact.com/2013/02/08/survey-asian-americans-concerned-with-legalization-family-backlogs/>.

<sup>12</sup> See Asian American Justice Center, *The Economic Impact of Family-Based Immigration* available at <http://www.advancingequality.org/attachments/wysiwyg/7/FamilyImmigrationEconomy.pdf>.

immigration system and allow our nation to prosper, many of which have been introduced through the Reuniting Families Act. To name a few, the family-based system must (1) eliminate the current backlog of visas, increase caps, and recapture unused family-sponsored visas lost in previous years due to bureaucratic delay; (2) reclassify spouses and minor children of legal permanent residents as “immediate relatives”; (3) provide the same options and protections to stepchildren and biological children by allowing them to apply upon their parents marriage; (4) provide equal immigration benefits and protections to and prohibit discrimination against same-sex couples; (5) retain the earliest priority dates for beneficiaries regardless of subsequent petitions; (6) reduce the wait time for children of Filipino World War II veterans; and, increase government discretion and flexibility in addressing various hardships, including family separation.

Our family-based immigration system, like the rest of our immigration system, still requires much improvement to fully benefit us as a nation. South Asians and all immigrants come to the United States through various pathways, and a bulk of our community members rely on family-based immigration. They work hard, pay taxes, buy property, and greatly contribute to the American economy, as well as our culture and diversity. However, many of their efforts are thwarted by our current immigration system. In order for our country to fully benefit from the strength of the South Asian community, families must not be divided – they must be united in accordance with the history of our nation and the roots of our success. The family-based immigration system cannot be reformed through further limitations on family or the definition of who is family. It is precisely these limitations that brought us to the necessity of this overhaul of our system. Immigrants, like all Americans, are people who need support and assistance to succeed; they need their families. To continue to separate families is to hurt not only the individuals, but the success of our nation. Family-based immigration is only one piece of the puzzle, but without it, we are simply not whole.

## **RECOMMENDATIONS**

The current immigration system is more than flawed, damaging our ability as a nation to move forward successfully. This system must be reformed in a comprehensive and holistic manner in order to truly allow our society and economy to succeed. To redefine or limit one part of the system, such as family-based immigration, does not allow us to move forward as a nation; it only further hinders our success. Our nation and its strength economically and culturally are heightened by the benefits of the entire immigration system as a whole, not by enhancing one part at the expense of another. To limit parts of our immigration system rather than strengthening them would only deepen the problem without providing holistic solutions.

In order to thoroughly address these issues, SAALT urges that comprehensive immigration reform take a broad-scale approach to immigration by:

- (1) Creating accessible and affordable pathways to legalization and citizenship for all undocumented individuals;
- (2) Keeping families together, eliminating visa backlogs, and increasing caps for family and employment visas;



- (3) Creating legislation that provides equal immigration benefits and protections to and prohibits discrimination against same-sex couples;
- (4) Providing avenues and protections for immigrant workers and their families;
- (5) Rejecting enforcement-only approaches to immigration and terminating racial and religious profiling;
- (6) Ensuring due process and human rights standards for immigrants, including within the detention and deportation system;
- (7) Creating policies that support the empowerment of women, including victims of domestic violence and trafficking;
- (8) Providing access to services and benefits, including health care, regardless of immigration status; and,
- (9) Promoting support for integration programs, including English as a Second Language, and naturalization.

Together, we can ensure that our country creates immigration reform that is holistic, just, and humane for South Asian Americans, all immigrants, and society as a whole. Thank you for the opportunity to submit this statement for the record.

*For further information about the comprehensive immigration reform as it relates to the South Asian community, please contact Manar Waheed, SAALT's Policy Director at [manar@saalt.org](mailto:manar@saalt.org), or (301) 270-1855.*