

State Dpt.
DAS Consular Affairs: Donna Hamilton
647-9577

Assoc. of Amer. for Spouse Reunification

7/20/98

700

4½ yr. backlog now

Current consular policy — don't allow spouses
to visit

½ million people
living in U.S. (LPR 2-8 yrs waits
for green cards)

Presume fraudulent intent.

policy
across
the board

Presumption — if you have a green card
application pending, you will
overstay ^{visitors} USA.

→ State Dpt. says that they have no policy against
granting visitor visas to those w/ green card applic.
pending.

No directive or anything in writing

3 conflicting letters from State Dpt.

Generally enforced — lots of countries.

Courtesy ~~is~~ (USA waiver pilot program)

Get stopped by INS upon entering the country

(INS policy?)

intending
~~permanent~~ residents
are denied visitor visas

deny entry to "intending immigrants"

→ Nothing in law to prevent giving this visa (?)

5 million

lots of folks employed by large corps.

business community part of
their alliance.

Met w/ Mike Hill this am @ Diana Ariv.

Put visitor visa issue on the agenda of
pro-immigrant
Coalition.

24 folks in room.

Ask for Congressional inquiry of State Dept.

There is media interest on this.

of ethnic papers have interest

WSJ ran a front page story on waits / family
separation.

LA Times interest.

(want to plant a story in LA Times)

Reaching into Conservatives (Amer Business
for Legal Imm)
Grover Norquist

[Lamar, FAIR @ CIR remnants
reached out to this group]

Link w/ naturalization backlog

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Reunification
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July 30, 1998

The Honorable Julie Fernandes
Special Assistant to the President for Do-
mestic Policy
Domestic Policy Council
The White House
Old Executive Office Building
Washington, DC 20502

Dear Ms. Fernandes:

I had the great honor of meeting you at the White House on Monday July 20, 98 in conjunction with the request of a change in the Department of State policy in routinely denying spouses of US citizens and US permanent residents applications for visiting or student visas while waiting for their immigrant visas. I would like to take this opportunity to express my sincere thanks for giving me and my fellow members of AASR the opportunity to bring to your attention this matter. I had great pleasure in having such an open and cooperative discussion with yourself regarding this issue. I am looking forward to your feedback on this issue and for a continuous cooperation to find a solution to this prolonged plight of family fragmentation of families of US citizens and permanent residents.

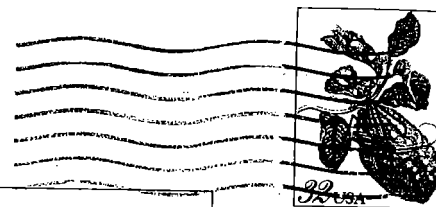
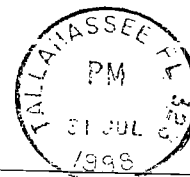
Yours Sincerely,



Laith J. Abu-Raddad

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Association of Americans for Spouse Reunification
153 Bliss Drive Apt 11
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The Honorable Julie Fernandes
Special Assistant to the President for Do-
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U.S. immigration law keeps spouses waiting

Green-card holders apart from families

BY BEN STOCKING
Mercury News Staff Writer

Rafat Rob can hear his old neighbors whispering all the way from Amman, Jordan:

Why did he leave his bride behind when he returned to his job in America? No good Muslim would leave his wife for so long.

But it isn't a lack of faith or an untrue heart that is keeping him apart from his wife, says Rob, a

computer programmer for a San Jose firm. It's U.S. immigration law that stands between them.

Rob is one of thousands of immigrants — many living in Silicon Valley — who have stumbled upon what they regard as a cruel, anti-family feature of the law: Legal immigrants who return to their native countries and get married can't bring their spouses to the United States right away.

They must wait. And wait. And wait.

Rob and others in the same predicament must stand in line with more than a million other immigrants who have applied to bring their spouses or children to the United States. With an annual quota restricting the number of green cards for spouses — roughly 88,000 were made available this year — the wait could be as long as 10 years.

U.S. immigration law keeps spouses waiting

Man says many lawmakers are unsympathetic

■ SPOUSES

from Page 1A

"In the beginning, I really broke down," said Rob, who has packed away all his photos of his wife because seeing her makes him so sad.

"In our culture, if you leave your wife, they think you have abandoned her," he said. "I violated the holy rule. In our religion, Islam, if you are away from your wife for more than six months, it's grounds for divorce."

What makes the situation unbearable, Rob said, is that spouses of green-card holders aren't even allowed to enter the United States for brief visits. U.S. embassies and consulates around the world are instructed to deny tourist visas to people who have expressed their intention to immigrate, except in extremely rare cases.

The rationale for the policy is simple, said Maria Rudensky, a State Department spokeswoman: Spouses of immigrants are unlikely to leave once they get here.

The U.S. Immigration and Naturalization Service estimates that more than 40 percent of the 5 million illegal immigrants in the United States are people who overstayed tourist, student and business visas.

Rob, 32, works for a company called KLA-Tencor, which makes machines that test computer wafers and chips. He came to the United States 14 years ago on a student visa. Since then, two companies sponsored him for employment. He finally received his green card — an INS document establishing permanent legal residency — two



EUGENE LOUIE — MERCURY NEWS

Rafat Rob, front, has organized a group of people who, like him, were given green cards but are now separated from their spouses, who could not immediately join them because of U.S. immigration law.

ago.

His wife's name, Taheny, taunts Rob like a cruel joke. It means happiness in Arabic, but she is so depressed that she has stopped writing him letters. She can't think of anything cheerful to say.

Rob has seen her for only two weeks since they got married in May. Until her visa is finally approved, he will be able to see her only for a few weeks each year, when he returns to Jordan for his annual vacation.

Given the current waiting list, Rob figures it will be seven years before his wife gets a visa. He could shorten the wait if he becomes a citizen, which he intends to do. But he won't be eligible to apply for citizenship for another three years, and it could take another two years after that for the INS to process his application.

The prohibition on spousal visits

seems especially unfair to Rob and others because U.S. immigration laws are generally intended to keep families together.

For example, if Rob weren't a permanent U.S. resident — if he were only here on a temporary employment visa — his wife would be allowed to live here with him.

And if they had married before he received his green card, they both could have immigrated together.

The only unfortunate immigrants to fall under the prohibition are those who get married to foreign-born spouses after they get green cards.

In Rob's case, he married the "girl next door" when he went home to Jordan in May. At the time, he thought that she would be able to apply for a green card immediately and join him in the United States within a year or so.

He has tried to explain the delay

to his wife, her family and his own parents. But none of them understands. They find the U.S. immigration system incomprehensible, he said.

All they know is that Rob told them his wife could probably join him within a year or so. And now he is telling them that it'll be a few years into the new millennium.

His family, Rob said, feels like he misled them. And he feels like he has let them down.

"You know how it feels when you're in an elevator and it free falls? Your heart drops," he said. "I felt like an idiot. My wife, my family, her family — they are all so disappointed."

At first, the prospect of such a long separation made Rob so depressed that he couldn't work. Then one day last fall he stumbled upon the Web site of the Association of Professionals for Spouse Reunifica-

tion, <http://www.apsr.org>. The group, founded in 1996, has about 500 members, most of them engineers and computer programmers. Twenty percent are from Silicon Valley.

The association, which argues that such long separations threaten even the strongest marriages, estimates that 300,000 legal immigrants are in the same situation as Rob.

Ever since he joined the group, Rob has spent two hours a day on the phone lobbying Congress and anyone else who will listen, hoping to win support for two bills the group is promoting.

One of the bills would increase the number of green cards made available to spouses of legal immigrants each year. The other — co-sponsored by Rep. Zoe Lofgren, D-San Jose — would grant tourist visas to spouses of legal immigrants so they could visit for a few months each year while they are waiting for their green cards.

Canada and several other Western nations treat citizens and green-card holders the same when it comes to bringing foreign-born spouses into the country, Rob said. He contends that the United States should, too.

Rob said he often encounters lawmakers who aren't at all sympathetic. They remind him that the United States must control its borders.

Sabu Ghazali, a Fremont resident who works at Chips and Technologies, is puzzled by the lack of compassion.

"How can a country that is a champion of human rights have such an inhumane law?" asked Ghazali, who got married during a trip home to India last year. He doesn't expect to be reunited with his wife until 2007.

George Chen, a native of China, came to the United States after participating in the Tiananmen Square pro-democracy demonstrations. He later married a Chinese woman who was in the United States on a work visa.

She left the country on a business trip, Chen said, but the authorities wouldn't let her back in because she is married to a green-card holder. It could take seven years before she can immigrate.

"When everyone knows God intends husband and wife to live together, how can anyone be so arrogant and apathetic to let this separation routinely happen?" asked Chen, a computer programmer for a Santa Cruz firm.

Such stories don't move Rick Oltman, an anti-immigration activist from Marin County.

"They could be reunified with their spouses if they returned to their countries of origin," said Oltman, Western regional coordinator of the Federation for American Immigration Reform. "We're not holding them here against their will."

Bill Strassberger, an INS spokesman, said that implementing U.S. immigration policies requires some difficult choices.

"It's unfortunate that they are separated, but the number of petitions that are pending forces us to have a preference system," he said. "It's sad, but it is true."

Warren Leiden, a San Francisco attorney who served on the U.S. Commission on Immigration Reform, noted that the panel recommended changing the rules so that a greater portion of green cards would go to the spouses and children of legal immigrants. But Congress never embraced the suggestion.

"The commission said the current waiting time is way too long," said Leiden, who argued that the prospect of such a difficult separation encourages spouses of green-card holders to enter the country illegally.

"What the United States is saying as a matter of law and policy is, either you break the law and your family together or you stay apart from your family and obey the law," he said.

One reason the wait is so long, Leiden said, is that many illegal immigrants who received amnesty under the 1986 immigration law have applied to bring their spouses into the country.

That fact galls Rob, who said he and others in his situation should not be forced to pay the costs when they followed all the rules.

"We are the honest but stupid," Rob said.

Rafat Rob, Ph.D.

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INFORMATION FOR LIFE



United States Department of State

Washington, D.C. 20520

Dear Senator Riegle:

Thank you for your letter of April 25 requesting the implementation of a temporary pilot program to test the effectiveness and practicality of the principles outlined in S.618.

The Department's report on Senate bill S. 618 is pending clearance by the Office of Management and Budget (OMB). As you are aware, this procedure implements a long-standing requirement that proposed comments by a particular Department or by other elements of the Executive Branch on pending legislation must be coordinated by OMB. To the extent that the proposed pilot program mirrors the provisions of S. 618, therefore, we are unable to comment on its substance at this time.

Nothing in current United States immigration law prohibits the issuance of a nonimmigrant visa to the beneficiary of an immigrant visa petition. In other words, the spouse or child of a legal permanent resident could apply for and obtain a visitor visa. Section 214(b) of the Immigration and Nationality Act presumes, however, that every nonimmigrant visa applicant is, in fact, an intending immigrant. The difficulty is that few spouses and children of permanent residents are able to provide evidence of a residence abroad and other binding obligations which would motivate them to leave this country after a temporary visit.

Consular officers are required to abide by Section 214(b). The State Department has no authority to waive this provision of the law. Thus, there is no statutory basis upon which we could initiate the pilot program you propose.

The Honorable
Donald W. Riegle Jr.,
United States Senate.

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I hope this information is helpful. If you should have any questions on this, or another matter, please let us know.

Sincerely,

Wendy R. Sherman

Wendy R. Sherman
Assistant Secretary
Legislative Affairs

Enclosure:
Correspondence returned

Version one. Letter of US Consulate in Sheng Yang, China, to US Rep. Granger

**Consulate of United States of America
ShenYang, China**

**Sep. 15, 1997
The Honorable Kay Granger
United States House of Representatives
1600 W. 7th Street, Suite 740 Fort Worth, Texas 76102**

Dear Congresswoman Granger:

I am writing regarding the visa application of Dong YuHong, wife of your constituent Joe Zhu. You originally inquired about this case in July 28, 1997. Due to an unprecedented workload, we have been unable to response in a timely fashion to your previous inquiry. I apologize for the delay in attending to this matter.

Your constituent has requested that you support legislation which would grant visa rights to family members who intend to immigrate to the United States but whose immigrant visa priority dates are not yet current. As you know, under the Immigration and Nationality Act, intending immigrants do not qualify for tourist visas. As a result, the US Consulate General in ShenYang has had no choice but to deny her a tourist visa.

I hope this information has been helpful to you. If I can be of further assistance to you in this or any other matter, please do not hesitate to contact me.

Sincerely,

Julie Kavanagh, Chief, Consular Section

Version two. A Consular Officer's Public Letter to Rep, Frank Pallone, posted on internet

From: cazhuser@aol.com (Cazhuser)
Newsgroups: alt.visa.us
Subject: The other side of the APSR Debate
Date: 23 Oct 1997 08:10:26 GMT Lines: 66
Message-ID: <19971023081001.EAA07795@ladder01.news.aol.com>
NNTP-Posting-Host: ladder01.news.aol.com X-Admin: news@aol.com
Organization: AOL Bertelsmann Online GmbH & Co. KG <http://www.germany.aol.com>

October 22, 1997

Mr. Frank Pallone, Jr.

420 Cannon House Office Building Washington, D.C. 20515

Dear Mr. Pallone:

I am a Foreign Service Officer and voting resident of New Jersey. This letter is written based on being a constituent and is not necessarily representative of the views and opinions of the State Department.

Serving currently as a Consular Officer, I have been in charge of non-immigrant visa (NIV) adjudication at my last two (years). I am greatly concerned at your proposed amendment (HR 2664) that seeks to prevent Consular Officers from considering pending immigrant visa petitions in the course of adjudicating visitor visas. According to information posted on the Internet by the APSR (at whose behest you are sponsoring this amendment), "it is the policy of the U.S. Government to prohibit [foreign spouses of U.S. Citizens or legal permanent residents] . . . from entering the United States [on visitor visas]." This is patently false. While Section 214(b) of the Immigration and Nationality Act prohibits the issuance of visas to those persons who intend to abandon their residence abroad, it also permits Consular Officers to consider "dual intent" in their deliberations.

The filing of an immigrant visa petition is a factual element that cannot be ignored in determining a person's qualification for a visitor visa; however, I have already issued visitor visas to persons with immigrant petitions pending, because the law permits issuance of such visas when the Consular Officer believes the applicant's intent is to abide by the terms of the visa issued. Similarly, I have also denied a number of such visas because the weight of evidence in those cases indicated that the applicants would most likely overstay or adjust status under section 245(i) of the INA.

No Consular Officer takes pleasure in denying a visa. Unfortunately, Congress' own message to visa applicants is murky at best. While 214(b) remains a necessary hurdle to prevent a virtual free-for-all of undocumented immigration to the United States, Section 245(i) permits even illegal immigrants to adjust status (and thus, immediately become "legal") regardless of how one entered the United States. Alas, due to staffing constraints, the Department of State continually encourages the passing of 245(i), despite the fact that this legislation ultimately breeds only contempt for Consular Officers and creates incentives for intending immigrants to lie or worse in order to gain a visa or otherwise enter the United States illegally.

While beyond the scope of this letter, I would urge Congress to allow 245(i) to sunset and fund the State Department adequately to do the job we are supposed to do. Policy should dictate resources, not the other around.

As to your pending amendment, I would encourage you to review it carefully. In addition, you may find more support from your constituents (including me) if in your consideration of this amendment you propose that those who receive visas under its auspices be prevented from adjusting status in the United States under section 245(i). An inability to adjust status would help Consular Officers place less weight on pending immigrant petitions while adjudicating these NIVs.

If such safeguards are not put into the amendment, requiring Consular Officers to ignore relevant material facts in their determinations will only make a difficult job more stressful and send a clear message from Congress itself that U.S. law should be viewed as an obstacle to be circumvented, ignored, or broken. This is hardly the message we should send to immigrants who may well one day become citizens.

Version Three. Letter of US Consulate in Shanghai, China, to U.S. Rep. Peterson

Subject: Congressional Correspondence Reference: Congressman Peterson's Letter of June 11, 1997
To: The Honorable John E. Peterson
1524 West College Avenue, Ste. 208
State College, PA 16801

Dear Congressman Peterson:

Thank you for your letter of June 11, 1997, received on July 2, 1997, in which you inquired into the non-immigrant visa case of Ms. B.

I would like to begin by saying that I very much sympathize with her situation. Being separated from loved ones is never easy and must be even more difficult when the separation is enforced by immigration law regulations, rather than simply by distance.

I have asked the consular staff to research this case. They inform me when Ms. B applied for a visa on February 25, 1997, she was found ineligible under section 214(b) of the US Immigration and Nationality Act. This means she was unable to convince the interviewing officer she would return to China after a legally authorized stay in the United States.

US immigration law imposes on each visa applicant a presumption of immigrant intent and places the burden of proof entirely upon the applicant to overcome this presumption. This is done by providing evidence of a permanent residence abroad and such strong professional, financial and family ties to that residence that the applicant will be compelled to return.

Applications are considered in light of social, economic and cultural conditions within the country of residence. The presence of family members in the USA is also a factor in adjudicating the strength of the applicant's ties to the applicant's home country could not establish eligibility for a visa.

The Immigration and Nationality Act states that in order to qualify for a non-immigrant visa, an applicant must convince the adjudicating officer at the time of the interview of his or her intent to return to his or her country of origin.

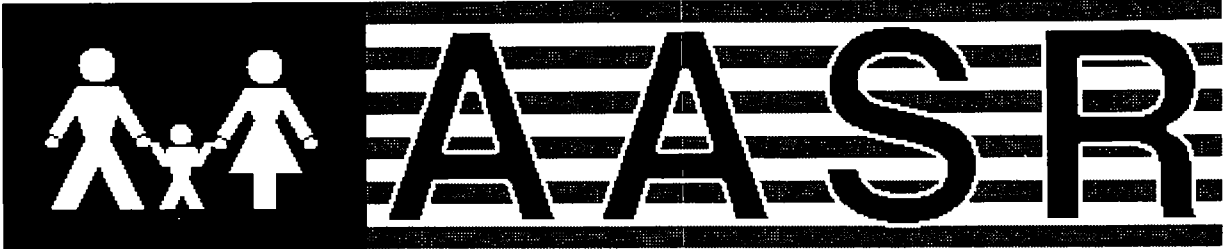
After a legally authorized stay in the United States, because Ms. B has a pending immigration visa, she would have to demonstrate that while she intend to emigrate to the U.S. in the future, her immediate objective is to pay a short term visit to the United States. While it is possible to obtain a non-immigrant with an immigrant visa pending, it is rare that applicants successfully make the argument for dual intent.

An applicant may be reconsidered only if he or she reapplies for a visa. Should Ms. B believe that there has been a significant change in her qualifications for a visa, she may reapply in person with all related new evidence of her improved circumstances. Ms. B may do so during regular interviewing hours, 8:00am - 10:30am, Monday through Thursday, except for American or Chinese holidays.

I hope this information is useful to you.

Sincerely,

Raymond F. Burghardt, Consul General U.S. Consulate General, Shanghai, China Burghardt



Association of Americans for Spouse Reunification

7000 SW Hampton Street, Suite 124, Portland OR 97223-8361 Tel. (202) 331-4464

Association of Americans for Spouse Reunification (AASR) Issue Paper

Executive Summary

Over one million U.S. Citizens (USCs) and Legal Permanent Residents (LPRs) are separated from their spouses and children who are waiting overseas for their visas to be processed for many years. During this long time apart, U.S. consulates overseas often deny these spouses and children tourist visas for brief and occasional visits with their husbands and wives, fathers and mothers here in the U.S. Consular officers just presume that they will not return to their home country after their temporary stay here and remain in the U.S. illegally.

Established in 1997, the Association of Americans for Spouse Reunification (AASR) seeks to resolve this prolonged separation of families. AASR is a volunteer organization comprised of over 700 USCs and LPRs who are adversely affected by these policies as well as other concerned members. Our immediate objective is to change policies and practices of U.S. consular officers which promote the arbitrary denial of visitor visas to spouses and children of USCs and LPRs abroad because of officers' presumptions that they will overstay their temporary visas

This paper provides background information as well as an overview and analysis of the problems facing spouses and children of USCs and LPRs as they wait to rejoin their husbands and wives in the United States. It offers arguments against the current system that separates families and presents solutions. Discussed are:

- reasons why spouses and children of USCs and LPRs hardly ever obtain tourist visas to at least be able visit their husbands and wives in the United States
- an overview and characterization of current U.S. consular policies and practices that facilitate arbitrary denials of visitor visas to spouses and children of USCs and LPRs because of prevailing assumptions that they will not return to their home country after their temporary stay here

- an outline of U.S. immigration laws that undermine U.S. consular officers' justifications to arbitrarily deny visitor visas to spouses and children
- arguments that show how current U.S. immigration policies and procedures harm U.S. citizens and future fellow Americans and contradict our ideals of family values
- a proposal which will provide immediate relief to separated families by granting them a fair chance to obtain visitor visas

This paper also tells the story of our members and their families who are suffering tremendously because of their long separation. It describes the situation of a U.S. Citizen who cannot live with his wife here in the United States because she had to travel back to her home country on a family emergency before her permanent visa was issued. Now she is unable to reenter the United States, not even for a short visit, while her husband struggles to raise baby twins by himself.

It explains why a Legal Permanent Resident, a celebrated electrical engineer and pioneer in his field, married a year ago, can only see his wife during his vacation back home. His wife was not only denied a visitor visa to the U.S. but also a student visa even though she was accepted to a well-known university in the U.S. to study early childhood development because the adjudicating consular officer suspected she would stay in the U.S. even after her visa expired.

These are only a few examples of how more than one million U.S. Citizens and Legal Permanent Residents are suffering and how their families are being destroyed because they cannot even come to the U.S. for short visits while they wait for many years until their visas are issued.

I. Background Information and Overview

Over one million foreign-born spouses and children of U.S. Citizens and Legal Permanent Residents are separated from their husbands and wives for years while they wait overseas for their immigration visas to be issued. Even though visas for spouses and children of U.S. Citizens are not numerically restricted, administrative delays postpone final adjudication of visas for up to two years. Spouses and children of Legal Permanent Residents must sometimes wait up to ten years for final issuance of their visas because only a relatively small number of these visas become available each year. Recently, large number of applications in this category has created an enormous backlog of petitions waiting to be processed, over one million.

During these years of separation, foreign-born spouses and children of USC's and LPRs are hardly ever granted tourist visas to visit their loved ones in the United States. This creates great strains on families, often because of arbitrary judgments by consular officers that these future Americans - spouses and children of U.S. citizens and legal immigrants already here - will violate our laws if allowed to visit and stay here while they wait years for permanent visas. The character of current U.S. consular policies and practices is outlined below.

- Spouses and children of USCs and LPRs with pending immigration applications are almost always denied visitor visas because they are presumed of intending to overstay them.
- Applicants are seldom awarded the opportunity to argue their case or present evidence to show that they will return to their home country after their visa expires. Sometimes consular officers base their decisions on short, half hour interviews with the applicants but oftentimes applicants are not even granted an interview at all.
- The decisions of U.S. consular officers are not subject to judicial review and the applicant has no right to appeal adverse judgments.
- Instead of granting applicants the benefit of the doubt, the prevailing atmosphere in U.S. consulates overseas is filled with suspicion. Many consular officers seem to assume that applicants with pending permanent visa applications have “criminal intentions” to overstay their temporary visitor visas.

These practices of U.S. consular officers continue despite the deterring power of severe sanctions imposed on those who overstay their temporary visas. They are summarized below.

- Since 1996, nonimmigrants who overstay their visas for more than 180 days are barred from entering the U.S. for three years after their departure. Those who stay for a year or more are not permitted to enter the U.S. for ten years.
- Obtaining a visa through misrepresentation of facts or fraud is considered a felony and could not only result in incarceration but also a permanent refusal to issue a visa and/or denial to ever enter the U.S. again.
- Since 1997 nonimmigrants with pending immigration visas can no longer adjust their status in the United States once their applications have been approved. Even though spouses and children could adjust their status once legally in the United States, they are hardly ever granted tourist visas to be able to do so.

The obvious question is: why would spouses gamble so carelessly with their chances of reuniting permanently with their loved ones? For spouses and children with pending immigration visas, the risk of overstaying a tourist visa is far too great and the price to pay much too high because it could permanently separate their families.

II. Arbitrary Denial of Visitor Visas for Spouses and Children of U.S. Citizens and Legal Permanent Residents

Families of USCs and LPRs are separated for months and years while they wait for their spouses and children to obtain immigrant visas to join them in the United States. During these many years apart these spouses and children oftentimes cannot even obtain visitor visas to bridge their long separation because U.S. consular officers presume that they will overstay them.

Consular officers who oversee visa issuance abroad argue that they are only following U.S. immigration laws when refusing such visitor visas by sighting section 214(b) of the Immigration and Nationality Act. This provision of the law states that, with few exceptions, U.S. consular officers must presume that every nonimmigrant visa applicant intends to emigrate to the U.S. permanently. In order to overcome this presumption, applicants must convince adjudicating consular officers at the time of their application that they have “strong enough ties” to their country of origin which will compel them to return there after their authorized stay in the U.S.

The U.S. State Department has defined “strong ties” to include ownership of a house, bank account, retaining a job and taking care of a family overseas. However, it is up to the consular officers’ discretion to decide whether visitor visa applicants have proven strong ties to their home country, enough to deter them from overstaying their visas. In the case of spouses and children of USCs and LPRs with immigration petitions pending, the burden to prove such “strong ties” becomes practically insurmountable. Consular officers most often assume that they will enter the U.S. with tourist visas and remain here until their immigration applications have been processed. As a result, their visitor visas are denied even before they have a chance to provide evidence of their “strong ties” to their home country, to argue their case and to prove that they will abide by U.S. laws.

U.S. consular officers overseas have great power to deny or approve tourist visas based on their subjective judgments of whether or not an applicant will overstay their authorized visit to the U.S. or not. Consular officers sometimes do not even evaluate applicants through short interviews and oftentimes make their decisions in a very short period of time based on their own subjective judgment of the application. Many spouses and children of USCs and LPRs applying for visitor visas in U.S. consulates are not given the chance to present evidence on their behalf, they are granted no opportunity to argue against a negative judgment and are not even granted the presumption of innocence before proven guilty. The law provides for no recourse or judicial review when visitor visa applications have been rejected, leaving the petitioners hopeless and helpless.

U.S. consular practices raise the question of how it is possible for spouses and children of USCs and LPRs who apply for visitor visas to even prove that they will return to their native country. The tools they would need to convince consular officers that they do intend to return to their country of origin are oftentimes not even available to them. If they do not even have the chance to present their case to the adjudicating officer during an interview or show evidence of “strong ties” to their native country, then how could it even be possible for them to overcome the presumption of visa overstay? Spouses and children of USCs and LPRs are not even given the chance to prove to adjudicating officers that they will abide by U.S. laws and return home once their temporary visa expires.

III. Atmosphere of Suspicion Despite Sanctions against Visa Overstayers

U.S. immigration laws allows for people with pending immigration petitions to obtain tourist visas. The visitor visa application process, however, is surrounded by an atmosphere of suspicion. When spouses and children of USC's and LPRs apply for tourist visas, they are presumed of intending to overstay their visas, to violate U.S. laws despite tough sanctions on people who overstay their temporary visas.

U.S. consular officers seem to overlook the deterring power of these new, stricter immigration laws when they determine whether or not to approve a visitor visa to spouses and children of USC's and LPRs. The 1996 IIRIRA Act states that anyone overstaying a nonimmigrant visa for more than 180 days is barred from entering the U.S. for three years after their departure. Whoever overstays their temporary visa for one year or more is inadmissible for ten years. Most importantly, obtaining a visa through misrepresentation of facts or fraud is considered a felony and could not only result in incarceration but also a permanent refusal to issue a visa and/or denial to ever enter the U.S. again. In 1997 section 245(i) of the INA was rescinded which had allowed nonimmigrants with approved immigrant visa applications to adjust their status in the United States. Although spouses and children of USC's are still allowed to adjust their status once they legally enter the U.S., they are barely ever granted temporary visas to be able to do so.

For spouses and children of U.S. Citizens and Legal Permanent Residents as well as their husbands and wives in the U.S., taking the chance to overstay visitor visas can result in a permanent separation of their families. Spouses and children of USC's and LPRs are future American citizens who want to contribute to our society and share the American dream. Violating U.S. immigration laws would put their plans for their family's future in America in such jeopardy that overstaying a tourist visa would just be foolish and self-destructive.

VI. Proposal to Change Consular Policies and Procedures

We are proposing reasonable changes in U.S. consulate policies and procedures for processing visitor visa applications from spouses and children of USC's and LPRs. We are asking for applications to be evaluated in good faith by adjudicating consular officers and for them to take all facts into account when making their final decisions. Spouses and children of USC's and LPRs should be given a fair chance to overcome the presumption that they will overstay their tourist visas. They should be able to present evidence that they will return to their home country after their temporary stay in the U.S. during interviews with consular officers. We believe that arbitrary decision-making by U.S. consular officers without recourse or judicial review is unacceptable.

Most importantly, we believe that consular officers must grant applicants the benefit of the doubt when making a determination to approve or deny visitor visas to spouses and children of USC's and LPRs instead of suspecting them of intending to overstay their visas. The consequences of anyone risking to overstay their visitor visa have such a powerful deterring

value, especially for families intending to reunite in the United States in the future. The threat of being barred from ever entering the U.S. again, or at least for many years, is reason enough for spouses and children of USC's and LPRs to return to their native country after their legally authorized visit to the U.S.



Association of Americans for Spouse Reunification

7000 SW Hampton Street, Suite 124, Portland OR 97223-8361 Tel. (202) 331-4464

Association of Americans for Spouse Reunification (AASR) Member Profile

I am a citizen of the United States and have been forcibly separated from my husband since September 1997. When we filed for his permanent visa, the Immigration and Naturalization Service officer suggested he return to his native Yugoslavia until final issuance of his visa. The INS official assured us that processing the visa would take between 90 to 120 and that he would be able to visit his family in the U.S. during our separation. That was a complete lie. As of today, 9 months later, we have not even received an approval notice for our petition. Even worse, my husband was immediately denied a visitor visa when he applied for one at the U.S. consulate soon after his arrival in Yugoslavia.

Despite promises made by the INS officer handling our case, he has not been able to obtain a tourist visa and is now stuck in Yugoslavia. He has been forced to join the Serb military and we are very concerned about the volatile situation there. My family is suffering tremendously and we fear that we might lose him forever if war breaks out in his country. My husband's life is in danger even though he is supposed to be safely here in the U.S. with his family.

I have tried to contact anybody who could possibly help me in this situation but to no avail. We have spent thousands of dollars to cover phone bills and my plane tickets to Yugoslavia. I cannot believe that my own government has forced my family to be separated for such a long time. My family is being destroyed because we are apart and we have to worry that we may never see my husband again because chance are he will be forced to go to war. I believe that my husband should at least have a fair chance to obtain a visitor visa to come here for a short time while we wait for his permanent visa to be issued.



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My wife and I were married in July 1997 in Ohio. In early August, my wife had to return to her native Mexico to complete her last semester of university there. Finally in January, we were able to enjoy our honeymoon in Mexico and exchanged our vows again with her family present. When we tried to return to the U.S. on January 14, 1998 at Laredo, Texas, my wife was denied entry and we were told that we had to file a petition for my wife and that all we could do was wait for it to be processed.

I met my wife five years ago in high school where she was exchange student. We were engaged one year later and have been seeing each other for short periods every two or three months ever since while we were both pursuing our university degrees. Now we are finally married and supposed to be together but we are nevertheless forced to be apart against our will.

The Cincinnati office of the Immigration and Naturalization Service had told me before July 1997 that my wife would not have a problem with returning to Mexico and then reentering after her studies. Obviously, that information was false. After we filed my wife's application, the INS told us that the processing time would take approximately 307 to 337 days. Just this month, however, we were told that the processing time has been extended to over 400 days. That time frame only includes approving a petition that will allow us to actually apply for a visa at the consulate in Mexico. Who knows how long the actual visa application will take, especially considering the fingerprinting and interviewing process.

We cannot understand why we, as a legally married couple, should be apart like this and what the purpose could be to keep husbands and wives separated from each other. I am a U.S. citizen and my wife is not even allowed to visit me while we are forcibly separated for so many months. My wife and I are both suffering tremendously because of this terrible situation and need immediate relief. I very much hope that my own government will change its policies when it evaluates visitor visa applications from spouses and children of U.S. citizens and legal permanent residents and grants them a fair chance to obtain a temporary visa to visit us here in the U.S.



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I first came to the United States from China in 1982 for graduate studies in engineering at Tulsa University in Oklahoma. I later also received my Ph.D degree and have spent the last eight years since graduation working for the oil industry. I am currently employed as a petroleum engineer with a Houston-based oil and gas exploration company.

I married my wife over two years ago in Beijing, China. As a legal permanent resident, my wife will not receive her permanent visa to join me here for many years. She is not even allowed to visit me while she waits in China for her visa to be issued.

I wrote a letter to Ambassador James Sasser in Beijing in April 1997 requesting a visitor visa for my wife. Two weeks later I received a reply from Dennis Halpin, Nonimmigrant Visa Chief at the Embassy in which he states that, "as a spouse of an American citizen or permanent resident, your wife will have great difficulty qualifying for a nonimmigrant visa to visit the United States under section 214(b) of the Immigration and Naturalization Act of 1952 as amended." He concluded, "I cannot be optimistic about your spouse's chances of receiving a nonimmigrant visa."

I submitted my application for U.S. citizenship as soon as I became eligible in February 1997. My hopes were that once I became a citizen of this country my wife would be able to join me here much quicker. I was not aware of how long it takes for citizenship applications to be processed. I have waited for almost a year and a half now and have still have not heard any news from the Immigration and Naturalization Service nor can anyone tell me how much longer it will take.

Our forced and prolonged separation is very difficult and extremely painful. My wife and I have spent a total of two months together in the last two years. My wife was so frustrated with this situation that she even threatened me with divorce. Fortunately, this did not happen.

We both want to have children and begin a new life here in the United States together. I am 39 years old, my wife is 32. We can only hope that we will be reunited soon and have a family

before it is too late. I love this country very much and I feel that it is my home. I hope the State Department will evaluate its practices and conclude that they need to be changed. It would help our situation so much if my wife could at least come and visit me here in the U.S. while we wait for her visa.



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I was 18 years old when I first came to the United States in 1984 from Jordan. I did not have a lot of money and barely spoke any English. I did have big dreams for my future, however, and was determined to fulfill them.

Ten years later I earned my Ph.D degree with honors in Electrical Engineering from an acclaimed university here in the U.S. My studies on how to improve the quality of electrical power catapulted my career and turned me into an industry celebrity overnight. My findings have been published in many different international and national journals as well as presented and discussed at various conferences. The software I developed to analyze problems facing power companies is considered the best in the business.

Soon after I finished my Ph.D, a company in Silicon Valley contacted me to offer me a position to design robots and other automation products. I moved to the Valley soon after and successfully created three different models for my new employer. My superiors praised his work as the best they had ever seen and were so impressed with my performance that they offered to sponsor me for a legal permanent resident visa or "green card." I remember that day as one of the happiest of my life, a moment I had been waiting for since I first arrived in this country. I was so excited to finally feel like I really was part of the American dream.

In May 1997, with a booming career and a bright future, I traveled back to Jordan to visit with families and friends. I also met the woman that I wanted to spend the rest of my life with there. We got married soon after. I was happier than ever before in my life.

I recall my wife asking me one day what I liked most about my adopted home, the United States. I answered that it was the only country in the world where anyone can reach up and touch the sky, where everybody has a fair chance to fulfill their dreams as long as they follow the laws and respect what this country and its people stand for.

However, I was not prepared for the Immigration and Naturalization Service's response when I applied for my wife's permanent visa. They told me that it could take anywhere from four to eight years for her visa to be issued. To my disbelief I was also told that my wife was not allowed to visit me in the U.S. during these many years of separation. I was so shocked when I realized that my wife and I would be apart for many years and I could not understand how this could be happening to my wife and I here in the United States.

My wife then applied and was accepted to a Bachelor's degree program in early childhood development and education at a well-acclaimed university in California. When she applied for a student visa at the U.S. consulate in Jordan, it was immediately denied because of her pending permanent visa application.

I have been so depressed about this situation that I was forced to quit my job. My relatives begged me to move in with them because they were so concerned about my health and emotional state. This situation has destroyed my life, my career and my new family. It seems so long ago when I was healthy, had a great job and a bright future. My whole world has turned upside down.

I feel like I am being punished by these immigration policies even though I am a legal permanent resident and a future citizen of this country. The United States is my home. This country stands for freedom, democracy and human rights and has improved the lives of millions of people all around the world. For me, the U.S. is the greatest country in the world.

I do not understand, however, who would benefit from separating my wife and I for so many years without the possibility for my wife to even visit me here for a short time. How can we speak of family values and family unity in this country when these policies continue to separate U.S. citizens and permanent residents from their spouses and children abroad.

The separation from my wife is a very high price to pay for obtaining the "green card." Despite 14 years of hard work here in the U.S., my wife is not welcomed to join me in my success and share our new life here together. I urge the U.S. government to reconsider its visa policies and consular practices concerning visitor visa and student visa applications for spouses and children of U.S. citizens and legal permanent residents.