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The Opportunity of Two Lifetimes: U.S. Immigration Process Ensures Disparate Treatment for Mexican Immigrants

By Prakash Khatriⁱ

If you were a naturalized U.S. citizen, how many lifetimes would you spend trying to be reunited legally with your close family members? If you had legally immigrated to the United States, how many years would you have to spend trying to get your parents, your siblings, or your children to join you as legal immigrants?

The answers will vary, depending on your country of origin. But, for the vast majority of naturalized citizens of Mexican origin, the answers to those questions are so extreme that it may help explain the presence of so many unauthorized immigrants in the United States.

In the debate for Comprehensive Immigration Reform, we have often heard the mantra: “We should not reward the unauthorized population in this country, while so many other law-abiding people wait in line to get their legal immigration papers through the immigration process.” Many pundits and policy makers use this rationale to argue against any comprehensive immigration reform that includes a solution for the more than ten million unauthorized immigrants in this country, two-thirds of whom are from Mexico.

On its face, our legal immigration system appears to provide an orderly means for reuniting immigrants and their close family members through the “preference immigration system”. However, data published by the U.S. Department of Homeland Security and the U.S. Department of State suggest that our immigration process is achieving the contrary — actually keeping immigrant families separated and likely contributing to the large number of unauthorized Mexican immigrants in this country!

If you were the brother or sister of a U.S. citizen and you were born in Mexico, your U.S. citizen sibling could file an I-130 petition for you by paying a \$355 fee. The United States Citizenship and Immigration Services (USCIS) will take your sibling’s money, process the petition, and advise you that you have been placed in a line to await your visa call.

But one important fact USCIS will not tell you is that, based on the large number of already registered immigrant-visa applicants from Mexico, you will have to wait approximately 131 years to reach the front of the line to receive your visa, and that is only if your sponsoring U.S. citizen relative is still alive at that time. If your relative should pass away during this 131-year-long process, you would no longer be eligible to immigrate to the United States. You would have to find another U.S. citizen relative to sponsor you again as you took your place at the back of the immigration line and started the process all over again – an unlikely scenario given standard mortal life spans!

This scenario is very real and is based on a review of the immigrant visas issued and adjustments of status for the past five years for Mexican applicants. It is also based on a review of current visa applicants from Mexico already in the queue for immigrant visas based on approved petitions by their U.S. relatives.

So, to put it another way, a Mexico-born brother or sister of a U.S. citizen must wait the equivalent of two lifetimes to immigrate to the United States. Given the choice of waiting more than 100 years for an immigrant visa that will never arrive or slipping illegally across the border to be reunited with family members, many Mexican immigrants have come to the obvious conclusion ... why wait?



A Mexican parent of a U.S. citizen can immigrate immediately, but the law does not allow any children to come with the parent. This immigrant parent would file an I-130 petition for his or her unmarried Mexican children if they are under the age of 21. *Relatively speaking*, this FB 2A immigration process appears to move at lightning speed, requiring just a four-year wait for parents and children to be reunited. However, if the children are over the age of 21, they slip back into the slow lane and will have to wait approximately 112 years to immigrate and be processed under the FB 2B category. If the parent becomes a U.S. citizen before the unmarried son or daughter immigrates, it will take 40 years for the son or daughter to immigrate under the FB 1 category. If, during this 40-year wait, the child gets married, the process will take an additional six years since the married child will be processed under the FB 3 category.

Total Annual MEXICO IMMIGRANT VISAS AND ADJUSTMENT OF STATUS Issued for Fiscal Years 2000-2009							
Year		FB 1*	FB 2A*	FB 2B*	FB 3*	FB 4*	FB Totals
2009		1,672	46,553	2,001	1,895	4,738	56,859
2008		1,507	56,465	1,586	1,859	4,535	65,952
2007		1,675	35,345	1,779	1,808	4,646	45,253
2006		1,787	52,774	1,934	1,821	4,642	62,958
2005		1,907	56,538	2,593	2,361	5,060	68,459
2004		3,003	47,000	2,683	2,988	7,111	62,785
2003		2,442	19,185	2,456	2,054	4,105	30,242
2002		2,490	47,804	2,157	1,864	5,102	59,417
2001		2,803	59,593	3,137	4,016	5,701	75,250
2000		3,515	66,373	3,017	1,598	4,512	79,015
		FB 1	FB 2A	FB 2B	FB 3	FB 4	FB Totals
Last 5 years Average Visas issued Annually		1,710	49,535	1,979	1,949	4,724	59,896
Current Approved Applicants in Queue at NVC		68,628	173,631	222,006	90,897	618,871	1,178,761
Estimated # of Years to obtain Immigrant Visa based on last 5 yrs average visas issued annually		40.1	3.5	112.2	46.6	131.0	19.7
Last 10 Years Average Visas Issued Annually		2,280	48,763	2,334	2,264	5,015	60,619
Estimated # of Years to obtain Immigrant Visa based on last 10 yrs average visas issued annually		30.1	3.6	95.1	40.1	123.4	19.4

Source: Department of State (DOS) Annual Reports, FY 2000-2009 and the DOS Annual Report of Immigrant Visa Applicants in the Family-sponsored and Employment-based preferences Registered at the National Visa Center as of November 1, 2009

*FB 1 is for unmarried sons and daughters of US Citizens regardless of age; FB 2A is for spouses and unmarried children under 21 of permanent residents of the United States; FB 2B is for unmarried adult sons and daughters over 21 of permanent residents; FB 3 is for married sons and daughters of US Citizens; FB 4 is for brothers and sisters of US Citizens.

Once an immigrant visa petition is filed, there is an odd provision in the non-immigrant visa rules that gives consular officers the discretion to deny a temporary visitor visa because the applicant is considered an “intending immigrant.” Thus, Mexicans in the immigration queue with close family members in the United



States are more often than not, de facto barred from visiting those relatives in this country until they receive their U.S. immigrant visa – virtually more than a century later!

Congress needs to act swiftly to correct this injustice to American families seeking to be reunited with relatives in Mexico. Family reunification has been one of the cornerstones of the “family based” immigration system in the United States. Unless families can be reunified in a reasonable time, meaning at the very least in *this lifetime*, Mexican siblings and children of U.S. citizens will have no choice but to continue to migrate illegally across the border. To do otherwise, to wait for the legal immigration process to grind to completion, would mean two lifetimes of separation from their close family members.

Any new legislative initiatives on immigration reform need to address this issue directly by speeding up the immigration process for Mexican immigrants with close family member U.S. citizens living in the United States. In its current iteration, the proposed legislation provides alternatives that sidestep real solutions to this problem.

To be truly effective, the legislation must eliminate nationality-based quotas. These quotas assign the same number of immigration visas to each country, no matter how populous those nations. Such an inequitable system has contributed greatly to the backlog of visas for immigrants from Mexico, which is the largest single source of U.S. immigration visa applicants. Under the quota system, siblings and children of U.S. citizens born in most countries are able to immigrate to the United States in about 10 years, while Mexico-born relatives could wait up to 131 years.

If family members decide to reunify within their lifetime rather than wait for more than a century for their visas to come through and they become undocumented immigrants in the United States, current immigration law prevents these relatives of U.S. citizens from obtaining residence even if they have applied for visas and finally reach the front of the line. If they were to return to Mexico to apply for an immigrant visa, the law prevents their return to the United States for a minimum of 10 years. This law needs to be changed.

So, back to the original question: If you were a naturalized U.S. citizen, how many lifetimes would you spend trying to be reunited legally with your close family members?

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