Immigration Policies Hurt Immigrant Families More Than They Help

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Abstract

This policy report will examine how the current immigration policy context is shaping the lived experience of Latino immigrants, families, and communities of various legal statuses. Specifically, we will assess how employer sanctions contribute to workplace violations and inhibit workers’ ability to access formal labor rights. Because many workers are also parents, exploitation prevents entire families from thriving—in the United States and in their home countries. Immigration and educational policies also deter immigrant families from incorporating fully into the country when their children who are educated here cannot reap the rewards of their hard work—despite the light of recent proposals for deferred action. In some of the debates, legislators propose temporary worker programs as a possible solution, but our report will reveal the problems of this approach by shining a light on the challenges facing immigrants with only Temporary Protected Status. We end by discussing the implications of the political disenfranchisement of non-citizens, and how the lack of a comprehensive immigrant integration program that supports immigrant civil society contributes to further inequality.

Introduction

In his landmark interview with the Spanish-language network, Univision, in 2012, President Obama conceded that one of the biggest regrets of his first term was his failure to enact immigration legislation. Though President Obama’s administration has brought some change, immigrant advocates charge that these changes are not enough. They cite the record number of deportations under this administration as clear evidence of a broken immigration system. Indeed, immigrant advocates decry the administration’s deportation of 400,000 individuals a year, push for an end to enforcement programs such as E-Verify and Secure Communities, and continue to rally in favor of the elusive “comprehensive immigration reform”—all of which would strengthen the position of immigrant families in this country.

With hundreds of thousands of immigrant families forcibly separated over the last several years, and millions more living in fear of possible deportation, stakes are high for immigrant families as we enter discussions about immigration reform. At a time when public discourse more clearly
recognizes the presence of women and children in the immigrant community, this report aims to shed light on how immigration policies and enforcement practices affect immigrants and their families.

Unauthorized Immigration in the United States

Unauthorized immigration to the United States has a long and varied history shaped by a number of shifts in immigration policy. Fifteen to 20 percent of the global immigrant stock is estimated to be undocumented (30 to 40 million.) Today, undocumented immigrants comprise roughly 40 percent of the immigrant flow to the United States. Although immigrants often come to this country as a result of complex factors that were initiated or supported by the United States—including free trade agreements and wars that devastated immigrants’ home countries and their national economies—once they become unauthorized, they find themselves in extremely vulnerable positions. Besides being low-wage workers targeted for exploitation, immigrants are also parents, raising families, and trying to create a foothold in this society.

The last few decades in policy changes and enforcement tactics have been especially harsh against unauthorized immigrants, as they have led to changes in migration and settlement patterns that make more people vulnerable over longer periods of time. The militarization of the U.S. southern border with Mexico has increased the dangers of crossing so much that the previous seasonal migration of mostly male migrants was slowed down to a trickle. While the economic recession that began in 2007 has slowed the flow of migrants, other factors such as border security have also played a role in the magnitude and method of migration (Wasem 2012). Rather than risk their lives at each crossing, many undocumented immigrants have opted to remain in the United States and settle. For those with families, bringing their relatives to settle along with them was the only way to guarantee family unity. This drastic shift in migration patterns has led to previously unseen numbers of unauthorized women and children who must also negotiate the consequences of immigration policies in their family life (Hondagneu-Sotelo 1994).
Public debates on immigration, however, have until recently focused exclusively on male adult migrants. As the scholarly literature shifts to examine the patterns and experiences of immigrant families, this report examines the complex and multifaceted consequences of immigration policies for these families. Notably, both the long stalemate of immigration reform at the federal level and the fast pace of policy changes at both the state and local levels have deep repercussions for immigrant families who must negotiate policies in a context that heavily restricts their paths to legalization.

**Immigration Enforcement and the Labor Market**

Today, new technologies facilitate limitless communication and travel, while integrated markets create global economies. Yet, behind the veneer of seamless economic and cultural integration are millions of undocumented workers who labor in the shadows. While some temporary visas are available for low-skilled migrants, their availability pales in comparison to the size of the unauthorized migrant flow. Though opportunities also exist for family reunification, the wait time can be 10-20 year for those countries of origin with the largest unauthorized migrant population. Therefore, demand for cheap labor in the United States, coupled with a lack of employment opportunities in the country of origin, has fueled much of unauthorized migration. According to the Migration Policy Institute, roughly between 15 and 20 percent of the world’s migrants are unauthorized. The vast majority of these migrants have become integral to local labor forces. The United States is home to an estimated 8 million of these unauthorized workers, who make up 5.2 percent of the U.S. labor force, and come primarily from Mexico and Latin America (Passel 2009; Passel and Cohn 2011).

The majority of undocumented immigrants in the United States are men in prime working ages; lower proportions of unauthorized are children or elderly. Yet, these figures are deceiving given that undocumented status is a fluid state. For example, over three hundred thousand immigrants currently live in the United States under Temporary Protected Status (TPS)—a deferred action that grants temporary relief from deportation and a work permit to immigrants from recognized countries that have undergone a natural disaster or conflict ( Hoefer et al. 2011; Simmelink 2011). TPS typically spans periods of 18 months, and its renewal is left to the whims of Congress.
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Consequently, these immigrants frequently slip in and out of legal status depending on the political landscape. This uncertainty can also facilitate labor exploitation and block social mobility, with particular detriments to women and workers in the informal economy (Salcido and Menjívar 2012).

In addition to being over-represented in low-wage industries, undocumented workers are amongst the most vulnerable to workplace violations such as wage theft, sexual harassment, and occupational injury. Seventy-five percent of the day labor workforce, for example, is undocumented. In a recent survey, half of day laborers reported being denied payment altogether; a third had worked more hours than agreed to with their employer; and over a quarter had been abandoned at a worksite (Valenzuela 2006). Finding work, dealing with exploitation, and securing fair wages, therefore, are central matters for immigrants and their families.

Indeed, across industries undocumented workers are disproportionately employed in riskier occupations and industries and suffer a disproportionate share of worker fatalities (Loh and Richardson 2004). The Department of Labor reports that the top wage and hour violators are concentrated in low-wage sectors commonly populated by undocumented immigrants, such as agriculture, restaurants, garment manufacturing, and janitorial services (Department of Labor, 2007). Furthermore, a recent report by the AFL-CIO highlights the common practice of employers threatening to call immigration authorities if workers pursue claims (Avendaño and Hincapié 2008). Unsurprisingly, a number of other studies have found similar patterns of exploitation (e.g., Foo 1994; Gordon 2007; Nissen, Angee and Weinstein 2008).

The situation for undocumented workers and their families is especially complex given what Griffith (2012) has dubbed, “immployment law.” On the one hand undocumented immigrants are not permitted to legally reside or work, yet most of them find employers ready and willing to hire them. Under the Immigration Reform and Control Act (IRCA) of 1986, which instituted employer sanctions that penalize employers who hire undocumented workers, all employers are required to submit documents to establish the identity and work authorization status of new employees. More generally, a complex set of federal and state laws working at cross-purposes creates a confusing and contradictory context for undocumented immigrants and their families.
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The last two decades in particular have given way to a considerable number of challenges for undocumented workers. The 2002 Supreme Court ruling in *Hoffman Plastic Compounds, Inc. v. NLRB* was especially harmful, precluding undocumented workers from key remedies of job reinstatement and back pay.

Even though undocumented workers are subject to deportation, they nonetheless are eligible for a limited array of labor protections at both the federal and state level (e.g. the National Labor Relations Act - NLRA 1935, the Federal Labor Standards Act - FLSA 1938, Title VII of the 1964 Civil Rights Act, and the Occupational Health and Safety Act 1970). In 2008 the Supreme Court denied certiorari in *Agri Processors, Inc. v. National Labor Relations Board*, letting the lower court ruling stand and reasserting an undocumented worker’s eligibility to participate in union elections. Although this decision affirmed the premise that undocumented immigrants have access to basic workers’ rights (Motomura 2010), other actions, such as the 2011 National Labor Relations Board ruling in *Mezonos Maven Bakery, Inc.*, have been more restrictive. In Mezonos, the board concluded that undocumented workers were ineligible for back pay remedies even in cases where the offending employer knew about their unauthorized status when they hired them (NLRB 2011). The current environment of “rights without remedies” has created a culture of fear among undocumented workers, furthered their exploitation, and stifled collective bargaining efforts (Berman 2004; Calderon-Barrera 2003; Fisk and Wishnie 2005; NELP and MALDEF 2003; Walsh 2003; Wishnie 2007). It has also permitted major disparities to continue beyond the arena of union organizing.

Memoranda of understanding between federal immigration and labor standards enforcement authorities have attempted to address the interference of immigration enforcement on worker rights. A series of agreements mitigate the sharing of information between agencies, and provide for prosecutorial discretion in cases involving labor rights disputes. However, several Immigration and Customs Enforcement (ICE) operations, such as those that ensnared hundreds of workers at a poultry plant in Postville, Iowa, and another at a transformer factory in Laurel, Mississippi, in 2008, have indeed disrupted ongoing organizing campaigns and labor violation investigations. In each of these cases, immigrant families bared the brunt of the short- and long-term consequences of such enforcement tactics (Thronson 2008).
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Though worksite raids have officially slowed under the Obama Administration, other controversial “interior enforcement” tools such as the “Social Security No-Match letters” – (which alert employers to the presence of a worker whose Social Security Number cannot be verified) and the “E-Verify” program (an Internet-based employee eligibility verification system that is currently mandatory for any federal contractor) have contributed to worker exploitation. Critics argue that both programs grant employers considerable power to engage in union-busting and deter workers from speaking up about workplace violations. In all of these cases, workers are also deterred from fulfilling their responsibilities and goals as parents and family members.

This is not to say that undocumented workers do not speak up. However, even those that do, are more likely to encounter employer intimidation. To examine this process of claims-making, Gleeson conducted an original survey of 470 claimants seeking assistance from one of six workers’ rights clinics in the San Francisco Bay Area that served a large immigrant population. Findings revealed that structural challenges make it difficult for workers to access workplace rights on their own due to: 1) disjointed bureaucracies that have few institutional incentives to coordinate their efforts, 2) a system of employer penalties that incentivizes litigation and does not effectively address repeat employer offenders, and 3) statutes that leave vast numbers of workers without protection.

We asked foreign-born survey respondents about the climate of fear at their workplace. Almost no claimants (3 percent of both foreign-born and undocumented workers) had contended with employers who threatened to call immigration authorities. A similarly negligible level reported ever experiencing a raid at their workplace. However, 37 percent of those surveyed were undocumented. Ninety percent of these workers, as well as 80 percent of documented respondents agreed that “workers who don’t have papers are more targeted for workplace abuse.”

During this research, we also spoke with a sample of injured undocumented workers in agriculture, an industry where at least half of workers are estimated to be undocumented. Many are also seasonal and subcontracted employees. Undocumented status also amplified other detrimental workplace dynamics such as at-will employment, lack of union representation, access to health insurance, and job security. Legal status also certainly shapes workers’ access to
the job market, their willingness to speak out against workplace violations, workers’ capacity to navigate the claims bureaucracy, and ultimately the inability to access benefits afforded to disabled workers who are no longer able to return to work. Each dynamic in turn determines opportunities for well-being and mobility of immigrant families relying on the wages and consistent employment of undocumented workers.

The Economic Precariousness of Undocumented Workers and Their Families

In addition to the 5.2 percent of U.S. workers who are undocumented, there are a substantial number of undocumented children in the United States, and undocumented workers are often embedded in mixed-status families. The number of unauthorized children has remained steady from an estimated 1.6 million in 2003 and 1.5 million in 2008. Thirteen percent of unauthorized immigrants are children (as against 27 percent of U.S.-born and 6 percent of legal immigrants). However, according to 2008 estimates, close to three-quarters of the 5.5 million children of unauthorized immigrants (73 percent) were born in the United States. Nearly half (48 percent) of unauthorized immigrants live with their children, and this is true particularly for women. All of this signals the large proportion of “mixed status” families (i.e., families with immigrants in various legal statuses) (Passel and Cohn 2009; Passel and Cohn 2012) that rely on the wages and consistent employment of undocumented workers.

The consequences of the various legal decisions and enforcement practices against undocumented workers we detailed earlier in this report are present and directly influence the well-being of families. Undocumented workers earn far less than their native-born counterparts (a median household income of $36,000 versus $50,000) and do not experience the same income mobility over time as do other immigrants. As a result, a third of the children of unauthorized immigrants live in poverty, nearly double the rates for those with U.S.-born parents (18 percent). While long-time legal immigrants are just as likely as U.S.-born individuals to be homeowners, the same is not true of long-term unauthorized immigrants. Unauthorized immigrants are also at a high risk of being uninsured, with nearly 60 percent lacking health insurance in 2007 (nearly twice the proportion of legal immigrants and four times the proportion of U.S.-born adults.) While the children of unauthorized immigrants fare better than their parents, they are still
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significantly disadvantaged when compared with their U.S.-born and legal resident counterparts (Passel 2009).

Unauthorized parents are working to raise and support children in what has been an increasingly harsh political and legal context that powerfully impacts their prospects for economic and emotional well-being. Immigration laws passed in the 1990s—particularly, the Illegal Immigration Reform and Immigrant Responsibility Act and the Personal Responsibility and Work Opportunity Reconciliation Act (both passed in 1996)—have drastically reduced immigrants’ access to social benefits while blocking paths to legalization and expanding the grounds for deportation of documented and undocumented immigrants (Menjívar and Abrego 2012). Moreover, after the attacks of September 11, 2001, new agreements between the Immigration and Customs Enforcement (ICE) agency and local law enforcement spread across the country, facilitating a dramatic increase in racial profiling while also weakening mechanisms that previously helped maintain community security.

Under these circumstances, immigrants and their families face steep hurdles in their attempts to become upwardly mobile. Here it is worth underscoring the often-overlooked point in policy discussions, that immigration laws affect more than just unauthorized immigrants. For example, economic precariousness resulting from limited job opportunities and rampant employer intimidation of unauthorized workers, in turn, has multiple and profound consequences for workers’ entire families. Not unlike other members of the working poor, therefore, families that rely on the limited income of unauthorized workers can usually only afford to live in areas of dense poverty (Chavez 1998). Low-performing schools, high rates of crime, and few recreational activities are common in these communities, blocking immigrants’ paths to positive integration over the long-term (Abrego and Gonzales 2010).

Unlike other working poor people, however, undocumented immigrants and their families have few institutionalized resources to help them overcome the challenges of poverty. For example, while undocumented workers are generally eligible for workers’ compensation benefits, they are ineligible to access long-term welfare state benefits such as unemployment and federal social security disability payments. Similarly, while unauthorized children are legally permitted to
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attend public school in grades K-12, different states have various policies that can prohibit or make college too expensive to access, thereby also blocking both their own, and their family’s ability to thrive.

One of the more damaging effects of U.S. immigration policies in immigrant parents’ lives is the fear that shapes their decision to not access resources that would benefit their families. After an ICE raid in their community, for example, parents are likely to keep children home from school and generally avoid interacting with anyone who represents a public agency. The fear of deportation also keeps these immigrant parents from dealing with public health workers who may disclose their status to immigration authorities. In this way, parents risk their own health and, potentially, that of their children, even when the latter are U.S. citizens who legally have access to these very resources. The lack of access to social services is particularly damaging for these families because these immigrant parents’ jobs rarely provide benefits, like health insurance.

Immigration policies not only economically impact unauthorized immigrants and their families, but also lead to long-lasting challenges in other areas of family life. Given the heavy restrictions for legal migration, for example, many immigrant families are likely to have spent some time apart, migrating in stages (Suárez-Orozco, Todorova, and Louie 2002). In many cases, this is because families can only afford to send one migrant at a time. After one or both parents migrate, it may take several years for them to earn enough money to finance their children’s migration (Dreby 2010). And even in cases when immigrants have legal status, the multi-year backlog on immigrant visa applications can take over a decade to complete (Menjívar 2006). That is, even when immigrants do everything in their power to follow the laws, they still may wait many years before they can legally reunite with their families.

The Effect of Unauthorized Status on Family Relationships

Such restrictive immigration policies and bureaucratic backlogs can also create tension and added burdens for families whose members are already structurally vulnerable. Beyond the usual family challenges of communicating and working together across generations, unauthorized
immigrant parents and children may have to first work at establishing a family relationship in the likely case that they were separated and reunited after years (Suárez-Orozco, Bang, and Kim 2010). Mario, who came from Guatemala at age 6, still struggled to adapt during his teenage years. He shared the painful unresolved issues he associated with his father’s migration when Mario was only a few months old:

It’s not a good feeling. I mean, I knew I had a father, but, it was just, he wasn’t there … It’s still not easy getting along with my dad. We disagree a lot … I was just thinking too highly of my dad, because I never knew him, you know. Things are just not how I figured … I’ve never been really attached to my dad because of that reason … I guess he expected me to, you know, be like, “wow, my dad” (in dreamy tone). But it was just like, how could I show that if he wasn’t there? You know.

In Mario’s situation, as in many others, being apart from parents over several years can lead to the development of idealized and unrealistic expectations. It is difficult to establish loving bonds and meaningful communication when parents and children have not been able to reside under the same roof, or even in the same country, for years.

As is evident in Abrego’s research, even short separations can be difficult for young children. Luis, whose parents migrated from Mexico to the United States during his early childhood, only spent a few months with his grandmother before his own migration at the age of four. He was separated from his father for years, but only apart from his mother for a few months. Still, as a young adult, Luis felt uneasy about his relationship with his mother:

Those 3 months made a huge difference. I didn’t remember her. It felt like she wasn’t my mom. You know what I mean? It felt like she was someone else. And it was only 3 months. I remember like when I used to get mad at her, if I was in trouble and she was telling me what to do, in my mind I was like, ‘what if she’s not my mom? What if she’s another person?’… I mean, that’s your logic at that age.
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These separations, particularly during key formative years, can confuse children and make them question their parents’ authority. As restrictive immigration policies prolong separation, long-awaited reunifications are likely to involve difficult transitions that further complicate family dynamics. Children often report that feelings of abandonment and resentment surface, as it is easier to blame parents for their decision to leave, particularly when it is not clear that immigration policies and backlogs are more accurately to blame.

After families have spent many years together in the United States, there are still specific hurdles that arise when one or several members are unauthorized. In particular, the different generational experiences of being undocumented can lead to tension when parents, spouses, and children disagree about how to approach their lives and their actions in the United States. These intergenerational conversations must take place in a social and legal context that sets parents and children up for very different socialization experiences (Abrego 2008; 2011; Gleeson and Gonzales 2012). Families with undocumented children who grow up in the United States face unique challenges. Undocumented youth who can legally attend public school through the end of high school are socialized mainly through school, where until their late adolescence, they live much like their authorized and US citizen peers. In these cases, their experiences can lead them to develop an understanding of their legal status as a source of stigma, and this is very different than their parents’ perspective.

Undocumented immigrant youth also face numerous challenges throughout adolescence. For example, many struggle with the shame of not being able to drive a car, date, go clubbing, or travel abroad like the rest of their peers (Gonzales 2011; Gonzales and Chavez 2012). Unlike their undocumented parents, moreover, undocumented youth have adapted socially to U.S. social norms and can more easily fit in. This allows them to participate in activities that their parents consider too risky, thereby adding tensions to family dynamics when parents disapprove of their children’s behavior. The consequences of unauthorized status—being excluded from otherwise typical experiences for people their age—can be deeply frustrating for young people.

But what can be especially hurtful for families is that sometimes, rather than blaming the legal system that prevents them and their families from thriving, youth are tempted to blame their
parents. Ultimately in these situations, despite their parents’ best efforts to provide opportunities for a better life in the United States, many young people in immigrant families have a difficult time finding and taking advantage of opportunities for upward mobility.

**Debilitating Fear**

The most overwhelming repercussions of immigration policies for immigrant families lie in the deep-seated fear that permeates so many of their lives as a result of increased enforcement and changing policies at the federal, state, and local level. Even in the process of daily survival, for example, immigrants’ families must also grapple with changing laws and implementation practices that have the potential to devastate their economic and emotional stability. Before President Obama’s administration, the Department of Homeland Security practiced enforcement most commonly through workplace raids. At the height of those raids, mothers and fathers worried daily that they could leave to work and be detained in the middle of their workday.

In recent years, particularly since President Obama’s first administration, the Department of Homeland Security has relied on programs such as 287(g) and Secure Communities to increase communication between local authorities, the FBI, and Immigration and Customs Enforcement (ICE) agencies to ramp up immigration enforcement tactics beyond workplace raids. Deputizing local sheriffs to act as ICE agents and enabling police to look into the legal status of all those with whom they come into contact, these enforcement practices have led to vastly increased numbers of detentions and deportations. Under current enforcement practices, DHS reports about 400,000 immigrant deportations annually since 2008. These record numbers of deportations, moreover, are taking place alongside a wave of xenophobic, hateful speech, and growing animosity against Latino immigrants (Chavez 2008; Menjívar and Abrego 2012), all of which inevitably affects families’ well-being, whether or not all members are unauthorized, and even when one or more are U.S. citizens through birth or naturalization. The new tactics mean that even routine traffic stops and a phone call to 911 to report a crime can quickly lead to ICE’s involvement and, ultimately, to the tearing apart of hundreds of thousands of families.

Indeed, the wide reach of immigration enforcement practices has been unequivocally devastating for families. The fear that these practices generate informs various aspects of immigrants’ and
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their families’ lives. For example, outside of formal channels for assistance, it can be very difficult to establish social networks when seeking aid. Not knowing who they can trust with their secret, and the fear of potential detention makes many unauthorized families worry about their everyday interactions with strangers, and likely prevents greater communication within their communities. In this process, it is easy to develop feelings of exclusion that in some cases can also put these families at risk of being targets of crime. As Norma, a Mexican first generation undocumented immigrant mother in Los Angeles, sums it up, “we are here and we know this is not our country. They don’t want us here, so you have to be careful. Always be careful.” Because of the current level of immigration enforcement, immigrants are made to feel constantly insecure, unaware of who they can trust, and unable to rely even on institutions that should represent safety for all.

How U.S. Citizens Also Suffer

Beside the 500,000 undocumented children in the United States growing up in families with at least one undocumented parent (Taylor, Lopez, Passel, and Motel 2011), an additional 4.5 million U.S. citizen children are growing up in mixed status families in which at least one of their parents is undocumented. Significantly, for reasons of border militarization and restricted paths to legalization, the latter figure more than doubled between 2000 and 2011 (Taylor, Lopez, Passel, and Motel 2011). This means that U.S.-born citizens are not entirely protected from the consequences of anti-immigrant laws – particularly when their loved ones are undocumented. By 2011, among the record number of deportees, a full 22 percent of undocumented parents were parents of U.S. citizen children (Wessler 2011).

Mixed status families share many of the same challenges and experiences as undocumented families, but also have unique tensions and possibilities as a result of different legal statuses of their members. Immigration policies can play out in numerous ways, partly depending on the role of the undocumented persons and their relationships relative to others. For example, unauthorized status will have different repercussions in a family that includes an unauthorized parent and U.S. citizen children versus a family that includes a U.S. citizen parent and siblings with various statuses.
Among the 4.5 million U.S. citizen children growing up in mixed status families, the chances of undocumented parents being deported have increased considerably over the last few years. With greater communication between local law enforcement and federal immigration agencies, undocumented parents caught during a routine traffic stop, for example, can be detained and deported—for having a broken taillight or driving without a license. In these cases, parents may be detained for simply driving between home and work or going to drop off or pick up their kids at school. Such increased targeting adds great stress for families.

Indeed, this level of seemingly random and punitive enforcement spreads insecurity through entire families, whether or not all members are unauthorized. This is evident in the narratives of children of immigrants who grew up with one or two undocumented parents. Even in Southern California, a region generally known to be welcoming to immigrants, young adults report growing up with great fear. 22-year-old Mayra, for example, was born in the United States. As a U.S. citizen, immigration policies should not pertain to her. And yet, the topic made her nervous; her mother is an unauthorized immigrant from Guatemala. As she explained:

Talking about my mom is hard. It’s like there’s this whole cloud of, like, a whole heaviness (motions as though she is carrying weight on her shoulders and above her head), I don’t know, of things that I was never allowed to say out loud. If she was ever late, if she wasn’t back from church or from work right on time, we all worried ... Nobody said anything, but we were all thinking it: what if she got caught? ... That weight, it’s just fear, I guess ... it really sucks to grow up like that.

Experiences like Mayra’s are proof of the anguish that citizen children experience as a result of the current implementation of U.S. immigration policies. Even though she was born a U.S. citizen, the fear of detention and deportation—some of the gravest repercussions of immigration policies—also affected her throughout her life and in very powerful ways.

These fears are validated by statistics. Those immigrants who are detained and deported are now likely to include members of mixed status families—particularly the parents of U.S. citizen
children. When parents are deported, children are often placed in foster care with little regard for principles of family unity that presumably guide both immigration and child welfare policies (Wessler 2011). Such was the case of Encarnación Bail Romero, a Guatemalan immigrant to the United States (Brané 2011; Thompson 2009). In 2007, while working at a poultry plant in Missouri, immigration officials detained Bail Romero in a workplace raid. Her son, Carlos, who was then only 6 months old, spent some time with different caretakers, until a couple approached her about adopting him. She was adamantly against this option, but helpless from within a detention center in another state. Her lawyer, who only explained the situation to her in English (a language she did not understand), failed to protect her. Unable to leave detention, she later learned that a judge used her absence in court for a hearing about Carlos’ future as evidence of abandonment. In response, the judge terminated her parental rights and Carlos, who was a U.S. citizen by birth, was legally adopted by another family.

Although Ms. Bail had been trying to regain custody of her son for over five years, immigration laws stood against her and she finally and irreparably lost custody in 2012. Scores of deported immigrant fathers have faced similar charges of deserting their children, risking losing them to the foster system, and ultimately had to face the painful prospect of never seeing them again. Other research has also extensively documented the challenges facing U.S. citizen children whose only chance for family unity required their departure from the United States as well (Dreby 2012; Passel et al. 2012). The Bail case, while extraordinary, reflects an increasingly common experience in the current historical moment: the legal system denies undocumented immigrants the same parental rights that are guaranteed to other parents—even when U.S. family laws would otherwise aim to keep parents and children together. Understandably, knowledge of cases like these instills great fear in immigrants.

The deeply divisive and largely misinformed U.S. national debate about undocumented immigrants and immigration laws often masks these broad repercussions of ramped up enforcement for immigrant families. Such harshly restrictive immigration policies are, therefore, harming individuals and their entire families, whether or not all of the members are unauthorized (Menjivar and Abrego 2012). Thousands of families experience uncontained anguish resulting from the current implementation of U.S. immigration policies. Even U.S. citizens, either by birth
or through naturalization, live with the fear of detention and deportation—some of the gravest repercussions associated with undocumented status—of their closest family and friends. Even though they are not the targets of this legal enforcement, by having to negotiate these repercussions, families have a heavy added burden shaping all of their members. These experiences, moreover, have long-term consequences for family communication and well-being.

All of the repercussions associated with immigration enforcement also directly undermine families’ efforts to move out of poverty. Like parents in other working poor families, undocumented parents often work in low-paying, unstable jobs with few to no benefits for long periods of time. And like other children who grow up in poverty, (documented and undocumented) children of undocumented immigrants also face high levels of danger, few educational opportunities, frequently lack health insurance (Fortuny, Capps, and Passel 2007), and have limited access to bank accounts and other financial services. Due to fear of deportation, undocumented parents also often avoid applying for those benefits they or their children may be eligible for, such as food stamps and Medicaid (Abrego and Menjivar 2011).

**Undocumented Status and Family Separation**

Immigrants and their families may also experience the harsh consequences of immigration policies that can prevent them from reuniting across borders over several years. Long-term separation as members of transnational families, in which core family members live across borders, is not uncommon among Mexican, Central American, and other Latin American immigrants. In these cases, unable to survive in their countries of origin—largely as a result of U.S. funded wars and neoliberal policies, including free trade agreements—parents opt to migrate to the United States in search of work to support their children from afar. The vast wage inequalities in the region make this a likely strategy. Once they arrive in the United States, however, immigration laws restrict their chances for family reunification, making for prolonged family separations—often for at least a decade (Abrego 2009).

It is difficult to enumerate how many people live in these types of arrangements, but it is a notable proportion for groups from various countries throughout Latin America (Abrego 2009;
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Dreby 2010; Hondagneu-Sotelo and Avila 1997; Pribilsky 2004; Schmalzbauer 2005). In El Salvador, for example, it is estimated that anywhere between 16 and 40 percent of children in various regions of the country are growing up without one or both parents due to migration (García 2012; Martínez 2006). For these families, U.S. immigration policies are likely to play out differently than for families that are forced apart through deportation or who live together in fear.

Transnational families may be constituted in a number of different ways. Here we focus on families in which parents migrated to support their children who remain in the home country. In these cases female relatives—mothers, grandmothers, aunts, or older sisters—typically care for children. Parents work in the United States to send remittances to families who often rely solely on these monies to survive. Each member of the family, then, experiences illegality differently. Unauthorized migrant parents feel the brunt of the criminalization and exclusion associated with unauthorized status beginning from the moment they leave their home. Once in the United States, unable to reach their financial goals, even when they work multiple jobs and overtime, immigrant parents experience illegality as frustration and fear of deportation.

Meanwhile, back in their home countries, caregivers and children suffer the migrants’ absence and lack of resources due to undocumented status. When migrants are able to enter the United States and remain apart from their families for years, their relatives continue to grapple with the consequences of U.S. immigration policies—even if they do not always locate the source of their struggles within immigration laws and their implementation. Much of the tension for transnational families who rely on undocumented or only temporarily protected family members comes from the limited sums of remittances, which comes as a result of oftentimes being employed in sectors that are dangerous and exploitative (Holmes 2007; Milkman, González, and Narro 2010; Walter, Bourgois, and Loinaz 2004). For transnational families, these limited remittances provide little support to improve material circumstances in their lives. Workplace injuries may also keep parents from fulfilling their financial goals. The results often include continued poverty and increased tension when mothers and fathers cannot live up to their parental expectations. With the expectation that separation was supposed to lead to financial stability, children in transnational families can become hurt, confused, and resentful. The
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severity of suffering is based on a sense of abandonment that many children feel because they have little to show for the family sacrifice of separation.

Conclusion

Despite the common assumption that immigration laws target only undocumented immigrants, they in fact intimately and deeply impact a larger proportion of immigrants and particularly Latinos. These policies contextualize immigrants’ ability to integrate and be upwardly mobile, and shape their long-term relationships both in the United States and abroad. They impact family dynamics as well—forcing parents and children to live across borders over a prolonged period; multiplying families’ vulnerability when they are all undocumented residing together; or complicating family relationships when only one or a few members are in tenuous statuses but they reside with others who have more rights and protections. Fear of deportation limits parents’ authority while adding responsibilities for parents and children (Abrego and Menjívar 2011). Consequently, children have to carry part of the burden—sometimes financially, often emotionally—to help the family survive despite the limitations. Immigration policies, moreover, prevent all parents from accessing social services and other resources to help their children achieve optimal well-being.

In the long term, undocumented status keeps families in the shadows, avoiding many of the very institutions that have traditionally benefited immigrant families (Menjívar 2006). In these cases, immigrants and their families experience the implementation of immigration policies as extreme vulnerability that can penetrate even their most intimate relationships. Moreover, the disenfranchisement of undocumented immigrants from the formal political realm excludes their voice from important policy discussions and leads to political underrepresentation (Montforte and Dufour 2011). This makes immigrants and their families vulnerable, as they must rely on others to represent their interests in policymaking.

In many respects, unauthorized immigrants and their families are already important members of U.S. society—even if only on the lower rungs of the economic ladder. They contribute to our economy, their children are educated in our schools, and all family members envision their
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futures here. However, these families currently have no available structural paths out of poverty. In a cruel twist, parents’ efforts to secure their families’ survival by migrating are met with legal obstacles. Current policies restrict their ability to thrive in this country and, for transnational families, to pull children out of poverty in their home countries as well. Without full legal rights, these families are barred from the very mechanisms that have ensured high levels of economic and social mobility to other immigrants throughout U.S. history (Abrego 2006; Menjívar and Abrego 2012). Legalization, therefore, is necessary to give Latino families a chance at success in this country.
References

Abrego, Leisy J. 2006. "'I Can't Go to College Because I Don't Have Papers': Incorporation Patterns of Latino Undocumented Youth." *Latino Studies* 4:212-231.


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Endnotes

1. These migrants’ presence and labor is unsanctioned by host governments. The terminology used to describe them is a point of major debate among academics, journalists, and politicians alike. Here we opt to use the terms “unauthorized” and “undocumented” to highlight the fluid nature of legal status.

2. Formal estimates of unauthorized immigrants refer to “foreign-born individuals who entered without inspection or who violated the terms of a temporary admission and who have not acquired LPR [legal permanent resident] status or gained temporary protection against removal by applying for an immigration benefit” (U. S. Department of Homeland Security 2008).

3. By far, the occupation with the largest share of unauthorized immigrants is farming (25 percent), though significant levels are also found in building grounds-keeping and maintenance (19 percent), construction (17 percent), food preparation and serving (12 percent), and production (10 percent) (Passel 2009).

4. Chief Justice William Rehnquist, writing for the majority, stated that even though the facts in Hoffman affirmed the employer’s culpability, granting full rights to undocumented immigrants “not only trivializes the immigration laws, [but] also condones and encourages future violations.” In his dissent, Justice Stephen Breyer countered that the decision would grant egregious employers “immunity in borderline cases” and ultimately encourage employers to “hire with a wink and a nod those potentially unlawful aliens.”[iv]

5. While the Social Security No Match Letter program was suspended pending a legal challenge, it was renewed in 2011.

6. Surveys were conducted from June 2010 through April 2012, and span four workers’ rights clinics in the San Francisco Bay Area: San Francisco (97), Oakland (61), Berkeley (58),
Respondents were surveyed while waiting for their consultation, with the understanding that they were free to opt-out and that their participation would in no way affect their claim. A subset of workers were then interviewed 12-18 months following their initial claims. Typical issues clinic staff frequently see include wage theft, discrimination, sexual harassment, and health and safety violations—all of which then shapes workers’ family lives and mobility.

7. This demographic reality that is the result of a long history of direct labor recruitment followed by massive deportation campaigns (Calavita 1992; Zahniser, et al. 2012).