



PUBLIC JUSTICE *REVIEW*

A PUBLICATION OF THE CENTER FOR PUBLIC JUSTICE

FAMILIES, NATIONS, AND IMMIGRATION: WHO COMES FIRST?

Vol. 8, 2018

Will Family-Based U.S. Immigration Survive?

Meredith Owen

Meredith Owen is Policy Counsel for the Immigration and Refugee Program at Church World Service, one of nine refugee resettlement agencies in the U.S. and a global non-profit comprised of 37 Christian denominations and communions, together representing approximately 30 million people across the country.

An Introduction to U.S. Immigration and Families

The family unit is the foundation of our nation. Families are the cornerstone of a community, and they are what holds us together. As such, it is family-based immigration that leads to successful, strong American communities. Families, brothers, and sisters are the support structure that helps run small businesses, care for children, and foster integration.

The current family reunification system has been in place since 1965, after the passage of the Immigration and Nationality Act. The law changed a decades-long discriminatory immigration system that favored Nordic Europeans and excluded those from elsewhere in Europe such as Italians and Jews, and completely banned Arabs and Asians. But family immigration remains severely limited. U.S. citizens and legal permanent residents (LPRs) are only able to sponsor close family members. U.S. citizens can sponsor their spouse, children (minors and adults), parents, and siblings. LPRs can sponsor only their spouse and children (minors and unmarried adults only). Cousins, uncles, aunts, grandparents, and other extended family members are not eligible to immigrate to the United States under the family-based immigration system.

Our current family immigration system already subjects families to prolonged separation. The U.S. immigration system limits the number of immigrants who are admitted each year. In the family-based system, there are family-based categories that limit family visas to spouses, children, parents, and siblings, as well as annual visa quotas that limit the number of visas available each year among each family-based category, known as annual visa quotas. Because of limits on visas, most of the family-based categories have substantial backlogs. The annual visa quotas keep the vast majority of close family members waiting years or even decades for a green card. For example, in fall 2017, approximately 4.7 million family-based applicants were waiting for visas.

Being able to see your family members, hold your children, and live with your family are the most basic of family values. In addition, family-based immigrants make valuable contributions to the U.S. economy as well as to our local communities. Case studies have [found](#) that extended immigrant families and close-knit immigrant communities facilitate the economic integration of new immigrants, promote investment in U.S. human capital, and encourage the development of businesses. For example, immigrant families often rely on family members to help start small businesses, to offer child care, and to combine resources for human capital investments of family members. In Silicon Valley, [more than half of new companies](#) were started by immigrants, many of whom came to the United States with family-based visas. Congresswoman Zoe Lofgren has [noted](#): “Like eBay, Intel and Yahoo!, Google was founded by an immigrant. But it’s worth noting that none of the founders of these companies came to the U.S. because of their skills.” Particularly given the lack of public policies for new immigrant integration, families play a key and traditional role as the integration institution – such as creating employment opportunities, access to credit, and other support. Family-based immigrants contribute to our domestic economic growth, play a role in our current and future labor force, improve our communities, and are among the most upwardly mobile segments of the labor force.

Challenges to the Integrity of the Family Today

1. *Family Detention*

In response to many people fleeing violence in Central America and seeking refuge in the United States, the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE) opened detention centers to hold mothers and their children facing deportation back to the countries they fled. Approximately 60,000 families arrived at the southwest border in 2014 seeking safety, and many were placed in prison-like detention facilities in remote areas, with little access to legal and social services, often experiencing widespread human and civil rights violations.

At the family detention center in Taylor, Texas, known as “Hutto,” for example, the facility held mothers and fathers and their children. Freedom of movement was limited within the facility, there was limited access to the outdoors, and initially, children received only one hour of education a day. There were also ongoing reports of medical and mental health issues, notably sustained weight loss and depression.¹ Today, the Hutto detention center imprisons asylum-seeking women and continues to face allegations of [sexual assault](#) against asylum-seekers and [retaliation](#) against sexual assault survivors who publicly report the abuse. Over a thousand mothers and children were held in these centers in Texas and Pennsylvania in 2015, and today there are three immigration jails holding families: Berks Family Residential Center in Berks County, Pennsylvania (Berks), Karnes Residential Center in Karnes City, Texas (Karnes) and South Texas Family Residential Center in Dilley, Texas (Dilley).

Reports of abuse and deplorable conditions in immigration detention are not new. For example, a recent [review](#) of ICE investigations into deaths in detention found that in nearly half, medical neglect or the violation of medical standards were a contributing, or even causal, factor. Yet, the detention facility passed inspection in all but one case, both immediately before and immediately after deaths. ICE’s [opacity](#) in custody operations makes it that much more difficult to ensure transparency, oversight, and accountability.

Family detention is inhumane and unjust. The mothers, babies, toddlers and teens held there face limited access to legal services, a lack of enforceable standards, insufficient oversight, and inadequate medical care. Reports of subpar conditions and abuse, such as children losing weight, inappropriate disciplinary tactics including threats to separate families if children misbehave, and deteriorating psychological and mental health, are [documented](#).

In addition, DHS is legally mandated to place families with children in the least restrictive setting possible, pursuant to the 1997 settlement in *Flores v. Reno*. Family detention violates this settlement and the other legal precedents that demand the government actively and continuously seek the release of each child in custody. Our response should be a [humanitarian and compassionate one](#) that ensures families are released to family, sponsors, or community-based case management programs and refers children and families to specialized medical, educational, and legal support.

2. Family Separation at the Border

President Trump's administration has also begun pursuing an additional policy of family separation. This is the practice of locking up immigrant parents separately from their children, intended to punish the parents and coerce them into abandoning their claims for international protection. Recent reports have surfaced that show Customs and Border Protection (CBP) separating children from their parents at the border. Many of our faith traditions also call on us to safeguard the well-being of children in particular. Tearing children away from their parents, absent a documented child protection concern, is unconscionable.

To threaten families who are fleeing harm and legally seeking protection at our borders with family separation in order to deter their migration is cruel and unjust. As discussed above, similar policies of detaining asylum-seeking families to deter their migration have already been found by a U.S. court to violate U.S. law. U.S. policies of deterrence have also been found to have no impact on individuals fleeing violence or persecution from Central America. In fact, DHS has long had community-based alternatives to detention, particularly to mitigate flight risk and support compliance with immigration requirements and court proceedings. Family separation will cause incredible trauma to children and lead to prolonged separation from their parents.

3. Capricious Terminations of Protections for Vulnerable Populations

A final challenge to the integrity of the family is the termination of certain humanitarian protections, under which applicants voluntarily submitted, only to have the rules change after the fact. Take for example, the Central American Minors-Affidavit of Relationship program.

In November 2017, the administration terminated the Central American Minors-Affidavit of Relationship program (CAM-AOR) which provided a safe and orderly path for children from El Salvador, Guatemala, and Honduras seeking to reunify with their lawfully present parent in the United States. The abrupt termination of the program left thousands of children in limbo without an alternative process to protection. In addition, the administration has recently terminated Temporary Protected Status (TPS) designations for Sudan, Nicaragua, Haiti, and El Salvador.

TPS is a lawful, temporary status granted by DHS to nationals of countries that experience natural disasters, armed conflict, or other extraordinary conditions that make return unsafe. Around 90% of

children who entered the United States through the CAM-AOR program have a TPS holder parent in the United States.

Finally, as of March 31st, the halfway point for fiscal year 2018, the administration has resettled just over 10,000 refugees, less than half of the number of refugees we should have resettled to meet the 45,000-refugee admissions goal. This amounts to a broken promise to tens of thousands of refugees who face the most rigorous selection, security vetting, and medical screening process of any traveler to the United States. While families remain separated and refugees wait - at times in very unsafe conditions - the administration has imposed a series of refugee bans and administrative changes to dismantle parts of the refugee resettlement program. I believe we have a moral responsibility to speak out and hold the administration accountable to fulfill its commitments, including to resettle at least 45,000 refugees this year and commit to resettle at least 75,000 refugees next year.

Family-Based Immigration: Looking Forward

Congress has proposed or introduced various pieces of legislation that would seriously undermine the U.S. family-based immigration system. Some Members of Congress and the administration have requested changes within four pillars of immigration policy, including an end to family reunification (so-called “chain migration”), which bears a dangerous resemblance to the National Origins Quota System, a discriminatory and racist policy that began back with the Chinese Exclusion Act of 1882. Over 50 years ago, Congress intentionally ended this law with the Immigration and Nationality Act of 1965. Today, we see Congress and the administration revisiting these unjust policies that prolong family separation, all while asserting their commitment to family values.

These pillars have also manifested in federal legislation that would prevent legal permanent residents from sponsoring and reuniting with their adult children - redefining the notion of family and invalidating our country's claim to honor family values. Immigrant families must not be manipulated and used as bargaining chips in a misleading and misguided attempt to characterize immigration as "zero-sum."

These proposals hold hostage the futures of dreamers, undocumented young people who grew up in the United States. While Congress debates whether the adult children of green card holders, the siblings of U.S. citizens, and the parents of U.S. citizens constitute a “nuclear family,” lives hang in the balance. We must reject a system that denies an adult child is still someone's child, that a sibling's bond is erased in adulthood, or that forcibly separates a mom for her toddler. We must offer creative alternatives to the current administration's policies which will prolong family separation and prevent family reunification.

To respond to the author of this article please email PJR@cpjustice.org. Public Justice Review (PJR explores in depth specific questions of public justice, equipping citizens to pursue God's good purpose for our political community. Articles do not necessarily represent an official position of the Center for Public Justice but are intended to help advance discussion. Articles, with attribution, may be republished according to our publishing guidelines available online or at the email above.

¹ Compl. for Declaratory and Injunctive Relief, In re Hutto Family Detention Ctr., No. 07-cv-164-SS (W.D. Tex. Mar. 6, 2007), ECF No. 1.