



THE COST OF INACTION

Why Children Can't Wait for Immigration Reform

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In June of 2013 the U.S. Senate passed a bipartisan comprehensive immigration reform bill, and now the House of Representatives has the opportunity to advance immigration reform before the year is over. Among those waiting for the House to take action are the millions of children who are directly impacted every day by outdated immigration laws that fail to take into account their multiple and diverse needs. These children include the undocumented youth who have grown up in the U.S. (often referred to as “DREAMers”), the U.S. born children of immigrants, and the “unaccompanied” immigrant children who made the dangerous journey to the U.S. alone in search of refuge or loved ones. For all these children, inaction on immigration reform carries a very high cost.

While it is a core American value to ensure the safety and well-being of our children, the U.S. faces the growing challenge of how to best protect children during a time when the political agenda is being largely driven by strong enforcement policies in response to undocumented immigration. This tension has created significant implications for local communities, often at the expense of children’s basic needs. In addition, the failure of Congress to craft immigration laws that consider the best interests of children has further compromised the safety and development of one of the most rapidly growing segments of the U.S. child population. Comprehensive immigration reform that includes a pathway to citizenship and addresses the wide range of challenges children face is the only way to ensure the stability and security our youth need to grow and thrive. This brief outlines some of the key consequences for children if immigration reform is not enacted this year.

To ensure that immigration reform addresses the needs of children, First Focus and the Women’s Refugee Commission released a set of Children’s Principles for Immigration Reform in February of 2013. These principles, endorsed by over 200 organizations, call for immigration reform that:

- **Provides a direct, clear, and reasonable pathway to citizenship.** Any pathway to citizenship must be open, affordable, safe, and accessible to children in need of status, including beneficiaries of Deferred Action for Childhood Arrivals (DACA), undocumented children under the age of 21, and unaccompanied immigrant children.
- **Protects and promotes children’s fundamental rights.** Our immigration system must uphold children’s constitutional rights and ensure equal access to critical public services, programs, and economic supports for children and their families. The protection of fundamental rights also includes ensuring all children receive legal representation before all immigration authorities and, for all unaccompanied children, the appointment of an independent child advocate from the moment of detention throughout the course of any immigration or other related court proceedings.
- **Ensures that enforcement efforts have appropriate protections for children.** In all enforcement actions, including those along the border, the best interests of the child should be a primary consideration and children must be given the benefit of the doubt during any investigation, inquiry or detention. There should be appropriate and accountable training policies and protocols for interacting with and screening children that reflects a humanitarian and protection-oriented approach, prohibits the use of force with children, and creates reasonable and safe conditions for children while in or released from the custody of all arms of the federal government.
- **Keeps families together.** All policies regarding admissibility, enforcement, detention, and deportation of children and their parents must duly consider the best interests of children, including enabling immigration judges to exercise discretion in admission and removal decisions based on the hardship to U.S. citizen and lawful permanent resident children. The immigration system must be updated by resolving current backlogs and ensuring family-based immigration channels are adequate for future migration without lengthy family separation.



1. WITHOUT IMMIGRATION REFORM, CHILDREN WILL CONTINUE TO BE SEPARATED FROM A PARENT DUE TO DETENTION OR DEPORTATION.

Current enforcement-only policies not only cultivate fear and anxiety in immigrant communities, they also tear families apart. Today, nearly two-thirds of adult undocumented immigrants have lived in the U.S. for more than ten years, and nearly half are parents to minor children.¹ In the two-year period from July 1, 2010 to September 30, 2012, the Department of Homeland Security (DHS) reported issuing 204,810 removal orders for the parents of U.S. citizen children, comprising nearly a quarter of all deportations in that period.² Using these statistics, a recent analysis by Human Impact Partners (HIP) estimates that over 152,000 U.S. citizen children were impacted by a parent's deportation in 2012 alone.³

It was my parents' only day off from working in the onion fields outside of town. I stood by the window as five trucks parked outside. Four people came from the sides. They came to my house, cuffed my dad and took him just like that. He was in the garden with my mother. I was angry. I tried to stop them, but they didn't. I asked them, 'why did it have to be my dad?' They didn't respond. — Adrian, Yakima, WA.⁴

Children who are separated from a parent due to their deportation face significant consequences, including the disruption that comes with relocating to a country they may have little knowledge of or remaining in the U.S. in the care of another parent, relative, or friend. In some cases, children may unnecessarily enter the U.S. child welfare system and face the risk of permanent separation from their family. A recent

study by the Applied Research Center estimates that 5,100 children with a detained or deported parent currently live in foster care.⁵ Research also demonstrates that separation from a parent due to detention or deportation harms children's mental and physical health, academic performance, and economic security.⁶ Even the simple fear of possibly losing a parent can lead to high levels of stress and anxiety in children, particularly in communities that have seen growing levels of collaboration between local police and federal immigration agents.⁷

If deportations continue at current levels, recent research findings predict that each year:

- An estimated 43,000 U.S. citizen children will experience a decline in their health status as a result of the loss of a parent's income.⁸
- Approximately 100,000 U.S. citizen children will suffer symptoms of post-traumatic stress disorder.⁹
- 83,000 mixed-status households will fall into poverty and 125,000 children will experience hunger and malnutrition.¹⁰
- 3,000 more children in the child welfare system will face the risk of permanent separation from their parent due to a parent's detention or deportation.¹¹

Under current immigration law, judges have limited discretion to consider hardship to minor children when making decisions regarding a parent's removal or admissibility.¹² And despite efforts by Immigration and Customs Enforcement (ICE) to exercise discretion in cases of parents and legal guardians, parents have continued to be detained at high rates due to laws that require the "mandatory detention" of certain immigrants, many of whom are parents.¹³ It should be noted that ICE has implemented policies to better protect the rights of parents in detention, including the recent "parental interest directive" which has the potential to reduce the number of children entering the child welfare system and improve the likelihood that a child in foster care can reunify with a detained or deported parent.¹⁴ Yet, only immigration reform that provides parents with a path to citizenship can definitively put a stop to the deportations that are needlessly tearing families apart.



2. WITHOUT IMMIGRATION REFORM, UNAUTHORIZED IMMIGRANT YOUTH GROWING UP IN THE U.S. WILL CONTINUE TO FACE AN UNCERTAIN FUTURE.

Currently, it is estimated that 1 million children under the age of 18 are growing up in the United States without formal immigration status and under arguably harsher enforcement practices than we have seen in recent times.¹⁵ These children and a growing number of young adults who have been in the U.S. since childhood are often referred to as “DREAMers” after the legislation that would provide them an earned path to citizenship. However, while a great number of these DREAMers have achieved academic success despite the odds, a large share of them continue to confront steep barriers to educational attainment that detour and sometimes derail their academic pursuits.

Without the ability to legalize their immigration status undocumented youth face uncertain educational futures as their constitutional right to attend school does not extend beyond high school. While federal laws do not expressly prohibit these youth from attending college, their legal exclusion from financial aid and a host of federally funded programs to assist low-income students makes college attendance and persistence difficult.¹⁷ In addition, a handful of states have excluded undocumented youth from entry into their public universities and the ability to pay tuition at in-state rates. These barriers to access are often coupled with mounting responsibilities to make financial contributions to their struggling families. Taken together, these external and internal factors make a college education less attainable.

Daniel is 19 years old, living in downtown Los Angeles with his mom and younger sister. His family came to the U.S. from South Korea when he was six. Over the years, Daniel’s mom struggled to make ends meet but worked very hard so her children could have a better future. During Daniel’s sophomore year of high school, his mom suffered a back injury at work that severely curbed her work hours. Daniel immediately pitched in, finding a job at an auto body shop. The work was difficult at first, but the money he earned helped pay the rent and the bills. He started missing school to take on extra hours, eventually leaving altogether. Daniel is thankful he has been able to help take care of his mom and sister, but the long hours at work have taken him far away from school and his dream to be an architect.¹⁶

Research has also pointed to a disturbing link between undocumented immigration status in adolescence and challenged mental and emotional well-being.¹⁸ Through their experiences in K-12 schools and their communities, many DREAMers feel as though they belong, but seeing friends move forward while they must wait is difficult for them to reconcile. Their status also carries a stigma that compels them to keep secrets from close friends and teachers, and thus avoid critical networks of support.¹⁹ Additionally, many fear that revealing the truth about their status may put their parents or other family members at risk of detention or deportation.²⁰

However, many of these youth are now eligible to apply for the Deferred Action for Childhood Arrivals (DACA) program, an initiative introduced by the Administration in June of 2012 which provides certain DREAM Act-eligible youth with a renewable two-year reprieve of deportation and the ability to obtain social security numbers and work authorization. In just one year, the policy has yielded tremendous results, providing hundreds of thousands of young people with relief from the constant threat of deportation and the ability to pursue their academic and career goals. As of August 2013, over 560,000 have applied for DACA and over 455,000 applications have been approved. According to initial findings from the National UnDACAmented Research Project (NURP), approximately 60 percent of DACA recipients surveyed have obtained employment, more than half have opened their first bank account, more than one third have obtained their first credit card, and over 60 percent have obtained a driver’s license.²¹



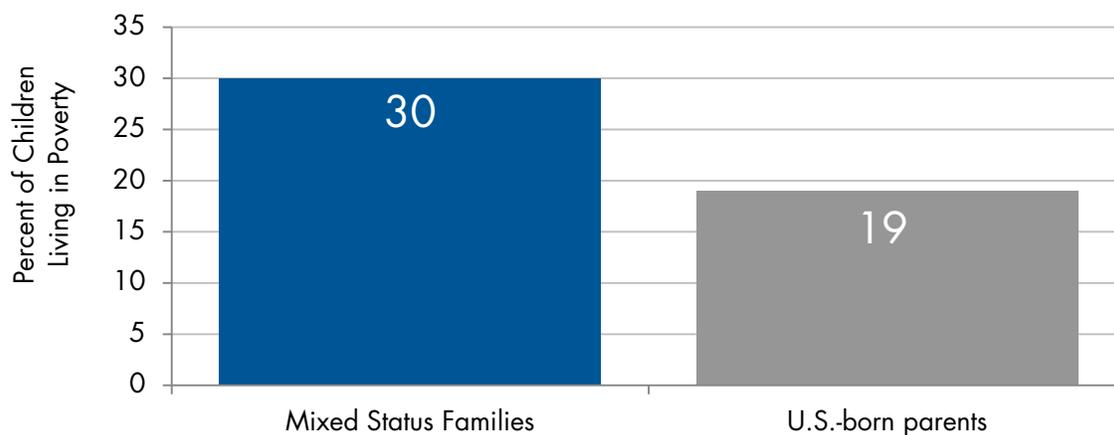
While the DACA program confirms the numerous benefits of providing young people with the opportunity to fulfill their potential, the program remains only a temporary and partial solution that excludes many of the undocumented population, including young parents and out-of-school youth, who are unable to meet its age or education requirements. Without immigration reform that provides an accessible path to citizenship for undocumented youth, hundreds of thousands of DREAMers will continue to face an uncertain future and suffer the consequences of stress and anxiety associated with growing up without legal immigration status.

3. WITHOUT IMMIGRATION REFORM, CHILDREN LIVING IN MIXED LEGAL-STATUS FAMILIES WILL BE AT RISK OF FALLING INTO POVERTY AND SUFFERING POOR HEALTH OUTCOMES.

Currently, 5.5 million children, 4.5 million of whom are U.S. citizens, live in mixed-status families with one or more undocumented parent.²² Recent studies suggest that a parent's undocumented status may have adverse effects on their child's development and education.²³ In addition to the stress caused by a parent's deportation or the constant threat of deportation, mixed-status families also face higher rates of poverty while cut off from safety net programs designed to support low-income working families.²⁴

Children in mixed-status families are more likely to live near or below the federal poverty level, with average household incomes of less than \$38,000.²⁵ Undocumented parents are often subject to poorer working conditions and are more likely to earn below the minimum wage, yet their undocumented status impedes them from accessing income supports that could help lift their families out of poverty.²⁶ Long work hours and multiple shifts may also cause them to spend more waking hours away from their children which can also have an impact on child well-being.²⁷

Child Poverty Rate in Mixed Status Families and with U.S.-born Parents, 2010



Source: Donald Hernandez and Jeffrey Napierala, *Children in Immigrant Families: Essential to America's Future* (New York, NY: Foundation for Child Development, June 2012)

Furthermore, despite the fact that a majority of the children in mixed-status families are U.S. citizens and therefore eligible for income-based safety net programs, they are less likely to use the Supplemental Nutrition Assistance Program (SNAP) and the Children's Health Insurance Program (CHIP) than children in native-born families.²⁸ Likewise, children in mixed-status families are under-enrolled in center-based child care and other early childhood programs. This underutilization of services is often a result of undocumented immigrant parents' lack of access to information. In addition, the fear of authorities causes undocumented



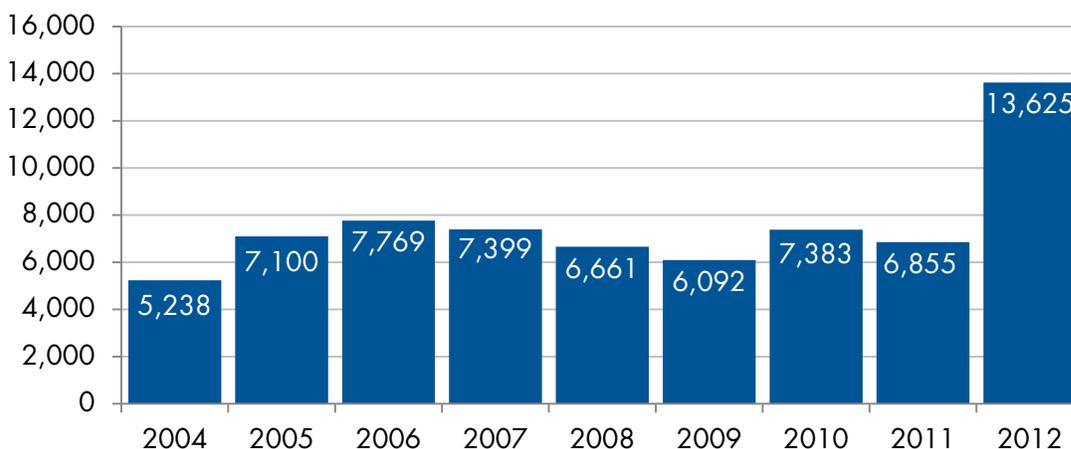
parents to forgo critical learning opportunities and services for which their children are eligible, particularly when services require several forms of identification, proof of employment, or proof of earnings.²⁹ As a result, children's early cognitive development and long-term health and academic outcomes may be compromised.

While many immigrant families make the long journey to the U.S. to provide their children with a better life, a parent's undocumented status creates significant challenges. Comprehensive immigration reform provides an opportunity for undocumented parents to earn their citizenship and better meet their children's needs.

4. WITHOUT IMMIGRATION REFORM, VULNERABLE UNACCOMPANIED IMMIGRANT CHILDREN WILL CONTINUE TO LACK LEGAL REPRESENTATION BEFORE IMMIGRATION COURT AND FACE THREATS TO THEIR BASIC HUMAN RIGHTS.

Children who come to the U.S. alone from other countries, also known as “unaccompanied immigrant children” represent a particularly vulnerable segment of the child migrant population. Thousands of these children undertake the long, dangerous journey to the U.S. each year in search of refuge, opportunity, and sometimes reunification with family members. While there are numerous reasons why children choose to migrate alone, increased levels of gang violence and poverty in Central America in recent years has contributed to an unprecedented number of unaccompanied children entering the U.S.³⁰ In fact, the Office of Refugee Resettlement (ORR) reported taking in approximately 14,000 children in fiscal year 2012.³¹

Number of Unaccompanied Children Referred to Office of Refugee Resettlement by Fiscal Year



Source: *The Time is Now: Understanding and Addressing the Protection of Immigrant Children Who Come Alone to the United States.* (Washington, DC: Kids In Need of Defense, February 2013)

Unaccompanied children often endure significant hardship in their home countries and then throughout their journey to the U.S. As minors, they are particularly vulnerable to physical and sexual abuse and are at increased risk of becoming victims of trafficking.³² Upon entering the U.S., they confront additional challenges when they encounter the complex U.S. immigration system. Despite their age, unaccompanied immigrant children are held to the same standard as adults before immigration court and are immediately placed into removal proceedings without guaranteed access to legal representation or a child advocate to protect their best interests. Furthermore, unaccompanied children may experience mistreatment at the hands



of immigration agents and are often repatriated or released without adequate assessment of their safety and needs.³³

The treatment of unaccompanied children has improved significantly in recent years as a result of the transfer of their custody and care to the Department of Health and Human Services in 2002 and with the reforms of the 2008 William Wilberforce Trafficking Victims Protection Reauthorization Act.³⁵ Yet, U.S. immigration laws and policies still fall short of fully meeting the unique needs of this vulnerable child population. Comprehensive immigration reform presents an opportunity to provide unaccompanied children with the full range of protections they deserve, including guaranteed access to legal representation and child advocates as well as improved policies to ensure effective screening, service provision, and repatriation.

“Eduardo, 17, told us that he was crossing the desert on foot near McAllen, Texas, in a group of five when his group was stopped by Border Patrol. He was one of three youth in his group; the others were a pregnant woman and a guide. Eduardo told us that the Border Patrol agents grabbed his neck and shoved him, then used a taser gun on him and the other migrants, including the pregnant woman, before handcuffing them. Eduardo said that things ‘were a little better’ in the ‘freezer,’ but that Border Patrol agents continued with verbal harassment and insults, using emasculating words and slurs against their mothers. He told us that whenever he or others in his cell tried to speak up for their rights, agents started slamming the door aggressively to intimidate them.”³⁴

CONCLUSION: INACTION IS NOT AN OPTION FOR OUR CHILDREN

Congress has the opportunity to improve the lives of millions of our nation’s children by passing comprehensive immigration reform that addresses the full range of challenges that kids face. Reform that works for children must include a path to citizenship that will end the fear of a parent’s deportation and enable parents to better provide for their families. Reform must also ensure that immigration laws reflect the interests of children by giving them the same standing as adults in hardship-based considerations and by ensuring immigration enforcement policies are carried out in a responsible manner that promotes family unity. Finally, reform must offer improved protections for vulnerable unaccompanied children who arrive in the U.S. without a parent to care for them.

The stakes for our children and for our country are too high. Each day that immigration reform is delayed means more children’s lives are overturned. The time is now for immigration reform that protects our children and reflects our country’s family values.

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