

MIGRATION

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E. Aranda, E. Vaquera IMMIGRANT FAMILY SEPARATION, FEAR, AND THE U. S. DEPORTATION REGIME

IMMIGRANT FAMILY SEPARATION, FEAR,
AND THE U.S. DEPORTATION REGIME

РАЗДЕЛЕНИЕ СЕМЕЙ ИММИГРАНТОВ
И ЧУВСТВО СТРАХА В УСЛОВИЯХ СОВРЕ-
МЕННОГО РЕЖИМА ДЕПОРТАЦИИ В США

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Abstract. In 2018, President Trump changed a long-standing policy of keeping families who cross the United States border together; instead, he ordered that parents be detained separately from children, drawing a national outcry that led to his administration walking back the practice. Drawing on 50 in-depth interviews with undocumented young adults in the state of Florida, USA, we argue that the practice of family separation through immigration policy is not new. We illustrate how our sample's undocumented status puts them at risk for family separation under the current 'deportation regime' that creates a heightened and all-encompassing fear about the possibility of family separation.

Аннотация. Президент Трамп изменил сложившуюся годами практику совместного содержания членов семей, перешедших границу США. Его указом было предписано содержать раздельно детей и родителей. Это вызвало бурю негодования в стране и заставило администрацию отказаться от подобной практики. Опираясь на результаты 50 глубинных интервью с молодыми людьми, которые находятся в штате Флорида, США без документов, мы утверждаем, что разделение семей в практике иммиграционной политики США не является новым феноменом. Мы показываем как статус наших респондентов — молодых людей «без документов» — в условиях современного депортационного режима подвергает их риску быть разлученными с родителями и порождает всеохватывающий страх.

Keywords: family separation, immigration policy, deportation, undocumented immigrants

Ключевые слова: разделение семьи, иммиграционная политика, иммигранты без документов, депортация

In May 2018, the Attorney General of the United States, Jeff Sessions, announced that all adults who arrived at the border would be prosecuted for criminal entry, including those seeking asylum — regardless of whether they arrived with children. Because children cannot be held in criminal detention centers, this zero-tolerance policy meant children were taken from their parents when the parents were sent to jail. In the past, families had typically been kept together in family shelters or released to sponsors under the Flores Agreement¹ and the Trafficking Victims Protection Reauthorization Act² until they had a court date. As a result of this «Zero-Tolerance Prosecution and Family Reunification» Policy, in a single five-week span from May 5 to June 9, 2018, over 2,300 immigrant children, including infants and toddlers, were separated from their parents by the Department of Homeland Security³. As of June 20th 2018, official reports

¹ Reno v. Flores (91—905), 507 U.S. 292 (1993). Janet Reno, Attorney General, et al. Petitioners v. Jenny Lisette Flores et al. On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit, March 23, 1993.

² TVPRA (2013). H.R.898 — Trafficking Victims Protection Reauthorization Act of 2013 113th Congress (2013—2014). <https://www.congress.gov/bill/113th-congress/house-bill/898> (accessed: 13.09.2018).

³ Feinstein D. Many Republicans say they oppose family separation. But none have joined our bill. *Washington Post*. June 20, 2018. URL: https://www.washingtonpost.com/news/worldpost/wp/2018/06/20/family-separation/?utm_term=.3a77ebd3c122 (accessed: 13.09.2018).

estimated that 2,053 separated minors remained under the care of Department of Human and Health Services funded facilities⁴.

On June 17, 2018, Laura Bush's op-ed⁵ on the cruelty of separating families referred to these 2,000 children that the Department of Homeland Security had separated from their parents and sent to mass detention centers or foster care in the prior weeks. In a quote reminiscent of one of Martin Luther King's most famous speeches, she stated: «We pride ourselves on believing that people should be seen for the content of their character, not the color of their skin. We pride ourselves on acceptance.» What she omits from her piece is the acknowledgment that this is not a new phenomenon, that unaccompanied minors have been housed in detention centers for some time, and that family separation by immigration policy had been in effect since her husband's presidency.

President George W. Bush's own 2005 «Zero Tolerance» approach to undocumented immigration was a core tenet of Operation Streamline, that imprisoned undocumented immigrants to expedite deportation. This policy sent over 200,000 immigrants to serve federal prison sentences from 2005 to 2009 alone, setting the stage for President Obama to double the number of people to be prosecuted for reentry. The policy also was key to setting the precedent that the Trump Administration expanded as officials separated asylum-seeking parents from their children.

Though the Trump Administration walked back their separation policy after great public outcry, Immigration and Customs Enforcement (ICE) has long pulled families apart — whether upon arrival, shortly thereafter, or after years of living together in the U. S. The United States' escalation of mass deportations meant the separation of many families for the past two decades. The deportability [De Genova, 2002; 2010] of undocumented immigrants means that the looming threat of family separation is always on the horizon for these families. Drawing on this concept of 'deportability,' we use data from 50 in-depth interviews with undocumented young adults living in the U. S. We illustrate how their undocumented status — i. e. deportability, even under the presumed protection granted by Deferred Action for Childhood Arrivals (which essentially represents a deferment of deportation), permeates all aspects of their lives by incessantly bringing worry and anxiety about the threat of family separation. We argue that, although the summer of 2018 marked the beginning of physical separation of parents from children immediate to their arrival at the border, the deportation regime of the United States has been in full force for the past two decades.

Immigrant Family Separation in the 2000s

Family separation via deportation gained speed during the Bush Administration and continued into the Obama presidency. During the early to mid-2000s, immigrants interviewed by the first author [Aranda, Hughes, Sabogal, 2014] articulated the terror

⁴ Department of Homeland Security (2018). Fact Sheet: Zero-Tolerance Prosecution and Family Reunification. URL: <https://www.dhs.gov/news/2018/06/23/fact-sheet-zero-tolerance-prosecution-and-family-reunification> (June 26, 2018) (accessed: 13.09.2018).

⁵ «Laura Bush: Separating children from their parents at the border 'breaks my heart'.» Washington Post, June 17 2018. URL: https://www.washingtonpost.com/opinions/laura-bush-separating-children-from-their-parents-at-the-border-breaks-my-heart/2018/06/17/f2df517a-7287-11e8-9780-b1dd6a09b549_story.html?utm_term=.97f2ddcfac3c (accessed: 13.09.2018).

that had spread through the immigrant community as the result of ICE's raids and mass deportations. One Colombian immigrant, for example, reported that «Since 9/11 there has been persecution towards immigrants. They [the government] have utilized terrorism to justify the persecution of immigrants. They have confused the word immigrant with the word terrorist.»

Under President Obama's two terms, the threat of separation was still real and brought great distress to children and families — Obama was famously labeled «deporter in chief» by the immigrant-rights community in reference to his record of deportations. During his second presidential term, we interviewed an undocumented young adult who had an order of deportation. He shared that his U.S. citizen daughter's school called him because she had been cutting her hands with her own nails since she found out about his impending deportation. He was due to report to Immigration and Customs Enforcement that Friday, and he explained to us how he and his wife were trying to distract their daughter, but also their plan so that, at least, he would be able to say good-bye to his family. The following is an excerpt of our conversation with Pablo and his spouse:

Pablo: She is still struggling but I'm trying to keep her busy. Right now, she is at the church. Monday and Tuesday, they are doing other stuff. So.

Interviewer: What about Friday?

Spouse: Hm...

Interviewer: What's going to happen on Friday with the girls?

Spouse: When he has to go? I don't know. I don't know. I can't think about it now.

Interviewer: Are they going to go to school or come with you?

Pablo: I think it's better if she comes with us. Then, if she comes out of school and I am gone and not here, and she knows they took me, I think it's going to be worse. Because I didn't even give her a hug or kiss. When I could do it over there. When I'm getting ready to get...

Interviewer: What if you show up at the immigration office in the morning where they take off the ankle bracelet and they tell you your family can't come from here. That your family is not allowed to go to the airport?

Pablo: I don't know what's going to happen there.

Interviewer: 'Cause that is a possibility. They could say, «You are coming with us, you are going to go in our car and your family has to say good-bye here.»

Spouse: That is going to be hard.

Like Pablo and his family, many young immigrants that we interviewed have stories of parents, siblings, extended family, or close friends, being deported. The emotional toll that these separations took on young adults was grave. Cami, who arrived to the U.S. from Colombia at age 3, spoke of the loss of her mother after she was detained and eventually deported:

Cami: Back in 2007, ... we got pulled over and I had previously mentioned she had already been stopped for driving without a license before. This was another one of those times so because of that, because they saw in her record that she didn't have a driver's license and continued to drive, she ended up being arrested that day. Then taken to the local jail and there they saw that she didn't come up in the system 'cause she didn't have any status. She didn't exist. She was transferred to a detention center a few hours away from our house. Ultimately, [she] was deported 4 months later for having no status.

Interviewer: So, can you describe what that day was like for you from the moment that the police stopped you all?

Cami: Yeah it was a Tuesday morning, my mom was going to work and I was going to keep the car to go to my lacrosse practice. And I sort of immediately knew what was happening because the police officer did this crazy turn and came up behind us. I turned to my mom and I'm like... It's one of those where I don't know why he stopped us to be honest. As soon as... before the light turned green, I turned to my mom and I'm like, «Mom, I'm pretty sure we are going to get pulled over,» and she was like, «No, no we are fine». And I'm like, «I think we are». And as soon as the light turned green, the sirens and the police lights went off. And I knew it. So of course, the whole thing I knew my mom didn't have a driver's license but I didn't know fully what that could mean moving forward. So they questioned her, «Where is your insurance, your driver's license?» She couldn't produce insurance for the car and so he decided to arrest her. He asked me if I had a driver's license and I said no. [He] asked if there was someone that could pick me up and I said, «Yes, my dad,» Who thankfully even though he was undocumented, back then, he still had a valid driver's license. So I had to wait for my dad to come pick me up as my mom is driven away in the back of a police car... Honestly, that day, I remember some stuff and some of it is blurry.

Cami could not visit her mother in the detention center because she had no identification to show. She then recalled the day that her mother was deported:

Cami: We knew she was going to get deported. She... we had hired a lawyer and the immigration lawyer... my dad's boss back at the time had an immigration lawyer and took on the case. From everything that happened, we were told that the best-case scenario was for her to send a voluntary departure which is basically her signing her deportation. Because my older sister was now 21 and could petition for her, she could petition for my mom to come back. So we knew it was going to happen. We had purchased her flight back to Colombia 'cause that is what you have to do when you decide you are going to go back.

Interviewer: You got to go to the airport with her?

Cami: No. definitely not. No. so the first time around, they took her there late so she missed her flight or something. Then we had to buy another airplane ticket for her to go back to Colombia and that is when she went and she was there.

Interviewer: Did you get to talk to her before she left?

Cami: Hm... we used to talk through the phone system that the detention center had. That is how we used to communicate... I guess, I don't know if I blocked it out or I don't really remember. Honestly, I don't remember those 4 months of that whole experience. I know she was deported sometime in July from March to July, 4 months... I was really upset 'cause she didn't make it to my high school graduation. She just wasn't present. I couldn't see her. But, right when the lawyer tells you that this is the best option and someone can do the petition to come back. We had hope that that was really the case. And we weren't involved, we didn't really know that much about immigration law like that at that time. That, yeah, I think that feeling I had that I would get to see my mom within a few years whether it was 1 or 2 years.

Interviewer: How long was it until you were able to see her again?

Cami: Hm... I was finally able to see her... after 6 years. For about 12 hours.

Cami's mother did not return to the United States, but they did reunite across the border for 12 hours so they could see each other after a six-year separation. The pain this experience caused was so traumatic that Cami repressed much of her memories from that time.

Tony had also lost his mother to deportation 2 ½ years before we interviewed him. She was arrested for fighting against her abusive boyfriend. Tony was put into the foster care system and eventually received a visa to stay in the country. His mother's deportation meant not only becoming part of the foster system, but also food insecurity and semi-homelessness, part of the larger instability in his life after his mother was deported.

Others heard of the deportation of close friends or their families and feared for their own family units. Their deportability left open the chance that their own families could be separated. For example, Rose, when discussing a family she knew where the mother got deported, explained that the kids live with their dad, and then stated:

...they don't have their mom here. I don't know what I would do if my mom—[trailed off]

To me that's not fair like it shouldn't be like that... don't separate the kids from their moms just because [sic] it's just a piece of paper.

Another participant, Alex, talked about similar fears regarding his undocumented mother:

One of my, a good friend of the family, was riding his bicycle one day to work and you know, he was stopped by a police officer. He didn't know his rights I guess and I don't know how things went down or he ended up being arrested. Since he is undocumented they ended up calling the ICE and he was deported 3 months later. And, he was just riding his bike to work, man. It's... the way that it has been set up is to make you afraid. And yes, I was afraid 'cause that can happen to everybody. It could have been my mother that was riding the street with that bicycle. That fear, I try to turn it to motivation for me to achieve what I want. Which is to not live in fear. For me and my family and community and everybody else.

Alex talks about how deportability is designed to instill fear: «the way that it has been set up is to make you afraid.» This is the link between deportability and the ever-present possibility of family separation. In our data, it wasn't just young adults fearing separation from their undocumented parents. One young woman had nightmares about being handcuffed and taken away from her two-year-old daughter:

I have actually had a dream sometimes of me being handcuffed and my daughter seeing me in court being taken away and being deported. I get afraid of that because I know that my brother and my sister told me they would obviously take her in, that it's not a big deal. But I get worried about that. Once you get deported, it's a ten-year bar you know. How am I supposed to live in another country, support myself, try to fly my daughter to see me? Who is going to come in to take my daughter to me? I'm not going to see my daughter for ten years. That's some scary stuff. That worries me a lot.

These are all interviews with young adults during President Obama's second term. Toward the beginning of the 2010s, Obama directed the Department of Homeland Security to institute prosecutorial discretion in detaining and deporting immigrants [Chishti, Pierce, & Bolter, 2017]. This means that only those who were deemed a threat to public safety were the focus of Immigration and Customs Enforcement (ICE) apprehension efforts. Together with President Obama's implementation of Deferred Action for Childhood Arrivals (DACA), which gave a deferment of deportation to young adults who met certain criteria, the fear in immigrant communities began to stabilize as the expectation that ordinary persons would be detained or deported dissipated somewhat.

Family Separation in the Age of Trump

Our most recent interviews from 2017 and 2018 for the Immigrant Youth Project — a research study on undocumented young adults living in Central Florida, USA — show how many undocumented young adults saw President Trump's election as a significant shift from previous practice under Obama's second term. President Trump's election has been seen by many as an omen. One participant, Marina, recalled staff asking her to calm crying children at the place she volunteered. When she asked why they were crying, the staff responded, «Well, Trump got inaugurated so to them, their parents automatically got deported in their heads.» Our interviews reveal that this prediction has in fact materialized, seen in our participants' reactions to President Trump's policy changes, especially the President's rescinding of DACA in September 2017. Since then, the young adults we have interviewed describe their lives as marred by the uncertainty of their futures. They fear for their families, but also for themselves. They see their lives as having «expiration dates», referring to when their DACA expires. Though the recent court decisions allowing for DACA renewals represent a glimmer of hope among a sea of uncertainty⁶, the fragility of their 'legal' status is unquestionable — dependent on court rulings that can shift with a day's notice. Under the Trump era, even those whose deportability was paused under Obama, like DACA recipients or TPS recipients, are not only losing protections but becoming a target for deportation.

Regarding the most recent family separations at the U.S.-Mexico border, asylum-seekers who arrive at this border are following the rules this country has laid out — to arrive on our soil and request asylum. The weeks of family separation they already endured will cause levels of trauma for these parents and children that will take years to undo. As Laura Bush's op-ed rightly points out, the long-term effects of internment on the Japanese in the 1940s led them to being twice as likely to suffer cardiovascular disease or die prematurely than those who were not interned — and that's only one example. Researchers and leading professional organizations have reported and denounced the long-term consequences of both internment and family separation more broadly⁷ [Dreby, 2012].

The Republican bills that were voted on during the summer of 2018 as a response to the issue of family separation in the southern border of the U.S. failed to alleviate this suffering. The more moderate one, the Border Security and Immigration Reform Act, was nothing short of a negotiation with a presidential administration that tried to leverage children in exchange for congressional support for other anti-immigrant policies it wants to enact. In exchange for keeping families together it would have eliminated the diversity visa lottery, restrict family-based migration, and allocated \$ 25 billion for a border wall. In addition, the Border Security and Immigration Reform Act prohibited

⁶ State of Texas v. United States of America (1:18-cv-00068).

⁷ American Academy of Pediatrics. AAP Statement on Protecting Immigrant Children. Fernando Stein, MD, FAAP, President, American Academy of Pediatrics. 2017, January 25. URL: <https://www.aap.org/en-us/about-the-aap/aap-press-room/Pages/AAPStatementonProtectingImmigrantChildren.aspx> (accessed: 13.09.2018); American Academy of Pediatrics (2018, June 15). AAP Statement Opposing the Border Security and Immigration Reform Act. Colleen Kraft, MD, MBA, FAAP, President, American Academy of Pediatrics. URL: <https://www.aap.org/en-us/about-the-aap/aap-press-room/Pages/AAPStatementOpposingBorderSecurityandImmigrationReformAct.aspx> (accessed: 13.09.2018); American Psychological Association. 2018, May 29. Statement of APA President regarding the traumatic effects of separating immigrant families. APA Press Release. URL: <http://www.apa.org/news/press/releases/2018/05/separating-immigrant-families.aspx> (accessed: 13.09.2018).

the separation of undocumented children from their parents at the border and brought a measure of relief to dreamers by providing them with a path to citizenship. But ultimately, it upheld an immigration policy structure that criminalized immigrants and their children. This «relief» would not stop the separation of immigrant families through deportation of mothers and fathers; it would not prevent the misguided interpretation that asylum seekers that cross the border are criminals; and, it would not prevent the U.S. government from treating them as such. With no fair, comprehensive immigration legislation being proposed, our sample's deportability remains as does its ensuing consequences regarding the prospects of family separation.

Conclusion

In this paper we engage with current and past policies that comprise the U.S. deportation regime, examining how it has affected undocumented young adults and instilled in them an active fear of family separation that is directly tied to their own (and their families') deportability [De Genova, 2002]. Although much public attention was directed to immigrant family separation in the summer of 2018, the mainstream media rarely connected these effects to the deportation machine in effect for the past two decades. Our data, collected during President Obama's second term, reveals that these young adults have vivid memories of being stopped by police, having family members or close friends detained, and in some cases, having their parents deported. Thus, we argue and conclude that U.S. immigration policy for the past two decades has done nothing but separate families.

For about two centuries, the idea that the United States was a «nation of immigrants» has been celebrated both within and from outside the U.S. borders. President Trump's America shows little regard for this idea that has long defined the identity of the country. Though the United States for many years was a model to follow when it came not only to welcoming immigrants but also encouraging immigration, the country can no longer claim this distinction. Anti-immigrant discourse and xenophobia are the principles behind Trump's executive orders and his administration's severe reductions in annual caps on refugee and asylum admissions⁸; the announcements of end dates for the Temporary Protected Status (TPS) program for Nicaraguans, Hondurans, Salvadorans, and Haitians⁹; Trump administration plans to remove citizenship for immigrants found to have used fraudulent methods in the process of becoming naturalized citizens¹⁰; the proposed regulations to deny permanent residency and possibly deport persons

⁸ U. S. Immigration and Customs Enforcement. (2017). Fiscal year 2017 ICE enforcement and removal operations report. Washington, DC.; U.S. Citizen and Immigration Services. (2017). Consideration of Deferred Action for Childhood Arrivals (DACA).

⁹ U. S. Department of Homeland Security. Acting Secretary Elaine Duke announcement on Temporary Protected Status for Haiti [news release]. 2017, November 20. URL: <https://www.dhs.gov/news/2017/11/20/acting-secretary-elaine-duke-announcement-temporary-protected-status-haiti> (accessed: 13.09.2018); U.S. Department of Homeland Security. Acting Secretary Elaine Duke announcement on Temporary Protected Status for Nicaragua and Honduras [news release]. 2017, November 6. URL: <https://www.dhs.gov/news/2017/11/06/acting-secretary-elaine-duke-announcement-temporary-protected-status-nicaragua-and> (accessed: 13.09.2018); U. S. Department of Homeland Security. Secretary of Homeland Security Kirstjen M. Nielsen Announcement on Temporary Protected Status for El Salvador [news release]. 2018, January 8. URL: <https://www.dhs.gov/news/2018/01/08/secretary-homeland-security-kirstjen-m-nielsen-announcement-temporary-protected> (accessed: 13.09.2018).

¹⁰ Taxin A. (APNewsBreak: US launches bid to find citizenship. *Associated Press*. 2018, June 12. URL: <https://apnews.com/1da389a535684a5f9d0da74081c242f3> (accessed: 13.09.2018).

who employed certain public services; the denial of U.S. passports along the southern border¹¹; and the executive order resulting in the separation of children from their parents at the U.S.-Mexico border¹². History will judge the Trump administration for the harsh decisions it has taken, all in the name to reduce not just undocumented, but also legal immigration.

Among Laura Bush's suggestions articulated in her op-ed in response to family separation at the border, the one that resonates the loudest is, «If we are truly that country, then it is our obligation to reunite these detained children with their parents — and stop separating parents and children in the first place.» Ironically, this contradicts her husband's presidential legacy, continued by ensuing administrations. However, the massive national public outcry against the practice of separating families led to a walk back of this policy by the Trump administration. Nonetheless, over 400 immigrant children, as of September 2018, remained separated from their parents¹³, despite a court order for them to be reunited¹⁴. Moreover, even if families are no longer separated at the border, Trump's «deportation force» and the daily fear of family separation among the «deportable» looms.

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¹¹ Sieff K. U.S. is denying passports to Americans along the border, throwing their citizenship into question // *The Washington Post*. September 13, 2018. URL: https://www.washingtonpost.com/world/the_americas/us-is-denying-passports-to-americans-along-the-border-throwing-their-citizenship-into-question/2018/08/29/1d630e84-a0da-11e8-a3dd-2a1991f075d5_story.html?utm_term=.e66484042a1d (accessed: 13.09.2018).

¹² Executive Order No. 13841, 2018. *Affording Congress an Opportunity to Address Family Separation* // *Federal Register*. June 20, 2018. Vol. 83. No. 122. THE WHITE HOUSE.

¹³ Barajas J. More than 400 migrant children remain separated from their parents. Here's what we know // *PBS News Hours*. September 7, 2018. URL: <https://www.pbs.org/newshour/nation/more-than-400-migrant-children-remain-separated-from-their-parents-heres-what-we-know/> (accessed: 13.09.2018).

¹⁴ Ms. L et al v U.S. Immigration and Customs Enforcement et al (2018), U.S. District Court, Southern District of California, No. 18—00428.