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Undocumented Immigrants and the Constitutional Rights of Their U.S. Born Children

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ITGS 120

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Author's Note

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Abstract

In this essay I will discuss language of the 14th Amendment, which grants automatic citizenship to every child born on US soil, regardless of the immigration status of their parents. These children have been typecast by the media as “anchor” babies. Through primary documents and peer review journals, this paper will show the nature of what it's like to be a child of an undocumented immigrant and the rights they have. The funding for these children with undocumented parents has been widely disputed and will discuss in-depth about what type of services the U.S. is responsible for. With the upcoming presidential race, this group of people are going to be the ones most widely effected. With 16.6 million people that have at least one relative that is an undocumented immigrant, choosing to start deportation undocumented immigrants would cause so much destruction to our country. This paper ultimately concludes that although there are costs associated with children with at least one undocumented parent, choosing to deport undocumented immigrants will cause more damage to our Country.

UNDOCUMENTED CITIZENS

There are approximately twelve million undocumented immigrants living in the United States today (Taylor, 2012), and many of these immigrants have children that are born in the United States. Tebo Kendall and Lederer all define specifically what it means to be a citizen of the United States. In the Journal "Who's a Citizen?" written by Margaret Graham Tebo, she specifically mentions the "intent of the 14th amendment" and how there are "hundreds of thousands of young Americans whose citizenship is based on the 14th amendment provision that makes citizens of anyone born on US soil" (Tebo 2014). In an article by Jenny Lenderer, she explains that this term is not simply defined by putting the two words anchor and baby together, and that it is much more complex than that (Lenderer, 2014, p. 249). The term actually is doing very little to help undocumented citizens become US citizens in the United States, but this is still widely believed. The focus of my research focused on undocumented immigrants and the interest of their US born Children and will strive to discuss what is outlined in the 14th Amendment, which grants automatic citizenship to every child born on US soil, regardless of the immigration status of their parents. Ultimately coming to the conclusion that though deportation has been looked at as an option by the government, it would cause more devastation as a whole to our communities in the United States by ripping families apart and putting children in foster care, which would grant more support and funding from the government.

UNDOCUMENTED IMMIGRANTS WITH U.S. BORN CHILDREN

The amount of undocumented citizens that currently reside in the United States will be discuss first. The amount has been hard to estimate, as no one really knows the actual number of undocumented immigrants in the United States. It has been estimated by the Pew Research

center through many data collecting gathering methods that the number of undocumented immigrants in the united states is around 12 million and starting to decline around 11 million. I will be discussing the number of undocumented immigrants that come from Mexico which is only roughly 5 million of the 11-12 million undocumented in the United States.

When discussing the term Anchor Baby, it is one that is often use, but my research has found that it has a very racist connotation. Studies have been done that even show that people who agree with immigration prefer to use the term "undocumented worker" or "immigrant" while others who disagree with immigration choose to use the word "illegal alien or illegal immigrant" The term is used to typically describe a woman who is about to give birth, who comes across the border to have the child and the thought is that they do this in order to then have permanent ties to the United States (Filisko, 2013). Although this is a common conception, more immigrants are coming here for the jobs not for the sole reason of having a child. The 14th amendment states that “a person born or naturalized in the United States, are citizens of the United States, and of the State wherein they reside” (U.S. Constitution). It is important to understand that these children are not actually helping undocumented citizens become tied to country and Jenny Lederer explains this by examining the concept of procreation as a tool to gain legal status, resources and permanent ties to the US (Lenderer, 2014). The undocumented citizens have to wait until their child is 21 years old for their child to sponsor their parents for citizenship (Filisko 2013). Even after that if they had been illegally in the united states or overstayed a visa, which most likely they did, there is a mandatory 5 year deportation period, then they have to wait to come back through the system which we've seen can take from 10-20 years (Lenderer). With the misconception that many have today about these children, it's also important to highlight that children of undocumented immigrants born in the U.S. have the same rights as any other United

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States Citizen like the right to vote, work, live, and enjoy protection in the country (U.S. Constitution).

COSTS OF CITIZENS WITH UNDOCUMENTED PARENTS

The amount of children with undocumented parents can be hard to estimate, but it is believe to be under 300,000 and the numbers appear to be slightly different due to the differences in collection and estimation methods (Pew Research Center, 2015). By reviewing the number of citizens with undocumented parents, it makes it easier to estimate the cost that the government is paying towards them. Supporting these children can be really hard, and it is really in question who is providing the support for them currently. It has been estimated that the cost of supporting a child from birth to 18 is around \$300,000. A report from the Center of Immigration Studies states that the costs of these services to children of undocumented immigrants added up to more than \$133 billion every year (Center of Immigration Studies).

These programs include providing children that are citizens of the United States with public school, food assistance, and other welfare programs for these citizen in homes with struggling immigrant parents or children in foster care. This is the type of support and funding any citizen would obtain from the U.S. government, not just citizens with undocumented parents. Undocumented immigrants do not qualify for things like welfare, food stamps and other benefits. As it currently stands, undocumented parents are doing the best they can to support their US born children and if we start deporting them, more children will need to receive government benefits instead of trying to help these mixed-status families in supporting their own US born children. It is important to remember that these Children in the United States will always be responsible for paying their taxes.

2016 PRESIDENTIAL RACE

With the upcoming Presidential Race, millions of families and communities will be directly affected. We can examine the views of the final presidential candidates and look at potential outcomes of their policies on undocumented immigration. Michele Waslin, who is a senior policy analyst at the immigration policy center, who states that "in reality, few people understand how the system works or what's wrong with it". Educating the public about actual facts of immigration and what would happen if we choose deportation will be one of the most important decisions in our time.

Quickly touching on their views, Hillary plans to reform immigration policies, and try to keep more families together. She wants to promote naturalization and support immigration integration, and also end family detention and immigrant detention centers (Hillary Immigration Reform). Similar to Hillary, Bernie also wants to help provide a better path to citizenship, and specifically touches on providing an easier path to citizenship for young undocumented immigrants. He wants to reject the use of visas for cheap labor and also believes that we need to maintain a better border but that we can do this without building a wall (Bernie on Immigration).

Trump on the other hand has a very opinionated view. He believes that a nation without borders is not a nation, a nation without laws is not a nation and a nation that does not serve its own citizens is not a nation. Trump clearly thinks that undocumented immigration is one of the United States most pressing issues and if it is not dealt with soon then the U.S. is going downhill. Donald Trump's plan is to make sure that we firmly regulate our immigration prevention strategies in order to lower the number of immigrants that make it into the US illegally. Trump wants to triple the number of ICE officers (US Immigration and customs enforcement) and instill

a detention policy and have zero cases of catch and release. Trump wants to enhance penalties for overstaying a visa and end welfare abuse, and to instill a requirement to hire American workers first. Trump is also very open about his policy to end birthright citizenship and simply states that "the 14th amendment does not apply in cases of anchor babies" (Trump, 2016).

EFFECTS OF DEPORTATION

Although we would most likely see great efforts that include more integration of immigrants from the democratic party, Donald Trump thinks that the only option is to start deporting all the United States Citizens. It may be easy to at first see this as an option, but under further examination one should understand that deporting the undocumented citizens in our country will only do more damage.

When it comes to how our government deals with the undocumented citizens, most commonly they are attempted to be deported from the US back to their home countries. This is very controversial when these undocumented citizens have children that were born on the US soil. Since there is no legal way to deport the child with the parents, the child is then sent into a foster care home or even out onto the streets (Taylor, 2008). Currently, there is a lack of concern for these citizens with undocumented parents and might even end up in foster care when they have relatives that could be supporting them (Glen, 2012). There is clearly being a lack of concern for these families and even the deputy director of MPI's US Immigration Policy Program says that "there is no good way to deport parents without severely damaging immigrant communities".

Deportations break up families and have a greater effect on the community as a whole and not just the individual and the family involved. 16.6 million people currently live in mixed-status families with at least one unauthorized immigrant.

The Deportation of citizens in families has shown to produce a large number of single mothers that are in poverty because of not having a spouse to help support in the home. The children that no longer have any parent in the United States will end up in foster care. Applied Research Council stated that many children are being placed in foster care just because they have a parent that has an undocumented status (Glen, 2012). The total cost to foster each child are close to \$26,000 per year, and while the number of kids in foster care rises, the total cost for the government will also rise.

Psychological issues may arise in children and families of deportees. A constant fear will envelop these children for the rest of their lives because their parents could be taken at any time. Children and parents are living in fear of separation, not knowing if they are going to be separated even the very next day and they can also have an altered view on immigration, even if the child himself is a citizen.

SOLUTIONS:

Obviously one individual cannot enact a policy reform, but from the research conducted it has been determined that there are possible solutions. We should not be deporting the undocumented immigrants. Although there are costs associated with the children of undocumented parents, it has been shown that there will be even more costs associated with deporting, and along with that ripping families apart. Enacting policy changes is really important for our country when it comes to Undocumented Immigration. The Children are Citizens of the

United States, and we should work to build a pathway for their parents so we aren't doing so much damage to our communities. We need to aid the 16,6 million people that are a part of mixed status families and these Children, families, and communities should no longer have to be ashamed of their immigrant heritage (Glen, 2012). Realizing that the deportation of citizens will cause more harm than good is definitely one of the first steps.

The final solution would be a legislative fix. This will help in the process so we can do what's best about the undocumented immigrants without tearing families apart. Two examples of previous legislative actions that were proposed. On July 16, 2012, Rep. Lucille Roybal-Allard introduced the Help Separated Families Act, to ensure that children are not taken away from their relatives simply because of their parents' immigration status. In July 2011 Sen. Al Franken and Rep. Lynn Woolsey introduced the Humane Enforcement and Legal Protections for Separated Children Act, which would mandate standards for immigration enforcement when children are involved. The bill would ensure that parents are kept informed of and are able to continue to make decisions about the care of their children, and that the interests of the children are taken into account in detention, release, or transfers. Passing these bills would go a long way toward preventing children from ending up in foster care while their family members are detained or deported.

Now neither of these legislative actions passed, but personally I think that they have the best interest of our citizens in mind and that this upcoming election needs to have a president who wants the best for our country and every one of our citizens.

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