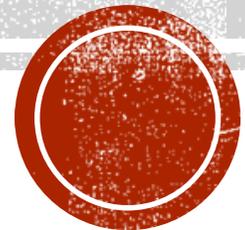


Immigrant Families, Law, and Enforcement: Central American Parents and Children Living in Legal Limbo

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HOW DOES THE IMMIGRATION SYSTEM AFFECT IMMIGRANT FAMILIES TODAY?

- Two-pronged system:
 - Enforcement
 - Beyond detention
 - Legislative
 - Intertwined, but each has distinct effects



EMPIRICAL WORK . . .

- Survey of Central Americans (Hondurans and Salvadorans) on Temporary Protected Status
- Survey of Latinos/as (in various legal/citizenship statutes) in 4 U.S. cities
- 3-year ethnography in rural Kansas
- Small study of detention facilities (not *in* the facilities)





1. ENFORCEMENT SIDE

- Border policies
- Remain in Mexico Program for asylum seekers at the border (0.1% acceptance rate)
- Family Separation
- Detention facilities
- “Family Detention”
- Toddlers representing themselves in court—as young as 3 yrs. old



POLICY RESPONSE TO THE CRIMINALIZATION OF IMMIGRANTS?: DETENTION FACILITIES EVERYWHERE

- 638 facilities to detain immigrants; every state has at least one
 - More than 50,000 people are held in ICE facilities on a daily basis (34,000 Obama admin)
 - More than 11,000 children are held in the custody of HHS, which holds “unaccompanied children” for an average of 45 days.
- TX: 115 facilities CA: 70 facilities (51,162 detainees)
- 89% of detainees are Latinos:
 - 43% Mexicans
 - 46% Guatemala, El Salvador, Honduras
 - 79% are men (*impacts families--Dreby, 2015)

(Ryo & Peacock 2018)



SYSTEM AFFECTS NOT ONLY LATINAS/OS

- Detention system focuses on immigrants from 4 countries but the undocumented population is far more diverse (legal status is racialized)
- Expansion of enforcement and narrower avenues to regularize one's legal status are enveloping a far broader immigrant population,
- More than half of the estimated 11 million undocumented did not cross the southern border—they arrived with a visa and overstayed
 - “Twice as many people came in with a visa than came across the border” (Robert Warren, CMS)
- Asians and Pacific Islanders make up 1.7 million of the 11 million undocumented—fastest growing group in detention but being apprehended and placed in detention *more quietly*



2. BEYOND FORMAL DETENTION...

- Enforcement extends to homes & communities: programs beyond formal detention
- *Expanded enforcement (esp. under the current administration) creates a context of fear and uncertainty*→
 - Reduced contacts with institutions (e.g., police, health care, etc.) even when immigrants (often for their children) have a right to access them
 - Diminished sense of rights and sense of belonging
 - Short- and long-term consequences for families, including U.S.-born members



EXPANSION OF INTERIOR ENFORCEMENT & BROADER CONTEXT: THE BORDER IS EVERYWHERE

- Dept. of Justice “Border zone” definition:

- Touches 38 states, encompasses CT, RI, MA, MI, NH, NJ, HI, ME, DE, FL
- Includes 9 of the 10 largest U.S. cities

(Customs and Border Patrol data, *The Investigative Fund/AIC*)

- CBP has broad authority in this “border zone”—to search, detain without warrant, & set up checkpoints anywhere within this zone
- 35 permanent checkpoints, many more temporary, deep in the interior of the country—in all 9 BP sectors (including NY, ME).



BORDER PUSHED INWARD





EXPANSION OF ENFORCEMENT: BEYOND DETENTION FACILITIES

- Alternatives to Detention (ATD)
- Women seeking asylum often placed on ATD & court dates in the future
- Backlog of cases in immigration court exceeds 1 million today
- Stigma and impacts
- Cements an image of certain immigrants as “criminals”



FEAR OF DETENTION IN COMMUNITIES: URBAN/RURAL AREAS

- Latino/as who in states w/ low/medium punitive immigration laws report *better self-rated health* than those in states with high levels of anti-immigrant laws (Vargas et al. 2017)
- Given expectations of motherhood & caretaking roles, women are affected in specific ways:
 - Mothers' exposure to a workplace raid in Postville, Iowa led to lower birth weight of Latina immigrants' newborn babies, but did not affect the birth weight of babies born to white mothers. Novak et al. (2017)
 - Pre-natal maternal stress & low birth weight can lead to negative cognitive, educational, and socioeconomic attainment (Torche 2011), especially in contexts of heightened enforcement (Torche and Sirois 2019).



EFFECTS OF EXPANDED ENFORCEMENT ON CHILDREN

- As of 2017:
 - Approximately 600,000 children & youth under 18 yrs of age were undocumented.
 - 4.5 million U.S. citizen children had at least one parent who is unauthorized.
 - Thus, more than 5 million children are at risk of being directly affected by immigration enforcement policies.



NEW STUDY (EE AND GANDARA, 2020)

- Nationwide survey of 3,600 educators in 24 districts in 13 states (2017, 2018).
- % of educators who observed these effects of enforcement (by topic):
 - Increased bullying: 37.6%
 - Decreased parental involvement: 45.3% (*our research parallels this finding)
 - Indirect effects on students due to concerns for their peers: 66.7%
 - Students expressing concerns and fears at school: 84%
 - Impact on academic performance: 61.4%
 - Increased behavioral and/or emotional problems: 79.6%

Jongyeon Joy Ee and Patricia Gandara. 2020. Under Siege: The Disturbing Impact of Immigration Enforcement on the Nation's Schools. immigrationinitiative.harvard.edu



3. LEGISLATIVE SIDE: PROLIFERATION OF INSECURE LEGAL STATUSES

- The proliferation of insecure/temporary statuses and 'liminal legality' (Menjivar 2006), with varying access to resources
- Affects a much larger population than those who end up in detention
- Includes people who have applied for visas (employment, family-based) who must wait for years
- Expansion of temporary, in-between statuses—liminal legality→hinders integration (DACA, Temporary Protected Status)
- The production of il/legality today (as produced by the state):
 - Uncertainty, unpredictability, long periods of waiting embedded in different legal categories and processes

Common denominator across insecure statuses: uncertainty, fear of falling out of status & that status will be terminated and become undocumented



FAMILY REUNIFICATION--FAMILY RECOMPOSITION & LEGAL LIMBO

- Family reunification law redraws contours of family*
- In contrast to deportation (separates families), family reunification prevents families from reuniting or regularizing their loved ones' status, creating 'mixed-status families in the U.S.
 - Determines which families can be admitted and when
 - Family reunification law is based on a nuclear unit, giving preference to these members
 - Sets minimum income levels for sponsoring the entry/regularization of a family member
 - Bars legal re-entry into the country (3/10 yrs) after a period of unauthorized residence
 - Long waiting lines for family visas keep families separated or if in the US, in limbo
- Immigrants on temporary statuses cannot petition for family members

*Enchautegui and Menjivar, Law & Policy, 2015



WHAT HAPPENS IN LIMINAL LEGALITY/LEGAL LIMBO?

- Uncertainties about family reunification & lengthy processes=immigrants postpone investments in the United States, including in families and children
- Survey: 2,094 Hondurans and Salvadoran immigrants on TPS in 5 U.S. metro areas conducted in 2016

TPS is a temporary status renewable every 18 months; Salvadorans & Hondurans on this status have held it for 20 years (& counting)

--Fear of the ending of this protection

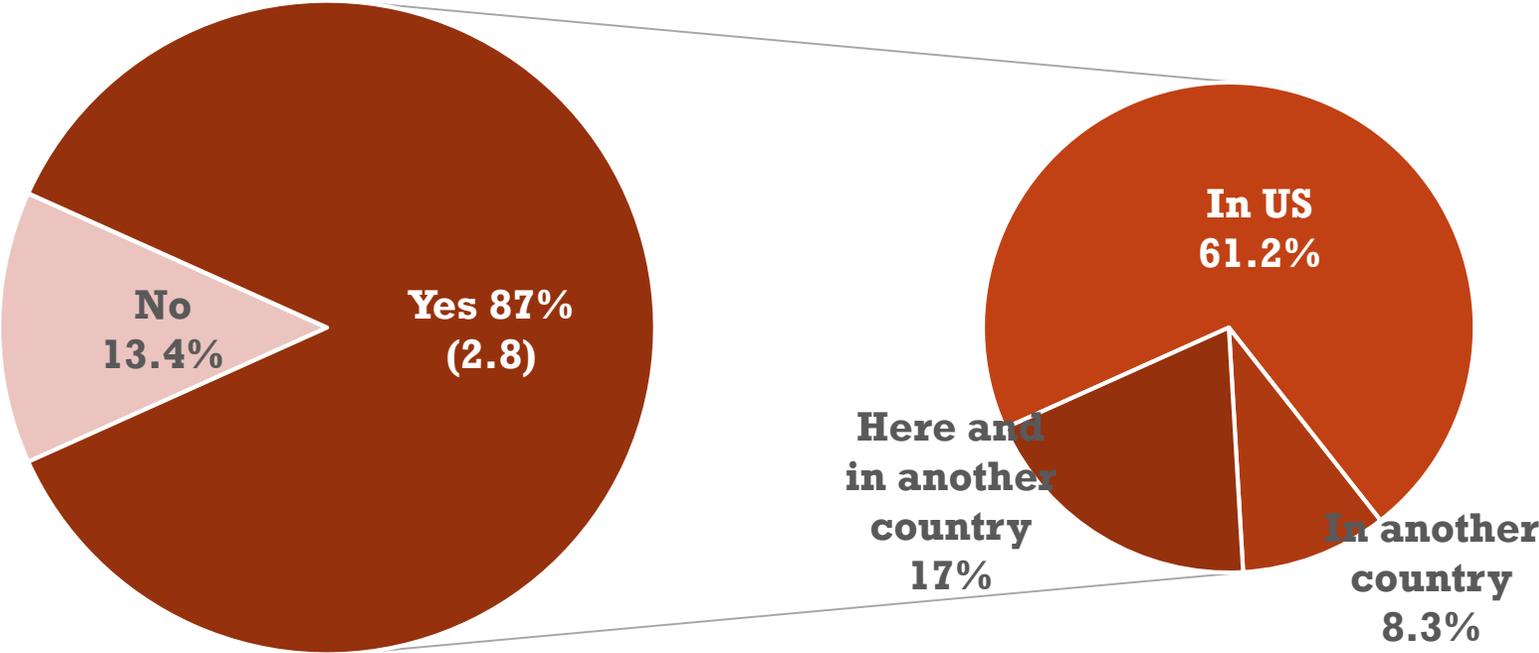
--Difficult to make long-term plans (purchasing home, other long-term plans)

TPS man who didn't save for his son in college



TPS SURVEY:

- Children



SPILOVER EFFECTS OF UNCERTAIN LEGAL STATUSES

- **Undocumented status affects**
 - Family members, including U.S. born children
 - Communities, neighborhoods
 - U.S. born individuals
- **Individuals with insecure/temporary statuses, lawful permanent residents, U.S.-born are also affected due to regular threats to end these insecure statuses and climate of insecurity & ever present risk of deportation**
- **Racialization of legal status is central**
 - Association between an insecure/undocumented status and being Mexican/Latino spills over to affect the entire group, even U.S.-born Mexicans and Latinos/as



IN RURAL KANSAS...

- Women fear detection (& deportation)—for themselves or a family member
- They fear separation from their U.S.-born children if detained/deported
 - “I am afraid that they will deport me.” “We don’t go out, we are *encerrados* [locked inside], I am afraid to leave... to be deported.”
 - *parallels our study of 4 cities: increased feelings of social isolation among Latinas*
- A constant fear is often manifested in headaches, lack of appetite, insomnia, stomachaches, etc.—enforcement practices can make them sick.
 - “I worry and worry and worry, as a mother I worry all the time. Yes, the children, my husband. Everything. Then my migraine kicks in.”





KANSAS

- Undocumented and uncertain legal status limits access to institutions
- Fear of contacting institutions:
 - Avoiding medical facilities pushes women to turn to informal networks to access treatment for themselves and their families & to use medicine from home
 - Example of Catalina and Head Start
- In contrast to urban areas, in rural areas there is limited mobility
 - No public transportation but they cannot drive (no driver licenses)



INFORMAL GATE KEEPERS: “SOCIAL ILLEGALITY”

- Legal status: limits formal access to resources
- “Social Illegality” (Flores and Schachter, 2018): illegality is also socially produced as people rely on stereotypes to classify individuals’ legal status (“for some immigrants, illegality is written upon their bodies.”)—racialization is central
 - Perceptions of who is “legal” affects undocumented (mostly Latinas/os) but also those in liminal legality
 - Affects how managers, employers, teachers, landlords, & policy officers perceive immigrants and the opportunities/resources afforded to them.
 - Kansas study with indigenous immigrants



CONCLUDING POINTS

- Immigration system—detention affects families in multiple ways
- Beyond formal detention:
 - Expansion of interior enforcement creates fear
 - Alternative to detention programs limit interactions & create stigma
 - Laws create temporary statuses & family reunification keeps families apart & in different statuses—mixed-status families

Immigration system beyond detention can redraw the contours of immigrant families, limit access to resources, and reshape their place in communities and society.

