

Excellent! Well written! Extremely thorough!

Historical Context Analysis: The Separation of Latino Families Due to Detention and  
Deportation Policies

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SW389 – Social Policy  
Due 3/12/2015

**Problem**

Current immigration policies do not protect the right to family unity, preservation or reunification for mixed-status Latino families. Increasingly, those deported by Immigration and Customs Enforcement (ICE) are parents of U.S. citizen children (Immigration and Customs Enforcement [ICE], 2014b:c:d). Today, over 4.5 million U.S. citizen children are born to an undocumented parent; this population is about 9% of all children who become involved with the child welfare system (Cervantes, 2014; Passel & Cohn, 2014). Multiple barriers to family reunification include cultural biases in the court and child welfare systems and public anti-immigrant sentiment (Zug, 2014).

**Key People, Organizations and their Differences**

Notable constituents are the congressmen supporting legislative reforms. The Help Separated Families Act of 2013, originally sponsored by Senators Al Franken (D-Minn.) and Herb Kohl (D-Wisc.), was introduced into the House by Representative Lucille Roybal-Allard (D-CA) (Congress.Gov, 2015a; Franken, 2010). Roybal-Allard, current sponsor of the more recent Humane Enforcement and Legal Protections (HELP) for Separated Children Act of 2014, believes that undocumented immigrants are integral to our society as community members, workers and contributors and that immigration policy reforms can counteract the harsh enforcement measures to serve national economic and humanitarian interests (Murphy, 2012; Roybal-Allard, 2015). Franken has supported both bills, noting that reforms protecting children do not have to alter the immigration policies on removal (Franken, 2010). The HELP bill, currently referred to the House Committee on the Judiciary, has some support from Democrats in the Committee, such as Rep. Zoe Lofgren (D-CA) who notes that it is possible to “unite parents

with their children,” Rep. Sheila Jackson Lee (D-TX), who believes that family unity is an essential American value and Rep. Luiz Gutierrez. But will face opposition from Republicans who support legislation upholding or expanding border control, immigration enforcement, and national security measures.

The Women’s Refugee Commission (2015), the Lutheran Immigration Refugee Service (LIRS) (2015), and the Applied Research Center are stakeholders in this issue as researchers and providers for mixed-status families; they now advocate for policies addressing cultural bias and lack of substantive due process access for immigrants and children (Rome, 2010). The Department of Homeland Security (DHS) and ICE as government agencies focus on their goals when defining this issue, noting that by protecting children by offering relief to parents will undermine efforts to control the border, enforcement laws and preserve national security (Department of Homeland Security [DHS], 2014; ICE, 2014a:b). The court and child welfare systems generally consider the best interests of the child as paramount to parental rights, with TPR as the best permanency solution for a U.S. citizen child to access citizenship rights to education and opportunity (Yablon-Zug, 2012; Zug, 2011).

### **A New Problem Today**

Family separation has been a gradually increasing issue as immigrant removals have exponentially increased and awareness of immigrant experiences has expanded. Cultural bias in separating children from their biological families was an issue for Native American families in the 20<sup>th</sup> century based on the perception that the native family home was ill-equipped to teach children the values of a democratic American (Maddali, 2014). Today, this sentiment influences termination of parental rights (TPR) for Latino immigrant parents (Maddali, 2014).

Good!

While twentieth century changes in immigration policies offered relief from removal for eligible immigrant relatives of citizens, negative sentiment towards Latino immigrants in particular grew in the early 90's following increased farm-worker immigration from Mexico (Fata et al., 2013; Glen, 2012; Hagan, Castro, & Rodriguez, 2010; Maddali, 2014). Today, media outlets reflect and perpetuate this sentiment towards Latino immigrants through portrayal of Latinos as stereotypes an immigrant population (Valentino, Brader, & Jardina, 2013). The Illegal Immigration Reform and Immigrant Responsibility (IIRIRA) and the Anti-terrorism and Effective Death Penalty Acts (AEDPA) of 1996 restricted the ability of parents of U.S. citizen children to seek relief from removal and expanded for what criteria an immigrant could be deported (Hagan, Castro, & Rodriguez, 2010). Deportation rates rose 600% in just 13 years, from 50,924 to 358,886 immigrants, and, in 2013 alone ICE reported removing 72,410 immigrants who were parents to at least one U.S. citizen child; this rise has generally been caused by programs allowing local police to act as immigration enforcement officers in the U.S. interior (Cervantes, 2014; Hagan et al., 2010; ICE, 2014a; Immigration Policy Center & First Focus, 2012; McKenna, 2011). The intended goal was to reduce illegal immigration; however, unintended consequences have continued to impact the Latino family (Hagan et al., 2010).

Increased deportations of parents have increased separation and Applied Research Center (ARC) (2011) estimates that an additional 15,000 children will be affected over the next five years (Andrapalliyal, 2013; Cervantes, 2014; Maddali, 2014). Only recently have changes to ICE and DHS removal directives aimed to reduce unnecessary family separation (Applied Research Center [ARC], 2011; Department of Homeland Security [DHS], 2014; ICE, 2013; Hall, 2014; Osterberg, 2009; Zug, 2014).

### Events Stimulating the Debate

Since 2013, greater awareness has been garnered by articles and statements made by news outlets and organizations, propelled forward by the results of more restrictive enforcement policies instituted by the Obama Administration, such as workplace raids and notable court cases (Ehrenfreund, 2015; Gambino, 2014; Preston, 2014; Soni, Gonzales, Rosenbaum, & Lopez, 2013). In the case of Encarnación Bail Romero, the judge compared the stable home offered in the U.S. to that of the biological mother who was facing impending deportation (Hall, 2011; *S.M. v. E.M.B.R. (In re Adoption of C.M.B.R.)*, 2011). In another case, a Guatemalan mother was determined unfit due to her lack of economic livelihood, the lack of commodities she could offer her child, and what resources were available in Guatemala (Fata et al., 2013; Hall, 2011; *State v. Maria L. (In re Interest of Angelica L.)*, 2009). In addition, legislative reform efforts have increased attention and research into this issue (ARC, 2011; Capps, Castañeda, Chaudry & Santos, 2007; Passel & Cohn, 2014).

President Obama implemented the executive actions of Deferred Action for Childhood Arrivals (DACA) in 2012 with an eligibility expansion in 2014, and Deferred Action for Parental Accountability (DAPA) for parents of legal permanent residents or citizen children in 2014 (U.S. Citizenship and Immigration Services [USCIS], 2015). Recently, President Obama has noted that a similar removal relief action was to be implemented to help this population of children and parents, but elements of DACA and DAPA were halted by Judge Andrew Hanen of the U.S. District Court for the Southern District of Texas Brownsville Division after 26 states have filed lawsuits ruling that the President's actions were unlawful (Nakamura & Elperin, 2015).

## Arguments and Views

Since 2005 there has been a growing consensus that immigration reform is needed (Fata et al., 2013). Common arguments support the social responsibility of federal and state agencies to protect the rights of families, parents and children, regardless of immigration status. (Andrapalliyal, 2013; Hagan et al., 2010; Hall, 2011; Rogerson, 2012). Overarching arguments include family preservation, paths to citizenship, and the 'anchor baby' theory, positing that offering relief to parents of U.S.-born children encourages illegal immigration by offering relief to parents of U.S. born children (Fata et al., 2013; Glen, 2012; McKenna, 2011; Osterberg, 2009; Rome, 2010). This relief has been considered since the early 1900's through the cost-benefit analysis, which attempts to balance the removal of undocumented immigrant with the economic costs of the deportee's family becoming charges of the state (Osterberg, 2009).

Social responsibility is conferred on the nation by the Universal Declaration of Human Rights (UDHR) and the Convention on the Rights of the Child (CRC) in outlining the family as the fundamental unit of society, the right of children to live with their biological family, and the protection of immigrants with due process (Maddali, 2014; McKenna, 2011). Yet, the Fourteenth Amendment and its access to due process is not offered in full to immigrant parents, and the U.S. has avoided ratifying the CRC because it would increase social responsibility for affording children the right to halt the removal of their immigrant parent (Glen, 2012; Hall, 2011; Maddali, 2014; McKenna, 2011; Osterberg, 2009).

Newer arguments look to growing problem areas, such as family courts and the child welfare system, to expand the scope of responsibility (Fata et al, 2013; Hall, 2014; Maddali, 2014; Rogerson, 2012). While child welfare agencies are required by the Adoption Assistance and Child Welfare Act (AFSA) to show they have made reasonable efforts to prevent TPR and

support reunification, cultural bias has reduced the adequacy of services provided (Maddali, 2014). Additionally, an undocumented immigrant parent with a criminal record from breaking immigration law is considered by the court as unfit to parent (ICE, 2014b; Immigration Policy Center & First Focus, 2012; Maddali, 2014; Meng, 2013; Osterberg, 2009; Rome, 2010). Other courts use a child's citizenship rights to U.S. amenities of education and opportunity in cultural bias, deciding that TPR is in the best interests of the child to have access to these resources and to cultivate an "American" value identity (Maddali, 2014).

With this threat of anti-immigrant sentiment, the public tends to favor immigration reforms which preserve border control, as well as policies which punish the population determined to take jobs away from hardworking Americans (Maddali, 2014; Salam, 2014). For others, TPR and family separation hits close to home as workplace raids, 287(g) programs or parental detention affects one's own family or relatives, neighbors, or hardworking employees (Gambino, 2014; ICE, 2014a; Preston, 2014; Capps et al., 2007). But separating families in this fashion is regarded as a poor reflection on the long up-held American values of family unity and U.S. citizenship (Fata et al, 2013; Maddali, 2014; Osterberg, 2009; Rome, 2010). As perhaps the biggest stakeholder in the immigration debate, the U.S. government has a compelling interest to maintain the integrity of immigration laws and removing persons who violate such laws (Osterberg, 2009). On the other hand, the next biggest stakeholder is the nation as a whole, which is dependent on the family unit in nurturing the future generation of children; instead of investing in the protection of the family unit, the government is instead investing in the deportation of possibly fit parents (Chaudry et al., 2010; Osterberg, 2009).

### **Previously Attempted Solutions**

In response to growing statistics of parental removal, ICE reformed removal directives to avoid detaining parents and primary caregivers of minor children (Cervantes, 2014; Fata et al., 2013; ICE, 2013; DHS, 2014). Humanitarian and human rights efforts have spurred organizations on to advocate for change; some work with the child welfare and court systems to relocate children left behind by parental detention or deportation, such as LIRS (Andrapalliyal, 2013; Hall, 2011; LIRS, 2014; Maddali, 2014). The government is interested in solutions which maintain the conservative views of national identity and border security, while also maintaining the support from factions which seek family protections (DHS, 2014; ICE, 2014b:c:d).

While the Latino population is a large voting constituency for supporting reform, it has been difficult for Latino parents who are detained or deported to advocate on their own behalf because they lack resources in the detention center or are too far away after deportation (Andrapalliyal, 2013). While not passed, attempted legislative reforms, such as the Child Citizen Protection Act of 2010 (Serrano, H.R. 182) which was introduced to provide immigration judges with the discretion to determine that an alien parent of a U.S. citizen child should not be ordered removed, deported, or excluded, and the Senate-passed Border Security, Economic Opportunity and Immigration Modernization Act of 2013 (S.744), which would have offered protections for these children in the child welfare system, are now changing the scope of reforms to include children's rights and family preservation values (Cervantes, 2014; Congress.Gov, 2015c; Maddali, 2014; Rome, 2010).

### **Those Impacted by Family Separation**

The Latino population has become demonized (both undocumented and documented), creating an 'us/them' mentality which separates them from humane consideration or treatment, also exacerbating the poverty faced by immigrants (Dreby, 2012; Maddali, 2014; Menjivar &



Abrego, 2012). Family separation impacts a child's psychosocial functioning through emotional trauma, including identity misunderstanding regarding what is an 'illegal' person and what it means to be an immigrant, as well as changes in behavior, all impacting educational and placement outcomes (Brabeck & Xu, 2010; Cervantes, 2014; Chaudrey et al., 2010). Some children develop a deep mistrust of law enforcement, potentially impacting their ability to seek protection from police officers when in need (Dreby, 2012). After deportation, the parent, as well as a child who follows, faces poverty and lack of resources in their country of origin. Parents in detention centers may be powerless to advocate for themselves or their children if not provided adequate resources by the center or child welfare workers (Andrapalliyal, 2013; Maddali, 2014; Immigration Policy Center & First Focus, 2012). Children who remain in the U.S. and are placed in the child welfare system will be impacted by an overburdened system and the loss of family support (Dreby, 2012; Hall, 2011).

### **Policy**

The Humane Enforcement and Legal Protections (HELP) for Separated Children's Act of 2014 and the related Help Separated Families Act of 2013 both aim to protect children facing family separation due to immigration enforcement efforts (Congress.Gov, 2015a:b). Detention centers and case managers will be required to provide detained parents the necessary resources to fulfill court-mandated reunification plans and to maintain communication with their children. To counter cultural bias, these bills endorse kinship care even in cases of undocumented status and require case managers to be culturally competent in speaking Spanish or the indigenous language and cooperating with the parent's decisions regarding the child's best interests. To aid in sustained parent-child communication detention centers will be tasked with locating Latino parents in centers closest to the child. Child welfare agencies will be delayed from initiating the

process of parental rights termination once a parent is detained, decreasing the likelihood of permanent family separation. Finally, a new system will be arranged to coordinate between the Department of Health and Human Services (HHS), DHS, ICE and child welfare agencies to eliminate the risks to family separation without agency communication.

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**SW 380: Policy Analysis & Lobbying Project**  
**Historical Context Analysis Rubric**

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**Explanation of the Issue & History – (45%)**

A – The social issue/policy and its history are stated clearly and described comprehensively, delivering all relevant information necessary for full consideration. The paper consistently demonstrates clear, accurate, detailed and comprehensive understanding of the relevant facts and information related to the social issue/policy and its history.

B – The social issue/policy and its history are stated, described, and clarified so that understanding is not seriously impeded by omissions. The paper demonstrates an adequate understanding of the relevant facts, data and information related to the social issue/policy and its history.

C - The social issue/policy and its history are stated but description leaves some concepts or data undefined and unexplained. Ambiguities are unexplored, and/or background information is unknown or not presented. The work demonstrates an uneven and shaky understanding of the relevant facts, data and information related to the social issue/policy and its history

D - The social issue/policy and its history are stated without clarification or description. The required level of dept of study is not present in the paper. The work demonstrates an inadequate understanding of the relevant facts, data and information related to the social issue/policy and its history.

**Research & Evidence – (30%)**

A – Information is taken from source(s) with enough interpretation/evaluation to develop a comprehensive analysis or synthesis. Your paper integrates several incredibly well-qualified and credible sources. The credibility of your sources is artfully woven into your paper, and your sources are used appropriately to respond to assignment prompts and to assert your points.

B – Information is taken from source(s) with enough interpretation/evaluation to develop a coherent analysis or synthesis. Your paper integrates some well-qualified and credible sources. The credibility of your sources is woven into your paper, and your sources are used appropriately to respond to assignment prompts and to assert your points.

C – Information is taken from source(s) with some interpretation/evaluation, but not enough to develop a coherent analysis or synthesis. Your paper integrates qualified and relatively credible sources. The credibility of your sources is present in your paper. Some of your sources are used tangentially or inappropriately to respond to assignment prompts and/or manipulated to support your points.

D – Information is taken from source(s) without any interpretation/evaluation. Your fails to integrate credible sources or discredited or marginal sources are used throughout your paper. Sources are not used to support your response to assignment prompts and/or to assert your points.

**Writing Quality – (15%)**

A - The paper flows well and information is well connected. Sentences are clear and concise; unfamiliar terms are explained. Word choice is appropriate and tone is appropriate. Spelling and grammar is correct throughout the paper, or there is only the most minor of errors. There are no contractions used. Transitions are clear and appropriate.

B - The paper is somewhat choppy, but it contains the required information. Terms are explained. Tone and word choice are appropriate. Spelling and grammar are mostly correct, but there are a few errors such as contractions. Transitions are adequate.

C - The paper is choppy and disjointed. Unfamiliar terms are not explained. Word choice is not always appropriate and tone may falter. Errors exist throughout the document in spelling and grammar. Contractions are used frequently. There is some difficulty with transitions.

D - The paper is lacks coherence and not organized well. Terms are not explained; sentences are confusing to the reader and their meaning is not clear. Word choice is often inappropriate and tone may be inconsistent. There are major errors through the document in spelling and grammar. The author struggles with transitions.

**APA Format - (10%)**

A - All references, in-text citations, and numbers are correct, or with only the most minor of errors.

B - There is effort to utilize APA writing style and format, but minor errors exist.

C - There are major errors with APA format in either references or citations.

D - There are major errors with APA format in both references and citations.

**Grade:** 100