

Principles for Children in Immigration Reform

As our nation's leaders move forward with the important task of reforming the federal immigration system it is critical that they consider the specific needs of children and youth. Children of immigrants currently comprise 1 in 4 of all children in the U.S. and represent the fastest growing segment of the child population. The number of unaccompanied immigrant children entering the U.S. has also reached record-setting numbers in recent years, with more than 14,000 children coming into the custody of the Office of Refugee Resettlement in fiscal year 2012.

Despite the significant impact of immigration policy on children's lives, children have historically been disregarded and often intentionally excluded in U.S. immigration policy decisions. Even the youngest children have few special protections under current immigration law and their best interests are often considered irrelevant in critical decisions regarding their own or a parent's ability to enter or stay in the United States. Furthermore, complicated laws determining immigrant eligibility for federally funded services have created significant barriers for children in immigrant families. As a result, both children who are immigrants themselves as well as U.S. citizen children with immigrant parents continue to face high rates of family separation, emotional trauma, economic instability, poor educational outcomes, and limited access to critical services and programs.

The consistent failure of immigration policies to consider children's well-being, protect children's rights, and promote family unity has had devastating outcomes. The Department of Homeland Security reports that 205,000 parents of U.S. citizen children were deported in the 26 months between July 2010 and September 2012. It is estimated that 5,100 children are in the U.S. child welfare system due to a parent's immigration detention or deportation, and thousands of U.S. citizen children have moved abroad with their deported parents. Currently, 5.5 million children in the U.S. live in mixed-legal status families and are at risk of being separated from a parent at any time, and 1 million undocumented children under the age of 18 face limited access to a higher education and only temporary legal means to join the workforce.

Unaccompanied immigrant children are a particularly vulnerable segment of the child population. These children cross our borders every day seeking refuge, safety, and protection, and often reunification with family members. In addition to facing harm in their own countries, they also endure dangerous journeys where they are subject to violence, abuse, exploitation, and the high risk of becoming victims of trafficking. Once entering the U.S. these children encounter a new set of risks as they confront our complex laws and systems. Unaccompanied immigrant children are subject to the same harsh conditions as adults in border patrol stations, face immigration courts alone without guaranteed legal representation, have to defend against removal by proving eligibility for forms of relief designed almost exclusively for adults and which require the same burden of proof adults

must meet, and are often repatriated or released without assessment of their safety and irrespective of their best interests.

The fact is that America's future prosperity will depend on our ability to ensure that *all* children have a fair shot at achieving their full potential. As the youngest and most vulnerable members of our society, children are the most deserving of protection under the law, and every child should have access to the services and resources they need to grow and thrive. **Thus, any long-term solution to our immigration system must take into account the unique needs of children and protect and promote their fundamental rights and overall well-being.**

As advocates for children, we urge Congress and the Administration to incorporate the following principles in immigration reform:

- **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.
- **Protection and promotion of 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.
- **Ensure 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.
- **Keep 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.