

U.S. immigration policy splits families when parents are deported

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The Associated Press

Conn. — Alexis Molina was just 10 years old when his mother was abruptly cut out of his life and his childhood unraveled overnight.

"She went for her papers," he says. "And she never came back."

Alexis' father, Rony Molina, a landscaper, was born in Guatemala but has lived here for 12 years and is an American citizen. Alexis, now 11, and his 8-year-old brother, Steve, are Americans, too. So is their 19-year-old stepsister, Evelin. But their mother, Sandra, who lived here illegally, was deported to Guatemala a year and a half ago.

"How can my country not allow a mother to be with her children, especially when they are so young and they need her?" Rony Molina asks. "And especially when they are Americans?"

It's a question thousands of families are wrestling with as a record number of deportations means record numbers of American children being left without a parent — despite President Barack Obama's promise that his administration would focus on removing only criminals.

Nearly 45,000 such parents were removed in the first six months of this year, says the federal department of Immigration and Customs Enforcement.

At least 5,100 U.S. citizen children in 22 states live in foster care, according to an estimate by the Applied Research Center, a New York-based advocacy organization, which first reported on such cases last year.

And an unknown number of those children are being put up for adoption against the wishes of their parents, who, once deported, are often helpless to fight when a U.S. judge decides that their children are better off here.

"I had no idea what was happening," says Janna Hakim of the morning in 2010 when a loud knocking at her Brooklyn apartment door jolted her awake. It was the first Friday of Ramadan. Her Palestinian mother, Faten, was in the kitchen baking the pastries she sold to local stores.

Janna, then 16, and her siblings were all born here. None knew that their mother was in the U.S. illegally — or that a deportation order from years earlier meant she could be whisked away by ICE agents.

"I am not a criminal. I am the mother of American children, and they need me, especially the younger ones," she cried over the phone from Ramallah, where she is living with her own mother after 20 years away. "How can a country break up families like this?"

Critics say the parents are to blame for entering the country illegally in the first place.

"Yes, these are sad stories," says Bob Dane, spokesman for the Federation for American Immigration Reform, which advocates tougher enforcement against illegal immigration. "But these parents have taken a reckless gamble with their children's future by sneaking into the country illegally, knowing they could be deported.

"Not to deport them gives them the ultimate bonus package and creates an incentive for others to do the same thing."

Others, including Obama, say splitting up families is wrong.

"When nursing mothers are torn from their babies, when children come home from school to find their parents missing, ... when all this is happening, the system just isn't working, and we need to change it," Obama said during his first run for president in 2008.

Last year, ICE announced a new policy of "prosecutorial discretion" that directs agents to consider how long someone has been in the country, their ties to communities and whether that person's spouse or children are U.S. citizens.

"That gave us a lot of hope," said David Leopold, general counsel for the American Immigration Lawyers Association. "Now we are all scratching our heads wondering where is the discretion when many of our lawyers continue to see people being deported with no criminal record, including parents of American children."

"Slow-motion tragedies"

"Quiet, slow-motion tragedies unfold every day ... as parents caught up in immigration enforcement are separated from their young children and disappear," Nina Rabin, an associate clinical professor of law at the University of Arizona, wrote last year in "Disappearing Parents: A Report on Immigration Enforcement and the Child Welfare System."

Rabin, an immigration lawyer, says one of the most unsettling experiences of her life was witnessing the "cruel and nightmarish destruction" of one Mexican family whom she represented in a fruitless attempt to keep a mother and her children together.

The mother, Amelia Reyes-Jimenez, carried her blind and paralyzed baby boy, Cesar, across the Mexican border in 1995 seeking better medical care, Rabin said. She settled in Phoenix, illegally, and had three more children, all American citizens. In 2008 she was arrested after her disabled teen son was found home alone.

Locked in detention, clueless as to her rights or what was happening to her children, she pleaded guilty to child-endangerment charges, and then spent two years fighting to stay with her children.

Twice her attorneys tried to convince an immigration judge that she qualified for a visa "on account of the harm that would be done to her three U.S. citizen children if she were to be deported," Rabin said. She lost and was deported back to Mexico in 2010.

Last year, her parental rights were terminated by an Arizona court after a judge ruled that she had failed to make progress toward reunification with her children — something Rabin said was impossible to do, locked away for months without access to legal counsel or notifications from the child welfare agency.

Her case is before the Arizona State Court of Appeals, but Rabin says that regardless of the outcome, the family has been destroyed.

"Tragically, we hear of cases like this every day," Rabin says.

A key reason, she says, is the extreme disconnect between federal immigration and state child-welfare policies that leads to "Kafka-esque results" when parents and children are swallowed up by the system.

Many advocacy agencies now encourage immigrants to have a detailed plan in place in case they are deported, including granting in advance power of attorney to someone who can take custody of their children.

ICE, meanwhile, maintains it tries to work with such groups to ensure "family unity."

"ICE takes great care to evaluate cases that warrant humanitarian release," said spokeswoman Dani Bennett. "For parents who are ordered removed, it is their decision whether or not to relocate their children with them."

But immigration lawyers say that is not so easy. A recurring complaint is that clients "disappear," often sent to detention centers far away and denied access to family court hearings, phones and attorneys. Many do not fully understand that custody of their children might be slipping away.

Federal law requires states to pursue termination of parental rights if the parent has been absent for 15 out of 22 consecutive months, and some states allow proceedings to begin even sooner.

Kids have better life here?

In the mountain town of Sparta, N.C., immigration agents deported Felipe Montes, a 32-year-old laborer, to Mexico two years ago. His three young sons — American citizens — were left in the care of their mentally ill, American-born mother. Within two weeks, social workers placed the boys in foster care.

Montes and his wife want the children to live with him in Mexico, saying they are better off with their father than with strangers in the U.S.

But child welfare officials have asked a judge to strip Montes of his parental rights, arguing the children will have a better life here.

"I don't drink, I don't smoke, I don't use drugs," Montes said this year. "I have always taken care of my children, I have always loved them."

But parental love is only part of the equation. Even when children join their deported parents in order to keep the family together, it can be a struggle to adjust. In many cases, they don't speak the language and fall behind at school.

"They don't have the same access to health care or education," says Aryah Somers, a Washington-based immigration lawyer who is in Guatemala on a Fulbright scholarship studying the effects of U.S. immigration policies on children.

Somers says she has encountered scores of deportees who were removed from their families, including many who have no criminal record and were deported after the new ICE discretionary policy was announced.

She described a mother from Los Angeles, a victim of domestic violence, who was deported this year after police responded to a fight at her home. Desperate to return to her 3-year-old son, a citizen, the woman recently went to Mexico, where she plans to try to cross the border again, illegally.

Although Somers advised against that, she understands. "How can you blame her?" Somers asks. "Her frustration and devastation was just so complete."

There are some signs of change. Somers said she has heard about ICE agents boarding a deportation jet before it left the U.S. and freeing deportees who had lived in the country since they were children — a direct response to Obama's June executive order allowing such young people with no criminal record to temporarily stay and work.

In Chicago, Marilu Gonzalez, a coordinator at the Roman Catholic archdiocese's office of immigrant affairs, described a recent case in which an immigrant mother, living here illegally, was arrested for driving under the influence. However, instead of being deported, she was released with an ankle monitoring bracelet and given a stay. And, instead of being placed in foster care, her children were permitted to stay with her sister, who is also here illegally.

"That would not have happened in the past," said Gonzalez, who sees hundreds of such cases. "She would have been deported."

In another rare move, Felipe Montes, the father who wants his children from North Carolina to join him in Mexico, has been granted permission to temporarily return to the U.S. to attend custody hearings, although he must wear an ankle monitoring bracelet.

By the numbers

45,000

Parents illegally in the United States who were deported in the first six months of this year, according to Immigration and Customs Enforcement

5,100

U.S. citizen children of deported parents who live in foster care, according to the Applied Research Center

15 out of 22

Consecutive months after which, if a parent has been absent, federal law requires states to pursue "termination of parental rights"

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