

Broken Immigration Policy: Broken Families

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Family unity has long been a foundation of U.S. immigration policy (U.S. Department of Homeland Security 2011). The two major immigration categories under which lawful permanent residence to the United States is granted are immediate relatives of U.S. citizens and family-sponsored preference. The Immigration and Nationality Act give prominence to family members when allocating visas for entry to the United States. Sixty-five percent of the 1,062,040 people that became legal permanent residents in fiscal year (FY) 2011 were immediate relatives of U.S. citizens or family-sponsored immigrants.

Ironically, this family-based immigration system produces thousands of broken families, separated across national borders and unsure if and when they will be reunited. Immigrant children, some with parents who are U.S. citizens, are caught in the middle, and parents are strained emotionally and financially. Familial separations also influence the economic contributions immigrants make to the United States. Separated families may lack a sense of permanency and not make educational, housing, or other investments in the United States. Money that could be spent in the United States is instead sent abroad to support relatives left behind.¹

Congress will almost certainly discuss immigration reform in the near future, pondering what immigration policy best fits the economic goals and character of the United States. To inform this debate, this brief highlights provisions in the current immigration system that may keep families apart, and uses nationally representative data to attest to these separations. The information presented could be used to evaluate possible immigration reform issues such as the differential treatment of U.S. citizens and legal permanent residents in visa adjudications, the numerical limits on certain types of visas, the process by which unauthorized immigrants can adjust their status, and deportation priorities, among others.

Admittedly, some families would be separated even with the best-working immigration system. Family members might decide to live apart from immediate kin to diversify the risk of human and financial capital accumulation across national borders. “Regular” family separations are not uncommon in labor migration and are even a way of life for seasonal migrants (Menjivar 2010). The family separations that are the focus of this brief and are pertinent for policy are those that are propitiated, initiated, or sustained by the immigration system, since these have repercussions for the economic and social well-being of immigrant families regardless of whether these separations were initially intentional or voluntary.

How the Immigration System Keeps Families Apart

The U.S. immigration system goes beyond determining who enters the country, how many, in what order and under what conditions. It also encompasses a complex web of laws and bureaucratic, judicial, and administrative processes that delineate enforcement priorities, how to secure the nation's borders, how to apply for permanent visas for family and relatives, how to procure changes in immigration status, and how to deal with violators of immigration laws.

The impetus for current discussions on immigration reform is that, in the words of President Obama, "the immigration system is broken." This broken immigration system contains interrelated elements that jeopardize family reunification and keep family members apart.

Limited Number of Visas Allocated to Spouses and Children of Legal Permanent Residents

There is no limit on the number of visas available to immediate relatives of U.S. citizens (spouses, parents, and children under the age of 21). However, the number of first family preference (F1) visas, which are used for unmarried sons and daughters age 21 and older of U.S. citizens, is capped at 23,400 annually. Second preference (F2) visas, for spouses, children, and unmarried sons and daughters of legal permanent residents (LPRs), have an annual allotment of 114,200. Children and spouses of LPRs receive F2A visas, and adult children of LPRs receive F2B visas. Two other factors further restrict the use of F1 and F2 visas: a share of these visas go to individuals who are already living in the United States and adjusting their status, and a single country cannot get more than 7 percent of some of these visas.² A legal permanent resident petitioning entry for his or her immediate relatives could skip the queue by becoming a citizen, since visas petitioned by citizens are not numerically capped. But citizenship is not an option for many immigrants. A noncitizen must have been an LPR for five years and have continuously resided in the United States for five years as an LPR to qualify for citizenship. Someone who adjusted his or her status to legal permanent residence has to start counting five years from the date he or she became legal. Citizenship is not an option for immigrants not legally residing in the United States. English language limitations may also keep some LPRs from becoming citizens.

Long Waiting Lines

Given the limited number of visas, it is not surprising that the waiting line for a legal permanent resident to bring his or her child or spouse is long. As of February 2013, the Department of Homeland Security was distributing visas for the admission of children and spouses of Mexican or Filipino legal permanent residents that were approved by (priority dates) October 1, 2010, a waiting time of 2.3 years. This is an improvement over prior years. The queue is long: in November 2012, close to 1 million people were waiting for F1 and F2 visas.³ If minor children turn 21 while waiting for an F2A visa, they may be moved to the F2B queue and face even longer waiting times. The long waiting times keep children and spouses separated from the

petitioner, with no indication of when they will be reunified. Reducing the waiting period could improve children's lives by reuniting them with their parents more quickly (Landale, Thomas, and Van Hook 2011).

Process for Petitioning Legal Permanent Residence Status

Until March 4, 2013, when a U.S. citizen petitioned for the status adjustment of an immediate relative residing unlawfully in the United States, the undocumented person had to go back to his or her country and wait to receive a green card. Upon leaving the United States, however, that relative would be barred from reentry for 3 to 10 years, depending on the length of the undocumented stay. Few relatives would risk going back to their home countries and being unable to return to the United States. For years, this law placed immigrants in a dilemma: doing the right thing by adjusting their status meant risking the cohesion of their families. This law exposed many immigrant families to prolonged separations. The recently approved Provisional Unlawful Presence Waiver allows immigrants to go back to their countries to collect their visas without fear of inadmissibility upon return, but this waiver is given only to immediate relatives of U.S. citizens.

Deportation Policy

The Obama administration has moved away from workplace raids and toward employment electronic verification of immigration status (Meissner et al. 2013). In addition, priorities have shifted to focus the limited resources of Homeland Security on deporting undocumented immigrants with criminal records and to stop deporting undocumented children or people that arrived as children. While these policies confine removals to specific cases, laws such as the 1996 Illegal Immigration Reform and Immigrant Responsibility Act, the 1996 Antiterrorism and Effective Death Penalty Act, and the 2001 USA PATRIOT Act have expanded the type of offenses for which a noncitizen can be deported (Hagan, Rodriguez, and Castro 2011). In addition, the adoption of 287(g) programs across states and localities has produced much variation across places in how violators of immigration laws are treated (Meissner et al. 2013).

In FY 2011, 429,000 immigrants were detained in Immigration and Customs Enforcement facilities, 66,000 more than in the previous year. A total of 391,000 people were removed, only 48 percent of whom had criminal offenses (Simanski and Sapp 2012). Fighting deportation is costly, and the immigrant risks not being able to legally enter the United States for at least five years in the future. Not surprisingly, almost a third of the immigrants slated for removal were deported expeditiously—that is, without a hearing in an immigration court (Capps et al. 2007). Stories of families separated by deportation abound (Capps et al. 2007; Dreby 2012; Hagan, Eschbach, and Rodriguez 2008; Menjivar and Abrego 2012). These separations have consequences for the emotional well-being of children and often place separated families in dire economic circumstances. In the case of deportations of Mexican nationals, 93 percent of those

who had lived in the United States for more than one year were men, and 72 percent were heads of households, according to statistics collected in the Border Survey by Colegio de la Frontera Norte.⁴ Deportation increases economic hardship. Families are deprived of a provider and are left with a female provider who more often than not makes very low wages or has to newly join the labor force. Deportation also permanently ruptures parents' relationships with their children remaining in the United States (Dreby 2012).

Lack of a Pathway to Legalization

Although the number of unauthorized border crossings has declined since 2008 possibly due to increased enforcement, a weak U.S. economy, and better economic prospects in Mexico, about 11 million unauthorized immigrants currently live in the United States.⁵ In 2011, over half the undocumented (56 percent) had lived in the United States for 10 years or longer (Hofer, Rytina, and Baker 2012). Many of these immigrants have children and spouses abroad but cannot petition visas for their families. The fate of the 11 million undocumented immigrants is key in immigration reform discussions, and a consensus is building that any immigration reform proposal should include a pathway to citizenship for the undocumented.

As many undocumented immigrants have lived in the United States for prolonged periods with no way to adjust their legal status, their children may be trying to join them. The Department of Homeland Security has documented an increased number of minors crossing the border alone. These children may be coming on their own in search of a better life, but they may also be trying to join their parents and relatives in the United States. An average of 752 children were admitted monthly in the Office of Refugee Resettlement Division of Unaccompanied Children Services in 2009, 238 more than the prior year (Byrne and Miller 2012).

Increased Border Enforcement

Increased enforcement makes it more dangerous and costly to cross the border without papers. Very few men risk crossing with their wives and children. Seventy-three percent of undocumented crossers are men, and the share of women has declined as enforcement has increased (Lozano and Lopez 2010). Sixty percent of men leave a wife behind in Mexico (Cerrutti and Massey 2001). Increased border enforcement also means fewer temporary trips to the United States and, hence, more permanent family separations (Massey and Riosmena 2010).

The Affidavit of Support

The affidavit of support was introduced in the 1996 Illegal Immigration Reform and Immigrant Responsibility Act. U.S. citizens and legal permanent residents who are petitioning visas for their family members must submit an affidavit attesting that their relatives will not be a public charge. This means that these family members will not receive public cash assistance for income

maintenance or institutionalization for long-term care at government expense. No affidavit of support is required for children of U.S. citizens nor from persons who have 40 quarters of work in the United States. The affidavit, the sponsor must show income levels (assets included) above 125 percent of the poverty threshold. A visa applicant can also use a joint sponsor, but the joint sponsor also has to meet the income criteria. The affidavit of support is legally valid until the sponsored immigrant becomes a citizen or has accumulated 40 quarters of work in the United States (which usually translates to 10 years). In 2011, 20 percent of married adult immigrants and 28 percent of noncitizens lived in households with income at or below 125 percent of the poverty level. Among adult Hispanic immigrants, 37 percent lived in households with income below 125 percent of the poverty level. The affidavit of support, coupled with the high poverty rates of noncitizen immigrants, may be keeping the poorest families from reuniting with their spouses and children.

The Volume of Spouse and Children Immigration to the United States

The volume of approved applicants waiting for the numerically capped visas under the first and second family preference category provides insight into how immigration policy keeps families apart (table 1). The first preference (F1) category corresponds to adult children of U.S. citizens. The second preference category is divided into children and spouses of legal permanent residents (F2A) and adult children of legal permanent residents (F2B). In FY 2012, almost one million children and spouses of legal permanent residents and adult children of U.S. citizens were waiting for their approved visas because of the annual limits set by immigration law. This total includes people living abroad and people in the United States wanting to adjust their status. Mexico tops all three waiting lists, including over 88,000 children and spouses of Mexican American legal permanent residents waiting for their visas.

The waiting time for children and spouses of legal permanent residents has been reduced significantly in the past two years. Nevertheless, a Mexican American LPR has to wait 2.3 years before being able to bring his or her spouse and children to the United States (figure 1). The wait was 5.8 years in February 2009. Adult children of Mexican Americans citizens and LPRs alike have to wait 19 to 20 years to reunite legally. Adult children of Indian American citizens and LPRs, in contrast, have to wait 7 to 8 years.

Table 2 shows the volume of children, spouses, and adult sons and daughters coming from abroad to reunite with their parents and partners in the United States. In 2011, 688,000 people were granted legal permanent resident status either as immediate relatives of U.S. citizens or under family-sponsored preference. These categories account for 65 percent of all people given legal permanent resident status. The percentage of F1 and F2 visas allocated to individuals arriving from abroad was 22 percent in 2011, compared with 13 percent in 2005. Between 2005 and 2008, the number of “new arrivals” admissions grew by 37 percent. Between 2008 and 2011, however, it grew only by 15 percent.

Table 1. Number of Approved Applicants Waiting for U.S. Visas in First and Second Preference Admission Categories, November 1, 2012

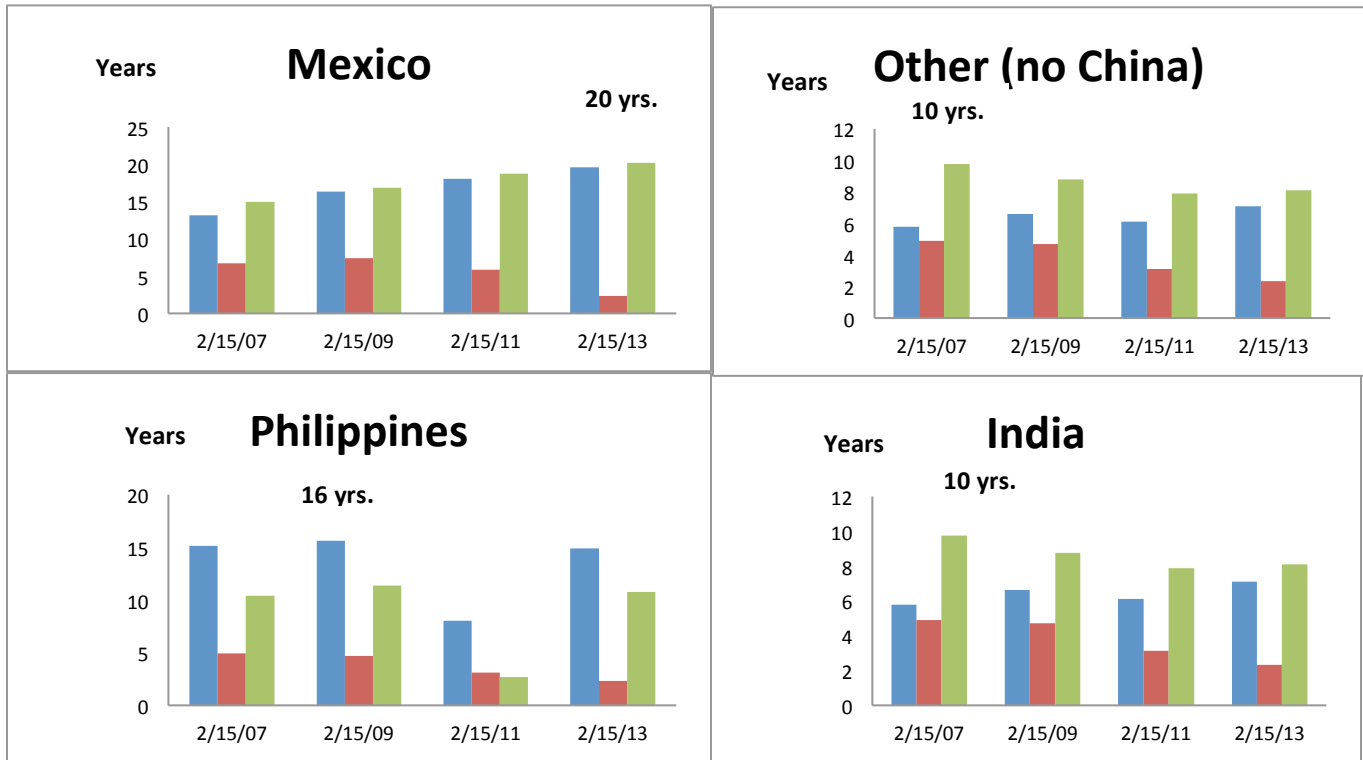
F1*		F2A*		F2B*	
288,705		220,313		486,597	
Top Waiting Countries		Top Waiting Countries		Top Waiting Countries	
Mexico	93,431	Mexico	88,054	Mexico	201,225
Philippines	23,723	Dominican Republic	25,053	Dominican Republic	56,223
Dominican Republic	21,670	Cuba	13,801	Philippines	50,099
Jamaica	18,689	Haiti	11,715	Haiti	22,845
Haiti	16,119	Philippines	9,615	Cuba	15,715
El Salvador	8,307	All others	72,075	China	15,715
Guyana	8,231			El Salvador	15,701
Cuba	7,677			Vietnam	15,563
Vietnam	7,140			Jamaica	8,765
Colombia	6,013			Guatemala	7,153
All others	77,705			All others	7,033

Source: “Annual Report of Immigrant Visa Applicants in the Family-Sponsored and Employment-based preferences registered at the National Visa Center as of November 1, 2012,” <http://www.travel.state.gov/pdf/WaitingListItem.pdf>.

*F1 stands for first family preference and includes unmarried sons and daughters (21 years old and older) of U.S. citizens. F2 refers to second family preference. F2A refers to children (under age 21) and spouses of legal permanent residents. F2B refers to unmarried sons and daughters (age 21 and older) of legal permanent residents.

Figure 1. Priority dates in waiting years from February 15, 2007, 2009, 2011 and 2013

■ F1 ■ F2A ■ F2B



Source: Department of State, Visa Bulletin Archive (various years, February)

Retrieved from http://www.travel.state.gov/visa/bulletin/bulletin_1770.html, accessed March 6, 2013.

*F1 stands for first family preference and includes unmarried sons and daughters (21 years old and older) of U.S. citizens. F2 refers to second family preference. F2A refers to children (under age 21) and spouses of legal permanent residents. F2B refers to unmarried sons and daughters (age 21 and older) of legal permanent residents.

Table 2. Individuals Obtaining Legal Permanent Residence by Selected Visa Categories: 2005, 2008, and 2011

	2005	2008	2011
Total obtaining legal permanent residence	1,122,373	1,107,126	1,062,040
Immediate relatives of U.S. citizens	436,231	488,483	453,158
Family-sponsored preferences	212,970	227,761	234,931
Immediate relative and family-sponsored share of total	58%	65%	65%
Spouses, children, and unmarried sons/daughters of citizens and LPRs—new arrivals	145,548	198,886	228,673
Share of total	13%	18%	22%
Percent growth		2005–08	2008–11
All immigrants		-1%	-4%
Immediate relatives		12%	-7%
Family-sponsored preferences		7%	3%
Spouses, children, sons/daughters of citizens and LPRs—new arrivals		37%	15%

Source: Author's tabulations based on U.S. Department of Homeland Security, *Yearbook of Immigration Statistics*, Table 7, various years.

Indicators of Family Separation among Immigrants

One indicator of family separation consistent with the idea that immigration policies keep families apart is the high percentage of immigrants that are married with spouse absent (table 3). This percentage is low overall but is much higher among immigrants than among natives. Among the three immigrant groups in the table, recent immigrants have the highest share of married people with absent spouses: 7.4 percent. More men than women leave their spouses behind.⁶

Table 3. Marital Status of Immigrants and Natives: 2009-2011 (percent and totals)				
	Native-born	All immigrants	Hispanic immigrants	Recent immigrants
Married, spouse present	35.4	50.1	46.1	34.2
Married, spouse absent	1.4	5.3	6.2	7.4
Men	1.5	6.4	7.7	9.1
Women	1.4	4.3	4.5	5.7
Never married, single	46.7	29.4	33.2	50.5
Other	16.5	15.2	14.5	7.9
Number (thousands)	269,337	39,893	18,669	6,749

Source: Author's tabulations based on ACS 2009–11 data extracted from IPUMS (Ruggles et al. 2010).

The household structure of immigrants also shows evidence of family separations (table 4). The share of female households with no husband present is lower among immigrants than among natives. However, a larger share of immigrant households are headed by men with no wife present. Only 5.5 percent of natives live in households headed by men with no wife present. The corresponding percentage for immigrants is 8.7 percent; among Hispanic immigrants, it is 12.1

percent. Recent immigrants are twice as likely to live in male-headed family households as natives. This high share of male-headed family households may be a product of men migrating with or bringing in their children while the wife stays behind. Nonfamily male-headed households are also more common among Hispanic immigrants and recent immigrants, suggesting that many immigrants come alone and form households among relatives and nonrelatives.

The family separations coming about from the immigration system affect children living in the United States. Differences in the relationship of children to the householder by nativity are remarkable. Only 72 percent of foreign-born children (age 0 to 17) are the biological children of the householder they live with (table 5). In contrast, 83 percent of native children are directly related to their household head. A much higher share of immigrant children is reported as adopted children, step children, or children-in-law. These family relationships could be created by immigration, as U.S. immigrants may take children from their relatives as adopted or stepchildren. A lower percentage of immigrants than natives are grandchildren, but a higher share fall under the “Other” relationship category. Recent immigrant children are the most likely to have “other” relationships with their householder (12.9%).

The difference in the relationship categories of immigrant and native children could be explained by family separations brought about by immigration policy. Children left in the United States with relatives because of deportations, unauthorized children in transit to reunite with their parents in another state, children apprehended by immigration authorities and placed with sponsors in the United States, and children arriving to the U.S without their parents, are examples of how immigration policy could be behind the low proportion of immigrants that are the children of the householder.⁷

Table 4. Household Structure of Immigrants and Natives, 2009–11 (percent)

	Native-born	All immigrants	Hispanic immigrants	Recent immigrants
Family households				
Married couple	58.5	63.0	59.2	57.7
Female household , no husband present	16.9	13.7	17.1	12.6
Male household, no wife present	5.5	8.7	12.1	10.8
Nonfamily households				
Female householder , not living alone	2.5	1.9	1.5	3.0
Male householder, not living alone	3.1	3.8	4.3	8.1
Male or female, living alone	13.5	8.9	5.8	7.8

Source: Author’s tabulations based on 2009–11 ACS data extracted from IPUMS (Ruggles et al. 2010).

Table 5. Relationship of Child to Household Head, Immigrants and Natives, 2009–11
(percent, and total)

	Native-born	All immigrants	Hispanic immigrants	Recent immigrants
Biological child	83.5	72.4	73.9	69.1
Adopted child, stepchild, or child-in-law	6.0	13.8	10.1	12.7
Grandchild	7.4	3.7	4.0	5.3
Other	3.1	10.1	12.0	12.9
Number of children (thousands)	71,252	2,765	1,3634	1,281

Source: Author's tabulations based on 2009–11 ACS data extracted from IPUMS (Ruggles et al. 2010).

Note: Children are age 0–17. Immigrant children are those born outside the United States.

Lastly, we assess the prevalence of separations of immigrant families by comparing the years that children and their parents enter the United States. The American Community Survey does not identify parents and their children, but it identifies the householder and his/her relationship to the other members of the household. From this information it is possible to identify the children of the householder and the spouse (if one is present). With this information and year of arrival to the United States, we approximate the length of separation of foreign-born children from their foreign-born parents for a subset of immigrant families.⁸ We calculated separation time for children age 20 or younger who were born abroad, who came to the United States in or after 1990, and whose parents also immigrated in or after 1990. This calculation clearly underestimates the number of foreign-born children experiencing family separations since we consider only children who are currently living with at least one of their parents and we have no way to measure ongoing separations, where one or both parents or a child still reside abroad. Calculations shown here are only those cases that came to closure through the immigration of at least one parent to the United States.

Among foreign children who live in the United States with their foreign-born mothers, and who are the children of their householder, 21 percent were separated from their mothers for at least one year (figure 2, top chart). A total of 79 percent of these children arrived in the United States in the same year as the mother; hence, no separation is evident. Arriving contemporaneously with the father is less common (66 percent; figure 2, bottom chart).⁹ Thirty-four percent of children were separated from their father for at least a year. We also calculate the length of separation relative to the age of the child. Children who were separated from their parents through immigration spent on average 27 percent of their lives living away from their mothers and fathers.

Implications for Policy, Scholarship, and Immigration Reform

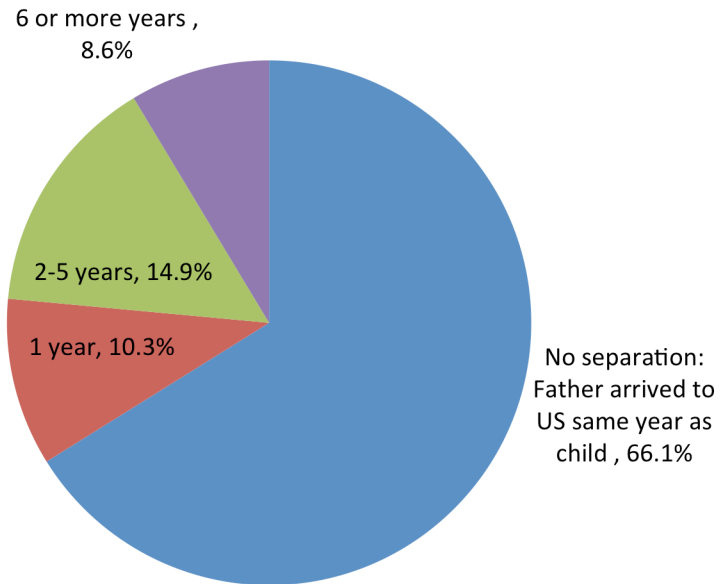
The current immigration system has many provisions that initiate, perpetuate, and sustain family separations. Data examined in this brief attest to such separations among immigrant families. This contrasts with the narrative of an immigration system based on family reunification.

As immigration reform is debated by Congress and the president, there is opportunity to discuss family separations under the current system. Family unification could be an organizing principle in immigration reform. This means not only reducing waiting lines and augmenting the number of visas for children and spouses, but also looking throughout the system to eliminate provisions that keep families separated or break families apart. Proposed pathways to legalization and citizenship of unauthorized immigrants should also consider family unification as an underlying principle. This means, for instance, reducing the waiting time before those who have lived in the United States for a prolonged period can become legal permanent residents or citizens. Whether U.S. citizens should be treated differently from legal permanent residents in visa petitions as it is currently done, could be looked at through the family unification prism. Administrative procedures regarding treatment of unaccompanied minors and deported parents could also be guided by family considerations.

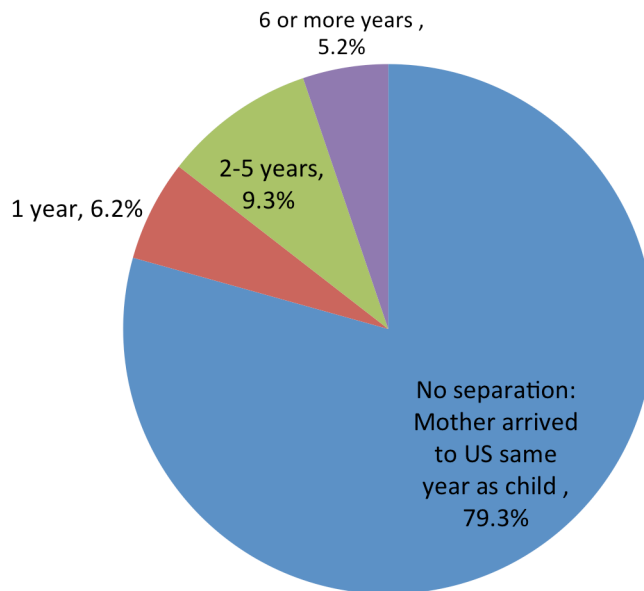
A second implication of the analysis and data presented in this brief relates to the well-being of immigrant families. Comparisons between natives and immigrants on such indicators as poverty rates, single-headed households, living arrangements, and children's educational and developmental outcomes should consider that the separation of families across national borders affects the well-being of these families. For instance, economic hardship among immigrant families may be higher than reported in official statistics, considering that many immigrants are remitting part of their income abroad.

Figure 2. Foreign-Born Children's Length of Separation from Parents

Father/Child Separations



Mother/Child Separations



Source: Author's tabulations based on American Community Survey 2009–11 data on year of arrival to the United States, child relationship to householder, and age of child.

Note: Children are age 20 or younger. Parent and child both arrived in the United States in or after 1990. The children must live with at least one parent who is the householder or spouse of the householder.

The data also reveal some of the vulnerabilities of foreign-born children. About 10 percent of foreign-born children live with adults other than their parents or grandparents. From 21 to 34 percent of foreign-born children residing in the United States emigrated after their parents, sometimes spending over a quarter of their lives separated from their mothers or fathers. School officials, social service workers, and health care providers should be aware of how such separations can affect immigrant children.

This analysis also has repercussions for the study of immigrant household structure. Studies of immigrant families, Latinos in particular, have looked at economic factors, acculturation, and the settlement process to explain the high proportion of extended households and the high share of immigrants living with non-kin (Blank and Torrecilha 1998; Tienda and Angel 1982; Van Hook and Glick 2007). The current analysis brings yet another dimension into the picture: immigration policy could play a role in the observed household structures of immigrants.

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Notes

¹ In 2010, remittances to Mexico amounted to over \$22 billion. Remittances to Guatemala totaled \$4.2 billion, and remittances to San Salvador and the Dominican Republic totaled \$3.6 billion (World Bank, *Migration and Remittances Factbook 2011* (Washington, DC: The World Bank, 2011, <http://data.worldbank.org/data-catalog/migration-and-remittances>).

² U.S. Department of State, Visa Bulletin April 2013. Retrieved at http://www.travel.state.gov/visa/bulletin/bulletin_5900.html (accessed April 18, 2013.)

³ "Annual Report of Immigrant Visa Applicants in the Family-sponsored and Employment-based preferences Registered at the National Visa Center as of November 1, 2012," <http://www.travel.state.gov/pdf/WaitingListItem.pdf>.

⁴ "Hitting Home: The Impact of Immigration Enforcement," Mexican Migration Monitor, Tomás Rivera Policy Institute and Colegio de la Frontera Norte, from <http://www.migrationmonitor.com/3-article/> (accessed February 14, 2013).

⁵ Jeffrey Passel and D'Vera Cohn. Unauthorized Immigrants: 11.1 million in 2011. Pew Research Hispanic Center. Retrieved from <http://www.pewhispanic.org/2012/12/06/unauthorized-immigrants-11-1-million-in-2011> (accessed April 1, 2013).

⁶ Some of this difference may be due to the fact that migrants in general tend to leave spouses behind. The ACS identifies only one-year movers. The share of married native interstate migrants with absent spouses is 2.4 percent.

⁷ According to a report by the Vera Institute (Byrne and Miller 2012), among children that were placed with sponsors by the Office of Refugee Resettlement, only 35 percent were placed with their parents or grandparents. The rest were placed with other relatives.

⁸ If the length of separation was longer than the child's age, this case was removed from the sample. Also eliminated were cases in which the child was born after the parent arrived in the United States.

⁹ Gindling and Poggio (2008) using the New Immigrant Survey and with a different sample definition estimated that 31 percent of children were separated by immigration.