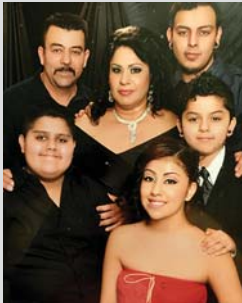


The U.S. government's systemic separation of immigrant families

When the Trump administration implemented its disastrous “zero-tolerance” family-separation policy in spring 2018, Americans took to the streets to protest. But when it comes to the impact of U.S. immigration policy on families, these systemic acts of child abuse by immigration agents—tearing children from their parents’ arms—are not outliers, but the norm. Families endured brutal separations at the border long before zero-tolerance, at and between ports of entry. For years, Immigration and Customs Enforcement (ICE) has permanently and sometimes violently separated families during raids and arrests in American communities.¹ And the Trump administration’s orders barring immigrants from mostly Muslim-majority nations have left families stranded across continents.

Family separation is a central component of U.S. immigration policy—at the border, in our communities, and in the discriminatory policies that determine who can and cannot immigrate.

This policy brief tells the stories of four families², all clients of the National Immigrant Justice Center (NIJC), whose family unity was disrupted by U.S. immigration policies.



Fernando

Separated and criminalized in his community

Fernando and his wife moved from Mexico 20 years ago. After surviving a violent home invasion and a series of family tragedies, Fernando suffered from depression and became addicted to drugs. He was convicted of drug possession and completed a criminal sentence, only to be turned over to ICE and put in deportation proceedings. Fernando has been jailed by ICE for twice as long as he spent in criminal custody—all while separated from his family, including his son who has autism.



Diana

Separated at the border and criminalized

Diana and her 11-year-old son could not find refuge in El Salvador from her abusive partner or gang members who murdered their relatives. When they crossed the U.S. border to seek protection, border patrol officers took Diana’s son and forced her to watch him crying from behind a one-way window. Officers explained she would be charged with illegal entry, and refused to let her say goodbye.



Anthony

Separated as an asylum seeker at a port of entry

Anthony and his wife knew they had no choice but to flee the Democratic Republic of Congo with their children after they were targeted by the country’s ruling party. They traveled through Central America and became separated on the journey. When Anthony and his three-year-old daughter arrived at a U.S. port of entry in April, he requested asylum. DHS officers took Anthony’s daughter and sent him to a county jail near Chicago. They were separated for nearly three months.



Burhaan & Fadumo

Separated by the Muslim Ban

Burhaan, a U.S. citizen, began the process in 2015 of applying for his wife Fadumo and two daughters to join him from Somalia. The couple had great hopes for the life they would build together in the United States, where Burhaan works as a taxicab and Uber driver. But Fadumo’s immigration process ground to a halt following President Trump’s September 2017 order barring individuals from five Muslim-majority nations from entering the U.S. Today they remain continents apart, longing to be reunited.

Fernando

Separated and criminalized in his community

Fernando is a father, grandfather, construction worker, and beloved member of his community in Indiana. He and his wife have called the United States home for nearly 20 years, since moving from Mexico. At the age of 49, Fernando's life is full and rich but has included plenty of hardship. As of the publication of this brief, he has been incarcerated and separated from his family for more than nine months—six months of which he has been in ICE custody.

Fernando and his wife have four children, including a 16-year-old son, Christopher, who was diagnosed with autism as a toddler. Fernando and his wife have long expected that they would remain responsible for Christopher's care into his adulthood.

About five years ago, a stranger broke into Fernando's home while his children were sleeping and held Fernando and his wife at gunpoint. The assailant forced Fernando and his wife to leave their home and get money from their bank account, at which point they were able to escape. During the robbery, Fernando's gravest fear was that



Christopher would wake up and, disoriented, say something that would provoke the robber to harm him.

After the robbery, Fernando descended into depression, exacerbated by the unexpected passing of his sister, aunt, and father all within a year. He began using drugs and became addicted, a crisis culminating in his arrest and conviction for drug possession. Although

Fernando completed the sentence required of him by the criminal court, ICE officers picked him up directly from criminal custody and transferred him to a county jail in the Chicago area. ICE has now detained Fernando for more than six months, more than twice the length of time he was required to spend in criminal custody.

Because of his cooperation in the prosecution of the man who robbed his family, Fernando is eligible for a U visa, a special visa available to certain victims of crime. Nonetheless, U visa applicants face years-long delays,⁵ and Fernando waits in detention while his wife and children suffer in his absence. Fernando does not know how to explain to Christopher what has happened, instead telling

him that he is working and will return soon. Fernando's wife works as a house cleaner, doing her best to financially and emotionally support their broken family without the partner who she refers to as her "other half."

“It has been especially hard being separated from [Christopher], because I’m not able to kiss him or be there for him every day and I can’t tell him why I’m gone because it would confuse him. I hate being separated from him and my other kids. I hate having to lie to him so many times.” — Fernando

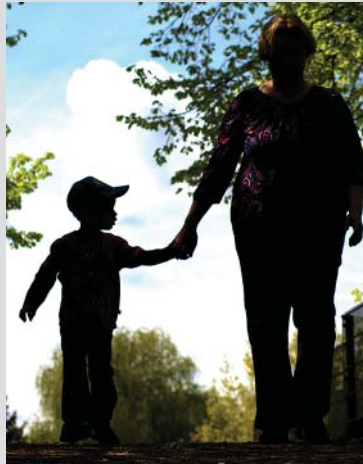
Diana

Separated at the border and criminalized

The border officers who took Diana's 11-year-old son from her forced her to endure the first moments of their separation from behind a one-way window, through which she could see her son crying. Officers explained she would be charged with illegal entry, and refused to let her say goodbye.

Diana had not come easily to the decision to flee El Salvador with her child. Prior to their escape, she saw two family members killed by gang members, suffered years of domestic abuse without police protection, and endured a sexual assault by strangers who attacked her in her own home. She could not walk on the street for fear of running into her assailants. The violence took such a toll on Diana's physical and mental health that she knew she had no choice but to leave.³

Unfortunately, Diana and her son did not find the respite they needed when they finally reached the U.S. border in April 2018. After their agonizing first moments of separation, immigration officials transferred Diana first to the custody of the U.S. Marshals, where she was prosecuted for the misdemeanor offense of illegal entry, and then to a privately operated ICE prison in San Diego. For weeks, Diana



had no idea where her son was. Finally, she learned from an attorney at NIJC that he had been sent to a youth shelter in New York. The knowledge was little comfort for a mother aching to hold her son.

Diana was not able to speak to her son for most of their three-month separation. Immigration officers provided Diana with a phone number for the facility where her son was held, but when she called there was no answer. She sometimes went without eating so she could stay near the phone, hoping that her son would somehow be able to reach her. Diana was unable to sleep, and terrified that the U.S. government was planning to keep her son from her permanently.

Touched by Diana's plight, an NIJC volunteer launched a GoFundMe campaign that ultimately allowed Diana to secure her release from immigration custody on bond while she pursues her asylum application. She traveled to Florida to live with a sponsor who had opened up her home and waited for the government to release her son. Nearly three weeks later, finally, the family was reunited. In the first photograph taken of Diana and her son after their reunification, her relief shines through but is marred by the ankle monitor visible under Diana's leggings, a physical reminder of the U.S. government's continued control over her family.

Anthony

Separated as an asylum seeker at a port of entry

Anthony's life in the Democratic Republic of Congo was marked by his faith, a guiding light that inspired him to work for positive change. This work, however, resulted in suffering that ultimately forced Anthony to flee. In late 2017, a group of men associated with the country's ruling party came to Anthony's home. Unable to find him, the men instead ransacked his home and brutally assaulted his wife. Anthony reported the incident, but the police did nothing. Days later, the police found Anthony at his church and jailed and tortured him for days as punishment for his political views. His release was followed by threats of more violence.

Anthony and his wife knew they had no choice but to flee with their children. They traveled through Central America, a harrowing journey disrupted by a chaotic armed robbery that left Anthony and his daughter unable to find his wife and son. Anthony focused on keep-

ing his three-year-old daughter safe. When they arrived at a U.S. port of entry in April 2018, Anthony expressed his intention to seek asylum. DHS officers took his daughter and sent him to a county jail near Chicago. He remained in ICE custody for nearly three months, his daughter seemingly worlds away in the custody of the Department of Health and Human Services. While in custody, Anthony learned that his wife and son were living safely in upstate New York.

"I can't breathe."

During his incarceration, without his daughter by his side, Anthony explained to an NIJC representative, "I can't breathe." He rarely had the opportunity to speak to his wife and had no contact with his daughter. As he sat in custody, DHS Secretary Kirstjen Nielsen repeatedly stated publicly that families entering at ports of entry to present asylum claims would not be separated.⁴ Anthony and his daughter knew the truth. They were finally reunified and released from custody under the federal court order in *Ms. L v. ICE*. They now live as a family in New York, seeking asylum and attempting to rebuild all that has been taken from them.

Burhaan & Fadumo

Separated by the Muslim Ban

Burhaan, a U.S. citizen, began the process of applying for his wife Fadumo to join him in the United States from Somalia in the summer of 2015. Burhaan and Fadumo have been married for five years and are the proud parents of two girls, ages two and four. That summer, the couple had great hopes for the life they would build together in the United States, where Burhaan works as a taxicab and Uber driver. Fadumo's immigration process ground to a halt, however, following the September 2017 iteration of President Trump's executive order barring entry to the United States for individuals from five Muslim-majority nations.⁶



In the wake of the executive order, Burhaan and Fadumo worked with their attorneys at NIJC to apply

for a travel-ban waiver that would permit Fadumo to immigrate lawfully to the United States. On its face the application was strong; the administration has, after all, explicitly stated that waivers should be granted for those with compelling circumstances, such as a spouse trying to reunite with a U.S. citizen.⁷ Nonetheless, Burhaan and Fadumo's application—like so many others—was flatly rejected.

Today, Fadumo and the couple's two daughters live in Ethiopia while Burhaan stays in the United States, financially supporting the family. Burhaan and Fadumo fear that in Somalia, they would not be able to protect their daughters from the practice of female genital cutting, to which Fadumo was subjected earlier in life. While the Muslim Ban recedes into the background of the public consciousness, Burhaan and Fadumo and their two children are forced to live each day continents apart.

Help NIJC keep families together!
Learn how you can take action at
immigrantjustice.org/familiesbelongtogether

This policy brief was authored by Laila Ayub, Heidi Altman, Diane Eikenberry, and Tara Tidwell Cullen. Questions should be directed to NIJC's Director of Policy Heidi Altman at haltman@heartlandalliance.org. The National Immigrant Justice Center (NIJC) is a nongovernmental organization dedicated to ensuring human rights protections and access to justice for all immigrants, refugees, and asylum seekers through a unique combination of direct services, policy reform, impact litigation and public education.

Endnotes

1. National Immigrant Justice Center, Press Release: "Two Chicago Men Sue ICE For Unlawful Arrests During Recent Immigration Sweeps Fueled by Racial Profiling," May 30, 2018.
2. Pseudonyms have been used throughout this document to protect individuals' privacy and confidentiality.
3. Doctors Without Borders has reported on the "neglected humanitarian crisis" in the Northern Triangle comprising Honduras, El Salvador, and Guatemala, where "Citizens are murdered with impunity, kidnappings and extortion are daily occurrences." A recent survey conducted by the organization found that 39.2 percent of migrants fleeing Central America were fleeing direct attacks or threats to themselves or their families, and more than 40 percent had a relative who had died due to violence in the preceding two years, *Medecins San Frontieres, Forced to Flee Central America's Northern Triangle: a Neglected Humanitarian Crisis* (May 2017).
4. On June 18, 2018, approximately two months after immigration officers separated Anthony and his daughter after they sought protection at a port of entry, Secretary Nielsen spoke at the White House briefing room and told reporters that, "DHS is not separating families legitimately seeking asylum at ports of entry." See *The New York Times*, "Kirstjen Nielsen Addresses Families Separation at Border: Full Transcript," June 18, 2018.
5. There is a national annual cap of 10,000 on U visa issuance, which has resulted in unwieldy delays for applicants who are vulnerable to deportation during the pendency of the visa. See Human Rights Watch, *Immigrant Crime Fighters: How the U Visa Program Makes US Communities Safer* (July 2018).
6. Michael D. Shear, *The New York Times*, "New Order Indefinitely Bars Almost All Travel From Seven Countries," Sep. 24, 2017.
7. Dara Lind, *Vox*, "Exclusive: Trump's travel ban is supposed to make exceptions for worthy cases. A new lawsuit alleges it isn't," July 29, 2018.

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