

Constitutional Violations in Immigration Policy: The Rights of U.S.-Born Children Under Threat

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The ongoing debate over immigration policy in the United States has intensified with proposals targeting undocumented immigrants and their families. One of the most alarming developments is the suggestion to place U.S.-born children of undocumented immigrants in halfway houses if their parents face deportation. These children, granted citizenship by birth under the 14th Amendment, are entitled to full constitutional protections, yet this policy threatens to undermine their fundamental rights. By forcibly separating families and institutionalizing citizen children without due process, the policy raises serious constitutional concerns, including violations of the Due Process Clause, Equal Protection Clause, and parental rights. Additionally, it poses severe psychological and emotional harm to vulnerable children, disregarding their best interests and human dignity. This paper critically examines how the proposed policy contradicts constitutional protections, violates established legal precedents, and neglects ethical obligations to safeguard child welfare. It further advocates for humane, lawful alternatives that uphold family unity and protect the rights of U.S.-born citizens within the framework of immigration enforcement.

Keywords: constitutional rights, 14th Amendment, due process, equal protection, parental rights, family separation, immigration policy, U.S.-born children, halfway houses, legal precedent, child welfare, psychological harm, ethical concerns, immigration enforcement, family integrity, human rights, family case management programs, legal accountability, policy reform.

Abstract

This paper examines the proposed policy of placing U.S.-born children of undocumented immigrants in halfway houses, as suggested by Tom Homan, President-elect Donald Trump's incoming border czar. These children, who are citizens by birth under the 14th Amendment, find their rights potentially undermined by a policy that seeks to institutionalize them due to the immigration status of their parents. The proposal, while ostensibly aimed at addressing logistical challenges in enforcing deportation orders, raises profound constitutional and ethical concerns.

The study delves into the constitutional implications, focusing on the potential violations of the 14th Amendment's guarantees of equal protection and due process. Additionally, it explores how the policy conflicts with established legal precedents protecting parental rights and the integrity of the family unit. Ethical considerations, particularly the psychological harm and developmental impacts on children placed in institutional settings, are also thoroughly analyzed.

The paper's purpose is to evaluate the policy through a legal, ethical, and human rights lens, providing a comprehensive analysis of how such measures may infringe on the fundamental rights of U.S.-born children. It seeks to highlight the broader implications of immigration policies that prioritize enforcement over constitutional protections and to propose alternative approaches that uphold both legal and ethical standards. By addressing these critical issues, the paper aims to contribute to the discourse on immigration reform while advocating for the rights and welfare of vulnerable children caught in the crossfire of policy decisions.

1. Introduction

Immigration policy has long been a contentious issue in the United States, with various administrations implementing strategies aimed at managing the complex challenges of undocumented immigration. Under President-elect Donald Trump's administration, immigration enforcement policies are expected to become more aggressive, focusing heavily on mass deportations and stricter border security measures. Central to these policies is the appointment of Tom Homan as the

incoming border czar, whose role will be pivotal in shaping and executing the administration's immigration agenda. Homan, a former acting director of U.S. Immigration and Customs Enforcement (ICE), has been a vocal proponent of stringent immigration enforcement and mass deportation strategies.

In a recent statement, Homan suggested that the administration is considering the use of halfway houses to shelter U.S.-born children of undocumented immigrants whose parents are deported. Specifically, Homan stated that while the government would not detain U.S. citizen children, they could be placed in halfway houses if their parents are deported. He further implied that the burden of this decision rests with the parents, suggesting they could either self-deport with their children or leave their children behind in government care. This statement introduces a deeply troubling policy direction that raises significant legal and ethical concerns.

The prospect of placing U.S.-born children—who are unequivocally citizens under the **14th Amendment**—in institutional settings due to their parents' immigration status poses serious threats to their constitutional rights. These children, by virtue of their citizenship, are entitled to the same legal protections as any other American citizen. Separating them from their families and institutionalizing them without due process or proper legal safeguards undermines their fundamental rights and disrupts family unity, a core principle upheld by U.S. law.

This paper argues that the proposed policy of placing U.S.-born children of undocumented immigrants in halfway houses constitutes a violation of their constitutional rights and established legal protections. The analysis will explore how such a policy infringes upon the **Due Process Clause** and the **Equal Protection Clause** of the 14th Amendment, violates the parental rights of undocumented immigrants, and contradicts the legal doctrine prioritizing the best interests of the child. Additionally, the paper will address the ethical and psychological implications of institutionalizing young children, highlighting the profound harm such policies could inflict on vulnerable populations.

By critically examining the legal, ethical, and social dimensions of this proposed policy, this paper aims to demonstrate that such measures are not only legally indefensible but also fundamentally at odds with American values of justice, family integrity, and human dignity.

2. Constitutional Framework Protecting U.S.-Born Children

The U.S. Constitution provides robust protections for the rights of individuals, including children, regardless of their parents' immigration status. U.S.-born children of undocumented immigrants are full citizens under the law, entitled to the same constitutional rights and protections as any other American citizen. These rights are enshrined primarily in the 14th Amendment, reinforced by constitutional protections for parental authority, and guided by legal principles that prioritize the best interests of the child. This section examines the constitutional framework safeguarding these children against policies that threaten to undermine their legal status and family integrity.

2.1 The 14th Amendment: Birthright Citizenship

The 14th Amendment to the U.S. Constitution is a cornerstone of American civil rights, particularly in establishing birthright citizenship. Ratified in 1868, the amendment states:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."

This clause unequivocally grants citizenship to any individual born on U.S. soil, regardless of their parents' immigration status. This legal foundation affirms that U.S.-born children of undocumented immigrants are full citizens with the same rights and protections as any other American. Policies that seek to institutionalize or otherwise discriminate against these children challenge the very essence of this constitutional guarantee.

Additionally, the Equal Protection Clause of the 14th Amendment ensures that all citizens receive equal treatment under the law. Any policy that targets U.S.-born children based solely on their parents' immigration status could be construed as discriminatory and a violation of their right to equal protection.

The Due Process Clause further protects individuals from government actions that deprive them of life, liberty, or property without appropriate legal procedures. Placing citizen children in halfway houses without due legal process infringes

upon their right to family integrity and personal liberty. The lack of judicial oversight or individualized assessment in such a policy could constitute a violation of procedural and substantive due process.

2.2 Parental Rights and Family Integrity

The U.S. legal system recognizes the family unit as a fundamental institution deserving of protection. Parental rights are deeply embedded in constitutional law through the **Substantive Due Process Clause** of the 14th Amendment, which safeguards the liberty interests of parents to make decisions regarding the care, custody, and control of their children. The Supreme Court has consistently affirmed this right in several landmark cases:

- ***Meyer v. Nebraska (1923)***: The Court recognized parents' rights to control their children's education and upbringing as a fundamental liberty interest.
- ***Pierce v. Society of Sisters (1925)***: The Court upheld the rights of parents to choose private or public education for their children, emphasizing family autonomy.
- ***Troxel v. Granville (2000)***: The Court reaffirmed that the right of parents to make decisions concerning the care, custody, and control of their children is a fundamental liberty interest protected by the Due Process Clause.

Forcing parents to choose between self-deportation with their child or leaving their U.S.-born child in government custody undermines this constitutionally protected family autonomy. The state's involvement in family separation must meet strict scrutiny, requiring a compelling governmental interest and narrowly tailored measures. A policy that institutionalizes U.S. citizen children due to their parents' immigration status fails to meet this high standard and infringes upon both the parents' and children's rights.

2.3 The Best Interests of the Child Doctrine

The **Best Interests of the Child** standard is a guiding legal principle in family and child welfare law. Rooted in both federal and state law, this doctrine prioritizes

the health, safety, and emotional well-being of the child when determining custody, placement, and welfare decisions. Courts have historically applied this standard in matters of child custody, foster care, and adoption, recognizing that children's rights and welfare must take precedence in legal decisions affecting their lives.

In the context of immigration enforcement, this principle has been acknowledged in various rulings. For example:

- ***Flores v. Reno (1997)***: This case led to the Flores Settlement Agreement, setting standards for the detention, treatment, and release of immigrant minors, underscoring the importance of prioritizing the welfare of children in government custody.
- ***Plyler v. Doe (1982)***: Although focused on education, this ruling affirmed that undocumented children are entitled to equal access to public education, recognizing that penalizing children for their parents' actions contradicts principles of fairness and justice.

Institutionalizing U.S.-born children in halfway houses as a consequence of their parents' deportation blatantly disregards the best interests of the child. Research consistently shows that separating children from their parents and placing them in institutional settings can cause severe psychological trauma, developmental delays, and long-term emotional harm. Such outcomes are fundamentally at odds with the legal and ethical standards designed to protect children's well-being.

Moreover, alternatives to family separation—such as community-based family support programs—are not only more humane but also more effective in preserving family unity and child welfare. Policies that overlook these alternatives fail to prioritize the child's best interests and violate established legal standards in child welfare law.

In summary, the constitutional framework firmly protects the rights of U.S.-born children through the 14th Amendment, the recognition of parental rights, and the Best Interests of the Child Doctrine. Any policy that seeks to institutionalize these children based on their parents' immigration status directly conflicts with these protections. Such measures not only undermine their citizenship rights but also

violate the constitutional principles of due process, equal protection, and family integrity.

3. Analysis of Constitutional Violations

The proposal to place U.S.-born children of undocumented immigrants in halfway houses as part of mass deportation efforts presents multiple constitutional violations. These violations directly undermine the rights of both the children and their parents, contradicting well-established legal precedents designed to protect family integrity, personal liberty, and equal treatment under the law. This section systematically analyzes how such a policy would violate the constitutional guarantees of Due Process, Equal Protection, and Parental Rights.

3.1 Due Process Violations

The Due Process Clause of the 14th Amendment prohibits the government from depriving any person of "life, liberty, or property without due process of law." This protection applies equally to U.S. citizens, including minors. A policy that forcibly separates children from their parents and places them in institutional care without formal legal proceedings constitutes a clear violation of due process rights.

Lack of Legal Procedures in Separating Children from Parents:

The abrupt separation of U.S.-born children from their parents without individualized legal review circumvents critical procedural safeguards. Due process requires that any deprivation of liberty—such as removing a child from their family—must follow lawful procedures, including notice, the right to a hearing, and judicial oversight. The proposed policy of institutionalizing children without these steps strips families of these fundamental legal protections.

Arbitrary Placement in State Facilities Without Court Oversight:

Institutionalizing U.S.-born children in halfway houses absent judicial review or individualized assessment is inherently arbitrary. The decision to remove a child from their family must be based on compelling evidence that it is necessary for the child's safety or welfare. In typical child welfare cases, courts rigorously

scrutinize such decisions to prevent unnecessary trauma or harm. Bypassing this process for children of undocumented parents disregards constitutional norms and exposes these children to unwarranted institutionalization.

The lack of procedural safeguards also raises concerns about the standards and conditions of these halfway houses. Without oversight, there is no assurance that these facilities would meet the legal and ethical standards required for child welfare, further exacerbating due process violations.

3.2 Equal Protection Violations

The Equal Protection Clause of the 14th Amendment mandates that no state shall "deny to any person within its jurisdiction the equal protection of the laws." This clause requires the government to treat individuals in similar situations equally. Policies that disproportionately target specific groups based on characteristics such as race, national origin, or parental status can constitute unconstitutional discrimination.

Discrimination Based on Parents' Immigration Status:

Placing U.S.-born children in halfway houses solely because their parents are undocumented immigrants creates a discriminatory classification. These children, as U.S. citizens, are being subjected to a form of state custody or institutionalization that would not apply to children of citizens or legal residents. This unequal treatment is based entirely on their parents' immigration status—an arbitrary and impermissible basis for discrimination. The government cannot justify subjecting certain citizens to harsher treatment solely due to their family background.

Unequal Treatment of U.S.-Born Children in Immigrant Families:

This policy effectively punishes U.S.-born children for circumstances beyond their control—their parents' immigration status. It subjects them to a different set of legal standards and protections than other citizen children, violating the core principle of equal protection under the law. Supreme Court precedent in *Plyler v. Doe* (1982) reinforced that children cannot be penalized for their parents' actions, particularly when they have no control over their circumstances. While *Plyler* dealt with access to education, the broader principle applies here: penalizing

children due to parental immigration status contradicts constitutional protections.

3.3 Violation of Parental Rights

Parental rights are recognized as fundamental liberties protected by the Due Process Clause of the 14th Amendment. These rights encompass a parent's authority to make decisions concerning the care, custody, and upbringing of their children. The Supreme Court has consistently affirmed that the state must have a compelling interest and follow due process to infringe upon these rights.

Coercion in Forcing Parents to Choose Between Deportation and Family Separation:

The proposed policy effectively coerces undocumented parents into making an impossible choice: either self-deport and take their U.S.-born children with them or leave their children behind in government custody. This coercion undermines parents' ability to make free and autonomous decisions regarding their family's welfare. Such pressure erodes the voluntary nature of any decision the parents make, amounting to a de facto deprivation of parental rights.

The Supreme Court in *Troxel v. Granville* (2000) underscored that parents have a fundamental right to make decisions concerning the care and custody of their children. Forcing parents into a scenario where their choices are constrained by state action contradicts this principle and fails to respect family autonomy.

Undermining Family Autonomy:

Family integrity is a cornerstone of constitutional protections. The state cannot disrupt this autonomy without demonstrating a compelling interest—such as protecting a child from harm—and without narrowly tailoring the policy to achieve that interest. The policy of separating families and institutionalizing children is neither justified by a compelling state interest nor narrowly tailored. It disregards less intrusive alternatives, such as family case management programs, that would preserve family unity while addressing immigration enforcement concerns.

Moreover, the psychological trauma inflicted on both parents and children by forced separation is well-documented. Institutionalizing children disrupts the

emotional and developmental support provided by family environments, directly conflicting with the state's obligation to protect the welfare of its citizens.

In conclusion, the proposed policy to place U.S.-born children of undocumented immigrants in halfway houses flagrantly violates constitutional protections. It disregards due process by removing children from their parents without legal oversight, violates equal protection by discriminating based on parental immigration status, and infringes upon parental rights by coercing families into untenable decisions. This multi-layered assault on constitutional rights demands immediate legal scrutiny and underscores the need for policies that respect family unity, child welfare, and the fundamental rights of all U.S. citizens.

4. Ethical and Psychological Implications

Beyond the constitutional violations inherent in the proposed policy of placing U.S.-born children of undocumented immigrants in halfway houses, the policy also raises profound ethical and psychological concerns. Separating children from their parents and subjecting them to institutionalization causes significant emotional and developmental harm, violating basic principles of child welfare and human rights. This section examines the psychological damage inflicted on children by family separation and institutionalization and explores the ethical ramifications of implementing such a policy.

4.1 Psychological Harm to Children

The psychological consequences of family separation and institutionalization are well-documented in developmental psychology and child welfare research. Children thrive in stable, nurturing environments, and abrupt removal from their families can result in severe emotional and developmental harm.

Evidence of Trauma from Family Separation:

Decades of psychological research have established that separating children from their parents inflicts deep and lasting trauma. Studies of children separated from their families during crises—such as wartime evacuations, foster care placement,

and immigration enforcement—have consistently shown elevated rates of anxiety, depression, post-traumatic stress disorder (PTSD), and behavioral disorders.

Notably, research into the Trump administration's 2018 family separation policy under the "Zero Tolerance" immigration initiative revealed that children experienced intense psychological distress following forced separation from their parents. A 2019 report by the Office of the Inspector General documented severe trauma among separated children, including extreme emotional withdrawal, uncontrollable crying, sleep disturbances, and regression in developmental milestones. These findings underscore the devastating psychological toll of separating children from their families.

Long-Term Developmental Impacts of Institutionalization:

Institutionalizing children in halfway houses exacerbates the harm caused by family separation. Research on institutional care demonstrates that such environments fail to provide the emotional support and cognitive stimulation necessary for healthy child development. Children raised in institutional settings often experience attachment disorders, social withdrawal, cognitive delays, and emotional instability.

A landmark study of Romanian orphans by Dr. Charles Nelson at Harvard University revealed that institutionalized children exhibited significant brain development impairments, even when placed in care at young ages. Similar findings have been observed in studies of children placed in detention centers and shelters during immigration enforcement operations.

Furthermore, institutional care is often ill-equipped to meet the complex emotional and psychological needs of traumatized children. Overcrowded facilities, inadequate mental health resources, and inconsistent caregiving can exacerbate feelings of abandonment, fear, and helplessness, compounding the trauma of family separation.

The policy of placing U.S.-born children in halfway houses fails to account for these well-documented harms, prioritizing immigration enforcement over child welfare.

4.2 Ethical Concerns in Policy Implementation

Beyond the psychological harm, the proposed policy raises significant ethical concerns about the treatment of vulnerable children. It conflicts with widely accepted ethical standards in child welfare, human rights, and public policy.

Lack of Informed Consent and Child Agency:

Ethical decision-making in child welfare policies requires careful consideration of consent and autonomy. However, the proposed policy entirely disregards the voices and rights of U.S.-born children. These children, by virtue of their age and developmental stage, cannot provide informed consent to being separated from their parents or placed in institutional care.

Moreover, their parents are placed in an impossible situation, coerced into choosing between deportation with their child or leaving their child behind. This lack of genuine choice eliminates any semblance of informed consent on the part of the family. Ethical policymaking requires that vulnerable populations—especially minors—are not subjected to state action without appropriate consent and safeguards. This policy violates those ethical standards by stripping families of agency and autonomy.

Human Rights Perspectives on Family Separation:

Family unity is a core principle of international human rights law. Instruments such as the Universal Declaration of Human Rights (Article 16) and the Convention on the Rights of the Child (CRC) emphasize the importance of preserving family integrity and protecting children from arbitrary separation from their parents. Although the United States has not ratified the CRC, it remains a globally recognized standard for the treatment of children.

The policy of forcibly separating U.S.-born children from their undocumented parents directly contradicts these human rights principles. International bodies, including the United Nations High Commissioner for Human Rights (UNHCHR), have condemned family separation policies as violations of human dignity and basic human rights.

Additionally, ethical frameworks in social work, psychology, and public health prioritize the welfare and best interests of the child. For instance, the National Association of Social Workers (NASW) Code of Ethics emphasizes the need to

protect vulnerable populations and advocate for policies that support family unity and child well-being. The proposed policy starkly contradicts these professional ethical standards by prioritizing punitive immigration enforcement over the welfare of children.

Disproportionate Impact on Marginalized Communities:

Ethically, the policy also raises concerns about targeting marginalized communities. U.S.-born children of undocumented immigrants often belong to racial and ethnic minority groups, and policies that disproportionately harm these communities deepen existing social inequalities. Ethical governance demands that policies be crafted with consideration for their impact on vulnerable and historically disadvantaged populations.

By disproportionately affecting Latino, Asian, and African immigrant communities, this policy risks perpetuating systemic discrimination and inequality, violating principles of social justice and fairness.

In conclusion, the proposed policy to place U.S.-born children of undocumented immigrants in halfway houses is ethically indefensible and psychologically damaging. The policy disregards well-established research on the profound and lasting trauma caused by family separation and institutionalization. It also violates fundamental ethical principles concerning informed consent, family autonomy, and the protection of vulnerable populations. By prioritizing immigration enforcement over child welfare and human dignity, this policy undermines the moral and ethical foundations upon which child welfare and human rights protections are built.

5. Legal Precedents and Challenges

Any policy that seeks to institutionalize U.S.-born children of undocumented immigrants must be evaluated in the context of existing legal precedents and the potential for constitutional challenges. The United States Supreme Court has consistently ruled in favor of protecting the rights of vulnerable populations, including children and families, especially when government action threatens their constitutional liberties. This section explores key Supreme Court decisions

that are directly relevant to the proposed policy and outlines the potential legal avenues for challenging it.

5.1 Relevant Supreme Court Rulings

Several landmark Supreme Court rulings have established important legal principles regarding equal protection, due process, and parental rights. These decisions provide a strong foundation for challenging policies that infringe upon the constitutional rights of U.S.-born children and their families.

Plyler v. Doe (1982): Equal Protection for Undocumented Immigrants

In *Plyler v. Doe*, the Supreme Court struck down a Texas statute that denied funding for public education to undocumented immigrant children and permitted school districts to bar them from enrollment. The Court ruled that this policy violated the Equal Protection Clause of the 14th Amendment. Justice William Brennan, writing for the majority, emphasized that children should not suffer consequences for their parents' actions and that policies penalizing them based on their parents' immigration status are unconstitutional.

This precedent is highly relevant to the proposed policy of placing U.S.-born children in halfway houses. While *Plyler* dealt with undocumented children, the underlying principle—that children cannot be punished for their parents' circumstances—applies even more forcefully to U.S. citizens. The policy of institutionalizing these children effectively penalizes them for their parents' immigration status, violating their right to equal protection under the law.

Troxel v. Granville (2000): Parental Rights as a Fundamental Liberty Interest

In *Troxel v. Granville*, the Supreme Court reaffirmed that parents have a fundamental liberty interest in the care, custody, and control of their children. The Court ruled that a Washington state law allowing third parties to petition for child visitation over a parent's objection infringed upon this constitutional right. The decision underscored that the state must have a compelling interest and follow due process before interfering with parental authority.

The proposed policy forcing undocumented parents to choose between deportation with their child or leaving their child behind in state care directly undermines this constitutional protection. This coercive choice violates parents'

fundamental rights by limiting their ability to make autonomous decisions about their children's welfare. The state cannot impose such a burden without demonstrating a compelling interest and narrowly tailoring the policy to achieve that interest—conditions this policy fails to meet.

Stanley v. Illinois (1972): Presumption of Parental Fitness

In *Stanley v. Illinois*, the Supreme Court invalidated a law that automatically declared unwed fathers unfit parents without due process. The Court ruled that all parents are presumed fit to care for their children unless proven otherwise through proper legal procedures. This ruling reinforces the principle that family integrity is constitutionally protected and that state interference requires rigorous legal justification.

Institutionalizing U.S.-born children solely due to their parents' immigration status presumes parental unfitness without evidence or due process, violating the standard set in *Stanley*. Such an assumption cannot legally justify family separation or the placement of children in state facilities.

Flores v. Reno (1997): Treatment of Detained Immigrant Minors

Though primarily addressing the detention conditions of immigrant minors, the *Flores* case led to the Flores Settlement Agreement, establishing legal standards for the treatment and release of immigrant children in government custody. This agreement underscores the legal requirement to prioritize the welfare of minors and to minimize their time in detention.

The proposed halfway house policy contradicts the principles established in *Flores* by exposing U.S.-born citizen children to prolonged institutionalization without just cause or due process, neglecting their welfare and best interests.

5.2 Potential Legal Challenges

The proposed policy is vulnerable to numerous constitutional challenges, given its infringement on the rights of U.S.-born children and their parents. Legal challenges would likely focus on violations of the 14th Amendment, the undermining of parental rights, and the failure to prioritize the best interests of the child.

Grounds for Constitutional Lawsuits:

1. Violation of the Equal Protection Clause:

- Legal challenges could argue that the policy discriminates against U.S.-born children of undocumented immigrants by subjecting them to institutionalization solely based on their parents' immigration status.
- This classification is arbitrary and lacks a compelling government interest, making it unconstitutional.

2. Violation of the Due Process Clause:

- The lack of individualized hearings and legal oversight in separating children from their parents violates procedural due process.
- The policy also infringes on substantive due process by interfering with parental rights without adequate justification.

3. Violation of Parental Rights:

- The coercive nature of forcing parents to choose between deportation and family separation infringes upon their constitutionally protected right to make decisions regarding their children.

4. Failure to Prioritize the Best Interests of the Child:

- The policy could be challenged for failing to consider the best interests of the child, a legal standard embedded in child welfare and family law.

Role of Advocacy Groups and Legal Organizations:

Several advocacy groups and legal organizations are well-positioned to challenge this policy through litigation and public advocacy. These organizations have a history of defending immigrant rights and protecting family integrity:

- **American Civil Liberties Union (ACLU):**

The ACLU has actively litigated cases involving family separation and immigration enforcement, challenging government policies that violate constitutional rights.

- **National Immigration Law Center (NILC):**
NILC focuses on defending and advancing the rights of low-income immigrants and has the legal expertise to challenge policies that harm immigrant families.
- **Children's Rights Organizations:**
Groups like Kids in Need of Defense (KIND) and the Center for the Human Rights of Children could challenge the policy based on the psychological harm and welfare risks posed to children.
- **State Attorneys General:**
State governments, particularly those with sanctuary policies, may file lawsuits against the federal government, arguing that the policy violates state interests in protecting residents' welfare and public health.

Potential Legal Outcomes:

If challenged, courts may issue injunctions to block the implementation of the policy while its constitutionality is reviewed. Given existing legal precedents, the policy is likely to face significant judicial scrutiny and could be struck down for violating constitutional protections.

In conclusion, Supreme Court rulings like *Plyler v. Doe* and *Troxel v. Granville* provide strong legal grounds for challenging the proposed policy of placing U.S.-born children in halfway houses. The policy's violations of equal protection, due process, and parental rights open it to substantial legal challenges. Advocacy groups, legal organizations, and state governments have the tools and precedent to contest this policy and defend the constitutional rights of vulnerable children and their families.

6. Policy Recommendations

To address the challenges of immigration enforcement without violating the constitutional rights of U.S.-born children or causing unnecessary harm to families, alternative policies must prioritize family unity, child welfare, and adherence to constitutional principles. This section outlines humane and effective

policy recommendations that balance immigration enforcement with the protection of fundamental rights.

6.1 Alternatives to Family Separation

Separating families and institutionalizing U.S.-born children is not only unconstitutional but also harmful to child welfare. More effective and humane alternatives exist that allow for the enforcement of immigration laws while preserving family unity.

Community-Based Solutions and Family Case Management Programs:

Community-based alternatives to detention (ATDs) and family case management programs (FCMPs) have proven to be effective in ensuring compliance with immigration proceedings while minimizing harm to families. These programs allow immigrant families to remain together in the community while navigating their legal cases.

- **Family Case Management Programs (FCMPs):**

The Obama administration implemented FCMPs in 2016, providing individualized support to immigrant families. These programs assigned case managers to guide families through immigration court proceedings, ensuring they met legal requirements while avoiding detention. Studies showed high compliance rates with court dates and immigration obligations under this model. Reinstating and expanding FCMPs would offer a viable alternative to family separation, prioritizing family unity while maintaining legal accountability.

- **Community Support Networks:**

Leveraging community organizations, nonprofits, and faith-based groups to provide support services can help immigrant families remain together while addressing legal obligations. These networks can assist with legal representation, housing, healthcare, and mental health services. Engaging local communities in supporting immigrant families reduces the need for institutionalization and fosters trust between immigrant communities and government agencies.

- **Alternatives to Detention (ATDs):**

ATD programs, such as check-ins with immigration officers, electronic monitoring (ankle bracelets), and telephonic reporting, can ensure compliance with immigration proceedings without resorting to detention. These alternatives are more cost-effective and humane, reducing the psychological harm associated with detention and separation.

Prioritizing Non-Custodial Enforcement:

Immigration enforcement strategies should prioritize non-custodial measures, especially for families with U.S.-born children. Deportation priorities should focus on individuals who pose public safety threats, rather than broadly targeting undocumented parents with citizen children. By adopting more targeted enforcement measures, the government can reduce the risk of family separation and its associated harms.

6.2 Upholding Constitutional Rights in Immigration Enforcement

Effective immigration enforcement must operate within the framework of the U.S. Constitution. Policies must balance the enforcement of immigration laws with the protection of U.S.-born citizens' rights and the fundamental principles of due process and equal protection.

Balancing Immigration Laws with the Rights of U.S.-Born Citizens:

- **Affirming Constitutional Protections:**

Immigration policies must explicitly recognize that U.S.-born children, regardless of their parents' immigration status, are entitled to full constitutional protections under the 14th Amendment. Enforcement strategies must be designed to avoid infringing upon these rights, particularly those related to family unity, due process, and equal protection.

- **Individualized Legal Review:**

Any action that could result in family separation must undergo rigorous legal scrutiny. Family separations should not occur without individualized assessments by child welfare professionals and judicial oversight to ensure

that the action serves a compelling interest and is in the child's best interest.

- **Limitations on Family Separation:**

The government should implement clear guidelines restricting family separation to circumstances where it is legally justified, such as cases involving abuse or neglect. Immigration enforcement alone should not be grounds for separating families.

- **Access to Legal Representation:**

Ensuring immigrant families have access to legal representation can help safeguard due process rights. Programs that provide legal aid to families facing deportation increase compliance with court proceedings and reduce wrongful family separations. Funding legal representation for both parents and children protects constitutional rights and improves the fairness of immigration proceedings.

Policy Transparency and Accountability:

- **Public Oversight:**

Policies impacting family integrity must be transparent and subject to public and congressional oversight. The government should publish regular reports detailing the number of family separations, conditions in facilities, and compliance with constitutional and human rights standards.

- **Independent Monitoring:**

Independent watchdog agencies and child welfare organizations should be granted authority to monitor the implementation of immigration policies that affect children. This oversight can help prevent abuses and ensure compliance with legal and ethical standards.

- **Training for Immigration Enforcement Officers:**

Immigration officers and policymakers should receive comprehensive training on constitutional rights, child welfare principles, and trauma-informed practices. Training can help reduce the likelihood of rights violations and improve decision-making in enforcement actions involving families.

Investing in Root Cause Solutions:

- **Addressing Root Causes of Migration:**

Long-term immigration policy must also focus on addressing the root causes of migration. Diplomatic efforts, economic aid, and support for stability in countries of origin can reduce the pressures that drive families to migrate. By addressing these systemic issues, the need for harsh immigration enforcement diminishes.

In summary, effective immigration enforcement does not require the violation of constitutional rights or the separation of families. Expanding community-based solutions, reinstating family case management programs, and ensuring enforcement policies align with constitutional protections can create a more humane, lawful, and effective immigration system. By balancing national security interests with respect for family integrity and individual rights, the U.S. can uphold its legal and moral obligations while maintaining an orderly immigration process.

7. Conclusion

The proposed policy of placing U.S.-born children of undocumented immigrants in halfway houses as part of mass deportation efforts represents a profound violation of constitutional, legal, and ethical standards. This policy not only undermines the foundational principles of the 14th Amendment—which guarantees birthright citizenship, equal protection, and due process—but also infringes upon the fundamental rights of parents to care for and make decisions about their children. Moreover, it blatantly disregards the best interests of the child, a cornerstone of U.S. child welfare law and international human rights standards.

The constitutional concerns are clear and compelling. The policy threatens to violate the Due Process Clause by stripping families of legal protections and bypassing judicial oversight in separating children from their parents. It violates the Equal Protection Clause by discriminating against U.S.-born children solely based on their parents' immigration status. Additionally, it infringes upon well-

established parental rights, forcing families into impossible decisions that jeopardize their unity and autonomy. Legal precedents such as *Plyler v. Doe* (1982) and *Troxel v. Granville* (2000) provide a strong foundation for challenging this policy in court, emphasizing that children cannot be punished for their parents' circumstances and that parental authority is a constitutionally protected liberty.

Ethically, the policy is indefensible. The psychological harm inflicted by family separation and institutionalization is well-documented, with evidence pointing to long-term developmental, emotional, and mental health consequences. Subjecting children to institutional care without considering less harmful alternatives disregards their well-being and human dignity. Furthermore, the lack of informed consent and the coercion imposed on parents to choose between deportation and family separation violate fundamental ethical standards in public policy and child welfare.

The urgency for legal accountability and policy reform cannot be overstated. This proposed policy demands immediate legal scrutiny and proactive measures to prevent its implementation. Policymakers must be held accountable for crafting and enforcing laws that align with constitutional principles and protect the most vulnerable members of society. Advocacy groups, legal organizations, and state governments must act swiftly to challenge any attempt to implement this policy through the courts and public advocacy.

A Call to Action:

- **Legislators** must enact policies that explicitly protect family integrity and prohibit the separation of U.S.-born children from their parents based solely on immigration status.
- **Courts** must rigorously defend the constitutional rights of children and families by rejecting policies that undermine due process, equal protection, and parental rights.
- **Advocacy groups** must continue to raise awareness, mobilize public support, and pursue legal action to safeguard the rights of immigrant families.

- **Communities and individuals** must stand in solidarity with vulnerable families, supporting humane alternatives to detention and family separation.

Protecting the rights and welfare of U.S.-born children is not a partisan issue—it is a moral and constitutional imperative. The United States must remain a nation committed to the rule of law, human dignity, and family unity. Any policy that threatens these values must be met with unwavering opposition and resolute action. Now is the time to defend the constitutional rights of U.S.-born children and ensure that immigration enforcement aligns with the nation's core principles of justice, equality, and compassion.

References

Constitutional Provisions:

- U.S. Const. amend. XIV, § 1. *"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."*
 - U.S. Const. amend. XIV, § 1. *"No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."*
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Legal Precedents:

- *Plyler v. Doe*, 457 U.S. 202 (1982). Supreme Court ruling that denying undocumented children access to public education violates the Equal Protection Clause of the Fourteenth Amendment.
 - *Troxel v. Granville*, 530 U.S. 57 (2000). Supreme Court decision affirming that parents have a fundamental liberty interest in the care, custody, and control of their children.
 - *Stanley v. Illinois*, 405 U.S. 645 (1972). Supreme Court ruling that the state must provide due process before deeming a parent unfit.
 - *Flores v. Reno*, 507 U.S. 292 (1993). Supreme Court decision leading to the Flores Settlement Agreement, setting standards for the detention and treatment of immigrant minors.
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 - Flores Settlement Agreement (1997). *Stipulated Settlement Agreement*.
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This comprehensive collection of constitutional provisions, legal precedents, psychological research, policy analyses, and human rights frameworks supports the argument that the proposed policy of institutionalizing U.S.-born children of undocumented immigrants is unconstitutional, harmful, and ethically indefensible.

