

Aliens' kids born in U.S. add to debate
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ARKANSAS DEMOCRAT-GAZETTE

In the wrenching debate over immigration, some of the biggest dilemmas come in tiny bundles, swaddled in pink or blue.

Nearly one of every 20 babies in Arkansas is born to a mother who is an illegal alien, and it's closer to one in eight in Northwest Arkansas, according to a recent study analyzing births in 2002.

Those numbers underscore the deep conflicts over how best to handle illegal immigrants. Their American-born children are, by birthright, U.S. citizens, even if one or both parents are not.

The waves of illegal immigrants who continue to cross the Mexican border in search of jobs only extend a mixed-citizenship scenario that is already surprisingly common in America: One in 10 children is born into a family that bears the invisible fault lines that could one day shake them apart.

"I just hoped my dad would come back," said Evelyn Rogel, 12, of Rogers. "It was scary."

Her father, Jose Rogel, a carpenter who came to America illegally more than a decade ago, chose to return voluntarily to Mexico to avoid a deportation order after he was picked up by immigration agents.

He left in March 2004. He is still in Mexico, leaving his wife, Olga, a Tyson Foods worker who is a naturalized citizen, to support Evelyn and the couple's other three children, all of whom were born in the United States.

Evelyn said she has missed her father, especially their crosscountry jogs, and was relieved when she learned that he will be able to return to Rogers legally next month. Rogel recently secured a waiver for a visa, said Arminda Ferguson, the lawyer for the family. But it is a rare happy result for a family, Ferguson said.

A July 26 immigration raid that swept up 119 illegal aliens at a Petit Jean Poultry deboning plant near Arkadelphia affected about 100 children, about 30 of whom had both parents arrested. Most of the children have by now followed their parents out of the country, but seven or eight have been shuffled to grandparents or other relatives, according to the Rev. Rudy Gutierrez, pastor of La Primera Iglesia Bautista, a Baptist church that has helped the families.

Federal Immigration and Customs Enforcement agents could not say how many of the nearly 162,000 illegal aliens they deported nationwide last year were in mixed-citizenship families.

But more and more illegal aliens in the United States are having babies, according to the Center for Immigration Studies, an independent research organization that favors tighter controls on immigration. The center analyzed birth records, the Census and other data to estimate the number of babies born to illegal-alien mothers.

In 2002, almost one in four births in the United States was to an immigrant mother, whether legal or illegal — the highest level in U.S. history, the center said. Arkansas had one of the most dramatic increases between 1970 and 2002, as immigrant births increased more than tenfold, to 3,421, compared with 34,016 births by U.S. citizens.

Birth records do not show how many of the immigrant mothers were illegal aliens. The

center applied a series of assumptions about birthrates and other factors to estimate that 42 percent — 383,000 babies nationwide — were born to illegalalien mothers. That would account for nearly one of 10 births in the United States.

ARKANSAS ESTIMATES

In Arkansas, the center calculated that 1,745 births were to illegal aliens, 4.7 percent of all births in 2002.

The figure was higher in Washington County, where the center estimated that 12.7 percent of all births were to illegalalien mothers.

If that seems high, it's in line with the sheer numbers of foreigners coming to America illegally. Although no precise numbers exist, the Pew Hispanic Center estimates there are 11 million people living in the United States illegally. Eighty percent of them are Hispanic.

It's no wonder they are having children: Most are workers in their prime years for starting families, according to the Center for Immigration Studies.

The multiplying baby numbers add fuel to the emotional debate raging over immigration. Some who favor less immigration call the children "anchor babies" and contend that illegal aliens often are having them so they can make a stronger claim to stay in the United States.

But groups that advocate changes to expand legal immigration say federal laws and policies fail to account for the fast growth in mixed-citizenship households, and are splitting up families to no good end.

"At the root of immigration is families," said Mirna Torres, spokesman for the Catholic Legal Immigration Network. "We need to have families be together."

FIGHTING DEPORTATION

At the heart of the conflict: As a citizen, a U.S.-born child has a right to stay because the 14th Amendment makes him a citizen by birthright. But the child has no right to keep his parents here with him. A child can petition for a visa to have his parents join him — but not until he's 21, said Greg Siskind, an attorney who runs one of the country's largest immigration practices in Memphis, where Arkansas deportation cases are tried.

Siskind and other immigration lawyers downplayed the leverage that a U.S.-born child can bring to bear in a court fight over deportation.

"It's a myth, first of all, that having a child somehow makes you eligible to stay in the U.S.," Siskind said.

Numbers appear to bear him out. Immigrants arguing to have deportations called off have yet to hit a government cap of 4,000 such cancellations a year, according to records from the Executive Office for Immigration Review, which oversees the immigration courts.

It's been tougher to fight a deportation in court since a 1996 overhaul of the immigration system toughened the standards, lawyers said.

To have a chance under the tougher rules, an alien must have been in the country

continuously for 10 years, be able to demonstrate good moral character and have no criminal record. Then he must show that the deportation would result in "exceptional and extremely unusual hardship" to his family, said Scott Gordon, assistant chief counsel in the immigration court at Memphis.

The plight of children often comes to bear in those cases, he said. But lawyers said they lose far more than they win.

SYSTEM'S WOES

Critics counter that the scorecard from the courts is the least of it, because the country's immigration system has such huge gaps. Overburdened immigration agents focus on catching illegal aliens who have committed crimes and often elect not to pursue run-of-the-mill cases that involve children, they say.

With an overflowing workload, Immigration and Customs Enforcement focuses foremost on illegal aliens with criminal records and those working in sensitive areas such as Army installations, said spokesman Carl Rusnok in Dallas.

"We have to prioritize," he said.

When there is an arrest of an illegal alien with a U.S.-born child, it comes down to the same wrenching predicament. The child can stay. But the parent must go.

"Ultimately, the children have every right to be here," said Douglas Bonner, an immigration lawyer in Little Rock. But if the parents are illegal aliens, they may have to hand them off to relatives or social services. Bonner said it is a responsibility the parents have to bear.

"I think the question is, what were the parents thinking?" he said. "What were the parents thinking when they come over here? Because they're the ones that conceived and gave birth."

With the Mexican border an open portal, the dilemmas are only going to increase, immigration experts say. The Pew Hispanic Center says the number of illegal aliens in the United States is increasing by 700,000 a year.

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