

CHILDREN, MIGRATION AND HUMAN RIGHTS:  
THE CASE OF THE MEXICAN-BORDER CHILDREN

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## Children, Migration and Human Rights: The Case of the Mexican-Border Children

### **Executive Summary**

In the summer of 2014, 68,000 unaccompanied child migrants from Central America, primarily from Guatemala, Honduras, and El Salvador, arrived at the U.S.-Mexico Border fleeing violent and impoverished conditions in their home countries and seeking reunification with parents who had migrated years prior. The case prompted attention from media, lawyers, human rights activists, immigration reformers, and politicians nationwide and raised several questions regarding children and human rights.

Several human rights organizations and researchers, such as Human Rights Watch and the Center for Gender and Refugee Studies at the University of California Hastings College of Law, published reports soon after the influx, arguing that human rights violations occur in the children's home, transit, and destination countries (Donato and Sisk 2015; Musalo, Frydman, and Cernadas 2015). The violations include violence, the threat of violence, deprivation of fundamental human rights (such as the right to develop), and extreme poverty in home countries, hunger, theft, rape and murder in the transit country of Mexico, and institutional policies that fail to acknowledge the unique status of children in the U.S. (Musalo, Frydman, and Cernadas 2015, iii-iv, 387-388).

If the children make it to the U.S., the conditions they face do not meet International Human Rights standards. In addition to holding cells that do not provide adequate nutrition, bedding, and medical care, the treatment of detained unaccompanied child migrants has several

institutional policies that violate human rights standards (Musalo, Frydman and Cernadas 2015, xiii). The children face several barriers in gaining citizenship and are not recognized as refugees.

Citing international human rights policies, including the United Nations Convention on the Rights of the Child (383), the United Nations Convention Relating to the Status of Refugees (392), the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (392), and the United Nations High Commissioner for Refugees (UNHCR) (394), the researchers argue that the countries involved violate international standards of human rights. In addition, they offer comprehensive recommendations that address the complex nature of child migration, arguing for local, national, regional, and bilateral policy changes. The authors argue that the countries must develop and implement bilateral agreements that use a best-interest, child-focused approach, noting that deportations do not deter re-migration and may even encourage it, due to the debt the children incur from attempting to cross the border (Musalo, Frydman and Cernadas 2015, xiv). These transnational policy suggestions include, “violence prevention, a national development plan, sustainable reintegration [of the children if they are deported] and binding regional accord between countries” (Musalo 2015, xv).

While the reports have been extensive and outline clear institutional and political reform, the Obama administration’s humanitarian policies are vague and questioned by human rights activists (Sorrentino 2015). Additionally, it is unclear whether or not the administration is taking specific action on immigration reform, suspiciously espousing “increased enforcement” that calls for more “efficiency” (U.S. Office of the Press Secretary 2014). More disturbingly, human rights activists claim that the U.S. is supporting *Programa Frontera Sur*, a new detention program enacted by the Mexican government in July 2014 that has been associated with increased human rights violations in Mexico. A historical contextualization of the issue suggests that the U.S.’s

response is an extension of neoliberal and Cold War policies, during which the U.S. was directly and indirectly involved with policies and governments that created the conditions of extreme poverty and violence that have caused the influx in migration (Sorrentino 2015).

The U.S.'s past immigration policy toward unaccompanied child migrants suggests that humanitarian groups can have a major role in influencing dramatic change. In the context of the U.S.'s involvement in Latin America, it is clear that the policies toward the unaccompanied child migrants from Central America are primarily motivated by political interests rather than humanitarian ones. The U.S.'s involvement with policies and governments that created the conditions causing the influx in migration from Central America implies that the U.S. must take national responsibility for the issue by addressing human rights violations in Central America at their core, in addition to making domestic change in immigration policy. Until then, it is probable that the human rights crisis in Central America will continue to escalate, with the faces of children fighting for safe and stable futures haunting the U.S. for years to come.

### **Historical Context**

#### **Trends in U.S. Immigration Reform: Post-WWI and Post-9/11**

Historically, the United States immigration policy is not very humanitarian. Instead what we can see from U.S. legislation and government programs are acts that attempt to use immigrants to achieve economic and political ends. There are two cases that come to mind that show the U.S. using Mexican labor to achieve their means without taking into account the condition of the immigrant. In the 1920s, the U.S. allowed Mexican immigrants to come into the country because of their cheap labor and an attempt to hurt the development of Asian immigrants (3). However, when public sentiment disagreed with Mexican labor the United States government quickly deported 75% of the Mexicans in the country. Another example of the

United States using Mexican workers to achieve a political goal is the Bracero Program.(Brick, Kate and Rosenblum Marc 2011, 4) The program was created to fill the employment demand created by World War II. The program lasted past World War II, but was ended after public demands. From these two cases, it is clear that the U.S. has historically used migrants to achieve their political and economic goals. Additionally, the examples demonstrate that the U.S.'s immigration policies have favored U.S. interests over humanitarian solutions. The U.S. has, however, created humanitarian responses for children facing human rights abuses in the past, as show in two cases of policies toward unaccompanied migrant children in the 20th century.

### U.S. Policies Toward Unaccompanied Migrant Children

#### *Operation Babylift*

The United States does intervene to protect children in need despite the mishandling of the border crisis last year. However, even these operations have caused the public to question whether or not intervention is truly a viable option. Operations Babylift and Pedro Pan show that the U.S is willing to take responsibility for the child migrant and can do more for children on the border.

Operation Babylift was a U.S. attempt to rescue Vietnamese children from advancing communist forces during the Vietnam War. The children that were taken during Operation Babylift were claimed to be misplaced orphans. However, investigation shows that some of the children claimed to be orphans were not orphans. Instead they were children attempting to escape the war. The operation came under more scrutiny when the initial plane carrying 144 children crashed killing all but 3 children. Nonetheless, Operation Babylift moved over three thousand children from Vietnam to Western nations. The Operation is interesting because it was motivated by pressure from Western humanitarian groups to help the children in need (Minh

2009, 3). A group of humanitarians put pressure on the United States government by writing letters saying that the orphans of Vietnam need help in escaping the war. However, the humanitarian response was tied to political motivations. While the government felt like it was a proper approach, they also felt like it was a way to gain some propaganda for the war (Minh 2009, 3). Operation Babylift shows that the U.S. is willing to intervene and help children, especially when it serves political interests, including public relations within the U.S. Instead of what we currently see going on the U.S.-Mexico Border situation where we have children waiting for assistance and are stuck in a legal process, Operation Babylift was not hindered by did not go through any legal barriers for the U.S. to intervene. Operation Babylift show that the United States has the potential to act on child humanitarian crisis, if there is political pressure from within. However, the crisis on the border has political support from within the country, but finds it is difficult to proceed because of poor immigration policies and the U.S.'s interests in Latin America. policy decisions.

#### *Operation Peter Pan*

Operation Pedro Pan is another example of the United States assisting children escaping poor living situations. Operation Pedro Pan moved children from Cuba to Florida during the 1960s. The Catholic Welfare Bureau struck a deal with the U.S. Department of State to waive visa requirements for Cuban children, allow them to reunite with their families and gain an American education (Pedropan.org 2009). The operation was kept under wraps by the U.S. government and the story was only reported on twice from the 60s to the 80s (Pedropan.org). So there is very little public opinion about the operation and very little is said about the United States. The Operation is similar to Baby Lift, but is also different when it comes to the publicity of the event.

The Operation is different in a couple of different ways. For example, the public was generally unaware that Operation Pedro Pan took place and there is very little public opinion about the whole issue. This may actually be a good thing when we look at the effects public opinion has had on immigration policy making. When the public has a relatively split view about immigration topics it becomes difficult for legislators to come together and make the necessary reforms. This is another reason why it has been difficult for there to be major headway for the children on the border since the public is split about how to settle the issue. However, the U.S.'s current policies toward unaccompanied child migrants can be best understood by examining the trends in U.S. intervention in Central America.

### U.S. Intervention in Central America

In order to understand the U.S.'s punitive policies toward the unaccompanied child migrants from Central America, it is essential to examine the U.S.'s relationship with the region. As documented by human rights activists and Latin American academics, the U.S. has been directly and indirectly involved with policies and governments that have perpetrated human rights abuses and extreme economic stratification, the conditions that have caused the influx in migration. These policies include trade agreements that exploit Central American resources, deportation of L.A.-born gangs to Central America (Sorrentino 2015), and support and training of dictatorial and military forces involved with the torture and killings of thousands of men, women, and children. From this contextualization, it becomes clear that the U.S. is not only morally bound to dealing with the consequences of political and economic violence, but also partially responsible.

Many of the contemporary policies and consequences of U.S. involvement in Latin America originate in Cold War neoliberal ideology. The U.S. has always been concerned about

the growth of socialism and leftist governments in Latin America, which threaten economic elites, and has supported several military coups that established violent dictatorships to quell these movements (Grandin 14). One of the first of these coups was in Guatemala, with the 1954 overthrow of Arbenz. The U.S. also trained military forces in torture, detention, and intelligence operations from several Latin American countries in the School of the Americas (SOA), including the Salvadoran military during the civil war that lasted from 1980-1992 (Sorrentino 2015). U.S. security advisors have also traveled to Latin American countries to directly lead killing squads (Grandin 12). Policies like these have continued in present-day, with the Obama administration supporting a 2009 military coup in Honduras that has established a repressive and violent regime (Chen 2015). Contrary to popular notions of American democracy, the U.S.'s involvement in Latin America demonstrates that U.S. foreign policy democracy supports is linked to, and may be dependant on, extreme violence and oppressive regimes in foreign policy (Grandin 14).

In addition to military and dictatorial aid, U.S. trade deals with Central America have contributed to the motivating factors of migration. Karen Musalo and her colleagues trace the root causes of poverty in Central America to trade agreements such as the North American Free Trade Agreement (NAFTA) and the Central American Free Trade Agreement (CAFTA), which “benefit multinational companies and the U.S. economy generally, at the expense of the economies and communities in Central America and Mexico” (Musalo 2015 xv). According to a report from the AFL-CIO, the global trade programs undermine unions and workers’ rights, displace small farmers, and frequently use state terror and militarization for their enforcement (Chen 2015). The effects of these free trade policies on Central America include “unemployment, extreme poverty, and a decaying socioeconomic structure, [which] reinforce



and exacerbate the violence and other factors that cause migration” (Musalo 2015 xv). In Honduras, the U.S. has given over \$27 billion in aid for “security purposes,” a policy that parallels the militarization of the country (Chen 2015). The combination of “direct political suppression as well as the economic turmoil” has created a dangerous context that has motivated Central Americans to migrate to the U.S. (Chen 2015).

*Trends in Child Migration from Latin America to the U.S.*

Over the past 10 years, children from Central America have been making the treacherous journey to the United States. Throughout the 20th century, the typical immigrant to the United States was a migrant worker looking for employment since their countries back home could not provide them with stable jobs (Martinez 2014, 1). However, studies show that the children have recently been making the trip to the United States. The reasons often vary, but research has found children are attempting to reunite with their parents. For example, 49 percent of Salvadoran children who migrated to the United States did so because they had ties with their families (Donato, Katherine, and Sisk 2015 62). The statistics also show a rise in the number of children migrating to the United States. As one report found prior to the border crisis last summer, “in prior fiscal years, total apprehensions of unaccompanied children increased from 16,067 in 2011 to 24,481 in 2012 and 38,833 in 2013”(Donato, Katherine, and Sisk 59). As we can see there is an upward trend over the past 3 years, which supports research arguing that the influx is due to an escalation in violence and poverty in their home countries (Musalo, Frydman and Cernadas 2015). The trend does not look to slow down anytime soon and finally gained national attention last year.

**Analysis of the Case: Limitations of Human Rights in Political and Institutional Policy**

While previous unaccompanied children from Central America were primarily motivated by family reunification, the new surge of unaccompanied child migrants from Central America that began in 2012 was sparked by the growth of violence in these Central American countries overtaken by poverty and drug trafficking. Three fourths of the child migrants that came in the summer of 2014 were from violent rural towns in Guatemala, Honduras, and El Salvador; Honduras has the world's highest murder rate of any country not at war (Park 2014). These factors motivate the children to undergo extreme conditions in transit countries, namely Mexico, in which the children ride *La Bestia*, a dangerous train, through Mexico or travel on foot, risking theft, rape, and murder (Musalo, Frydman and Cernadas 2015, 387-388). In an incredible work of journalism, Sonia Nazario traces the experience of one adolescent, Enrique, who made eight attempts to migrate to the U.S., facing hunger, theft, and violence along his perilous journey (2014). If the children make it to the U.S., the conditions they face do not meet International Human Rights standards.

As Alison Brysk notes, the human rights crisis of child migrants has led to the "creation of an institutional and normative framework [that] has been matched by a growth in monitoring and advocacy groups for children's rights" (2005, 37). However, she also argues that this standard is "incompletely developed...and thus far proves inadequate to the demands of globalization" (Brysk 2005 59). The case of the Central American unaccompanied child migrants exemplifies her observation, demonstrating that the humanitarian standards proposed by international and non-partisan bodies is not always reflected in institutional and political responses to the child migration. The failure of immigration and political policies to grant these children human rights exemplifies Fishlin and Nandorfy's observation that human rights are intertwined with power structures and political structures that selectively determine who is

granted “access to human rights,” often for political motivations (2007, 5). The case of the unaccompanied migrant children from Central America is no different.

### The U.S.’s Response to the 2014 Unaccompanied Child Migrants

#### *Obama Administration Policies*

The Obama Administration’s approach to the surge of unaccompanied child migrants in 2014 has been a mix of humanitarian reforms and increased border security, reflecting the different partisan approaches to immigration reform and the politics between the U.S. and Central America. Unlike Operation Peter Pan and Operation Babylift, the U.S.’s response to the unaccompanied migrant children does not demonstrate an investment in the “humanitarian crisis” with which the administration claims to be concerned (U.S. Department of Homeland Security 2015). The differential responses to these different cases reveal the selective application of human rights standards when they meet political goals. A press release published by the White House in June 2014 provides an overview of the Obama administration’s preliminary efforts to address the surge of unaccompanied Central American child migrants. While the document states that their first priority is the “safety of the children,” the application of this priority is questionable. Additionally, the document ends by declaring the need for “increased enforcement” that calls for more “efficiency,” implying that humanitarian structural reforms in immigration policy are not being implemented (U.S. Office of the Press Secretary 2014). While the article describes efforts by the administration to improve Central American safety by “combating gang violence and strengthening citizen security, spurring economic development and improving capacity to receive and reintegrate returned families and children” through monetary funding (U.S. Office of the Press Secretary 2014), an analysis of the specific beneficiaries of these funds (military vs. civic) is needed before they are deemed a success. In

February of 2015, a \$1 billion aid package was approved to be sent to El Salvador, Guatemala, and Honduras, with 80% specifically for economic and civilian programs. Human rights experts are cautiously optimistic, stating that the program requires a high level of transparency to ensure that the money is not being used for corporate interests (Sorrentino 2015).

As of January 2015, the U.S. government is coordinating efforts with the Federal Emergency Management Agency (FEMA) to develop a response to the “humanitarian situation” (US Department of Homeland Security 2015). The plan will include “adequate housing, food, medical care, and some education [for the children] while....[they are] in federal custody (Preston 2014). Government officials in the Obama administration relate the surge to violent conditions in their countries of origin, while Republican officials argue it is due to “weak border enforcement,” showing the politicization of the issue (Preston 2014). Thus, while the Obama administration may be implementing some short-term humanitarian policies (although this too may be disputed), there have not been concerted efforts for structural immigration reform.

These documents provide key insight into current U.S. policy toward unaccompanied child migrants and imply that the recommendations provided by key NGOs have not been readily incorporated to address the crisis. However, while the legal and institutional barriers facing unaccompanied migrant children when they arrive in the U.S. must be addressed, a more covert issue has emerged at the forefront of the human rights crisis in Central America migration.

#### *Programa Frontera Sur*

The U.S.-Mexico border is expected to report a decrease in apprehensions of Central American migrants in 2015, which conservatives say has been the result of a “public information campaign in the affected countries” about increased border enforcement (Koplowitz 2015). However, the actual cause of the decreased migrations may be due to a more covert and violent

immigration policy not in the U.S., but in Mexico: *Programa Frontera Sur*. The Mexican government enacted the program in July 2014; two weeks after President Obama met with Mexican President Enrique Peña Nieto (Sorrentino 2015). In the first six months after the policy was enacted, Mexican deportation rates increased by 34%, while U.S. apprehensions decreased by 39% with the number of children apprehensions in the U.S. decreased by 57% (Sorrentino 2015). In 2015, these numbers are more striking: in the first two months of 2015, Mexico deported 105% more minors in than in January and February of 2014 (WOLA). Non-governmental human rights organizations are calling foul, arguing that *Programa Frontera Sur* is another example of the United States using Latin America “to do its dirty work,” especially in light of reports of increased human rights violations for Central American migrants in Mexico (Sorrentino 2015).

While the program states migrant protection as a primary objective, the application of humanitarian strategies remains highly questionable (Wilson and Valenzuela 2014). As evident in the numbers above, the program’s main initiative has been the increased policing of trains and rapid deportation, which encourages migrants to travel on foot, leaving them more vulnerable to violent theft, rape, and murder. According to migrants and shelters interviewed in the spring of 2015, *Programa Frontera Sur* is worse than *La Bestia*, the dangerous famed train that most migrants used as their source of transportation prior to *Programa Frontera Sur* (Sorrentino 2015).

While the White House denies U.S. support of the program, several human rights activists in Mexico and the U.S. claim that the program is undoubtedly linked to pressure from the U.S. government. It is also possible that U.S. funds for southern border enforcement from the Merida Initiative, which has supplied more than \$120 million, has supported the program

monetarily. To people in the U.S., the issue of Central American migration may seem obsolete--the U.S. government has done a good job of making it seem that way (Sorrentino 2015).

However, it would not be the first time that the U.S. has denied involvement in Latin America. As shown previously, the U.S. has a history of covertly supporting dictatorial regimes associated with human rights violations and extreme economic stratification as well as free trade policies that have created poor labor conditions for the benefit of U.S. corporations. The human rights violations as a result of *Programa Frontera Sur* suggest a continuation of U.S. policy that supports poor social and economic conditions in Central America. Its effects on the unaccompanied migrant children demonstrate the limitations of applying human rights standards when they “interfere” with political policy.

#### Barriers to Citizenship and Protection: Children and Human Rights in Immigration Policy

In addition to political responses that do not address human rights, the challenges in immigration policy reflect the difficulty of granting non-citizens human rights, as well as the rights of children in immigration. The different paths to citizenship in the U.S. for unaccompanied child migrants are complex and fraught with challenges, revealing the challenges of immigration policy that does not recognize the unique status of children. These include the family immigration system, asylum, withholding of removal and Convention Against Torture protection, Special Immigrant Juvenile Status (SIJS), and visas (Musalo, Frydman and Cernadas 2015, 390-405). Several human rights organizations have published reports that argue that the policies do not consider the especially vulnerable status of children. For example, asylum is difficult to grant because it is difficult for the legal system to recognize children as a social group subject to persecution (396). Additionally, while SIJS can be an opportune path toward permanent residency, many children are not “identified as being eligible for SIJS for a variety of

reasons including lack of information about their immigration status and options for pursuing relief” (402).

The legal system also has several child-specific barriers to gaining protection. These limitations include the lack of the “incorporation of the best-interests [of the child] principle, government-appointed counsel for children, government-appointed child advocates, and child-sensitive standards for immigration relief options” (Musalo, Frydman, and Cernadas 2015, iii-iv). These are all exacerbated by expedited removal policies and violate international human rights standards, including due process rights (Musalo, Dallam, and Bookey 2014, 414). Repatriation to dangerous home countries are not adequately supported by governments, which “makes children and adolescents even more vulnerable following repatriation and often leads to remigration” (x-xi). As Nazario documents in “Enrique’s Journey,” children are willing to undergo extreme circumstances multiple times to try to migrate again (2014). The policy of repatriation doesn’t “consider the best interest of the child or address root causes” of the issue (Musalo, Dallam, Bookey and 2014, xiv). All of these policies exemplify the unique issue of children in the context in immigration policy, suggesting that it is difficult for non-citizens to receive child-specific human rights within the system to account for these differences.

#### NGO Recommendations and International Standards on the Rights of Children

Looking at the U.S.’s current policy towards these children and the gaps that appear with these policies, many special interest groups and human rights organizations have suggested specific policy reforms that would assist in better solving human rights violations both domestically and abroad. Domestic policy changes include, creating alternatives to detention, using detention in extremely rare cases for a short amount of time, stopping deportations, providing “full and fair” screenings of unaccompanied children, ensuring asylum-seeking

children have counsel and guardianship, using the “best interests” of the child principle, promoting the family unit (Human Rights Watch 2015; Musalo, Frydman and Cernadas 2015; Donato and Sisk 2015). Additionally, they suggest foreign policies that would address the issues in their home countries, including violence prevention programs, sustainable reintegration in repatriation, and binding regional accord between countries (Musalo, Frydman and Cernadas 2015). The recommendations presented would both protect the children arriving to the U.S. and help reduce the need for children to immigrate to the United States, helping to address human rights violations across Latin America.

The human rights groups refer to many different international standards of human rights, including the United Nations Convention on the Rights of the Child (383), the United Nations Convention Relating to the Status of Refugees (392), the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (392), and the United Nations High Commissioner for Refugees (UNHCR) (Musalo, Frydman and Cernadas 2015, 394). The United States’s policy towards these unaccompanied minors seeking refugee status does not line up with the treaties produced by the United Nations that outline the international laws to be followed when dealing with children and with refugees.

The Universal Declaration on Human Rights outlines in article 13.2 that “everyone has the right to leave any country, including his own, and return to his country”, as well as article 14.1 that states that “everyone has the right to seek and enjoy in other countries asylum from persecution” (CRC). According to the UDHR, the United States must allow asylum when it is relevant and must allow protection under their country if they are persecuted in their home country. Furthermore, the United Nations wrote the Convention of the Rights of the Child in which article 22 states that “state’s parties shall take appropriate measure to ensure that a child



who is seeking refugee ... whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance” (UDHR). Article 22, in conjunction with Article 2, states that the CRC is applied to every child, article 6 states children must be allowed “survival and development”, and Article 4 requires states to use “the maximum extent of available resources and, when needed, within the framework of international co-operation” (UDHR). Under the CRC, which the United States signed but never ratified, but which is still upheld by Customary International Law as every other country in the world has signed and ratified the CRC except Somalia (The Economist 2013), the rights of the Mexican Border children are not being upheld as they are being denied refugee status from the United States and are being held in less than desirable conditions as they await further decision of their status. The publication of these recommendations and the creation of transnational human rights alliances in the context of the U.S.’s political and immigration policies demonstrate the continued need for child-focused standards and the limitations of the application of human rights in the face of political interests.

### **Conclusion**

In 2014, the United States saw a dramatic influx of unaccompanied child migrants from Central America fleeing violent conditions in their home countries and seeking to reunify with families that had immigrated years prior. The plight of the over 60,000 children seeking safety in the U.S. gained national attention and scrutiny about the causes of migration, the human rights implications, and the legal and institutional barriers these children face in gaining protection. Many liberal politicians attribute the rise to violent conditions in their home countries, while conservative officials use it as an opportunity to attack Obama’s border security (Preston 2014). Both sides fail to directly acknowledge the U.S.’s involvement with policies and governments

that have perpetrated human rights abuses and extreme economic stratification in Central America and Mexico (Musalo 2015, xv).

The fact that the U.S. has done little to address these policies and may even be moving toward a less humanitarian approach by supporting *Frontera Sur*, further demonstrates that the U.S.'s response to the unaccompanied child migrants is motivated by political factors and not humanitarian ones. Returning the children to their home countries is not a sustainable option, as it “makes children and adolescents even more vulnerable...and often leads to remigration” (Musalo 2015, x-xi). It would be useful to categorize the issue as “blowback”: unintended consequences of geopolitical intervention in the home country (Johnson). Analyzing the issue as blowback is useful because it politicizes the crisis and forces the U.S. to take national responsibility for its actions. Taking responsibility for the economic and social conditions in Central America will allow the U.S. to create policy measures that address the root causes of Central American migration, instead of offering band-aid strategies that serve to reinforce neoliberal economic policies whose consequences will eventually blow back once again.

The surge of unaccompanied migrant children from Central America in 2014, the international and domestic media attention, and the response of the U.S. government exemplify Brysk's description of the limitations of the increased attention that child migrants generate around human rights violations (2015, 37). However, the case also demonstrates that “globalization is simultaneously the greatest threat and the greatest opportunity for children's rights” (Brysk 2015, 36). Therefore, it is essential that we scrutinize covert policies that continue historical trends of U.S. support toward violence and inequality, while at the same time maintaining optimistic for the potential of our scrutiny to catalyze positive social change for the children and their families in Central America.

## Case File

1. Donato, Katherine M., and Blake Sisk. "Children's Migration to the United States from Mexico and Central America: Evidence from the Mexican and Latin American Migration Projects." *Journal on Migration and Human Security* 3.1 (2015): 58-79. Center for Migration Studies of New York. Web. 16 Apr. 2015.

In response to the dramatic increase in unaccompanied, unauthorized child migrants from Central America in the summer of 2014, this article examines motivations and trends in child migration to the U.S. from Mexico, Guatemala, El Salvador, Costa Rica, and Nicaragua from 1987-2011. In their research, the authors find that a main factor in child migration from these countries is family reunification, because many have one or more parents living in the U.S. when they migrate. The authors suggest that these findings indicate that immigration reform should take into account this connection, and look into ways that children seeking to reunite with their families can immigrate legally to the U.S.

Dr. Katherine Donato is the Chair of Vanderbilt College's Sociology Department, where she specializes in immigration, and Blake Sisk is a Ph.D. student in the department. The paper is clearly intended for those interested in immigration policy and reform, including academics and policy-makers. The authors of the study used data from the Mexican and Latin American Migration Projects (the MMP and the LAMP), which interviewed households in various communities from the different countries represented. By looking at people who immigrated as migrants from 1987 to 2011, they were able to take into account other U.S. immigration policy factors that may have influenced various trends, including the 1986 Immigration Reform and Control Act (IRCA) and the increased focus on security after 9/11.

While the paper provides interesting insight into the motivation for child migration to the U.S. from Mexico and Central America, the analyses from this data do not give much insight into the increase of child migrants from Central America in recent years, especially in 2014. While the authors conclude that family reunification is an important element in child migration and therefore immigration reform, one cannot generalize these findings to the child migrants from Central America. These children may have immigrated due to violence in their home countries, making it a more pressing human rights issue for academics and policy-makers alike.

2. Musalo, Karen, Lisa Frydman, and Pablo C. Cernadas. "Childhood and Migration in Central and North America: Causes, Policies, Practices and Challenges." (2015): 1-540. Web. 16 Apr. 2015.

In collaboration with government and social services organization in Honduras, Guatemala, El Salvador, Mexico, and the United States, the researchers of the "Childhood and Migration in Central and North America: Causes, Policies, Practices and Challenges," provide an extensive overview of the issues surrounding child migration and potential solutions based on their research. Using a human rights framework, the authors identify challenges the children face in their home countries, in transit, in the destination countries, and repatriation. The authors argue that the countries must develop and implement bilateral agreements that use a best-interest, child-focused approach, noting that deportations do not deter re-migration and may even encourage it, due to the debt the children incur from attempting to cross the border.

Karen Musalo and Lisa Frydman, directors at the Center for Gender and Refugee Studies in the University of California Hastings College of Law, worked collaboratively with Pablo Ceriani Cernadas, the Coordinator of the Migration and Asylum Program in the Justice and Human

Rights Center at the National University of Lanus in Argentina to coordinate and edit the research in this study. By using research on country-based motivations and human rights conditions of the children at all stages of the migration process, the authors of the study make a strong case that immigration reform regarding the issue requires a human-rights framework to be successful. They assert comprehensive recommendations that address the complex nature of child migration, arguing for local, national, regional, and bilateral policy changes.

This article is extremely relevant and important for our research and contemporary policy makers. The study was conducted over a two-year period and published in 2015, allowing for insights into the most recent motivations and issues involved in Central and North American child migration. It provides key reflections into the unique status of children in the context of international and human rights violations, demonstrating their vulnerability and the urgent need for reform in immigration policies and practices.

3. Levinson, Amanda. 2011. "Unaccompanied Immigrant Children: A Growing Phenomenon with Few Easy Solutions." Migration Policy Institute. *Migration Information Source*, January 24.

The article, "Unaccompanied immigrant Children: A Growing Phenomenon with Few Easy Solutions," provides an overview of the U.S. and European approaches to child migration, criticisms of their approaches, and their effects. In the U.S., immigration of children has been historically the result of resettlement programs, such as Operation Peter Pan (Cuban children) and Operation Babylift (Vietnamese children). Recently, child migration has occurred outside of these programs, due to an increase in "irregular migration" and family separation due to increased enforcement along the border. The article argues that overall, immigration reform has improved the treatment of unaccompanied immigrant children, however issues still remain.

The Migrant Policy Institute, a non-profit, non-partisan "think tank" in Washington, D.C. that sponsored the publication of this article, aims to publish balanced data-based reports regarding migration. Citing cases such as *Flores v. Reno* and policy changes within the INS and the DHS, the author traces recent immigration reform regarding migrant children. However, the study was published in 2011, and thus does not provide insight into the policy changes in the last four years.

The article demonstrates that the best child policy that is applied in U.S. family law has not been applied to U.S. immigration law, and that while attempts to improve the conditions of unaccompanied migrant children in the U.S. had been made by 2011, there were still many issues that left the immigration unprepared for the influx in 2014.

4. Frydman, Lisa, Elizabeth Dallam, Blaine Bookey. 2014 "A Treacherous Journey: Child Migrants Navigating the U.S. Immigration System." Center for Gender & Refugee Studies, Kids in Need of Defense, 2014. [http://www.uchastings.edu/centers/cgrs-docs/treacherous\\_journey\\_cgrs\\_kind\\_report.pdf](http://www.uchastings.edu/centers/cgrs-docs/treacherous_journey_cgrs_kind_report.pdf) (accessed May 8, 2015).

In a comprehensive study analyzing the challenges and rights of unaccompanied child migrants once they arrive to the U.S., the authors of this study lay-out five shortcomings of the current immigration policy: "the lack of incorporation of the best interests principle, government-appointed counsel for children, government-appointed child advocates, and child-sensitive standards for immigration relief options." (iii-iv) They argue that these concerns must be addressed to develop a more humanitarian approach to immigration reform that considers the specific vulnerable status of children.

The article was published through the Center for Gender & Refugee Studies at the University of California, Hastings School of Law, which provides legal support, research, training, and advocacy. The Center is obviously dedicated to human rights, and have published several reports regarding unaccompanied child migration. They utilized case records, case data from asylum, SIJS, and T & U visa cases, attorney surveys, literature, and statistics as evidence in their research. The recommendations they provide are: counsel, best interests of the child, child advocates, data, post-release services, return and reintegration policies, and funding for reforms.

This study adds to our understanding of the legal barriers unaccompanied child migrants face in gaining protection in the U.S.. Additionally, it compares the rights of children in domestic law to the rights of unaccompanied child migrants in immigration law to demonstrate a double standard for child rights in the U.S.

5. U.S. Department of Homeland Security. 2015. "Unaccompanied Children at the Southwest Border." *Website of the Department of Homeland Security*. January 30, 2015. <http://www.dhs.gov/unaccompanied-children>

This brief article reviews the Department of Homeland Security's current approach to unaccompanied migrant children. It states that the Federal Emergency Management Agency (FEMA) is developing a government-response to the "humanitarian situation." The article does not provide information regarding changes in immigration policy.

6. Preston, Julia. 2014. "New U.S. Effort to Aid Unaccompanied Child Migrants." *The New York Times*. June 2, 2014. [http://www.nytimes.com/2014/06/03/us/politics/new-us-effort-to-aid-unaccompanied-child-migrants.html?\\_r=0](http://www.nytimes.com/2014/06/03/us/politics/new-us-effort-to-aid-unaccompanied-child-migrants.html?_r=0)

This article provides a brief overview of President Obama's 2014 response to the surge in unaccompanied child migrants. The author, Julia Preston, includes Obama's order of the Federal Emergency Management Agency to address the issue, which will include "adequate housing, food, medical care, and some education while...in federal custody." Preston states that government officials in the Obama administration relate the surge to violent conditions in their home country, while Republican officials argue it is due to "weak border enforcement."

The article shows that while the Obama administration may be implementing some humanitarian policies, there has not been the immigration reform needed to help these children in the long run.

7. U.S. Office of the Press Secretary. The White House. 2014. "FACT SHEET: Unaccompanied Children from Central America. June 20, 2014. <https://www.whitehouse.gov/the-press-office/2014/06/20/fact-sheet-unaccompanied-children-central-america>

This press release, published in late June of 2014, reviews the Obama administration's efforts to address the issue of Central American unaccompanied child migration to the U.S. The article states that the first priority of the Obama administration is the safety of the children, and that they are also coordinating efforts to improve Central American safety in "combating gang violence and strengthening citizen security, spurring economic development, and improving capacity to receive and reintegrate returned families and children." There are several new programs in Guatemala, El Salvador, and Honduras that provide monetary funds to address these

issues, including the Central America Regional Security Initiative. Additionally, the press release calls for “increased enforcement” in immigration proceedings.

While the monetary funds to Central American countries seems promising, an analysis of the specific beneficiaries of these funds (military vs. civic) is needed before they are deemed a success. Additionally, the “increased enforcement” that calls for more “efficiency” implies that humanitarian structural reforms in immigration policy are not being implemented.

This press release provides key insight into current U.S. policy toward unaccompanied child migrants and implies that the recommendations provided by key NGOs have not been readily incorporated to address the crisis

8. Leistch, Corinne. "Children Who Crossed the Border Recall Horror Stories Back Home as They Fight to Stay in the US." NY Daily News. New York Daily News, 13 Aug. 2014. Web. 03 Dec. 2014.

<http://www.nydailynews.com/news/national/immigrant-kids-judge-horror-stories-article-1.1902877>

Tells of 29 children at Immigration Court in New York. A representation of the 63,000 children who came to the US by themselves in the between October 2013 and July 2014 from countries such as Guatemala and Honduras. Many of the children escaped violence and seek family reunification with family members already living in the United States. The children speak of the gang violence they tried to escape as well as the dangerous trek they endured as they journeyed from their home countries to the Mexico-US border. The children are slowed down once they get to the United States by the court systems and they await their hearings in a court that is badly overflowing with cases.

This article has a one sided argument, it only look at the children’s perspective and disregards the legal hurdles the United States government. It doesn’t look at the complexities of the legal issues that surround child migrants. This article does a good job of putting a face to the many children that are child migrants today. It looks at these children as real people and makes the problem a humanitarian problem rather than simply an immigration issue.

This article aids in our research because it gives insight into the background child migrants that came to the United States in the summer of 2014. It also helps aid in the reasoning behind this surge in child migration. It supports the idea that the trek from places such as Guatemala and Honduras to the United States is dangerous and full of hardship.

9. Park, Haeyoun. "Children at the Border." The New York Times. The New York Times, 14 July 2014. Web. 04 Dec. 2014.

[http://www.nytimes.com/interactive/2014/07/15/us/questions-about-the-border-kids.html?\\_r=0](http://www.nytimes.com/interactive/2014/07/15/us/questions-about-the-border-kids.html?_r=0)

Answers the basic questions of these children such as where are they coming from? Why are they coming? How old are they? What happens to them when they get here? And what is being done to address the problem?

This article reveals that there are approximately 1000 shelters across the Mexico-US border that children are taken to if caught, in addition to three temporary shelters opened on military bases in CA, OK and TX that provide an extra 3000 beds. It also reveals that President Obama has allocated \$3.7 billion of emergency funds to help with problem but without support from congress the children are in dire condition.

This article does a good job of using statistical and current information to realize the scope of the problem. The article fails to provide any insight into the views of humanitarian expert as to what should be done to aid in solving the problem. This article also fails to place

humanity upon these children and allows them to be seen as merely numbers in a longer immigration war, when in fact they are more than this.

Overall this article helps give numerical and statistical facts to the issue. This not only increases the credibility of our research but helps aid in realizing the scope of this issue. This article provides the basics for understanding the issue of unaccompanied child migration in the summer of 2014, but cannot be relied upon to provide insight into critical evaluation of the issue.

10. "US: Surge in Detention of Child Migrants." US: Surge in Detention of Child Migrants. Accessed May 11, 2015.

<http://www.hrw.org/news/2014/06/25/us-surge-detention-child-migrants>

Human Rights Watch questions the process of detaining child migrants, as it is in human rights law to not hold people for undue periods of time, even if they are children. The US treatment of Child immigrants “fall short of international standards that require careful screening of children in light of their best interests for being trafficking victims or refugees, and facing reprisals from traffickers or rights abusers upon return”. HRW touches on the conflict within the US political parties pertaining to child immigration where Republicans advocate for deportation while Democrats advocate for refugee status in the US. HRW has 5 suggestions for the US government to : “Institute alternatives to detention for all unaccompanied migrant children either by releasing them to appropriately screened guardians or by placing them in home like settings with full access to education, adequate nutrition and sanitation, social interaction and recreation; Ensure that only in extremely rare and exceptional cases are any unaccompanied migrant children subjected to immigration detention; if detention is used at all, it must be for the shortest amount of time and in an appropriate setting where children’s needs can be addressed without causing further trauma or harm; provide full and fair screenings of unaccompanied migrant children by a designated child welfare specialist skilled in gathering timely and pertinent information in a child-friendly and age-appropriate manner; Ensure that unaccompanied children, particularly asylum seekers, receive the assistance of counsel and guardian charged with representing their best interests.”

This article gives a good insight into the humanitarian views behind this issue. It practically draws up conclusion that can aid in the situation. Although its suggestions are beneficial, they may be too grandeur to pass in Congress and could receive backlash. The authors of this article expect there to be immediate action which could be impossible given the nature of the United States Governmental System, unless an executive order is given. Human rights watch gives great insight but lacks in practicality when it comes to the specifics of how these ideas will be carried out such as lacking in the specifics of where the funding for these projects will come from and how they are to be implemented into the governmental system.

This article aids in our ventures to explain the human rights issues that surround child immigration by providing a humanitarian view and for helping provide ideas for how to solve or assist in solving this issue.

11. Bhabha, Jaqueline. *Child Migration & Human Rights in a Global Age* (Princeton, New Jersey: Princeton University Press, 2014).

In *Child Migration & Human Rights in a Global Age*, Bhabha provides an in depth look at the circumstances of child migrants in the 21<sup>st</sup> century. Bhabha looks through the lens of



personal narrative, statistics and research to analyze the complex reasons for child migration and consequences for the high rate of child migration in the world today. In Part I, Bhabha looks at Family reunification as a reasoning for child migration. She analyses the rights of children to be reunited with their families, the psychological strain there is on children of migrants and the policies and systems in place to help child migrants seeking family reunification. Part II looks at child migration through the lens of exploitation. In perhaps the most heartbreaking part of the book, Bhabha studies the rights of children being trafficked and the rights of children moved for war. Through personal narratives and data Bhabha suggests solutions to this problem is not merely fighting forms of prosecution but “child migrants need to be viewed as agents whose aspirations are relevant to institutional decision making.” (p.10) Part III looks at what happens after child migrants get to their destination and the “battle for refugee protection” and the recent spike in child migration advocacy and litigation. Bhabha covers a large range of child migration issues, as well as provides insight into the issue of child migration throughout the world. Bhabha recognizes the hurdles to solving these issues as child migrants fall under international, and domestic law, as well as laws pertaining to migrant’s rights and children’s rights.

*Child Migration & Human Rights in a Global Age* successfully recounts the broad subject of child migration by covering the reasoning for migration and also the issues, both political, legal and psychological, that come along with child migration. Although thorough Bhabha covers the broad range of issues pertaining to child migration, does little to suggest practical and institutional solutions to the issues of child migrants. And the solutions that are presented seem to be too grandiose to accomplish.

*Child Migration & Human Rights in a Global Age* will help with my research into the current issues surrounding unaccompanied child migrants on the US-Mexico border by giving context and information on the struggles of child migrants and the reaction of the political system at large to child migration.

12. "Convention on the Rights of the Child." UNTC. United Nations, 20 Nov. 1989. Web. 02 Dec. 2014.

[https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg\\_no=iv-11&chapter=4&lang=en](https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=iv-11&chapter=4&lang=en)

The Convention on the Rights of the Child, proposed in 1990 is an international treaty with the intention of protecting children as they need a different set of rights that protect them from persecution and advocates on their behalf. The United States signed the CRC in 1995 but has never ratified it, mostly on the grounds that it wants to hold sovereignty over the decision to sentence minors to the death penalty. Even though it is not ratified by the United States, it is argued as Customary International Law as the rest of the world (with the exception of Somalia) has signed and ratified this treaty and act accordingly.

Article 22 of the CRC states *State’s Parties shall take appropriate measure to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.* Article 2 states this document is applied to every child, article 6 states that children must be allowed “survival and development”, which according to Article 4 include



economic, social and cultural rights. Article 4 also adds that states must use “maximum extent of available resources and, when needed, within the framework of international co-operation”.

The United States must take into account the rights children specifically have when dealing with unaccompanied minors at the US-Mexico border. The CRC provides the framework for what is legal and what is adequate when regarding children and specifically child immigrants.

13. "The Universal Declaration of Human Rights, UDHR, Declaration of Human Rights, Human Rights Declaration, Human Rights Charter, The UN and Human Rights." UN News Center. UN, n.d. Web. 02 Dec. 2014.

The Universal Declaration of Human rights presented by the UN in 1948 post WWII states guidelines that help to better the human condition. Among these are the rights to education, health care and the right to travel across borders and migrate. The US has signed this treaty and was one of the primary backers of the UDHR. For the United States to uphold their support of the UDHR they must support the document in its entirety and its own domestic policy must agree with the document.

Articles 13.2 and 14.1 are of particular interest as they relate back to the rights of asylum and state that “Everyone has the right to leave any country, including his own, and return to his country”, and article 14.1 states “Everyone has the right to seek and enjoy in other countries asylum from persecution”.

This is of particular interest when it comes to the case of the Mexican Border Children of the summer of 2014 as they are seeking asylum but being treated as normal immigrants. In reality these children are escaping violence of drug wars that plagues their home countries and seeking family reunification and safety in the United States. For the United States to deny them asylum and refugee status, they are further perpetuating the damage done to these children’s rights.

This document is criticized as not holding weight because there is no specific way to reinforce it. The credibility of this document is therefore tested as it is continued to be violated with no repercussions. It is also enforced in some areas of the world but not others, suggesting the Big 5 of the UN are the only ones that hold weight in enforcing this document, when in reality the document should be universal and for everyone.

14. "History of Operation Pedro Pan". Pedropan.org. Accessed May 14th 2015  
<http://www.pedropan.org/category/history>

The goal of this article is to explain the history of Operation Pedro Pan. Operation Pedro Pan moved undocumented children from Cuba to Florida during the 1960s. The Catholic Welfare Bureau struck a deal with the US department of State to waive visa requirements for Miami Cubans that had left behind their children in Cuba and to allow Cubans to send their children to acquire an US education. The operation was kept under wraps by the US government and the story was only reported on twice from the 60s to the 80s. So there is very little public opinion about the operation and very little is said about the United States waiving Children’s visas.

The strength of this article is that it gives an easy to understand history of what the Operation was about and who was involved. The article is also very interesting since there is very little known about Operation Pedro in regards to US and Cuban relations. A weakness of this article is that it does not go into depth as to why the United States allowed so many children

into the country. The explanation for why is very weak and probably requires more input from United States sources. But given that this operation was kept under wraps there is probably no way to exactly know why the United States took on such a risky endeavor.

This article is useful since it shows the United States government is willing to provide migrant children and broken families with aid.

15. Brick, Kate and Rosenblum Marc “U.S. Immigration Policy and Mexican/Central American Migration Flows: Then and Now” Website Migration policy.org August 2011. <http://www.migrationpolicy.org/research/RMSG-us-immigration-policy-mexican-central-american-migration-flows>

The article focuses mostly on Latin America and how the United States has responded to immigration from this region. The article explains that there are usually three main reasons why people from Latin America come to the United States. The article states push, pull factors and social network are the main causes for immigration to the United States and these reasons help shape US policy making. A push factors include such as instability within the country and is usually something out of control of the immigrant. A pull factor is related to economic opportunity and the social network factor is related to family within the United States and other organizations willing to support immigrants. The article also explains that the United States allowed migrant workers enter the country through a government program known as the Bracero Program. However, once the Bracero program ended in 1965 the United States changed its stance on immigrant and implemented the illegal immigrant approach. The government felt pressure from the public and the policy reflected this change in public opinion. The article concludes that immigration policy today faces many hurdles given the importance of illegal workers to the economy and public views about immigration.

The strengths of this article include the massive amount of information about who the immigrants are and what causes them to come to the United States. The article also does a good job of creating a historical timeline of immigration policy in the United States. A weakness of this article however is it contains no personal accounts about immigrating to the United States. It contains more data about the flow of immigration to the United States.

The source is useful because it contains a timeline of United States immigration policy and the factors that influence the changes in immigration policy. It will be useful in understanding what type approach the United States would take towards child immigrants.

16. “Children’s Rights History”. Humanium.org. Accessed May 13 2015 <http://www.humanium.org/en/childrens-rights-history/>

The article explains the origins of rights for children. The article explains how the Western world in the 19<sup>th</sup> century did not really value children as much because the death rate of children was high. However, as the health care improved and children were surviving longer the idea of childhood was created and spread throughout the Western World. In 1924 the League of Nations adopted the Declaration of Child Rights and the first treaty for children’s rights is created. Throughout the 20<sup>th</sup> century there are major overhauls. In 1989 the Convention on the Rights of the Child is adopted, which explains the economic, educational and social rights that should be guaranteed to all children.

The strength of this article is that it provides a timeline of international view towards children's rights. However, this article does not go into depth about the enforcement of child

rights, but rather just gives a general timeline of children's rights. Another weakness of this article is that it does not have a lot of information regarding the issue of child migration and the outside factors that forces a child to leave.

The source is useful since it provides a simple timeline of international law about children's rights.

Central American Development: Two Decades of Progress and Challenges for the Future

17. Betata, Hugo "Central American Development: Two Decades of Progress and Challenges for the Future" Website MigrationPolicy.org. August 2012.

<http://www.migrationpolicy.org/research/RMSG-CentAm-development>

This article goes over Latin American history over the past twenty years. The article explains that some countries in Latin America have stable economic growth. However, most countries in Latin America experience high rates of poverty and inequality. The article also points out that the countries in Latin America have oppressive governments that may have been democratic initially but have become autocratic and have allowed for crime to sweep through most these countries. The article concludes that the more global the economy gets the more difficult it gets for Latin American countries to solve issues such as unemployment and inequality.

The strength of this article is that it provides a history of the economics behind the force migration. There is a lot of data about the causes the global economy has on Latin America and the difficulty in trying to solve issues such as poverty when competing alongside other countries in the export market. The weakness of this article is there is no personal testimony and contains mostly data. Also even though this article goes over the past 20 years of Latin American economics it does not really present a strong timeline of events instead presents the article focuses on presenting the facts.

This article is useful since it shows how the United States and other first world nations contribute to the plight of other third world countries. This article alongside the article about history of US immigration policy will give the audience a more complete understanding of what is going on.

18. MARTÍNEZ, ÓSCAR. "THE CHILDREN WILL KEEP COMING." *Nation* 299, no. 7/8 (August 18, 2014): 12-16. *Academic Search Complete*, EBSCOhost.

This article makes a prediction about the flow of child immigrants to the United States. This article goes over the historical violence in El Salvador and Honduras and that the crime rates in these countries will continue to rise unless address. The article makes the prediction that more children will continue to immigrate to the United States if the issue of crime is not address in these countries. The article also has trends of child immigration from these countries over the past 10 years. The article attempts to show that with a rise in crime we see a rise in child migrating to the United States.

The strength of this article is that it provides some historical trend of child immigration over the past ten year. Another strength of this article has is it provides personal stories from the people involved in child migration. There are very few weakness to this article except the article makes it sound like the United States controls a lot of factors that cause child immigration.

This source is useful since it provides a historical background on child migration from Latin America and it also provides trends on child migration to the United States. It is also

useful in that it provides data and attempts to make a prediction about child migration to the United States.

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