

Unaccompanied Child Migrants in "Crisis": New Surge or Case of Arrested Development?

by David M. Hernández

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Crisis and Surge

In spring and summer of 2014, news accounts broke about a growing “crisis” and “surge” of unaccompanied Central American minors from El Salvador, Guatemala, and Honduras entering the United States. The news was sudden and swift, accompanied by photos of children lying about on floors, crowded behind prison bars, or overflowing into hallways of detention facilities. By the end of that summer, the US government would report 66,000 apprehensions of unaccompanied children, with more than 50,000 of them from El Salvador, Guatemala, and Honduras¹ as well as thousands of others apprehended and detained with family members while pursuing asylum claims or fighting deportation.

The Obama administration responded to the increased flow of Central Americans with its own enforcement “surge,” ultimately requesting \$3.7 billion to manage the humanitarian emergency.² Alejandro Mayorkas, deputy secretary at the Department of Home-

land Security (DHS), stated, “We are surging resources to increase our capacity to detain individuals and adults with children, and to handle immigration court hearings.”³ The administration opened emergency detention centers at military bases in Texas and California, expanded the use of ankle bracelets to monitor freed migrants, provided emergency legal counsel to children, and accelerated the processing and deportation of migrants by strategically deploying immigration judges to high docket courtrooms along the southern border. It also provided Central American countries with \$255 million for repatriation and reintegration programs and attempted to quell rumors of easy admission to the United States, sending Vice President Joe Biden to Latin America to meet with the presidents of El Salvador and Guatemala as well as senior officials from Honduras.⁴

The “crisis” and “surge” served all sides of the debate, demonstrating an unenforced and out-of-control border for anti-immigrant forces, a cruel and rushed detention appa-

ratus for migrant advocates, and the urgent need for comprehensive immigration reform (CIR) for the Obama administration. It caused the administration to delay promised executive actions⁵ on deportation policies in the absence of CIR and to more permanently expand detention capacity for children and families beyond merely emergency incarceration. As apprehensions led to deportation and asylum cases, government lawyers maintained the “crisis” discourse, utilizing procedures not used against migrants since the period immediately following the September 11 attacks. DHS attorneys argued, for example,

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that Central American refugees represented, collectively, a “national security threat” that would “encourage human trafficking” and that they should be categorically denied bond and release from the newly created restrictive detention facilities; in other words, the minors and their parents represented a “mass migration” and should be treated en masse instead of as individuals.⁶ These prosecutorial decisions led to accelerated court processes not meant to deliver justice sooner, but rather to deter future migrations by deporting today’s migrants more quickly. Circumventing careful individual deliberations of an asylum seeker’s case, immigration court proceedings entailed the prosecutorial management of “surge dockets,” or “rocket dockets,” which gathered dozens of children together for their collective day in court in a rushed process.⁷

The increased movement of asylum seekers, emergency response by government,

and the vexed debate locally and nationally all pointed to a migration crisis. But was this truly a crisis and sudden surge in migration? Prior to the story breaking in the spring of 2014, immigration lawyers in South Texas had reported since 2008 seeing increases in the number of migrants—primarily women and children, the majority from Central American countries, and some of them unaccompanied—entering detention centers. In other words, the so-called surge had been underway for several years without any countersurge in government policies and resources. By its own statistics, the federal government reports

that apprehensions of unaccompanied minors saw their first large jump in 2009, of mostly Mexican children, before the recent increase in children from Central America, growing since 2012. As such, although 2014’s number of Central American children from El Salvador, Guatemala, and Honduras was a dramatic change—roughly 16,000 children arriving per country that year—Mexican children have been arriving unaccompanied at the same rate since 2009 without any political debate or surge in media.

Conditions of Displacement

In the sensational political context of surges and crises, immigrant advocates, scholars, and many migrants themselves point to more long-standing structural conditions in Central America causing people, in particular children, to flee north. These include crushing poverty, urban violence, organized crime, and

ineffective governmental responses to these dangers. It’s imperative that we address these conditions of displacement but also that we examine the root “causes of the causes” of forced migrations, in particular, US military, political, and economic interventions in Central America throughout the twentieth century.

The US commitment to “regime change” in Latin America and the Caribbean, in order to protect its intertwined financial and political interests, openly tolerated and supported military dictatorships throughout the twentieth century, which in turn led to popular revolts, especially in Central American nations. These regional revolutions and civil wars peaked in the 1980s, killing a quarter of a million Salvadorans, Nicaraguans, and Guatemalans, and forced the migration of two million persons from the region, one-half of those settling in the United States as refugees or undocumented migrants.⁸ Postwar US interventions and regime changes in the region persisted into this century, most recently with the US support of the military coup in Honduras in 2009, ousting the democratically elected government of

mainstream media. Some immigrant advocates even adopted the “crisis” discourse, hoping to call attention to or humanize the conditions of displacement, dangerous travel north, and harsh detention conditions. Most often, the “crisis” served to mask, or at best only partially explain, the more profound reasons children and families would flee their home countries. It made the migration of these persons seem impulsive, resulting from individual choices regarding safety or false rumors of easy acceptance after arrival to the United States.

Obscuring Patterns of Migration

The “crisis” discourse is part of a long-term habit of addressing migration and enforcement as exceptional historical events tied to security crises. Refugee flows over land or sea, fears of disease, fears of “enemy aliens” during military campaigns, or more recent “wars” on terrorism, drugs, or crime have led to the detention and harsh treatment of migrants, especially non-White migrants, throughout the twentieth century and today.

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Manuel Zelaya.⁹ Other examples of US intervention consist of current neoliberal economic arrangements and “free trade” efforts, US deportations to Central America, antidrug and anticrime global initiatives pushed by the US, and finally, long-term family separation caused by migrations related to all of the forces above. In short, US intervention in Central America has never ceased, and today’s migrations are linked to refugee streams from the 1980s.

This more complex analysis, however, paled in comparison to a sensationalized security crisis, which made better copy in the

Such “crises,” however, are typically treated as individual emergencies without precedents or patterns. This results in short historical memories of immigration calamities and a governmental myopia that fails to appreciate the complex conditions in the sending countries and the role of the United States in creating those conditions.

When migration is treated as a one-time exceptional event, the resulting policies tend to be strategies of shortsighted exclusion and deterrence. Fences and walls, large-scale and expedited deportations, as well as attempts at

deterrence through detention and incarceration, onerous legal proceedings, and denial of services are all contemporary examples of normative enforcement responses. None of these efforts address the long-standing dynamics that compromise safety and produce migration. In the Central American “crisis,” for example, the United States in coordination with Central American governments sought to develop one-time messaging for migrants that would broadcast the dangers of migration and their inevitable removal. US Customs and Border Protection launched a campaign of billboards and public service announcements throughout Mexico and Central American nations, as well as commissioned songs that aired on Latin American radio stations telling about the dangers and inevitable failure of migration to the United States.¹⁰

The orthodox response to the Central American unaccompanied minors is but one example of the United States’ collective failure to see past the “surge” to ongoing, decades-long reasons for these migrations. As such, it’s not just that we should look at the structural causes of Central American migration today, but that we should interrogate our traditional reluctance to do so. A broad parallel to this denial would be the widespread invocation of the United States as the hospitable “nation of immigrants,” which results in the obfuscation of the nation’s traditional hostilities directed toward migrants, in particular, non-White migrants. Indeed, whereas the United States has traditionally incorporated millions of migrants into the nation, it also has ensured their marginality through social and legal mechanisms forcing migrants to subsidize their own survival and US economic interests through collective sacrifice and second-class citizenship. The discourse of crisis or national hospitality toward newcomers obscures this patterned history of migrant marginalization.

Failed Methods of Enforcement

The US government’s response to the Central American “surge” in asylum

seekers, despite its sensational frame, has lacked exceptionality or innovation, reflecting a knee-jerk return to old and dangerous methods of controlling migration through enforcement-only strategies. The president or Congress could have remedied the situation with a variety of immediate and long-term fixes that would recognize and address the long-standing structural causes of Central American migration or immediately grant relief to the asylum seekers. Instead, comprehensive immigration reform remains dormant in Congress, and President Obama delayed his long-promised executive actions on deportations for five months, permitting the administration’s massive deportation apparatus to lurch forward, formally deporting more than 1,000 persons per day and 400,000 per year, with over 90 percent returning to Latin American countries.¹¹ Without addressing the long-term causes of displacement in Central America, the Obama administration is attempting to deter migration through detention and deportation. In particular, the government pulled back from emergency detention centers and began constructing or refashioning prisons to hold families with children.¹² Prior to the rise in unaccompanied minors in 2014, the government had only one detention center for families, a 100-bed facility in Berks County, Pennsylvania. It added 1,100 beds in summer 2014 with a temporary public facility in Artesia, New Mexico, and a privately run, for-profit facility in Karnes County, Texas. In December 2014, a 480-bed, for-profit facility opened in Dilley, Texas, while a larger 2,400-bed facility is being constructed next door. Also in December, the Artesia facility transferred its final detainees, while simultaneously, the for-profit Karnes County Residential Center agreed to expand its facility by 626 detention beds, making up for the closure of the New Mexico facility. All together, family detention capacity increased thirty-five times over in fewer than six months.¹³

Memories of family detention in Texas are very short. It was less than six years ago when

President Obama ended his predecessor’s failed Texas experiment with for-profit family detention, when the administration ceased the T. Don Hutto Residential Center’s use as a family detention center. This came after protests and lawsuits regarding the abusive conditions, especially for children, during the three-year life of the former prison. The Hutto facility was not shuttered, but converted into a women’s immigrant detention facility, simultaneously reflecting Obama’s symbolic detention reforms but also his administration’s continued use and expansion of privatized immigrant detention. The Corrections Corporation of America—which also runs the new Dilley, Texas, facility—remains the for-profit contractor of detention services, despite allegations of sexual abuse at Hutto when it was a family detention center and, after, as a women’s facility.

The new facilities commissioned in the summer of 2014 have quickly devolved into abuse allegations and led to a repetition of old mistakes by the same government and corporate managers at the helm of public debacles less than a decade ago. At the Artesia Family Residential Center in New Mexico, several advocacy groups representing the asylum seekers, including the National Immigration Law Center, have sued the government for its accelerated legal processes and infringements on due procedural rights. Charges include unsanitary conditions, restrictions on communication with attorneys, and coercing migrants to relinquish their rights and protections. The suit also seeks the return of three hundred deported women and children who did not get their day in court because the “credible fear” standard had been elevated arbitrarily for migrants in the Artesia facility.¹⁴

At Karnes County Residential Center in Texas, the DHS has instituted a no-bond or high-bond rule for migrants with considerable merits, such as those who pass their credible fear interviews, pose no threat to public safety, are not deemed flight risks, and have relatives that will receive them if released from

detention. Although bond decisions are supposed to be individualized, these are wholesale policies and legal practices, as DHS Secretary Jeh Johnson has instituted one-size-fits-all government affidavits opposing bond for all persons considered part of a mass migration.¹⁵ Opened in August 2014 with 500 beds and set to expand to 1,200, the Karnes facility is a for-profit prison run by the GEO Group corrections corporation. The Mexican American Legal Defense and Education Fund (MALDEF) has already sued the Karnes detention center for sexual abuse, extortion, and harass-

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ment of Central American women and families detained there. The sexual abuse allegations are in violation of the Prison Rape Elimination Act, recently extended to DHS facilities. According to the complaint, guards trade small privileges for sex, call the female detainees *novias* (“girlfriends”), and fondle women in front of children and other detainees.¹⁶ The presence of children elevates these abuses. At the Karnes facility, for example, asylum hearings detailing torture and abuse are conducted in the presence of children, and youth are not screened for their own asylum merits. Similarly, the GEO Group is not licensed under Texas child welfare oversight agencies. These failures mirror exactly the documented abuses at the for-profit Hutto facility last decade that led to its closure.

Arrested Developments

The return to family detention on a massive scale is woefully inadequate and dangerous. Let's not forget that prior to the media frenzy about unaccompanied minors, the United States had already been operating a harsh, arbitrary, and stunningly efficient deportation system. Efficiency here is measured by the true "surge" of detention and deportation, both processes ensnaring over 400,000 persons a year during the tenure of the Obama administration. In the courtroom, in detention centers, and in the streets or at work where immigrants are targeted based on racial presumptions, noncitizens and those perceived to be noncitizens have been pushed through a federal deportation machinery unprecedented in size. Persons that migrate without inspection—which formerly resulted in an immediate return to their country of origin (most often Mexico)—are today charged with unlawful entry, given criminal sentences, and then deported formally at great cost to the general public and devastating effects on future lawful migration. Formal deportation has a cyclical effect, as migrants caught after returning to the United States after an earlier formal deportation face the federal felony charge of "illegal reentry." This felonious process can lead to prison sentences from two to twenty years, another deportation, prohibitions against future lawful migration, and potentially, another unlawful return, especially if family, property, cultural, and religious networks are in the United States.

Framing the migration of unaccompanied children from Central America as a sudden surging "crisis" facilitates the return to old policies that do not work and cause significant harm. In this framework, emergency shelters, the detention of families and children, expedited legal processes—all hallmarks of earlier "crises"—appear as exceptional, yet rational, responses. However, the punishment of migrants seeking relief from dangerous conditions in their home countries—as individuals, as families, or as children—is a long-standing

practice, whose material infrastructure and legal authorities are products of earlier so-called surges. They indicate an accumulation and consolidation of power over noncitizens and reflect what historian John Higham calls the "distinctively American" spirit of nativism.

ENDNOTES

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