

## **Children of Central American Turmoil and the U.S. Reform Impasse**



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Many Americans are wondering how the current influx of unaccompanied immigrant children crossing the southern U.S. border is connected to the larger political impasse over immigration reform. A longer perspective is necessary to see the relationships.

The roots of the current crisis of Central American children at the border go back to the Sandinista Revolution of 1979, when a leftist political movement overthrew the corrupt and repressive government of Anastasio Somoza in Nicaragua. Although the administration of then U.S. President Jimmy Carter sought to work with the Sandinista regime and provided aid to help reconstruct its battered economy, such efforts ceased in 1981 when newly elected President Ronald Reagan did an about face and turned Nicaragua into a Cold War battlefield.

From 1980 until the Tela Accords of 1989, the Reagan and Bush Administrations sponsored an opposition army known as the Contras in their efforts to overthrow the Sandinista regime. At the same time, money and military aid were also provided to the right-wing leaders of El Salvador, Guatemala, and Honduras to prevent leftist revolutions from spreading. The resulting surge of violence across Central America destroyed the economies of all four nations, which shrank in real terms between 1980 and 1990.

Prior to 1980 there had been little emigration from Central America, but the combination of civil violence and economic stagnation predictably led to a wave of refugees headed toward the United States. Ordinary Central Americans were trying to save themselves and their families from violence and economic catastrophe alike – distinctions between economic and physical threats are moot. Whereas average annual immigration from the four troubled Central American nations to the United States averaged just 7,834 from 1970 to 1979, such immigration rose steadily thereafter to peak at 136,000 in 1990, before tailing off to 28,000 in 1995. Between those two dates, more than 681,000 Salvadorans, Guatemalans, Hondurans, and Nicaraguans entered the United States as legal immigrants.

But, unfortunately, not all people fleeing violence and stagnation in Central America were treated equally. Nicaraguans fleeing a leftist regime were welcomed and granted an easy path to permanent residence; but Salvadorans, Guatemalans, and Hondurans, who had the misfortune of fleeing right-wing regimes, were shunned and blocked from permanent residence. The large

majority of migrants from those three countries entered the United States without authorization, creating a growing undocumented Central American population.

From 1980 through 1995 a net of 450,000 undocumented migrants are estimated to have entered from El Salvador, Guatemala, and Honduras, compared with just 331,000 documented immigrants. Following the end of political violence in the early 1990s the regional outflow moderated but never returned to the status quo ante. Because the economies of Honduras, El Salvador, and Guatemala were slow to recover from the devastation and political conflicts of the 1980s, rampant gang violence quickly took hold – and has remained a scourge down to the present day.

Ironically, many Central American gangs originated as re-imports from the United States back to countries of immigrant origin. Lacking legal status and seeing no way forward in the United States, many undocumented youths found solace and support in gangs. The most infamous, *Mara Salvatrucha*, was founded by Salvadorans in the Pico-Union neighborhood of Los Angeles in the mid-1980s. When undocumented gang members were apprehended and deported, gang violence was then exported to El Salvador. Transnational gang networks took hold.

Most recent and current migrants to the United States from Central America have been attempting to join family members already here. Since 1995, 871,000 legal immigrants have entered the United States from El Salvador, Guatemala, Honduras, and Nicaragua, 84% sponsored by a settled family member in the U.S. Undocumented migrants have also been crossing the border for purposes of family reunification. Since 1995, an estimated 1.1 million undocumented migrants have arrived from El Salvador, Guatemala, and Honduras and the Central American population of the United States therefore consists mostly of unauthorized immigrants. Roughly 60% of U.S. residents from El Salvador, Guatemala, and Honduras are estimated to be undocumented.

This brings us to the current border crisis. What we are seeing now are the sons and daughters of undocumented migrants who originally fled disorder and violence during the U.S. intervention of the 1980s. In the early years of their exile, undocumented migrants could return home periodically to visit their families, but with the militarization of the U.S. border during the 1990s return trips became very difficult and all but ceased. If Central Americans living and working in the United States want to see their families, they need to bring them to America.

Despite “crisis” rhetoric now gripping the U.S. media, in reality, the entry of Central American children seeking to reunite with undocumented families in the United States is not new. It has been going on since the political violence ended in the mid-1990s. But the numbers are now rising because children left behind are growing up and are taking matters into their own hands – or they are being sponsored by parents who, desperate to see their offspring removed from harm’s way, pay coyotes to smuggle them across the border. Central American young people and children also stand out now because they are the primary set of migrants seeking to cross the

southern border without authorization. Undocumented migration from Mexico has been zero or negative since 2008.

In sum, the current border influx of Central American youths and children has three fundamental causes. Devastation in the region was furthered by past U.S. interventions in Central America, which spurred the massive out-migration of refugees to the United States during the 1980s and early nineties, thus dividing hundreds of thousands parents and children. Subsequently, the unwillingness of the U.S. government during the Cold War to accept Salvadorans, Guatemalans, and Hondurans as refugees created conditions for the growth of a large undocumented population of Central Americans living north of the border. And most recently, new waves of illegal border crossings are happening because of the repeated inability of Congress to enact comprehensive immigration reform. Such reform would give longtime undocumented Central American residents of the U.S. a pathway to legal permanent residence and a basis for ordered, legal reunification with children they left behind.

What needs to happen to solve the current round of difficulties with unaccompanied young immigrants at the border – and to address the needs of Central American immigrants and the communities hosting them across the country? It is too late for the United States to heal the harms done by military interventions and ill-advised policies toward Central American refugees and migrants in the past. But comprehensive immigration reform is still possible. The Senate passed a plausible bill in the summer of 2013, and the House of Representatives could bring it to a vote, putting the United States on a better path for dealing with millions of existing undocumented immigrants, including Central American families whose children seek entry now. Unfortunately, House action, however needed and sensible, seems a remote possibility as long as political posturing prevails.

## **Three Pathologies in U.S. Immigration Policy**



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The influx of Central American child refugees is just the latest revelation of serious and enduring problems in U.S. immigration policy. Earlier this year, many media outlets highlighted the record number of deportations conducted under the Obama administration, amounting to the removal of a city of two million, equal to the combined population of Boston, Seattle, Miami, and St. Louis. Before people could wrap their heads around these numbers, the next turn of the news cycle put the spotlight on Central American children crossing the border without caretakers. Important as any of these stories may be, they simply highlight symptoms of an underlying pathology. U.S. immigration policy and debates about it suffer from three fundamental shortfalls – downplaying global factors, ignoring gaps between legal formalities and on-the-ground realities, and failing to recognize inherent costs and moral aspirations in immigration policy.

Whether in Congress or the media, U.S. policy debates about immigration too often focus disproportionately on domestic factors such as “securing borders” and ignore crucial political and economic realities in other nations. For example, the recent influx from Central America of unaccompanied children and families with children has less to do with U.S. border security than with the realities of gang violence, drug cartel activities, and ventures by human smugglers. Central American states are not all able to ensure the rule of law, and criminal organizations have flourished in countries with weak states like Honduras, El Salvador, and Guatemala; unsurprisingly, most child refugees come from the most violent countries in the region. Years ago, U.S. military involvements in those countries inhibited the rise of professionalized police and military forces able to enforce law. By contrast relatively developed Costa Rica and very poor Nicaragua at least share the capacity for more professionalized law enforcement. U.S. immigration authorities must take these realities into account in devising responses to the newest influxes – and the public needs to understand the issues, too.

Another enduring problem is that gaps between immigration laws on the books and street-level realities open the door to administrative discretion and political cross-currents, with unpredictable results. As happened when President Obama, for political and practical reasons, decided in 2012 to give predictable protection from the threat of deportation to younger United States immigrants who had been brought to the United States as children before 2007, administrative discretion can mitigate social disruptions. But Obama’s Deferred Action for Childhood Arrivals program does not resolve the plight of undocumented immigrant residents who are not so much “Americans in waiting” as people in limbo, facing the vagaries of other administrative measures and political possibilities such as more stringently enforced borders, an aggressive deportation agenda, and more draconian local-level policies.

The basic reality is that some eleven million undocumented immigrants live and work in the United States, mostly in constructive and law-abiding ways. They could not all be deported under any realistic circumstances, yet stop-gap administrative and legal measures can make these unauthorized migrants’ daily lives miserable and unpredictable. And stop-gap measures also affect U.S. citizens. For example, in 2008, when the Immigration and Customs Enforcement agency raided the biggest employer in Postville, Iowa, it arrested 389 immigrant workers in a town of just over two thousand residents. American-born citizen children were separated from their parents, school enrollments and budgets dropped, local businesses closed, and the housing market collapsed along with the local tax base. Six years later, the town has yet to recover.

Discretion in the implementation of immigration and refugee law can lead to sudden twists. A few weeks ago, debates concerning unaccompanied minors centered around finding safe spaces for them, often with parents or relatives, until cases could be heard. More recently, however, the emphasis seems to have shifted toward rapidly processing claims of children and families with children. A Bush administration strategy pioneered in Postville – the mass processing of complicated legal cases in a compressed time frame with inadequate access to legal counsel and limits on due process – could end up leading to yet another round of inhumane effects.

In practice, discretionary measures meant to mitigate gaps in existing law can even exacerbate the problems they aim to fix. Assigning undocumented people contingent rather than stable legal statuses, for instance, can make unauthorized workers more vulnerable to exploitation by unscrupulous employers and legal professionals. Already, a billion dollar detention center industry, backed by a lobby, has emerged because the U.S. executive branch is determined to look tough about law and order issues for immigrants awaiting determination of their final status, often after being apprehended for minor infractions.

In the final analysis – and here is another reality often ignored in the media and public debates – many aspects of the current immigration impasse are rooted in difficult tensions between our hearts and our wallets. On the one hand, most Americans want national immigration policies that express who "we" are – either a tough-minded nation of laws or a welcoming nation of immigrants. On the other hand, U.S. labor markets need workers for jobs that are not being filled by natives, and employers want to attract the best workers in the global competition for the talent that drives innovation.

After World War II, the United States and other Western countries mostly abandoned the use of ethnic criteria to select legal immigrants as a way to reconcile these tensions. Recently, many countries have implemented temporary migration programs as a strategy to meet economic labor needs while preserving the imagined national community. Yet history reveals that temporary immigrants tend to overstay their legal status, and like undocumented arrivals who may or may not be temporarily exempted from deportation, they can end up with uncertain legal status. It is all too easy for a nation to accumulate more and more categories of immigrants who are less than full citizens and may even have little prospect of coming out of the shadows of illegality or problematic legal status.

If the United States pursues ever more contingent statuses for newcomers rather than viewing immigration as a step to a more permanent status, American society and democracy will be in for momentous and mostly undesirable shifts. Perpetually contingent relations between millions of less than fully documented migrants and their new home country will only bring more crises like the ones we have seen in recent years. The United States urgently needs to work out a strategy to reconcile our hearts and our wallets. We need to find our way toward stable, wise decisions not dictated by cycles of partisan elections.

As we find our way toward making such decisions, American policymakers and citizens need to take international as well as domestic realities into account and consider the costs of continuing with an ever shifting set of ad hoc, discretionary responses to fundamental, long-term dilemmas. Immigration challenges are here to stay and we have to do a better job of debating and dealing with them.

## **There is No Immigration Security Threat that Reform with an Earned Path to Citizenship Cannot Address**



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People on the left, right, and center agree that America's current immigration system is broken, and mounting evidence from academia, policy centers, religious groups, and chambers of commerce underscores the many benefits of bringing undocumented immigrants out of the shadows for good. The majority of U.S. citizens favor comprehensive immigration reform that includes an earned path to citizenship for most of the currently undocumented. Yet in Congress immigration reform remains at an impasse.

Current versions of comprehensive reform envisage legal normalization and ultimate opportunities for citizenship not as a "reward" for people who did not follow immigration laws, but as an opportunity to ensure that millions of people already working and raising families across the country pay local and federal taxes, including making Social Security contributions and getting credited for doing so. The idea is to fully incorporate over 11 million people who already have a place in American society.

Anti-immigrant advocates appear to want to deport all of the undocumented, not just reduce the number of future unauthorized arrivals. But mass deportation is not feasible, and attempting to induce it either by rounding people up or encouraging them to "self deport" would be antithetical to longstanding American ideals of welcoming and incorporating immigrants. Deportation of youthful immigrants would also result in huge demographic and economic losses for an aging United States. Ideological isolationism and nativism have ebbed and flowed through American history, but in today's globalized world where countries are so interdependent, any notion of perfectly sealed borders amounts to pure fantasy.

Some politicians and anti-immigrant activists demand that federal authorities must make the border safe and airtight before reforms can be considered for those already here. However, all evidence indicates that the border is tight and quite safe. In terms of crime, the border region has some of the safest large cities in the country. The frontier between Mexico and the United States is also intensively patrolled, after a huge surge in border patrol agents. It is harder than ever for migrants to cross the border without being detected. Adult immigrant detentions have decreased in recent years because, for many reasons, Mexican emigration has slowed down to a trickle. The latest claims that the border is "not secure" hardly stem from successful breaches of security.

Instead, thousands of Central American children have voluntarily turned themselves in to Customs and Border Patrol agents in the hope of finding refuge from poverty and drug-war related violence. These children and teenagers take long and dangerous trips, many in the hope of reuniting with their parents or other family members. Because so many earlier Central

American adult immigrants have arrived without documents, there is no legal way for their children to reunite with them in the U.S.

This again raises the issue of Congressional unwillingness to pass immigration reform, a situation that has persisted for years now. Not only are Central Americans left without ways to bring children here, millions of people in communities across the country are working and living under the radar, anxiously looking over their shoulders, fearing and increasingly facing sudden deportation. As the Central American crisis illustrates, the current system also divides families across borders and forces parents to live thousands of miles away from their relatives, including children, without opportunities for regular visits.

As the population of undocumented Central Americans in the U.S. has grown in the last decade, so have the children left behind – in violent, economically distressed Honduras, El Salvador, and Guatemala. Many young adult men and women made the hard decision to leave spouses and children and go to the United States alone in order to send remittances. For many, what was originally seen as a short sojourn abroad turned into prolonged time away from the families left behind. For many, going back to their part of rural Central America can literally mean suicide.

With many working adults gone, demographic dynamics shift in the communities of origin, creating voids easily filled by gangs and organized crime. Many children now migrating have gone years without seeing one or both of their parents. They have lived with older family members, in towns with no law enforcement, vulnerable to abuse, exploitation, poverty, with little access to education or healthcare. Historically, a refugee is a person escaping a place plagued by violence. In that sense all these children and their parents are refugees and should be given asylum whether or not they present "individual credible threat" testimonies, or whether they are part of a narrow "social group" documented to be targets for violence. Congress should write a humanitarian law saying so, or executive action should provide administrative protection status to eventually provide legal asylum.

There is no border immigration crisis. U.S. border cities are not the final destination of the current Central American child arrivals, as they are on their way to meet family members in Houston, Los Angeles, DC, or New York. If they arrive, they become invisible and look like any other young Latina/os living in countless towns and neighborhoods. With adequate social and legal support, they can transition successfully from environments where their lives are constantly in danger, to making progress in American schools and becoming productive U.S. workers. Congress has been slow to act to deal with these new arrivals, yet as has been clear since Alexis de Tocqueville visited the United States in 1831 that American civil society is ready to step up when government is not. In El Paso, Tucson, San Diego, New York, and across the country, legions of volunteers have offered their resources and unpaid time to aid these children and their families.

In short, there is no real security threat, either from current Central American minors or from earlier waves of unauthorized immigrants now woven into the fabric of American life. Rather, in political circles especially, there is a shortfall of understanding and compassion and an

unfortunate amnesia about a core American value: “Give me your tired, your poor, your huddled masses yearning to breathe free, the wretched refuse of your teeming shore. Send these, the homeless, tempest-tossed to me, I lift my lamp beside the golden door.” Before long, we must hope that progress toward comprehensive immigration reform will enable this authentic America to find itself again.

## **Amid Congressional Deadlock, U.S. Immigration Courts are Overwhelmed**



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The politics of short-term immigration “crises” have overtaken possibilities for the comprehensive immigration reforms the United States so badly needs. In the latest development, politicians and media have focused on the arrival of more than 57,000 migrant children on the southern border of the U.S since October 2013 – double the number from the previous year. As attention focuses on this issue, gaps are growing between the comprehensive immigration reform bill passed by a bipartisan Senate majority in 2013 and any legislative measures that could conceivably pass the Republican-held House of Representatives today or in the foreseeable future.

Yet without broader decisions about how to adjust U.S. immigration policies and deploy limited enforcement resources, government steps will continue to lurch from one ad hoc crisis response to another, leaving basic difficulties to fester and get worse. Our choked immigration courts are a case in point.

At the moment, many are claiming that the current surge of unaccompanied minors seeking to enter the United States from Central America is due to President Obama’s 2012 decision to temporarily remove the threat of deportation from undocumented immigrants who entered the country as children years ago, plus the requirements for protection and legal hearings included in the *Trafficking Victims Protection Reauthorization Act* signed into law in 2008 by then President George W. Bush. These claims overlook many relevant aspects of the broader situation in Central America. But they also ignore more fundamental problems in U.S. immigration policy that have created major judicial backlogs in the Executive Office for Immigration Review, U.S. district courts, and U.S. magistrate courts. Today’s unaccompanied minor influx adds additional stress to an immigration adjudication system that is already overwhelmed.

According to the Transactional Records Clearinghouse’s analysis of U.S. government records, as of June 2014, there was a backlog of 375,000 cases in immigration courts, including the cases of more than 41,000 children awaiting court dates. The average wait time for decisions about potential removals by the Executive Office of Immigration Review was 587 days. What explains such long delays? The cause is not the arrival of more unauthorized migrants at U.S. borders.



The overall flow of undocumented immigrants has declined in recent years. Instead, delays in U.S. immigration courts are the direct result of more aggressive and punitive approaches to enforcing immigration laws.

Until the mid-2000s, the federal government typically exercised its discretion to focus on major crimes and usually did not prosecute unlawful entry or overstaying visas. When unauthorized foreigners, especially those from Mexico, were apprehended, the government generally allowed them to sign a waiver of their right to an immigration hearing and then leave the country. In recent years, by contrast, federal authorities have started fully prosecuting authorized immigrants – a trend started in the last years of the administration of President George W. Bush and sharply accelerated under President Obama. The new get-tough approach means that immigration cases are the fastest growing segment of all federal court cases. Their share of the federal docket nearly doubled from 18.6% in 2002 to 34.9% in 2011.

A U.S. Sentencing Commission report in 2012 found that more than 83 percent of these immigration offenses crowding court dockets involved either unlawful reentry into the United States or remaining in the United States without authorization. Under the Obama administration, approximately two million foreigners have been formally deported. Two-thirds of them had committed minor infractions, including traffic violations, or had no criminal record at all.

So what? Why should objective observers care if U.S. prosecutors are bringing larger numbers of immigration violations to court? One reason to care is that such prosecutions and deportations incur significant costs. According to testimony to Congress by Immigration and Customs Enforcement, each deportation costs U.S. taxpayers an average of \$12,500. That is a high cost to pay in cases where undocumented immigrants could just waive court appearances and go home – or in cases where otherwise law-abiding immigrants could just be left to live and work in peace.

And of course the country pays a price when Congress and the media focus on side-issues rather than bigger underlying problems, such as the already growing backlog of legitimate immigration cases in U.S. courts. Among those legitimate cases, now, will be accumulating numbers of young people and children arriving from Central America without parents or adult protectors. They join the ranks of immigrants already awaiting their day in over-crowded U.S. courts.

## **Tough Decisions about Who America Lets In**



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During the Cold War, the United States and other Western democracies decried Communist and authoritarian regimes that prevented their citizens from leaving by denying passports to travel or, in the case of East Germany, shooting people who tried to scale the Berlin Wall. American leaders joined other politicians across the West in trumpeting the right to exit as a fundamental human right.

The Central American children and family migrants arriving at the southern U.S. border are, in a very real sense, exercising their freedom to exit violent, economically depressed societies. But these migrants are not being extended a warm welcome to stay, because a right of exit does not guarantee a right of entry into the United States – at least not for Central Americans, unlike people who escaped Cuba, the Soviet Union or Vietnam during the Cold War.

The difference in treatment raises the two most difficult and critical policy questions in U.S. immigration politics: who do we let in, and on what basis? The current U.S. immigration system overwhelmingly prefers newcomers who are family members of those already living in the United States. In 2013, almost one million people secured legal permanent residence status, in two-thirds of the cases thanks to the sponsorship of family in the United States. Among the rest, 16 percent gained status based on employment or economic considerations, and another 12 percent were humanitarian migrants, people U.S. authorities deem refugees or asylum seekers.

Many Central Americans now trying to enter the United States have family members already in the country, potentially fitting criteria for family reunification in line with U.S. policy. Other arrivals who lack family ties could be considered humanitarian migrants, not much different from 19th century Irish fleeing famine or 20th century Cambodians fleeing horrific violence and economic disaster. But unfortunately for many Central Americans, compatriots who arrived earlier often lack documentation. During the Cold War era and beyond, foreign policy considerations welcomed almost any Cuban migrant as a refugee, but denied the asylum claims of most Salvadorians and Guatemalans. Cuban migrants thus gained permanent residency, and a path to citizenship, while many Salvadorans did not.

The consequences of earlier foreign policy distinctions continue to reverberate. Since family sponsorship for new arrivals requires citizenship or permanent legal status for the sponsor, differences in treatment years ago mean that Cubans – with many legal immigrants and naturalized citizens in their ranks – can bring family through the formal immigration system much more easily than others – such as Salvadorans and Guatemalans who often live in the United States as undocumented residents.

The current challenge of dealing with child migrants from Central America casts a harsh light on the persistent unwillingness of Congressional politicians to tackle comprehensive immigration reform. The status of some eleven million undocumented immigrants needs to be addressed, and many adjustments need to be made in U.S. legal immigration policies. Instead of taking action on the full range of enforcement and legal issues, Congress and the White House are lurching from a short-term fix to one perceived crisis to another. Even if a patchwork bill to deal with the current situation is eventually passed, it will leave unresolved the economic and moral consequences of having eleven million people living and working in the United States without legal residency. The lack of reform also means that such residents, including many Central Americans who are fully part of the U.S. workforce, cannot use the immigration system to sponsor family members – a situation that will continue to encourage more attempts at unauthorized entry.

The immigration reform deadlock bodes larger ills for American society as well. Looking long-term, the impasse leaves the United States vulnerable to inadequate provision for a baby-boom generation starting to retire, while facing increased competition for high-skilled migrants from countries like Canada, Australia and even Singapore. Foreign-born residents have founded a disproportionate share of Silicon Valley companies and won Nobel prizes for the United States. Under current immigration law, such valuable skilled immigrants – as well as economic immigrants who could fill employment gaps in agriculture, elder services, childcare, and health care – have few legal pathways to permanent residence in the United States.

Deciding who to let in, and on what basis, is not easy. Such decisions flow from a country's interests – from foreign policy or labor market considerations – yet they also embody a nation's moral beliefs. Immigration policy compels politicians and ordinary citizens to designate some would-be migrants as lucky enough to come in, while labeling others as unworthy of entry. Making such choices can, in some cases, become a matter of life and death, especially if people knocking on our doors are returned to violent societies such as some in Central America.

Rather than stumbling from crisis to crisis, American citizens and politicians need to engage in a wide-ranging and thoughtful debate about who to let in and why, a debate that also requires a passionate discussion about the moral compass that should guide our immigration rules.

## **America Can Welcome the Newly Arrived Central American Children**



Roberto G. Gonzales, Harvard University

Some 57,000 Central American migrant children who have been detained at the United States-Mexico border have captured the nation's attention this summer. Although the loudest debates center on how to shelter these children and then send most back to their original countries, there are also growing numbers of Americans who are trying to cast the country's response in humanitarian terms. In a recent poll, seven out of ten Americans said children should be treated as refugees and allowed to stay. Many local communities have been assisting the children, and a growing number of U.S. religious leaders are making the case that we should welcome them, rather than act as if we are repelling an invading force.

The current situation is not unprecedented. Unaccompanied immigrant children have been making the voyage to the United States for generations to reunite with family members or after losing their parents to war or famine. In many instances, the United States has used resources and marshaled compassion to integrate such young arrivals into our communities. When children began arriving at Ellis Island at the turn of the 20th century immigrant aid societies, churches, synagogues, and private citizens stepped in to provide care and guardianship. In the early 1960s over 14,000 Cuban children were brought to Miami and eventually placed in the care of

relatives, friends, and concerned families willing to foster or adopt them. And among the Southeast Asian refugees who were settled across the United States were tens of thousands of unaccompanied children who had lost their parents to war or the treacherous journey to the U.S. These earlier waves of arriving children were ultimately absorbed into the fabric of American society and have made important contributions to their communities. If we make serious efforts to integrate the new arrivals from Central America, similar positive results can happen for all concerned.

To be sure, U.S. policymakers are currently debating much harsher ways of handling Central American young people. The U.S. Justice Department is pushing for immigration courts to prioritize cases involving unaccompanied minors, and members of Congress have outlined proposals to speed up their cases and clear the way for prompt removals. Such actions could dramatically undermine these children's rights to fair, individual hearings, especially if court dates are suddenly moved up and attorneys to help these children are not secured in time.

In addition to deciding how to respond to the thousands of recent youths and children arriving from Central America, American citizens and policymakers could see this latest influx as an important opportunity to start a broader conversation about immigrant children's rights and ways to support and welcome them in our communities.

Whatever policy decisions are made, many of these young people will live in U.S. communities for at least several months – and in many cases longer. Because of the current backlog in the immigration courts, on average children wait nearly 600 days before an immigration hearing. While they wait for their hearings, these children are typically released to family members or sponsors. According to a recent report by the United Nations High Commissioner for Refugees, 36 percent of all unaccompanied youth surveyed prior to 2014 had at least one parent already in the United States. When aunts, uncles, and cousins are considered, there are additional relatives who could also provide homes for these children, allowing up to 85 to 90 percent of them to be placed with a parent or close relative. Already by July 7, 2014 more than 30,000 unaccompanied immigrant youths had been released to sponsors living in every U.S. state.

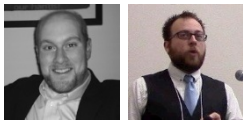
As immigrant children live with sponsors for some time, communities can take active steps to welcome and help them. Above all else, the children require welcoming teachers, social workers, and administrators who can help them to adjust to their new schools and communities. Crucial steps include making sure that they are enrolled in school, given language-appropriate instruction, and connected to appropriate social services in the communities where they live.

Social fears can be quelled as children get appropriate care. In the classroom and the community, teachers and other professionals will be able to tell positive stories that separate immigrant young people from stigmatizing labels that may have preceded their arrival. Well-informed educational efforts can serve the academic and emotional needs of these children, addressing many of the traumas many experienced both in their native countries and on their journeys to the United States.

To make all of this happen, resources will be needed, of course, and governments and nonprofits will need to ensure they are available to communities that host immigrant children. In some cases, the welcome will be temporary, but in other cases, newcomers who win the right to stay will become part of U.S. communities for many years to come.

Integration of immigrants is never easy, and the challenges are bound to be even greater for children and young people who arrived unaccompanied by parents. But research has shown that, in the past, schools, churches, communities, and the nation as a whole can derive many benefits – including greater cohesion and social purpose – from taking a welcoming approach. Of course, established groups often find it challenging to absorb newcomers, and confusion, fears, and stereotypes can accompany the process. But the new arrival of Central American child immigrants is not a fundamentally different challenge from immigration challenges many American communities have successfully addressed over the decades. Success in supporting the newcomers and unleashing their contributions to American society is very possible, and it happens best and fastest when local leaders reach out and build cooperation between natives and newcomers.

## **The Roots of Minority Popular Opposition to Immigration Reform**



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The failure of the 113th Congress to pass comprehensive immigration reform is typical of many contemporary challenges in American politics: an obstructionist minority willing to derail the political process to fight legislation that enjoys broad popular support. In considering the future of immigration policy and the likelihood of meaningful reform, we must understand the roots of the attitudes that drive such tenacious opposition and the institutional arrangements that facilitate obstruction.

According to recent public opinion research, the overwhelming majority of Americans, fully 94% of them, see the current immigration system as “broken” and favor immigration reform. What is more, more than three-fifths favor legislation that includes a pathway to citizenship. This finding is consistent with data from 2013, when comprehensive immigration reform legislation that included such a pathway to citizenship was passed by a bipartisan vote in the Senate. Polling on various dimensions of the reform package shows a majority of Americans support each of its constituent parts, not just a way for undocumented immigrants to earn citizenship but also increased resources for border security, a restructuring of visa policy, and other important reforms.

Clearly, the refusal of the House of Representatives to join the Senate in passing comprehensive reform is not due to lack of support from the American public as a whole. When popular attitudes are examined by party, however, the numbers reveal that Republican citizens are generally less supportive of immigration reform than Democrats. Furthermore, when asked about

how to deal with those immigrants currently here illegally, only 37% of Americans who identify with the Tea Party support a path to citizenship – and, remarkably, an equal percentage of Tea Party supporters favor a policy of mass deportation for the eleven million undocumented immigrants currently living and working in the United States.

To be sure, only one-fifth of all Americans currently identify with the Tea Party. Nevertheless, the Republican-led House of Representatives regularly produces outcomes that coincide with Tea Party preferences on immigration reform, health care, budgets, taxation and other vital issues. Even if members of Congress were prepared to cooperate across party lines and look for compromise solutions, legislation on these issues would be challenging to achieve. Forward legislative progress becomes functionally impossible when legislators who block widely-supported initiatives on the basis of intensely held minority political views join forces with other legislators who aim to undermine anything that could be viewed as a policy victory for Barack Obama and the Democratic Party.

Ambitious immigration reform is bound to be complex, and few Representatives or Senators would ever be able to support every provision with equal enthusiasm. Public support for various provisions is sure to vary as well. Compromises are necessary all around, yet the one-fifth minority of Tea Party-oriented Americans who occupy the fringe – and exercise disproportionate leverage in the Republican Party right now – are unwilling to countenance legislative compromises. Indeed, they also support alternatives such as mass deportation that are generally unpopular and extremely impractical.

How are ultraconservative Americans able to sustain such intense minority opinions? Our recent research reveals troubling tendencies in how individuals process information about complicated policy issues. In studies we conducted at the University of Maine, respondents were presented with basic narratives about hypothetical immigrants and then asked to indicate their support for specific immigration policies.

Our results offer worrisome clues to popular perceptions. We found that stereotypes about immigrants, often evoked by heated rhetoric, prevented recognition of critical nuances in descriptions of immigration realities. More than 60% of respondents who spent 45 seconds reading a short paragraph about a Mexican undocumented migrant holding a high-status job later mistakenly remembered that the migrant was holding a low-status position, which is of course consistent with widespread stereotypes about Mexican migrants. When people cannot even absorb basic facts that run counter to political charged stereotypes, we can conclude that, all too often, racial myths are at work blocking nuanced understandings and responses to the realities of immigration and immigrant situations in the United States today.

Our research also reveals that a significant portion of variability in support for specific immigration policies is explained by degrees of prejudice towards immigrants, even when we take people's political views into account. Regardless of overall political outlooks, in short, people who are prejudiced against immigrants tend to oppose many potential immigration reforms. Even when we exposed people with strong anti-immigrant reviews to stories about non-

threatening immigrants, their opposition to reforms did not change. Taken together, our findings indicate that pre-existing stereotypes about immigrants are powerful predictors of citizens' policy preferences – and there may be little that can be done to change views with stories about immigrants who are doing well and making constructive contributions to American society.

Unfortunately, these data suggest why it is easy for politicians in Congress and beyond not only to cater to prejudice and fears about immigrants, but also to stoke such fears with overheated rhetoric that falsifies or simplifies complex issues. Confronting extreme anti-immigrant rhetoric and obstructionism will require active campaigns to make voters aware of the ways in which their political leaders are not effectively representing their interests or furthering good outcomes for American society and the U.S. economy as a whole. Furthermore, efforts to ease fears and angry opposition among some members of the public will require more than a few stories in the media. Sustained efforts to build social ties and foster understanding in communities across the United States will be needed to soften opposition and build broader support for comprehensive immigration reform.

Constructive efforts will, by necessity, involve not just political leaders but also advocacy groups, public intellectuals, the media, and everyday citizens willing to engage one another across lines of difference. Elevating the discourse requires educating potential voters about the layered complexity of immigration, and promoting meaningful intergroup contact – for example, between church congregations of immigrants and those born in the U.S. Knee-jerk reactions thrive among voters who often do not know facts and have had little contact with immigrant workers and families in their communities. Creative steps must be taken on the ground to fill the information deficit and promote social understandings that, over time, can erase incentives for politicians to demagogue the immigration issue.

## **Constitutional and Political Storm Clouds Brewing**



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Just before the Republican-led U.S. House of Representatives left for its late summer recess, remarkable gyrations took place. One day after they voted to sue President Barack Obama for exceeding his executive authority, Republicans refused to appropriate resources the Obama administration needs to cope with thousands of unaccompanied Central American child migrants arriving at the southern border – thereby leaving the President little choice but to take executive actions to deal with the humanitarian and legal issues at stake. Soon, the House Republican lawsuit featuring the claim that the Obama administration abused executive discretion by not implementing a minor part of the 2010 health reform law fast enough may give way to an epic constitutional showdown over Obama's uses of executive authority to deal with immigration matters. It is hard to escape the suspicion that, deliberately or not, Republican lawmakers have

taken steps bound to provoke actions by Obama that will, in turn, lead to further challenges to his presidency.

Before leaving town, House Republicans not only refused to compromise with President Obama and Senate Democrats to appropriate some new resources to handle the immediate border problems, but they voted for two essentially symbolic bills that pleased Tea Party activists who favor tough responses to a full range of immigration issues. The first bill coupled far less emergency funding than the President requested with calls for expedited deportation of unaccompanied minors and funding for gubernatorial deployments of the National Guard to border areas. More provocatively, the second House bill sought to prevent the administration from continuing to implement a 2012 White House order, known as the Deferred Action for Childhood Arrivals, which put off deportation of up to 700,000 undocumented immigrants who arrived in the country as minors before 2007.

During the past year, the White House has been urged by immigration rights advocates to promise even broader deferrals of the threat of deportation, with pressures building from the Dreamer movement of undocumented young people to assorted civil rights, religious, labor, and Latino and Asian groups. Tellingly, the second House bill set about to prohibit the Obama administration from spending any more funds on the Deferred Action program and seeks to block it from renewing or expanding work permits to any undocumented immigrants. In essence, the House measure attempts to use the current border issues to roll back earlier Obama administration steps to regularize the status of some undocumented immigrants. This is, of course, a non-starter in the Democratic-controlled Senate, yet it signals the buildup of angry political and constitutional storm clouds – likely to unleash thunder and lightning in coming months should President Obama take actions amid the Congressional impasse.

As Congress failed to resolve immediate or more basic immigration issues, President Obama declared “I’m going to have to act alone.” Congressional Republicans warn that Obama does so at his own legal peril, but historical perspective suggests otherwise, particularly if we are talking about a unilateral executive response to the 57,000 unaccompanied minors at the border. Bucking anti-Semitic views in Congress and the constraints of restrictive laws, President Harry Truman issued an executive order in 1945 that granted relief to roughly 23,000 refugees from war-ravaged Europe. During the Cold War, Presidents Dwight Eisenhower and John F. Kennedy claimed “parole power” to admit tens of thousands of refugees from Hungary, Cuba, and other countries above and beyond existing national origins quotas. At the time, anti-communists and conservatives in Congress like Nevada Senator Pat McCarran fulminated over these executive actions and protested their constitutionality. But their challenges went nowhere. Years later, presidents from Jimmy Carter through Bill Clinton exercised broad discretion in how they responded to Haitian, Cuban, Salvadoran and other asylum-seekers, especially when Congress failed to pass legislation on these issues.

The more provocative question, however, is how much authority President Obama has to protect millions of undocumented immigrants already rooted in the country from deportation.



Comprehensive immigration reform has always been a tall order in American politics. This is particularly true when Congress tackles unauthorized immigration, which traditionally unleashes painful conflicts that can only be solved when strange bedfellows scrape together narrow majorities in support of unpalatable, bipartisan compromises. Little wonder that our last sweeping legislation on this subject, the Immigration Reform and Control Act of 1986, was fourteen years in the making. These traditional hurdles remain, but an even more daunting roadblock has emerged: partisan polarization on steroids, with the base of each major party fervently committed to irreconcilable reform plans (legalization versus removal and exclusion). It was against this backdrop that the Obama administration debated internally about the legal and electoral implications of instituting Deferred Action for Child Arrivals back in 2012. Today the political calculations for the White House are even more troublesome, as immigration reformers press Obama to act unilaterally before the election to halt most deportations, even as Democratic incumbents seeking re-election in swing states urge him to show restraint.

Although Republican strategists know that taking a harsh stance on immigration is long-term electoral poison for their party, the short-run implications are less vexing because few 2014 Senate battlegrounds have large numbers of immigrant voters. What is more, quite a few Republican lawmakers relish a larger political and constitutional confrontation if Obama uses sweeping discretion to suspend deportations. Ironically, conservative prophets of “unitary” executive power during the Bush years like John Yoo insist that deferred action on immigrant deportations is unconstitutional because presidential “prerogative” is limited to national security in times of war.

Past precedents and most legal experts suggest otherwise. Certainly, no White House can legally grant permanent residence to large numbers of immigrants, extend welfare benefits to them, or ignore annual Congressional allocations to fund deportations. Yet given inadequate enforcement resources and absent Congressional action, Obama has broad discretion to adjust and redirect enforcement efforts. He can declare delays in deporting millions of undocumented immigrants that may fall into broad categories slated as low priorities for removal, so long as he does not extend deferrals to all undocumented immigrants.

If President Obama expands the reach of the 2012 Deferred Action measure to protect millions of additional law-abiding undocumented immigrants from looming threats of deportation, legal precedents may be on his side; yet such a step would certainly provoke what one staffer described as “a nuclear reaction” from congressional Republicans. It is almost sure to ramp up Republican conservative calls for impeachment or other legal steps challenging the President with “lawlessness.” At the same time, of course, expanding deferrals would allow the White House to deliver on an old campaign promise despite House intransigence and to potentially strengthen and mobilize the Democratic base.

By contrast, if Obama chooses a more cautious path, it will further splinter and diffuse his party’s base while GOP lawmakers will continue to push forward with efforts to defund and kill Deferred Action as it now exists – essentially calling for undocumented young people brought to the United States as children to, once again, become subject to deportation. That stance would

not be popular with Latinos or Asians, or with most voters not inclined to support Tea Party conservatism.

Whatever Obama decides in the face of congressional inaction, immigration policy has therefore become ground zero in our current state of political dysfunction. Not just the Obama administration, but the country as a whole, finds itself between a political rock and a hard place in the current immigration stand-off, and more travail seems certain to come.