



2016

Emerging Issues: Shifting Focus From Deportation of Unaccompanied Minors to Investing in Long-Term Reintegration Process

Zahara Lanewala

University of Baltimore School of Law, zahara.lanewala@ubalt.edu

Follow this and additional works at: <http://scholarworks.law.ubalt.edu/ubjil>



Part of the [International Law Commons](#)

Recommended Citation

Lanewala, Zahara (2016) "Emerging Issues: Shifting Focus From Deportation of Unaccompanied Minors to Investing in Long-Term Reintegration Process," *University of Baltimore Journal of International Law*: Vol. 5 : Iss. 1 , Article 7.

Available at: <http://scholarworks.law.ubalt.edu/ubjil/vol5/iss1/7>

This Article is brought to you for free and open access by ScholarWorks@University of Baltimore School of Law. It has been accepted for inclusion in University of Baltimore Journal of International Law by an authorized editor of ScholarWorks@University of Baltimore School of Law. For more information, please contact snolan@ubalt.edu.

Shifting Focus From Deportation of Unaccompanied Minors to Investing in Long-Term Reintegration Process

Zahra Lanewala*

Erminia's shoes fell apart as she walked through the Texas desert, but Erminia persisted with the treacherous journey wearing just her socks. She crossed the desert for three days and two nights.¹ She recounts that there were many thorns along the desert.² Unfortunately, Erminia's journey is similar to thousands of other unaccompanied minors who make the dangerous trek through the desert to find security within the borders of the U.S.³ Majority of the unaccompanied minors travel from El Salvador, Guatemala, and Honduras—commonly referred to as the “Northern Triangle.”⁴ From 2012 through 2016⁵, the primary reason for the surge of unaccompanied minors in the U.S. was “from the interrelated challenges of organized criminal violence and poverty that adversely affect individuals in Northern Triangle countries.”⁶

* Zahra Lanewala is a Staff Editor for the *University of Baltimore Journal of International Law*. Ms. Lanewala received her B.S. in Biology and Political Science from Salisbury University. She is a rising 2L who will complete her J.D. in May 2018 with a concentration in Intellectual Property. She is interested in examining deportation proceedings, specifically, how repeal of DACA would affect the legal system.

1. Elliot Blumberg and Oliver Contreras, *They made the long, rough journey to cross the U.S. border alone. Here are their faces and voices*, Washington Post (October 14, 2015), <https://www.washingtonpost.com/news/in-sight/wp/2015/10/14/they-made-the-long-rough-journey-to-cross-the-u-s-border-alone-here-are-their-faces-and-voices/>.

2. *Id.*

3. <https://supportkind.org/media/unaccompanied-children-crossing-southern-border-78-2016/>. (last visited Nov. 9, 2016).

4. Dan Restrepo and Ann Garcia, *The Surge of Unaccompanied Children from Central America*, Center for American Progress, 1 (24 July, 2014), <https://cdn.americanprogress.org/wp-content/uploads/2014/07/CentAmerChildren3.pdf>.

5. *See supra* note 3.

6. *See supra* note 4.

The U.S. maintained close political, economic, and cultural ties with the Northern Triangle during the Cold War.⁷ The U.S. believed that the Northern Triangle could be a potential threat due to its connection with the Soviet Union.⁸ At the time, leftist and nationalist political movements in the Northern Triangle were also developing.⁹ Concerned, the U.S. provided assistance by giving approximately \$9.7 billion dollars to the Northern Triangle countries to fight off the leftist insurgents.¹⁰ Approximately 70,000 Salvadorans and 200,000 Guatemalans were either killed or “disappeared” in the midst of civil unrest.¹¹

The truth commission determined that the governments of Guatemala and El Salvador were responsible for human rights abuses; however, the U.S. refused asylum to the Hondurans and Guatemalans, alleging that its allies (the government of these regions) were not responsible for the human rights violations.¹² The U.S. slowly began to decrease its assistance to the Northern Triangle countries after the “dissolution of the Soviet Union.”¹³ Furthermore, in 1996, the U.S. increased its deportations of civilians from the Northern Triangle Countries, after passing the Illegal Immigration Reform and Immigration Responsibility Act (hereinafter “IIRIRA”).¹⁴

Two gangs that continue to have a strong influence in Central America are: Members of the Mara Salvatrucha (hereinafter “MS-13”) and 18th street Gang (hereinafter “M-18”) both of which had members among those deported in 1996. Their relocation was one of

7. Peter J. Meyer ET AL., CONG. RESEARCH SERV., R43702, FEDERATION OF AMERICAN SCIENTIST: UNACCOMPANIED CHILDREN FROM CENTRAL AMERICA: FOREIGN POLICY CONSIDERATIONS (2016).

8. *Id.*

9. *Id.*

10. *Id.*

11. *Id.*

12. *Id.*

13. *Id.* at 7.

14. Peter J. Meyer ET AL., CONG. RESEARCH SERV., R43702, FEDERATION OF AMERICAN SCIENTIST: UNACCOMPANIED CHILDREN FROM CENTRAL AMERICA: FOREIGN POLICY CONSIDERATIONS (2016).PAGE 8. *See Generally Illegal Immigration Reform and Immigration Responsibility Act*, https://www.law.cornell.edu/wex/illegal_immigration_reform_and_immigration_responsibility_act/ (last visited Sept 9, 2016) (one of the purposes of the IIRIRA was to improve border control and penalize those who were caught racketeering. Penalties included removal proceedings which eventually led to deportation).

the factors that contributed to the spread of gang violence in Central America.¹⁵

In 2008, the U.S. wanted to aid the Northern Triangle countries, and thus started the Central America Regional Security Initiative (hereinafter “CARSI”). CARSI provided these countries with equipment, training, and technical assistance needed to support law enforcement operations, in hopes that these resources would resolve the endemic gang violence.¹⁶ In conjunction with the CARSI, the Millennium Challenge Corporation (hereinafter “MCC”) focused on providing economic aid to the Northern Triangle and Dominican Republic Central America United States Free Trade Agreement (hereinafter “CAFTA-DR”) governed trade relationships.¹⁷

Despite the trade agreement, security training, and economic support, the Northern Triangle remains confronted with violence and poverty.¹⁸ From 2012 onwards U.S. has received an influx of unaccompanied minors. Many of the unaccompanied minors can be classified as refugees whom the U.S. has offered a safe passage and protection as a result of treaties that the U.S. has entered into with other countries.¹⁹ Among the most important are the 1951 United Nations Convention Relating to the Status of Refugee (hereinafter “1951 refugee convention”) and the 1967 Protocol,²⁰ which aims to protect the basic human rights of people who seek asylum, and ensures that refugees are not returned involuntarily to a country where they could face persecution²¹

15. Peter J. Meyer ET AL., CONG. RESEARCH SERV., R43702, FEDERATION OF AMERICAN SCIENTIST: UNACCOMPANIED CHILDREN FROM CENTRAL AMERICA: FOREIGN POLICY CONSIDERATIONS (2016) PAGE 4

16. *Id.* at 9.

17. *Id.*

18. Special Report from American Immigration Council, A Guide to Children Arriving at the Border: Laws, Policies and Responses (June 26, 2015), <https://www.americanimmigrationcouncil.org/research/guide-children-arriving-border-laws-policies-and-responses>.

19. *Id.*

20. *Id.*

21. UNHCR The UN Refugee Agency, *Protection*, <http://www.unhcr.org/en-us/protection.html>. (The 1951 refugee convention helps refugees find long term solutions, such as integrating in country of asylum or resettling in third countries. Under the treaty no individual shall be returned to a country where he or she faces persecution from either the government or from a group who the government is unable or un-

“Majority of the unaccompanied children encountered at the border are apprehended, processed, and initially detained by the [U.S. Custom and Border Protection] at the border.”²² Unaccompanied children are then placed into standard removal proceedings in immigration court. While they have the right to retain a lawyer, many are unable to do so due to financial restrictions.²³ There are several pro bono legal service providers who are willing to represent these unaccompanied minors, but the number of individuals looking for representation outnumbers the help available.²⁴ Many of the children who go into a hearing unrepresented are likely to be ordered removed because without a legal representative, they fail to form an adequate legal defense.²⁵

Removal of unaccompanied minors who could qualify as an asylee goes against the principals of 1951 Refugee Convention. The U.S. fails to provide counsel and thereby fails to provide protection to merited asylees. Moreover, the refugee is involuntarily returned to their home country where they are forced to reintegrate into the system they tried to escape from. “Deportees returning to the Northern Triangle are screened by government migration officials at entry checkpoints and then reunited with family members who transport them home. However, government care generally ends there, since none of the Northern Triangle countries have a system for reintegration into their communities.”²⁶

The governments of the Northern Triangle countries do not have resources to provide protection and reintegration services.²⁷ Services like trauma therapy and counseling would be beneficial for these children who are vulnerable and have suffered abuses along the way; however, the budget for such services does not exist.²⁸ Upon return to their home country, children are harassed by gangs and forced to de-

willing to control. The United States implements these treaties through various laws and regulation.).

22. *Id.*

23. *Id.*

24. *Id.*

25. *Id.*

26. Brianna Lee, *Border Crisis: What happens to Child Migrants After They Are Deported?*, *Ibentimes* (July 23, 2014), <http://www.ibentimes.com/border-crisis-what-happens-child-migrants-after-they-are-deported-1637282>.

27. *Id.*

28. *Id.*

fend themselves, but without any change in circumstance, there is not much these children can do. The children often face two circumstances: 1) fall prey to the gangs by joining them; or 2) defy them and meet their death.²⁹ This turns into a self-perpetuating cycle whereby victims become the assailants that they once despised.

The U.S. could provide government counsel to these unaccompanied minors so that an asylee is sent back to their home country because of lack of representation. The U.S. has another option to provide funds for the reintegration process, which in the long term would reduce the influx of unaccompanied minors altogether.

Kids in Need of Defense (hereinafter “KIND”) is an organization based in the U.S. that headed a pilot program in Guatemala focused on reintegrating child deportees.³⁰ KIND has had limited success due to its reach.³¹ This provides evidence that while such programs can work, their reach is limited because ongoing violence and poverty thrusts the deportees back towards migrating.³²

The U.S. is seeing an influx of immigrants. While many of these immigrants are eligible asylee unaccompanied minors, the U.S. is forced to turn them away because of the lack of representation. Instead of focusing on the short term goal of accepting as many asylees as possible, the U.S. should shift its efforts towards funding programs that directly address the issues causing asylees to flee their countries.

29. See generally Lisa R. Seville, *Border Children Tell Their Stories: Why We Came to the US*, NBC News, <http://www.nbcnews.com/news/investigations/border-children-tell-their-stories-why-we-came-us-n129646>

30. See Lee, *supra* note 26.

31. *Id.*

32. *Id.*