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Children Separated from their parents, A violation of children's rights: The Case of Child Separation at the U.S-Mexico Border



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Children Separated from their parents,
A violation of children's rights:
The Case of Child Separation at the U.S-Mexico Border.
(Thinking Beyond Politics)

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Preface

For several decades, economic, security and other instability caused by disasters as well as problems linked to religions have pushed populations to move in search of more secure countries. These kinds of situations have always been observed among the populations of African countries, Asian countries, and South American.

A large majority of the populations coming from the South American countries often take their way to migrate to the United States (U.S) in the hope of having a happy life.

In the U.S, this situation is always managed politically depending on whether the power is in the hands of the Democrats or the Republicans. The former always want to open the borders while the latter have always wanted to close the borders to immigrants and deal with the internal problems of their country.

However, since 2019, I have observed that on the border between the US and Mexico, the issue of population migration was more politically managed and not within the framework of humanitarian protection.

What touched me a lot was the separation of children from their parents at the border of the two aforementioned countries. It could be that among the two countries, i.e. the U.S and Mexico, only the latter had ratified the International Convention on the Rights of the Child. Note that this United Nations Convention on the Rights of the Child was ratified by a total of 192 countries on November 20, 1989.

In this article, on the one hand, my attention was focused on the problematic of use of children by their parents to access American territory and, on the other hand, on the separation of children from their parents at the border between the U.S and Mexico by the U.S government. Below are some articles of the United Nations Convention on the Rights of the Child that I have found violated by the parties concerned:

- When adults make decisions, they must make them for the good for children (art.3).

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- Every child has the right to live with his parents. If this is not possible because the parents are absent or because they mistreat him, the child retains the right to know where his parents are and can continue to see them (art.9).
- If you do not live in your country of origin, you have the right to live in the same place as your parents (art.10).
- A child cannot be taken away from his parents without their consent. He cannot be detained abroad because it is an abduction (article 11).
- If a child cannot live with his parents, he must be placed with another family or in an institution with other children (art.20).

By publishing this article, I hope to expose this other form of violation of children's rights and challenge decision-makers, in particular the United Nations, so that they can take appropriate steps or measures to stop this practice. Parents using children for the purpose of accessing any territory, if proven true, should be held accountable for their acts.

Introduction

The challenge of immigration has been a headache to the United States (US) for decades. According to Hirschman (2014), an immigrant is a person who seeks to live permanently in another country with or without a willingness to go back to their home country in the long-term. In the case of the United States, many immigrants come from the Central American countries such as El Salvador, Honduras, and Mexico, and with laws relating to adult and child immigrants being different. "Children being separated from their parents" has been a common occurrence at the border.

In a recent article by Lomi Kriel of Houston Chronicle, she revealed that children were separated from their parents and were kept in custody by the U.S border patrol at the U.S-Mexico border while their guardians were sent to jail (Kriel, 2018). Admittedly, Kriel's report has led to debates with the republicans and democrats blaming each other for the vice. It is through the political debates mentioned that this discussion seeks to understand how wrongly the society is approaching the problem and why there is a need to shift from it. By *thinking beyond politics*, the community will recognize the primary factors that are leading to the challenge and how various stakeholders can contribute to come to a solution.

In the end, the ethicality surrounding the child immigrant separation proves to hurt everyone at large including the society itself. This is in light of various risks that the children may face which include trauma and falling into the traps of child traffickers. Apart from changing the law and providing more choices that will reduce child separation, the

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countries where these children come from should be involved in a bid to prevent their citizens from leaving illegally in the first place. In this respect, *thinking beyond politics* provides an excellent avenue for solving the crisis where children are separated from their parents at the U.S-Mexico border.

The Case of Child Separation at the U.S-Mexico Border

In May 2018, America and the world woke up too much hype in the wake of child immigrants who had been separated from their parents at the U.S border (Kriel, 2018). For many years, the U.S border has been struggling with immigrants mainly from Central America who seek to enter the country and better their lives. Admittedly, most of the children arrive at the border accompanied by their parents, and if they are not granted entry, some opt to enter the U.S illegally (Rowen & Schauer, n.d). Upon arrival, the law requires that every adult who is caught migrating illegally into the country is prosecuted and if they plead or are found guilty, they serve jail term (Borjas, 2013). As one would imagine, this poses a challenge to the parents' children who are left stranded at the border. One Honduras mother confirmed that a border patrol official claimed that her child was being taken for a bath. She only learned that they were separated after hours when the child never returned (Lind, 2018).

What happened to the snatched child? The Trump administration went on to label such children as "unaccompanied children" (Lind, 2018). Most of these children do not go to the US by chance, only that they want a better life that is not available in their countries (Rowen & Schauer, n.d). Unaccompanied children are kept in custody at the Border Patrol where they await a hearing. On average, the time taken to complete an immigration case

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for a minor is 520 days (Rower & Schauer, n.d). This is, however, higher in certain states with Phoenix and San Francisco recording 1028 and 1468 days respectively (Rower & Schauer, n.d). If anything, these scenarios brought resentment since although some of these children may be sent to live with their relatives in the U.S through the Office of Refugee Resettlement (ORR), most are not successful, and they end up being held longer in these custody rooms.

Risks Faced by Separated Children

Lack of Parental Care

If anything, the separated children suffer loneliness in the midst of much hegemony depicted at the border. From a humanistic point of view, all children including those who are not American citizens deserve to live better lives other than that which they do in custody at the border patrols (Child Trends, 2014). For one, being separated from one's parents inhibits growth as a result of lack of warmth and acceptance that parents have. This is one of the reasons that made a Honduras man to commit suicide in jail after he was separated from his son (Rowen & Schauer, n.d). A child with no parents does not have role models who should help him/her grow into a proper adult guided with values and ethics.

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Child Trafficking

Notably, child immigrants who are labeled as “unaccompanied” risk falling into the traps of human trafficking (Swanson & Torres, 2016). Not to say that the process of identifying a relative in the U.S who can take care of the child is faulty but if anything, it is only right to acknowledge that some of these so-called relatives may not be real. Instead, children are placed back into the very problems that they escaped from such as war, drugs, and poverty. This leads us to Lind (2018) who postulates that although the child separation policy is meant to scare families from migrating into the U.S, the strategy does not seem fruitful. With child trafficking becoming a global issue, separating children from their parents only reiterates this fact.

Trauma

In another case, trauma is a persistent risk that is associated with separating children from their parents. To better understand the trauma faced by children who are separated from their parents, Borjas (2013) uses the example of a frustrated child who asks a border official: "Will I ever see mommy again?". With no primary caregiver in sight, they face a lot of traumas that goes on to haunt them all their lives. On the other hand, the trauma also hits their parents who start to blame themselves for exposing their children to such troubles. In the end, no one benefits from the child separation actions. In fact, the children have issues growing up as they seek to understand what the world has in store for them. This was echoed by Gina Rodriguez, a Hollywood actor, who in a tweet, commented that "Children fleeing violence and unrest do not deserve to be ripped from their families. They have come knocking on America's door asking for a safe haven and they deserve better"

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(HerlsGina, 2018). In the end, efforts should be made to ensure that the already separated children are unified with their parents and that no more separations occur.

How to Reduce the Child Immigration Problem in the U.S.

The U.S Cannot Accommodate Everyone

The arguments surrounding child separation is one that has been up for debate. In this respect, it is vital to *think beyond politics* especially by maintaining a clear understanding that child migrants are innocent, and it is their problems that force them to come and ask America for help (Hirschman, 2014). In what has often been known as the American dream, it is crucial to take into account the chances that the government has in providing all immigrants with this dream. Noticeably, the country cannot accommodate everyone. This is in light of the perception that even as a developed country, there are too many immigrants and/or refugees already with many people being jobless and, thus, homeless. In this regard, it is only right to say that it is better to first solve the problem at home before inviting more visitors. At 43.3 million, immigrants in the US constitute 13.5% of the total population (Zong & Batalova, 2017). In this respect, parents should be prosecuted for coming with their children illegally into the country. This is because such actions amount to child abuse especially considering that the children stand a risk of resorting to the streets like many other refugees in the country. However, children should be allowed to meet with their parents even when they are prosecuted. If this is done, child immigration at the U.S border will reduce. Regarding this, it is clear that the US is, of course, at a crossroads, which is why despite the uproar, it is necessary to *think beyond*

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politics and consider the chances that the government and society have in solving the immigration challenge.

Facilitating Democracy in Home Countries

As a democratic country, the U.S can play its role in reducing the number of child immigrants by improving life in their home countries. Most of the children found separated from their parents were from Central America with countries such as Mexico, Honduras, and El Salvador being the source of most immigrants (Hirschman 2014). The main reasons that are cited for such mass movements from these countries are war, drug cartels who force children to assist them to transport the drugs fail to which they may be killed, and massive corruption where leaders steal at the expense of the people (Hirschman, 2014). Instead of encouraging immigrants who come into the country only to become homeless again and add more burden to what already exists, the government can play a role in enhancing democracy in their home countries. Democratic republics will, for sure, put the interests of the people at heart. By having governments that have the will to eradicate drug cartels, jail the corrupt, and improve the standards of living by providing essential amenities such as schools and hospitals, few people will even want to go search for the “American dream.” If this is done, then the US stands to gain more from reduced immigrants and, therefore, fewer cases of children being separated from their parents by the border patrol.

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Role of Source Countries

Despite the exciting firing of words at various bodies including the republicans, democrats, and the government; the pertinent thought should be to understand why the countries from where the children come from are allowing them to leave and come to the U.S illegally. *Why should Honduras, El Salvador, and Mexico allow their children and adults to go to the U.S illegally?* Although there may be many reasons, two are significant: They do not want to take responsibility over their people, and second, they are not willing to start making reforms that will ensure poverty, war, and violence are eradicated. The UNHCR (2018, p. 6) report revealed that 58% of the children in custody by 2014 were ineligible for international protection. For instance, if a significant percentage of these children are from say Mexico; it is necessary that Mexico feels ashamed and takes the responsibility to give their children better lives. Notably, this is not about America being welcoming or loving to children; it is about stopping child abuses that child immigrants undergo. In this respect, it is vital to take provide the countries where the children come from being held liable and that they, also, educate their people that there are refugees who are suffering while in the U.S. In the end, Central American countries that have many of its citizens seeking to come to the U.S should also be blamed for allowing the desperation.

Rules and Regulations

Prosecution of Adults Crossing Illegally

To understand the problem where children are separated from their parents, it is vital to understand what the law states about the situation. Assuming a parent arrives with a child legally at the border, the adult can apply for a refugee status or a visa, and if their case is successful, they are granted entry (Borjas, 2013). Whenever an adult is arrested for illegally crossing the border into the U.S, they are put in detention after which they appear before an immigration judge who determines whether they will be deported as immigrants who are unauthorized (Borjas, 2013). In case one is referred for criminal prosecution as an immigrant, they are sent to a federal jail and accordingly, separated from their parents. Relating to this, the law seems to facilitate the separation without giving a clear guideline on how the child would be reunited with their parent(s).

Child Immigrants

At least 2,700 families were separated at the US border between 2017 and 2018 (Lind, 2018). In the end, children who are separated from their parents or legal custodians are the first losers. Upon arrival, children are put in the custody of the border patrol. It is after this that the child is supposed to face an immigration hearing; this hearing may take months or years to secure (Lind, 2018). During this period, children are placed in short-term holding rooms until proper shelters are found (Lind, 2018). The child becomes the responsibility of the Office of Refugee Resettlement (ORR) once he/she gets to the

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shelter after which the average stay is thirty-five days (Rowen & Schauer, n.d). It is during this period that the ORR tracks down the child's relatives in the U.S and hands them over. In this case, children can be given a refugee asylum or Special Immigrant Juvenile Status (Rowen & Schauer, n.d). These procedures reveal how much immigrant children are soldiered around while in the U.S. For instance, in the process of traveling to the U.S border from their respective countries, they spend months or years before securing an immigration hearing, and the final stay in the shelter rooms, it is evident that the existing regulations are robbing the children a chance to continue with their education and lead a better life. In this respect, the rules and regulations set for child immigration are playing a key role, in not only encouraging child separation from their parents but also, in enhancing their continued suffering beyond the U.S borders.

Recommendations

Family Reunification

By *thinking beyond politics*, the primary aim should be to understand the factors that play a role in influencing child immigrants at the US border. As explained above, separating children from their parents is in basic terms, inhumane. In the light of this thought, it is, therefore, essential to find ways of uniting families that were previously separated. After the firestorm that came when Kriel (2018) revealed the issue at the border, some organizations have devised ways of reuniting families that were previously separated. A feasible and commendable option would be by detaining parents together with their children. In this way, parents can have access to their children who will have food, education, healthcare, and other necessary needs. This practice is used in Canada

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and has been proved successful although Ireland (2018) insists that children can only be detained as a last resort.

Involving the Countries of Interest

Regarding all the immigrants that come to the U.S, they have their source countries that should play their part to prevent them from leaving in the first place. This relates to Central American countries such as El Salvador and Guatemala that have porous borders which facilitate the exit of their citizens. In the end, the U.S government can make negotiations with their government and even perform research on how they can solve the problem. However, efforts should be made to resolve the cause of migration which includes poverty, violence, and drugs. By enhancing democracies in the countries and planning adequately for the aftermath of such actions, the states can grow to be sustainable and peaceful. This will provide appropriate environments for growth and development which is why their people will not have to migrate either legally or illegally to the U.S and any other country.

Borrowing Knowledge from Other Countries

When *thinking beyond politics* in this matter, it is vital to understand that some of the refugees in the country are actually homeless and are probably undergoing more suffering than they would have suffered at home or than in refugee settlements. Some refugees in the San Diego area think they were brought from refugee camps to more than a refugee camp (Justin Mudekereza, 2018). This fact calls on the U.S government to at least reduce the rate of immigrants and notably, ensure that children getting into the country are accounted for. For example, the Democratic Republic of Congo (DRC) does

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not allow people to cross borders with children easily. To do so, one must present critical documents such as proof of parenthood, marriage certificate, the child's birth certificate, and most of all they should prove that they are financially capable of taking care of the child in the country where they are going with the child. Admittedly, one must also state the reason for crossing the border with a child or with children. Does this mean that the DRC, a "third world country", is protecting children more than the U.S? The matter should not be politicized, and attention should be brought to assuring child wellbeing. In the end, separating children from their parents is wrong, it is better to deport or, at least, detain the parents where they can access their children rather than separate them.

It is true that over nearly 3 decades, the DRC has gone through many challenges with war conflicts, and more is still going on there, but it has always been very strict on the matters regarding children crossing the borders.

Conclusion

In conclusion, the immigration problem has been of significance in the U.S for decades. The report by Lomi Kriel of Houston Chronicle revealed the child separation problem that exists at the U.S border. Indeed, the situation at the U.S – Mexico border should not be about how loving or welcoming America is to refugees. Instead, it is crucial to take into account the human rights abuses that the children undergo at the U.S – Mexico border. This is even more critical considering there are thousands of refugees in the U.S that have no quality of life. The U.S cannot just accommodate anyone, which is why attention should be brought to ensuring that the children are discouraged from

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coming into the country whether alone or with their parents. Their parents should, therefore, be prosecuted for bringing their children to such untold suffering.

To understand the problem from a humane and rational perspective, it is crucial that one thinks beyond politics. Notably, separation of children poses various risks such as trauma for the parents and children, and the children may fall into the hands of child traffickers as the ORR hands the child to relatives. The U.S should not play a part in allowing immigrants into the country if those who are already inside are finding it hard to survive. This only defies common rationality because the immigrants are likely to face more hardships once inside the country. Therefore, the children should not be allowed into the country. To reduce or prevent their entry in full, parents who bring children into the country illegally should be prosecuted once caught. In the end, refusing to allow immigrant children to the U.S does not mean that the country is not welcoming. Instead, this is a better measure that will protect them from the untold suffering that they would experience with no guaranteed source of income in the country.

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About the Author

Prof. Justin B. Mudekereza is a national of the Democratic Republic of Congo (DRC). He fled his country in 2006 as a result of physical torture after elections. He is an icon known for his many efforts for social justice, human rights, and development in many African countries. He is a person who does not keep quiet or stand and watch when people are suffering around him. From a bigger family of 44 children of his late father, he learned to make peace, to share with others and most of all to fight for others whenever they are victims of injustice of any kind.

Prof. Mudekereza is the author of *Understanding the Multifaceted Management Problems of Refugee Resettlement in the United States of American, Shithole Countries, A Word of Warning to the World, Pays de Merde, Mot d'Avertissement au Monde* and many other important books and articles. The Justin Mudekereza Foundation helps orphans and other vulnerable children, widows, and others in need in South Kivu, DR Congo.

Today, Dr Mudekereza is the executive director of New Neighbor Relief (NNR), a non-profit organization assisting refugees and asylum seekers in their struggle to start a new life in the United States. For more comments on this article and other information about the Author, please visit: www.justinmudekereza.com