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How to treat unaccompanied immigrant children at center of policy debate

Megan Sweas | Jun. 19, 2014 Immigration and the Church

The Sisters of Charity of Cincinnati first found out that children were crossing the U.S. border alone in the early 2000s, when their mission took three Central American girls into their El Paso home.

The girls crossed the border when Immigration and Naturalization Service handled "unaccompanied alien children," as the government refers to them. INS separated out minors, but they were still put in handcuffs, foot shackles and a waist chain, Sr. Janet Gildea said. "They treated them just like criminals."

Yessenia Vásquez, a Guatemalan teenager who stayed with the Sisters of Charity, was not unlike the tens of thousands of unaccompanied children crossing the Southwest border of the United States this year. She was escaping an abusive situation and feared for her life.

At 15, Vásquez simply started to walk. With no money, she begged for food, slept wherever she could, and rode on top of trains known as *la bestia* ("the beast") through Mexico. She was deported twice back to Guatemala and once escaped from immigration officials who wanted to sleep with her in exchange for being let go, she said. It's not uncommon for migrants to be raped, murdered, or mugged on the journey.

The decision to travel north isn't taken lightly, but comes out of desperation, Gildea said. A United Nations High Commissioner for Refugees report found [1] that 58 percent of unaccompanied youth may qualify for international protection because of the violence in their home countries.

With 47,000 unaccompanied children crossing into the United States in the past eight months, news of their plight has spread. Still, many continue to see the Central American youth as illegal immigrants rather than refugees. Minors may no longer be shackled when they arrive, but the debate of whether the children pose a humanitarian crisis or an immigration challenge shapes the U.S. response.

President Barack Obama has called the surge of unaccompanied alien children "an urgent humanitarian situation" and asked Congress for extra funds to help respond to their needs. Obama appointed the head of FEMA to lead a "unified coordination group" to respond to the situation.

Related: Ministering to unaccompanied immigrant children [2] at Global Sisters Report

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Conservative politicians, judges and Border Patrol personnel blame the Obama administration's lax immigration policies as creating an incentive for young people to come to the United States. A draft memo by Deputy Border Chief Ronald D. Vitiello said that the urgency of dealing with overcrowded detention facilities also is taking away from enforcement, Fox News reported [3].

"If the US government fails to deliver adequate consequences to deter aliens from attempting to illegally enter

the US, the result will be an even greater increase in the rate of recidivism and first time illicit entries," Vitiello wrote in the May 30 memo.

The memo raises the estimates for unaccompanied alien children apprehensions to more than 90,000 this year and 142,000 next year.

This policy divide on what to do with unaccompanied children who come to the United States reaches back to before Vásquez escaped Guatemala. After languishing for more than 10 months in a detention facility, she earned asylum in the United States just as she was turning 18, Gildea said. Unable to qualify for foster care, she stayed in shelters and other temporary housing until a counselor asked the Sisters of Charity to open their home to her.

INS's treatment of young migrants back then prompted advocates to push for the separation of the enforcement and custody of immigrant minors. The Homeland Security Act of 2002 transferred the custody of immigrant children to the Office of Refugee Resettlement, known as ORR, and its network of shelters after initial processing by enforcement authorities.

(Children from Mexico, however, are repatriated after being screened for trafficking. Border Patrol apprehended [4] more than 17,000 Mexican children in fiscal year 2013, but for the first time, Honduran children are outnumbering Mexican children in 2014.)

ORR aims to reunite children to sponsors, generally parents or other family members, while they go through deportation proceedings**.** Because ORR is not the enforcement arm of immigration, undocumented sponsors can step up without fear for themselves, the agency says.

That said, sponsors also must consent to fingerprinting and a background check, and they sign a document saying they will make sure the child appears in court. A small portion of potential sponsors goes through home studies to ensure they will offer a safe space for the children.

Though the family reunification process takes time, that time is quickly shortening, from an average stay of 72 days in fiscal year 2011 to 35, ORR reported in May 2014. The organization Kids in Need of Defense (KIND), which connects immigrant children to pro bono lawyers, reports that children can move out of the shelters in as soon as two or three days.

ORR's programs have "intense pressure to free bed space in response to the growing numbers, leading to the rapid release of children," a KIND report says.

Although ORR sees itself as responding to a crisis, others contend that this process is creating the crisis. The children are still in deportation proceedings, but many argue that young people come to the United States knowing they will be released to family after getting caught by the Border Patrol.

The disagreement is rooted in the experience and philosophies of the government agencies that come into contact with the unaccompanied children, a 2007 Congressional Research Service report [5] found. Before it started working with unaccompanied alien children, ORR only had worked with refugees.

On the other hand, the Department of Homeland Security is charged with enforcing immigration laws and removing people who cross the border illegally, the report says.

This "philosophical tension," the report continues, has prevented the two agencies from developing a memorandum of understanding and working together smoothly. The leaked Border Patrol draft memo [6] articulated the some of the same problems today, including a lack of unified tracking system.

Child advocates are mindful of the enforcement perspective in their policy recommendations.

The U.S. Conference of Catholic Bishops' Migration and Refugee Services, which provides follow-up services to a small number of released children, has pushed for more funding for such services.

The lack of follow-up services, a USCCB report says [7], "increases the likelihood of family breakdown, makes it more difficult for children to access public education and community services, and decreases the likelihood that the children will show up to their immigration proceedings."

Advocates also want legal representation for all unaccompanied children. Lawyers can help children navigate the system, but they also close cases more efficiently, making representation beneficial to the country.

Children can ask for asylum or get a U-Visa as a victim of crime or a T-Visa as a victim of trafficking. He or she also can file for Special Immigrant Juvenile Status. To do so, the state court needs to determine that the child has been abused, abandoned or neglected by his or her parents and take custody of the child.

Of the 14,000 children who crossed the border alone in 2012, 3,000 applied for Special Immigrant Juvenile Status, a number that KIND says "scratches the surface of potentially eligible children" and is well below annual cap. It attributes this low number to a lack of legal counsel.

Not all children will qualify for legal relief. Organizations such as KIND and the USCCB also recommend that the children's futures be determined by what is in the child's best interest rather than by immigration law. Because of pushback from those who see the children as immigrants to be deported, though, such reforms are unlikely.

The two sides do agree on one concern. They worry that the thousands of children crossing the border will join the ranks of undocumented immigrants with a deportation order instead of earning immigration relief or being sent home.

Vásquez's story is illustrative of how immigration policy toward unaccompanied minors is misguided, Gildea said. While living with the sisters, Vásquez was able to earn her GED, go to community college and become a medical assistant.

She fell in love with another immigrant who also had crossed the border as a minor. They had been in the same detention center, but he was released to family, who failed to help him qualify for legal relief before he turned 18. The two later married, but on bad legal advice, he left the country and couldn't return.

Now the couple lives in Juarez, and Vásquez crosses the border into El Paso to work. "They would be such an asset -- both of them -- to this country," said Gildea, who is the godmother of their child. "I wish it could have a happy ending, but her situation is still such a total train wreck."

The conditions back in Guatemala have just gotten worse, Vásquez said. Her three nieces have asked about her about hiring a coyote to help them travel to the United States.

The U.S. bishops, who sent a delegation to Central America in the fall to investigate the issue, say [8] the U.S. government needs to work with Central American governments to reduce poverty and violence to stem the flow of children.

"This is not a 'new' problem but the result of years of our bad policies and broken promises to the countries of Central America," Gildea said.

In the meantime, though, more and more children are flowing through the border.

"This is an issue which should not become politicized or give cause for negative rhetoric," Bishop Eusebio Elizondo of Seattle, chairman of the U.S. Conference of Catholic Bishops Committee on Migration, said in a statement [9]. "It is truly a humanitarian crisis which requires a comprehensive response and cooperation between the branches of the U.S. government. Young lives are at stake."

[Megan Sweas is a freelance journalist based in Los Angeles. This story is part of her reporting for Global Sisters Report [10].]

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