



The Humanitarian Crisis Facing Central American Children and What You Can Do to Help

July 15, 2014

Trans-Border Institute

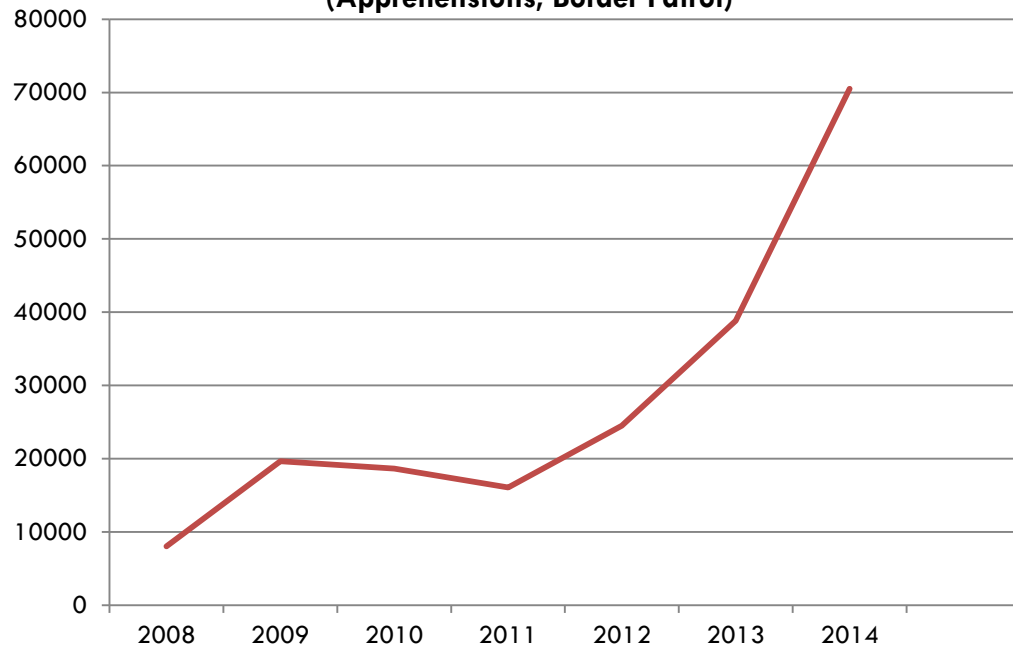
Kroc Institute for Peace and Justice



A Humanitarian Crisis

- Long-term average = 5,000/year
- Arrivals FY2000 = 3,664
- Arrivals FY2013 = 38,833
- Projected arrivals for FY 2014 = 90,000
- UNHCR: More than half (58%) of UA kids potentially eligible for international protection (only 13% in 2006)

Unaccompanied Immigrant Children
(Apprehensions, Border Patrol)



They are Coming from Three Specific Countries

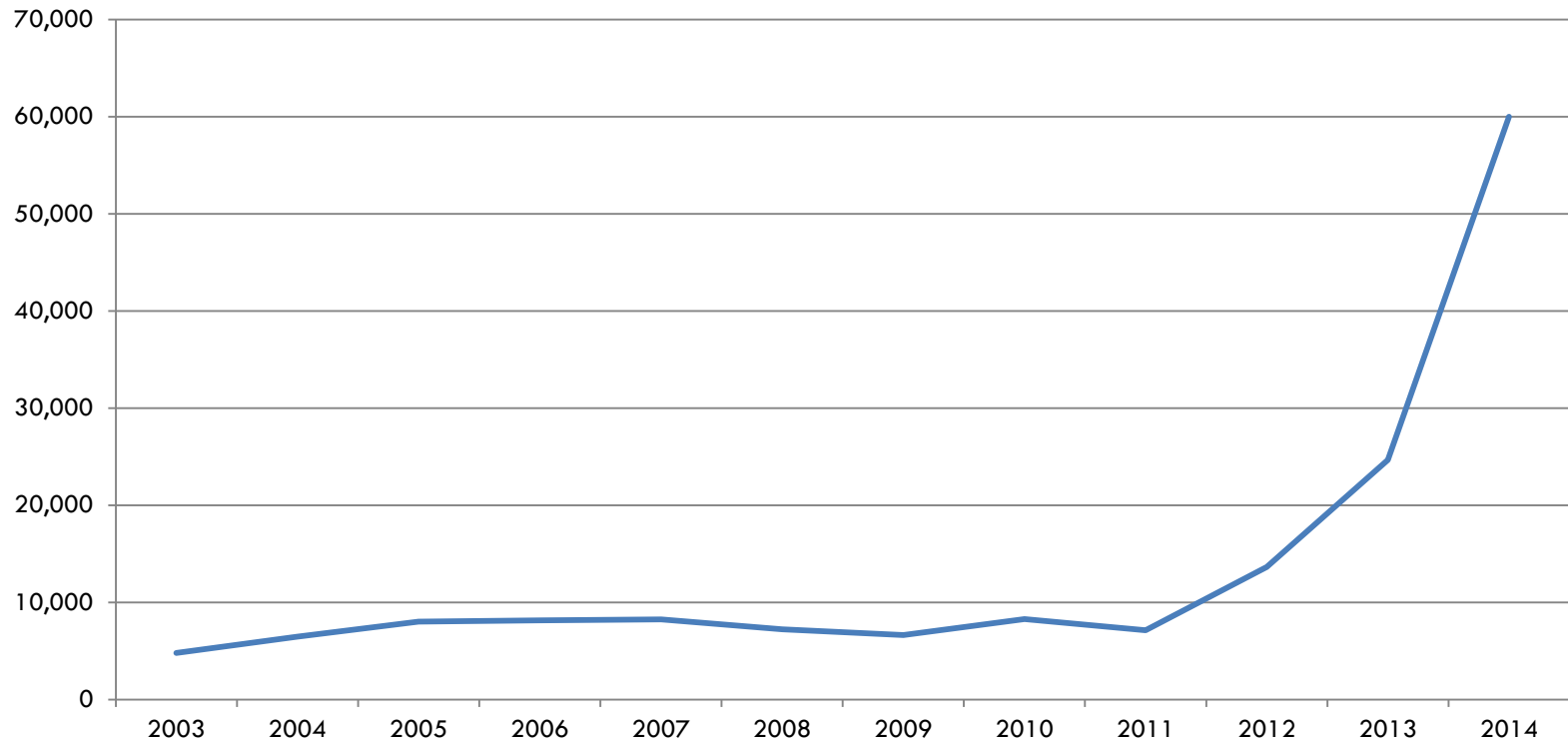
NUMBER OF APPREHENSIONS OF ARRIVING UNACCOMPANIED CHILDREN²⁶

Country	Fy 2011		Fy 2012		Fy 2013	
	USBP	OFO	USBP	OFO	USBP	OFO
El Salvador	1,394	58	3,314	123	5,990	230
Guatemala	1,565	43	3,835	80	8,068	194
Honduras	974	25	2,997	94	6,747	308
Mexico ²⁷	11,768	1,232	13,974	1,735	17,240	1,514
All Others	355	361	361	540	788	811
Total	16,056	1,719	24,481	2,572	38,833	3,057

U.S. Border Patrol (USBP); Office of Field Operations (OFO)

**Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection, UNHCR, 2014.*

ORR Referrals

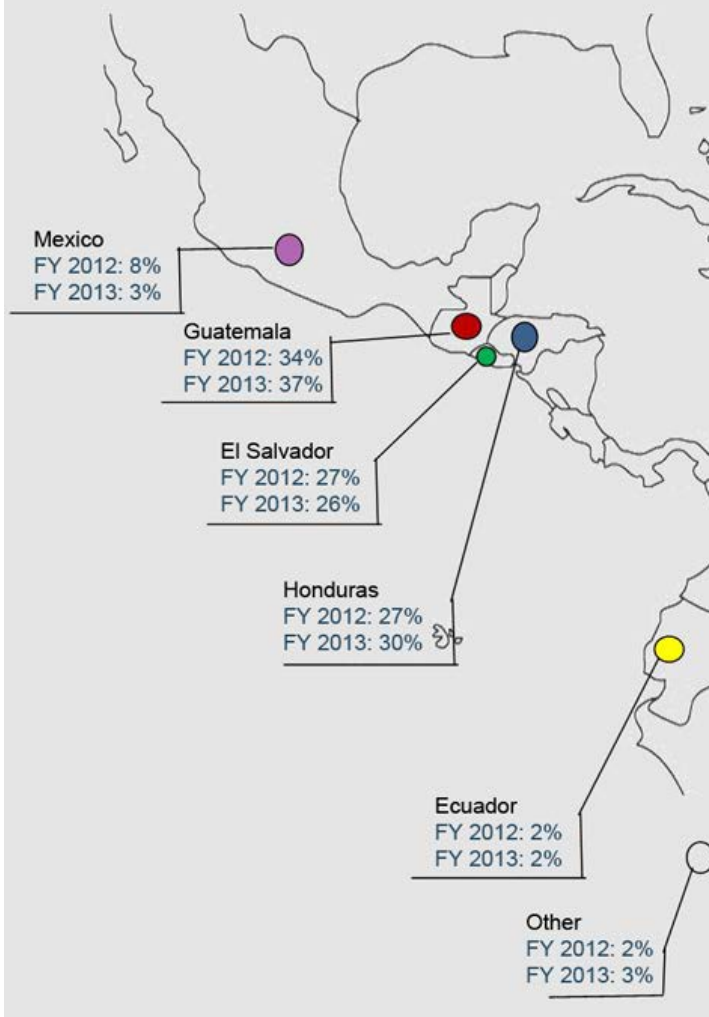


ORR projects at least 60,000 referrals in FY2014.

*With few exceptions, unaccompanied Mexican children are *not* referred to ORR.

They are removed directly from ports of entry through “voluntary departure” (8 U.S.C. § 1229c) without any screening or follow-up tracking.

Most Common Native Countries of UAC



<http://www.acf.hhs.gov/programs/orr/programs/ucs/about>

- More younger children are arriving

FY 2012	FY 2013
77% male	73% male
23% female	27% female
17% below the age of 14	24% below the age of 14

- More Central American children are arriving

Country	FY 2012	FY 2013
Guatemala	34%	37%
El Salvador	27%	26%
Honduras	27%	30%
Mexico	8%	3%
Ecuador	2%	2%
Other	2%	3%

*Data from ORR

Why are they coming?

UNHCR Report: *Children on the Run* (2014) (Interviewed 404 kids, ages 12-17, 72 questions)

- Nearly half of the UA kids from GUA are indigenous (48%), they are disproportionately represented in poverty and domestic abuse
- **Majority of UA kids cited improved educational and job opportunities in U.S., but it was almost never the only reason**
- More than half (58%) of UA kids potentially eligible for international protection (13% in 2006)
 - El Salvador = 72%
 - Guatemala = 38%
 - Honduras = 57%
 - Mexico = 64%

The Nature of the Violence

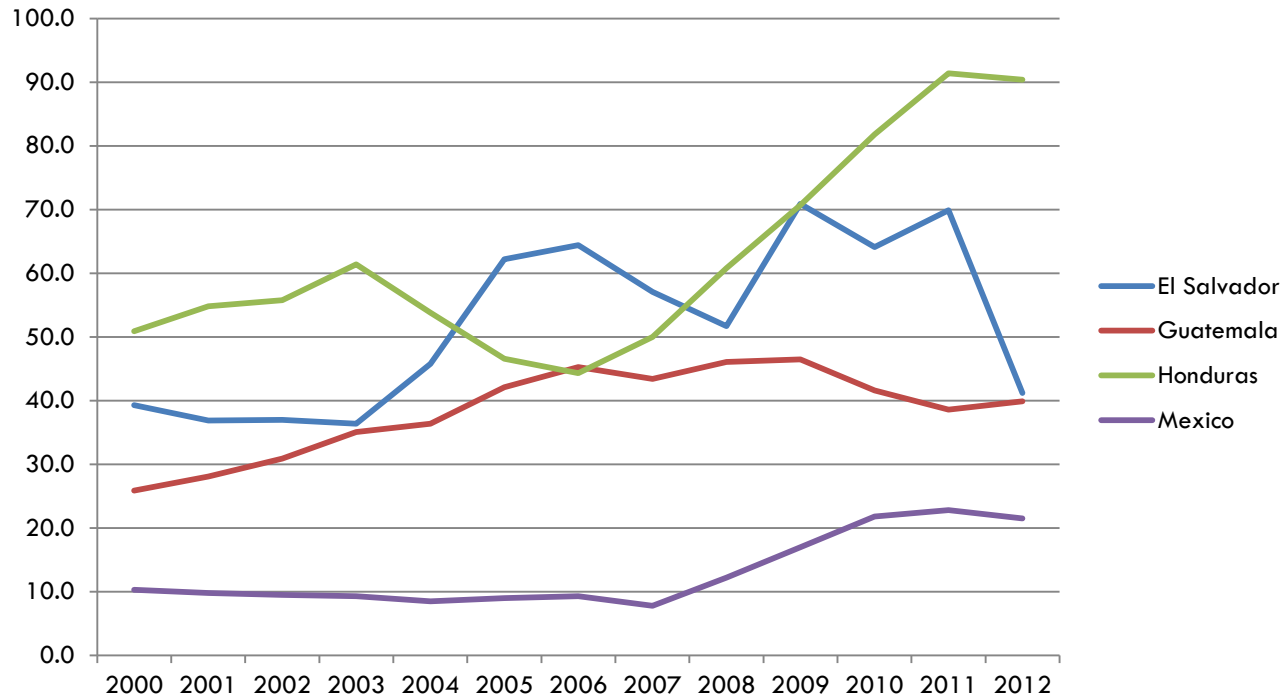
- Two patterns of harm: armed criminals (48%) and in the home (22%)
- Unique pattern in Mexico: recruitment into and exploitation by Human Traffickers (39%)
- Violence: “evading extortion; witnessing murders; and navigating threats to themselves and their families, friends and neighbors”; dealing with parts of their governments coopted by criminals; “zones of impunity.”
 - Girls fleeing forced relationships, rape, and murder
 - Boys unable to escape gang IDs (even false ones), or caught in the crossfire
 - Kids whose parents have been killed or disappeared
 - Extortion rackets
 - Targeting of public busses
 - Violent repression of protestors and civil society more broadly

Common Origins of Violence

- Legacies of civil war, child soldiers and family separation
- Cycles of deportation and dependence on U.S.
- Transnational street gangs exported from U.S.
- Heavy handed responses to gang violence (*mano dura*, death squads, et all)
- Civil and political unrest
- Hemispheric drug war and incursions by Mexican traffickers
- Extreme poverty and inequality



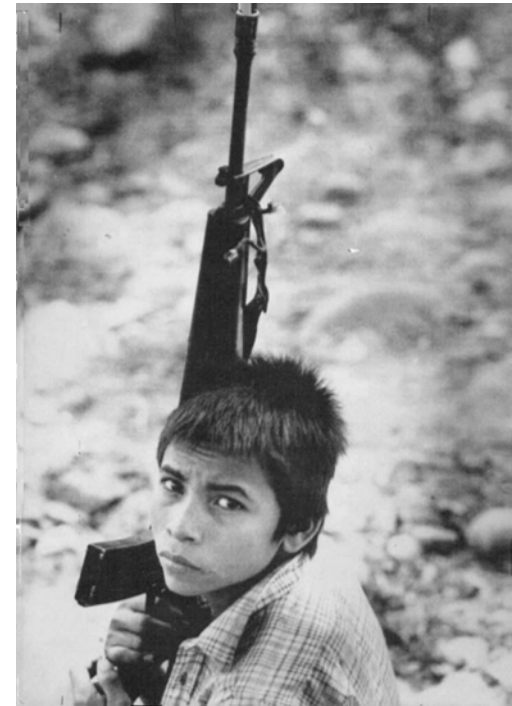
Homicide Rates per 100k (UNDOC)



*Throughout the most intense period of the drug war in Mexico, the homicide rates in Guatemala, Honduras, and El Salvador have been much higher than in Mexico.

El Salvador – 74% fleeing violence

- Intense, U.S.-backed counter-insurgency war ended in 1992
- Extreme case for migration pressure within the region
- Not recognized as refugees in U.S.
- Wave of deportations in the 1980s and 1990s
- U.S.-based street gangs exported
- Hired by Mexican drug traffickers
- Dollarization and rise of money laundering
- Increasing prison population, pressure to raise extortion quota
- Crackdowns by paramilitary death squads, hard to escape gang IDs
- 2012 gang truce faltering



Guatemala – 48% Indigenous

- Prolonged civil war, genocide 1980-81, peace accords in 1996
- Refugees never recognized or accounted for in US or Mexico
- Demilitarization created power vacuum
- Constant stream of deportations, export of street gangs to urban areas
- Tensions between indigenous communities and government, hundreds of protests and violent clashes with over access to electricity, mining revenue, and land evictions
- Extreme rural poverty
- State violence and repression against communities
- Incursions of Mexican traffickers in the north, ties between Zetas and Kaibiles



Honduras – 79 homicides per 100k

- Caught between revolution and counterinsurgency wars in GUA, ES, and NIC
- Reluctant host to refugees, Contras, and drug traffickers
- Large-scale sex-trafficking with GUA and MEX
- Caribbean beaches and islands favored smuggling routes, money-laundering
- Deportations from region and U.S. and rise in gang violence
- Dramatic Rise in Prison Population – Riot and fire killed 100 in 2009
- Military coup overturned government 2009
- Government repression – Journalists, bloggers, and whistle-blowers threatened, beaten, and killed for exposing government abuses and corruption
- Murder capital of the world – gangs control the streets at night, homicide rate now 79 per 100k



Danger in Transit

- c.250k Central Americans enter Mexico each year, including seasonal workers
- 150k pass through Mexico, headed for the United States (INM/UNHCR)
- Mexico deports c.50k/year (INM)
- Est. 50-70k Central Americans “disappeared” in Mexico 2006-2013 (MMN) *There’s no definitive count.
- c.20k trans-migrants/year are kidnapped, held for ransoms of \$2-10k paid by family members in the U.S. (CNDH)
- 2013, IOM reported 110 serious human trafficking incidents in five years
- One shelter in Tapachula has helped more than 5k trans-migrants who’ve lost a limb
- Deaths on the border = 5,495 since 1998 (U.S. Border Patrol/NFAP)
- The Mexican government estimates that there are approximately 20,000 trafficked women and girls in Mexico (INEGI).



- 8 in 10 trans-migrant women are sexually assaulted in Mexico (the Mexican Chamber of Deputies and Amnesty International claim 6 in 10).
- Migrant girls are advised to take birth control on the presumption that they will be raped
- Some *coyotes* and *polleros* [smugglers] hand out condoms to their female clients
- Female migrants use the expression “**cuerpomático**” [bodymatic], to describe how they use their bodies like a credit card, or see sexual assault as a “tax”
- Rape is routine part of attacks by thieves, bandits, kidnappers, traffickers, and extortionists
- Sex trafficking and coercive sex trade thrive along Mexico’s southern border



The San Fernando Massacres

- August 24, 2010 – Mexican Marines assaulted an abandoned farm in San Fernando, Tamaulipas.
- Prolonged firefight – 3 Marines, and 1 gunman for the Zetas Drug Trafficking Organization killed
- Bodies of 72 undocumented migrants in storehouse
 - 58 men and 14 women
 - 23 Honduras, 14 El Salvador, 13 Guatemala, 6 Ecuador, 4 Brasil, 1 India (11 no id)
- Teenage Ecuadoran survivor, Luis Freddy Lala Pomavilla
- Taken off of northbound bus, extorted, beaten, raped, bound, blindfolded and shot in the head
- Naval Hospital attacked with grenades
- Head of municipal police, a state prosecutor, and another man found murdered and decapitated in following days, all three identified as part of the kidnapping ring.
- Year following the massacre, wave of mass killing and further grave sites in same area (C.200 victims, 47 sites)
- Guatemalan Kaibiles implicated



The Last Refugee Central American Refugee Crisis

1980 – Refugee Protection Act

- Individual adjudications, affirmative and defensive, according to UN standard
- Free from political or foreign policy considerations
- Expected small number of applications) 2-5k per/year

In reality...

- 25k applications first years, backlog of 170k by 1983, peak of 200k in 1995
- Subject to extreme political pressure
- Adjudications for Central American largely followed foreign policy prerogatives

1981 – Sanctuary Movement

1982 – Churches across the United States declared themselves “sanctuaries,” helped to hide and transport refugees through Mexico and the U.S.

1985-86 – dozens of Sanctuary leaders tried as criminals in Arizona, Illinois, New York, and California – Most convicted of smuggling or at least harboring aliens, but all received suspended sentences.

Country	Grant Rate (1983-86)
Guatemala	0.9%
El Salvador	2.5%
Nicaragua	14.9%
Iran	60.4%

Refugees and Asylees Granted Lawful Permanent Residence Status Fiscal Years 1946 - 2000

Central America	37,850
Belize	14
Costa Rica	271
El Salvador	5,502
Guatemala	2,080
Honduras	1,119
Nicaragua	28,108

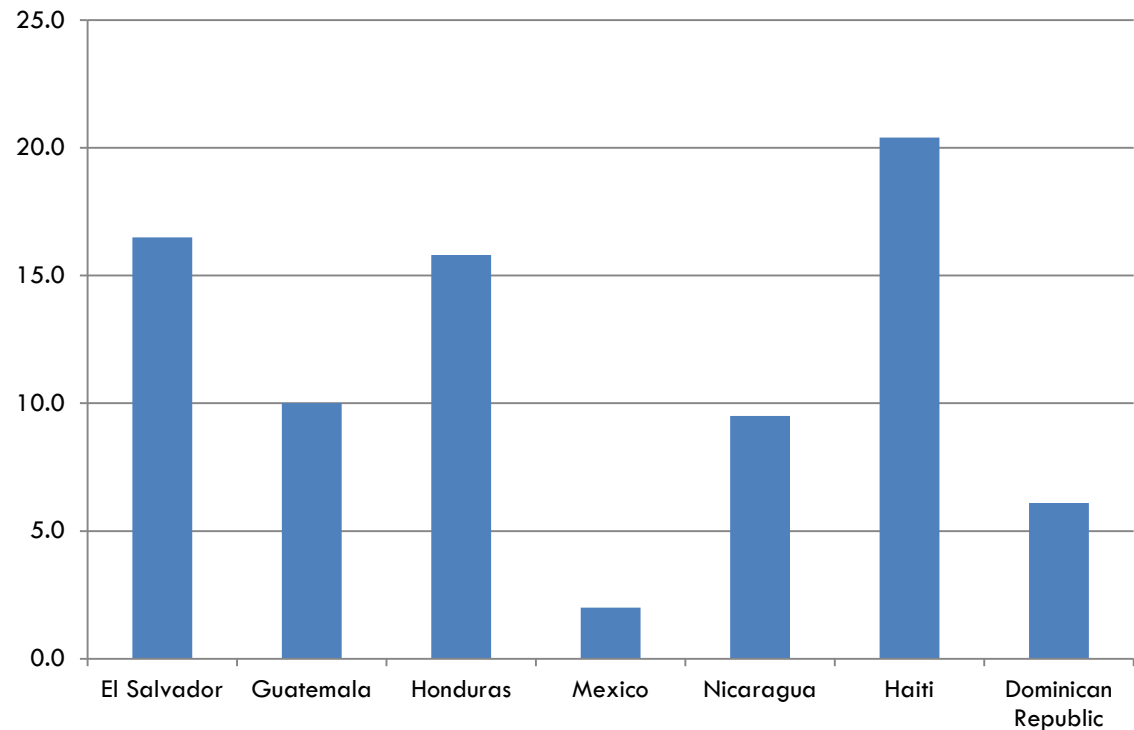
All of the World's Poor Children Are Not Coming

Large numbers of children are *not* coming from the Dominican Republic, Haiti, or Nicaragua, countries that are:

1. Just as dependent on migration;
2. Just as poor; and
3. Just as poverty-stricken,
4. But, not nearly as violent.

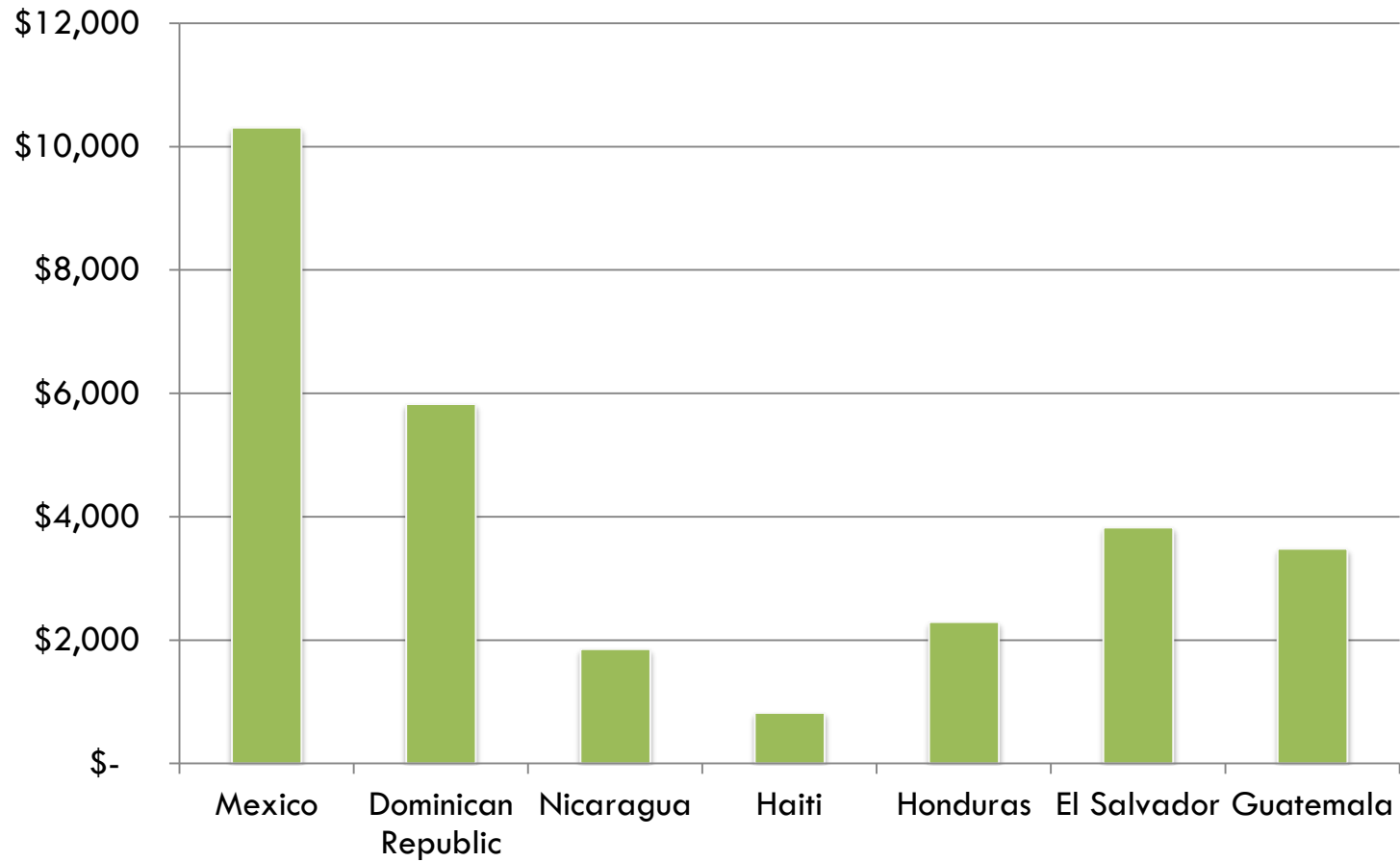
Dependence on Migration

Remittances as percentage of GDP, 2012
(World Bank)

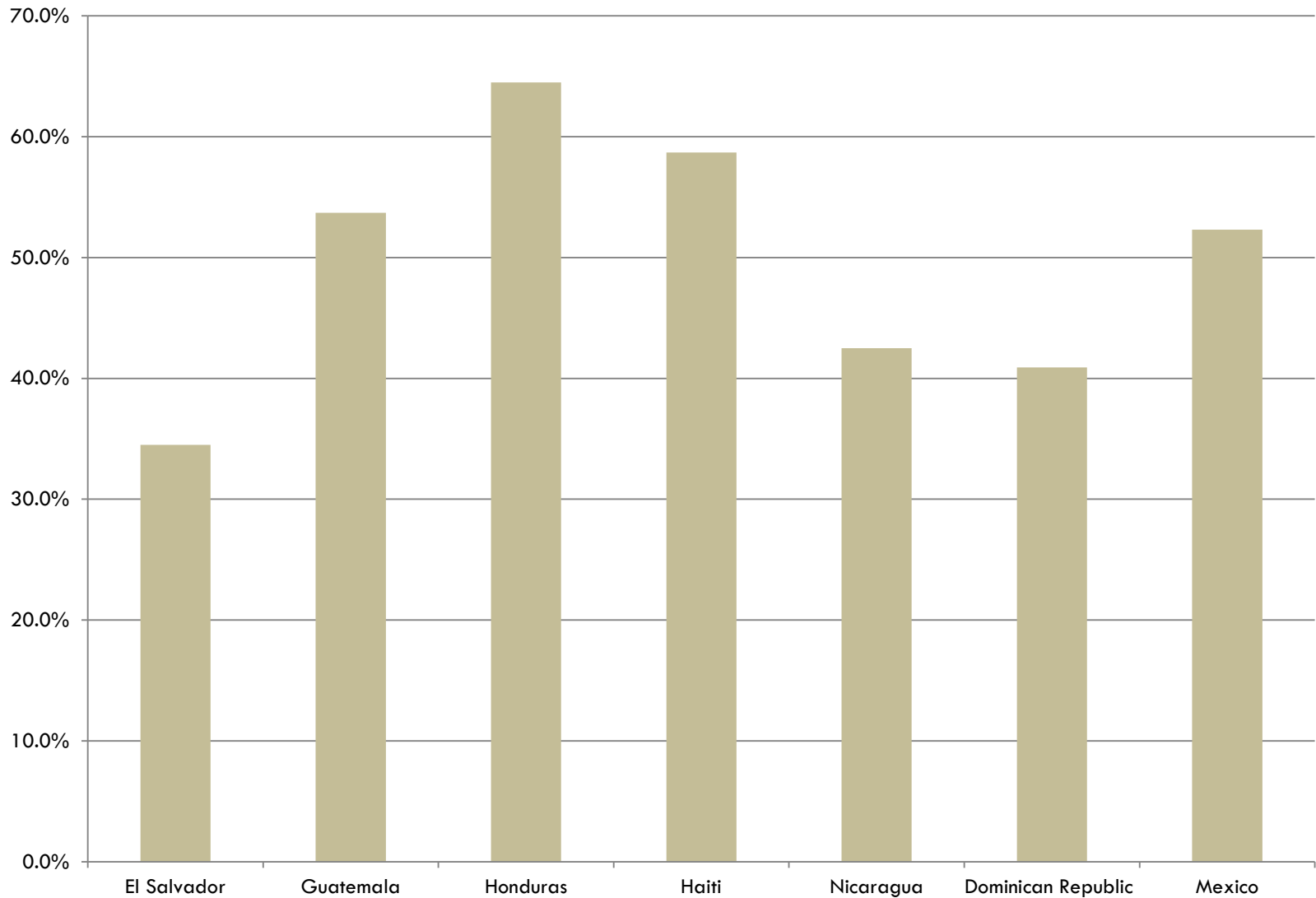


http://data.worldbank.org/indicator/BX.TRF.PWKR.DT.GD.ZS?order=wbapi_data_value_2012+wbapi_data_value+wbapi_data_value-last&sort=asc

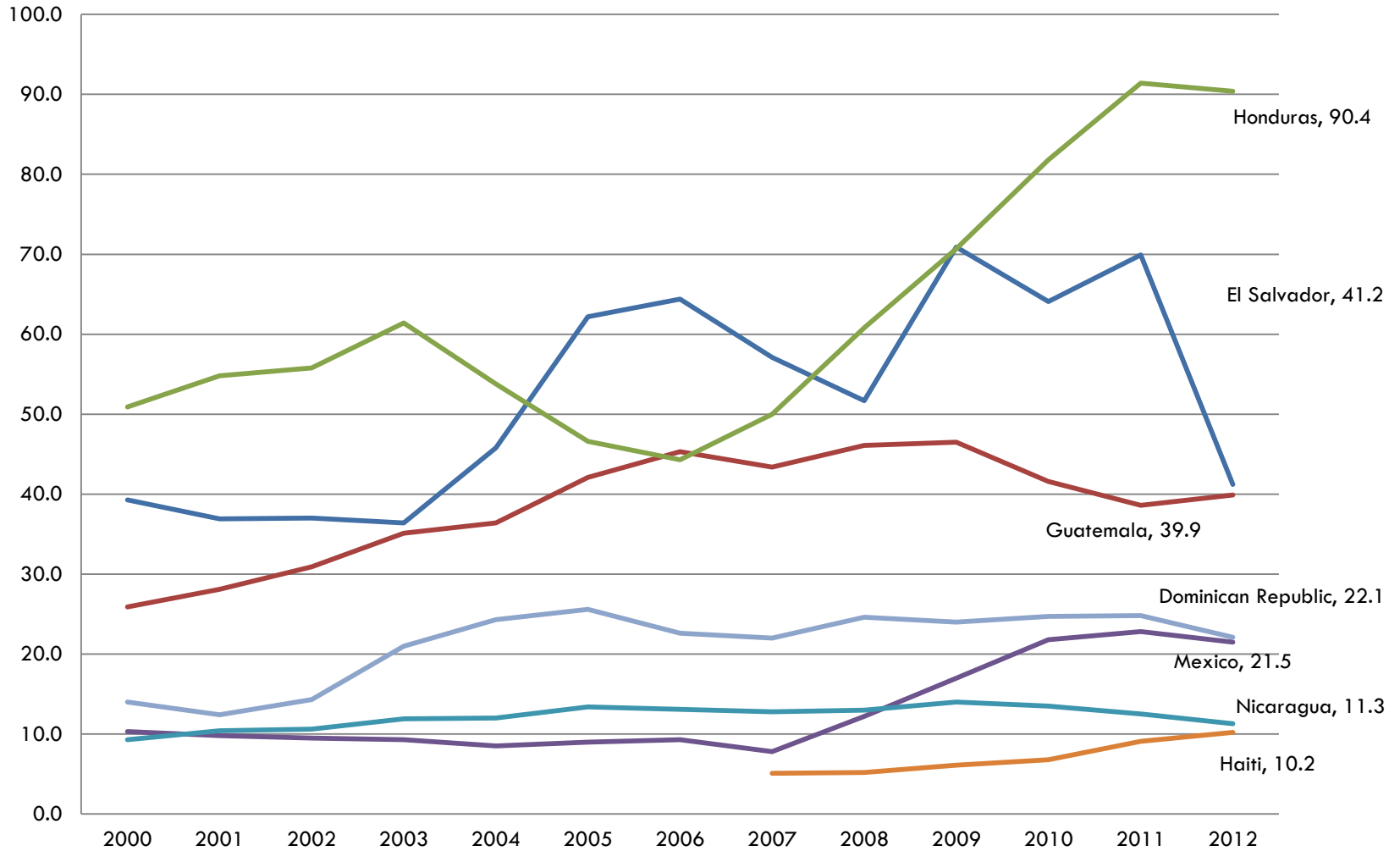
Regional per capita GDP (World Bank)



Population in Poverty



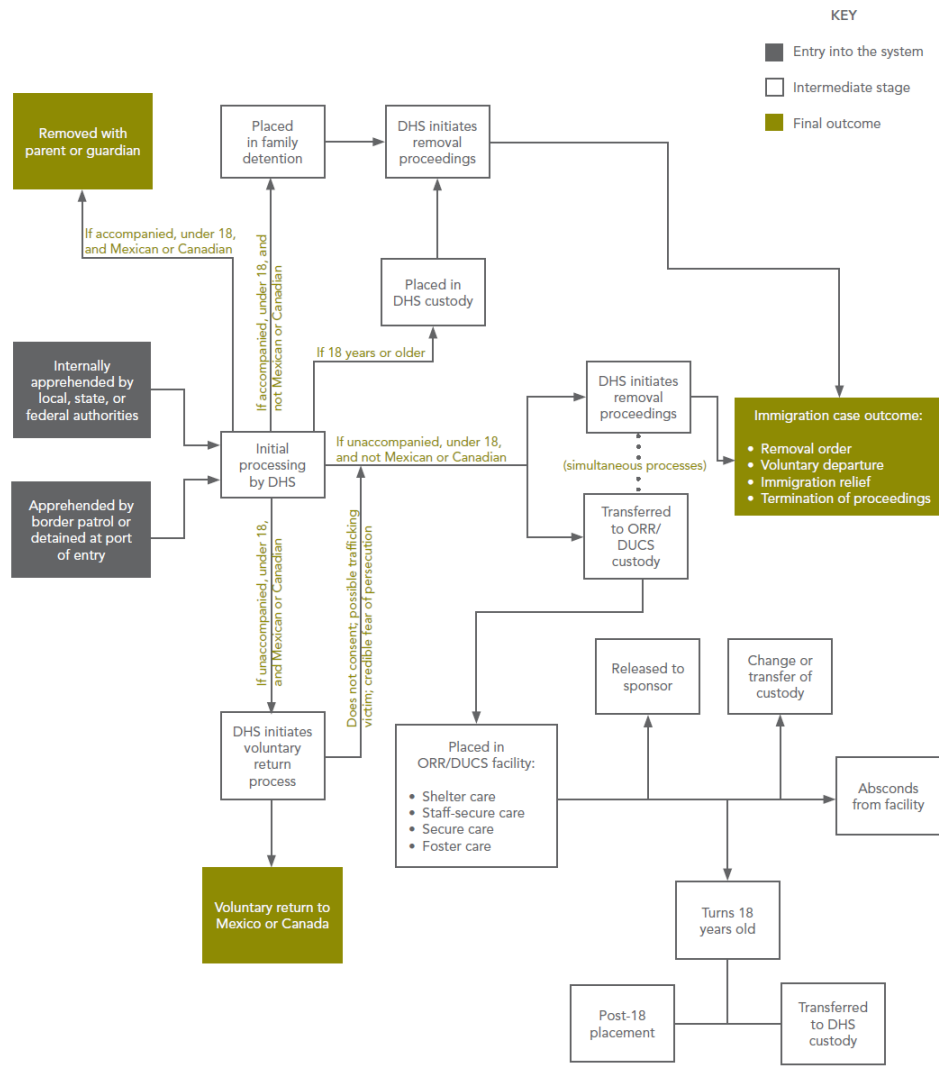
Homicide Rates per 100k (UNDOC)



What Happens When They Get Here?

- ORR keeps children about 72 hours – until released to sponsors
- “Sponsors” are putative relatives, but little vetting and no criminal background check
- With little screening for child abuse, persecution, or trafficking, children disappear into broader undocumented population
- Some taken by sex traffickers, others by criminal gangs, and others are left to fend for themselves
- Many work in the fields, some with parents’ consent
- Those sponsored by legitimate and responsible adults seldom receive educational, mental health, and counselling to overcome trauma they’ve faced in home countries or on journey to the United States

Figure 2: The Flow of Unaccompanied Children Through the Immigration System



Vera Institute,
2012

The Backlog

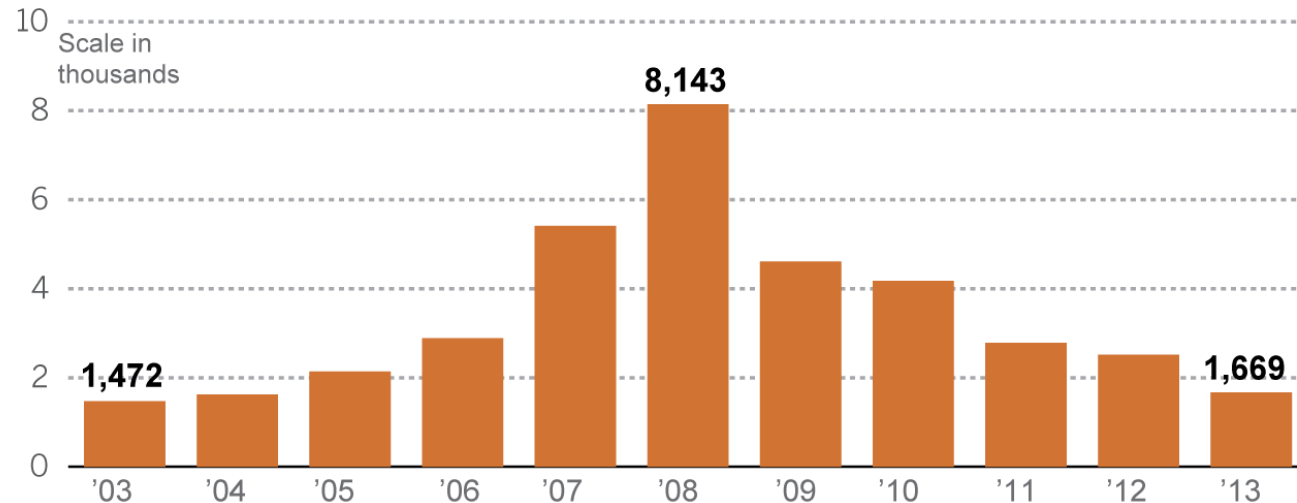
- “Notice to Appear (NTA)” charging document for removal proceedings.
- DHS files NTA with the immigration court where the child is detained by the ORR
- Most children are detained for only short time before released to sponsors
- Child must file a motion to change venue and wait for the court to grant motion for case to be transferred closer to new home.
- Often DHS delays filing the NTA then files with the court where the child was previously detained
- Creates confusion and may result in the child being ordered removed in absentia

A Long-Term Issue

- Unaccompanied children often lead transient lives
- They often fail to attend their court hearings and are removed in absentia
- Never learn of their removal orders until years later, when get married, apply for immigration relief, or have contact with law enforcement
- Then face not only deportation, but are ineligible for immigration relief

Sending minors back

Total annual deportations of immigrants under age 18 by Immigration and Customs Enforcement.



Source: Immigration and Customs Enforcement

Paul Duginski / @latimesgraphics

This chart does *not* include the following:

1. Unaccompanied Mexican children, returned via “voluntary departure”;
2. Other unaccompanied children who agree to return (voluntarily) when their attorneys deem them ineligible for relief; and
3. Children whose parent or guardian is deported and follow them to their country of origin, but without a removal order from a judge

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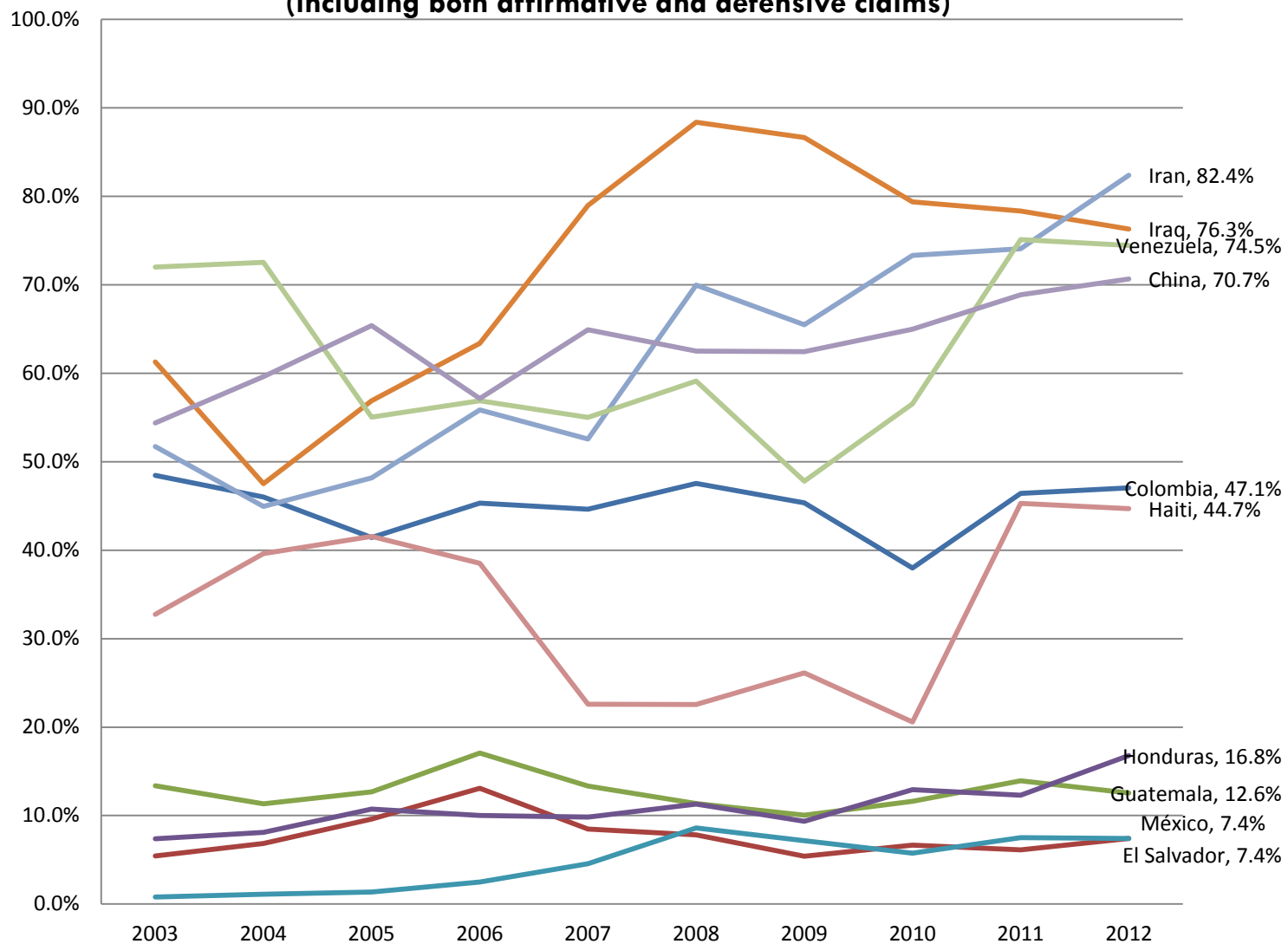
U.S. Border Patrol (USBP); Office of Field Operations (OFO)

Mexico	2012	2013
*Returned	12,884	16,500
Referred to ORR	1,090	740

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Asylum Grant Rate

(including both affirmative and defensive claims)





A Longer view...

Guatemalan Coup and Counterinsurgency

1954 – CIA-orchestrated coup

- U.S. blocked asylum seekers from leaving Guatemala

1966 – Beginning of civil war

- Beginning of *guerilla* insurgency
- Organization of death squads
- U.S. increased military aid and sent advisors for counterinsurgency training
- Guatemala became largest recipient of U.S. military aid in the world
- U.S. asked Mexico to “close” border with Guatemala (first of many occasions)

1975 – Founding of the *Kaibiles*, a counterinsurgency ranger unit in northern Guatemala, known for its ferocity.



U.S. Aid

1979 – Carter Administration suspended military aid to Guatemala

Military intelligence, communication between U.S. military advisers and Guatemalan military continued, along with non-military economic aid



1982 – U.S. resumed military aid

After military coup, Defense Minister General Efraín Ríos Montt assumed the presidency

“Scorched Earth” Campaign



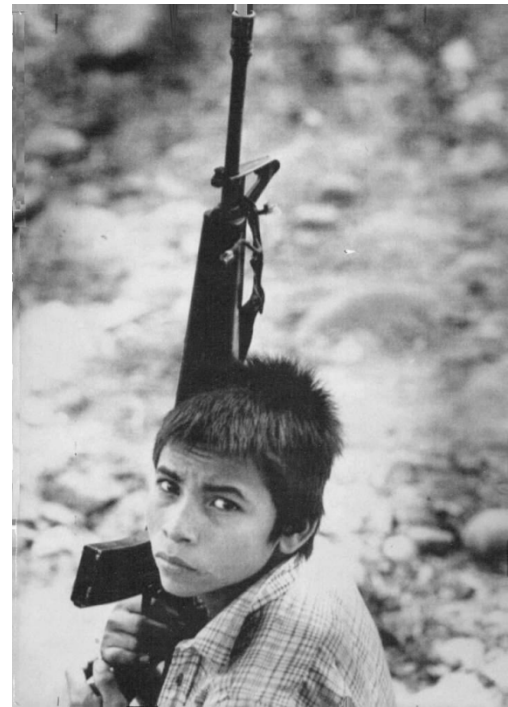
The Guatemalan Genocide, 1981-83

- Over 100,000 civilians killed – mostly ethnic Maya
- Up to 100,000 others killed – rural and urban *guerillas*, soldiers, etc.
- 40,000 disappeared
- 400 indigenous communities totally razed
- Extreme brutality
 - Children's' heads bashed in with rocks in front of their parents
 - Mass and repeated rape as a terror tactic
 - Individuals burned alive
- Iconoclasm
 - Mutilation of victims, extraction of organs and fetuses
 - Destruction of ceremonial sites
 - Use of sacred places for torture and execution chambers
- Ethnocide
 - Criminalization of indigenous language and identity
 - Forced evangelization
 - The language of “cleansing” and “purification”

U.S.-Backed Counterinsurgency

1981 – FMLN “Final Offensive” in El Salvador

- El Salvador named top U.S. strategic interest
- ARENA dictatorship leads death squad reign of terror – Archbishop Romero assassinated after calling for suspension of U.S. military aid
- ***Large-scale recruitment of child soldiers***
- UNCHR Recommended blanket designation of Salvadoran refugees – State Dept. claimed most were “economic migrants”
- U.S. trained Atlacatl Battalion responsible for some of worst massacres (El Mozote)
- By 1985, 500k IDPs, over 1 million refugees – U.S. persistently understated numbers



“Honduran Sandwich”

Honduras bordered the civil wars in Guatemala, El Salvador, and Nicaragua.

1978 – CIA supported “Cocaine coup,” government aligned with Medellín Cartel

1980 – first massacre of fleeing Salvadoran civilians by armed forces of ES and HON

1982 – U.S. sent military trainers to Honduras, including 100 Green Berets, to fortify the border

1983-84 – International controversy over mine fields on Honduran border with Nicaragua

1985 – 230k migrants and refugees in Honduras
Massive U.S. military exercises on the border

1987 – U.S. National Guard built border roads and fences

1989 – U.S. agreed to help demobilize Contras, but border infrastructure left in place



Miskito refugees in Honduras



Colomoncagua Refugee Camp

Sanctuary and Repression in Mexico

1980 – Mexican Commission to Aid the Refugees (COMAR)

1981 – Sanctuary movement began in Mexico

1982 – At least 20k Central American refugees in Chiapas

1984 – 92 camps, 46k refugees in Chiapas

Extremely poor, very young, many orphans, minority spoke Spanish, most malnourished and sick – parasites, malaria, etc.

- Catholic diocese and federal government pledged assistance, in keeping with long history of accepting refugees, and advocating peace in Central America
- Local coffee growers, ranchers, and military officers carried out evictions, deportations, and acts of violence and intimidation against anyone who assisted refugees
- Guatemalan troops (Kaibiles in part.) and helicopters made raids across the border to hunt down, interrogate, kidnap, and kill fleeing refugees
- U.S. persistently pressured Mexico to seal the border and to move refugees to the interior to prevent guerilla influence/support



In the Shadow of Peace

Civil Unrest and Counterinsurgency in Chiapas

- 1991 – Land invasions, arrest of “guerilla priest” Joel Padrón González
- 1994 – EZLN Chiapas Rebellion – local officials blamed Central Americans
- 1996 – Low-Intensity Conflict in Chiapas – massive military buildup, roads, checkpoints, and stepped up border enforcement
- 1998 – Victims of the Acteal Massacre (1997) in Chiapas denied passports for medical treatment in the U.S. (Foreign Ministry claimed they were undocumented Guatemalans)



Post-war: Collapsing Social Ecologies

- Central America disappeared from geo-strategy
- Crime and murder rates skyrocketed
- Free-trade agreements and neo-liberalism disrupted rural economies and curtailed social safety nets
- Natural disasters devastated Central America
- Drug enforcement operations in Caribbean, Colombia, and the Andes displaced hundreds of thousands of rural people and shifted drug trade to Mexico



Policy Response: Immigration Control

- Worksite raids across region
- “Aggravated felony” expanded (1986, 1995, 1996)
- Retroactivity (deported for old convictions)
- Mass deportations in Chiapas (more Central Americans deported from Mexico than U.S.)
- Costa Rica, Honduras, and El Salvador criminalized use of fraudulent identity documents
- Roundups of sex workers on Mexican, Guatemalan, and Honduran borders
- Temporary workers and their children excluded from health and education benefits in Costa Rica, El Salvador, Honduras, Mexico
- Militarization of border enforcement (1993, 1994, 2002)
- Spread of anti-gang laws and collaborative enforcement
 - Street Terrorism Prevention Act (1988)
 - Super Mano Dura (El Salvador)/Article 332 (Honduras) (2004)
 - “Community Shield” (ICE and 6k law enforcement officers from 5 countries in region) (2005)



“Terrorism” and Externalization

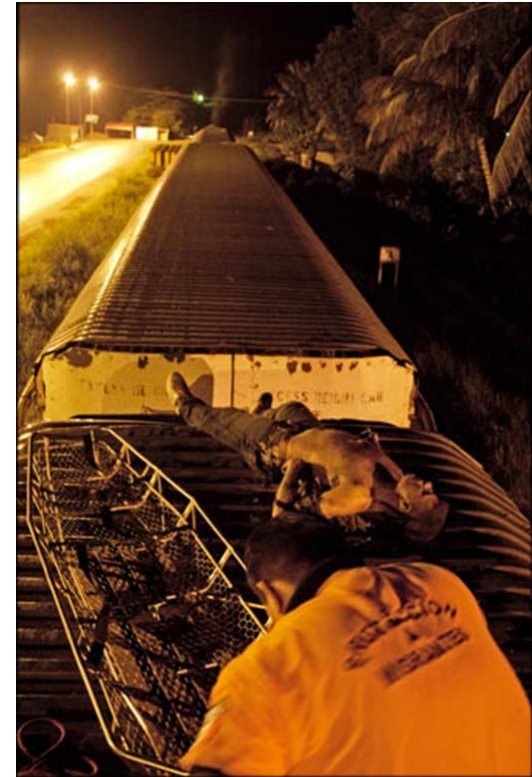
2001 – 9/11 Commission and PATRIOT Act

- Spread of anti-terrorism laws securitization of migration globally (147 countries).
- Plan Sur – Mexico set up military checkpoints to control southern border, 6,000 undocumented aliens returned to Guatemala (50 percent were Guatemalan, 28 percent Honduran, and 22 percent Salvadoran) + 3,666 Nicaraguans, Salvadorans, and Hondurans deported from Guatemala.
- Venceremos 2001 – Guatemala increased border enforcement, reduced 30% on main routes, mobilized 200 police agents in border cities, checking hotels restaurants, shelters, and public parks in search of undocumented immigrants, 1,200 deportations

2002 – GANSEF – high-level group on border security between MEX/GUA/Belize

2005 – REAL ID/Mexico moved migration to National Security framework

2007 – Mérida Initiative – \$1.4 billion to Mexico, \$50 million to CA, \$60 million specifically for detecting undocumented migrants and for SEDENA border interdiction efforts



Pulled into the Drug War

— Land Route — Sea Route — Air Route ● Air Shipment Drop Zones



Guatemala

- Army demobilization created power vacuum
- Large landowners growing marijuana, providing space for meth labs, airstrips, and training camps
- Rise of paramilitary forces to protect operations
- Rise in kidnapping and highway robbery
- Collusion of military forces along the border
- Kaibiles collaborating with Zetas DTO
- Zetas massacred and decapitated 27 people at Petén cattle ranch

El Salvador

- Dollarization made it hub for money laundering
- *Mara Salvatrucha* and *Calle 18* gang members hired as *sicarios*, prison informants, and distributors for DTOs
- Fortified protection rackets and intensified territorial battles
- Rise of homegrown Taxis Cartel, charges for passage free from security forces

Honduras

- Dramatic Rise in Prison Population – Riot and fire killed 100 in 2009
- Remote Caribbean beaches and islands favored smuggling routes
- Prominent businessmen and politicians indicted as middlemen between Colombian cocaine and Mexican DTOs
- Allegations of corruption at airstrips, border crossings, and banks
- Military coup overturned government 2009
- Journalists and bloggers threatened, beaten, and shut down for exposing government abuses and corruption
- Drug czar and two prominent journalists murdered for exposing govmt ties to DTOs



Targeting Children

- The abuse of street children for initiation of police and paramilitary forces
- Indiscriminate military and police attacks on putative gang members
- Forcible recruitment into gangs
- Attacks on passenger busses
- Forcible recruitment into human trafficking and sex trafficking networks taken over by Mexican drug trafficking organizations

A Global Issue

- Children are disproportionately represented among the world's poor
- Children who are separated from their parents are at much greater risk of exploitation or abuse
- Victims of bureaucracy
- Securitization is particularly detrimental to children
 - Border detention is unduly harsh
 - Detaining children at adult facilities – U.S., Greece, Spain, France, UK
 - Holding children at airports – France, Turkey
 - Keeping children in solitary confinement – U.S.
 - “Age-disputes” – 50% of cases in UK/studied showed that 50% of these incorrect

Judicial Responses

Plyler v. Doe (1982) – U.S. Supreme Court ruled that unaccompanied immigrant children are “persons” entitled to public education. Justice Brennan asked what compelling interest states or localities would have in “creating a permanent subculture of illiterates.”

Siliadin vs. France (2005) – ECHR ruled that a kid from Togo – servant brought by French Nationals indentured to pay off ticket, forced to work 15 hours a day, they took her passport, and then “lent” her to a friend – had been enslaved. Adults convicted criminally and fined civilly. ECHR case was about France’s failure to protect her from slavery.

Bakhtiyari vs. Australia (2003) – UN Human Rights Committee. Afghanis in Australia denied relief and detained for 2 years and 8 mos. Committee found that the detention of children and their mother was arbitrary and unnecessary, detrimental to their mental health.

Cabrera-Alvarez v Gonzales (2005) – U.S. 9th Circuit, deporting father of two USC children who had been undocumented in US for 10 years would not cause great hardship to children in violation of CRC. Court found that it should be considered, but wasn’t determinative.

Recent case law on displaced and disappeared children more broadly

“Street Children” (Villagrán-Morales et-al.) v. Guatemala (1999) – IAHCR. Tortured and murdered street children. The Court found that Guatemala had extensively violated the children's rights and ordered a school dedicated to the victims, and to pay reparations, train police better.

Serrano Cruz Sisters v. El Salvador (2005) – IACHR. Family that went into hiding during the war and two young daughters abducted by Armed Forces, disappeared. Court didn't rule on the disappearance itself, but on lack of fair trial, human treatment, and judicial protection; ordered investigation and reparations.

Vargas Areco v. Paraguay (2006) – IACHR. Fifteen-year-old child soldier, arrested for failing to return from leave with family, beaten, tried to escape, shot in the back. Court ordered compensation to family, public apology, HR training in military, and legislation prohibiting recruitment of minors.

Case of the Yean and Bosico Children v. The Dominican Republic (2005) – IACHR. Girls born to undocumented Haitian migrants in DR, whom authorities refused to register, denying them citizenship and rendering them stateless and vulnerable, despite constitutional guarantee of birthright citizenship. DR rejected decision and changed the constitution.

X (Re) (2003) – Immigration and Refugee Board, Refugee Protection Division (the "Board"), Canada. Chinese refugees whose mother didn't meet requirements for asylum – husband in jail for opposing housing demolition and children suspended from school as a result – but, Canada found that the denial of education to the children (if they were to be returned), would violate their rights.

Interventions

- Border enforcement
 - initial encounter
 - screening
 - Past or future fear of persecution
 - “abuse, neglect, or abandonment”
 - trafficking
- ORR custody
 - least restrictive custody possible
 - “sponsors”/custody release
 - facilitating access to counsel

Interventions

- DHS
 - Notice to Appear
 - Serving child
 - Filing with EOIR
 - Coordinating transfers with ORR
- EOIR
 - Scheduling master calendar call
 - Change of address and venue
 - Access to counsel
 - Child-specific standards of adjudication

Other Interventions

- U.S. Attorney – U and T visas
- District Attorney – U and T visas
- CPS and probate court – SIJ
- Diplomatic corps – re-screening and safe repatriation
- Local law enforcement – protecting trafficking victims
- School districts – guaranteeing access
- Social service providers – treating trauma