The International Smuggling of Children: Coyotes, Snakeheads, and the Politics of Compassion

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Children’s Migration and the Politics of Compassion

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Each year, over 100,000 children are apprehended entering the United States unaccompanied by parents or legal guardians and without valid immigration documents, according to the Department of Justice Office of the Inspector General. This is probably a small figure in comparison to the number of children who escape detection and become part of the nation’s population of ten million undocumented immigrants (Gray and Gautier 2006). An increasing number are apprehended by immigration authorities and enter an elaborate system of border patrol detention centers, shelter facilities and courts. In 2007, roughly 8,000 children were transferred from Immigration and Customs Enforcement to the Office of Refugee Resettlement (ORR), part of the Department of Health and Human Services (HHS). The children come not just from Latin America, but also China, India and African nations. Their migration is driven by multiple causes but two predominate. The first is a desire to escape poverty in countries of origin and the second is a social and emotional need for family reunification or flight from a conflictive family situation.

Programs run by the Division of Unaccompanied Children’s Services (DUCS) care for the children pending their release to caregivers, typically extended family, in the US. As a result of their apprehension, the children are placed in immigration proceedings to determine their eligibility to remain in the US. The United States takes its protection of children as a marker of national identity. Yet, there are cracks in the foundation of the care and treatment of unaccompanied children. My research examines the political and affective frameworks guiding policy and practice with respect to children who cross US borders without documents and without caregivers. In this understudied area, anthropologists can contribute to public policy affecting the movement, rights and well-being of migrating children through questioning the categories used to define the children as well as examining the logistics structuring their care and treatment.

**Achievements and Failings of US Policy**
The current legal framework for the care and custody of the children is provided by the 1996 *Flores v Reno* settlement agreement. *Flores* required the INS (and now requires the Office of Refugee Resettlement) to release children without unnecessary delay and provide adequate access to medical and mental health care, recreation, education and religious services. *Flores* also requires the state to place children whose release is pending, or for whom no release option is available, in the least restrictive setting appropriate to the child’s age and needs. This is a vast improvement on the care they received prior to *Flores* when unaccompanied minors were held in punitive environments. They had their hair cut, were required to wear orange prison uniforms, were issued flip flops as a deterrent to running away and were routinely shackled and restrained.

Although it was hailed as a landmark decision, the *Flores* settlement is not always implemented and has proven not to be adaptable to a spectrum of children’s needs. Anthropologists can play an instrumental role in calling attention to these inadequacies. The majority of children who are apprehended continue to be housed in large congregate care centers of 100 beds or more. Children who journey to the US in search of work or family are agentic, resourceful and resilient, but they have special needs due to their recent migration and life experiences—needs that are not met in an institutional setting. Large institutional facilities create an over-regulated environment in which personalized attention is simply too limited.

In contrast, the international legal framework has a far more compassionate approach. The 1989 Convention on the Rights of the Child, signed but not ratified by the United States, recognizes that all children under the age of 18 require special care and protection. Most importantly, it requires states to address the needs of unaccompanied children to the same extent that it satisfies the needs of native children. This is one of the areas where the *Flores* agreement falls short.

Another important landmark is the Homeland Security Act of 2002. This act transferred the care of the children from the INS (which was reorganized and placed within the Department of Homeland Security) to the ORR. This inaugurated a partial shift from a control and enforcement approach to a human rights one. While the 2002 legislation positively transformed the system of care for unaccompanied alien children, there is still room for improvement.

Specifically, anthropologists can call attention to the robust national and ethnic hierarchies currently found in ORR and DUCS policy and practice. For example, in keeping with an agreement between the governments of Mexico and the United States, the US returns some 95,000 Mexican children to Mexico annually. Hierarchies are manifest not only in the likelihood that a child will be sent back to a country of origin (rather than reunited with family in the US), but in the kind of attention a child receives on the path from apprehension to release.

**COMMENTARY**

Children from China and India are automatically referred for assessments to determine US guardians’ suitability to care for them. Each assessment is supplemented with 90 days of follow-up designed to help the child enroll in school, find a pro bono attorney, locate medical and mental health services and adjust to a new community. By contrast, children from Latin America must meet multiple and specific criteria to be referred for assessment and follow-up. This reflects the fact that although the journey from Latin America is particularly perilous, the Division of Unaccompanied Children’s Services still characterizes child smugglers from Asia as more dangerous. Ultimately, the politics of compassion have created an uneven terrain of protection for children.

One reason for these inconsistencies is a tension in the framework guiding care. Child welfare advocates take a human rights approach and contend that the children are largely akin to refugees as victims of abuse and economic circumstance. Under this argument, their care and treatment should correspond to the care and treatment of domestic children. Immigration security advocates, on the other hand, argue that unauthorized immigrants (including unaccompanied minors) are associated with increased community violence and illicit activities such as gang memberships. Children therefore throw into bold relief two contradictory impulses in immigration policy and discourse: an impulse to protect them as vulnerable persons (generating politics of compassion), and an impulse to, in the face of rising immigration, protect and barricade existing communities.

This schizophrenic political environment is harmful to immigrants, particularly those who are unaccompanied minors. While the Department of Health and Human Services (through ORR) funds programs that care for unaccompanied, undocumented children, the Department of Justice (through Homeland Security) tracks down, sweeps up and deports the very same children. The ORR shares employment and address information with the Department of Homeland Security that enables them to apprehend, detain and deport children once they have been released to sponsors. Our humanitarianism is therefore limited by post-911 concerns about security and the associated debate about immigration. Anthropologists need to tease out the tensions and contradictions in this system.

In other areas of US law, children who are confronting the legal system are appointed a guardian to assist them. US immigration law, however, falls in this regard. Carlos is a good example: He fled Nicaragua after he was threatened and his father and uncle, who were involved in political opposition to the government, were nearly killed. He was released to a sponsor but, not having had access to legal counsel, never understood that he had a good immigration case and went underground. New legisla-

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Tough Questions in the US Immigration Debate

Finding a Moral Heart for US Immigration Policy Revisited

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In 1998, the AAA published my book, Finding a Moral Heart for US Immigration Policy: An Anthropological Perspective, as part of the short-lived Contemporary Human Issues series sponsored by the American Ethnological Society. This work appeared during a lull between waves of immigration controversy in the US, in 1993–94 connected to Operation Gatekeeper and California politics and in 2005–07 characterized by Minutemen, immigration rights marches and heated legislative battles. Possibly because of this interstitial timing, Finding a Moral Heart received relatively little attention. Yet, some of the points that the book made, as well as others it failed to make, are worth revisiting.

Morality and Sentiment

The central arguments of the book are that the politics of moral relationships matter and that one possible path in the immigration debate is to move toward moral polarization and another is toward recognition of mutual moral obligation. A number of anthropologists over the years have tackled value frameworks and morally loaded issues, but as a whole anthropologists seem reluctant to discuss such topics, partly because of a healthy sense of cultural relativism but also because we often avoid considering our own unconscious moral stances, easily sympathizing with the poor and powerless and ignoring more controversial moral debates and groups that are less obviously sympathetic.

A perfect example is the need to address the causes and characteristics of anti-immigrant sentiments. In broad historical terms, citizenship represents a cumulative set of rights and claims on the public, gained in struggle through concessions by frightened elites. Capitalist radicalism, which can be understood as the extremes of so-called “creative destruction,” is undercutting such citizenship claims, increasing the global mobility of finance and production and making corporate elites less accountable to their region or even nation of origin. Anti-immigration politics—in particular the emphasis on strict legal definitions of belonging and exclusion and anxious fears about providing access to public services—thus emerge from a complicated and ambiguous struggle around the reconfiguration of contemporary citizenship. This explains why the discourse and practice of legality is important, with deeply harmful consequences for the illegalized. Law is central, as argued by Nicholas DeGenova, but it is not immutably how then can it change? I suggested that we concentrate on the political process of scapegoating immigrants for the transformations in citizenship. A positive agenda of creating moral connections between hosts and immigrants, involving joint claims on would-be footloose capitalists, might address the root causes of anti-immigrationism.

Because anti-immigration sentiments are complicated, symbolic and emotional, providing objective information about migration is necessary but not sufficient to change the tenor of immigration politics. Pro-immigrant coalitions and scholars working with them need to address the drivers of anxiety about immigration, including social and cultural change in local and regional arenas, loss of community control, and widening inequality in contemporary national and global economies. To do this, we need much more ethnography and analysis of citizenship, solidarity and inequality to help us understand how to address and transform the crucial nexus of citizenship politics.

Citizenship struggles occur throughout US society, but specific symbolic processes translate them into a particular anxiety about a nation’s social and geographic boundaries. Over 370 miles of wall are built (or will soon be built) along the US–Mexico border, as well as many more hundreds of miles of electronic barriers using advanced surveillance technology, costing billions of dollars. These barriers have been built through a logic that suggests, in basic terms, a perfect border will secure a perfect order and all threats to the state originate from outside the state. Even political advocates of “comprehensive immigration reform” in the US often sell it by promising to secure the US–Mexico border. So far, boundary control has been a chimera, but boundary control tactics have had the real effect of increasing deaths along the border and creating a zone within the United States of continuous low-intensity conflict, as documented by Timothy Dunn.

When I originally wrote Finding a Moral Heart, my own experiences were distant from this situation. However, as I now live, teach and research in the borderlands, applied anthropology on human rights under these conditions has become central to my practice.

Anthropological Engagement

The book poses a series of challenges to our thinking about the engagement of anthropologists in politics and public policy, including the values implicit in our anthropological worldview and practices. When I wrote the book, I responded to a vigorous debate between advocates of “comprehensive immigration reform” and those who believed that immigration policies should be made primarily on humanitarian grounds. The book called on researchers to avoid considering our own unconscious moral stances, easily sympathizing with the poor and powerless and ignoring more controversial moral debates and groups that are less obviously sympathetic. How can we transform our own thinking in this regard, and what are the implications of such a transformation for our work in the borderlands?

The book compared the immigration debate to those surrounding the Vietnam War, civil rights and antiwar movements. Part of its argument was that anthropology could transform the immigration debate by focusing on questions of anti-immigrant sentiment, rather than the more narrow questions of what policies to adopt. How can we transform anthropological thinking about these issues in the borderlands, and what are the implications of such a transformation for our work in the borderlands?

The book proposed a long-term vision for the role of anthropology in the immigration debate, but it also called for immediate action. How can we transform anthropological thinking about these issues in the borderlands, and what are the implications of such a transformation for our work in the borderlands?

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and make every effort to utilize the services of competent pro bono counsel. Other areas that still need to be addressed include alternative custody and detention options, improved age determination procedures and training for immigration personnel. Traditionally unin- volved, anthropologists could play an active role in calling attention to these issues and influencing public policy so that there is a more humane, egalitarian and just on-the-ground response to the migration of children.

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identity, which is and has been constantly changing throughout the country’s history. What is needed is immigration reform that includes an integration policy that is not about Americanization but about incorporation, a policy that makes the federal government a financial partner with local communities. Such a policy would return revenues to local communities to focus on frontline service institutions like health care facilities, schools, libraries and local agencies that are at the forefront of serving diverse populations and that recast diversity as a strength rather than a threat to national identity.

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