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Perception and Policy: U.S. Sociological Attitudes and Policies towards Guatemalans and Salvadorans in the Late 20th and Early 21st Centuries

Introduction/Thesis:

This paper looks into Guatemalan and Salvadoran history and immigration in the late 20th Century and identifies how these patterns compare to and continue to affect present day immigration policy. By examining the difference between how immigration policy was handled prior and after the events that occurred on 9/11, the reader will be able to distinguish how social perception of immigrants in the U.S. changed drastically with the span of a few months. By examining the history of immigration policy post-WWII, the reader will be able to identify that aid such as providing asylum has historically contributed to systematic oppression of non-European communities that severely required assistance. By examining policies such as political asylum, which prevents immigrants from returning to their homelands, readers will also be able to understand how certain immigration reform has historically been catered towards specific groups, and in doing so, do not support other communities, such as Central Americans. These issues continue to be seen in modern day politics, specifically in the 2016 presidential campaigns. This paper will actively deconstruct the oppressive nature of immigration policy and interventionist policy and instead, will call upon differing proposed solutions to aiding immigrants seeking asylum and refuge.

Late 20th Century U.S. Immigration Policies and Attitudes

The United States of America was founded upon immigrants; it was a community of immigrants that inhabited the first colony that would come to influence the future of North America. Many of these immigrants came to North America in search of refuge from religious persecution. It could be said that the U.S. was founded not only by immigrants, but by those seeking asylum and refuge. The history of this nation is founded in immigration and social perceptions that influence immigration, such as immigration policy. It is these social perceptions in fact, that determine what race and culture is welcomed and aided versus which people will be ostracized as “illegal” immigrants. The contradiction in calling an immigrant “illegal” lies in the basis of American History; if an immigrant is illegal for having arrived without proper documentation, then they should be considered undocumented rather than illegal, yet this is a term we often see being associated with people of a certain ethnicity and culture. In this case and in current 2016 Presidential politics, the ethnic and cultural backgrounds in question include Muslims, Sikhs, and Latino/a’s.

Due to the perceptions attached to those who carry the title “illegal” immigrant, we are often faced with political debates during political campaigns that refer to the “immigration problem” as something that must be addressed upon being instated into office. Immigration policy reform is demanded and promised throughout presidential candidacy races; it was addressed prior to the Obama Administration as one of the prime reasons a state would sway towards a potential candidate during the primary elections. Historically, immigration policy has been shaped by the way the nation perceives foreigners and in turn, these perceptions have shaped the country. It should be no surprise then, that U.S. interest in foreign countries is what

determines these social perceptions, including the standards which determine whether someone is eligible to apply for asylum and/or refugee status.

In the 1960's, the world was still living in post-WWII era; the effects of the war on both victims and participants was still very much noticeable. In the years that followed, the Cold War took a firm grip on American hysteria with severe anti-communist sentiments. In response to the increase of global immigration, the U.S. whole heartedly embraced the United Nations' Protocol Relating to the Status of Refugees of 1968, which internationally defined a refugee as a person who "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country...". In addition to this definition, Articles 32 and 33 of the Convention addressed non-refoulement, which was stated in Article 33 as: "No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his religion, nationality, membership of a particular social group or political opinion" (Blyberg, 1985, p. 13). This established that immigrants who expressed a fear of persecution were protected by both the United States and United Nations.

As a result of the Convention, people who were forced to leave their country as a result of an internal war situation were not normally considered refugees and therefore would not typically be covered through the U.N. Protocol or the Convention. They were instead protected from certain human rights abuses and non-international armed conflict by the Fourth Geneva Convention (on the Protection of Civilians in War) and additional Protocol II (on victims of Non-International Armed Conflict) (Blyberg, 1985, p. 13).

In their effort to embrace this protocol, the U.S. took care in admitting many refugees during the years that followed WWII and throughout the Cold War. However, despite several upheavals and human rights issues around the world and the changes made in U.S. law with the Protocol in 1968, the U.S. continued to prioritize refugee admissions from those who were fleeing Communist countries. According to the U.S. Committee for Refugees, between 1983 and 1986, 97% of Salvadoran political asylum applications were rejected. Meanwhile, there was an approval rating ranging between 32-60% for applicants from Iran, Romania, Czechoslovakia, Afghanistan, Poland and Hungary, all of which were considered to be ruled by non-friendly regimes (Coutin, 2004, pg. 2). With asylum status directed specifically to those seeking political asylum, the right to live in a foreign country because an individual is in danger of persecution, it was highly unlikely that immigrants fleeing non-Communist countries would find aid within the U.S. borders.

However, it was the amendments to the Immigration and Nationality Act that passed in 1965 that is often seen as the reason immigration began turning away from Europe and towards Asia and Latin America, as well as increasing the amount of immigrants entering the country. The original Immigration and Nationality Act was passed in the 1920's and was a deliberate effort from the U.S. to limit the entry of Southern and Eastern Europeans—specifically Jews and Catholics, who were considered “unassimilable” at the time” (Massey, D. S., & Pren, K. A., 2012, p. 1). This also effectively banned Asians and Africans. The amendment was motioned to change due to the Holocaust that transpired in WWII and passed in 1965, leading to an increase of undocumented immigrants from Mexico, due to the end of a short-term foreign worker agenda known as the Bracero Program in 1968 (Massey, D. S., & Pren, K. A., 2012, p. 2). Americans had concerned themselves with other issues at the time, such as civil rights, sexual revolutions,

and the War in Vietnam. Therefore, by the time a change in immigration was attended to, many of these displaced short-term workers had come to accept the U.S. as their home.

The public, recovering from the effects of various wars and social changes, was quick to accept politicians who demonized Latino immigrants and “illegal” migration. In a 1986 speech by Ronald Reagan, he stated that illegal immigration was a matter of “national security” and that “terrorists and subversives are just two days driving time from the border crossing” (Massey, D. S., & Pren, K. A., 2012, p. 5). Ironically, it was Ronald Reagan who chose to intervene with the matters of El Salvador, potentially leading to the mass migration of civil war victims.

In fact, it was not until 1997 that the U.S. Congress passed the Nicaraguan Adjustment and Central American Relief Act (NACARA), exempting certain Salvadorans and Guatemalans from restrictive immigration policies. This policy replaced the 1996 Anti-Terrorism and Effective Death Penalty Act and Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), which convicted non-citizens and made it more difficult for non-citizens to acquire legal permanent residency (Coutin, 2004, p. 3). Prior to this change, Central American refugees found support within communities in cities, with religious congregations in particular declaring themselves “sanctuaries” for Salvadoran and Guatemala refugees who feared risking deportation. While the movement was an attempt to stand in solidarity with the refugees, the U.S. government eventually acted in opposition to these groups in 1985 when the FBI arrested and had 11 sanctuary workers in Tucson, Arizona arrested and convicted. In response to the indictments, sanctuary activists filed a class action suit against the U.S. government, which is now known as “ABC” or “American Baptists Churches v. Thornburgh”, which prohibited future sanctuary prosecutions (Coutin, 2004, pg.2).

Reagan's statements, unfortunately, are sentiments that continue to ring true in the 21st century. It is clear that both political and public sentiments had a great influence on how the U.S. determined a course of action when it came to immigration. When it came to assessing the situations of Central American countries, such as El Salvador and Guatemala in the 20th century, the U.S. government determined that neither country was in a crisis desperate enough to warrant refuge status, despite several countering reports from independent human rights groups. It has been suggested that one of the reasons the U.S. government chose to remain indifferent to the Salvadoran and Guatemalan plight is due to their relationship with the respective Central American governments, partnerships that vary in terms of mutual national support. As such, it is important to consider U.S. involvement in these two countries as critical to the treatment and acceptance of Salvadoran and Guatemalan immigrants in the late 20th century and early 21st century.

Central America: In Distress

Historically, immigration patterns to the U.S. can be attributed to many factors, such as war, economic disasters, agricultural failure, etc. Central American immigration to the U.S. in particular tends to lean towards circumstances of violence, political instability, and human rights violations. In the case of Guatemala however, U.S. immigration history can be specifically traced back to the partnership of U.S. involvement and Guatemalan land reform.

Historically, the violence within Guatemala's borders has been linked towards who has political and economic control of the land. There is an abundance of land that would allow the population to maintain a standard of living that would support Guatemalan families. However, most of this land is kept within the hands of the wealthy, leaving farms unable to provide an adequate sustainable living. When Guatemala's dictatorship was replaced with a democracy in

1944, there was an immediate demand for land reform. In particular, there was a government proposal to purchase 85% of the half million acres owned by United Fruit, a U.S. firm that retaliated against this proposal. Claiming this proposal was communist, United Fruit prompted the CIA to participate in a coup to overthrow the Guatemalan government in 1954.

After the successful coup, the military took control of Guatemala. Since that day in 1954 there have been over 100,000 civilian deaths, with the majority deaths being Indians and taking place over the last 10 years (since 1992). The military began a campaign of violence against the Indian majority, with sympathizers symbolically tortured and murdered to increase military control over the populace. Survivors of this violent era were being moved into model villages that were little more than concentration camps that served as a free labor supply for the army. Even after the military allowed a democratic civilian government in 1985 and made a compromise to withhold on land reform, economic change, or military persecution of past violence, the violence continued (Luper-Foy, 1992, p. 9).

Within Late 20th century Salvadoran history however, the history of conflict can be distinguished by four kinds of violence that are of concern to human rights activists: (1) targeted urban and rural violence, which includes abductions, torture, killings and “disappearances” by the armed forces of El Salvador or “death squads” connected to these forces; (2) killings and forcible relocation of civilian non-combatants by the Salvadoran Army in contested areas of the country; (3) bombings by the Salvadoran Air Force in contested zones; and (4) guerrilla violence against civilians (Blyberg, 1985, p. 23). Between 1961 and 1971, the percentage of Salvadoran families that owned land drastically reduced, and those who opposed this unequal balance of power were subjected to an age of terror that still exists today.

In an interview with Irma Martinez, who left El Salvador in 1986 and had resided in the U.S. as an undocumented immigrant, recalls her firsthand experience of the war:

I saw things when I was walking in the street. There was a man, hanging, whose skin had been removed. I was playing in an empty house in a construction area and I fell down and found a hand. (Coutin, 2004, p. 1)

Another Salvadoran Immigrant, Carlos Pineda, recalls:

I had seen so many dead people and everything; the way in which they were killed. And you know, by just looking at them all destroyed, you know, all torn up in pieces because they were cut by machetes and all that other stuff. (Coutin, 2004, p. 1)

In the case of El Salvador, violent deaths could be attributed to civilian casualties from the war between the leftist guerrilla organization Farabundo Marti National Liberation Front (FMLN), which sought to restore power and land back to the people, and the Salvadoran government, which was being funded and supported by the U.S. government. Facing prolonged warfare, the government began using a counterinsurgency tactic known as “draining the sea to kill the fish”, which translated to widespread abductions, torture, assassinations, and disappearances of civilians that were suspect of supporting the FMLN (Coutin, 2004, p. 1). With stability all but gone, civilians began to flee the country. By 1992, approximately 25% of the original Salvadoran population had been displaced and an estimated 75,000 people were dead; this did not and does not account for the hundreds of people who cannot be accounted for due to having been “disappeared”.

In the case of both Guatemala and El Salvador, the U.S. government intervened in manners that allowed progress and support for personal (American) interests; in Guatemala’s

case, it was economic land ownership. In the case of El Salvador, it was a partnership that provided weapons and amicable relations, weapons that were used to continue fueling the war within El Salvador's borders. When taken the U.S. support in both countries, the actions the U.S. government made against supporting the Salvadoran and Guatemalan immigrants who sought refuge in the U.S. becomes questionable. There was a clear bias when accepting asylum applications, yet when examining the history of U.S. intervention in Central America, it becomes clear that there is also a bias when it comes to U.S. involvement and profit. In this case, it was at the cost of thousands of innocent lives.

The 21st Century: Post-9/11 Immigration Policy and Sentiments

The terrorist attack on September 11th, 2001 shook the nation to its core, the effects of which can still be seen and felt today throughout various communities. Immediately following the attacks, people began to call for restrictions on immigration admission to the U.S., as well as to restrict the rights immigrants who already resided within the country. Anti-immigrant activists took advantage of the instability and began to push their agendas with new fervor under the newfound noble cause of preventing terrorism. While the public took to this quickly, it was fueled by misguided sentiments, as the 19 terrorists who had arrived in the U.S. were on temporary nonimmigrant-visas and therefore, were not legal permanent residents who sought to make the U.S. their home (WASLIN, M., 2003, pg. 4). To place blame on families who were looking to build a new life within U.S. borders was unfair and poorly thought out; however, with images of burning buildings, people dead or dying, and repeating news casts of the attack playing freshly in America's mind, this information was heeded little attention by the public.

Reborn and rekindled from the 9/11 terrorist attack was a firm belief in nationalism, patriotism, and nativism. According to Parks-Yancy (2009), nativism is 'broadly defined as

restrictionist beliefs about immigration and negative attitudes towards immigrants and their effects on society”. Nativism has always been a core belief in America’s history; it is because of nativist sentiments that oppressive and exclusionary laws pass, such as the 1924 National Origins Act, which nearly ended immigration with a “closed door” policy, or the Chinese Exclusion Act in 1891.

While the U.S. government does not acknowledge that public sentiments and attitudes have a role in establishing immigration policy, it is clear that change in policy leads to great public backlash. Since 9/11, the public perception of immigration has changed, with a focus directly on the “illegal” aspects of immigration and equating immigrants to criminals (Davies, I., 2009, pg. 3). These opinions only grew with George W. Bush’s policies and the instatement of the Homeland Security Act in 2002, which abolished the Immigration and Naturalization Service (INS) and set in place incorporated immigration services and enforcement into the Department of Homeland Security (DHS) (WASLIN, M., 2003, pg. 6).

There is a mutual partnership between immigration policy and immigration sentiments. In the case of activists, 9/11 served as a turning point to promote their anti-immigration, pro-nativist agendas. For policy, the instatement of the Homeland Security Act only served to further fuel already growing anti-immigrant sentiments, therefore creating a state terror that served to assist anti-immigration and pro-nativist ideals. In the end, the ones who suffered were immigrant communities, in particular immigrant communities of color. As time progressed further into the 21st century however, the future for prospective and current immigrants from Mexico and Central American countries began to look bleaker with the growing pressure for a division from the U.S. and its neighboring country. Specifically, the future of unaccompanied immigrant children was slowly being left in a state of uncertainty.

On January 20th, 2009, Barack Obama was inaugurated as the first Black President of the United States. It was a moment of hope for many communities across America. President Obama himself was victim to several allegations of being an “illegal” immigrant; he too was susceptible to the nativist sentiments that had been fostered eight years ago. He promised positive immigration reform and positive change in the country; he spoke of the “American Dream” and how the U.S. was “a nation of immigrants” (Dorsey, M. E., & Díaz-Barriga, M., 2007, pg. 2). Yet, it was his policy that ultimately led to trauma of hundreds of unaccompanied children and minors years later.

Obama’s immigration platform concentrated on three concepts: border security, employer accountability and earned citizenship. To ensure border security, a proposal to increase the number of border agents, upgrading technology and detention facilities. Obama also called for the fining of employers who hire undocumented workers and using a tamper-proof identification card to verify U.S. citizenship. To support undocumented immigrants, he suggested that steps could be taken to “earn” citizenship instead, which included paying a fine for having entered the country illegally, paying back taxes, passing a background check, learning English, and working for 6 years (Dorsey, M. E., & Díaz-Barriga, M., 2007, pg. 8). These political stances earned him the support of conservatives and liberals alike, as he supported greater border patrol but also established the humanity of those seeking to migrate to the U.S. and clearly marked that an immigrants’ love for their homeland was not a warning sign of possible terrorism but patriotism for a home away from home.

However, this changed in 2012 with the increase of unaccompanied child migrants. An unaccompanied child is defined in U.S. law as “someone who is under the age of eighteen, has no lawful immigration status in the United States, and does not have a parent or legal guardian in

the United States available to care for him/her or provide physical custody” (Chishti, M., & Hipsman, F., 2015, pg. 2). A study conducted by the United States Government Accountability Office (GAO) (2012) established that in 2012, the number of unaccompanied children (UAC) apprehended at the U.S.-Mexican border increased from more than 24,000 in the year 2012 to approximately 39,000 in the year 2013, and nearly 69,000 in the year 2014.

Prior to 2012, the majority of UAC who were apprehended at the border were Mexican citizens. However, according to the DHS, more than half of the UAC stopped in 2013 and 75% of those stopped in 2014 were citizens of El Salvador, Guatemala, and Honduras (G., 2015, pg. 2). Altogether, this would account for over 75% of all unaccompanied children and about 90% of family units that arrived in 2014. Another issue in point was the difference in age range; prior, most unaccompanied children had been teenage males between the ages of 14-17. However, for the past several years, there has been an increase of females and younger children (under the age of 14). Additionally, within the 2014 surge of migration, a majority of children and families were arriving in the city of McAllen, Texas, a location that is the endpoint for several railroads and a train, *La Bestia* (The Beast). The most interesting point of this location is that children and families who were apprehended by Border Patrol were not actively attempting to avoid detection upon reaching U.S. soil, choosing to surrender voluntarily (Chishti, M., & Hipsman, F., 2015, pg. 2).

In the 21st century, these three countries were facing a large variety of socioeconomic issues. All three countries are listed among the top five countries with the highest homicide rates worldwide in 2012, and have a range of 30-60% poverty levels split among them (G., 2015, pg. 6). In the case of Guatemalans and Salvadorans, this poverty can be attributed to their respective countries history of war, violence, and government repression. The violence in Central America

played out well into the 1990's, mainly due to U.S. support allowing extensive warfare. This warfare led to the destruction of crops, disappearance of mainly male civilians, and the decimation of communities that relied on farming for livelihood (Brabeck, K. M., Lykes, M. B., & Hershberg, R., 2011, pg. 3). As such places such as El Salvador and Guatemala tend to be headed by primarily female households, which in turn explains the increase specifically in females crossing the border post 2011.

There are several other reasons that factor into what pushes these Central American communities to migrate; one of these factors is a lack of security and a state of violence. According to the U.S. Department of State, Central America has an increasingly gang and organized crime rate, which has led to the higher rates of homicide, drug, and human trafficking and gender-based violence; El Salvador and Guatemala themselves are listed as some of the world's highest national homicide rates at 41.2 per 100,000 and 39.9 per 100,000 respectively. Compared to the global average of 6.2 per 100,000, it is safe to assume that Guatemalan and Salvadoran citizens do not necessarily feel safe in their homelands (Chishti, M., & Hipsman, F., 2015, pg. 3).

In response to the "crisis" and "surge" of UAC from El Salvador, Guatemala, and Honduras in the spring and summer of 2014, the Obama administration responded by requesting \$3.7 billion to manage and maintain the humanitarian emergency. At that time, Alejandro Mayorkas, the deputy secretary at the DHS, stated: "We are surging resources to increase our capacity to detain individuals and adults with children, and to handle immigration court hearings" (Hernández, D., M., 2015, pg. 1). The emergency detention centers that opened post-statement became a place of trauma. These detention centers used ankle bracelets to monitor freed migrants, provided emergency legal counsel to children, and sped along processing and

deporting migrants by employing immigration judges to courtrooms along the southern border. These centers also provided Central American countries with \$255 million for repatriation and reintegration programs. All in all, these centers served as a focal point for the U.S. to show its compassion and support of the Central American plight; however, when examining the conditions of displacement and the centers, the story became quite different.

The facilities commissioned in the summer of 2014 quickly fell victim to abuse allegations. While the surge of child and family migrants began early spring 2014, the Obama administration did not respond until June. Receiving immense national media coverage, the nation was shocked and outraged to see families and children being detained in sparse, cramped cells. Representing asylum seekers, several advocacy groups and the National Immigration Law Center, sued the government at the Artesia Family Residential Center in New Mexico for accelerated legal processes and infringements on due procedural rights; these charges included unsanitary conditions, restrictions on communication with attorneys, and coercing migrants to relinquish their rights and protections. This suit also sought to return three hundred deported women and children who were not given a day in court because the “credible fear standard had been elevated arbitrarily for migrants in the Artesia facility” (Hernández, D., M., 2015, pg. 3).

Another problem was that because immigration proceedings are not considered criminal in nature, the government is not obliged or required to provide immigration lawyers. As of October 2014, only 32% of UAC’s with cases pending in court were represented by an attorney (Chishti, M., & Hipsman, F., 2015, pg. 8). In attempting to ensure that the time spent by undocumented immigrants within U.S. borders was as short as possible, children and families suffered, and while the crisis “ended”, more has been in done to increase border security rather than supporting the Central American immigrants who seek refuge and asylum.

Looking Forward

In order to continue towards a path that benefits both the United States and countries like El Salvador and Guatemala, a variety of strategies must be considered. Luper-Foy (1992) suggested that the U.S. should move towards a “type of humanitarian intervention” for countries that abuse their power, rather than allowing refuge and asylum status as this allows citizens to escape their persecutors but “leaves intact the brutality and inequities faced by their compatriots” (pg. 9). Therefore, this method only enables an abusive government to continue its cycle of power and does not resolve the problem, which in turn will only increase the number of immigrants fleeing their homelands. As such, Luper-Foy moves towards having the U.S. aid foreign nations in developing their own democracies, with as little intervention possible.

In addition to that, the United States already struggles to provide for immigrant families. Local public school districts struggle to cope with new mass unexpected enrollments. Local governments struggle to provide the services necessary as these services can be expensive; many children who arrive have limited English proficiency, have varying levels of education, and often face psychological and emotional challenges associated with adjusting to a new life/culture, on top of dealing with trauma and violence experienced in their home countries or journey north (Chishti, M., & Hipsman, F., 2015, pg. 11). When considering that the government must keep U.S. interests in mind, Luper-Foy’s method seems to be the best course of action.

However, by intervening in countries that have fallen prey to abusive governments when it was the United States’ prior interventions that allowed this happen could potentially cause discontent among Salvadoran and Guatemalan citizens. They have no reason to trust a government that supported the increased growth in poverty, loss of land, and headed forces that disappeared and murdered family members within the last 50-60 years.

The truth of the matter remains that so long as the structural economic and security push and full factors remain, the U.S. and Central America will come to see migration patterns arise once more. There is no concrete solution; Obama's method of multipurpose detention centers served as a reminder that while a method may seem sound, it is the execution that matters in the end. As we approach the current 2016 Presidential elections and the end of President Obama's final term, the nation will be forced to consider the promise and ramifications each candidate has to offer in foreign and immigration policy. It will only be after the 2016 voting decision that the United States may decide which direction to take with Central America and its refugees.

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