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The 2014 "Migrant Crisis" in the US: What Does it Mean to Respond with
Humanitarianism or Deterrence?

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Abstract

This paper focuses on how deterrence and humanitarianism were conceptualized by politicians in terms of policy initiatives and solutions within discourses around the 2014 US “migrant crisis.” Analyzing how deterrence and humanitarianism were understood by politicians during the 2014 crisis served as a case study in order to better comprehend how nations define terms that impact policy options and decision making on an issue that is connected to international law and human rights, along with how international ideas and terms, like humanitarianism, are defined at a national level. The results of this analysis illustrate that the two seemingly distinct frameworks of deterrence and humanitarianism were defined in ways that allowed for them to coexist and, in some cases, mutually support the same policy initiatives advocated by politicians. The ways these terms were defined were also based on how politicians viewed the migrants and asylum seekers arriving at the US-Mexico border and their reasons for migrating. This supports the view that nations define and shape issues of international concern and international principles to fit their national context, which brings into question the ability for international law to be “universal.” These findings also carry important implications for how the US government reacts and responds to migrants and asylum seekers after the 2014 crisis. However, further research is needed to analyze how deterrence and humanitarianism were conceptualized in other areas of US society, and if these terms were still able to coexist outside of government discourses.

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Introduction

The 2014 “migrant crisis”¹ in the United States (US) was arguably the first major crisis in the US that brought a focus to unaccompanied children and families seeking asylum from Central American countries. The migrant crisis received intense interest from the American public and politicians in the spring and summer of 2014, although the increase was part of a greater, increasing trend in unaccompanied children and families arriving at the US-Mexico border since 2011 (Lind 2014). In Fiscal Year 2014 (October 2013-September 2014), there was a 77 percent increase in the number of children arriving at the border compared to the previous fiscal year, with 68,541 children apprehended during that time; 68,445 family units were apprehended as well (Lind 2014). Regarding the demographics of the children and families arriving at the border, “75% of unaccompanied children, and 90% of family unit arrivals were from Central America” (Chishti and Hipsman 2015, 96). Due to the large number of unaccompanied children, Border Patrol did not process them within the 72-hour timeframe that the law requires, and would sometimes place children in temporary holding spaces on military bases (Lind 2014). According to reporters who were given access to these holding spaces, they described the areas as being in overall good conditions, but still traumatic for the children (Lind 2014).

A combination of strong “push” and “pull” factors were labeled as possible causes which led to the development of this perceived crisis. Push factors are issues that push individuals to migrate to another area or leave their country of origin, while pull factors are issues that draw

¹ Even though I will use this term throughout the paper, it is important to acknowledge the implications of the term “crisis”. In “The Human Rights of Unaccompanied Minors in the USA from Central America,” Androff (2016) states “The term *crisis* has negative connotations and implications that should be avoided, mainly because it risks hyperbole, problematized the migrants, and adds a sensational flavor to the phenomenon which also risks inculcating historical amnesia, obscuring long-term dynamics and trends at work. However, it is also useful for its brevity and for lack of better language” (71). This term will be used throughout the paper for lack of a better way of describing the phenomenon without diminishing its implications and the importance of the journey for the migrants.

people towards migrating to a particular area. Some of the major push factors identified included issues of economic insecurity, poverty, and increasing levels of violence in the countries of Guatemala, El Salvador, and Honduras (countries from which the majority of children and families were coming from) (Chishti and Hipsman 2015, 97; Negroponte 2014). In the early 2010s, these countries had some of the highest murder rates in the world, with Honduras having the highest murder rate of any country in the world in 2014 (Lind 2014). Pull factors included a desire to reunite with family members in the US, greater economic opportunities, and widespread misperception of US immigration policies (Chishti and Hipsman 2015, 97-98; Negroponte 2014). Regarding migrants' being misinformed about US immigration policies, many argued that smuggling networks (which are an important component of a successful journey to the US) were spreading false information to migrants about immigration policy and a person's ability to stay legally in the country (Chishti and Hipsman 2015, 100). A significant number of American politicians believed that this misinformation was also due to the "generous" treatment US law provides to unaccompanied children, and the administration's immigration policies like Deferred Action for Childhood Arrivals (DACA) and increased prosecutorial discretion in immigration proceedings (Lind 2014). It was argued that these policies made it appear like the US was not deporting children and families, and would allow for them to stay legally.

When looking at the overall government response to the migrant crisis, the Obama administration did not respond to this issue until the summer, even though the number of unaccompanied children and families arriving at the border had been quickly increasing since the spring (Chishti and Hipsman 2015, 102). They initially framed the historic number of people seeking asylum at the border as a humanitarian crisis, but quickly decided that they needed to figure out a long-term approach to "deter" more people from coming to the US (Chishti and

Hipsman 2015, 103). By July, the administration began to publicize that most people who arrived in the US during this time would not qualify for humanitarian relief and would be deported, and in August announced that they would be fast-tracking court dates with immigration judges to speed up the process (Chishti and Hipsman 2015, 103). They also implemented a program that would legally allow for minors to be paroled into the US to be reunited with parents who were considered lawfully present in the country (Chishti and Hipsman 2015, 104). After August, the number of unaccompanied children and families arriving at the border sharply decreased, which arguably showed that the tough stance taken on by the Obama administration might have actually deterred individuals from deciding to migrate to the US.

Even though the Obama administration ultimately focused on implementing policies that would supposedly deter individuals from making the journey (either directly or indirectly) while also focusing on foreign policy initiatives, there were many other policies proposed as well under the umbrella of a humanitarian response. The various points of view brought up during the 2014 migrant crisis, and the different push and pull factors discussed, explored different policy responses to the issue. For example, in the Senate Judiciary Committee hearing titled “Department of Homeland Security Oversight” on June 11, 2014, Republicans advocated for stricter enforcement of immigration laws and an increase in deportations to send a message that would deter individuals from making the journey to the US; Democrats focused more on the “root causes” of violence and poverty to make the case for greater regional cooperation and emphasized the importance of treating children fairly throughout their immigration proceedings (Senate Judiciary 2014). This particular example is representative of the greater issues debated around how to best resolve the situation, specifically how the US could balance the

responsibilities that come with a humanitarian issue and the politics of border security, immigration control, and deterrence.

This paper aims to investigate the following questions: How are deterrence and humanitarian responses defined and understood in the context of the 2014 migrant crisis by government officials? And, can these two frameworks be considered mutually exclusive from one another? In order to better address these research questions, another question that drove this project was the following: How do politicians' views of children and families factor into how these frameworks were defined when talking about the 2014 crisis? Humanitarianism and deterrence are two major frameworks that, in the context of the US, shape US asylum politics and have connections to the greater immigration debate (Hamlin 2012, 52). These two frameworks are assumed to be distinct ways of viewing immigration and asylum politics. Although, through a closer examination of the discourse in the 2014 migrant crisis, this does not necessarily seem to be the case.

Overall, the evidence suggests that the way that deterrence and humanitarianism were conceptualized and defined in the 2014 migrant crisis was dependent on the way that the migrants and asylum seekers arriving at the border were viewed and what their motivations for migration were understood to be. Deterrence and humanitarianism were also defined in ways that allowed for them to complement each other, with deterrence being viewed as either the immediate or long term goal in order to stop migrants from arriving at the border, and humanitarianism as the way they should be treated within the broader deterrent policy initiatives and how the perceived causes of the crisis should be resolved. There were some differences between the legislative and executive branches in the extent to which the deterrence and humanitarian frameworks overlapped when discussing the crisis, with the executive placing more

emphasis on finding a balance between the two frameworks. However, in both government branches, deterrence and humanitarianism were defined in ways that allowed for the frameworks to coexist and support each other to a significant degree.

Exploring the discourse around deterrence and humanitarianism within the 2014 migrant crisis has important implications for understanding how similar crises in the future are understood, along with further exploring how international law and norms regarding asylum and refugee politics are interpreted and defined in a national context. The Biden administration is currently dealing with a record number of unaccompanied children being encountered and apprehended at the border (Spagat and Jaffe 2021). With the 2014 migrant crisis being the first time in which issues of unaccompanied children and families seeking asylum in the US gathered mass attention in the post-Cold War era, the ways in which deterrence and humanitarian responses were defined and the policy proposals that were a product of those discourses can help in understanding the different responses and discourses deployed in similar events after 2014. Also, this research is a case study about how a nation defines humanitarianism and deterrence, and the implications of these discourses on policy options and decision making on an issue that is connected to international law and human rights. It can further contribute to existing literature regarding how the terms used at an international level are defined and applied based on understandings developed at the national level, adding on to questions around international law's ability to be "universal" (Nash 2009; Posner 2017; Nash 2012).

Deterrence, Humanitarianism, and Central American Asylum Seekers

Before going in depth about how deterrence and humanitarianism were conceptualized during the 2014 migration crisis, it is important to first establish a baseline understanding of what these terms mean in relation to US asylum policy. A brief discussion of the history of Central

American asylum seekers in the US is also necessary to anchor the 2014 migrant crisis in historical context that is relevant to the treatment and perceptions around this particular migrant demographic. Issues around whether Central Americans are “genuine refugees” have their roots in the debates from the 1980s regarding Salvadoran and Guatemalan asylum seekers, and are still visible in modern times. During the crisis, the UNHCR conducted a study titled *Children on the Run* which found that, based on 404 interviews with unaccompanied children who arrived at the border since October 2011, 58% of unaccompanied children potentially needed international protection either through asylum or other humanitarian relief programs (UNHCR Children 2014). There was also a significant rise in the number of asylum claims at the border during this time from adults and families (House Judiciary July 2014, pgs. 11, 30), indicating that the migrant crisis was also an issue of asylum and protection needs.

Deterrence and Humanitarianism in the Context of Asylum

In the US, the history of asylum policy and politics has been shaped by three major forces: Cold War and foreign policy concerns, alignment with international law (humanitarian concerns), and the regime of deterrence (Hamlin 2012). Initially, asylum policy was attached to refugee policy, which itself was shaped by the Cold War and was seen as separate from immigration policy (Hamlin 2012, 34, 40-41). US refugee policy fully developed out of the Second World War, and was viewed as a way to advance “the concept of protecting freedom and stopping the spread of communism” (Hamlin 2012, 40). Asylum policy was shaped by similar concerns around the US's ability to combat communism, and was especially important in the cases of Cuban asylum seekers throughout the Cold War (Loescher and Scanlan 1986, 69; Hamlin 2012, 40-41). Asylum seekers and refugees from communist countries were viewed as exemplifying the superiority of Western liberal democracy, and the failures of the Soviet Union

and communism in providing for their citizens (Loescher and Scanlan 1986, xvii-xviii; Hamlin 2015, 322-323). Throughout this period, a double standard appeared in asylum policy, with Cuban asylum seekers being broadly accepted into the country and Haitian asylum seekers being systematically rejected (Loescher and Scanlan 1986, 80-82).

Even though the 1980 Refugee Act (which officially promised a systematic process for determining refugee status in asylum claims) can be seen as a turning point in the development of asylum policy, the ideological drivers shaping the treatment of asylum seekers and the refugee status determination process were not replaced until after the Cold War (Hamlin 2012, 43-44; Loescher and Scanlan 1986, 189-190). With the end of the Cold War and US success, there was no longer an ideological defense or foreign policy motive for accepting refugees and asylum seekers. During the 1990s, however, different groups came together to fight for “asylum policy consistent with international legal guidance” (Hamlin 2012, 46). Various advocacy groups attacked the Immigration and Naturalization Service (INS) agency (the department in charge of immigration, refugee, and asylum policy implementation up until 2003) for the double standard that had developed throughout the Cold War, and qualified the INS’s implementation of asylum policies as a great failure (Hamlin 2012, 46). As a result of these strong criticisms, the INS reformed the asylum program to make it more consistent with international standards, including the establishment of an Asylum Corps where individuals would be trained in international law and standards in order to determine refugee status (Hamlin 2012, 46). Overall, the persistent advocacy and reforms implemented by the INS in the early 1990s represent the time period in which humanitarianism, which was connected to alignment with international law, shaped US asylum policy.

Asylum policy was incorporated into the greater realm of immigration policy and the deterrence regime in the late 1990s, not long after the INS implemented its humanitarian reforms. During the 1990s, there was an “asylum boom” which placed significant strain on the asylum system that, due to the reforms, would take a longer time in making decisions on individual asylum claims (Hamlin 2012, 46; Hamlin 2015, 332). This significant increase in asylum seekers and the administrative costs associated with the increase also coincided with “the restrictionist political movement that had dominated American immigration politics in the 1980s and was gaining momentum in the 1990s” (Hamlin 2012, 47). Asylum policy became officially connected to immigration policy with the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), which was aimed at developing greater control over illegal migration (Hamlin 2012, 49). Regarding asylum policy, IIRIRA placed greater emphasis on “reducing potential incentives” through stricter deadlines and procedures for applying for asylum, along with attacking fraudulent claims (Hamlin 2012, 49-50). One reform that limited individual access to the asylum process was expedited removal, which left the decision of continuing with the asylum process up to a Border Patrol agent who had to determine whether an individual had a “credible fear” of persecution (Hamlin 2012, 50). In the realm of asylum policy, the regime of deterrence has manifested into a stricter process with the goal of pushing out those viewed as “nonrefugees” more quickly, and deterring people from abusing the system and staying in the country.

The asylum process up to modern day has continued to be mainly shaped by the deterrence regime, although humanitarianism is still present in the politics of asylum. For example, the 2005 REAL ID Act has made it more difficult for individuals to obtain asylum by raising the burden of proof in regards to the evidence that needs to be presented by the asylum

seeker to prove their fear of persecution (Hamlin 2014, 81; AILA Doc. No. 1 7052435 2017). This would push more individuals into the deportation process and further narrow who could be categorized as a “genuine refugee,” which falls in line with the goal of stricter immigration control in the regime of deterrence. However, in her analysis of the changes in asylum policy in US history, Rebecca Hamlin (2012) states “today humanitarianism competes not with a war on communism, but with the powerful and enduring idea that States have a right to make immigration and border control policy to their own national interests” (52). Humanitarianism can still be seen in the fact that the US still has an individualized refugee status determination process based on the international definition of a refugee, and that access to the asylum process has not necessarily been completely destroyed (Hamlin 2012, 52). Overall, two seemingly contradictory frameworks focusing on border and/or immigration control (deterrence), and alignment with international refugee law (humanitarianism) continue to shape US asylum policy today.

(Very) Brief History of Central American Asylum Seekers in the US

The first time the US visibly had to respond to Central American migrants and asylum seekers was during the 1970s and 1980s, in which many Central American states were dealing with violent civil conflict. Since this occurred towards the end of the Cold War, the US responded to this group of asylum seekers on ideological, anti-communist lines (Loescher and Scanlan 1986, 171). Many Central American countries during this time period were dealing with civil conflict between US-backed anticommunist forces and communist movements (Williams, Peace, and Kuzmarov 2018). Many of the forces supported by the US were the official governments of the Central American countries, including those of El Salvador and Guatemala, and state forces were involved in many atrocities (Williams, Peace, and Kuzmarov 2018). One

example is the 1981 El Mozote massacre, in which the Salvadoran army assassinated almost 1,000 men, women, and children in the El Mozote village (Williams, Peace, and Kuzmarov 2018). Many Central American asylum seekers arriving in the US in the 1970s and 1980s were fleeing political violence from the various groups involved in the conflicts, including state forces (Williams, Peace, and Kuzmarov 2018). Due to the fact that Central American asylum seekers were not fleeing Communist regimes, their asylum applications were systematically denied (Loescher and Scanlan 1986, 170, 193). For example, in 1980, the same year that the Salvadoran Civil War officially started, no Salvadoran applicants had their asylum petitions granted (Loescher and Scanlan 1986, 172).

Although there were some successes in fighting against the government's systematic rejection of Central American asylum seekers at the judicial level, Cold War politics was still the most significant factor in determining asylum claims through the 1980s (Hamlin 2012, 45). The Reagan administration held the view that "only those fleeing Communist countries ordinarily would be able to show the requisite fear of persecution" (Loescher and Scanlan 1986, 191). This view ended up shaping the administration's double standard response to asylum seekers, in which those who were not fleeing a Communist regime were portrayed as "illegal immigrants" (Hamlin 2012, 45). For example, "In defending the high rejection rates for Salvadorans in the 1980s, INS spokesperson Duke Austin said 'If all they wanted to do is flee violence, they would have stayed in Mexico'..." (Hamlin 2012, 45). Portraying Central American asylum seekers as undocumented immigrants by questioning their decision to make the trip to the US continues to appear in discourses around Central American migrants up to today, and is very prevalent in the discourse around the 2014 migrant crisis (House Foreign Affairs 2014, 6-8; House Homeland Security 2014, 9-10). Also, questions about Central American asylum seekers qualifying as

“genuine refugees” due to security and economic issues are still being considered today, and are central in discussions during the 2014 migrant crisis (House Judiciary June 2014, 156-157; Senate Foreign Relations 2014, 8). Overall, seeing how the US government has responded to Central American asylum seekers in the 1970s and 1980s, and how many of the same questions and issues are brought up in the present day for the same demographic, helps further contextualize the 2014 migrant crisis and the discourse around the migrants in particular.

Literature Review

An analysis of the 2014 migrant crisis touches on the broader issues of asylum and state sovereignty, international law’s influence on national politics, and national interpretations of international laws and norms. This is a case study of how a state defines terms that are utilized to address situations that are connected to international law and human rights, and addresses how an international principle like humanitarianism comes to be defined at the domestic level. There is existing literature on the issue of how a state interprets and shapes international principles to fit its national context (Posner 2017; Lupu and Wallace 2019; Stenner 2011; Nash 2009). However, this area of academic literature is contested by scholars who argue that international law itself can affect domestic populations’ views on issues of international concern (Strezhnev, Simmons, and Kim 2019; Putnam and Shapiro 2017; Simmons 2017). This tension in existing literature around the influence of international law is exemplified in the debate around human rights and state sovereignty, in which human rights (including asylum) brings into question the compatibility between the responsibility states have towards vulnerable populations internationally and their right as sovereign states to control their borders (Fabri 2008, Joppke 1997, Barnett 2001). In the rest of this section, these three themes will be discussed in more detail.

Asylum and State Sovereignty

The process of asylum touches on issues of migration politics, border control, and international responsibility, since it is the process an individual goes through in the country they arrive in to determine whether they qualify for international protection as a refugee (UNHCR Asylum-Seekers n.d.). Asylum as a human right is enshrined in the UN's *Universal Declaration of Human Rights*, stating that "Everyone has the right to seek and to enjoy in other countries asylum from persecution" (UN Human Rights 1948). However, the international community has made a clear distinction between what that right means for individuals and for states. Individuals have a right to seek asylum, which means that they are entitled to leaving their country and applying for protection in another country. States, on the other hand, have no inherent obligation to grant that protection (UN Declaration Asylum 1967). Due to this distinction, the UN High Commissioner for Refugees has published multiple documents throughout the years outlining best practices and suggestions for how a state should go about determining asylum claims and how to treat asylum seekers in a way that respects their human rights (UNHCR Handbook 2011; UNHCR Alternatives to Detention 2012).

Since states have the right to grant asylum, and individuals the right to seek it, it brings in questions about states' obligations to asylum seekers and how states should strike a balance between their sovereign right to control their borders and international obligations towards those fleeing persecution. Border control factors in through the fact that asylum seekers are physically arriving at a state's borders, rather than being resettled as an already legally established refugee. According to Christian Joppke, since border and immigration control are also intimately connected to the identity boundaries of a nation-state, asylum seekers also push the boundaries of national identity, especially in Western liberal democracies (Joppke 1997, 260-261). This makes

the decision of accepting asylum seekers even more complex, since liberal nation-states want to be seen as respecting human rights but also want to “[protect] integrity of the people from which their sovereignty derives” (Joppke 1997, 261).

States’ increasingly restrictionist stances on asylum and refugee policies have also pushed international organizations to focus on the states that individuals are fleeing from, with the assumption that “the prospect of long-term protection is ‘home’...” (Barnett 2001, 246). This brings into question whose sovereignty is seen as being in tension with asylum and refugee policy, since that line of work has pushed international organizations into the domestic politics of the states individuals are fleeing from (Barnett 2001, 249-254). However, human rights in general have impacted how sovereignty is defined and enacted. In “Human Rights and State Sovereignty: Have the Boundaries Been Significantly Redrawn?”, Fabri mentions that state sovereignty includes a “state’s absolute right to determine the fate of its own nationals” (2008, 39). However, this is contested by international human rights, which say that there are certain norms states have to follow regarding treatment of their citizens (Fabri 2008, 39). Even with these changes, Fabri argues that human rights are only able to be protected at the national level where there are varying levels of compliance based on the different control mechanisms in place pushing states to comply with human rights (2008, 52-60). Overall, existing literature acknowledges that state sovereignty is in tension with asylum and human rights generally, and explores the different ways this tension manifests in domestic and international politics. However, this literature does not address how ideas of sovereignty and international obligations can be understood differently within nations.

International Influence on Domestic Populations

There is a growing area of academic research which addresses the potential influence that international law and principles can have on individuals' opinions and their understanding of issues that touch both the domestic and international spheres (Strezhnev et al. 2019; Putnam and Shapiro 2017; Kim 2019). Some of this research has drawn on an experimental research design to determine a potential causal relationship between international law and domestic public and/or elite opinions on complying with international law (Strezhnev et al. 2019; Putnam and Shapiro 2017; Kim 2019). For example, in "Rulers or Rules? International Law, Elite Cues, and Public Opinion," Strezhnev, Simmons, and Kim (2019) found that for the countries studied (including the US) international law did have a small but statistically significant impact on respondents' support for refugee policies that go against international law (1300). Regarding the US, the authors found that "there was significant evidence that respondents were, on average, more likely to oppose nationality-based restrictions when exposed to the law treatment [exposing respondents to international law requirements towards refugees]..." (Strezhnev et al. 2019, 1294). However, the authors also note that for the US, the president's party identification also affected whether a president's endorsement of a restrictive refugee policy had an effect on a respondent's opinion towards that policy (if they were of the same party as the president) (Strezhnev et al. 2019, 1294-1295). This implies that other factors outside of exposure to international law can have greater influence on people's understanding and opinions around issues of international concern. Overall, though, the article shows that exposure to international law and principles in itself can have some significant effects on individuals' opinions towards domestic policies that might go against international law.

International law can also shape US public opinion on foreign policy decisions around human rights enforcement. In the article "International Law and Voter Preferences: The Case of

Foreign Human Rights Violations,” Putnam and Shapiro argue that international law does have an influence on public opinion around human rights enforcement abroad, but that it is predicated on whether the country’s foreign policy interests align with enforcing human rights in a certain nation (Putnam and Shapiro 2017, 253-255). Even when respondents are told that the foreign policy issue under question violated international law, US interests still played a significant role in whether sample respondents supported or opposed human rights enforcement abroad (Putnam and Shapiro 2017, 253). The conditionality that Putnam and Shapiro found in their experimental, quantitative study is similar to Strezhnev, Simmons, and Kim’s finding that, in the US, factors like a president’s party identification can have a stronger influence than exposure to international law in shaping public opinion towards restrictive refugee policies (Strezhnev et al. 2019, 1294-1295). However, influence of international law on public opinion does strengthen when states demonstrate a high level of commitment or sense of legal obligation in complying with international law, at least in the area of sanctioning transnational corporations for human rights violations (Kim 2019, 426-427). Overall, the literature illustrates that international law can influence domestic public opinion, but that the influence is in many cases conditional on other domestic factors that play a role in the extent to which public opinion agrees on states complying with international law, which indicates the importance of national understandings around issues of international concern.

International Law and Principles as “Nation-Specific”

Not only is the influence of international law in the domestic sphere impacted by specific domestic factors, but it is shaped by the ways in which international law is interpreted domestically in terms of applying to a state’s jurisdiction, context, etc. As displayed in the previous section, the relationship between international law’s influence, domestic public opinion,

and state compliance with international law is complex. However, existing literature on the ways in which international law is subject to national interpretations emphasizes that each state lives in a particular context in which the international sphere plays only a small role in the production and implementation of domestic and foreign policy. For example, in “Liberal Internationalism and the Populist Backlash,” Posner argues that the waves of populist backlash globally have turned against international law and institutions since it is seen as only benefiting global elites (Posner 2017, 795). Even though specific populist movements vary in their goals and development, a common theme highlighted by the author is that populist movements attack “elites” or the “establishment” because they are seen as not representative of the people (Posner 2017, 796). The populist view of international law and institutions challenges the assumption that the international sphere is expanding its influence in the domestic sphere, and shows how domestic perceptions of the international sphere can limit the influence of international law.

Context continues to be important in understanding the limited influence of international law, including events that could be occurring within a country at that time. In Lupu and Wallace’s article (2019) titled “Violence, Nonviolence, and the Effects of International Human Rights Law,” the authors found overall that concerns about protection from violent opposition groups is consistently more important than whether certain human rights abuses are illegal under international law (423). They also found that the ability for international human rights law to reduce public support for human rights abuses varied by national context (Lupu and Wallace 2019, 423). This illustrates how domestic issues can limit international influence due to what is prioritized in a particular time, along with suggesting that international law’s influence in general varies by nation. Variation of international law’s influence on national opinion aligns with the view that there are at least four distinct ways human rights are understood especially for

non-experts (Stenner 2011, 1215). These four ways of understanding human rights are expected, especially since human rights exist “In a context where there is no agreed unitary expert position on what human rights *really* are...” (Stenner 2011, 1221). Overall, this illustrates how the influence international law has in a domestic context varies based on how the law, and the principles underlying it, are understood and whether it can be applicable in a particular context.

In thinking about the different ways international law can be defined through the issue of human rights, Kate Nash presents “human rights culture” as something that needs to be questioned and further analyzed at a national level, since it is “only through states that human rights can be realized” (Nash 2009, 3). In her book *Cultural Politics*, Nash points out that human rights are not only deployed within a state’s institutions and procedures with a clear end point, but are continuously defined inside and outside of those procedures (2009, 9). One of the reasons why human rights can be negotiated at the domestic and international levels is because of it being an “intermistic” field, which means human rights are “both international and domestic at the same time” (Nash 2009, 14). For Nash, this status as intermistic and the definition of human rights at these two levels raises the following questions: “Are we living in a period in which definitions of human rights are being progressively expanded? If not, how is it that human rights, which appear to derive their legitimacy from international consensus on their content and form, are altered, and narrowed, as they become matters of concrete conflict within particular states?” (Nash 2009, 16). In applying these concerns to the 2014 migrant crisis, questions arise as well regarding how national understandings around humanitarian responsibility, and what policies should dominate in immigration politics, lead to specific initiatives dealing with issues of international concern.

In this book, Nash continues on to argue that there are four main areas in which human rights are defined and contested, with the goal of gaining authority over what human rights mean in practice (Nash 2009, 31-32). The four main areas are the juridical, governmental, activist, and mediated public subfields (Nash 2009, 32). Since this paper focuses particularly on how the terms deterrence and humanitarianism were defined by the executive and legislative branches during the 2014 migrant crisis, it is important to mention Nash's discussion of the governmental subfield in defining human rights. The governmental subfield is "engaged wherever there are struggles involving government officials, whose objective positions give them the possibility of making effective decisions, whether in their own states or in international governmental organizations" (Nash 2009, 41). The governmental subfield has power over two main areas in defining human rights: the power to settle disputes and ratification of human rights conventions, and their authority in deciding the extent to which government policy should conform to international law (Nash 2009, 41). However, the government is also involved in contesting human rights law to varying degrees in secrecy, in domestic courts, and within the government itself between state officials (Nash 2009, 41). The government's authority to decide the extent to which policy should ignore or conform to international law (either explicitly or implicitly) illustrates the significant power the governmental subfield has in defining terms and principles to respond to specific contexts, and the power to implement those responses.

Nash goes on to conclude by discussing the possibilities of intermistic human rights in creating a world where individual human rights can be understood in similar ways across the board, and what that would require from nations. For Nash, intermistic human rights are based on the assumption that it is not only citizens who are entitled to certain rights, but individual human beings (Nash 2009, 184). Although the author sees no inherent contradiction between

national and international human rights law, she also acknowledges that states can begin to incorporate international human rights law similarly if citizens push their government officials to be accountable to “humanity” rather than just the citizenry (Nash 2009, 182). Until then, however, human rights will most likely continue to be defined and applied in ways that satisfy national concerns and understandings of human rights. This is important to take into account when analyzing issues like immigration and asylum, where discussions of how to treat non-citizens and what rights they might have in a state that is not their country of citizenship is central in how states end up responding to those issues. This is very much state-specific, as seen with the human rights field as presented by Nash, which is why it is important to study how national discourses on issues that touch on international laws and principles end up shaping how the issues are understood and responded to.

Research Design

In order to understand how a nation goes about conceptualizing terms that shape a nation’s response to issues that are of international importance in the realm of refugee and asylum policy, I will use the 2014 migrant crisis in the US as a case study, particularly analyzing how deterrence and humanitarianism were defined and conceptualized in terms of policy initiatives during the crisis. A single case study will allow for me to gather rich information on a specific migrant crisis involving a significant number of individuals seeking protection or asylum, and how that is contextualized and understood in the US. Analyzing the 2014 migrant crisis can give us insight into the role of language and discourse in the governmental field when dealing with issues that connect to international obligations towards refugees and asylum seekers. Also, since the 2014 migrant crisis is arguably the first, most visible post-Cold War crisis the US had to deal with regarding Central American asylum seekers, understanding how

humanitarianism and deterrence are conceptualized throughout this time can help us build a baseline to understand later responses to a rise in Central American migrants arriving at the border.

In this case study, the focus will be particularly on the response to Central American children and families arriving at the border between May and August of 2014. It is important to acknowledge that, even though Central American children and families made up a large majority of the people arriving at the US-Mexico border, there were also Mexican children and families, and adults from various countries arriving at the border during this time as well (Lind 2014). However, the 2014 migrant crisis was defined by the unprecedented number of unaccompanied children and families, particularly from Central America, who were arriving at the border (Lind 2014). The time period from which data was collected for this project was between May 1st and August 31st of 2014, since it encompasses the beginning and the height of focus on the issues by politicians and the American public, and it was during this time that the government's response was forming. Even though the crisis technically began in 2011, the number of migrants steadily increased and reached record levels in 2014, particularly between May and August. Also, the number of migrants arriving at the border quickly decreased by August 2014 (Chishti and Hipster 2015, 104).

In order to get a detailed understanding of how the government conceptualized humanitarianism and deterrence, and how politicians viewed the migrants arriving at the border, documents from the executive and legislative branches were analyzed. Regarding the legislative branch, Congressional committee hearing transcripts which focused on oversight of immigration agencies during the crisis, including the Department of Homeland Security (DHS) and the US Citizenship and Immigration Services (USCIS) agency, or on Central American policy in general

were chosen. In total, nine committee hearings were analyzed. Congressional committee hearings showcase more nuanced discussions of issues from Congressmembers who are considered experts in those policy fields and/or build expertise in those policy fields through their work on the committees (Kernell 2020, 265-267). Also, committees are where specific legislation proposals and policy initiatives are tested, and reflect their ability to pass in the greater House of Representatives' and Senate floors (although this is more important in the House than the Senate) (Kernell 2020, 277-278). Within the committee hearing transcripts, attention was dedicated mostly to opening statements, government witness statements, and the question and answer portion of the hearings in order to focus mostly on politicians' understanding of the issue and how they defined the terms of concern.

Regarding the executive branch, executive press releases and press briefings were analyzed. Press briefings and releases/statements were chosen because they show how the president views the issue and potential solutions in a way that can be understood by the general public. These pieces would also focus on what the executive branch views as the most important parts of the issues, since during the press briefings the press secretary is under a time constraint to answer questions, and press releases are not very long and represent the most important parts of the president's message. For press briefings, one press briefing was read for every seven days, starting from May 1st and ending before or on August 31st. For press releases, all statements and releases connected to Central America, the 2014 migrant crisis, border security, and unaccompanied children released between May 1st and August 31st were analyzed.

For both Congress and the executive branch, I analyzed how deterrence and humanitarianism were discussed and in what contexts. Also, I looked into how children and families were discussed, particularly in terms of why they decided to migrate to the US and if

they presented a “threat” to border or national security. The main questions guiding this discourse analysis are the following:

- Why did politicians decide on a deterrence or humanitarian approach to the issue? What were the explanations for the different solutions being proposed? (Did these explanations vary by party?)
- How were the children and families perceived by politicians? What were understood as the main drivers for their migration?
- What were defined as “good” and “bad” policy responses to the crisis? What were the explanations behind what was “good” or “bad”?

These questions were aimed at focusing my analysis on how deterrence and humanitarianism were defined and understood by the politicians involved in discourse around the 2014 migrant crisis. They were formed out of initial readings of the data, and were used to further structure my data collection process.

Data Analysis

Overall, based on the data collected, the ways in which deterrence and humanitarianism were conceptualized by government officials during the 2014 migrant crisis were dependent on how politicians viewed the migrants and asylum seekers arriving at the border, and what factors politicians deemed to be most important in motivating individuals to flee or migrate. These definitions complemented each other to varying degrees. For politicians who viewed the violence and economic conditions in Guatemala, El Salvador, and Honduras as the main factor driving the crisis, they viewed deterrence as a long-term goal that could be achieved through regional cooperation and economic assistance. Humanitarianism was defined as the way that the US should treat children and families, along with making sure each individual had complete access to the immigration court system to present their asylum or protection cases, thus following international law and respecting asylum seekers’ right to seek asylum.

For politicians who viewed misinformation, lack of enforcement of immigration laws, and/or assumed that migrants believed they could stay indefinitely as the main factors driving the crisis, deterrence and humanitarianism were defined by strict immigration enforcement and mass deportation responses that would allow for the US to act “compassionately” (Senate Homeland 2014, 55). This was because the quick deportation of newly arrived migrants and asylum seekers would theoretically send a message to others seeking to migrate that they would not be allowed to stay in the US. Stopping migrants and asylum seekers, especially unaccompanied children, from making the journey to the US was seen as compassionate because it would potentially save individuals from the dangers they expose themselves to when trying to get to the US. In both cases, one can see how deterrence and humanitarianism are conceptualized in ways that allow for these frameworks to coexist and support one another, and in some cases make the frameworks seem indistinguishable from one another. The variations seen in the discourse around the 2014 migrant crisis within the US government illustrates the importance of how the state interprets and defines terms that shape its response to issues of international concern, and how that can affect a nation’s ability to align with international principles in its response to those issues (Nash 2009).

Migrants and asylum-seekers as driven out by countries’ conditions

When looking specifically at the ways in which politicians viewed the asylum seekers and migrants arriving at the border, politicians focused mostly on either the push or pull factors that motivated individuals to migrate, which influenced how they defined deterrence, humanitarianism, and possible solutions to the issue. For those that focused on the push factors, the main explanations given for individuals leaving the countries of Guatemala, El Salvador, and Honduras were that these countries’ conditions in terms of economic instability and increased violence pushed individuals to leave (House Judiciary May 2014, 87; Senate Judiciary 2014,

13-14; House Foreign Affairs 2014, pgs. 8-9, 34; Senate Homeland 2014, 8-9; Senate Foreign Relations 2014, 27-29; Fact Sheet Emergency 2014; Readout Vice President Central America Call 2014; President Statement Immigration 2014). This focus on push factors was initially seen during the House Judiciary Committee hearing on May 29 regarding the work of DHS. The DHS Secretary mentioned in the question and answer portion of the hearing that one of the main causes of the rise in unaccompanied children at the border were the violent situations in Guatemala, Honduras, and El Salvador (House Judiciary May 2014, 87).

As the number of migrants and asylum seekers arriving at the border continued to increase, those who believed that the push factors were the main cause of the crisis continued to emphasize the importance of those countries' conditions. For example, in the Senate Homeland Security and Governmental Affairs Committee hearing on July 9, the Chairman of the committee stated the following in his opening statement:

“Life in parts of Guatemala, El Salvador, and Honduras is more than difficult today... Violence has been steadily increasing in the region, with homicide rates in all three countries among the highest in the entire world. Kidnapping and extortion are endemic. Meanwhile, these countries have stagnant economies that create too few jobs and opportunities for their citizens. Faced with this violence and lack of hope at home, people from the region are voting with their feet and risking their lives on the nearly 1,500-mile journey to the United States” (2014, 8).

This statement proposes that the main factor for individuals migrating to the US were the increasingly violent crime incidents that impacted a majority of the population, and people's inability to economically support themselves, which was a view proposed throughout the hearing particularly by Democratic senators (Senate Homeland 2014). Similarly, throughout the duration of the crisis, the executive branch also placed continued emphasis on addressing the “root causes” of the crisis. Throughout the press statements the executive branch released, particularly

those which discussed meetings between US and Central American political leaders, it was repeatedly acknowledgement that the conditions in those countries needed to improve in order for citizens to stay (Vice President Honduras Call 2014; Vice President Meetings Minors 2014; Vice President Central American Calls 2014; President Statement Immigration 2014; Joint Statement Presidents 2014).

However, the individuals who thought the main causes of the crisis were the economic instability and insecurity these countries faced also acknowledged the importance of potential pull factors, further displaying the complexity of this crisis. For example, even though the executive branch did view addressing the “root causes” of the issue as vital to successfully limiting the number of people seeking asylum or migrating to the US, they also focused heavily on combating what they viewed as a “deliberate, misinformation campaign that is propagated by criminal syndicates in Central America” (Press Briefing June 20 2014). This theme of misinformation as a “root cause” in itself is also seen throughout multiple press statements that reflected what was discussed between US and Central American political leaders (Vice President Honduras Call 2014; Vice President Meeting Minors 2014; Vice President Central American Calls 2014; President Statement Immigration 2014; Joint Statement Presidents 2014). In a joint statement by the Presidents of the US, Guatemala, Honduras, and El Salvador published on July 25, it was mentioned that the presidents agreed to put more effort in countering misinformation on US immigration policy (Joint Statement Presidents 2014).

Similarly, in the legislative branch, politicians who believed the main cause were the push factors of violence and poverty also acknowledged that there were other factors significantly contributing to the crisis. For example, in Congressman Sires’s opening statement for the House Foreign Affairs Committee hearing on June 25 regarding child migration

from Central America, he mentioned that Central American governments should do what they could to fight against misinformation on US immigration policy (House Foreign Affairs 2014, 10). A few sentences afterwards, however, the Congressman stated that “Now more than ever, the U.S. should support the region in a concerted regional strategic strategy to... undermine the conditions that give way to gang and family-related violence” (House Foreign Affairs 2014, 11). This illustrates how, even though other factors were acknowledged, politicians who focused on the push factors of the crisis typically centered that in discussions about the migrants and asylum seekers at the border.

Focusing on the conditions within Guatemala, El Salvador, and Honduras allowed for those politicians to talk about the children arriving at the border as potential refugees, which in turn shaped how they defined humanitarianism and deterrence. In the House Judiciary Committee hearing on June 25 regarding the crisis, the Ranking Member of the committee mentioned how people, particularly children, are fleeing the Central American countries because of increasing violence in the region and are seeking protection (House Judiciary June 2014, 8). He went on to describe the crisis as a test of the US’s ability to follow its laws while also fulfilling its obligations towards people searching for protection (House Judiciary June 2014, 8). In labeling the countries’ conditions as the main factor driving people’s migration, the Congressman was able to see the asylum seekers and migrants arriving at the border as vulnerable people who were fleeing their countries of origin because of violence and potential persecution. Congressmembers who held this point of view were able to further support their arguments with the *Children on the Run* study published by the UNHCR (House Judiciary June 2014, 12; Senate Foreign Relations 2014, 32). Since the ability to gain asylum or some form of humanitarian protection is based on whether an individual is forced to flee for their own safety,

focusing on the dangerous conditions in Guatemala, El Salvador, and Honduras allowed for politicians who focused on the push factors to view the people arriving at the border as vulnerable people who were seeking refuge.

With this view of children in particular as people who potentially qualified for protection, these politicians viewed a humanitarian response to the crisis as treating children fairly and securing their access to submitting protection claims in immigration proceedings. The treatment of children was an important concern for almost all of the politicians involved in discussions about the crisis. However, for the politicians who viewed the children as potentially needing protection, the treatment of children not only included providing them with basic necessities and having them in less restrictive conditions, but also included fair access to the immigration system in order to submit their protection claims (House Judiciary June 2014, pgs. 13, 232; House Homeland Security 2014, 88; Senate Homeland Security 2014, 291; Senate Appropriations 2014, pgs. 58, 74-75; Senate Foreign Relations 2014, 5-7; House Judiciary July 2014, 57-59; Press Call 2014; Letter President Efforts 2014; President Statement Immigration 2014). In a Senate Homeland Security and Governmental Affairs Committee hearing regarding the migrant crisis on July 16, the chair took time at the beginning of his opening statement to stress the importance of a humane response to the children arriving at the border, specifically one that “honors our obligations under United States and international law...” (Senate Homeland 2014, 291).

Also, in a hearing from the Senate Appropriations Committee reviewing the President’s request for emergency funding to address the crisis (July 10), a Senator stated the following: “We [the US] routinely ask other countries to support refugees fleeing violence. Let’s uphold our own law and tell us specifically how can we do that, and then we will look for the funding” (Senate Appropriations 2014, 59). These statements illustrate how, for these politicians, a humanitarian

response meant treating children and families in a way that was consistent with international law. Securing access to submitting asylum and protection claims through existing US law was seen as a way to fulfill US obligations towards these children and families. The existing system in the country regarding how children should be treated when being processed and in immigration proceedings was viewed by many of these politicians as also being a humanitarian response to the crisis, since children were being treated compassionately and fairly through that system (Senate Foreign Relations 2014, 5). Overall, when politicians viewed the children and families arriving at the border as possibly having valid protection claims, humanitarianism was understood to be the US securing people's access to immigration courts and being able to submit their protection claims in order to fulfill international obligations towards refugees and asylum seekers.

However, as the crisis continued, politicians who viewed securing access to a fair assessment of protection claims not only believed this was a humanitarian response to the crisis, but also came to believe that it could act as a form of deterrence, which displays how humanitarianism and deterrence can coexist and support each other. In committee hearings on the crisis throughout July, even though there was an acknowledgement that the crisis could be considered a "refugee crisis," more individuals who viewed the push factors as the main cause of the crisis also began to emphasize that many of the individuals arriving at the border would not qualify for any form of protection (Senate Homeland Security 2014, 291-292; Senate Appropriations 2014, pgs. 8, 14, 40, 48, 55; Senate Foreign Relations 2014, pgs. 7, 27; House Judiciary July 2014, 7). In the Senate Appropriations Committee hearing on July 10, the same senator who stated that the US had a responsibility to support the children arriving at the border also stated that they did not believe all children qualified for protection (Senate Appropriations

2014, 58). Although, since at least some of the children did qualify, this senator believed it was the US's responsibility to assess every claim to make sure those with genuine claims would gain protection in the US, further showing how a humanitarian response meant following US and international law when it came to children having a fair assessment of their claims (Senate Appropriations 2014, 58-59).

In a hearing on the Senate Foreign Relations Committee on July 17, we begin to see a greater acceptance of the idea that most of the children arriving at the border would not qualify for protection. For example, in the Chairman's opening statement, they stress how dangerous changing existing law could be to the due process rights of children seeking protection, but then goes on to state "there will be many under the existing law who will be deported, who will not have proven a credible case..." (Senate Foreign Relations 2014, 7). The chairman's comment shows how having fair access to the system will work in favor of both controlling the number of people who are able to stay in the country while allowing for the US to fulfill its obligations under international law. This is because the system can ideally distinguish between "credible" refugees and those who have no valid claims to protection, which as insinuated by the previous comments a significant number of people arriving at the border were assumed to not have valid claims at this point in the crisis. Deterrence becomes a part of the system through the deportation of those with "illegitimate" claims to protection, since they would not be allowed to stay in the country. This is further supported by the ranking member's statement in the House Judiciary Committee hearing regarding oversight of the USCIS, where they mentioned how children deserved a quicker process to have their protection claims decided on, and that those who are determined to not have valid claims needed to be deported quickly (House Judiciary July 2014, 7).

The ability for the system to be a deterrence mechanism itself becomes clearer when looking at the policy initiatives suggested by the executive branch, which are also built on the belief that many of the individuals arriving at the border would not qualify for protection or relief from deportation (Press Call 2014; Letter President Efforts 2014; President Statement Immigration 2014; Readout Pena Nieto July 2014; Fact Sheet Molina 2014; Press Briefing June 20 2014). In a press briefing on June 20th, the press secretary agreed that the goal of increasing the capacity and processing ability of immigration courts and procedural facilities was to get people through more quickly and be able to deport a majority of individuals who would not qualify for protection (Press Briefing June 20 2014). This was based on the view that “when those cases call, as they do in many, many cases for the removal of these individuals back to their home country, that that’s something that can be executed pretty efficiently and effectively” (Press Briefing June 20 2014). The ability to determine a person’s status more quickly and subsequently deport them was viewed as potentially sending a strong signal to others in the Central American countries to not make the journey to the US because being able to stay was not guaranteed (President Statement Immigration 2014). In the executive branch, one can see how a humanitarian response of securing a migrant or asylum seeker’s ability to submit their protection claim can also act as a deterrent based on the belief that a majority of people would be deported once their case was processed. This illustrates how deterrence and humanitarian responses can coincide and support one another in cases where the individuals arriving at the border were viewed as vulnerable people being pushed out of their countries and were deserving of a humane response.

For those focused on the push factors, deterrence was also most consistently defined by the US’s ability to assist the countries in improving conditions for their citizens, which also

allowed for deterrence and humanitarianism to coexist in this perspective (House Foreign Affairs 2014, pgs. 8-9, 11, 35; House Judiciary June 2014, 13; House Homeland Security 2014, 53; Senate Homeland Security 2014, pgs. 8-9, 18, 293; Senate Foreign Relations 2014, 7). On June 25, the House Foreign Affairs committee held a hearing specifically on what the State Department and other US institutions directed at international development could do to help alleviate the issues of economic insecurity and violence in the three Central American countries (House Foreign Affairs 2014). Although the hearing was overall directed towards issues of US aid to Central America, there were still significant divisions between the politicians (mostly Democrats) who believed that the main cause of the crisis were the conditions of the countries, and others (mostly Republicans) who believed it was due to a lack of strict enforcement of immigration law and the Obama administration's immigration policies (House Foreign Affairs 2014).

Politicians who viewed the conditions as the main drivers for the crisis underscored the need for the US to have a long-term goal of assisting in the region to improve the countries' conditions. For example, the full committee ranking member for the House Foreign Affairs committee mentioned that 61 House members sent a letter to the President strongly advocating for greater investments in government initiatives that would tackle gang violence and economic issues in Guatemala, El Salvador, and Honduras, along with increasing the funds for upcoming Fiscal Year 2015 (House Foreign Affairs 2014, 5). Later on, another Congressman also emphasized the importance of investing in job creation and security networks that could come out of an economic focus, since "if that [job creation and security networks] happens then we don't have to worry about, you know, people crossing our borders all the time" (House Foreign Affairs 2014, 35). Here, one can see how investing long-term in economic and security initiatives

were seen as a way to limit the number of people coming to the US since the causes of their migration would ideally no longer exist, which was continuously advocated for in other, later Congressional committee hearings (House Judiciary June 2014, 13; House Homeland Security 2014, 53; Senate Homeland Security 2014, pgs. 8-9, 18, 293; Senate Foreign Relations 2014, 7). Foreign policy and aid is thus the main deterrent, which is able to coexist with the more short-term humanitarian response of securing individuals' ability to submit and have their protection claims heard. Overall, from this perspective, deterrence and humanitarianism can act together to effectively and humanely respond to the crisis, which illustrates how these two frameworks are not necessarily mutually exclusive or inherently opposed to one another; they can coexist and help achieve politicians' goals based on how they are conceptualized.

Migrants and asylum-seekers as drawn towards the US

In turning towards the politicians who believed the main cause of the crisis could be attributed to mostly pull factors, one can also see how deterrence and humanitarianism are conceptualized in a way that allows for these terms to become inseparable in policy proposals. For the politicians who focused on these factors (who were mostly Republicans but also included the executive branch), the crisis was seen as a product of the Obama administration's lack of immigration enforcement and policy changes like DACA, which incentivized children and families to make the journey believing that they would be able to stay in the country (Senate Judiciary 2014, pgs. 8, 16, 22-24, 31; House Foreign Affairs 2014, pgs. 6, 35-36, House Judiciary June 2014; House Homeland Security 2014, pgs. 6, 18, 23, 54, 105; Senate Homeland Security 2014, pgs. 10, 24, 28, 42). There was also a more general assumption that people were being incentivized to migrate to the US because of the belief that they could stay in the country due to the immigration process (Senate Homeland Security 2014, 312; Senate Appropriations

2014, 50). The emphasis on the administration's lack of action in immigration enforcement was mentioned early on in Congressional committee hearings, with the first mention of this being in the Senate Judiciary Committee hearing on oversight of DHS on June 11. In his opening statement, ranking member Chuck Grassley stated the following:

“Children are being lured into these dire circumstances quite frankly by false promises... This is a disaster made by the administration, and only the President can correct it by sending the signals that these people should not be brought here and that the law is going to be enforced. In other words, the President must take responsibility. Unfortunately, the administration does not seem to be prepared. It has failed to propose any solutions that will prevent children from being put in this situation in the future.” (Senate Judiciary 2014, 8).

This statement by the ranking member illustrates the belief that a significant number of politicians in Congress had, in which the main cause of the crisis were the administration's policies and lack of strict enforcement, and that the responsibility in terms of solutions fell on the administration itself.

There was also the belief that people were pulled to migrate to the US due to the immigration process that migrants from Central America would go through, which to some extent made it seem like people could stay in the country and which smugglers were assumed to advertise to people in order to make a profit off of their journey. The specific issue that politicians who focused on the pull factors were referring to was the processing of Central American children. The 2008 Trafficking Victims Protection Reauthorization Act expanded protections for unaccompanied children who were not from Mexico or Canada (so-called noncontiguous countries) by barring the government from expediting these children's removal (Hulse 2014). This made the processing of children by immigration agents and courts a lot longer, since the children had to be transferred to the custody of the Department of Health and

Human Services (HHS) and wait for their immigration hearing (Hulse 2014). In the Senate Appropriations Committee hearing on July 10, this was pointed out by Senator Johanns, who mentions that smugglers are telling parents that the US government will let children stay in the US, and that to some extent they are correct due to the 2008 trafficking law which, it is assumed, decreases the chances of children being deported since they are able to more easily evade immigration proceedings once they are released (Senate Appropriations 2014, 50). This illustrates how the system itself was also viewed as incentivizing individuals, which was seen as having an important role in the development of the crisis.

The executive branch also believed that the assumed “benefit” of being released due to the 2008 trafficking law itself was incentivizing individuals, but it was also seen as an issue of misinformation by smugglers who were exploiting individuals’ vulnerable situations. Regarding the 2008 trafficking law, the Obama administration began to ask Congress to provide the “DHS secretary additional authority to exercise discretion in processing the return and removal of unaccompanied minor children from non-contiguous countries like Guatemala, Honduras, and El Salvador...” (Letter President Efforts 2014). The DHS secretary himself also advocated for increased discretion in the removal process for Central American children in a committee hearing for the Senate Appropriations Committee on July 10, where he specifically requested to have the ability to “offer” these children the option of voluntarily returning to their country of origin (Senate Appropriations 2014, 47). This was because the DHS secretary believed individuals in the Central American countries needed to see people being deported back to their countries of origin in order to stop more people from making the journey (Senate Appropriations 2014, 47). These statements illustrate that the executive branch stood in agreement with those

who believed the main cause of the crisis were issues in immigration enforcement and incentives being provided either through the administration or by the immigration process.

However, the administration also placed significant weight on misinformation as one of the main causes of the crisis, particularly misinformation that was spread by migrant smuggling organizations. For example, in the emergency request for funding that the President sent to Congress, the administration requested funding to tackle smuggling networks, and in a subsequent call between the Vice President and Central American governments, the administration focused on collaboration between governments to fight misinformation campaigns and prosecute smugglers (Fact Sheet Emergency 2014; Readout Biden Call Central American Presidents 2014). Furthermore, in a statement by the President on immigration released on July 9, the president stated that “parents who are frightened or are misinformed about what’s possible are willing to take extraordinary risks on behalf of their kids” (President Statement Immigration 2014). In these cases, the administration presented the crisis as driven by a major misinformation campaign which needed to be addressed in order to aid in solving the crisis. Although, it can be seen through the request in increased discretion around the 2008 trafficking law that the administration also viewed the system of processing children as supporting these misinformed views to some extent, which is why asking for increased discretion was a possibility.

With the belief that immigration policies and a lack of enforcement were incentivizing individuals to arrive to the US, migrants and asylum seekers arriving at the border were not necessarily viewed as potential refugees who were fleeing dangerous conditions from their home countries, but were mostly viewed as people being placed in dangerous situations for a chance to stay in the US. This view was specifically applied to unaccompanied children. In a Senate

Homeland Security and Governmental Affairs Committee hearing on July 9, one senator stated that “true compassion really would be to prevent this from happening, to actually attack the root cause, which... is the incentives we are creating for parents to send their children on this arduous journey” (Senate Homeland Security 2014, 55). In this case, the Senator makes the main issue of the crisis out to be the dangerous conditions that children are being placed in through the pull factors that exist, and that a “compassionate” response would include removing the incentives so that individuals are less likely to make the journey. This is similar to a statement made almost a month earlier in the Senate Judiciary Committee hearing on June 11 by Senator Ted Cruz, who stated “These numbers [presented by the DHS secretary on the number of unaccompanied children arriving] represent children, little boys and little girls that their parents are handing over... to international global criminal cartels that smuggle human beings in” (Senate Judiciary 2014, 38). These statements are representative of the view that pull factors are causing a humanitarian crisis due to the situation that children are being placed in.

It is important to note that although this was the main view of politicians who believed that perceived incentives drove individuals to migrate to the US, there were also some politicians that viewed the children arriving at the border as potential “threats.” In a House Judiciary Committee hearing on June 25, a Congressman stated the following: “So if I am under 14 and I say I am under 14 and I look under 14, and I am a gang member that has been deported, you don’t know that, because you are not taking his fingerprints” (House Judiciary June 2014, 146). Since Border Patrol does not take biometric information from children under 14, but the children are still able to be released during their immigration proceedings, the Congressman argued that anyone who “appeared” to be under the age of 14 could be let in to the country even if they were not a young child or could be a criminal, which could pose a threat to American citizens (House

Judiciary June 2014, 146). This view of the migrants and asylum seekers arriving at the border as potential public safety “threats” also appeared in the Senate Homeland Security and Governmental Affairs Committee hearing on July 9, where a senator stressed that a “juvenile” can be as equally dangerous as an adult, and that the US needed to be more careful with newly arrived undocumented migrants (Senate Homeland Security 2014, 45). This view of migrants as potential “threats” raises important implications for how to deal with the crisis, specifically contributing to the idea that increased border security and strict immigration enforcement in this instance is vital for national security because they would stop “dangerous” individuals from arriving.

Although the view of migrants and asylum seekers, particularly children, as being placed in dangerous and vulnerable positions on the journey to the US due to the perceived pull factors driving the crisis was more common, both ways of viewing the migrants when focusing on the pull factors led to similar definitions of deterrence. For the politicians who viewed the lack of immigration enforcement, misinformation, and incentives within the system as the main causes of the crisis, a deterrence response was understood to mean strict enforcement policies and fast-tracked deportations of people arriving at the border in order to send a message to others to not migrate to the US (Senate Judiciary 2014, 24; House Foreign Affairs 2014, pgs. 6, 36-37; House Judiciary June 2014, pgs. 11, 130-131; House Homeland Security 2014, pgs. 6, 18, 22-23, 33, 85; Senate Homeland Security 2014, pgs. 10, 28, 312; Senate Appropriations 2014, pgs. 12-13, 40-41, 50; Senate Foreign Affairs 2014, 43-44; House Judiciary July 2014, pgs. 5-6, 30; Press Briefing June 20 2014; Press Briefing July 3 2014; Press Briefing July 10 2014; Press Briefing July 31 2014). In the House Foreign Affairs Committee hearing on June 25, the Chair of the committee stated “we have got to take immediate steps to send those children to their country

of origin to be reunited with their families. Failure to act quickly and return these kids is going to cause even more children to risk the perilous trip north” (House Foreign Affairs 2014, 6). In this statement, one can see how, in viewing the crisis as placing children in dangerous situations rather than as a crisis driven by the Central American countries’ conditions, the end goal of potential policy initiatives becomes finding ways to deter individuals from migrating as soon as possible. For the chair of the House Foreign Affairs Committee, the repatriation of unaccompanied children to their countries of origin would be a quick and efficient way to disincentivize individuals who are thinking of migrating, or sending their children to the US, because they would see that no benefits would come out of it (House Foreign Affairs 2014, 6).

The view espoused by the Chair of the committee is further supported by another committee member later on in the same House Foreign Affairs Committee hearing. During the question and answer portion of the hearing, Congressman Duffy argues against the idea that the individuals making the decision to migrate, and for their children to migrate, do not know that the trip is dangerous or are misinformed about the journey, which is an argument made by the Obama administration regarding what was causing the crisis (House Foreign Affairs 2014, 36). The Congressman believes that people do know how dangerous the journey is, and the only way to stop people from taking the risk is to send a strong message that the US will not accept the children in the country (House Foreign Affairs 2014, 36). By deporting children back to their countries of origin, the trip will be deemed “useless” and people will not put their lives at risk, or the lives of their children (House Foreign Affairs 2014, 36). This view of deterrence is defined by its short-term response and the potential benefits that the children, their families, and the US receive out of stopping people from attempting to reach the US-Mexico border.

The executive branch defines deterrence in a similar way, but placed greater emphasis on migrants and asylum seekers being misinformed about US immigration policies. For example, in a press briefing on June 20, the press secretary emphasized that individuals should not be considering making the journey to the US because, even if it does appear in the short-term that individuals can stay, once a case is determined the individual will most likely be deported (Press Briefing June 20 2014). The press secretary went on to mention that it is necessary to build the capacity of procedural facilities so that the case determination process can go through more quickly (Press Briefing June 20 2014). Here, the secretary illustrates the view of the executive branch that most individuals coming to the US during the crisis were not refugees, and had no valid protection claims. Also, they display the importance of fast-tracking deportations in combating what is perceived to be a misguided view of the immigration system. Deterrence is thus defined by its ability to send a clear message to migrants to not arrive to the US, and in its ability to stop individuals from making a dangerous journey, especially if the decision is based on misinformation. This is further supported by the press secretary stating the following in a press briefing on July 3 regarding the need to resolve cases and repatriate children more quickly: “It sends a clear and unmistakable signal to a parent who might be considering putting their children in the hands of a stranger... if they get to the border that they’ll be allowed to remain in the country. That is simply not the case” (Press Briefing July 3 2014).

However, as insinuated by the press secretary in the June 20 briefing, misinformation was also assumed to play a key role in pulling migrants and asylum seekers to migrate to the US, which also defines deterrence in the context of combating misinformation. In multiple press statements released by the executive branch, it was reiterated that children and families who arrived at the border during this crisis would not qualify for DACA or for a new immigration

reform bill being discussed in Congress during 2014 (Readout Pena Nieto June 2014; Readout Vice President Honduras 2014; Press Call 2014; Readout Pena Nieto July 2014). With these statements, it is assumed that individuals were at least partially motivated to migrate to the US because they falsely believed that they, or their children, would qualify for immigration reform or the increased discretion guidelines regarding relief from removal in the immigration process that the Obama administration was implementing at the time. These assumptions ended up shaping a core response from the executive branch, which was to fight against misinformation through public information campaigns throughout the Central American countries and fighting smugglers, who were deemed to be spreading misinformation on US immigration policies (Fact Sheet Children 2014; Press Call 2014; Readout Vice President Minors 2014; Letter President Efforts 2014; Readout Biden Call Central American Presidents 2014; Readout Pena Nieto July 2014; Fact Sheet Molina 2014). For the executive branch, deterrence as a short-term response also meant fighting against what they viewed as mass misinformation in the Central American countries which incentivized people to migrate. In doing so, this form of deterrence would allow for the US to further “promote safe, legal and orderly migration” (Fact Sheet Molina 2014).

When looking more closely at these conceptions of deterrence, particularly within Congress, one can begin to see how deterrence in terms of mass deportations and strict immigration enforcement can also be understood as humanitarian responses, which blurs the distinction between deterrence and humanitarian frameworks. In the first part of the Senate Homeland Security and Governmental Affairs committee hearing held on July 9, Senator Johnson stated early on in the question and answer portion of the hearing that “I cannot think of a more humane thing to do, even though it maybe sounds a little cruel, than to deter parents from sending their children to the United States, and I cannot think of a better way... as to literally

take these minors... and return them to the country of origin..." (Senate Homeland Security 2014, 33). The Senator acknowledged that the mass deportation of children sounds cruel and inhumane, but he argued that it is actually a humane response because it would stop parents from pushing their children to make the dangerous journey to the US.

Later on in the same hearing on July 9, Senator Johnson goes on to state the following:

"I mean, we are a compassionate society. We understand these are children. We want to show true compassion. I think the point that a lot of us are making here today is true compassion really would be to prevent this from happening, to actually attack the root cause, which I will restate again is the incentives we are creating for parents to send their children on this arduous journey... As nice as those posters look like [talking about the administration's public information campaigns in Guatemala, Honduras, and El Salvador], they will do nothing, nothing in comparison to what planeload after planeload of children being returned to their families... would do. That is the most important thing we could do to deter parents from doing this to their children" (Senate Homeland Security 2014, 55-56).

Senator Johnson's statement represents the idea that deterrence policies can convey true "compassion" by disincentivizing individuals from putting their children in danger. Here, deportation of children is seen as a humanitarian response as well to the crisis, because it would theoretically be resolving the issue of children risking their lives on a journey to the US. Humanitarianism is thus conceptualized as a way to minimize the risks of children, and to some extent of families as well, in attempting to reach the US with the idea that they can stay in the country.

A humanitarian response, then, does not necessarily mean following international guidelines from the perspective of politicians who view pull factors as the main causes for the crisis, but rather it is understood as finding ways to treat children well and fulfill the US's

obligation to treat the people arriving with “compassion.” In a Senate Appropriations Committee hearing on July 10, Senator Coats prepared and submitted an opening statement in which he states the following:

“It is our responsibility as a nation and a compassionate society to care for the hurt and displaced, but we cannot simply open our arms and encourage all the world’s children to strike out on their own, face endless dangers, and come to our shores... Our country should continue to meet the needs of children who have been sent here... Given how rapidly this situation is escalating, the United States has a moral responsibility to swiftly solve this crisis. This situation involves more than just unaccompanied minors. We cannot ignore the national security implications of a weak border” (2014, 13).

The senator’s statement illustrates how meeting the needs of children and deterring people from making the journey was viewed as an obligation for the country, and as a humane response to the issues being faced while also considering the US’s own national security interests. Mass deportation can then be seen as a humanitarian policy response, since it would allow for the US to fulfill its moral and national obligations in “caring” for children by preventing their migration. Overall, humanitarianism can be understood as inherent in deterrence policies based on the humane goal of preventing future harm, which deterrence can ideally achieve in a short period of time.

This understanding of deterrence and humanitarianism was further supported by Congressmembers who assumed the main cause of the crisis were pull factors by attempting to discredit the idea that the Central American countries’ conditions were the main cause of the crisis. In a House Judiciary Committee hearing on June 25, a representative tried to show that the conditions that unaccompanied children were fleeing in their home countries were not as dangerous or deadly as it had been made out to be by stating that the Detroit homicide rate was

almost the same as the homicide rates seen in the Central American countries (House Judiciary June 2014, 156). In that same hearing, another representative also tried to illustrate in their line of questioning towards a witness that the conditions in the Central American countries had not changed enough to push individuals to migrate to the US, and that what had changed was the belief that people could stay in the US (House Judiciary June 2014, 235). The representative also stated that “If we start enforcing the law today, I will submit to you that we can save children. You won’t see those dead bodies, you won’t see these girls that are getting raped, and you won’t see these children that are getting abused by these criminal gangs” (House Judiciary June 2014, 235). This statement represents the view that deterrence is humanitarian, since strict enforcement of immigration law can “ideally” have positive implications for the lives of children and families risking their lives in hopes of staying in the US (House Judiciary June 2014, 235). This also supports the idea that the migrants and asylum seekers were not potential refugees, which also allowed for politicians to ignore international obligations a nation has towards refugees and led to a different view of humanitarianism.

Although the executive branch did advocate for greater immigration enforcement and fast-tracked deportations based on its view of migrants and asylum seekers as being incentivized to make the journey to the US, it is also important to note that the administration was very much concerned with finding a balance between those deterrent policies and treating children humanely. In a fact sheet on unaccompanied children published on June 20, the administration stated that “Our first priority is to manage the urgent humanitarian situation by making sure these children are housed, fed, and receive any necessary medical treatment” (Fact Sheet Children 2014). They also go on to discuss their plans for increased enforcement, including speeding up immigration proceedings to remove individuals more quickly if they do not qualify for protection

(Fact Sheet Children 2014). For the executive branch, a humanitarian response was understood as focusing on the needs of children and families in custody, which could coexist with their deterrence response of increased enforcement.

For the administration, finding a “middle ground” between these two frameworks was very important, and was emphasized in multiple briefings and statements released throughout the duration of the crisis (Fact Sheet Children 2014; Press Call 2014; Letter President Efforts 2014; Letter Supplemental 2014; President Statement Immigration 2014; Fact Sheet Molina 2014; Press Briefing June 20 2014). For example, in a published letter from the President, he stated the following:

“My administration continues to address this urgent humanitarian situation with an aggressive, unified, and coordinated Federal response on both sides of the border... This includes fulfilling our legal and moral obligation to make sure we appropriately care for unaccompanied children who are apprehended, while taking aggressive steps to surge resources to our Southwest border to deter both adults and children from this dangerous journey, increase capacity for enforcement and removal proceedings, and quickly return unlawful migrants to their home countries” (Letter President Efforts 2014).

The administration tried to balance what it perceived to be its humanitarian obligations of treating children well, while also making sure it was able to limit the number of people making the journey to the US through a deterrence response which had humanitarian implications in the sense that it would stop individuals from making a dangerous journey. This need for balance could be due to the fact that the President had to navigate and respond to constituents and groups with differing views. As can be seen in this analysis, there were very different views around how the crisis should be handled, and to what extent deterrence and humanitarianism could support each other and coexist based on how the terms were defined.

Conclusion

All in all, in analyzing the discourses around the 2014 migrant crisis within the legislative and executive branches, one can see how deterrence and humanitarianism were defined based on politicians' understandings of what motivated migrants and asylum seekers to arrive at the US-Mexico border at that time and how the migrants themselves were viewed. The discourses also highlighted how deterrence and humanitarianism can be defined in ways that allow for these frameworks to coexist and mutually support one another. For those who viewed the countries' conditions (push factors) as the main motivators for migration, they understood deterrence as a long-term process directed towards improving conditions in Guatemala, El Salvador, and Honduras, while humanitarianism was understood to be the US fulfilling its national and international obligations towards asylum seekers by securing fair access to the refugee status determination process. However, as the crisis continued, fair access to the system was also seen as a potential deterrent by allowing for individuals who did not qualify for protection to be deported more quickly. These politicians were also more likely to view the migrants as potential refugees.

For politicians who viewed incentives in the immigration system, the Obama administration's immigration policies (e.g. DACA), and overall misinformation on the immigration process (pull factors) as the main motivators for migration, they understood deterrence and humanitarianism as disincentivizing individuals from making the dangerous journey to the US through strict immigration enforcement and mass, fast-tracked deportations of migrants and asylum seekers. These politicians were more likely to view the migrants as vulnerable individuals who were incentivized to make the journey to the US, and in some cases were viewed as national security threats. The executive branch in particular seemed to try to find

a balance between how deterrence and humanitarianism were defined based on these two main viewpoints on those frameworks. The different ways that deterrence and humanitarianism were defined, along with the varying degrees to which the frameworks overlapped or led to the same policy initiatives, illustrates the importance of understanding how nations define and understand frameworks that shape their responses to issues of international concern, and how they understand terms that are used by the international community. Specifically, humanitarianism in the context of responding to refugee crises cannot be assumed to have the same meaning across nations, as can be seen with the 2014 migrant crisis. Humanitarianism can be defined in ways that allow for a nation to continue implementing policies that emphasize border security, strict immigration enforcement, and mass deportation of individuals who could have valid claims for protection.

There are some limitations to this paper that need to be addressed. Regarding the methodology, this paper specifically focused on an analysis of committee hearings that addressed the 2014 migrant crisis to represent discourses in the legislative branch. However, the discourses within the committee hearings might not be completely representative of the views held by every politician within the Senate and the House. Further analysis of House and Senate floor debates on proposed legislation on the crisis, and statements released by Congressmembers on the issue could give further insight into the different ways that deterrence and humanitarianism were defined by politicians during this time. Also, the ways in which the crisis, deterrence, and humanitarianism were understood by the public at large and by interest groups dedicated to the issue of immigration and refugee politics were not included in this analysis. This paper is thus not representative of the different public discourses that can shape national understandings of frameworks that influence national responses to issues of international concern. However, this

paper still contributes to a better understanding of how a nation defines and understands terms and principles that impact their responses to issues of international concern, like refugee and asylum policy, by focusing specifically on the ways in which the government subfield defines and understands those terms, which has great implications for policymaking on the issue due to the power the state holds.

The ways that deterrence and humanitarianism were defined and understood during the 2014 migrant crisis can also help us better understand future issues connected to migrants and asylum seekers arriving at the border from Central America, and political responses to those issues. Since the initial record number of unaccompanied children that was set during the 2014 migrant crisis, there have been several instances throughout the following years of a large number of unaccompanied children and families arriving at the border, illustrating that the 2014 crisis was the beginning of a visible issue that the US is still struggling to address today. For example, in Fiscal Year 2016 (October 2015 to March 2016), “The number of family apprehensions [was] more than double that of the previous year. The number of apprehensions of unaccompanied children shot up by 78%” (Krogstad 2016). Also, there was a significant amount of media and public attention directed towards the migrant “caravans” under the Trump administration, which included families, women, and girls joining in mass to make the journey to the US and many with the intention of seeking asylum (Lind 2018). The Biden administration is currently responding to a large number of unaccompanied children encountered at the border, with the highest monthly number ever recorded of unaccompanied children being reached in March 2021 (Spagat and Jaffe 2021).

The current rise in unaccompanied children at the border, and politicians’ responses to the issue are reminiscent of some of the discourses found within the 2014 migrant crisis. Due to

processing delays caused by the large number of unaccompanied children arriving, there have been reports that Border Patrol began to release migrant families without an immigration court date, and have directed them to a US Immigration and Customs Enforcement (ICE) office within 60 days of being released (Spagat and Jaffe 2021). HHS has also struggled in placing children in more suitable and comfortable conditions while waiting for their immigration court date (Spagat and Jaffe 2021). These delays have led to criticism from different sectors of the US public, with the governors from the states of Texas and Arizona writing an opinion piece in the *Washington Post* titled “The border crisis in our states was created by the Biden administration” (Abbott and Ducey 2021). The governors go on to describe the perceived threat that the rise in unaccompanied children and families pose to border security (Abbott and Ducey 2021). The view of unaccompanied children as threats to US national security, and their migration as being due to incentives that were created by the Biden administration, is almost the same argument made by individuals who believed the Obama administration’s policies were to blame for the 2014 migrant crisis. This shows how the understandings developed during the 2014 crisis are still very much present in discourses around perceived migrant “crises.”

With the current crisis, it will be interesting to see whether similar policy initiatives are proposed as well, and whether deterrence and humanitarianism continue to be conceptualized in similar ways that allow for them to mutually support each other and/or coexist. However, it is also important to understand the perspectives of the individuals fleeing their countries of origin. In the 2014 UNHCR study *Children on the Run*, there were multiple statements from children included in the publication. One child, a 17 year-old from El Salvador, stated the following in his interview:

“I left because I had problems with the gangs. They hung out by a field that I had to pass to get to school. They said if I didn’t join them, they would kill me. I have many friends who were killed

or disappeared because they refused to join the gang... The more they saw me refusing to join, the more they started threatening me and telling me they would kill me if I didn't. They beat me up five times for refusing to help them. The pain from the beatings was so bad, I couldn't even stand up... I went to the police twice to report the threats. They told me that they would do something; but when I saw that they weren't doing anything to help, I knew I had to leave. I even brought a copy of the police report I made; but U.S. immigration took it from me and threw it away. They said that it wasn't going to help me in this country" (UNHCR Children 2014).

As policy initiatives continue to be promoted throughout the current situation, it is important to center the experiences of the individuals migrating to the US, and understand the potentially deadly consequences of the policies being implemented by the US government. Specifically, in thinking about deterrence as "humane" due to the view that it could stop individuals from making a dangerous journey, we also need to be mindful about what situations we are deporting individuals back to, and the complexities of people's decisions to migrate. If we ignore the voices of migrants and asylum seekers when attempting to address these issues, their lives could be placed in danger.

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