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Extended Commentary: Administrative Failures: The Immigration Detention Centers and Abu Ghraib Prison

Cover Page Footnote

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Extended Commentary:

Administrative Failures: The Immigration Detention Centers and Abu Ghraib Prison

In 2018, the Trump Administration put forth an immigration policy as an attempt to correct the American immigration issues. Under this Executive Order, it became legal to separate children from their parents. Americans were horrified that children could be separated from their parents while attempting to cross the border. Many arguments centered on the ramifications this could have on the emotional well-being of a child.

Political phrasing surrounding the family separation policy changed—first going from a zero tolerance policy to keeping families together as long as possible.¹ Politically, however, it does seem that both sides of the aisle are aware that there is, in fact, a serious problem with immigration. “While few Democrats have mentioned specific legislative remedies outside of an ambitious overhaul, it’s not necessarily reflective of an unwillingness to change immigration laws as Trump asserts.”² Despite the phrasing and perspective of the “family separation” policy, there are numerous implications associated with the detention of people. One article explains that it is still particularly hard for Border Patrol to manage the policy and the influx of immigrants.³ Months after these policies were first made apparent to Americans, the detainment camps still exist. Other reports surfaced where Border Patrol agents in El Paso, Texas were overwhelmed by the numbers of migrant families turning themselves in at the border.⁴ The system is clearly overwhelmed and we must work together to address this humanitarian crisis and protect vulnerable populations," [former secretary] Nielsen said in a statement released after meeting with officials in El Paso.⁵ The reports about the detainment policies highlight numerous potential administration policies in the enforcement of Trump’s immigration policy. In many ways, the 2018 “Family Separation” Policy is similar to the detainment policy in the Abu Ghraib

Iraqi Prison that ultimately led to numerous human rights violations. From an administrative standpoint, the immigration policy is creating numerous managerial issues that are reminiscent of an administrative failure the United States has already experienced: the Administrative failures of the Abu Ghraib Iraqi Prison.

The Overall Problem with Immigration

In the last few decades, it has become apparent in the United States that illegal immigration is a problem. The United States has always been a country made up of immigrants—a piece of Americana that many Americans take pride in. However, an influx of immigrants can take a tremendous toll on a country, as it can put a significant strain on a country's resources, agencies, and administrations. This toll was cited when President Trump unveiled his Executive Order surrounding illegal immigration.⁶ Immigration is a policy concern that impacts other areas of society in significant ways. Considering issues with international terrorism, undocumented immigrants can potentially pose a security threat if immigration policies are not handled with appropriate measures. Congressman Phil Roe (R) states on his website, "Illegal immigration is a serious threat to our national security, one that is very expensive and a burden to hardworking taxpayers."⁷

Experts focused upon a variety of policy areas agree that undocumented immigration has caused problems for the United States. From the perspective of Homeland Security, Central American undocumented immigrants have created security issues, specifically in relation to gangs such as MS-13, which have wreaked havoc in some parts of the country.⁸ The Trump Administration argues that undocumented immigration has a profound effect on every single component of society, impacting hospitals, emergencies, and the economy.⁹ Undocumented immigration has indeed created security issues related to human trafficking; both in terms of

immigrants being promised a better life in the United States and, in other instances, immigrants being the traffickers enslaving others for profit.¹⁰

For Khalid Koser at *The Brookings Institution*, the concept of problematic immigration and the policies surrounding it are tied together by the policies that govern it.¹¹ He writes, “Labeling any issue a security threat has significant implications in terms of the laws, norms, policies and procedures that become justified in response.”¹² He continues to explain, “In the migration context, for example, the label has been used to justify greater surveillance detention, deportation and more restrictive policies. Such responses in turn can impact the migrants involved, for example, by denying asylum seekers access to safe countries, driving more migrants into the arms of migrant smugglers and human traffickers, and by contributing to a growing anti-immigrant tendency among the public, within the media and in political debate in many countries.”¹³ Koser’s arguments highlight a number of different problems that come with restrictive immigration policies that further complicate the policy problem at the American-Mexican border.

Some argue that since undocumented immigrants do not pay taxes, they are hurting the American economy. Hanson explains “Illegal immigration benefits employers and unauthorized immigrants while it puts downward pressure on U.S. wages.”¹⁴ Other arguments suggest that undocumented immigration in the United States is having a tremendously negative impact on the nation’s already broken healthcare system. Bustamante and Van der Wees make the argument that undocumented immigrants do not always have access to healthcare in the United States because they are undocumented.¹⁵ They write, “Lack of familiarity with the system may contribute to low health care use among the foreign-born.”¹⁶ They also suggest that the longer an undocumented immigrant is in the United States, the more chances they have to understand

how the American system works making them more likely to start to use the healthcare system.¹⁷

Other scholars suggest that harsh policies regarding undocumented immigration only drives undocumented immigrants further underground, creating more of a national security problem.¹⁸

While the United States is a country made up of immigrants and is certainly a source of incredible pride, immigration and the debate surrounding it has changed dramatically in the last hundred years.

Trump Policy on Immigration at the Border

The Trump Administration claims that there has been an influx in immigration, writing, “The Executive Office for Immigration Review has over 312,000 cases with pending asylum applications.”¹⁹ The Trump Administration also explains that the number of people seeking asylum has swelled by an incredible 1900 percent since 2012.²⁰ The number of individuals seeking asylum reached an apex in 2017²¹ making the situation a particularly serious one that needs immediate attention. The President warned that the current border crisis is creating a serious situation for Americans as undocumented immigrants are impacting every component of society negatively and there have to be policies in place to effectively address it.²²

The 2018 policy quickly spiraled into the practice of immigrant children being put into detention centers without their parents. “Under the zero-tolerance policy for border enforcement, thousands of children were sent to holding facilities, sometimes hundreds or thousands of miles from where their parents were being held for criminal prosecution.”²³ While the policy horrified Americans, the converse argument stems from the dangers of undocumented immigration and its impact on Homeland Security. The Trump Administration cited in an Executive Order that “Aliens who illegally enter the United States without inspection or admission present a significant threat to national security and public safety.”²⁴ The Executive Order also highlights

“The recent surge of illegal immigration at the southern border with Mexico has placed a significant strain on Federal resources and overwhelmed agencies charged with border security and immigration enforcement as well as the local communities into which many of the aliens are placed.”²⁵ The Executive Order would appear to be a strong immigration policy to help correct some of the issues the United States is experiencing throughout the country where security issues are concerned. A January 6, 2019 article quoted former Secretary Kirstjen Nielsen as saying, “The policy’s execution, however, horrified Americans. The notion that families were separated at the border was deeply concerning to most.” Parents would be prosecuted under this policy while children would be sent to a shelter or to foster care in the interim.²⁶

President Trump’s immigration policy brings forth a serious moral dilemma: Immigrants built the United State but now this wave of immigration is deemed not acceptable. While it is important for Americans to continue to have immigrants coming into America, policies need to be in place to help Border Patrol Agents and other law enforcement agencies to create a safety net. The unfortunate reality, however, is the American homeland security agencies working on the immigration policy at the Mexican border are not well equipped to be able to handle the influx of immigrants due to the policy changes.

Language of the Executive Orders

The language of the Executive Orders surrounding immigration is particularly important for how it affected immigration policy. Policies focus and define many ethical considerations of society, and will often dictate the moral code of a community. It is for these very reasons that policy design is crucial as it will define how society handles certain situations.

The Trump Administration’s Executive Orders have altered immigration policy in the United States. One of the Executive Order from the Trump Administration reads as: “Under our

laws, the only legal way for an alien to enter this country is at a designated port of entry at an appropriate time. When an alien enters or attempts to enter the country anywhere else, that alien has committed at least the crime of improper entry and is subject to a fine or imprisonment under section 1325(a) of title 8, United States Code.”²⁷ This language is particularly important for how it encompasses numerous security problems when individuals do not come into the United States following the proper channels. There are currently policies in place to allow for customs agents to review individuals wanting to enter the country in an effort to minimize criminal activity. Just as the Executive Order reads, when an individual enters the country through other means, they are instantly a security threat because agents are unaware of who these individuals are and they are unable to minimize security efforts.

The second piece to this Executive Order is particularly important to understanding the nature of the separation policy. The Trump Administration’s Executive Order continues with, “It is also the policy of this Administration to maintain family unity, including by detaining alien families together where appropriate and consistent with law and available resources.”²⁸ The logic here is particularly important because it defines the notion that families will not be separated unless they *have* to be separated. The wording lessens the notion that all families will be separated placing a safety barrier and one that might be more appealing to the American public. Finally, the Executive Order specifically states the separation of families writing, “The Secretary shall not, however, detain an alien family together when there is a concern that detention of an alien child with the child’s alien parent would pose a risk to the child’s welfare.”²⁹ Again, this is important for the justification of separating families at all—which horrified Americans in the general public.

The Trump Administration's policy certainly has a couple of important justification pieces for how it attempts to manage the issues with undocumented immigration. The justifications also state that the separation of families will only occur if there is a need to do so. These justifications are important for how they structure the overall policy. Enforcement of the policy can be quite different, especially if an infrastructure may not be in place to adequately justify and support the policy.

Immigration Issues Impact on Emergency Management & Homeland Security

When it comes to this policy and its impact on emergency management and homeland security, one has to consider the numerous effects it has on logistics, personnel and effective tracking and monitoring of detainees—when families are separated. Ultimately, for a policy to be managed effectively there needs to be a solid administration plan in place to manage the various pieces of the policy. According to Ansell, Sorenson and Torfing, “Collaborative policy design and adaptive policy implementation will help public policy makers to improve policy execution...Attempts to improve policy implementation must begin by looking at policy design, which can be improved through collaboration and deliberation between upstream and downstream actors.”³⁰ For the border policy to be effective, this means that there needs to be a thorough plan for managing the logistics, tracking and monitoring of detainees at the border. There also needs to be a great amount of collaboration between federal departments to help administer and enforce the policy. As suggested by Ansell, Torenson and Torfing, this involves the collaboration of numerous federal departments.³¹

It is not clear how the government is managing the detention centers or how the departments are collaborating to manage the influx of detainees. The reports surfacing, however, are telling a story that may show administrative failures in how departments are collaborating

and what the policies are at the lowest level of analysis to effectively manage the detainees. These issues are reminiscent of an administrative failure in recent history: the issue with the Abu Ghraib Iraqi Prison.

Comparison with Abu Ghraib

While the influx of detainees on the Mexican and American border certainly has a tremendous impact on Border Patrol, this is not the first time that the United States has created a policy that it would later have tremendous trouble humanely implementing. During the Iraq War, individuals were detained when they were thought to be terrorists, or have terrorist connections. These individuals were detained at Abu Ghraib Prison without a real plan to ever release them. Several scholars indicate there were administrative failures at the core of this scandal. “The systematic problems identified in the many investigation reports paint a picture of administrative failure that stretches from Abu Ghraib prison to Washington, D.C.”³² This is potentially similar to the detainment camps for immigrants attempting to enter the country illegally.

The story of Abu Ghraib starts with an army officer that took control of the prison, but did not have insight into what was happening inside of the prison. Janis Karpinski, an Army reserve brigadier general (a one star general), was put in charge of the military prisons in Iraq.³³ She had never managed a prison prior to this assignment, she was, however, a brigadier general and had the experience needed for such a billet.³⁴ When the news broke regarding Abu Ghraib, there were numerous instances of torture. Photos were taken of naked prisoners, and there was evidence that other prisoners had been beaten as there was one photograph taken of an empty room covered in blood.³⁵ In another incident, a prisoner was so stressed out by the prison and the goings on of the prison that he passed away.³⁶

Administrative Failures

When the news broke about the conditions at Abu Ghraib, General Sanchez ordered the Army's chief law enforcement officer, Provost Marshal Donald Ryder, (a major general), to conduct a full investigation.³⁷ General Ryder found that there were numerous instances of administrative failures at the prison, including personnel had not been properly trained.³⁸ One of these failures included the notion that Brigadier General Karpinski did not visit the prisons.³⁹ These managerial failures ultimately led to a breakdown in appropriate management of the prison—which many argue led to the overall torture of the prisoners.

Numerous scholars argue that administrative failures often contribute to the breakdown of the management of any organization. Scholars note that the Challenger Disaster was the result of an administrative breakdown. "Perrow argued that organizational and technological failures have become so intimately linked that to fully understand the cause of most major accidents, we must analyze both the administrative and technical aspects of the situation."⁴⁰ Heimann argues, "While there have been some administrative critiques of NASA in the wake of the disaster, almost all have centered on issues of bureaucratic culture, such as the agency's propensity to ignore key evidence and its myopic view of its mission."⁴¹ Administrative failures are not isolated to the issues with NASA however. Administrative failures were also noted in the disaster of Hurricane Katrina and the aftermath of the storm. Kettl, argues that Hurricane Katrina's disaster was the result of administrative failures at all levels of government.⁴² Additionally, there were coordination issues with international nongovernmental organizations involved in the relief efforts of Hurricane Katrina.⁴³ These issues combined led to numerous administrative failures that produced such a tremendous response disaster.⁴⁴

Administrative failures are often at the center of major policy breakdowns and scandals. The issues with the separation of families at the border will no doubt reveal over time that there were numerous administrative failures between agency collaboration and policies enforced by personnel directly dealing with detainees that contributed to abuses or problems with managing the detention centers. The potential for problems with this particular immigration policy may be a result of how the policy is interpreted and enforced.

Issues with Detainees on the Border

Numerous reports emerged regarding a number of problems Border Patrol is having at the border. Some of the reports focus on there being not enough space or problems with the food for some detainees. Other problems extend to a lack of medical care and even the deaths of detainees in some cases. These problems can be indicative of numerous administrative problems—as highlighted as some of the problems that were noted in the administrative failures of events like Hurricane Katrina, and the human rights violations at the Abu Ghraib prison in Iraq.

When there are administrative failures occurring with a policy, it can be difficult to manage all of the aspects of the policy—particularly when there are policy loopholes in place. One article explains that because of a “loophole in federal policy allows [for] the “Tent City” at the Tornillo Port of Entry in Texas and a massive shelter in Homestead, Florida to escape the rigorous, often unannounced child welfare inspections that nearly all other similar shelters are subjected to.”⁴⁵ This is problematic because it does not allow for this particular shelter to withstand the normal policy scrutiny other shelters may face creating a potential problem for the overall management of the shelter. Another article documents another policy loophole by explaining that some of the shelters are not overseen by the state, potentially creating another loophole where they are not subjected to the appropriate scrutiny for effective management.

“The U.S. Department of Health and Human Services (HHS) operates more than 100 shelters for unaccompanied migrant children across 17 states. All but two – Tornillo and Homestead, housing more than 1,350 children combined—must comply with state regulations that govern nearly every aspect of a child’s stay.”⁴⁶ Additionally, “Tornillo and Homestead are located on federal land, where state officials have no authority.”⁴⁷

Other articles detailed that individuals simply were not being cared for appropriately in these shelters. Another report emerged stating that the “federal government is not adequately caring for minors in its custody.”⁴⁸ The report continues to explain, “attorneys who visited Border Patrol stations, ports of entry and family detention centers filed a scathing report this week alleging that the federal government is not adequately caring for minors in its custody.”⁴⁹ “Children and their parents interviewed by the attorneys described cramped cells where there wasn’t enough space or bedding to sleep, cold or frozen food and a lack of access to basic hygiene products like toothbrushes and soap,”⁵⁰ These issues could absolutely become more problematic over time if they are not handled appropriately with the appropriate administrative measures.

Some of the more serious reports highlight issues with the appropriate treatment of detainees, including alleged abuses such as detainees being forced to strip naked, “guards referring to detainees as filthy,” cold cells, (so cold that one individual developed pain in her leg), and detainees being fed frozen food.⁵¹ Other allegations include poor sleeping conditions, no showers (with individuals not bathing for 5 days) and unsanitary drinking water.⁵² These issues, if not handled appropriately, can spiral into more even serious issues in the future.

Limitations of this Extended Commentary

This article is currently limited as there is not a lot of detailed information about how the overall agencies are managing the influx of detainees. Thus, more research will be needed in the future to better understand if and how administrative failures are existing contributing to the overall problem Americans are seeing where potential human rights abuses exist.

Conclusion

The United States has dealt with criminal activity in the last couple of decades and numerous politicians have tied the issue of criminal activity to that of undocumented immigration, claiming that undocumented immigration is a serious security threat. The separation of families at the border was meant to be a deterrent to individuals illegally crossing the border, but Americans were horrified at the notion of families being separated. Reporters have been particularly interested in the problems associated with detaining people in the shelters reporting concerns about the treatment of detainees. More research will be needed in the future to understand specifically the administration and enforcement of this policy examining whether human rights abuses took place as a result of the administration of the policy. At this time, this article is limited because there is not a lot of information published about the collaborative failures of the government or policy problems at the lowest level of analysis. In order to correct the problems seen with the detention centers, however, it will be of serious importance for the federal government to review this particular policy and its administration, interpretation and enforcement. Without doing so, there is a serious potential for the detainment centers to commit humanitarian violations in similar respects as what occurred at the Abu Ghraib Prison.

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