

Children of Immigration: A Holistic Developmental Approach/An Imperative for Social Justice

Abstract

The purpose of this paper discusses a theoretical framework that applies the concepts of commutative, distributive, contributive and restorative justice with five basic principles to advocate for social justice for the immigrant child. Past and current immigration policies address the failure of the United States to respect the human rights of immigrant children and in the process discard a valuable and critical future resource. Practitioners and educators will be better informed and empowered to argue for equity for the immigrant child using the principles of this framework.

Introduction

Understanding social justice and its important role in implementing policies and practices in a just manner, particularly as applied to immigrant children, can be difficult and complex in a society that has engendered negative cultural beliefs about immigrant families. Children and women are often discounted as "...valueless economic actors" (Pearce, Clifford & Tandon, 2011, p. 7) yet their contributions "are crucial to building new economies and expanding existing ones" (p. 7). The experiences and voices of immigrant children are silent in a society that has displaced the human agency theory with administrative actions of alienation, separation and uncertainty.

The children of immigrants face insurmountable challenges including poverty, discrimination, deportation, isolation due to language and cultural barriers as well as difficulties in attaining access to the nation's educational system. The well-being of immigrant children is

essential to the survival and productivity of the nation because they are the fastest-growing segment of the U.S. population. Since 1990, children that contributed mostly to the net growth were under nine years of age and living with immigrant parents. In 2008, nearly one in four youth aged seventeen and under lived with an immigrant parent, up from 15 percent in 1990 (Passel and Taylor, 2010). The situation of the present day immigrant child is more complex than earlier waves of immigrants because of the diversity in national origin, socioeconomic status, acculturation patterns and the growing numbers are occurring simultaneously within a period of escalating socioeconomic inequality (Marta and Haskins, 2011; Min Zhao, 1997). In order to better understand the enormity of the immigration crises concerning children, Child Trends Data Bank reported that the percentage of immigrant children, either first or second generation, increased by 45 percent between the years 1994 and 2014. First generation children are those who were born outside the United States and second generation immigrants are those who were born within the United States and its territories. In addition, the website reports that 28 percent of immigrant children had one parent born in the United States. While the largest proportion of immigrant children come from Mexico, the three next most common countries of origin for the parents of immigrant children are El Salvador, India and the Philippines.

In the past, implementation of policies and practices regarding immigration were based on exploring the reasons for immigration emphasizing the push and/or pull factors affecting people within a given life situation. The push factors for immigration were often related with environmental disasters, civil strife, religious and political freedom and human rights; the pull factors were related to economic advancement, political opportunity, seeking a homeland and exploring new frontiers (Graham, 2006). Immigrant children are usually the central focus of this

movement, that is, the desire for a better life and opportunities particularly in education and perceived economic prosperity.

From the nation's founding and throughout the 19th century, the economic benefits of immigration were promoted in tandem with a policy of colonization and relentless expansion into territories westward that were once the domain of indigenous peoples. At the same time, the growing demand of industry for cheap labor drew hordes of new immigrants into the cities. As the immigrant population increased so did the issues confronting urban schools such as increased class size, and children from impoverished families with lower levels of education than the earlier immigrants. Such problems continued well into the last decades of the 20th century. In response, some state and local governments adopted measures whose effect was to limit the resources available to immigrants (Christie, 2010, in Encyclopedia of educational reform and dissent, p. 455).

In response to these issues, the concepts of commutative, distributive, contributive and restorative justice will be applied and integrated with five basic principles focused on their impact on the immigrant child in order to better inform and support advocacy (Kerwin, 2014). Likewise, these principles will not necessarily be addressed in the order of their presentation . Those five principles are as follows:

- Persons have rights to find opportunities in their homeland
- Persons have rights to migrate to support themselves and their families
- Sovereign nations have the right to control their borders
- Refugee and asylum seekers should be afforded protection
- The human dignity and human rights of undocumented migrants should be respected

Social Justice

Social justice, as the primary form of justice, incorporates four other forms of justice:

- *Commutative justice* which defines the relationships of a member within the group culture and fosters equality for fair standards of reciprocity in society.
- *Contributive justice* which advocates that individuals become productive participants in society and that society has the obligation to empower them to participate.
- *Distributive justice* requires that the allocation of resources be evaluated from many perspectives so that many individuals in society have their basic needs met.
- *Restorative justice* which seeks to reconcile conflicted parties in a way that enables them to find common ground for a new, more equal footing in broken relationships. (Himchak, 2005; Reisch, 2002).

The social justice perspective examines the aforementioned five principles as well as the four social justice corollaries in a global quilt of fractured policy and impoverished rhetoric.

All four forms of social justice reflect the Universal Declaration of Human Rights as “The recognition of the inherent and of the equal and inalienable rights of all members of the human family [which] is the foundation of freedom, justice and peace in the world” (Preamble, 1988, p. 1; Axin & Stern, 2006). However, long before human rights were written in international documents and national constitutions, people in ancient traditions have adopted human rights as a basic principle of social justice in society. Earliest implementation of human rights and social justice have been recorded in the Hamurabi Code, the Old and New Testament writings, the Koran, teaching of Confucius, Hindus Vedas, and Native American legends (Shiman, 1997).

In respecting the human rights and the human dignity of the undocumented immigrants, the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that “everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” Primary importance was emphasized in the document regarding the rights of children to special care and assistance. The Declaration of the Rights of the Child states the child, by reason of his or her physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth.

On September 24, 1924, The League of Nations adopted the “Geneva Declaration of the Rights of the Child” as follows (<http://www.un-documents.net/gdrc1924.htm>):

By the present Declaration of the Rights of the Child, commonly known as "Declaration of Geneva," men and women of all nations, recognizing that mankind owes to the Child the best that it has to give, declare and accept it as their duty that, beyond and above all considerations of race, nationality or creed:

1. The child must be given the means requisite for its normal development, both materially and spiritually;
2. The child that is hungry must be fed; the child that is sick must be nursed; the child that is backward must be helped; the delinquent child must be reclaimed; and the orphan and the waif must be sheltered and succored;
3. The child must be the first to receive relief in times of distress;
4. The child must be put in a position to earn a livelihood, and must be protected against every form of exploitation;

5. The child must be brought up in the consciousness that its talents must be devoted to the service of fellow men.

In 1989, the United Nations General Assembly Convention on the Rights of the Child, adopted a resolution with 41 articles pertaining to the rights of children with the following excerpt referencing the declaration (<http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>):

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,...

Sovereign nations have the right to control their borders/ Persons have rights to find opportunities in their homeland

Commutative Justice

Primarily, there is recognition that sovereign nations can control their borders for the common good of its citizens; however, while the sovereign states, may impose reasonable limits on immigration, the common good is not served when the basic human rights of the individual are violated. The rights of sovereign states are challenged when control is exerted merely for the purpose of acquiring additional wealth by exploitation of workers (Kerwin 2006). Further, all

nations have an obligation to the universal common good of the people in the world's community. Under these precepts, it requires that the global community be responsible in protecting the undocumented immigrants, refugees and asylum seekers by establishing an immigration system which transitions them in a safe and dignified manner to the status of citizenship.

The present day immigration situation, especially regarding immigrant children and the undocumented immigrant is more complex in that it contributes to the social climate that is polemic and contentious. When examining the issue from the social justice perspective it is important to understand that justice includes both equality and equity and has two dimensions, namely, individual rights and the common good of society. The common good concept implies that a culture provides for health, welfare, and the dignity of all people, and promotes the best interests of everyone, not just a few. Thus, the potential in implementing policies and practices utilizing the common good concept must be considered not only from the perspective of the individual, but from its impact on society. Several principles underlying the common good concept should be considered in the discussion regarding social justice in the context of immigration. All participants in formulating policy should acknowledge that no one has all the answers to the situation and that the disagreeing participants are acting in good faith with good intentions. It also advocates that each group of participants in society put forth its best construction of differing positions, addressing the strongest points rather than seizing upon the most vulnerable aspects of the different positions in order to discredit the more vulnerable participants in society. Participants also embrace the realities of the institutional and governmental cultures of society, not by simple defiance nor by naïve acquiescence, but by acknowledging both the valid achievements and real dangers that exist.

Nations also have an obligation to the universal common good and should seek to accommodate migration to the greatest extent possible. Powerful economic nations, such as the United States, have a higher obligation to serve the universal common good (Pope John XXIII, 1963). In the current global environment, in which there are jobs in the United States which immigrants can fill, an immigration system should be established which provides avenues for persons to enter the nation legally in a safe, orderly, and dignified manner. Refugees and asylum seekers should be afforded protection from harm and persecution.

The implementation of sovereignty is always changing, as states, individually and collectively, struggle with new problems and opportunities, explore new endeavors, advance in technology and communication, establish new norms, while learning from their past practices. Transformations of sovereignty is a reflective process in establishing and articulating new norms, and understandings of old norms and practices into the framework of international law and politics. Presently sovereignty is essentially based on borders, not any capacity on the part of governments (Donnelly, 2004).

Within the current century, globalization has become a major trend and a challenge of sovereignty rights for the world-wide community. With the increase in economic growth in world-wide partnership in trade, major concerns over security issues have also arisen. Two main factors have shaped the migration policies and the protection rights of citizens with the states. The first factor was the increase in the number of international labor markets which created new opportunities and the need for skilled and unskilled labor which could be filled by migrant workers. The second factor, was the shortage in the labor force, population decline, and increase in the world's aging population (Miller and Baumeister, 2013). In addition to these two socio-economic factors, the tragic event of 9/11 not only increased national security but heightened

border control and rapid regulation with government gate-keeping and security agendas in keeping high-risk migrants and suspected terrorist from entry across the United States borders. Commutative justice calls for all members of just society to accept and to empower the immigrants to define their relationships as members within the group culture and to foster equality for fair standards of reciprocity in society. In respecting the immigrant individual person's dignity and worth by seeking equality based on fair standards it also requires reciprocity in human relationships by the members in society. It also rejects the encroachment on others' rights. Commutative justice encourages self-determination of the immigrant's choices and empowers them to define themselves as people who have self-awareness and responsibility in their choices in developing life plans as new arrivals in a strange land. Persons who enter a nation without permission should be treated with respect and dignity. They should not be detained in deplorable conditions for lengthy periods of time, shackled by their feet and hands, or abused in any manner. They should be afforded due process of the law and allowed to articulate a fear of return to their home before a qualified adjudicator nor should they be blamed for the social ills of a nation.

Persons have rights to migrate to support themselves and their families

Contributive Justice

In the current condition of global poverty, and at the cost of leaving their homes and risking their lives to enter a new nation, undocumented persons have the right to migrate to other countries, as well as to find opportunities in their own homeland to survive and to support their families. Contributive justice advocates that the immigrants become productive participants in society and that society has the obligation to empower them to participate. The Convention on the Rights of the Child 1989 holds that "the family, as the fundamental group

of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community. Human relationships enable people to meet their needs and provide an important vehicle for change. In order for children to reach their full development it is essential that they grow up in a family environment fosters an atmosphere of happiness, love and understanding. Contributive justice explores the avenues in society that empowers immigrant family in establishing and maintaining family stability, family engagement, family relationships, family responsibility and family diversity in becoming collaborative participants in society.

Conversely, there are many barriers in and among immigrant family members including culture, education, employment, knowledge of the health care system, and language as they struggle in adjusting to their environment. Culture provides a sense of identity for the immigrants in their affiliation to the group (Haley, Alan, Chen and Burton, 2002). Respecting cultural diversity and understanding the importance traditions and cultural values of the immigrants for the protection and harmonious development of their children is imperative for establishing and maintaining family stability, family engagement, family relationships, family responsibility in improving the living conditions of children in every country, in particular in the developing countries.

Contributive justice advocates for the immigrant family members, policy makers, government officials, all professionals and all citizens in determining the services that serve all parties as the general welfare in the development of individuals, families, and communities and the common good of society, especially the children who are the future citizens. The Dream Act in its family impact analysis acknowledges and “respects the family as the basic unit of society

and respects diversity of family life that is the different cultural, ethnic, racial and religious backgrounds; various geographic locations and socio-economic statuses and families with special needs and families at different life cycle.” It promotes family stability, family engagement, family relationships and family responsibilities by empowering “partnership with families in assessing and balancing the competing needs, rights and interest of family members and preventing the participating families from be devalued and stigmatized” and being subjected to impoverished living situations.

The human dignity and human rights of undocumented migrants should be respected

Restorative Justice

Restorative justice seeks to reconcile conflicting parties to find common ground (Shiman, 2004). It considers the basic moral test of any community or society to be in the way in which the most vulnerable members are faring. The concept of restorative justice is further developed by John Rawls’ conception of justice. In the Original Position, “the people in a society choose the principle that minimizes the worst possibilities for any group so that the greatest benefit of the least advantaged is provided and protected” (Rawls, 1971, p. 12). The ideal of social justice challenges individuals to advocate against injustices in society. Educators and practitioners advocate for living conditions conducive to the fulfillment of basic human needs and to promote social, economic, political, and cultural values and institutions that are compatible with the realization of social justice. Professionals pursue change with and on behalf of vulnerable and oppressed individuals and groups to address poverty, unemployment, discrimination, and other forms of social injustice. They also expand choice and opportunity, and they promote justice (NASW, 2003). Restorative justice seeks the common ground for all voices to be heard, in particular the “cry of the poor.” Whereas in resolving immigration issues actions taken by some

individuals for their own good and they may be justified in particular circumstances, these actions may not be something that benefits society as a whole.

Refugee and asylum seekers should be afforded protection

Distributive Justice

Distributive justice implies that the goods of society should be distributed in the fairest way; therefore, the most seriously injured would have access to their basic needs. Reamer (1995) presents four main criteria for distributing scarce resources: equality, need, compensation, and contribution. Reamer (1990) states that members of society assume an obligation to assist those in need, especially those who seem unable to help themselves” (p. 36). Professionals, federal and state government officials have the ethical responsibility to promote the general welfare of people and their environments (NASW, 2003). No one country can provide for or meet the needs for the millions of immigrants from around the world. The lives of legal citizens in all countries are “impacted by the presence of, and continued migration of, undocumented immigrants—negatively and even positively” (Stephan, 2011). The views of the legal citizens must be included in the discussion regarding the transmigration of immigrants. All parties need to seek a common ground position in reaching a constructive way to resolve complex disputes. It is essential that all parties involved consider the other groups perspectives rather than solely their own and advocate for consensus that benefits all participants (Negy, 2012).

The inequity in the distribution of subsidies and the equal access to health care has been a major conflictual issue polarizing legal Americans in the United States. Limited resources in subsidizing government programs for the impoverished Americans in Medicare and Medicaid have become a major concern. While the estimated 12 million undocumented immigrants have medical needs and emergencies in which their costs are absorbed by the American taxpayers

(Brimelow, 2008). Although the undocumented immigrants may pay taxes, “the majority of undocumented immigrants are poorly educated and are of low-income” (Pew Hispanic Center, 2009); therefore, the costs for undocumented immigrants extend beyond primary health care and may include nutritional programs, and childcare. The inequity in the distribution of subsidies and the equal access to health care has been a major conflictual issue polarizing legal Americans in the United States. Limited resources in subsidizing government programs for the impoverished Americans in Medicare and Medicaid have become a major concern. An estimated 12 million undocumented immigrants have medical needs and emergencies in which their costs are absorbed by the American taxpayers (Brimelow, 2008).

The plight of the Immigrant Child/Tangled in the world’s quilt of Unequal Justice

Profile of the Immigrant Child

Who is the Immigrant Child? The immigrant child is often described through immigration policies and statistical data. The United States Immigration Services defines the child as being an individual who is not married and under 21 years of age. (U.S. Immigration Services 2014). The Dream Act defines the immigrant child and youth through the eligibility criteria as follows:

The child and/or adolescent must be between the ages of 12-35; arrived in the US before the age of 16; resided 5 years continuously in the U.S.; graduated or will graduate from a U.S. high school or obtain a GED diploma, and the immigrant must be of good moral character that is the individual is not convicted of murder or convicted of any other Federal crime. (2010 American Immigration Council).

Passel and Taylor present a statistical profile describing the immigrant child according to population growth between 2005-2009. The immigrant child was under nine years of age and living with both parents. Additionally, one out of four of the fifteen percent of the youth 17 years of age and under live with an immigrant parent. (2010). Seventy- three percent of the children of undocumented immigrants are U.S. citizens. In 2008, four million mixed-status immigrant families lived in the U.S. as opposed to 1.5 million undocumented immigrants living in the US. In the same year, the Census Bureau estimated that among the nation's population only 4% were undocumented immigrant; however, immigrant children made up 6.8% of the students enrolled in the nation's elementary and secondary schools (Passel, 2009).

Diversity is a very important factor in describing the immigrant children and youth of today. The immigrant youth are "more diverse racially and ethnically than in any other time in the nation's history; they are also more diverse than any other age group today, and the principal source of this diversity is immigrant youth" (Passel, 2011. p. 30). This factor impacts upon the types and scope of the resources needed to educate bilingual youth. In 2009 white, non-Hispanic children accounted for 56 percent of all children under eighteen. The representation of Hispanics and Asians is substantially greater among immigrant youth and adults than among U.S.-born children with native parents in the total population. In the 1990's, 58% percent of the children in the U. S. were white, while immigrant youth who were third generation were 58% Hispanic in origin and 16% Asian in origin.

Finally, out of the seventy million youth residing in the United States, one fourth are immigrants. It is projected that by 2050, the number of immigrant youth will grow to become one-third of the 100 million of all the children in the United States. (U.S. Immigration Services 2014).

Child Citizenship Rights

Sovereign nations have the right to control their borders, a right that is the traditional and fundamental principle that underpins the regulation and admission of aliens limiting their freedom of movement. According to Bahbha (2014), “Israel is an extreme case in point. It ignores the residence or ‘private life’ rights of children born in Israel to parents without legal status; however long the child stays in Israel he or she never qualifies for citizenship” (Bahbha, 2014, p. 69). Cases in the United States have determined violations of family unity and sanctity. A Guatemalan undocumented mother who had been incarcerated after a raid at a Missouri processing plant lost custody of her U.S. born child to a local couple by a judge declaring that the “biological mother ‘had little to offer’” and would be deported anyway. Children, in essence, have no rights, even as US citizens to use their citizenship to anchor their family’s unity. The reality of the 4.5 million US-citizen children “growing up with at least one undocumented parent are close to twice as likely to face poverty as other citizen children; they thus experience a form of de-facto ‘semi-citizenship’” (Bahbha, 2014, p. 71). In order to better understand the dilemma faced by US citizen children of undocumented immigrant parents, it is important to note a decision by a U.S. Appeals court judgement (*Acosta v. Gaffney*, 558 F 2d 1157 93D CIR.1977). citing *Perdido v. INS*, 420 F.2d 1179, 1181 [5th Ci. 1969]) as cited in Bahbah, 2014, pp. 296, 72):

A minor child who is fortuitously born here due to his parents’ decision to reside in this country has not exercised a *deliberate decision* to make this country his home, and Congress did not give such a child the ability to confer immigration benefits on his parents. It gave the privilege to those of our citizens who had themselves *chosen* to make this country their home and did not give the privilege

to those minor children whose noncitizen parents make the real choice of family residence.

Decisions by the supreme courts in the United States, Canada and Ireland to name only three out of the many countries, have “attacked the alleged arbitrariness of birthright citizenship” and assigned the rights of children’s citizenship to the adults as rights-holders rather than to the child thus pointing to these nations’ attitude towards the immigrant child’s status as a dependent rather than an individual and rights-holder (Bahbha, 2014, p. 72). Because the issue of birthright citizenship is being debated by many in the United States (Schuck and Posner, Ayaler Schalar), including the courts, and argued to be a property right, it is briefly mentioned here as one of the controversies centered on the child’s right to resources and services. Recent court decisions in the United States have reduced the child’s rights to that of “mere bystander” as undocumented parents have been deported and separated from their citizen children through the application of harsh standards that contradict the rights to equal protection of U.S. law to which all citizens are entitled (Bahbah, 2014, p. 89). Understanding social justice is a challenge for practitioners, educators, individual citizens, and policy makers Because immigration and migration are global issues. Becoming better informed and more empowered to argue for equity when implementing policies and practices related to issues regarding the immigrant child has become an imperative in the application of the principles of social justice. Past and current immigration policies as well as discriminatory judicial decisions against certain nationalities, address the failure of the United States to respect the human rights of immigrant children and in the process discard a valuable and critical future resource.

The Pew Center Research Center reported a surge of children apprehended at the Southwest border. Out of 11,000 apprehensions of unaccompanied Mexican minors during the

2009 fiscal year (October 1 through May 31), approximately 2,700 children (24% of all the apprehensions) reported being apprehended for the first time in their lives. The other three quarters of the apprehensions were of children who reported that they had been apprehended multiple times before. Some 15% were of children who had been apprehended at least six times. As a result of these multiple apprehensions, the total number of Mexican children caught at the border is lower than apprehension statistics show. (Gonzalez-Barrera, Krogstad and Lopez, [Http://www.pewresearch.org/fact-tank/2014/08/04](http://www.pewresearch.org/fact-tank/2014/08/04))

As previously mentioned there are discrepancies in the treatment between the children from Mexico and those from Central America. This is the result of the passage of the Human Trafficking Law of 2008 which requires Central American children to be processed by the Department of Health and Human Services' Office of Refugee Resettlement and placed in housing with a family member, while their immigration cases are processed in the U.S. immigration court. The Mexican children can be returned to Mexico within hours of their apprehension. If it is suspected that there are grounds that the Mexican children have been victims of human trafficking or face some other credible fear of persecution, these victim children are treated similarly to Central American children and placed in housing. But the remaining children are returned to the border within 72 hours and handed over to Mexican consulate officials. Another discrepancy lies in the demographic profile between the Mexican and Central American unaccompanied children regarding age and gender. "Girls make up about 34% of unaccompanied children from Honduras, El Salvador and Guatemala, compared with just 8% from Mexico. Children from Mexico also tend to be older. About 97% of unaccompanied minors apprehended from Mexico this fiscal year were teenagers, compared with 80% from Honduras, El Salvador and Guatemala." (August 4, 2014, Gonzalez, Jens Manuel Krogstad and Mark Hugo Lopez,

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<http://www.pewresearch.org/Fact-Tack/2014/08/04>). According to Bahbah (2014) “the American Civil Liberties Union (ACLU) recently filed a law suit alleging that the government unfairly targets some Mexican American communities”(p.73), reducing them to the status of second class citizens.

Human Trafficking

"In Sweden, eighty-seven refugee children in the custody of the local authorities went missing in 2001. In the United Kingdom, sixty-seven unaccompanied West African children placed in the care of social service disappeared over a period of years in the late 1990's" (Bahbha, 2014, p. 140). What is even more alarming is that these incidents are not unusual and it is estimated that approximately 20 percent of children that were in a social service system of care vanished over an eighteen month period only to be discovered back in the traffickers hands having slipped through the cracks of the United Kingdom's protection system (p. 140). Looked upon as a human rights abuse by the last two presidents of the United States, Bush and Obama, a published listing of countries are ranked by an annual Trafficking in Persons or TIP report. Human Trafficking, particularly of children, is universally looked upon as slavery by international law and perpetrators could be pursued and prosecuted; however, the link between slavery and trafficking is unclear and not well understood. In 2004, the United Nations issued a Protocol known as the Palermo Trafficking Protocol in an attempt to “Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children”(Bhabha, 2014, p. 150)(pp. 150-151):

Trafficking in persons shall mean the recruitment , transportation , transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, or fraud or deception of the abuse of power or of a position of vulnerability

or of the giving or receiving of payments or benefits to achieve the consent of a person, having control over another person, for the purpose of exploitation.

Human trafficking is a complex world-wide problem and the root causes of the practice paint a painful picture of unemployment, poverty, civil and political turmoil in addition to parents desperate to remove their children from war torn countries or economic peril resorting to opportunistic smugglers to transport them to a safe haven but falling instead into unscrupulous criminalization.

Education

Policies of exclusion in the public sector have become popularized as anti-immigration sentiment has mounted against both the documented and the undocumented. On the one hand policy-makers have asked the questions of incorporating and Americanizing immigrants into the dominant culture while on the other, there have been efforts to stem the flow of immigration and disenfranchise those who are non-citizens and unworthy of the country's privileges (Christie, 2010, p. 454).

Hernandez, Denton and Macartney also point to the challenges schools face in teaching a unique group of ethnically and culturally diverse children of immigrants (2012). According to Passel (2011), one-fourth of the United States' 75 million children under age eighteen, are either foreign born or U.S. born to immigrant parents. Policy makers, faced with the changing demographics of youth living in the United States will have to deal with issues of education funding, Social Security, health benefits as well as poverty and increased presence in the U.S. labor force during the next forty years. From 1870 to 1920, the United States experienced a high level of immigration, far more than half a century representing 13.5 percent of the population. World War I and more restrictive legislation led to little immigration from the 1930's to World

War II and after. In 1965, legislation prompted the expansion of immigration and a subsequent growth in the foreign-born population. The origins of the new immigrants shifted to Asia and Latin America as well as Mexico in the 1970's including unauthorized Mexican immigrants. Of the 12.5 million Mexican immigrants living in the United States in 2007, 55 percent of them were unauthorized (Passel, p.25). Concurrently, the white and non-Hispanic majority race is on the decrease while the fertility rates of the Latino groups will rise past the moderate fertility rates of blacks.

Landale, Thomas and Van Hook (2011) find that Mexican children have issues with economic integration because of the "low education, skills and financial resources" (p.50) of their parents leading to a more marginalized status and inequitable opportunities for economic security. "For children living in poverty increases the risk of negative outcomes including health and developmental problems, poor academic performance, low completed education, and low earnings in adulthood" (p.51). Other refugee groups also have varied educational experiences with immigrants from Cambodia and Laos being less advantaged than the Vietnamese based on the educational and skill levels of their parents.

The critical need for early childhood education was examined by Karoly and Gonzalez (2011, in *The Future of Children*). Concerning the issues faced by immigrant children including language barriers, lack of decent housing, clothing, separation from parents who have been deported or incarcerated through immigration raids, and immigrant distrust of government programs, the Early Care and Education programs could help to promote healthy developmental opportunities and reverse negative educational and future income outcomes (Hernandez, Denton and Macartney, 2012 in *Immigration, diversity, and education*). It is estimated that 50 percent of under six year olds are located in California and while high quality programs are made

available, including services association with special education interventions, Karoly and Gonzalez (2011, in *The future of children*) posit that immigrant parents have not fully accepted or participated due to costs or fear of disqualification because of employment out of the formal labor market.

The tension in addressing the equality and equity in the education of immigrant children arises from the public perspective of being insensitive towards their needs. The costs of education are escalating and it is the middle class of American citizens bearing the burdens. Presently most of the public schools in urban centers are overcrowded, understaffed and underfunded suffering budget cuts for teachers and resources at the expense of escalating administration costs being paid by one segment of the population, the property owners. Nagy expresses the sentiments of many American citizens in the following excerpt:

According to the Center for Education Reform (2011), the national average expenditure per pupil in public schools in 2010 was \$12,018. Yet, in schools all across the nation, seats are occupied in various degrees with students who, through no fault of their own, are not authorized to be in the United States. Most children of undocumented parents qualify for “free” breakfasts and lunches based on their parents’ income (Pew Hispanic Center, 2009). Expecting (legal) American children to attend underfunded and understaffed schools because, in part, significant portions of school budgets are diverted toward educating children from other countries is a disservice and is unfair to American children (Negy 2012).

Although the concept of equality requires the responsibility to support the education of all children, it may appear to be very inequitable to support the immigrant children in preference to the legal children. However, the real issues of supporting children and providing necessary

resources, lies with the inequity in the distribution of taxation requirements solely on the middle and lower property taxes.

Equality and equity in education require that the United States government mandate support of a federal and state education to all people beyond K-12. Yet in higher education, limited resources have been prevalent in the annual budget cuts, increasing tuition to cover operational expenses, and the finite limited number in available funding for student placement. The Dream Act advocates that the undocumented students be granted equal status for in-state tuition, equal opportunity in occupying seats with limited placements and acquisition for governmental financial loans and grants. Extending these benefits for undocumented immigrants contributes towards the rejection in benefits for some of the legal American working class with less competitive admission scores (Brimelow, 2008; Krikorian, 2008).

Conclusion

Who will advocate for the immigrant child?

Social justice and its various forms challenge nations to bring the concerns of the poor and vulnerable to all levels for resolution and concrete action. Commutative justice defines the individuals' relationships as members within the group culture and fosters equality. Contributive justice advocates for the immigrants and government officials and professionals in becoming participants in decision making. Distributive justice requires the fair allocation of resources; restorative justice seeks to reconcile conflicting parties to find common ground (Shiman, 2004). The social justice and human rights approach empowers educators and professional practitioners to protect the rights of the marginalized and people at risk, providing services without judging their worthiness.

In the United States, California's Proposition 187 which sought to deny health and social services to undocumented immigrants reached culmination in draconian national laws of exclusion and later detention of immigrants on re-entry after travel abroad with the enactment of The Anti-Terrorist Act. Within the scope of laws, policies and judicial decisions, there is ample research to state that citizenship and immigration experiences differ for men and women (Singer and Gilbert, 2003, in Hondagneu-Sotelo, Ed., p.36). While some laws have been altered and assertions from the courts and international tribunals have called for a human rights approach to the treatment of child immigrants and their care-givers, "Universal access to basic education and health care" for "migrant children have not yet been protected by domestic and EU courts as have family-unity rights" (Bhabha, 2012, 279). As a result "young migrants continue to find their rights trumped by local xenophobia, bureaucratic discretion, or other forms of political expediency" (p.279). The exploitation of children in trafficking or recruitment as soldiers in violation of international law speaks volumes about the current state of affairs where it is estimated that 300,000 children are involved in armed conflict around the world. Children are often left to fend for themselves as parents are detained or deported. Neglecting immigrant children's needs or denying them the resources and services needed to nurture and support the world's future is tantamount to rejecting its most precious commodity.

Every program needs to have in its last analysis and main purpose to service the human person. Such programs should reduce inequalities, eliminate discrimination, and empower the individual to progress in human and spiritual development. Promoting the true development of people requires the desire, the right, and the responsibility to ensure justice for all people including the child who is often treated as an economic burden and an appendage to the immigration dilemma. Securing justice requires the desire, the right, and the responsibility to

promote equality for every human person and to foster solidarity with all people in society.
“Give me your tired, your poor, Your huddled masses yearning to breathe free, The wretched
refuse of your teeming shore, Send these, the homeless, tempest-tost to me...” should be the
imperative for social justice fo every immigrant child.



