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MIGRATION POLICY PRACTICE

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Participants at the Derechos Humanos Integrales en Acción (DHIA) Summer Camp 2018 discuss the United States–Mexico border and the risks they encounter during their crossings. © DHIA 2018/Fernando Loera GARCIA

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Introduction

Gabriella Sanchez¹

It would be amiss not to acknowledge the severe impacts of family separation or child disappearances, or of the many risks concerning children and their experiences in migration. The examples are far from limited. The tragedy involving Rohingya children, or the one pertaining to those currently in detention in Nauru; the dangerous journeys of unaccompanied children through Africa and Latin America; and the post-deportation challenges encountered by Bangladeshi, Pakistani and Afghani youth are only some of the known cases. Yet, despite their visibility, there is a widespread lack of nuanced, empirically informed research and data documenting migrant children's experiences and perceptions.

This special issue of *Migration Policy Practice* emerges from this realization. It also seeks to respond to the Call to Action launched earlier this year by UNICEF, the International Organization for Migration (IOM), the Office of the United Nations High Commissioner for Refugees (UNHCR), Eurostat and the Organisation for Economic Co-operation and Development (OECD)² to prioritize actions to address evidence gaps in children's migration data. Disappearances, separations, apprehensions, deportations, along with children's emotional well-being, the dynamics related to their access to education, decent labour and medical services, and the complex variables shaping their decisions to migrate – or stay behind – are all elements of children's experiences. Yet a lack of child-sensitive approaches and methodologies and the adult-centric perspectives that dominate media, academic and law enforcement discourse often minimize or simplify the intricate dynamics of child migration, leaving unaddressed the structural challenge children face.

While the visibility of children in migration has increased, this has not always translated into the collection, availability or production of sound data and research concerning children's experiences and perspectives. It is not hard to outline the reasons. Migration scholarship and policy have historically focused on adults. The emphasis on economic indicators has also translated into academics and policymakers paying significant attention to documenting labour migration. Tensions over the presence of migrants in destination and transit countries have also led to the emergence of scholarship on perceptions concerning migration and/or integration. A significant portion of academic work has also focused on exploring the implications of migration governance, including the impact of immigration law enforcement and controls. While these are undeniable factors in understanding migration dynamics, they have pushed children's experiences in migration scholarship and policy to the sidelines.

There are, without a doubt, other factors behind this trend: ample variations in laws, definitions of rights and entitlements that apply to children; the often contested definition of child itself; incomplete age- and sex-disaggregated data on migrants and forcibly displaced people; and a lack of coordinated efforts to collect and share data among countries.³ Yet none of these constitute reasons to continue overlooking migrant children in data collection, research and analysis efforts.

This time, *Migration Policy Practice* brings together the perspectives, experiences and recommendations of scholars and practitioners working with children and on migration in different regions of the world. Their contributions are in line with the Call to Action, which recognizes the importance of "reliable, timely and accessible data and evidence [as] essential for understanding how migration and forcible displacement affect children and their families – and for putting in place policies and programmes to meet their needs."⁴ Yet authors also seek to propose a critique of how "the global demand for just numbers and positivistic evidence" – as Bina D'Costa from the UNICEF Office of Research clearly articulates in this issue – has often been behind the construction of a "homogeneous narrative" of "children on the

1 Gabriella Sanchez is a research fellow at the Migration Policy Centre, European University Institute, Florence, Italy.

2 UNICEF, International Organization for Migration (IOM), Office of the United Nations High Commissioner for Refugees (UNHCR), Eurostat and Organisation for Economic Co-operation and Development (OECD), *Call to Action: Protecting Children on the Move Starts with Better Data* (Geneva, UNICEF, 2018). Available from www.iom.int/sites/default/files/press_release/file/pbn_02152018_Call%20to%20action_clean.pdf

3 Ibid., p. 3.

4 Ibid., p. 3.

move”, often plagued with simplistic, sensationalist and stereotypical assumptions concerning children and migration. D’Costa urges us to explore which children become invisible and overlooked in migration discourses, and who – and why – others become hypervisible amid the global anxieties over data. Child-sensitive and child-responsive research has the potential of explaining the intricate dynamics not captured by the more general research on migration.

Jasper Tjaden, from the IOM Global Migration Data Analysis Centre (GMDAC), builds on this idea. His contribution is an overview of youth emigration plans based on Gallup World Poll data. While reminding us data on intention does not measure actual flows – in other words, there is no substitute for timely data on children’s actual migrations – Tjaden calls for the crafting of “dedicated surveys in countries of transit and destination”, which can in turn provide data to inform children’s actual protection and service needs.

Such data, however, must be intersectional in nature – that is, it should consider the ways in which interlocking systems of power like race, class and gender impact children’s lives. The contribution of Alina Potts, researcher at the Global Women’s Institute in George Washington University, addresses the need for research that encompasses the gendered dimensions of violence, particularly the kind carried out against girls and young women. Effective services and policies to address and prevent the multiple forms of gender violence experienced by girls and young women can only be the outcome of research and data collection involving the disaggregation of data by sex and age, the adaptation and use of evidenced-based guides on ethics and safety, and the guarantee of participation of children in all stages of the research process.

Along the same lines, Blanca Navarrete (Derechos Humanos Integrales en Acción (DHIA)) and Melissa Vértiz Hernández (Grupo de Trabajo sobre Política Migratoria) use their experience working with unaccompanied migrant children and young people in Mexico to emphasize the importance of having their input in the development of mechanisms to protect their legal rights. In their contribution in Spanish (a first one for *Migration Policy Practice*), Navarrete and Hernández recognize the need to generate qualitative and quantitative data that allows protection agencies to fully restore migrant children’s rights. This process, however, can only be fully achieved with the participation of State authorities in charge of protection in order to create and maintain a mechanism to manage data effectively and ethically. This in turn involves – also in line with the Call for Action – the development of norms and practices for data sharing, to guarantee the protection of sensitive

data, and ensuring the standardization of formats and criteria concerning data collection (this way avoiding the exposure of children to repeated, unnecessary, unethical or potentially re-traumatizing lines of questioning).

Also related to the legal rights concerning children and young people and migration, the contribution of Jennifer Podkul and Cory Shindel from Kids in Need of Defense (KIND) highlights the challenges emerging from the lack of sustained policy or legal improvements ensuring that children fleeing threats to their lives, abandonment and abuse receive humanitarian protection. The authors, drawing from their work providing legal counsel to migrant children, explain the complex geopolitics of Central America that impact children’s decisions to migrate. Rather than simply restating the often heard narrative that children are merely fleeing gang violence, Podkul and Shindel outline how changes to protection programmes in the United States during the last two administrations (namely, the creation of new detention facilities for families, increased prosecution of migrants for illegal entry and re-entry, and expedited immigration court proceeds that often lead to deportation) have led to the weakening and elimination of laws and policy providing protection for unaccompanied children.

Gabriella Sanchez, from the Migration Policy Centre at the European University Institute, closes the special issue, also warning against taking at face value simplified characterizations concerning migrant children’s journeys. In her case, she explores the ways in which organized crime – and in particular migrant smugglers – are often blamed for the disappearances of migrant children and/or their victimization and exploitation. Placing the claims as part of the larger narratives concerning smugglers and without dismissing violence and risk as elements of the migratory journey, Sanchez argues that the discourse of the evil smuggler obscures the complex strategies children and their families develop and depend upon to fulfil their migration goals. Non-criminalizing lines of questioning during data-collection efforts and improved data on smuggling operations demonstrate how official claims of children “going missing” or “trafficked” hide individual or collective efforts on the part of children and their families to avoid detention, prevent interactions with law enforcement that may lead to deportation, earn a living, secure medical care or fulfil their personal intentions. ■

This special issue on child migration is the result of the vision of Frank Laczko, Director of the IOM Global Migration Data Analysis Centre (GMDAC). His support and encouragement, as well as the support of the entire editorial team of Migration Policy Practice, is much recognized and appreciated.



Catching dreams and building hopes for children: A research-led policy agenda on migration and displacement

Bina D'Costa¹

The now-iconic image of three-year-old Aylan Kurdi's body washed up on a beach in Turkey in September 2015 sparked a public outcry and turned the world's attention to Europe's forced migration dilemmas involving children. Since then, Aylan's image has been replaced with many, many others, like him and also unlike him. While he has been quickly left unremembered, the recurrent multilayered yet somehow homogenous narrative of a very large number of children displaced invokes anxiety, demands our attention and underlines the central problem – we simply do not know enough about the dynamics and complexities of children and young people on the migration pathway.² There are a lot of assumptions about children's migration and displacement but not enough research-informed understanding of this phenomenon.

On the other hand, the global demand for just numbers and positivistic evidence is fed by data collected through weak, quick and dirty methodological frameworks that at times are not even ethically sound. In fact, solid quantitative data and qualitative data construction (note – not collection) takes time. It needs questioning and challenging assumptions at the outset. For example: What do we really mean by “children on the move”? Who remains invisible and overlooked by such framing of children on the migration pathway, and who is hypervisible? How could we capture data about those who are not able to move, who are left behind? Whose purpose is served by framing the movement of Syrians in Europe as a refugee “crisis” instead of a reception crisis?

Leaving one's birthplace to move to a new place has been one of the central features of human civilization. An estimated 214 million people worldwide are international migrants and 740 million people are internal migrants.³ For many, migration provides a tremendously positive experience. Yet, migration can be stressful in the best of circumstances. Packing up one's belongings, relocating and settling in a new place can be quite daunting for anyone. When this experience is full of stress and anxiety, either because of pressures to move, the conditions under which one is forced to move or even the kind of journeys one must take to reach her/his destination, it could be extremely difficult.

Indeed, the contemporary history of migration is replete with stories of conflict, persecution, economic hardship and trauma. Data from UN agencies tell us that we are now witnessing the highest levels of displacement on record. An unprecedented 65.3 million people around the world have been forced from home. Among them are nearly 21.3 million refugees.⁴ There are also 10 million stateless people. Though the Office of the United Nations High Commissioner for Refugees (UNHCR) provides most of the data for displaced persons, there is not enough precise collection, analysis, and distribution of age- and sex-disaggregated data on overall migration flows. A very large number of displaced children living close to camps and elsewhere are undocumented. What we do know is that children represent about half of the displaced population globally.

A new report published by the Internal Displacement Monitoring Centre (IDMC) highlights that the global number of new internal displacements – caused by conflict, violence or disasters – reached

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2 This essay recognizes that “children on the move” as a term may exclude groups that occupy different spaces within a single trajectory in migration and displacement. As such, in this essay, “migration pathway” is used to articulate both individual aspirations and large-scale experiences including constraints and possibilities of movements. The purpose is to provide a broad framework to capture commonalities of experiences between diverse and disparate groups including those who are not able to move so easily, such as left-behind children, those with disabilities and, in some instances, stateless children.

3 International Labour Organization (ILO), “Migration and children: An outline of international standards, regional trends and good practices”. Available from www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_322637.pdf

4 Office of the United Nations High Commissioner for Refugees (UNHCR), “Figures at a glance”. Available from www.unhcr.org/figures-at-a-glance.html

30.6 million. The number associated with conflict and violence almost doubled over the last two years, from 6.9 million in 2016 to 11.8 million in 2017. The Syrian Arab Republic, the Democratic Republic of the Congo and Iraq together accounted for more than half of the global figure. Disasters alone caused 18.8 million new displacements last year, mainly triggered by weather-related events including major storms and hurricanes in the Atlantic, South Asia and East Asia, and the Pacific.

What do we know about children on the migration pathway?

Children cross borders – within and outside States – in varying circumstances and for different reasons, both voluntary and involuntary. In a broad sense, economic, sociopolitical and environmental motivations influence children and their parents to migrate. Poverty has traditionally been one of the main drivers of child migration, particularly from rural to urban locations. However, there is now a recognition that the poorest cannot so easily migrate to another country. Children are also trafficked to provide labour or are forced to move because of political violence or environmental disasters.

Although the internal or domestic migration of children occurs frequently, it is perceived, albeit incorrectly, as an ordinary, everyday phenomenon. On the other hand, international migration of children is now more evident, and because of conflict-induced migration, it is understood as distinct, dangerous and traumatic. Mobility pathways deeply impact on a child's development and, as a consequence, the future of our world. We need to understand migration patterns because they matter.

Child-sensitive and child-responsive research in this area is incredibly important and can explain the intricate dynamics not captured by more general research on migration. While vast amounts of data now exist chronicling the lives of migrants, we have less understanding of the movement of young people. Historically, receiving, transit and origin societies have been more tolerant of the migration of children and the youth for a range of reasons. On the one hand, societies often have an exploitative interest in child migrants, who are valued for their labour, and on the other, there exists genuine compassion and recognition that the international community must commit to supporting child migrants.

In this context, what are the normative basis of UNICEF research?

The Sustainable Development Goals (SDGs) and targets⁵ set by the United Nations codify strategies of engagement on migration. Children's migration is relevant but not limited to SDGs 1.2, 3.2, 4.1, 4.2, 4.5, 4.a, 5.2, 8.6, 8.7, 8.8, 10.7, 16.1 and 16.2. Migration is also broadly mentioned throughout the 2030 Sustainable Development Agenda. The best interests principle set forth in Article 3.1 of the Convention on the Rights of the Child (CRC) stipulates that "The best interests of the child shall be a primary consideration in all actions affecting children". In addition, Article 2 (non-discrimination), Article 6 (the right to life, survival and development), Article 12 (the right to be heard) and Article 22 (refugee children) are extremely important in the context of children on the move. Finally, CRC General Comments, the authoritative guidance to States issued by the Committee on the Rights of the Child on interpretation and implementation of the CRC, provide important legal frameworks that respond to the needs of children on the migration pathway.

The phenomenon of migration, and the dimension that it has today, poses new challenges to current international instruments. Article 22 of the CRC addresses refugee children as a special category within the population of children on the move. The CRC does not include any specific reference to the right of children to move, as this is recognized in the Universal Declaration of Human Rights Article 13 as well as many other international treaties. However, Articles 12 (the right of the child to be heard), 13 (the right to freedom of expression) and 14 (the right to freedom of thought, conscience and religion) of the CRC prescribe respect for children's views and their right to have their opinions taken into account. We must examine the relevance and effectiveness of the CRC in the context of the current migration patterns and pathways of children.

One key question to consider is how we can innovatively approach and resolve the challenges in order to support children whose lives are being shaped by migration, whether voluntary or involuntary.

5 On 25 September 2015, the United Nations General Assembly adopted 17 Sustainable Development Goals (SDGs) and 169 accompanying targets as part of a global agenda to promote sustainable development over the next 15 years.

Why do data matter?

Approximately half of the 19 million registered refugees globally are children and youth. Advocating protection becomes a much more complex process for children who are forced to flee their homes and have their citizenships stripped. Almost without any exception all child refugees experience severe stress and anxiety. Many children who are forced to flee are taken by armed groups and can be used to perpetrate violence against others.

Four specific research and evidence-led advocacy approaches are critical in ensuring the protection of child refugees, migrants and asylum seekers: publicly naming those who target children; establishing children's "peace zones"; lobbying for a more rigorous normative framework of protection; and establishing international alerts to ensure that State and non-State actors comply with existing humanitarian and human rights norms.

What are the gaps in laws, policies and services?

The failure of legislative measures to address the specific circumstances and vulnerabilities of children; the lack of sincere commitment of parties, particularly to children caught up in conflicts; and a failure to form strong and unified regulatory regimes capable of dealing with child migrant rights are among some of the major challenges in protecting children. Legal systems focus on protection from the most egregious violations of children's rights, and yet they fall short in providing for children's well-being and development. The reach of laws is often poor due to lack of awareness, lack of respect and lack of enforcement, and because children are uniquely susceptible to exploitation. Children are often harmed by those who should be protecting them. Child protection agencies are frequently ignored or given less importance when migration agencies deal with asylum-seeking children.

UNICEF's new report on the Nordic countries,⁶ based on qualitative research methodology, articulates that asylum-seeking children and their families are among the most vulnerable in the Nordic countries. The lack of transparency within the migration system, compounded with the sheer absence of control over their own lives, and the demoralizing uncertainty seriously harm children's well-being. In many instances, immigration officers, as opposed to trained child protection personnel, are tasked to make critical decisions and coordinate urgent care for children. As a result, rigorous assessment of the best interests of the child – a key commitment under the CRC – is not uniformly adhered to for asylum-seeking children. Another commonly identified problem is the tendency for national standards and principles to be poorly coordinated, communicated and applied by local service providers.

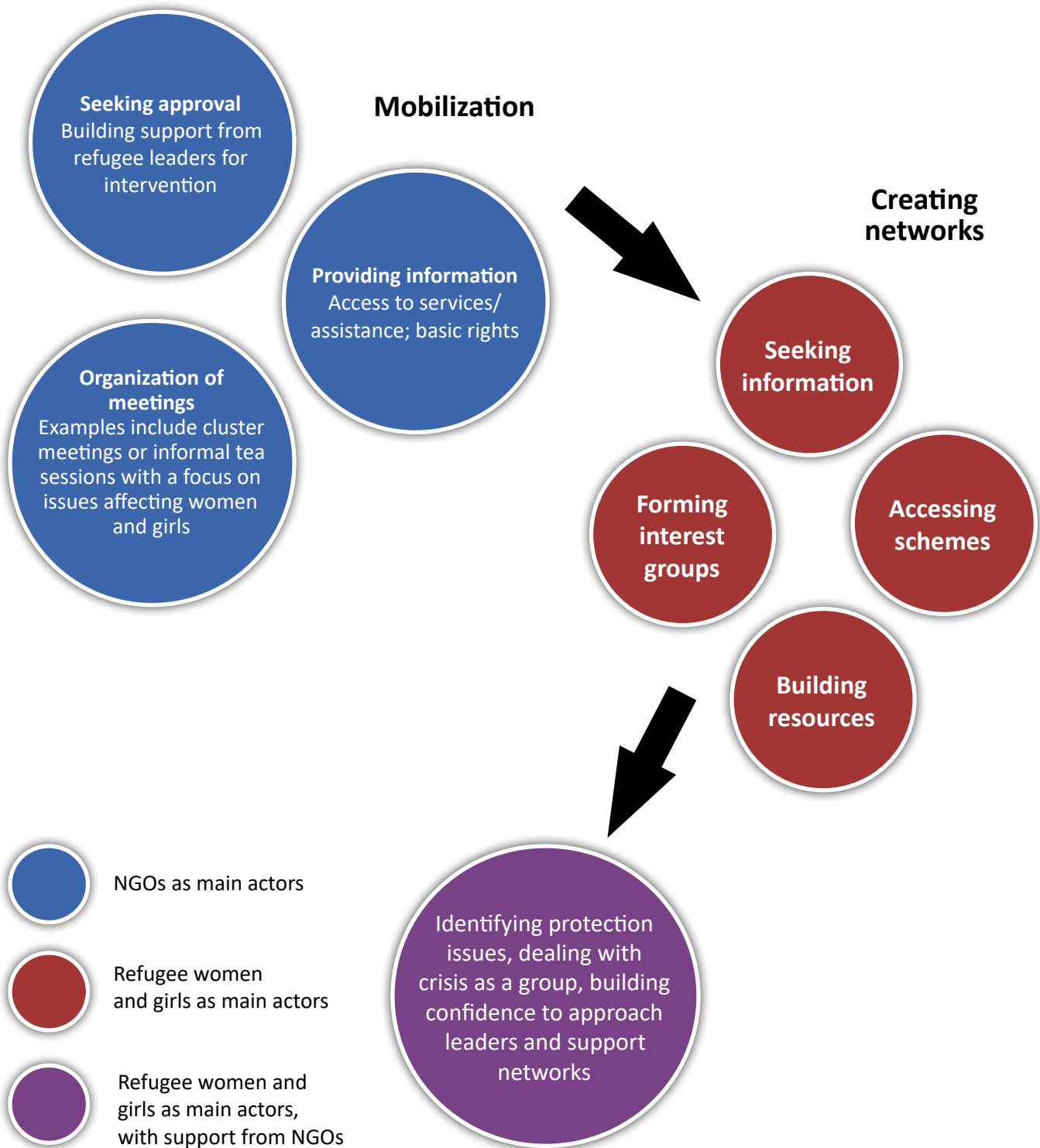
Where are the girls and young women?

Another significant gap in the scholarship is the experience of adolescent girls. Globally, young women and girls are identified as a high-risk group requiring special assistance and protection and are often defined solely by their perceived vulnerability. However, experiences on the ground show that displaced girls have skills, knowledge and experience that could be fostered. The WeCan Network in Sri Lanka, supported by Oxfam, works on ending violence against women and provides a good example of the use of community-based participatory research (CBPR) principles. This network promotes understanding of conflicting and congruent interests that young women and men have in the family. Young women and girls are encouraged to recognize their experience as violence and their right to a violence-free life and to employ appropriate strategies and actions. The emphasis on change through this network is at both individual and community levels and cannot happen without a positive community environment. Another example is Research Initiatives, Bangladesh (RIB), an implementing partner of UNHCR, which focuses on the formulation of participatory action research (PAR) groups in Kutupalong and Nayapara

6 UNICEF Office of Research–Innocenti, *Protected on Paper? An Analysis of Nordic Country Responses to Asylum-seeking Children*, UNICEF Innocenti Research Report series (Florence, UNICEF Office of Research–Innocenti, 2018). Available from www.unicef-irc.org/publications/940-protected-on-paper-an-analysis-of-nordic-country-responses-to-asylum-seeking-children.html

Rohingya camps. The PAR method has been used as part of the PAR groups' work to respond to gender-based violence. RIB facilitates the organization of young women in different PAR groups, such as the Rohingya Refugee Welfare Group (RRWG) and Mothers' Association (MA). Based on the examples provided here, the following model of social networking reflects the author's observations of how the participatory initiatives of young women and girls develop and grow. While not all networks may follow a similar trajectory, a comparative analysis of the case studies will allow this model to be developed further.

Model of social networking among refugee women and girls



This model tells us that women's groups and networks, which are formed and formalized organically, are more sustainable than those designed through top-down interventions. However, the manner in which these networks and greater community cohesion are developed during traumatic and stressful situations may need approvals from community leaders and support from international and local NGOs at different levels, both formal and informal. The importance of social ties and community norms in recovery and resilience, particularly for girls and young women, could not be underestimated.

While a range of education and health programmes exist, interventions to improve displaced adolescent girls' knowledge and access to justice are rare. Targeted interventions focusing on reproductive rights need better gender-sensitive and gender-responsive data and evidence. Pregnant girls have limited access to schooling or quality vocational and technical training, contributing to their extreme vulnerability and lack of agency.⁷

Are more children migrating on their own?

Unaccompanied and separated children have long been a feature of migration. This multifaceted and global humanitarian phenomenon involves children who are either sent by their families for protection or are compelled to move following a loss of family in a crisis. However, historically, in the context of official resettlement programmes in developed countries, they have not been associated with refugee status. Following the collapse of the Soviet Union, scores of children, including unaccompanied and separated children, started to arrive in Europe. Catastrophic events in different parts of the world have prompted many children to leave their homes alone. In part due to a lack of understanding of how serious this phenomenon is and in part due to the absence of any coordinated formal responses from States and international organizations, the ordeals of unaccompanied and separated children have been largely overlooked.

Recent research and advocacy has turned its attention to the experiences of children travelling alone. Because of sympathetic media coverage and the increasing

interest from regulatory bodies, we now know that the number of unaccompanied and separated children migrating to developed countries, particularly the United States and Europe, has escalated dramatically due to poor economic conditions and protracted conflicts. Children are also crossing international borders mostly within their own regions at much younger ages. The number of unaccompanied and separated girls has also been increasing at an alarming rate. Men involved in smuggling and trafficking networks, and allegedly even border patrol police, demand sexual favours from children in exchange for facilitating passage.⁸ Alarming, unemployed young men are also overrepresented in the smuggling and trafficking networks.

How do we prioritize actions to address evidence gaps, and what are child-specific considerations?

As governments come together to strengthen governance procedures for global migration and establish guidelines for sharing responsibility to safeguard refugees, UNICEF has called on decision makers to put children at the centre of their discussions. Specifically, UNICEF asks that they embrace six essential policies outlined in the UNICEF Agenda for Action. These are:

1. Protect uprooted children from exploitation and violence;
2. End the detention of refugee and migrant children by creating practical alternatives;
3. Keep families together and give children legal status;
4. Help uprooted children to stay in school and stay healthy;
5. Press for action on the causes that uproot children from their homes;
6. Combat xenophobia and discrimination.

These six policies have not only driven UNICEF's advocacy agenda but these also are a result of UNICEF's evidence framework. As emphasized by UNICEF, we need systematic data, evidence and analyses to understand the dynamics of children's

⁷ Information is from the primary research carried out by the author in camps and IDP settlements in Afghanistan, Sri Lanka and Somaliland.

⁸ Insights are from interviews carried out by the author with families and young girls in Bangladesh–India and Bangladesh–Myanmar borders.

migration. There also has to be close collaboration between researchers, policymakers and activists, allowing us to express the nuances of child-sensitive and child-responsive migratory processes. Research, in particular evidence-based research, can persuade international, regional and State actors that the migration of children is a humanitarian issue and not just a political issue. Research can dispel myths and anxieties surrounding migration and could help design strategies that are effective in resettling children. Quality research can also explain to advocates of child migrants how and why certain political decisions are taken, and can support the explicit integration of children's rights and protection into the migration agenda. ■



Potential youth migration around the world: Exploring survey data on emigration plans

Jasper Tjaden¹

Introduction

Child migrants have become a key concern of stakeholders in the field of migration. One in eight migrants around the world is a child and 28 million children have been forcibly displaced (UNICEF, 2016). According to the United Nations Department of Economic and Social Affairs (UN DESA),² the estimated number of people aged 19 or under living in a country other than the one where they were born rose from 30 million in 1990 to 36 million in 2017 – an increase of 21 per cent (UN DESA, 2017).³ Child migration has received growing attention due to the conditions faced by children in the context of migration flows. Numerous reports from multiple agencies highlight the particular risks and vulnerabilities that affect children during and after their move (UNICEF, 2017a and 2017b; IOM, 2017). In 2016, around 30 per cent of arrivals in Greece, Italy, Bulgaria and Spain were unaccompanied and separated children (UNHCR, UNICEF and IOM, 2017). Migrant children and youth face the risk of trafficking and exploitation, exclusion, absence of adult protection, discrimination and statelessness. Given these often tense realities, it is imperative to pay attention to children and their experiences in the international debate on migration.

One reason why migrant children and youth often remain invisible and neglected is the lack of, gap in, and inconsistencies in statistics and data concerning them (Humphres and Sigona, 2016). Data is lacking in most regions. In the case of the European Union, in particular, the lack of consistent statistics on unaccompanied minors has been highlighted (European Commission, 2010).

Migration can affect children in different forms. Some migrate with their parents (children of migrants); others may be left behind in their countries of origin. However, numbers indicate that increasing levels of youth also travel alone. One underexplored source to inform processes of youth migration is survey data on emigration plans.

This article is based on Gallup World Poll (GWP) data. It intends to offer a descriptive account of potential young migrants around the world, relying on comparative survey data. It presents data on the emigration plans of the youth aged 15–19, collected in 2010–2015 in more than 130 countries across all world regions. Official youth migration flow data from administrative sources is often not available or inconsistent. Comparative survey data may provide a useful additional source to study the growing and pressing issue of child migration.

Methodology and data

The United Nations Convention on the Rights of the Child (CRC) defines a child as a “human being below the age of 18”. However, definitions and categories used by governments and international agencies can vary considerably. This article uses the definition from UN DESA, which counts any migrant below the age of 19 as a child migrant. The GWP data used in the preparation of this article includes responses from people aged 15 and older. As a result, the present analysis is limited to the youth between the ages of 15 and 19. While this is a clear limitation, information on migrant arrivals suggests that the youth under the age of 15 rarely migrate alone.

The GWP data provides a unique insight into people’s migration intentions. Every year, Gallup conducts nationally representative surveys in over 130 countries, asking about people’s migration plans (i.e. “Are you planning to move permanently to another country in the next 12 months, or not?”). While the level of emigration plans in a country is associated with the level of outmigration (see Laczko, Tjaden and Auer, 2017), it is important to note that data on intentions does not measure actual flows. GWP does not provide information on whether the

1 Jasper Tjaden is a Survey and Data Officer at the Global Migration Data Analysis Centre (GMDAC) of the International Organization for Migration (IOM), based in Berlin.

2 See www.un.org/en/development/desa/population/migration/data/estimates2/estimates17.shtml

3 For visualization of child migration indicators, see Global Migration Data Portal at: www.migrationdataportal.org

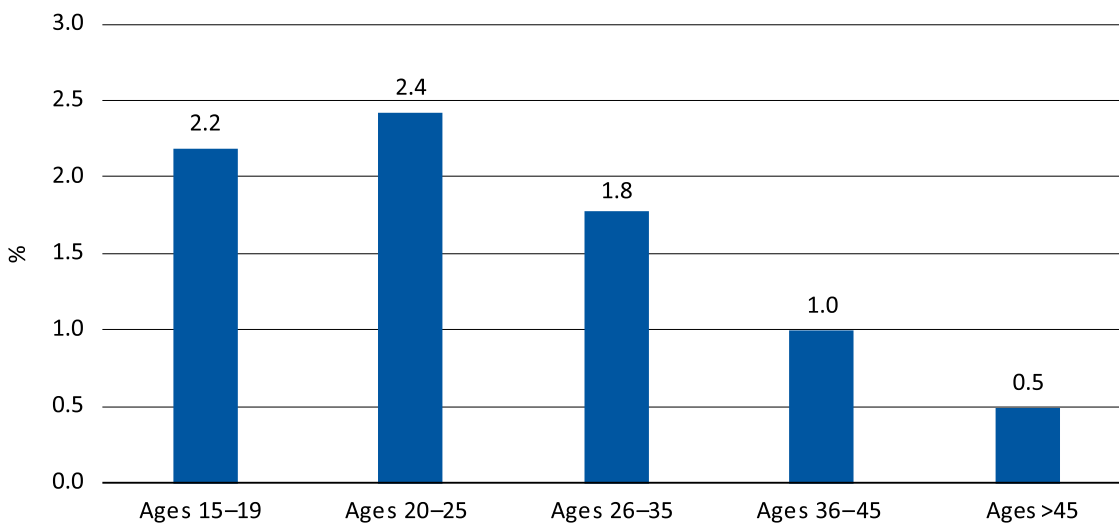
youth follow through with their plans, which routes they take and which risks they are exposed to.

Results

Analysis of the GWP data for 2010–2015 shows that, on average, 2.2 per cent of the 15- to 19-year-olds are planning to migrate permanently to another country. The percentage of youth with emigration plans is the second largest age category after young adults aged 20–25 at 2.4 per cent (see Figure 1).

The results in Figure 2 show that 18 per cent – or almost one in five – of potential migrants with emigration plans are between 15 and 19 years old. The term “potential migrants” refers to those survey respondents who are planning to move permanently to another country in the next 12 months. In this sense, and in relation to the absolute number of potential migrants, 18 per cent amounts to approximately 12 million youth aged 15–19 globally per year (see Laczko, Tjaden and Auer, 2017).

Figure 1: Persons with emigration plans worldwide, by age group

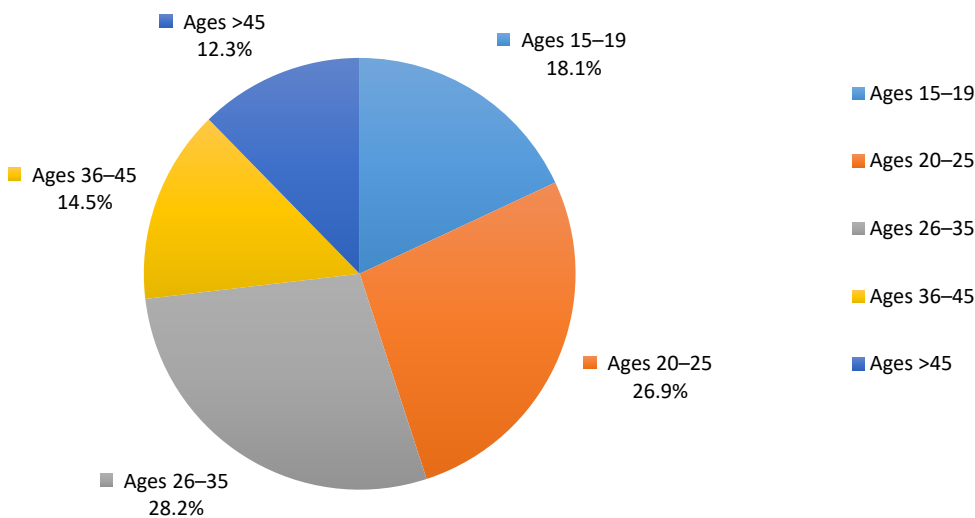


Source: Gallup World Poll, 2010–2015.

Notes:

- The numbers in this figure were calculated by the author. Adjusted population weights were applied.
- n = 838,827.

Figure 2: Percentage of youth among potential migrants worldwide



Source: Gallup World Poll, 2010–2015.

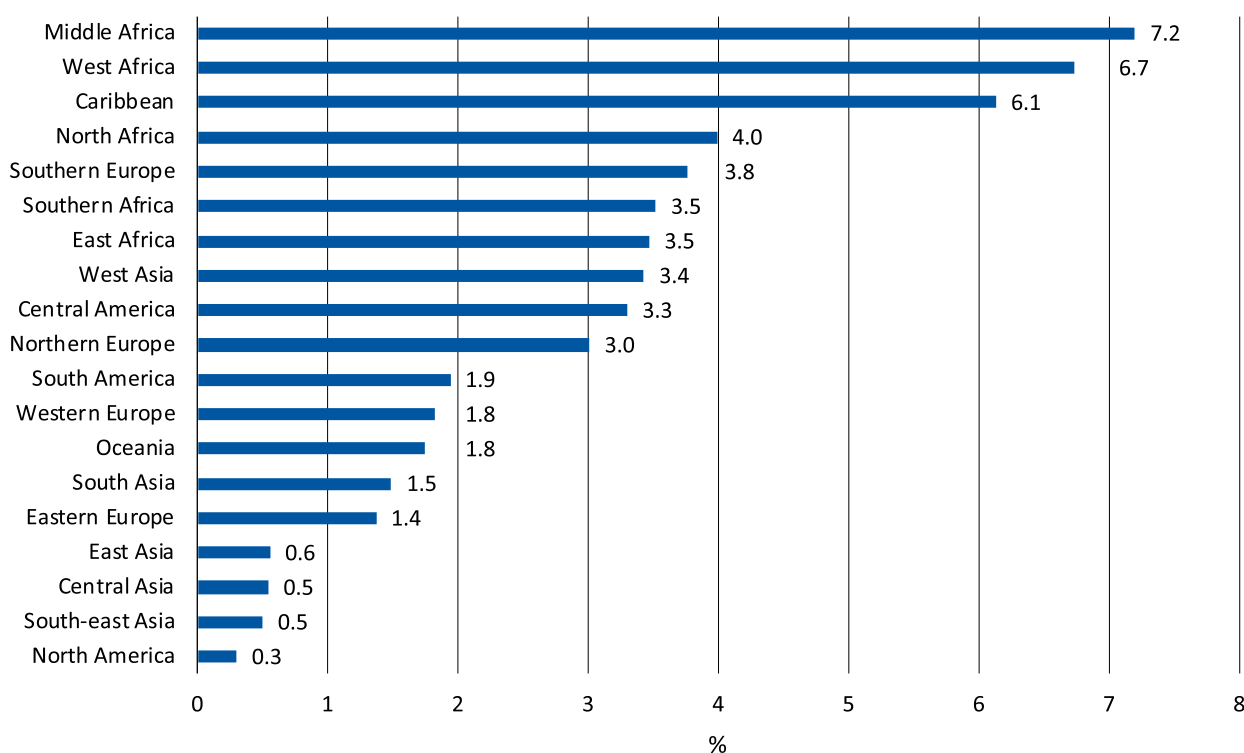
Notes:

- The numbers in this figure were calculated by the author. Adjusted population weights were applied.
- n = 23,923.

The analysis also shows that the level of emigration plans among the youth varies considerably across world regions. Middle Africa⁴ and West Africa⁵ have the highest percentages of youth migration potential (see Figure 3). In Middle Africa, 7.2 per cent – or 1 in 14 – youth aged 15–19 reported plans to migrate abroad permanently to another country. One in 15 youth in West Africa; 1 in 16 in the Caribbean; 1 in 25 in North Africa; and 1 in 28 in Southern Africa, East Africa and West Asia (i.e. Middle East) have plans to migrate. Potential youth migration is also high in Southern Europe (3.8% of all 15- to 19-year-olds). However, it is fundamental to keep in mind that 2017

data on migration stocks shows that more than half of international migrants living abroad are in a country within the same world region (UN DESA, 2017). For example, 53 per cent of African migrants – regardless of their age – are settled in another African country. In terms of emigration intentions, 40 per cent of potential migrants in Africa and the Middle East are planning to move to another country in that region. Overall, 1 in 3 potential migrants plans to move to a country other than the group of the 50 most developed countries in the world (as defined by the United Nations Human Development Index) (see Laczko, Tjaden and Auer, 2017).

Figure 3: Potential child migrants aged 15–19 reporting plans to migrate abroad, by world region



Source: Gallup World Poll, 2010–2015.

Notes:

- The numbers in this figure were calculated by the author. Adjusted population weights were applied.
- Regional classification is based on the UN M49 Standard.
- n = 81,728.

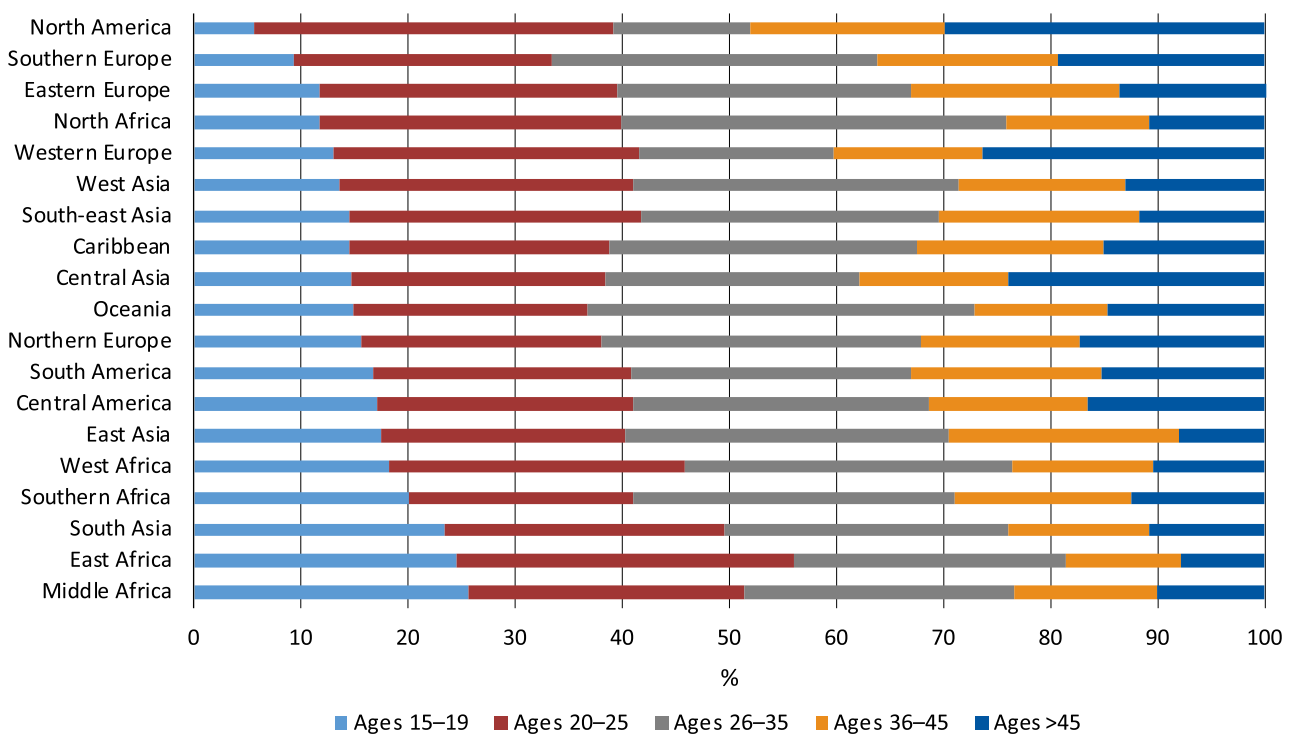
⁴ This region consists of Angola, Cameroon, the Central African Republic, Chad, Congo, the Democratic Republic of the Congo, Equatorial Guinea, Gabon, and Sao Tome and Principe. See the United Nations (UN) Standard Country or Area Codes for Statistical Use (M49 Standard) at <https://unstats.un.org/unsd/methodology/m49/>

⁵ This region consists of Benin, Burkina Faso, Cabo Verde, Côte d'Ivoire, the Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Saint Helena, Senegal, Sierra Leone and Togo. See the UN M49 Standard at <https://unstats.un.org/unsd/methodology/m49/>

Figure 4 shows that the largest percentage of youth among potential migrants with emigration plans are in African regions (Middle, East, Southern and West) as well as in South Asia.⁶ The higher proportion of youth migrants in those regions is a concern for policymakers given the higher demands for protection

of vulnerable migrants. In those regions, at least 1 in 5 potential migrants can be considered youth (i.e. 15–19 years old). This shows that potential migrants in Africa are, on average, younger compared with those in other regions, which is consistent with an overall younger age demographic in Africa.

Figure 4: Percentage of youth among potential migrants with emigration plans, by world region

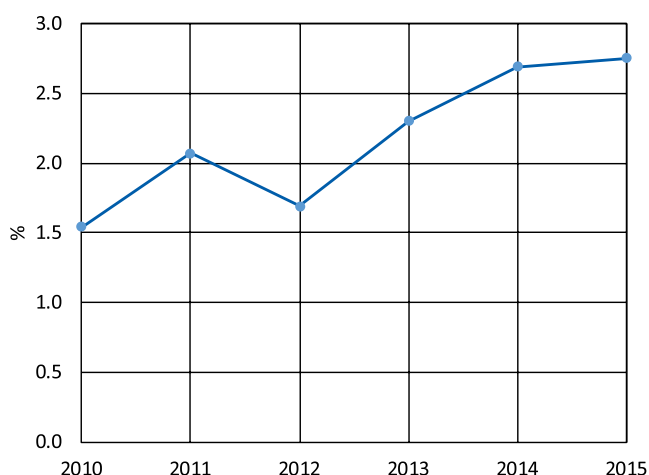


Source: Gallup World Poll, 2010–2015.

Notes:

- The numbers in this figure were calculated by the author. Adjusted population weights were applied.
- Regional classification is based on the UN M49 Standard.
- n = 23,923.

⁶ This region consists of Afghanistan, Bangladesh, Bhutan, India, the Islamic Republic of Iran, Maldives, Nepal, Pakistan and Sri Lanka.

Figure 5: Percentage of potential child migrants aged 15–19, 2010–2015

Source: Gallup World Poll, 2010–2015.

Notes:

- The numbers in this figure were calculated by the author. Adjusted population weights were applied.
- Regional classification is based on the UN M49 Standard.
- n = 23,923.

Lastly, the data allows to look at trends over time. Consistent with the general global trends in migration potential (see Laczko, Tjaden and Auer, 2017), the percentage of 15- to 19-year-olds that reported plans to leave their respective countries permanently increased between 2010 and 2015. With the exception of 2012, there appears to be a linear upward trend in potential youth migration worldwide. In 2015, 1.5 per cent of youth (15- to 19-year-olds) had plans to emigrate. In 2017, the percentage rose to 2.7 per cent – an increase of 180 per cent compared with the numbers in 2015.

Conclusion

This article offers the first descriptive account of potential youth migrants (age group 15–19) around the world, exploring comparative survey data from 130 countries. On average, across the world, 2.2 per cent of youth aged 15–19 have plans to emigrate permanently to a country other than their own in the next 12 months – the second highest age category following the 20- to 25-year-olds. Overall, 1 in 5 potential migrants is between 15 and 19 years old. The percentage of youth with plans to leave their respective countries increased by 180 per cent between 2010 and 2015.

Data on emigration plans can never substitute improved, timely data on child migration flows and dedicated surveys in countries of transit and destination – sources that are lacking today. However, in the absence of official child migration statistics, the results presented in this article suggest that emigration plans may be one useful source of context information in the overall debate. Estimates of potential youth migration raise awareness about where and to what extent protection needs arise given that youth migrants are more vulnerable compared with adults. ■

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2017b *A Child Is a Child: Protecting Children on the Move from Violence, Abuse and Exploitation*. UNICEF, New York.

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Marginalization in motion: Understanding and addressing violence against women and girls along the migration journey

Alina Potts¹

Whether migrating from Central America to the United States, or across the Central Mediterranean route to Europe, available research indicates an alarming pattern: a majority of women and children report having endured multiple forms of violence – including sexual, physical and/or psychological forms of abuse – often at multiple times and/or places before, during and after their time on the move.² The linkages between violence against women and girls (also referred to as “gender-based violence”³) and migration have been well documented,⁴ and the gendered consequences of such violence may be life-threatening. Rape and

other forms of sexual violence lead to unregulated use of contraceptives by women and girls desperate to avoid often dangerous pregnancies; when they occur, women and girls may turn to unsafe abortion and/or bring the pregnancy to term, potentially at the expense of their or their infants’ lives or health. Physical and/or sexual violence by intimate partners is both a cause and a consequence of migration for women and girls. They may seek to escape abusive relationships in countries where patriarchal or compromised legal and social systems offer no redress or protection. Conversely, partners in destination countries may exploit the needs of women and girls for legal status by trapping them in abusive marriages.⁵

Psychological violence may be used to maintain control over victims by further isolating and marginalizing them. Economic violence is increasingly recognized for its gendered dimension, in that men generally have greater access to and control over economic resources and may use this power to maintain women and girls’ dependency on them for survival. Likewise, both tend to accompany other forms of abuse and occur at multiple times and places. Trafficking for the purposes of sexual exploitation disproportionately affects women and girls, and is increasingly recognized in humanitarian contexts where it often links to recognized protection issues such as forced, early, temporary or “protection” marriages, as well as other

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2 See: (a) study by Amnesty International, as referenced in an article published on www.migrationpolicy.org/article/gender-based-violence-against-women-both-cause-migration-and-risk-along-journey; and (b) data compiled in UNICEF’s “A deadly journey for children: The Central Mediterranean migration route” (*UNICEF Child Alert*, February 2017).

3 Gender-based violence is defined within the United Nations Declaration on the Elimination of Violence against Women (1993) as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women”, and by the Office of the United Nations High Commissioner for Refugees as “violence that is directed against a person on the basis of gender or sex”. It is underpinned by unequal power relations between men and women due to socially ascribed (gender) differences; this also means that while men and boys can also suffer sexual violence, the majority of survivors are women and girls due to their general disadvantage in terms of access to and control over various resources (social, economic, knowledge, material, natural, etc.), their bodies and their participation in public life. For this reason, “violence against women and girls” and “gender-based violence” are often used synonymously, as in this article. See also: Inter-Agency Standing Committee, *Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action*, available from https://gbvguidelines.org/wp/wp-content/uploads/2015/09/2015-IASC-Gender-based-Violence-Guidelines_lo-res.pdf

4 Anja Parish’s recent piece for the Migration Policy Institute, “Gender-based violence against women: Both cause for migration and risk along the journey”, provides an essential overview of the issue.

5 Despite calls to maintain recent gains in offering asylum for women seeking to escape domestic violence, the US Attorney General recently rolled back these protections (see: <http://thehill.com/opinion/healthcare/386332-domestic-violence-survivors-seeking-asylum-in-us-deserve-our-protection>). For a discussion of legislation to protect immigrant women within the Violence Against Women Act, see also: M. Modi, S. Palmer and A. Armstrong, “The role of Violence Against Women Act in addressing intimate partner violence: A public health issue”, *Journal of Women’s Health*, 23(3):253–259, available from www.ncbi.nlm.nih.gov/pmc/articles/PMC3952594/

forms of sexual exploitation and abuse.⁶ Perpetrators of these various types of violence usually include someone known to the survivor, as well as those responsible for her movements (i.e. traffickers or fixers), and even those responsible for her protection (i.e. law enforcement and shelter staff).

Yet, gendered forms of violence perpetrated against women and children before, during and after their migration journeys often go unseen and unacknowledged. Being “unseen” may not always be a bad thing – even in the best of circumstances, many survivors of gender-based violence or violence in childhood wish to hide their experiences, for many reasons including fear of further violence or economic repercussions. An intersectional analysis reminds us that women and girls who are from minority ethnic, racial or other groups may find themselves even more at risk, and conversely also face greater barriers in seeking support. Yet being “unacknowledged” fuels the social and institutional barriers that silence survivors, such as shaming or stigmatizing those who do come forward, and failing to offer viable or trustworthy forms of support to which they can turn. Conversely, when good services are in place to address the consequences of violence against women and girls, survivors are more likely to reach out and seek help.⁷

How is it possible to gather and use data in a way that supports women and girls to be seen and heard, to have their needs met, and their agency and safety

strategies supported? What does it mean to do this within the increasing global coordination around migration data? The sections that follow provide three strategies and examples of how to improve data while keeping at the centre the interest of women and girls who migrate. They can be contextualized at the community, national, regional or global level to inform both policy and practice.

1. Disaggregate data by, at minimum, sex and age.

Data that is disaggregated by sex and age, in a way that prioritizes safety and ethical considerations, is essential to understand and better address gendered vulnerabilities and impacts across the life cycle of those on the move. Disaggregating data by sex and age is a central element of the Global Compact for Safe, Orderly and Regular Migration (GCM), which has been recently finalized by the United Nations Member States; “Call to action: Protecting children on the move starts with better data”, which was recently issued by leading international organizations; and the Sustainable Development Goal (SDG) indicator framework.⁸ So why is it still so hard to do on a consistent, standardized basis?

Collecting sex-disaggregated data is necessary to understand the ways in which the phenomenon being observed – whether it is migration patterns, prevalence of different types of violence or access to services – affects males and females differently. The ways in which this manifests in different contexts

6 See research by the International Organization for Migration (IOM) and Caritas on this issue: IOM, *Addressing Human Trafficking and Exploitation in Times of Crisis: Evidence and Recommendations for Further Action to Protect Vulnerable and Mobile Populations* (Geneva, 2015), available from <https://publications.iom.int/books/addressing-human-trafficking-and-exploitation-times-crisis-evidence-and-recommendations-0>; Caritas, *Trafficking in Human Beings in Conflict and Post-conflict Situation (June 2015 Progress Report)*, available from www.caritas.org/wordpress/wp-content/uploads/2015/11/CoatnetParis15Report.pdf. For an overview, see the author’s piece for UNICEF’s Evidence for Action blog, available from <https://blogs.unicef.org/evidence-for-action/nobody-will-answer-talk-case-research-trafficking-emergencies/>

7 A. Bain and M.F. Guimond, “Impacting the lives of survivors: Using service-based data in GBV programmes”, *Humanitarian Exchange*, 60 (February 2014). Available from <https://odihpn.org/magazine/impacting-the-lives-of-survivors-using-service-based-data-in-gbv-programmes/>. In relation to violence against children, see: A. Pereira et al., *Disclosure, Reporting and Help Seeking among Child Survivors of Violence: A Cross-country Analysis from Six Countries* (forthcoming).

8 The Global Compact for Safe, Orderly and Regular Migration, which was finalized in July (available from <https://refugeesmigrants.un.org/migration-compact>), reads: “We commit to strengthen the global evidence base on international migration by improving and investing in the collection, analysis and dissemination of accurate, reliable, comparable data, disaggregated by sex, age, migration status and other characteristics relevant in national contexts, while upholding the right to privacy under international human rights law and protecting personal data. We further commit to ensure this data fosters research, guides coherent and evidence-based policy-making and well-informed public discourse, and allows for effective monitoring and evaluation of the implementation of commitments over time.” For the Sustainable Development Goal indicator framework, paragraph C.26 of the “Note by the Secretary-General” in the “Report of the Inter-Agency and Expert Group on Sustainable Development Goal Indicators” states that: “Sustainable Development Goal indicators should be disaggregated, where relevant, by income, sex, age, race, ethnicity, migratory status, disability and geographic location, or other characteristics, in accordance with the Fundamental Principles of Official Statistics” (United Nations Economic and Social Council, E/CN.3/2016/2/Rev.1*, 19 February 2016, page 7, available from <https://undocs.org/E/CN.3/2016/2/Rev.1>).

cannot be observed and questioned without data that is disaggregated by sex. While “sex” and “gender” tend to be used interchangeably in data collection instruments, they are not the same: sex is determined biologically, while gender is socially ascribed and increasingly recognized as fluid. For example, the 2016 Migration Costs Surveys (MCS) Base Survey includes, as its third question on sex/gender, the options “Male”, “Female” and “Third gender”. This allows other gender identities to respond – assuming they trust the interviewer – to a question that otherwise may feel limiting or exclusionary.⁹ Conversely, when collection of data on migration and violence is “gender-blind”, it means that women and girls do not get asked about their priorities linked to their safety.

Age disaggregation proves trickier, as comparisons between countries and even datasets is challenged by the lack of globally agreed age ranges to distinguish adolescence. On the other hand, this allows for contextualization of what it means to be an “adolescent”. There is general agreement that those sitting at the intersection of sex and age (i.e. adolescent girls) are more at risk of violence due to these overlapping vulnerabilities, yet also exert their agency in deciding when and how to migrate.¹⁰

2. Adapt and use the ethical and safety guidance developed through the last 15 years of data and research on violence against women and girls/gender-based violence.

Safely collecting reliable data on migration and on violence against women and girls poses specific challenges because of the hidden, marginalized, and excluded populations and the nature of the events they experience, which may be stigmatizing, shameful and even illegal. Safely collecting such data refers to safety for both the population of interest – here, women and girls who migrate and experience violence at some point along that process – as well as for the data collectors. Many of the researchers whose work is highlighted in this volume have taken great risks to document the dangers people face while migrating. These unique ethical and safety challenges must be considered at every step of the research process – from conceptualization and design through data collection, synthesis, analysis and sharing. Exposing one’s migration status may lead to detention, refoulement or attacks. Likewise, asking a woman about her experience of violence without the necessary preparation and training may lead to re-traumatization or retaliation from her abuser.

The evolution and experience of researching violence against women and girls, or gender-based violence, can contribute to current discussions in the field of migration, through practical and much practised strategies to collect, analyse, and share sensitive data safely and ethically. Much of this has been documented in a series of guidance documents published by the World Health Organization (WHO), PATH and the Ethical Research Involving Children (ERIC) project partners, including *Putting Women First: Ethical and Safety Recommendations for Research on Domestic Violence against Women*,¹¹ *Researching Violence against Women: A Practical Guide for Researchers and Activists*,¹² *WHO Ethical and Safety Recommendations for Researching, Documenting and Monitoring Sexual Violence in Emergencies*,¹³ and *Ethical Research Involving Children*.¹⁴ In general, guidance centres around three guiding principles for researchers and

9 The Migration Costs Surveys is a joint initiative of the Global Knowledge Partnership on Migration and Development (KNOMAD) and the International Labour Organization (ILO). For more, including the questionnaire, see: <http://microdata.worldbank.org/index.php/catalog/2944/study-description>

10 See: UNICEF, *A Statistical Snapshot of Violence against Adolescent Girls* (New York, 2014), available from <https://data.unicef.org/resources/statistical-snapshot-violence-adolescent-girls/>. See also: Save the Children and Regional Mixed Migration Secretariat, *Young and on the Move: Children and Youth in Mixed Migration Flows within and from the Horn of Africa* (2016), available from https://resourcecentre.savethechildren.net/node/10080/pdf/young_and_on_the_move_sep_2016.pdf. As noted in the event, “Girls on the move: Protecting girls in migration and displacement” (Brainstorming Lab, 5 June 2018, European Development Days: “Research shows that migrant and displaced girls are aware of the risk of violence and abuse on their journeys, yet they still embark on these perilous journeys due to grinding poverty, conflict and/or gender-based inequity.” For more information on this event, see: <https://eudevdays.eu/community/sessions/594/girls-on-the-move-protecting-girls-in-migration-and-displacement>

11 To access the document, see: www.who.int/gender-equity-rights/knowledge/who_fch_gwh_01.1/en/

12 To access the document, see: www.who.int/reproductivehealth/publications/violence/9241546476/en/

13 To access the document, see: www.who.int/gender/documents/OMS_Ethics&Safety10Aug07.pdf?ua=1

14 To access the document, see: <https://childethics.com/>

activists working to prevent and respond to violence against women and girls, namely:

- **Respect** for the wishes, rights and dignity of those from whom data is collected, with special attention to survivors of gender-based violence and the best interests of the child;
- **Confidentiality** at all times, except when an affected person or service provider faces imminent risk to her/his well-being, safety and security;
- **Safety and security** of both affected persons and the data collection team, which is paramount and should guide all project decisions.

All data collection merits due consideration of the risks versus the benefits of collecting data. Should the benefits be deemed to outweigh the risk, it is important to develop plans for periodic reassessment, as well as an agreed set of actions should an unintended negative consequence arise (for example, data is used to track and jail persons affected). Data collection and research processes should build upon current research experience about how to minimize the under-reporting of violence.¹⁵ Carefully selected and rigorously trained interviewers must learn not only how to use data collection tools but also how to ask questions about violence in a non-judgemental, non-stigmatizing way, and they should have a keen awareness of gender–power dynamics, both in relation to their own position within the research process as well as during interviews. For example, an interviewee’s mother or husband may enter the room and require the interviewer to discreetly change the line of questioning or switch to a dummy questionnaire; practising such scenarios during interviewer training is essential.

Referral to services may require efforts at the outset to put services in place where there are none. Again, services being in place often improves data quality, as more survivors feel safe and supported to come forward. Actors with a responsibility for collecting migration data also have an ethical obligation to help ensure it is properly interpreted and used to advance policy and programme interventions, contributing to the GCM’s commitment to using data to guide “coherent and evidence-based policy-making and well-

informed public discourse”. As such, communicating findings and engaging with the media are areas deserving of further training for relevant staff. Figures collected to inform programming and policy may be misused for populist or alarmist ends; thus, tracking and responding to such misuse is another important responsibility for those collecting data.¹⁶

3. Invite those most affected to actively participate in the development of research projects.

This is another lesson emerging from those working to end violence against women and girls, and reflected in current initiatives that use mixed methods projects to collect primary data on forced migration. In short, seeking to ensure the participation of affected populations in all stages of data collection – from conceptualization to design, collection, synthesis, analysis and dissemination. Globally there are many good practice examples; the one highlighted here comes from the European context.

EU Border Care, a five-year research project funded by a European Research Council Starting Grant (2015–2020), is a comparative study grounded in long-term ethnographic fieldwork in maternity wards in six locations on Europe’s periphery, which find themselves at the front line of providing maternity services against a background of structural, social and economic under-investment. The research team conducts empirical and desk research combined with creative audiovisual methods (e.g. photography and graphic design) to reach various audiences, including those who are illiterate or have limited reading abilities. They then share findings from three interlinked perspectives: those from women who migrate, the health-care delivery staff with whom they interact (many of whom are women) and regional institutional agencies.

This project hints at the possibility of working with health information systems to triangulate de-identified data and better understand, for example, how migration impacts maternal health and maternal and infant mortality. Findings such as women and girls

15 For example, evidence suggests that rates of disclosure are related to the implementation of the survey, such as the manner and environment in which questions are asked.

16 This language is excerpted from: <https://refugeesmigrants.un.org/migration-compact>. For an example of how the language of natural disaster is used to provoke fear in response to migration figures, see: D. Shariatmadari, “Swarms, floods and marauders: The toxic metaphors of the migration debate” (*The Guardian*, 10 August 2015), available from www.theguardian.com/commentisfree/2015/aug/10/migration-debate-metaphors-swarms-floods-marauders-migrants

choosing to inject themselves with contraceptives of unknown quality and origin while transiting through Libya, in order to prevent pregnancy if raped on the remaining stages of their journey, are backed up by findings in Amnesty International reports and elsewhere.¹⁷

Conclusion

To use a common metaphor, the true extent of violence against women is often referred to as an iceberg: the section visible above the water is the violence we can see. This is dwarfed by the much larger mass underwater, the size of which is very difficult to estimate. Data on the various forms of migration undertaken by people from all over the world is similar. It is very difficult – and sometimes not the safest choice – to completely delineate the portion of the iceberg that remains under the water. Acceptance of this is a crucial aspect of undertaking survivor-centred responses to gender-based violence, as it is always the survivor's choice whether, and if, to disclose her experience of violence; the duty of practitioners and policymakers is to put in place conditions where survivors feel safe doing so.

Yet acknowledging and describing that part of the iceberg, we can see, is an essential component for informing practice and policy. Collecting data that is disaggregated by sex and age helps to indicate where important differences lie and to flag areas for further exploration. Ethical and safety practices honed through the last 20 years in the field of addressing violence against women and girls will ensure this is explored safely. Finally, encouraging participation throughout these processes – in ways both meaningful and not unduly burdensome – is critical in hearing from and listening to the perspectives of those directly affected. Reliable, systematic data on violence against women and girls along the migration journey can be collected in safe, ethical and survivor-centred ways. It forms a necessary complement to safe, ethical, and survivor-centred services and policies to address and prevent such violence from happening in the first place. ■

17 See: <http://eubordercare.eu/>. See also: (a) Amnesty International, as referenced in an article published on www.migrationpolicy.org/article/gender-based-violence-against-women-both-cause-migration-and-risk-along-journey; and (b) data compiled in UNICEF's "A deadly journey for children: The Central Mediterranean migration route" (*UNICEF Child Alert*, February 2017).



La importancia de la información sobre la niñez y adolescencia migrante en México y su marco normativo

Blanca C. Navarrete García y Melissa Angélica Vértiz Hernández¹

De 2012 a la fecha, el Instituto Nacional de Migración (INM), la autoridad mexicana en materia migratoria registró 135,761 detenciones de niños, niñas y adolescentes (NNA) (provenientes en su mayoría de países centroamericanos), de los cuales 124,350 fueron deportados (91.59%). La mayor parte de los NNA detenidos y deportados provienen de Honduras, El Salvador y Guatemala, quienes han salido de sus países por razones complejas, incluyendo la pobreza y desempleo en que viven sus padres y madres, la violencia intrafamiliar, la imposibilidad de acceder a la educación, y la persecución por grupos de delincuencia, específicamente pandillas conocidas de manera genérica como maras. En lo que respecta a NNA mexicanos, durante el mismo periodo se reportaron 66,860 repatriaciones desde los Estados Unidos, sin que existan datos acerca de su perfil, más allá del rango de edad (de 0 a 11 y de 12 a 17 años) y el sexo².

Los NNA son más vulnerables a cualquier tipo de violencia, y lo esperado por parte de los países por los que transitan es que éstos garanticen su protección antes que su deportación. Sin embargo, en su llegada y tránsito por México, los NNA son blanco de grupos de delincuencia organizada dedicados al tráfico de personas, a la trata sexual y laboral, y de autoridades federales, estatales y municipales, incluyendo agentes de migración. De 2014 a 2018, 56 mil NNA migrantes no acompañados han sido detenidos por el INM, pero

sólo 1 de cada 100 ha sido considerado para recibir la condición de refugiado. En otras palabras, sólo 721 o el 1,3%, fueron canalizados a la Comisión Mexicana de Ayuda a Refugiados (COMAR)³.

La situación que viven NNA migrantes en México, es consecuencia de la política migratoria implementada por el Estado mexicano. Esta se basa en la detección, detención y deportación de personas migrantes y se ha caracterizado por violaciones a derechos humanos, comenzando por la privación de la libertad en estaciones migratorias, o bien, o por la deportación de NNA sin que se les haga conocer que podían solicitar protección internacional en el país, poniendo en riesgo su integridad física e incluso su vida⁴. Los NNA que se quedan en México deben sortear obstáculos para acceder a derechos fundamentales como debido proceso, salud, trabajo, vivienda adecuada y educación, a pesar de que, por disposición constitucional, deben gozar de los derechos reconocidos en la ley Mexicana y en los tratados internacionales de los que el México es parte.

Organos de Naciones Unidas y del Sistema Interamericano de Derechos Humanos ha hecho recomendaciones y observaciones al Gobierno mexicano con referencia a la importancia de diseñar, reformar e implementar normas y procedimientos administrativos en donde se privilegie el Interés Superior del Niño. Por ejemplo, en la observación final del tercer informe de México presentado ante el Comité de Protección de los Derechos de Todos los Trabajadores Migratorios y de sus Familiares, se reitera su recomendación para que se tomen medidas para asegurar que la ley migratoria y otras

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2 Estadísticas de la Unidad de Política Migratoria de diciembre de 2012 a abril de 2018: Disponible en: www.politicamigratoria.gob.mx/es_mx/SEGOB/Boletines_Estadisticos

3 Debate 2018. Sólo 1% de niños migrantes obtiene asilo en México. 28 de mayo de 2018. Disponible en: www.debate.com.mx/mexico/ninos-migrantes-asilo-en-mexico-inmrefugiados-20180523-0304.html

4 Esta práctica ha sido documentada y registrada por diversas organizaciones. Ver la evaluación del Grupo Articulador México en el Marco del Plan de Acción de Brasil. <https://sinfronteras.org.mx/wp-content/uploads/2018/02/mexico-con-portada-en-paginas.pdf>

normativas vigentes sean plenamente compatibles con todas las disposiciones de la Convención y otros instrumentos internacionales de derechos humanos, incluyendo la armonización de la Ley de Migración (LM) con la Ley General de los Derechos de Niñas, Niños y Adolescentes⁵.

Pero ¿qué es necesario hacer para avanzar en ello?

Uno de los elementos fundamentales para la generación y/o modificación de marcos normativos, políticas públicas, y la puesta en marcha de acciones integrales de restitución de derechos de NNA, es la generación de información cuantitativa y cualitativa sobre los motivos del éxodo, las condiciones del tránsito, el retorno, el refugio y la migración de circuito⁶, para entonces determinar el plan de restitución de derechos que se adecúe a cada caso.

En diciembre de 2014 se publicó en México la Ley General de los Derechos de Niñas, Niños y Adolescentes. Esta busca reconocer a todas las y los niños y adolescentes como titulares y sujetos de derechos. También establece principios y criterios que deben tomarse en cuenta para la orientación de una política de Estado concerniente a niñez y adolescencia migrante, y estipula la creación de un Sistema Nacional de Protección Integral de Niñas, Niños y Adolescentes (SIPINNA) conformado por el Sistema Nacional de protección (conocido como el DIF) y las Procuradurías de Protección de Niñas, Niños y Adolescentes (PPNNA).

La LGDNNA señala que la Secretaría Ejecutiva junto con los Sistemas de Protección Local, tendrán como responsabilidad diseñar, integrar, administrar y actualizar un sistema nacional de información con

datos desagregados que permitan monitorear los progresos alcanzados en el cumplimiento de los derechos de NNA en el país, incluyendo indicadores cualitativos y cuantitativos⁷. Este sistema deberá considerar información sobre la situación de NNA y sus derechos, su condición de vulnerabilidad y el nivel de cumplimiento de ciertas medidas de protección especial, entre otros⁸. El INM, deberá proporcionar información y colaborar con el DIF para incorporar información a esta base de datos⁹. Además, la Procuraduría Federal de Protección de NNA deberá tener conocimiento de la información contenida, dado que una de sus principales funciones es proteger y restituir los derechos de NNAs. En el caso de NNA migrantes mexicanos en proceso de repatriación que se encuentren en el extranjero, las representaciones consulares dependientes de la Secretaría de Relaciones Exteriores deberán coordinarse con el INM y los Sistemas del DIF para realizar los procedimientos de protección correspondiente.

Consecuencias de un Sistema Nacional de Información débil y carente de articulación

El procedimiento anterior es el que establece la ley. Sin embargo, existen discrepancias que ponen en riesgo los derechos de la niñez y la adolescencia migrante. El cuadro a continuación enlista algunas de las prácticas que han sido documentadas por organizaciones de la sociedad civil y sus impactos.

5 Naciones Unidas. Comité de Protección de los Derechos de Todos los Trabajadores Migratorios y de sus Familiares. Observaciones finales sobre el tercer informe periódico de México. Aprobadas por el Comité en su 27° periodo de sesiones. CMW/C/MEX/CO/R.3

6 En el caso mexicano, las autoridades definen a los NNA de circuito, como aquellos radicados en comunidades fronterizas con los Estados Unidos, que de manera sistemática realizan cruces indocumentados asumiendo diversos roles en el tráfico de personas, ya sea de manera forzada o “voluntaria” para solventar necesidades económicas propias y de sus familias. Para leer más sobre este tema se sugiere leer “Ni delincuentes ni ilegales. El trabajo de niños, niñas y adolescentes fronterizos en los procesos de movilidad humana en el corredor El Paso – Juárez, disponible en: <http://cadmus.eui.eu/handle/1814/50984>

7 Ver: Ley General de Derechos de Niñas, Niños y Adolescentes. 04/12/2014 Artículo 125, fracción XV.

8 El artículo 43 del Reglamento de la Ley General de los Derechos de Niñas, Niños y Adolescentes establece la información que debe incluir la base de datos de niñez y adolescencia migrante: Nombre completo; Lugar de origen, nacionalidad y residencia habitual; Edad; Sexo; Media filiación; Escolaridad; Sitio o zona de cruce fronterizo; Número de ocasiones de repatriación, deportación o devolución, de ser el caso; Situación de salud; Susceptibilidad de recibir protección internacional o complementaria, en su caso; Identificación de que fue víctima, testigo u ofendido de algún delito en su país de origen, residencia habitual, país de destino o en el territorio nacional, en su caso; Las medidas de protección que, en su caso, se le hayan asignado; La fecha y lugar en que la autoridad migratoria tuvo contacto con las niñas, niños o adolescentes, así como la fecha en la que fue remitido al Sistema Nacional DIF o a alguno de los Sistemas de las Entidades o Municipales, y Tipo y severidad de la discapacidad con la que vive, en su caso.

9 Ley General de Derechos de Niñas, Niños y Adolescentes. Artículo 100.

Práctica	Impactos
Inexistencia de una base de datos oficial con información de NNA; falta de presupuesto para su implementación.	No hay una base de datos unificada sobre los NNA en contextos migratorios. La Secretaría de Relaciones Exteriores recaba cierta información de los repatriados desde Estados Unidos; el Instituto Nacional de Migración hace lo propio con NNA migrantes extranjeros. Pero son las Procuradurías de Protección Locales y la Federal, las que deberían concentrar toda la información y eso no ocurre.
No son compartidos los hallazgos documentados en las entrevistas de los NNA.	Distintas autoridades e instancias encargadas de implementar medidas de protección y de restitución de derechos, desconocen información completa de los casos y condiciones fundamentales a tomar en cuenta.
Algunos Consulados Mexicanos en Estados Unidos, realizan entrevistas a NNA vía telefónica y no de manera presencial, aún cuando se encuentren en la misma localidad.	Hay preguntas que sólo pueden responderse por medio de la observación. Adolescentes entrevistados después de su repatriación reportan que las entrevistas realizadas son de 10 minutos, cuando están previsto para realizarse en un tiempo estimado de 45 minutos.
No se garantiza ni se protege el derecho a la información de NNA.	Los NNA desconocen su situación legal en México, sus derechos, y la competencia de cada autoridad que los entrevista. Esto genera miedo, confusión y desconfianza en las instituciones, teniendo graves impactos emocionales en los NNA.*
No se aplica el principio de interés superior de la niñez ni el derecho a la participación de NNA en procedimientos administrativos.	Los NNA no son considerados en los procedimientos legales, carecen de información sobre la resolución que les afectará, no son consultados sobre lo que consideran que es mejor que ocurra en su futuro inmediato.
No se garantiza el derecho de sobrevivencia y desarrollo de los NNA.	Al ser repatriados sin brindarles la información y atención adecuada, se pone en riesgo la integridad física de los NNA.
A pesar de encontrarse prohibida la detención de NNA en estaciones migratorias, esto continúa ocurriendo.	No se han habilitado centros de acogida para NNA acompañados o separados de sus familias. En estos casos, las Procuradurías de Protección realizan las entrevistas con los NNA en las estaciones migratorias, violando su privacidad al no contar éstas con espacios que brinden seguridad y confidencialidad. Autoridades han indicado que cuando visitan las estaciones migratorias para entrevistas a los NNA, éstos ya fueron repatriados sin que pudieran contestar las entrevistas y valoraciones necesarias con respecto a su Interés Superior.

* El ejemplo más dramático fue el de la niña ecuatoriana Noemí Álvarez Quillay, quien se suicidó después de una entrevista realizada por la Procuraduría General de la República, donde no contó con un psicólogo ni con la representación legal de la Procuraduría de Protección de NNA en Ciudad Juárez.

Armonizando la ley sobre infancia y adolescencia migrante con un componente de información

Desde 2014 se han presentado diversas iniciativas en el tema de infancia migrante ante el Senado Mexicano con la finalidad de homologar la Ley de Migración y la Ley sobre Refugiados, Protección Complementaria y Asilo Político con la LGDNNA. Este proceso ha sido llevado a cabo por organizaciones que conforman el Grupo de Trabajo sobre Política Migratoria,¹⁰

agencias de Naciones Unidas con representación en México y actores claves a nivel internacional. También ha sido impulsado por instancias de gobierno como el SIPINNA. Debido a la falta de voluntad política y a que concluyó el periodo legislativo, no fue analizada por las Comisiones de Asuntos Migratorios y de Gobernación del congreso Mexicano.

¹⁰ El Grupo de Trabajo sobre Política Migratoria es una red de la sociedad civil conformada por organizaciones y personas que dedican sus esfuerzos en trabajar a favor de las personas migrantes de México y la región. Desde el 2010 articulan su trabajo para incidir en la legislación y política migratoria desde perspectiva de derechos humanos, infancia, género e interculturalidad.

Esta armonización en materia de información de niñas, niños y adolescentes migrantes internacionales en México establece que:

1. El Sistema Nacional de protección (DIF) deberá diseñar y administrar la base de datos al que se hace mención en este artículo.
 2. La base de datos contendrá datos cuantitativos y cualitativos que se integrarán al Registro Único de NNA migrantes.
 3. Esta base de datos incluirá información sobre las causas estructurales de la emigración de niñas, niños y adolescentes, condiciones de tránsito, vínculos familiares, factores y/o situaciones de riesgo, número de representantes legales y/o tutores, datos de alojamiento, entre otros.
 4. Propone que las agencias involucradas deberán enviar la información que se genere a fin de que se incorpore en la base de datos.
 5. Reconoce que la información que personas defensoras de derechos humanos envían como insumos para la alimentación de la base de datos de NNA migrantes, debe ser tomada en cuenta, sobre todo para el diseño y evaluación de las políticas públicas para proteger a los NNA.
- Aclarar las responsabilidades de las instancias que participan en el proceso de diseño, alimentación, administración y análisis de la información contemplada en la base de datos de NNA.
 - Crear y garantizar mecanismos que eviten la revictimización de NNA durante las entrevistas a partir de las cuales se obtiene información de sus casos.
 - Construir estadísticas con variables desagregadas que no se limiten a la edad, sexo y condición migratoria de los NNA, sino que permitan comprender la situación actual de los NNA y definir con ellos y ellas la mejor decisión para garantizar sus derechos.
 - Garantizar que la base de datos de NNA migrantes contribuya a fortalecer la puesta en marcha del plan de restitución de derechos que establece la Procuraduría de Protección, independientemente de si NNA se encuentran en México, o si ya fueron deportados a sus lugares de origen. ■

Recomendaciones y conclusiones

Los retos y pendientes que existen en materia de información sobre niñez y adolescencia migrante en México son variados. En esta contribución, hemos buscado establecer la necesidad por:

- Contar con una base de datos única que concentre la información recabada por las diversas instituciones que tienen contacto con los NNA, de manera tal que las decisiones con respecto a su futuro estén sustentadas en su interés superior.
- Garantizar que la base de datos cuente con mecanismos de protección de datos sensibles, y explicar oportunamente a los NNA que la información proporcionada por ellos y ellas durante las entrevistas tiene controles de seguridad que impiden su divulgación indebida.
- Homologar formatos y criterios de aplicación de entrevistas, asegurando que contengan la información cuantitativa y cualitativa que establece la ley y el reglamento de la LGDNNA.



Data on access to counsel and reintegration services for children and their impact on improving policies and protection for Central American unaccompanied children

Jennifer Podkul and Cory Shindel¹

Introduction

Historically, the majority of migrants arriving at the United States–Mexico border were adult males in search of economic opportunity. In recent years, however, unaccompanied children have begun to migrate to the United States in significant numbers, many seeking humanitarian protection. The majority of these children are fleeing complex contexts, including high levels of gang violence and criminal impunity in El Salvador, Guatemala and Honduras (a region known as the Northern Triangle). In 2014, the arrival of more than 68,000 unaccompanied children – a peak flow that began its ascent in 2011 – brought this population and the vulnerabilities it faces to the fore of US policy debates regarding immigration and border security. In total, it is estimated that more than 200,000 unaccompanied children have journeyed to the United States since that time. Policymakers in the United States, including former President Barack Obama and President Donald Trump, have struggled to identify policies that effectively reduce the number of children migrating alone. There have been no sustained policy or legal improvements to ensure that those fleeing threats to their lives, abandonment and abuse receive humanitarian protection.

In response to a public outpouring of concern about both the plight of unaccompanied children and irregular migration to the United States, the Obama Administration created new pathways to refugee protection for Central American children. The Central American Minors (CAM) programme provided in-country refugee processing and resettlement opportunities for children in the Northern Triangle who had parents lawfully residing in the

United States.² The Obama Administration also announced the launch of the Protection Transfer Agreement (PTA), a programme that pre-screens individuals in immediate need of protection for transfer to a safe country while awaiting potential resettlement in the United States.³ These two programmes reflected an important recognition of the refugee crisis in Central America and extended life-saving protection to more than 3,300 people fleeing persecution.⁴

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- ² The United States expanded the programme, which allowed parents lawfully residing in the United States to apply for refugee status for their children living in Central America, in 2016, to enable resettlement of additional family members, such as adult sons and daughters of petitioning parents, and other parents or related caregivers of eligible children (Source: Government of the United States, Department of Homeland Security, Central American Minors Program, “U.S. expands initiatives to address Central American migration challenges” (26 July 2016), available from www.dhs.gov/news/2016/07/26/us-expands-initiatives-address-central-american-migration-challenges).
- ³ A. Holpuch, “U.S. partners with Costa Rica to protect Central American refugees” (*The Guardian*, 26 July 2016), available from www.theguardian.com/world/2016/jul/26/central-american-refugees-costa-rica-obama-administration; U.S. Embassy in Costa Rica website, News and Events section, “Costa Rica will protect refugees” (26 July 2016), available from <https://cr.usembassy.gov/costa-rica-will-protect-refugees/>
- ⁴ See: E. Foley and R. Planas, “Trump left nearly 4,000 applicants for Central American Refugee Program stranded” (*Huffington Post*, 30 April 2018), available from www.huffingtonpost.com/entry/central-american-minors_us_5ae1f199e4b055fd7fc9608a (stating that 3,378 individuals had entered the United States through the Central American Minors (CAM) programme as of 20 April 2018, including 1,914 refugees and 1,464 parolees, according to the US Department of State); Office of the United Nations High Commissioner for Refugees (UNHCR), El Salvador fact sheet (March 2017), available from <http://reporting.unhcr.org/sites/default/files/UNHCR%20El%20Salvador%20Factsheet%20-%20March%202017.pdf> (noting UNHCR’s referral of 200 individuals in El Salvador to the Protection Transfer Agreement in 2016).

While critically important, these programmes were but a small piece of an immigration policy puzzle focused largely on deterrence and enforcement.⁵ In fact, policymakers and migration advocates expressed concern over measures during the Obama years to stem migration to the border through the creation of new detention facilities for families, increased prosecution of migrants for illegal entry and reentry, and the use of “priority” or so-called “rocket” dockets to expedite immigration court proceedings, among other policies.⁶ These initiatives complemented campaigns funded by the United States to support Mexico’s own migration interdiction programme (i.e. Programa Frontera Sur) and media outreach in the Northern Triangle which warned residents about the dangers and consequences of migrating.⁷ The Trump Administration has continued and dramatically expanded the prior Administration’s deterrence initiatives, with a particular focus on weakening and eliminating federal laws and policies providing protections for unaccompanied children.⁸

Recent policies forcing the separation of parents and children are particularly troubling and inflict trauma on children and families in the name of deterrence. Despite the fact that migration research has shown that there is no evidence that punitive deterrent strategies alone impact migration significantly,⁹ new policies are offered on the claims that they will effectively control migration or improve the quality of outcomes for children. Having limited data on the efficacy of deterrence has led policymakers to risk investing in programmes and practices that do little to manage future migration yet lead to practices that may put children in grave harm.

This contribution asserts how data and improved data collection can better inform migration policy decisions and mobilize action in support of the fair treatment and lasting protection of unaccompanied children. Specifically, it shows how improved data on the impact of access to legal representation and social services on children’s outcomes can help improve policies that will ensure children in need of protection have access to such from the moment they arrive in the United States to the conclusion of their legal case and even afterward once they are in a new community or even in their home countries. This article explains the direct correlation between children’s access to legal counsel and the success of their cases for humanitarian protection. It is based on the work we have carried out at KIND, representing more than 16,000 unaccompanied children. This vital linkage and the disparities in outcomes it reveals for represented versus unrepresented children highlight the life-altering implications and opportunities posed by migration policy decisions.

5 See for example: Government of the United States, The White House website, Statements and Releases section, Office of the Press Secretary, “The Obama Administration’s government-wide response to influx of Central American migrants at the southwest border” (1 August 2014). Available from <https://obamawhitehouse.archives.gov/the-press-office/2014/08/01/obama-administration-s-government-wide-response-influx-central-american>

6 See: Ibid.; Government of the United States, Department of Justice website, News section, “Department of Justice announces new priorities to address surge of migrants crossing into the U.S.” (9 July 2014), available from www.justice.gov/opa/pr/departments-justice-announces-new-priorities-address-surge-migrants-crossing-us; Government of the United States, Department of Justice, Executive Office for Immigration Review, Office of the Chief Immigration Judge, Brian M. O’Leary, “Docketing practices relating to unaccompanied children cases in light of the new priorities” (10 September 2014), available from www.justice.gov/sites/default/files/eoir/legacy/2014/09/30/Docketing-Practices-Related-to-UACs-Sept2014.pdf

7 See: Government of the United States, The White House, Office of the Press Secretary, “Letter from the President – efforts to address the humanitarian situation in the Rio Grande Valley Areas of our nation’s southwest border” (30 June 2014), available from <https://obamawhitehouse.archives.gov/the-press-office/2014/06/30/letter-president-efforts-address-humanitarian-situation-rio-grande-valle>; C. Seelke and K. Finklea/Government of the United States, Congressional Research Service (CRS), *U.S.-Mexican Security Cooperation: The Mérida Initiative and Beyond* (Washington, D.C., CRS, 29 June 2017), available from <https://fas.org/sgp/crs/row/R41349.pdf>

8 See: KIND, *Death by a Thousand Cuts: The Trump Administration’s Systematic Assault on the Protection of Unaccompanied Children* (Washington, D.C., May 2018). Available from https://supportkind.org/wp-content/uploads/2018/05/Death-by-a-Thousand-Cuts_May-2018.pdf

9 M. Corradini et al., *Operation Streamline: No Evidence That Criminal Prosecution Deters Migration* (New York, Vera Institute of Justice, June 2018). Available from https://storage.googleapis.com/vera-web-assets/downloads/Publications/operation-streamline/legacy_downloads/operation_streamline-report.pdf

Legal representation and access to protection

Unlike the US criminal legal system, the US immigration system does not appoint attorneys to represent individuals, even children, in immigration and deportation proceedings.¹⁰ The challenge of navigating complex immigration laws and an unfamiliar legal system in a foreign language, daunting even for adults, is unfathomably difficult for unaccompanied children. More than 50 per cent of children in immigration proceedings do not have attorneys to represent them. Representation rates are even lower for recent arrivals. In 2018, 69 per cent of child arrivals did not have attorneys.¹¹

Having fled their home countries alone and journeyed through arduous terrain, children who arrive in the United States often face additional barriers. Within hours of their arrival, they are interviewed by uniformed customs and border protection officers while alone and without the assistance of an attorney. In the months that follow, these children will face deportation proceedings before a judge, where they will be confronted by a trained government attorney arguing for their deportation. Without an attorney to represent them, unaccompanied children are at great risk of being sent back to harm or even death in their home countries.¹²

Attorneys play a critical role in identifying and addressing protection needs. The exact legal standards and the complexities of obtaining

translators, interpreters and experts to prepare a child's protection case are nearly impossible for children to navigate without legal assistance. Many unaccompanied children are eligible for humanitarian protection, but they are required to provide details and documentation to substantiate their claims as well as information about the conditions in their home countries. Through legal screenings, attorneys are able to identify children who may be eligible for humanitarian protection.¹³ Careful screening is especially critical for child survivors of trauma, violence and abuse, who may have normalized even severe harm and fail to recognize its relevance to their immigration cases.

Attorneys can also promote court efficiency by identifying which children's cases present eligibility for relief and which cases lack a legal basis for the child's remaining in the United States. In the absence of counsel, immigration judges frequently must delay proceedings to allow children to seek an attorney to assist them in meaningfully participating in proceedings. Representation by attorneys relieves the need for such delays, allows judges to focus their time on their dockets, and contributes to more orderly and effective proceedings. Better and specific data on the ways in which attorneys improve the efficiency of the immigration system can assist in quantifying the benefits and cost savings that result from access to counsel, and generate interest and action by policymakers to address this severe need.

In addition to supporting the thoughtful presentation of children's claims, legal representation plays a critical role in the outcomes of children's protection cases. Nationally, unaccompanied children represented by counsel are five times more likely to secure legal protection, allowing them to remain in the United States.¹⁴ Only 1 in 10 children without an attorney successfully obtains legal protection.¹⁵

10 See: Sixth Amendment, United States Constitution (providing defendants in federal criminal prosecutions the right to assistance of counsel, even if they cannot afford to pay); *Gideon versus Wainwright*, 372 U.S. 335 (1963) (extending the Sixth Amendment right to counsel to State criminal prosecutions for felonies). Pursuant to Section 292 of the Immigration and Nationality Act, individuals in immigration proceedings "shall have the privilege of being represented (at no expense to the Government) by . . . counsel" (Source: Title 8 – Aliens and Nationality, United States Code, Section 1362).

11 The Syracuse University Transactional Records Access Clearinghouse (TRAC) immigration tool allows users to filter and search immigration court data using different criteria, including representation. A search of data for juveniles by representation (for instance, select "Represented" from the first and middle dropdown menus, tick "Current Status" for "Measure" and tick "Percent" for "Time Series") produces a bar graph indicating 69 per cent representation for the partial year of 2018. See: <http://trac.syr.edu/phptools/immigration/juvenile/>

12 Syracuse University TRAC, "New data on unaccompanied children in immigration court" (15 July 2014). Available from <http://trac.syr.edu/immigration/reports/359/>

13 Unaccompanied children are frequently eligible for asylum or humanitarian visas for victims of severe trafficking and for children who have been abandoned, neglected, or abused. See: American Immigration Council, *A Guide to Children Arriving at the Border: Laws, Policies and Responses* (Washington, D.C., June 2015), page 4, available from www.americanimmigrationcouncil.org/sites/default/files/research/a_guide_to_children_arriving_at_the_border_and_the_laws_and_policies_governing_our_response.pdf

14 Syracuse University TRAC, "Representation for unaccompanied children in immigration court" (25 November 2014). Available from <http://trac.syr.edu/immigration/reports/371/>

15 Ibid.

Limits of data and the need for further research

Data on the role of counsel in the success of unaccompanied children's protection cases can highlight the disparities in due process within the US immigration system and the transformative role that attorneys can play in closing protection gaps. Existing data can also be used to press for government support for legal representation in immigration proceedings. These efforts have culminated in the introduction of legislation that would mandate government-funded counsel for unaccompanied children, and the conversation about improving due process for unaccompanied children continues to evolve.

Yet need remains overwhelming and acute. While rates of representation fluctuate by region and over time, in the United States approximately 69 per cent of juveniles currently lack attorneys to assist them in navigating their deportation proceedings.¹⁶ As a result, children continue to be returned to places where they can face harm and danger not due to the weakness of their legal claims, but rather because they lack the legal assistance needed to ensure their cases are fully and fairly heard.

While organizations have worked diligently to access and interpret government data on legal representation rates, this information is inconsistently available and subject to significant delays. As a result, providers and the government gauge the impact of fluctuating migrant flows on access to representation – and allocate resources – based largely on incomplete or anecdotal evidence. More systematic data collection and continuous access to information about representation will aid providers in directing their services to areas of greatest need and in advocating additional funding and support as needed. This data should include the number of children who have access to counsel, at which points they obtain it or face barriers in doing so, how detention affects their access to counsel and, inversely, how counsel may reduce length of detention.

Data is also essential to evaluating the desirability and effectiveness of immigration policies affecting unaccompanied children. New US policies, including prosecutions that force the separation of migrant and refugee families, are creating serious legal obstacles for unaccompanied children, who must now prepare their immigration cases with limited access to critical information, support and documentation from their parents. Data on the number of children rendered “unaccompanied” by these policies, and the impact of separations on both access to counsel and the ability of children to secure legal protection, could lend credible support to advocacy efforts involving family separations – a practice the United Nations has said “amounts to arbitrary and unlawful interference in family life, and is a serious violation of the rights of the child.”¹⁷

Identifying and addressing the needs of returning children

In addition to driving support for protective policies in the United States, data can help to inform the creation and delivery of services to help children returning to Central America to safely reintegrate into their communities. Unaccompanied children have significant protection needs not only in the United States but also in their countries of origin and transit. Too often, children flee severe violence and abuse in their home countries only to be returned to conditions that remain unchanged. Through case studies of 96 Central American migrant children and interviews with 78 government and civil society representatives, KIND, in partnership with Fray Matías de Córdova Human Rights Center, has documented the prevalence of sexual and gender-based violence in Central America and its role in driving child migration from the region.¹⁸ Without comprehensive social services to assist in identifying and addressing the risks children face in their homes, families and communities, many will be left with no choice but to remigrate in search of protection.

16 The Syracuse University TRAC immigration tool allows users to filter and search immigration court data using different criteria, including representation. A search of data for juveniles by representation (for instance, select “Represented” from the first and middle drop-down menus, tick “Current Status” for “Measure” and tick “Percent” for “Time Series”) produces a bar graph indicating 69 per cent representation for the partial year of 2018. See: <http://trac.syr.edu/phptools/immigration/juvenile/>

17 N. Cumming-Bruce, “Taking migrant children from parents is illegal, U.N. tells U.S.” (*The New York Times*, 5 June 2018). Available from www.nytimes.com/2018/06/05/world/americas/us-un-migrant-children-families.html

18 KIND and Fray Matías de Córdova Human Rights Center, *Childhood Cut Short: Sexual and Gender-based Violence Against Central American Migrant and Refugee Children* (Washington, D.C., KIND; Tapachula, Chiapas, Mexico, Fray Matías de Córdova Human Rights Center, June 2017). Available from https://supportkind.org/wp-content/uploads/2017/06/Childhood-Cut-Short-KIND-SGBV-Report_June2017.pdf

KIND's Child Migrant Return and Reintegration Project (CMRRP) connects returning children with community-based service providers in their home countries that can facilitate safe and successful reintegration. To date, KIND and its Central American partner organizations have provided return and reintegration services to 271 returning migrant children and their families, and limited support or external referrals to 42 more cases. Our work has illustrated the impact of meaningful and accessible reintegration services on the need of children to remigrate. In the first five years of the project, the rate of remigration was 23 per cent. However, when children and families were offered services based in the communities in which they lived, rates of remigration dropped to below 5 per cent.

Apart from KIND's reintegration programme, very few services exist for repatriated children. Data on the number of unaccompanied children repatriated to the Northern Triangle from Mexico and the United States each year, the children's places of origin, and the demographic breakdown of repatriated children's ages and gender would assist governments, advocates, and service providers in determining the extent of the need for reintegration services like the CMRRP and where such programmes are most essential.

The Government of El Salvador, the Government of Guatemala and the Government of Honduras maintain data on the reasons for unaccompanied children's migration. These are reported by the children during their interviews with staff at the government reception centres that process them prior to reunifying them with their families in their countries of origin. However, interviewing children during the reception process undermines the integrity of the data on the root causes of their migration. Children who have fled violence or harm in their countries, have endured a harrowing journey to Mexico or the United States, and have experienced immigration apprehension and detention and the disappointment of returning to their countries of origin may be hesitant to disclose to government employees the true reasons for their migration. Interviews conducted by non-governmental organizations may yield more reliable data. Alternatively, interviews or surveys that inquire about a range of background information – such as whether the child has experienced violence, and whether the child was able to attend school prior to migration, rather than “Why did you migrate?” – may lead to more accurate and relevant data on the causes of child migration.

While KIND's programme has demonstrated the effectiveness of reintegration services in the adaptation of children to their homes and communities and the reduction of their need to remigrate, government investment in these strategies remains inadequate to enable large-scale replication of successful programmes and to identify additional best practices through pilot programmes. KIND is currently collaborating on a survey of existing civil society organizations and service providers in the Northern Triangle to identify what services currently exist for children upon their return from the United States. Better data on how many children receive home visits by nonprofit organizations and government agencies upon return, enrol or re-enrol in school upon return, and participate in formal job training programmes upon return allows us to better identify gaps in services. Embracing a cross-disciplinary approach, this research can spur innovative programmes that support the social, emotional, and developmental needs of children and families while effectively reducing forced migration of children from the region.

Conclusion

Migration policy decisions, including those affecting children arriving alone in the United States, are being made with insufficient data to suggest their effectiveness or appropriateness in responding to the needs and motivations of children on the move. The work of providers serving unaccompanied children suggests the importance of legal representation and reintegration services in identifying and responding to complex factors driving child migration, including extreme violence and abuse. Anecdotal experiences and existing data on programme outcomes are a critical and promising first step. Additionally, systematic collection of data on representation rates and barriers to accessing counsel, as well as the services available to children returning to their home countries, will allow service providers to more effectively target their efforts to reach the greatest number of children. It will also assist policymakers and advocates in advancing policies that improve access to humanitarian protection while addressing future migration flows. With migration policy now at the forefront of the US policy debate, this data can play a timely and transformative role in shifting the national conversation towards support for unaccompanied children's access to fair treatment and enduring protection. ■



Children and irregular migration practices: Missing children or missing data?

Gabriella Sanchez¹

Introduction

In 2017, Europol reported that an estimated 10,000 migrant children had been identified as missing following their arrival in Europe.² In the summer of 2018, according to the United States Department of Health and Human Services (USHHS), the whereabouts of 1,475 unaccompanied children who had become separated from their parents upon their arrival in the United States as a result of changes to migration policy were unknown.³ Both statements generated widespread condemnation and were followed by demands to restore the rights of the children as well as by coordinated efforts to locate them and reunite them with their families. Europol as well as US HHS cited migrant smuggling gangs and other criminal actors engaged in child victimization and exploitation as culprits,⁴ despite evidence that the often punitive and restrictive nature of migration regimes – rather than criminal entities – had played a role in the status of the children.

While claiming criminal groups play no role in the victimization endured by migrant children would be amiss, attributing the risks the latter encounter in their journeys to organized criminality alone (or citing the potential of such practices to exist to justify detention practices) is equally erroneous. Yet data and knowledge of migrant children and their journeys, especially from children's perspectives, are scant at best, leaving the complexity of their mobility experiences largely unexamined. As other contributors to this special issue of *Migration Policy Practice* attest, migration studies' focus on adult journeys; the lack of data disaggregation and coordinated data-collection efforts; and age, ethnic, race and gender-based discrimination – along with the absence of child-minded research methods – has made the study of young people's mobilities a difficult feat. The present contribution briefly summarizes what the claims attributing young people's mobility efforts to organized criminal actors may hide and provides examples of efforts to collect improved data on young people's migratory experiences and challenges.

Why do children “disappear” or “go missing”?

In contemporary narratives of migration, the disappearances of adult migrants in transit have been almost singlehandedly attributed to smugglers, traffickers and organized criminals. The cases pertaining to migrant children are not the exception, and in fact – as shown by the two prior examples – these often generate an even stronger reaction from the public, even when the reasons behind their disappearances are left unexamined. Furthermore, the attention paid to migrant deaths as the only form of “going missing” often obscures the ways in which migration policy restrictions lead migrants to find ways to remain invisible or unaccounted for. This is of significant importance in the case of young people. For example, Sigona and his team have documented how migrant children purposely avoided State-centric protection mechanisms once within Europe, abandoning shelters without notice (and on

1 Gabriella Sanchez is a research fellow at the Migration Policy Centre, European University Institute, Florence, Italy.

2 M. Townsend, “10,000 refugee children are missing, says Europol” (*The Guardian*, 30 January 2016). Available from www.theguardian.com/world/2016/jan/30/fears-for-missing-child-refugees

3 United States Department of Health and Human Services, “Statement of Steven Wagner, Acting Assistant Secretary, Administration for Children and Families, U.S. Department of Health and Human Services before the Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, United States Senate” (26 April 2018). Available from www.hsgac.senate.gov/imo/media/doc/Wagner%20Testimony.pdf

4 US authorities have repeatedly warned parents against the use of smuggling as a way to facilitate the journeys of their children, threatening them with criminal liability. See: US Department of Homeland Security (DHS), “DHS Secretary Nielsen’s remarks on the illegal immigration crisis” (Washington, D.C., DHS, 18 June 2018). Available from www.dhs.gov/news/2018/06/18/dhs-secretary-nielsens-remarks-illegal-immigration-crisis

occasion, even encouraged by protection staff)⁵ due to poor living conditions, employment ineligibility or restrictions preventing them from joining formal education systems.⁶ Achilli et al. have also identified in Greece and Jordan cases of unaccompanied migrant children who “avoided accessing humanitarian support or registering officially with national authorities” and instead entered the informal labour market working in occupations where they were particularly prone to endure wage theft or accidents, and, in some instances, resorted to performing transactional sex in order to make a living.⁷ Research among Bangladeshi migrants in Italy has also revealed that family pressures to contribute to household expenses in the country of origin and/or to pay off the debt acquired to finance their journeys often led young men to avoid formalized shelter or protection settings in order to work despite lacking formal authorization.⁸ All three studies have identified how young people, unable to obtain migratory relief, often abandon asylum claims, must rely on informal and dangerous occupations, and refuse to access medical care or to pursue educational opportunities in their attempts to avoid detection, apprehension and/or deportation by immigration authorities.

Lastly, the very notion of “missing” and who counts as such is often arbitrary. Sigona and Humpris have in fact highlighted how the definition of and the law enforcement response to who counts as a missing child varies across countries and even regions, resulting often in double-counting or in children “disappearing” in one country while “appearing” in another – an important consideration when mapping children’s mobility.⁹ Many children, drawing

on the advice of their peers and/or relying on their own experiences, may opt to “go missing” with the hope that this will provide them with an advantage to pursue their personal goals and, in fact, achieve alternative forms of protection or relief.¹⁰

Does organized crime play a role in children's mobility?

Migrant children travelling on their own, in groups, and with people known to them as friends and family members often do so, relying on smuggling facilitators who, in exchange for a fee or in-kind payment, provide wide-ranging levels and quality of guidance and protection to cross borders undetected.¹¹ Many young people on the move do also become entangled in other criminal markets as a result of coercion and intimidation, while others may opt to do so given the lack of employment and/or occupational opportunities available to them as a result of their migration status or lack thereof.¹² There is a large body of media-reporting involving the experiences of migrant children who fall prey to smugglers, human traffickers and other criminal groups. Yet, in most instances, this comprises the most tragic of cases, whose devastating outcomes are attributed almost singlehandedly to the activities of organized crime and less to the migration restrictions that disproportionately impact children on the move and their families.¹³

- 5 N. Sigona and J. Allsop, “Mind the gap: Why are unaccompanied children disappearing in the thousands?”, *50.50: Gender, Sexuality and Social Justice* (22 February 2016). Available from www.opendemocracy.net/5050/nando-sigona-and-jennifer-allsop/mind-gap-why-are-unaccompanied-children-disappearing-in-thous
- 6 N. Sigona, E. Chase and R. Humpris, “Understanding causes and consequences of ‘going missing’”, *Becoming Adult*, Research Brief No. 6 (2017).
- 7 L. Achilli et al., *On My Own: Protection Challenges for Unaccompanied and Separated Children in Jordan, Lebanon and Greece* (Rome, Mixed Migration Platform and Migration Policy Centre, 2017).
- 8 European Commission, Directorate-General for Migration and Home Affairs, *A Study of the Communication Channels Used by Migrants and Refugee Seekers in Italy, with a Particular Focus on Online and Social Media* (Luxembourg, European Union, 2018).
- 9 N. Sigona and H. Rachel, “Children and unsafe migration in Europe: Data and policy, understanding the evidence base”, International Organization for Migration, Global Migration Data Analysis Centre, *Data Briefing Series*, No. 5 (September 2016).

- 10 G. Sanchez, “Circuit children: The experiences and perspectives of young people in the migrant smuggling market on the United States–Mexico border”, *Anti-Trafficking Review Journal* (forthcoming).
- 11 See for example: W. Vogt, “Stuck in the middle with you: The intimate labours of mobility and smuggling along Mexico’s migrant route”, *Geopolitics*, 21(2):366–386; N. Majidi, “Communities of smugglers and the smuggled”, *Beyond Trafficking and Slavery* (8 April 2016), available from www.opendemocracy.net/beyondslavery/hsr/nassim-majidi/communities-of-smugglers-and-smuggled; G. Sanchez, “This time I am going to cross: Fighting entrapment processes through the provision of human smuggling services on the US–Mexico border”, in *Entrapping Asylum Seekers: Social, Legal and Economic Precariousness* (A. Gerard and F. Vecchio, eds.) (London, Palgrave-McMillan, 2018), pp. 135–155.
- 12 See: Achilli et al.
- 13 See: J. Podkul and C. Shindel, “Data on access to counsel and reintegration services for children and their impact on improving policies and protection for Central American unaccompanied children,” this edition of *Migration Policy Practice*. Also, see: E. Haer, “Young migrants: Victims of gangs or members of them?” (*New York Times*, 1 May 2018), available from www.nytimes.com/2018/05/01/us/immigration-minors-children.html

Indeed, empirical, qualitative, and longitudinal data and research on the experiences of young people on the move are virtually inexistent.¹⁴ Furthermore, the ways in which children and those they travel with make decisions regarding their mobility processes and their understanding of the potential risks they may face along the way remain a largely unexamined field within migration studies. Yet, as this special issue reveals, there is also a growing demand for data and research that provides a better sense of how young people on the move approach and understand mobility, facilitation of the journey and the implications of this group's movement.

Within this area there is an incipient body of research examining the participation of children in mobility facilitation processes and the ways in which this often leads them to become criminalized amid countries' efforts to regulate migration. The International Organization for Migration (IOM) documented the experiences of Egyptian children who guided migrant boats across the Mediterranean into Greece, or who worked as part of boat repair crew as a way to pay smuggling or travel fees.¹⁵ In Indonesia, Palmer and Missbach¹⁶ have also documented cases involving young men employed as pilots for boats ferrying migrants into Australia. Children are often promised cash payments in exchange for successful journeys – assurances that are often false and/or go unfulfilled. Most children are instead returned to Indonesia where they face detention and criminal prosecution for their involvement in what is considered by the Government of Indonesia an act of migrant smuggling.

In the Americas, the role of children in the facilitation of migratory journeys has also been documented. In Mexico, the term “circuit children” is used in protection circles to designate both children who pursue their own mobility efforts and those who guide migrants

across the United States–Mexico border systematically (or in a circuit-like, repetitive fashion) in exchange for compensation.¹⁷ The practice – increasingly politicized in the context of US migration policy and the security agenda of Mexico's incoming administration – has had a tendency to be depicted in the media as an attempt on the part of Mexico's criminal groups (primarily drug trafficking organizations operating along the United States–Mexico border) to control the migrant smuggling market, relying on forcibly recruited marginalized border youth.¹⁸ However, empirical research reveals that the majority of children in circuit status apprehended by US authorities and turned over to Mexican protection agencies had in mind the goal of crossing the border and reaching the United States to fulfil their own mobility projects, rather than profiting from smuggling activities.¹⁹ Among those who do become involved in the local smuggling market seeking financial returns, forced recruitment seems to be the exception, given not only the widespread availability of unemployed youth and the low stigma attached to smuggling facilitation but also the sporadic, on-demand nature of smuggling services. As in the case of their Indonesian counterparts, compensation or promises for future work often go unfulfilled, even for the children who engage in the market on a regular basis. Increased enforcement on the US side of the border also means that the likelihood of succeeding in border-crossing attempts (and therefore of generating returns) is limited. Children, however, do report experiencing serious risks, ranging from falls, fractures, cuts, and drownings to threats, beatings and shootings at the hands of both the people who employ them and the US and Mexican law enforcement agents.²⁰

14 UNICEF, International Organization for Migration (IOM), Office of the United Nations High Commissioner for Refugees (UNHCR), Eurostat, Organisation for Economic Co-operation and Development (OECD), “A call to action: protecting children on the move starts with better data” (New York, UNICEF, 2018).

15 IOM, *Egyptian Unaccompanied Migrant Children: A Case Study on Irregular Migration* (Cairo, IOM, 2016). Available from <https://publications.iom.int/books/egyptian-unaccompanied-migrant-children-case-study-irregular-migration>

16 W. Palmer and A. Missbach, “Trafficking within migrant smuggling operations: Are underage transporters ‘victims’ or ‘perpetrators’?” *Asian and Pacific Migration Journal*, 26(3):287–307.

17 For a discussion of the term, see: B. Navarrete-García and M.A. Vértiz Hernández, “La importancia de la información sobre la niñez y adolescencia migrante en México y su marco normativo”, this edition of *Migration Policy Practice*. Also, see: J.A. Moreno Mena and R.M. Avedaño Millán, “Arrinconados por la realidad: Menores de circuito”, *Estudios Fronterizos*, 16(31):207–238.

18 See: L. Melesio and J. Holman, “Mexico Cartels recruit children to smuggle people to US” (*Al Jazeera*, 30 October 2017). Available from www.aljazeera.com/news/2017/10/mexico-cartels-recruit-children-smuggle-people-171030103553245.html

19 G. Sanchez et al., “Neither ‘criminals’ nor ‘illegals’: Children and adolescents in the migrant smuggling market on the US-MX Border” (Florence, Migration Policy Centre, 2017). Available from <http://cadmus.eui.eu/handle/1814/50984>

20 Sanchez et al., 2017.

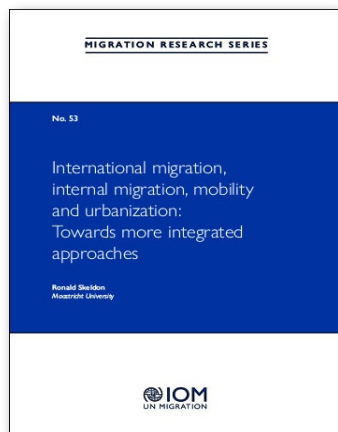
Where do we go from here?

As discussed throughout this issue, there is scant data on children and their mobility practices. Explanations of children's migration and its challenges rooted in anecdotal or partial, decontextualized evidence and practice (as in the case of the claims that attribute children's mobility to organized crime) not only sensationalize children's experiences but also further obscure the risks they face and leave unchanged the migration policies and practices that negatively impact them.

Children's decision-making processes and their understanding of the risks and exploitative and/or dangerous situations they face must be incorporated in research and data concerning child migration. Efforts to involve children in the development of methods and data collection tools, processing and analysis are also paramount, as well as in practices that ensure the protection of their identity, privacy and intimacy,²¹ in a fashion that is ethical and that prevents their criminalization and further reification as outsiders. ■

21 UNICEF et al., 2018.

Publications



MRS No. 53 - International Migration, Internal Migration, Mobility and Urbanization: Towards More Integrated Approaches

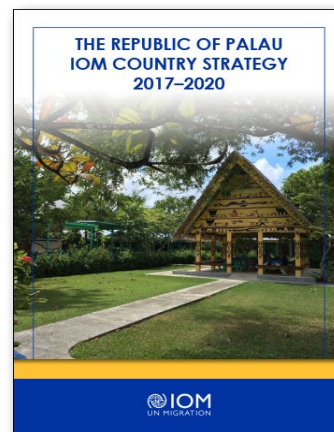
2018/15pages

ISSN 1607-338X

[English](#)

“The idea that most people do not move or are fixed at a specific location might be appealing but it is wrong. Mobility is an inherent characteristic of all populations unless specific policies or other factors are in place that limit or control that mobility.”

Authored by Prof. Ronald Skeldon, this new publication in the IOM Migration Research Series explores migration as one of the most problematic of the population variables. While reviewing the various instruments to measure international and internal migration, the research questions the tendency to consider the diverse forms of mobility separately from one another. The publication argues that human mobility is best conceived as a system that integrates internal and international migration within a single framework and that gives due account to tourism and its significant linkages with migration.



The Republic of Palau IOM Country Strategy 2017–2020

2018/28 pages

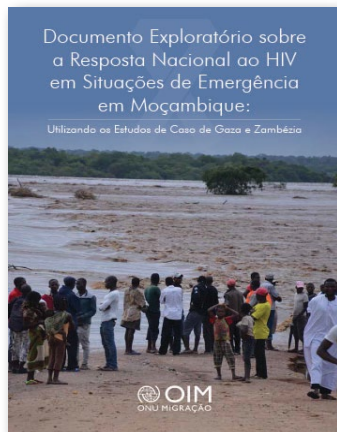
[English](#)

The objective of the International Organization for Migration (IOM) Republic of Palau Country Strategy 2017–2020 is to provide a programmatic framework for addressing emerging issues and identifying priorities for action that will guide IOM’s response to the needs of the Government of the Republic of Palau, migrants and other stakeholders. The Country Strategy aligns with the IOM Pacific Strategy, the IOM Regional Strategy for Asia and the Pacific, the IOM Migration Governance Framework (MiGOF) and the United Nations Pacific Strategy. IOM’s strategic priorities identified in this strategy are:

Strategic Priority 1: Migrants and communities throughout the Republic of Palau benefit from migration as a sustainable development and climate change adaptation strategy.

Strategic Priority 2: Displaced persons and affected communities in the Republic of Palau are protected from and resilient to the impact of natural disasters and climate change.

Strategic Priority 3: Migrants in the Republic of Palau enjoy protection from human rights abuses and are able to migrate in a safe, orderly, and dignified manner.



Documento Exploratório sobre a Resposta Nacional ao HIV em Situações de Emergência em Moçambique: Utilizando os Estudos de Caso de Gaza e Zâmbia
2018/50 pages
Portuguese

Moçambique é frequentemente palco de emergências humanitárias que incluem secas, cheias, ciclones, conflito e doenças epidémicas, entre outros. Este estudo exploratório foi realizado em 2017 no âmbito da “Resposta Nacional ao HIV em Situações de Emergência em Moçambique”. O estudo concluiu que existe uma carência de preparação e coordenação nos departamentos do Governo e outras entidades, e no sistema de acção humanitária da ONU que impossibilita estas agências de responder adequadamente às necessidades e desafios da prevenção gestão do HIV em contextos de emergência humanitária. De forma a adereçar estas lacunas foram redigidas algumas recomendações.



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- Cover any area of migration policy but discuss, as far as possible, particular solutions, policy options or best practice relating to the themes covered;
- Provide, as often as applicable, lessons that can be replicated or adapted by relevant public administrations, or civil society, in other countries.

Articles giving account of evaluations of specific migration policies and interventions, including both findings and innovative methodologies, are particularly welcome.

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