

The Psychosocial Context and Mental Health Needs of Unaccompanied Children in United States Immigration Proceedings

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Little is known about the psychosocial context and mental health needs of children who migrate to the United States without a parent. Under federal law, this group is classified as *unaccompanied alien children*. They are a particularly vulnerable population, who are at high risk for exposure to traumatic experiences in their countries of origin, during their journeys to America, and following their arrival and apprehension by U.S. immigration. This paper focuses on the needs of unaccompanied children who have been detained in government custody and are seeking immigration relief to prevent them from being deported. We first outline recent developments in legislation and legal service provision designed to protect unaccompanied children. Next, we describe psychosocial stressors associated with the various stages of their migration and explore the potential psychological impact of these stressors. In light of this literature, we discuss different reasons lawyers may seek mental health services for their unaccompanied child clients. Finally, we suggest areas for future research to improve understanding of the mental health needs of these children.

Over the last 15 years, there has been an exponential growth in the literature on the mental health of immigrant children and families (e.g., Berry, Phinney, Sam, & Vedder, 2006; Lustig et al., 2004; Pumariega & Rothe, 2010). However, one subgroup of immigrants that has received little attention is that of children who migrate without a parent or other adult family member. These children have been described, among other categorizations, as “children asylum seekers,” “juvenile aliens,” “juvenile asylum seekers,” “refugee children,” “separated aliens,” “unaccompanied immigrant children,” “unaccompanied juvenile aliens,” and “unaccompanied minors.” These terms reflect the varying political attitudes and immigration policies of the different countries through which the children are traveling or to which they are attempting to migrate, and have important implications for their legal and social status (Chavez & Menjívar, 2010).

Under the terms set out in 6 U.S.C. § 279(g)(2), U.S. immigration law defines an *unaccompanied alien child* as any child or adolescent who is without lawful immigration status in the United States, is under the age of 18, and does not have a parent or legal guardian to provide care and physical custody (Haddal, 2007). This umbrella legal term encompasses children with a variety of circumstances, to include asylum seekers, recognized refugees, and other externally displaced people (Shah, 2005). Throughout this paper, the abbreviated term *unaccompanied children* will be used to refer to children who meet the § 279(g)(2) definition.

A growing number of unaccompanied children attempt to enter the United States each year (Chavez & Menjívar, 2010). In 2005, the Department of Homeland Security (DHS) apprehended over 114,000 unaccompanied children, compared with approximately 98,000 in 2001 (Haddal, 2007). Most of the children captured by U.S. immigration are Mexican, choose voluntary repatriation, and are deported within 72 hours. A second group, largely comprised of children from other Central American countries, is transferred to the Division of Unaccompanied Children’s Services (DUCS) and enters a more formal custodial process. In addition to those deported and those detained, a third group of unaccompanied children is not detected, and does not come into contact with the authorities at all. Very little is known about this population (Byrne, 2008).

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This paper will focus primarily on the second group of children referred to above, unaccompanied children who have been detained in U.S. immigration custody and are awaiting immigration proceedings. In 2010, 8,302 such children were detained in DUCS custody (M. Dunn, personal communication, April 1, 2011). Though demographic information fluctuates slightly from year to year, approximately 85% of the children detained are from Guatemala, Honduras, or El Salvador, three-quarters are males, and their median age is 16 (Dunn, 2011; Haddal, 2007).

Advocacy organizations (e.g., Amnesty International, 2003; Byrne, 2008; Human Rights First, 2004; Human Rights Watch, 1998; Women's Refugee Commission, 2009) and government agencies (e.g., United States Department of Health and Human Services: Office of the Inspector General [DHHS], 2008) alike have expressed their concern about the well-being of unaccompanied children awaiting immigration proceedings. These unaccompanied children are likely to be exposed to psychosocial stressors at each stage of the migration process (Sourander, 1998). They may be fleeing violence in their countries of origin, suffer abuses on the long journey to the United States, have traumatic detention experiences, and go through the adversarial legal process without the support of close family and friends (Women's Refugee Commission, 2009). Such experiences put them at elevated risk for posttraumatic stress disorder (PTSD) and other forms of psychopathology, including depression, anxiety, and conduct problems (Piwowarczyk, 2006).

This paper explores the link between the legal and mental health needs of unaccompanied children, and situates the work of lawyers representing them in immigration proceedings in the wider psychosocial context of their migration process. As a backdrop to this discussion, we first outline recent developments in legislation and the provision of legal services to support unaccompanied children.

Legal Provisions for Unaccompanied Children

There is an inherent tension in the functions assigned to the U.S. immigration service vis-à-vis unaccompanied children. On the one hand, like any immigration service, the DHS has an adversarial role in prosecuting children's presence in the country and arguing for deportation. On the other hand, it has a duty of care towards children in its custody (Women's Refugee Commission, 2002, 2009). At the international level, guidelines from the United Nations High Commissioner for Refugees (UNHCR) assert that any children apprehended by immigration authorities should not be detained, and stress the importance of providing children with access to schools and other developmentally important activities such as recreation and play (UNHCR, 1999). At the domestic level, the U.S. federal class action settlement of 1985 known as the Flores Settlement established minimum standards for placement, treatment, and release to sponsors of unaccompanied children in federal custody (DHHS, 2008).

Over the last 10 years, considerable efforts have been made to improve the treatment of unaccompanied children in immigration custody, expand the forms of immigration relief available to them, and increase their access to legal services. In order to separate its conflicting roles as prosecutor and caretaker, the government created the DUCS in 2003 to administer to this population's needs (Women's Refugee Commission, 2009). The Flores Settlement mandates that unaccompanied children be placed "in the least restrictive setting appropriate" and released to such settings "without unnecessary delay" (Women's Refugee Commission, 2009, p. 69; p. 70). The DUCS has greatly improved adherence to these guidelines, and the majority of children detained are now released within a few days (DHHS, 2008). When possible, they are sent to relatives residing in the U.S. If they have no suitable relatives available, they are placed in DUCS-funded foster care or other child-appropriate residential facilities (Haddal, 2007). The DUCS has created guidelines for the provision of psychological and psychosocial services within its facilities while children are going through the often long and stressful legal process to determine their eligibility to stay in the United States (Women's Refugee Commission, 2009). However, it is unclear how consistently these services are provided. A 2008 survey of 22 DUCS-funded facilities found that the majority of children's files were missing assessments or lacked required documentation of mental health services or engagement in psychosocial activities (DHHS).

Improvements have been made in the immigration relief available to unaccompanied children. Special Immigrant Juvenile Status (SIJS) is a form of immigration relief through which eligible unaccompanied children may obtain lawful immigration status (Byrne, 2008). It provides a relatively fast route to permanent residence, with a high rate of successful adjustments of status (Shah, 2005). Other forms of immigration relief that may be available to unaccompanied children include asylum and petitions based on the Victims of Trafficking and Violence Protection Act (VTVPA) (Byrne, 2008).

Access to legal services for children petitioning to remain in the United States is also improving. Unlike criminal defendants, immigration petitioners do not have a right to appointed counsel (Kerwin, 2005). Organizations such as Legal Aid, Catholic Charities, and pro bono programs in law firms provide free legal representation to unaccompanied children in many parts of the country, but have never been capable of serving the entire population. In a government survey of unaccompanied children in custody in 1999, only 43% were represented by attorneys (United States Department of Justice: Office of the Inspector General, 2001). To supplement existing legal resources and coordinate the provision of counsel to unaccompanied children, Angelina Jolie and Microsoft co-founded Kids in Need of Defense (KIND) in 2008. The organization now has offices in major cities across the United States. Improving representation is an important component of access to justice. Multiple studies have shown that immigrants with legal

MENTAL HEALTH OF UNACCOMPANIED CHILDREN

representation are more likely to be successful in their petitions for immigration relief (e.g., Ramji-Nogales, Schoenholtz, & Schrag, 2007; Transactional Records Access Clearinghouse, 2006). Unaccompanied children, in particular, are unlikely to be able to represent themselves effectively without the aid of counsel (Byrne, 2008).

Legal advocacy is situated within the wider psychosocial context of unaccompanied children's ongoing migration process. Lawyers may spend many months working with their unaccompanied child clients, the children's U.S. sponsors, and their families abroad to prepare their immigration cases and lead them through the multiple court hearings and other administrative steps involved in securing immigration relief. Their advocacy efforts can also include helping these children connect to other professional services to address their academic, social, and psychological needs.

Anecdotal reports from lawyers working with unaccompanied children suggest that many of their clients are struggling with psychological difficulties. To better serve these children, their mental health needs should be contextualized in terms of the different psychosocial stressors to which they may be exposed during their migration process.

Psychosocial Stressors Associated with Migration of Unaccompanied Children

An extensive literature on the psychosocial stressors associated with migration has characterized this process as a series of phases: (1) premigration, (2) transit, (3) temporary resettlement, and (4) permanent settlement (Berry, Phinney, Sam, & Vedder, 2006; Lustig et al., 2004; Pumariaga & Rothe, 2010). Although only a small proportion of this work has been conducted with a focus on unaccompanied children, the available research suggests that their experience can be conceptualized in terms of these four phases.

Premigration

During the premigration phase, unaccompanied children are often caught up in social and political conflict as a result of civil war or other forms of institutional violence, such as the gang problems afflicting much of Central America (Dalrymple, 2006). They are likely to have experienced threats or persecution, either directly or against loved ones (Sourander, 1998), and to have witnessed and/or engaged in violence (Lustig et al., 2004). Whereas younger children tend to migrate to the United States to reunify with family members, older children often migrate for economic purposes (López Castro, 2007). Apprehended children have also described migrating to the United States to flee gangs, evade forcible recruitment by military or paramilitary organizations, escape coercion into child labor or prostitution, and avoid the aftermath of natural disasters (Chavez & Menjívar, 2010).

Transit

In the transit phase, unaccompanied children can spend months traveling alone to the United States in dangerous conditions. They may be attacked by bandits or gangs or

abused by local police who are ostensibly there to protect them (Casillas, 2006; Seugling, 2004). Due to the tightening of immigration controls, children are increasingly being entrusted to *coyotes* (people smugglers), exposing them to potential abuse and sexual exploitation (Bhaba & Schmidt, 2008; Fazel & Stein, 2002). Many of the most impoverished Central American children travel north towards the United States on the roofs of trains or under the boxcars. There are often accidents in which people lose limbs or even die (Chavez & Menjívar, 2010).

Temporary Resettlement

In the temporary resettlement phase, unaccompanied children who have been apprehended and detained may have stressful detention experiences. Subsequently, upon their release, they face a period of legal uncertainty in unfamiliar surroundings and without their usual sources of support (Perez Foster, 2001; Sourander, 1998).

Since the creation of DUCS, there have been improvements in the detention conditions of unaccompanied children (Byrne, 2008). However, there is also evidence that some of the policies designed to protect children are inconsistently followed. For example, DUCS facility staff have reported that procedures for identifying victims of rape, abuse, and trafficking as well as for assessing mental health issues are insufficient (Women's Refugee Commission, 2009). A minority of unaccompanied children are not transferred to DUCS custody and remain in prison-like conditions in secure Immigration and Customs Enforcement (ICE) facilities (Women's Refugee Commission, 2009). Reports by advocacy organizations about conditions in such facilities have revealed practices such as not informing unaccompanied children of their rights, detaining them among adult or juvenile criminal offenders, forcing them to wear prison-like uniforms, hand-cuffing or shackling them, and denying them access to legal counsel or contact with family members (Bhaba & Schmidt, 2008; Byrne, 2008; Women's Refugee Commission, 2009).

Under the terms of the Flores Settlement, many unaccompanied children are released quickly from detention to family members residing in the United States (Byrne, 2008). However, these relatives may not know the children well nor be anticipating their arrival, and they may not be financially or emotionally equipped to accommodate them. For those children released to DUCS-funded foster care or residential facilities, accommodation varies from houses in residential neighborhoods to secured buildings with barred windows and locked doors (DHHS, 2008; Women's Refugee Committee, 2009).

Whether unaccompanied children are housed with family members or in DUCS-sponsored facilities, evidence from the wider immigration literature suggests that the temporary resettlement phase may present a variety of psychosocial stressors (Ehnholt & Yule, 2006). Fear of deportation, delays in processing applications for immigration relief, and worries about relatives left at home are common during this

period of uncertainty (Silove, McIntosh, & Becker, 1993; Sinnerbrink, Silove, Field, Steel, & Manicavasagar, 1997).

Permanent Settlement

For unaccompanied children who are successful in their immigration petitions, permanent settlement in the United States brings its own set of potential stressors, such as acculturation issues and prejudice within the local culture (Perez Foster, 2001). Most unaccompanied children do not speak English when they arrive, and as a result they may struggle academically and socially (Portes, 1999). Furthermore, they may not seek mental health support or treatment due to cultural stigma or other barriers to accessing care such as limited financial resources or a lack of local psychosocial services appropriate to their needs (Sinnerbrink et al., 1997).

Psychological Impact of Migration of Unaccompanied Children

To date, no empirical study has assessed the psychological impact of migration on unaccompanied children in the United States (Chavez & Menjivar, 2010). Most of the available information on the mental health of these children comes from qualitative reports by advocacy groups and focuses specifically on the adverse impact of prolonged detention in immigration facilities (e.g., Women's Refugee Commission, 2002, 2009). These reports have documented high rates of PTSD, anxiety, depression, aggression, psychosomatic complaints, and suicidal ideation among unaccompanied children in detention (Bhaba & Schmidt, 2008; Chavez & Menjivar, 2010; Women's Refugee Commission, 2009). These qualitative findings from the United States mirror the types of psychopathology found in empirical studies of unaccompanied children detained in Finland (Sourander, 1998) and the Netherlands (Reijneveld, de Boer, Bean, & Korfker, 2005). However, with the exception of this work on the impact of detention, there is a paucity of information regarding the effects of psychosocial stressors associated with unaccompanied children's migration.

The wider literature on immigration and trauma suggests that unaccompanied children in the United States are at high risk for the development of psychopathology. The majority are from Central America, a region whose recent history of civil wars and institutionalized violence make children especially likely to have been exposed to potentially traumatic events. Thus, they are vulnerable to developing PTSD symptoms and other mental health problems (Locke, Southwick, McCloskey, & Fernández-Esquer, 1996). Repeated traumatic exposure during the various phases of the migration process can exert a compounding effect on the impact of premigration trauma (Robjant, Hassan, & Kasona, 2009; Sinnerbrink et al., 1997), and may lead to complex trauma reactions (National Child Traumatic Stress Network, 2003). Children's responses to complex trauma can include attachment problems, emotional and behavioral regulation

difficulties, dissociative episodes, poor self-image, and physical and cognitive deficits (Courtois, 2004; Herman, 1992; National Child Traumatic Stress Network, 2003). Lack of parental support, which can provide an important regulating influence following traumatic exposure, may place unaccompanied children at particular risk for developing psychopathology (Lustig et al., 2004).

In addition to mental health problems, unaccompanied children may be at risk for other psychosocial problems. Separation from parents has been shown to predict poor academic achievement in recently arrived immigrant children (Suárez-Orozco, Bang, & Onaga, 2010), and unaccompanied children's academic and social development may have been disrupted by lack of access to schools in their countries of origin or during the migration process (Fazel & Stein, 2002). However, there is a lack of research focusing specifically on psychosocial difficulties among unaccompanied children.

Despite the multiple stressors associated with migration, many unaccompanied children show resilient outcomes. Both individual variables (e.g., a child's sense of self-efficacy) and contextual factors (e.g., transit or detention experiences) may contribute to whether or not children develop psychopathology (Luthar & Zelazo, 2003). Different children may experience psychosocial stressors in a variety of ways. For example, the presence of family members is not necessarily protective against the stress of immigration custody: a study of children in immigration detention in Australia (Mares & Jureidini, 2004) found that the experience of parental distress, traumatization, and mental illness during detention increased children's vulnerability to psychopathology. In some circumstances, the fact that a child has successfully navigated multiple stressors to make it to the United States can be evidence of psychological resourcefulness. Based on low rates of mental health problems observed among adult Mexican immigrants, Escobar and colleagues developed the *migration of the fittest* hypothesis (Escobar, 1998). This construct holds that, due to the harsh realities of the immigration process, only the strongest and most resilient attempt and succeed in coming to the United States. This idea may also apply to unaccompanied children, who are likely to endure a host of psychosocial stressors alone. Alternatively, in some cases a child's highly developed survival skills may mask other social and emotional deficits (Piwowarczyk, 2006).

Taken as a whole, the literature on the psychosocial stressors associated with migration suggests that unaccompanied children in immigration proceedings are at high risk for psychopathology. However, there are likely considerable differences between children based on individual characteristics (e.g., children's age and gender) and their varied migration stories (e.g., why they left their country of origin, how they traveled to the U.S border, and how long they were detained in immigration custody). The impact of these different factors warrants further study, and a better understanding of the mental health needs of unaccompanied children will assist lawyers who work with this population in making appropriate referrals.

MENTAL HEALTH OF UNACCOMPANIED CHILDREN

Mental Health Referral Practices of Lawyers Working with Unaccompanied Children

Lawyers may request psychological services for their clients for a variety of reasons: to provide assessment and expert testimony to bolster a client's case; to give advice or clarification about a client's presentation and history; to deliver treatment to a client who is exhibiting distress or symptoms of a mental illness (Galowitz, 1999; Price & McCreary, 1976). Given their elevated risk for psychological distress, unaccompanied child clients may be particularly in need of such services.

Mental health professionals can be called upon to support unaccompanied children's immigration cases by conducting a psychological assessment and providing expert testimony. The three primary forms of humanitarian relief for which unaccompanied children may be eligible each require evidence of psychosocial stress. In the case of SIJS petitions, evidence must be provided that children are eligible for long-term foster care due to neglect, abuse, or abandonment, and that it is not in their best interests to return to their home country (Shah, 2005). To make an asylum claim, a well-founded fear of persecution on the basis of race, religion, national origin, political opinion, or social group must be established. Petitions based on VTVPA require evidence of transportation of unaccompanied children for subsequent exploitation, usually in the form of forced labor or prostitution (Byrne, 2008). Expert mental health testimony can bolster each of these types of claims by documenting exposure to relevant psychosocial stressors and their impact on the unaccompanied child.

Lawyers may call upon mental health professionals to help unaccompanied children recount traumatic events from their history that provide grounds for one of the above forms of relief. Anecdotal evidence from lawyers suggests that without such assistance, unaccompanied children with trauma histories often avoid telling the truth about what has happened to them, which can undermine legitimate claims for immigration relief. This is consistent with findings from the psychological literature that children with PTSD may avoid talking about traumatic experiences (Schaal & Elbert, 2006).

Aside from case-specific considerations, lawyers may also seek mental health services for unaccompanied children out of a more general concern for their well-being. However, mental health treatment may also, indirectly, assist in children's immigration relief claims. For example, improvements in symptoms of disorders such as PTSD and depression can increase children's ability to recount or verify difficult migration experiences. Additionally, immigration judges commonly inquire about children's school attendance and other behaviors over the course of the immigration process. A child who has received mental health services may be better able to respond to such questions.

Although lawyers frequently call on mental health professionals to assist unaccompanied children in immigration proceedings, there has been little systematic study of how, when, and why they decide to make referrals.

Research in this area is urgently required to ensure that the mental health needs of unaccompanied children are being appropriately met. For example, efforts should be made to help children provide testimony with the least discomfort possible. Child advocacy centers routinely use multidisciplinary teams (including lawyers and mental health professionals) to interview victims of abuse and their families about sensitive material. Not only does this protect children by reducing the number of times they have to recount abuses, it has also been shown to lead to more reliable and consistent information, and higher rates of successful cases (Smith, Witte, & Fricker-Elhai, 2006). Whether such an approach would be feasible and applicable to the case of unaccompanied children bears exploration.

Directions for Future Research

Unaccompanied children are a challenging population to study. Typically, they are only officially identified when apprehended and placed in immigration proceedings. Conducting research with children is always ethically complicated, but when there are sensitive legal considerations and parents are not available to provide informed consent, the task is rendered even more difficult. Furthermore, while legal categories like *unaccompanied alien child* are created to protect the rights of children, they also create a propensity to assume high degrees of similarity among individuals within a given category (López Castro, 2007). However, beyond their uncertain immigration status, there is no other single factor that consistently unites unaccompanied children as a homogenous group (Henderson, Baily, & Weine, 2010).

Nevertheless, as a whole, the existing evidence suggests that unaccompanied children in immigration proceedings are a highly vulnerable population and at risk for exposure to multiple psychosocial stressors and their psychological sequelae. At this time, several domains of study warrant further attention: the familial context of these children; their psychosocial and psychiatric needs; their experience of the U.S. immigration process; and their lawyers' perceptions of their mental health needs.

With regard to the familial context of unaccompanied children, there are many questions one might ask: Where are their families and what compelled the children to separate from them? Do they intend to reunite with parents or other family members and, if so, when and where? How do they understand this separation - is it something normal, unusual, temporary, or permanent? These children's thoughts about their family situation are likely to be varied and complex, and possibly quite different from other culture-bound expectations for children of their age. One of the concerns some unaccompanied children raise with their lawyers is whether they will be able to get into the workplace promptly in order to start sending money to family members back home. Even if they have a promising case for acquiring permanent legal status, the pressure to start earning causes some children to choose voluntary repatriation and attempt to

reenter the country again illegally, rather than pursue the time-consuming immigration process.

Information on the psychosocial and psychiatric needs of unaccompanied children is also limited. Both studies (e.g., Bhabha & Schmidt, 2008; Chavez & Menjívar, 2010) and anecdotal accounts from their lawyers suggest that some of these children are very distressed and have identifiable clinical disorders, but many questions remain: How do the children themselves tell their own stories? And what place is there in their narratives for psychological, psychiatric, and psychosocial explanations (e.g., “I’m not crazy”, “This is normal”, or “I feel very sad”)? How do they conceptualize loss, trauma, and resilience? What coping resources are available to them, and how do they access this support? How do factors such as age, gender, reason for migration, and country of origin moderate the experience of migration stress? Finally, how can psychological and psychiatric expertise, which is subject to criticism of its own cultural specificity (Summerfield, 2008), help understand and assist this varied population?

Further research is also required to understand how the immigration process impacts unaccompanied children’s mental health and psychosocial functioning. Anecdotally, lawyers report that some of their clients express relief at being apprehended by U.S. immigration, freed from abusive coyotes, and given regular meals and a warm place to sleep. Some children are intimidated by coyotes into lying to immigration officials about their age and, as a result, get sent to adult detention facilities entirely inappropriate to their needs. Out of fear for themselves and family members, some opt to take voluntary departure to Mexico so that they can attempt to reenter the country immediately and start paying off the coyotes to whom they are in financial bondage. More generally, how do children feel about being apprehended and “criminalized”? How are laws explained to them? How do they understand the legal options that may be available to them, and what informs their decisions about how to proceed?

More systematic research on how lawyers understand the psychosocial context and mental health needs of their unaccompanied child clients is also needed. What are lawyers’ experiences of working with these children? How do they identify mental health problems in their clients, and how does it impact their work with them? How might having a clinical diagnosis affect immigration proceedings? Often unaccompanied children live in immigrant communities in which many people are undocumented and understandably wary of contact with official institutions and public services. Given this context, lawyers may offer a rare point of access and source of information about these children. They also provide one conduit into the mental health system for those children in need. However, currently this process is poorly understood. When, how, and why do lawyers access assessment or treatment services for their unaccompanied child clients? Do they have any process for screening for mental health problems, either formally or informally? These, and other questions like them, offer not only an

avenue for better understanding the mental health needs of unaccompanied children, but also the possibility of improving their access to feasible and effective mental health services.

Conclusion

The research reviewed in this paper suggests that unaccompanied children in immigration proceedings are likely to have experienced multiple psychosocial stressors during the process of their migration to the United States, and are at high risk for psychological problems. The literature also indicates that over the last 10 years considerable progress has been made in improving their situation. At the legislative level, the forms of immigration relief available to unaccompanied children have expanded; at the advocacy level, legal and non-governmental organizations have successfully lobbied for improved conditions for children apprehended and detained by immigration services; at the services level, access to expert legal representation has been improved. There seems to be growing consensus that it is in society’s best interests to normalize unaccompanied children’s immigration status and, for those permitted to stay, support them in their aspirations. In order to facilitate this process, it is crucial that their psychosocial circumstances and mental health needs be understood and addressed.

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MENTAL HEALTH OF UNACCOMPANIED CHILDREN

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