



NATIONAL CENTER TO ADVANCE PEACE  
for Children, Youth, and Families

# The Welfare of Unaccompanied Minors

Disparate Treatments and a Call for Action

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(2023)

# Introduction

Unaccompanied minors are undocumented immigrant children under the age of 18 who do not have a parent or legal guardian in the U.S. when they are apprehended by immigration officials<sup>1</sup>. Historically, most come from Mexico, Guatemala, Honduras, and El Salvador, but increasing numbers of children now come from other parts of Central and South America as well as the Caribbean.<sup>2-4</sup> While some unaccompanied minors undertake the migration journey alone, others become separated from family during the migration process or after their parents or caregivers are deported. Moreover, most have parents or other family already living in the U.S. with whom they hope to reunify.<sup>3-6</sup>

Recent media attention has exposed the vulnerability of unaccompanied minors to exploitation. A New York Times investigation found numerous U.S. companies violate child labor laws in their employment of migrant children, most of whom are unaccompanied minors, and further points to failures in the system set up to protect these children.<sup>7,8</sup> As states across the country push to weaken child labor laws, such exploitation is likely to proliferate. This fact sheet explores intersections of structural and family violence in the lives of unaccompanied minors, highlighting additional vulnerabilities resulting from gaps in the provision of child welfare services for these children. We underscore differences between the system created for unaccompanied minors and the domestic child welfare system, and offer policy and practice recommendations to promote safety, resilience, and well-being of unaccompanied minors.

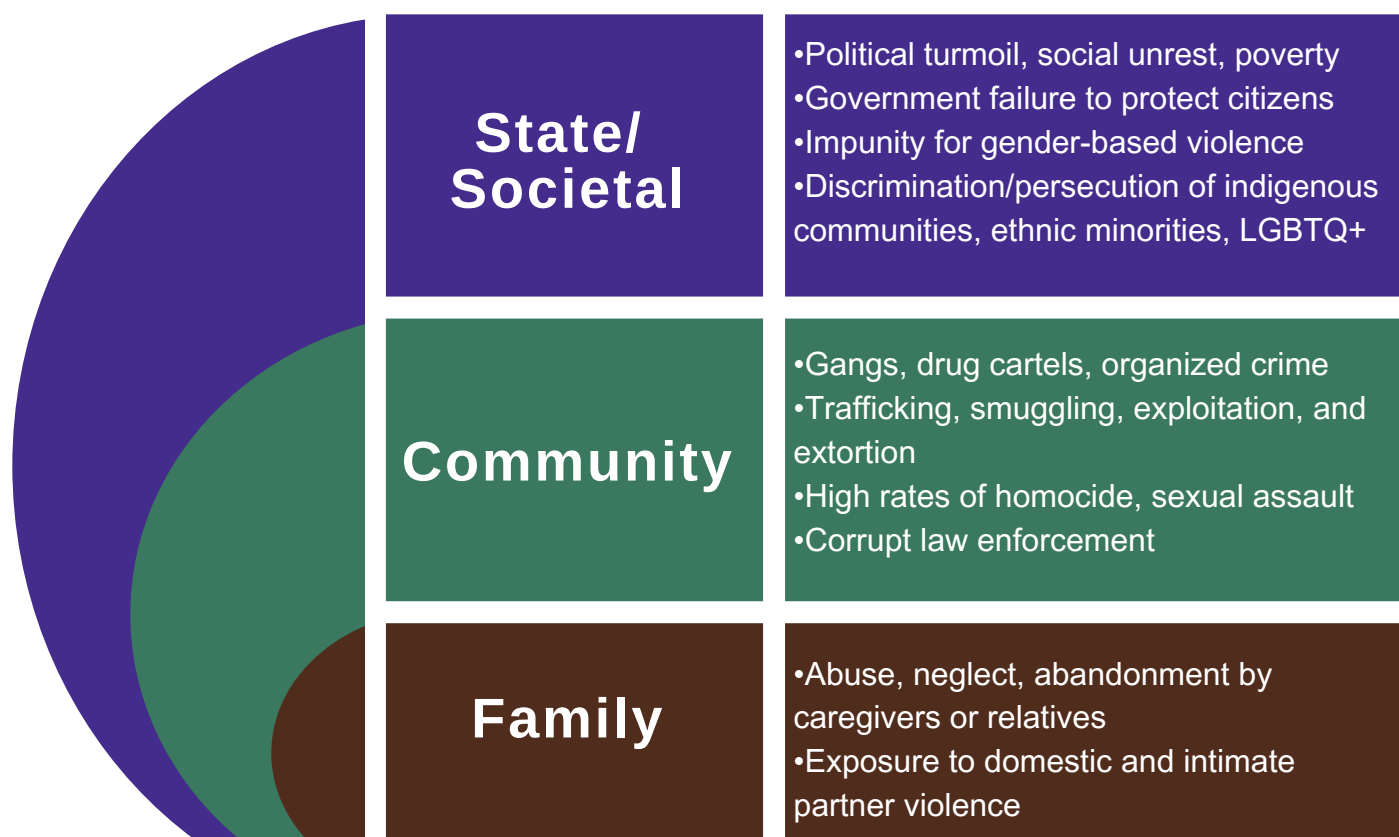




# The Context of Violence in Unaccompanied Minors' Lives

Many unaccompanied minors have been exposed to substantial violence in their home countries prior to migrating.<sup>2-6, 10-14</sup> Violence occurs at multiple levels, as illustrated below, and children may experience violence at one or more of these levels.

Research shows that exposure to violence, especially at the societal and community levels, is a significant driving factor in decisions to migrate to the U.S. Children experiencing greater levels of violence, and intersections of multiple forms of violence, are more likely to make the decision to migrate. Therefore, unaccompanied minors comprise a particularly vulnerable subset of children who likely have greater exposure to violence compared to other children in their countries of origin who do not make the migration journey.



# A study by the United Nations High Commissioner for Refugees found...

## 47.5%

of unaccompanied minors reported societal violence as a reason for migrating

## 58%

of unaccompanied minors likely meet qualifications for international protection due to threats of violence

Children may experience high levels of violence both prior to migrating and throughout the migration process.<sup>2,4,14,15</sup> Even after reaching the U.S., unaccompanied minors remain vulnerable to violence and abuse due to their lack of legal status and limited protections provided by the government, making them reliant on interpersonal relationships with people who may exploit these vulnerabilities. Children who migrate may experience compounded trauma from the different stages of migration, as shown in the graphic below.

### Pre-migration

- State/political and societal violence
- Community violence
- Family violence



### During migration

- Physical and sexual assault, rape, witnessing violence
- Exploitation, kidnapping by smugglers/traffickers
- Apprehension by U.S. immigration officials
- Mistreatment during detention (e.g., children in cages)



### Post-migration

- Race-based discrimination, xenophobia, and violence
- Abuse and neglect by caregivers/family in U.S.
- Intimate partner violence
- Exploitation, trafficking, and debt bondage

# A Parallel Child Welfare System

To better understand the conditions that perpetuate youth vulnerability following their arrival in the U.S., a closer look at the system designed to respond to unaccompanied minors is needed. The federal government is responsible for the care of unaccompanied minors while their eligibility to remain in the U.S. is assessed. They are generally not served by the same child welfare system as citizen and legal resident children.

Instead, unaccompanied minors are served by a distinct system under the Office of Refugee Resettlement (ORR), which does not carry the same focus on safety and well-being as the domestic child welfare system. Rather, the primary purpose of the ORR system is to temporarily house children and identify longer-term placements for them while a decision is reached about whether they can legally stay in the U.S. In this regard, it is much more closely connected to, and coordinated with, the immigration system.<sup>2,5</sup>



A basic overview of how this system operates is shown below. Notably, only children who are assessed by immigration authorities as eligible to seek asylum ever enter ORR custody. A significant portion of children are “screened out” or opt to “voluntarily” return to their home country, usually without access to legal counsel or advocates to help articulate their case. For those who pass screening, efforts to expedite processing and placement with sponsors have resulted in less thorough background checks, which, coupled with minimal post-placement follow up, compromise the safety of unaccompanied minors.<sup>7</sup> Meanwhile, their legal situation remains tenuous as they await the court hearing for their asylum case. A majority lack legal representation during this process, increasing the likelihood that their application for asylum will be denied.

**Customs & Border Protection (CPB)/Immigration and Customs Enforcement (ICE)**

Apprehend and detain unaccompanied minors in short-term custody (approx. 3-5 days). Screen children for eligibility to seek asylum in U.S.

**Eligible to seek asylum**

**Not eligible to seek asylum**

**Deportation/"Voluntary" return**

**Office of Refugee Resettlement (ORR)**

Oversight of care and placement of unaccompanied minors while immigration case is being processed

**Congregate care shelter (most children), detention facility, or transitional foster care**

Temporary placement (average 1-2 months) while potential sponsor identified and home study completed

**Release to sponsor**

Usually a parent or relative

**Long-term foster care**

Those without an eligible sponsor: roughly 1/3 of children

**Immigration Proceedings**

Case goes before a judge, who makes the final determination of whether the child qualifies for and is granted asylum

**Asylum granted (Fewer than 1/3 of applicants)**

**Deportation ordered**

# A Different Set of Standards

Although the domestic child welfare system and the ORR-operated system for unaccompanied minors both fall under the purview of the Administration for Children and Families, the two systems operate very differently. Scholars and advocates have noted the failure to apply the same set of widely accepted child welfare standards to ensure the safety, permanency, and well-being of unaccompanied minors.<sup>13, 17, 18, 21</sup>

While both systems can improve on existing processes to better support children, there are important discrepancies in their standards for the care and welfare of children, which are outlined below. This results in differential treatment of unaccompanied minors, jeopardizing their safety and well-being.

## Domestic (State-run) Child Welfare System

Children placed in foster care when an investigation determines that child abuse or neglect has occurred

Burden is on the state to provide evidence that children are not safe with family

Emphasis on placing children in least restrictive and disruptive environment, prioritizing family based care.

Oversight by family court system and minors are provided with a free attorney or child advocate

Case management to check on the ongoing safety and well-being of the child

Required to ensure children receive physical and mental health care while child remains in state custody

## ORR System for Unaccompanied Minors

Children detained solely on basis of undocumented/unaccompanied status

Burden is on the family/sponsor to prove their fitness to care for child, despite lack of evidence of maltreatment

Majority held in congregate care shelters while awaiting release to sponsors

No family court oversight; not required to ensure access to legal representation for child's immigration proceedings

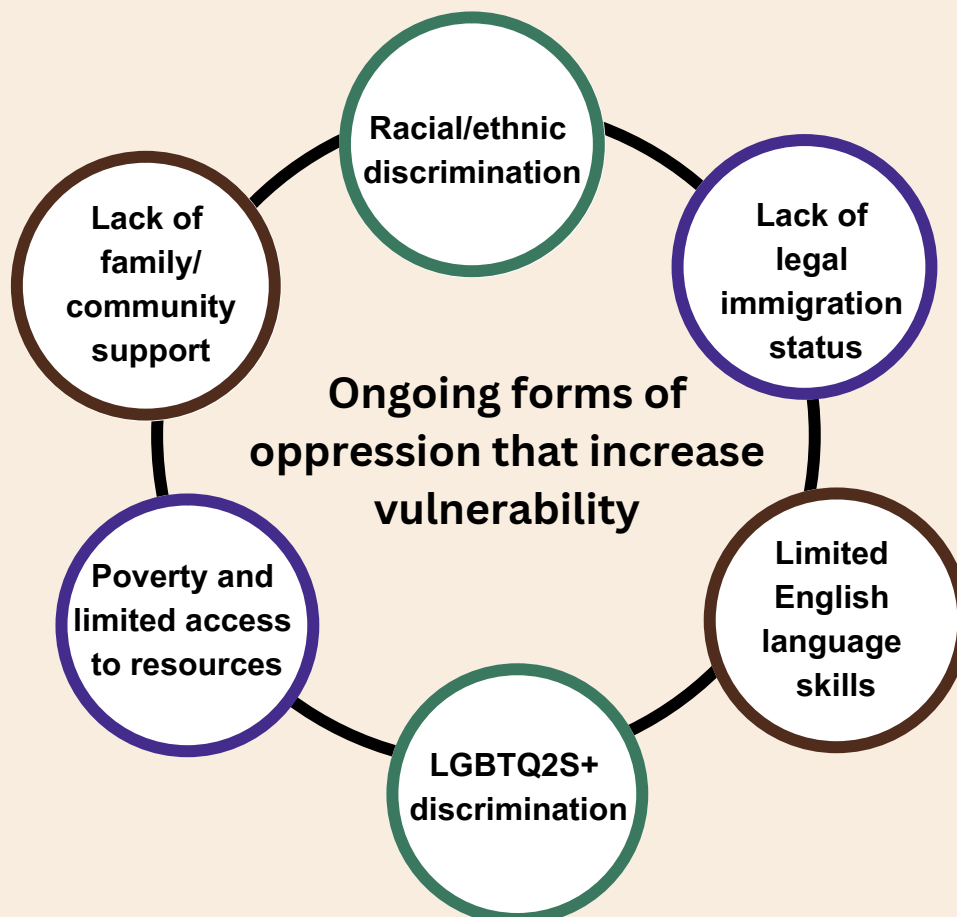
Limited follow-up and lack of ongoing oversight to ensure safety and well-being

Lack of support services to help with child's needs; not required to ensure access to health care

# Perpetuating Oppression and Vulnerability

The violence that unaccompanied minors experience prior to and during migration is further perpetuated following their arrival in the U.S., as they face myriad ongoing forms of oppression. This is exemplified by the **inadequate protections** and **fragmented services** offered to them.

The cumulative impact of **trauma** from these experiences, combined with limited access to opportunities and resources, increase their vulnerability to further victimization, including abuse by family, sponsors, intimate partners, and employers.





Youth with extensive trauma histories may normalize interpersonal violence, internalize discriminatory ideology, or fear seeking help due to their lack of legal status and their belief (often grounded in experience) that the government will not protect them. Moreover, their dependence on family, sponsors, and other relationships they form in the U.S. make them highly susceptible to abuse.<sup>3,4,6</sup>

## Recommendations for Improving Policy and Practice

In response to the recent media attention highlighting the exploitation of unaccompanied minors, the Biden Administration announced the creation of a new interagency task force between the Department of Labor and the Department of Health and Human Services. While the task force has outlined a number of initiatives that it has committed to undertaking, additional steps could be taken to better support the welfare of unaccompanied minors. We suggest a holistic and strengths-based approach that considers both the needs and assets of unaccompanied minors within the context of families, communities, and social institutions. While research has largely focused on vulnerability, evidence indicates that unaccompanied minors are also remarkably resilient and tend to identify with narratives of strength through adversity. Taking an approach that emphasizes resilience, protective factors, and addressing trauma is essential for supporting healthy development, facilitating adjustment to the U.S., and preventing further harm.<sup>4</sup>



# Recommendations for Improving Policy and Practice



Applying a socio-ecological framework, as shown, we offer recommendations for policy-makers, advocates, and service providers who have a stake in the lives of these children. Below we outline a variety of interventions and supports at the structural, community, family, and child levels.

## Child Level

- Provide individualized, trauma-focused therapeutic services and supports.
- Support attachment to cultural identity.

Promote child's sense of agency by supporting their independence and self-identified goals.

## Family Level

- Expedite reunification with family members who are willing to sponsor the child.
- Provide resources that promote family bonding, particularly if children have been separated from family members for extended periods of time.
- Offer parental support to new caregivers, including information on available services and resources.

## Community and Cultural Level

- Provide and/or improve access to community-based, culturally relevant, trauma-informed services.
- Provide supportive mentors, such as coaches, teachers, community members from their culture, or other immigrant youth who have successfully integrated.
- Build children's connections within the local community, including engagement in local organizations, clubs, and activities.

**Ensure access to educational resources and supports, such as tutoring for children who have significant gaps in school attendance and language supports for non-English speaking children.**





## Structural and Institutional Level

- Reduce use of restrictive congregate care facilities while unaccompanied children are waiting for placement with an approved sponsor.
- Ensure that all staff working directly with unaccompanied children receive training in trauma-informed care and culturally responsive practice.
- Provide thorough assessment of trauma exposure and treatment needs while children are in custody.
- Provide free legal representation for all unaccompanied children. Studies show that the likelihood of succeeding in claims for immigration relief increases significantly if a child receives adequate legal representation.<sup>22</sup> This can be done by releasing federal funds for community-based, legal aid organizations to represent unaccompanied children.
- Provide work authorization to children who need, or want, to work and are old enough to do so safely.
- Provide culturally and linguistically appropriate training and technical assistance to state child welfare agencies on U.S. Child Labor Laws, family violence, and children's rights.

**Require and cover the costs of post-release services for all unaccompanied children for a minimum of 6 months. Minimum services should include monthly in-home visitations from social workers, support in enrolling and keeping up with school, ensuring access to mental/behavioral and physical health care, and connections to other community resources based on child's needs.**





## Additional Resources

### **Kids in Need of Defense (KIND)**

<https://supportkind.org/>

KIND is the preeminent U.S.-based nongovernmental organization devoted to the protection of unaccompanied and separated children. KIND envisions a world in which every unaccompanied child on the move has access to legal counsel and has their rights and well-being protected as they migrate alone in search of safety.

### **ASISTA**

<https://asistahelp.org/>

ASISTA is a national non-profit dedicated to helping attorneys and advocates assist immigrant survivors of crime with their immigration matters, ultimately enhancing their safety and security.

### **U.S. Committee for Refugees and Immigrants (USCRI)**

<https://refugees.org>

USCRI protects the rights and address the needs of persons in forced or voluntary migration worldwide and support their transition to a dignified life.

### **Alliance for Immigrant Survivors (AIS)**

<https://www.immigrantsurvivors.org/>

AIS is a national network of advocates and allies dedicated to defending and advocating for policies that ensure immigrant survivors of domestic violence, sexual assault, trafficking, and other gender-based abuses have access to life-saving protections that all survivors of violence deserve.

For more information on the issues faced by unaccompanied migrant children, the intersections of structural and family violence, and ways to improve the systems responding to these issues, reach out to The National Center to Advance Peace and Equity for Children, Youth, and Families at [info@centertoadvancepeace.org](mailto:info@centertoadvancepeace.org) or visit our website at [www.centertoadvancepeace.org](http://www.centertoadvancepeace.org).

## Suggested Citation

Johnson, M. H., Rosario-Diaz, G., Berastain, P., & White Starr, R. (2023). *The Welfare of Unaccompanied Minors: Disparate Treatments and a Call for Action*. Doraville, GA: Caminar Latino-Latinos United for Peace and Equity.

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The production of this publication was supported by Grant 90EV0531 from the Department of Health and Human Services, Administration for Children and Families. Its contents are solely the responsibility of Caminar Latino-Latinos United for Peace and Equity and do not necessarily represent the official views of the Department of Health and Human Services, Administration for Children and Families.



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