

The background of the entire page is a photograph showing the hands of several children being held together in a supportive grip. The children are wearing various colored clothing, including a blue and white striped shirt, a red and white patterned shirt, and a light blue t-shirt. The image is slightly blurred, focusing on the hands in the center.

EXECUTIVE SUMMARY

APPLESEED MEXICO REPORT 2023

CHILDREN AT THE BORDER

Children at Risk at the Border:
Evaluation of the Protection
and Care of Unaccompanied
Mexican Migrant Children

—
2023 Update

Appleseed
Sembrando la semilla de la justicia
México

INTRODUCTION

In 2011, Appleaseed (Appleaseed USA and Appleaseed Mexico) published the binational report entitled “Children on the Border: The Screening, Protection, and Repatriation of Unaccompanied Mexican Minors,” to analyze the reasons why Mexican children are forced to migrate and their migration experience at the border between Mexico and the United States.

The 2011 report served as a resource and starting point for collaboration on numerous efforts, including the provision of technical support, input, and feedback on various legislative and advocacy processes in Mexico and the United States. This update comes twelve years after the 2011 investigation, and we hope that it will raise awareness among the authorities of both countries of the tens of thousands of Mexican minors crossing or attempting to cross the border with the U.S.

The purpose of this investigation is to shed light on the impacts that immigration policies have on migrant Mexican children, as well as the reasons why these children are forced to migrate. It aims to examine the risks they face during their journey and crossing, when they are detained in the U.S., and during their return to Mexico as compared to the situation that this same population experienced twelve years ago. This analysis complements the review of the regulatory frameworks pertaining to migrant children in both countries, and it helps to assess the protection mechanisms that exist today as well as the challenges faced by children resulting from persistent institutional gaps.

Based on the information gathered and our analysis from a rights-based approach, the report highlights the most relevant findings and provides recommendations to improve access to rights and protection of unaccompanied migrant Mexican children, on the Mexican side, the U.S. side, and at the binational level.

This report is the result of a collaborative effort carried out by a technical and drafting team, led by the consulting firm El Rebozo–Cuidad de la Vida y los Territorios and coordinated by Mexico Appleaseed. Pro bono contributions were provided by three law firms in Mexico and three law firms in the United States. We also appreciate the openness and contributions of various organizations and institutions that participated in this investigation from both Mexico and the United States. We would also like to thank the children who participated in focus groups carried out within the framework of this investigation and the families and those who accompanied them on their journey and gave us their testimony.



Picture. Human Trafficking in Mexico 2 HIP Report

METHODOLOGY

To prepare this report and generate a comparative analysis of the status of the policies, practices, and procedures for the care and protection of unaccompanied Mexican children at the Mexico-U.S. border from 2011 to 2023, qualitative and quantitative information has been collected from a variety of sources. The data collection spanned over one year of work, between February 2022 and February 2023, both in Mexico and the United States.

The information sources consisted of:

- **40 Semi-structured interviews** with strategic civil society organizations, governmental organizations, and international bodies in Mexico and the United States: 26 in Mexico and 14 in the United States.



Type of organization or institution interviewed in Mexico and the United States

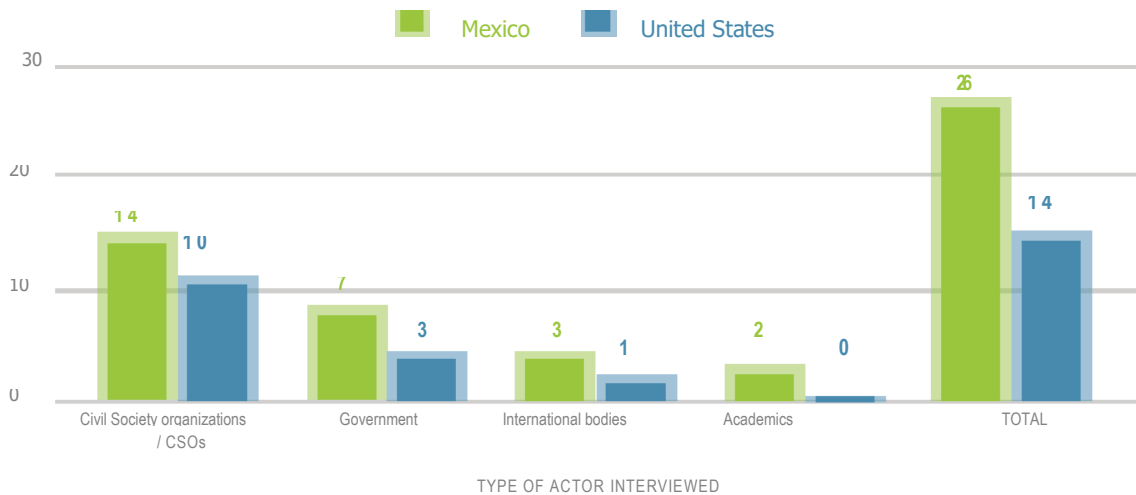


Figure 1. Types of organizations interviewed for this report.
Source: Original análisis.

- **3 Focus groups** with various profiles of migrant children on the northern border of Mexico: one in Ciudad Juárez with child victims of cross-border traffic circuits¹ and two in Nogales, Sonora, with children and displaced families from Michoacán and Guerrero. There were 24 child participants.
- Information obtained through **requests for access to public information** in Mexico and the United States. Responses were received from all required Institutions in Mexico, totaling 18 responses. There were greater obstacles to collecting this type of information in the United States, namely, the extended processing times associated with information requests made under the Freedom of Information Act (FOIA), and it was not possible to receive the information requested.

1. Child victims of cross-border trafficking circuits receive special attention in this report, due to their heightened vulnerability and the criminalization and social stigma that they face in both countries, a situation that was identified in Appleseed's 2011 report and which continues today.

- **Statistical and quantitative information** obtained from public government platforms and through reports from non-governmental organizations.
- **Legal information** from Mexico and the United States obtained from state, national, and international legislation, as well as judgments and court orders, operating protocols, and binational agreements.
- Various **secondary sources**.

CURRENT PROFILE OF MEXICAN CHILDREN AT THE MEXICO-U.S. BORDER

Migrant children present at the Mexico-U.S. border are very diverse in gender, age, ethnicity and national origin, conditions surrounding their journeys, and other circumstances. In addition the Mexican children who are the focus of this report, there are children from other countries at the border, many of whom are also fleeing conflict areas and severe humanitarian crises.

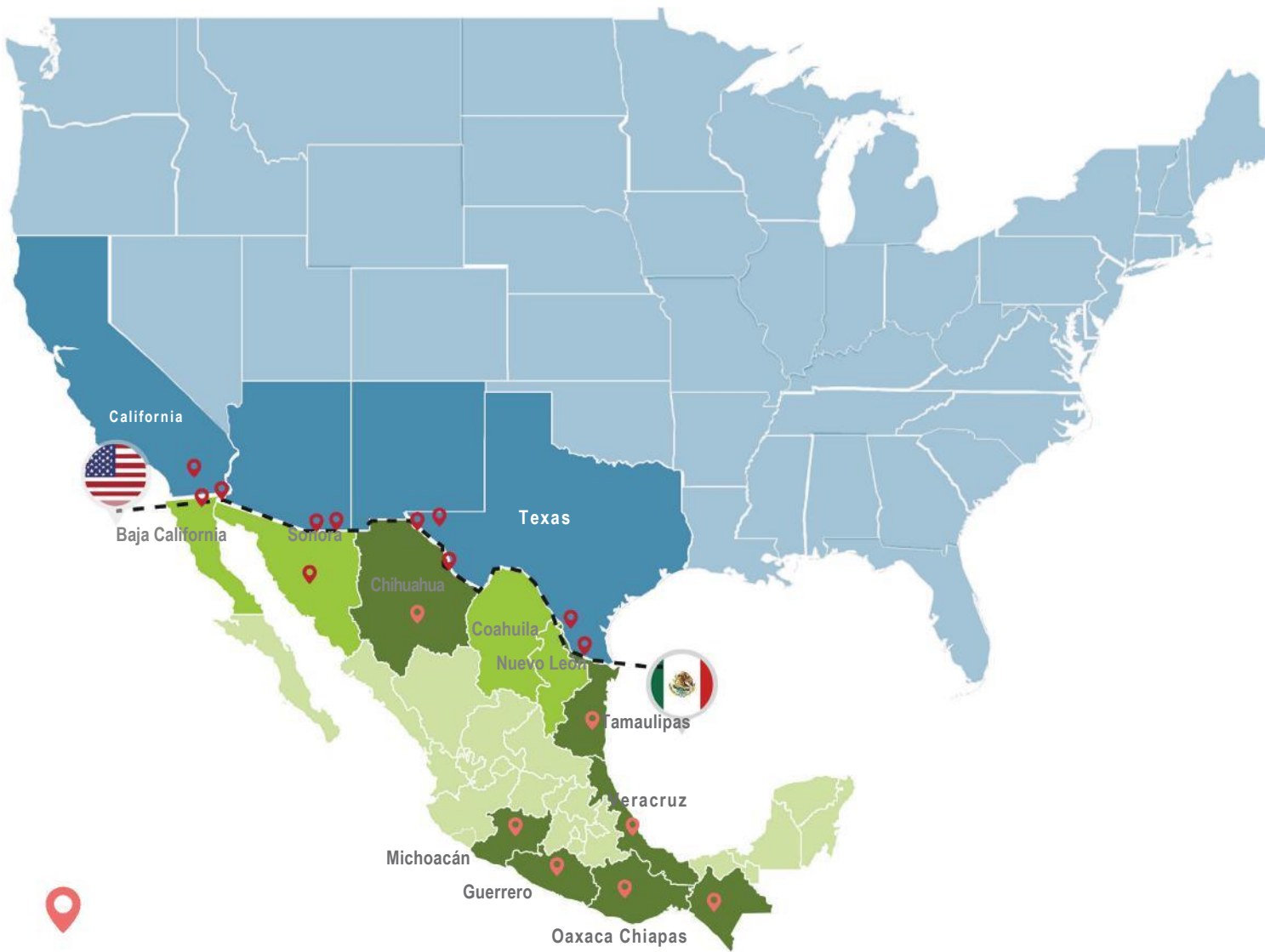
During the investigation, we identified the following factors that play into the profile and experiences of migrant children, including personal characteristics and reasons for migration:

- **Origin and journey to the border.** The vast majority of these children have previously been forcibly displaced within Mexico²--mainly from Michoacán, Guerrero, Oaxaca, Chiapas, Veracruz, and northern states--and are bound for the United States.
- **Purpose in seeking to enter the United States.** It is important to highlight the presence of those who are referred to as **child victims of cross-border traffic circuits** (also known as “circuit children” or “circuit minors”).³
- **Level of adult accompaniment during their travels.** Three profiles are identified: (1) children accompanied by their parents, (2) separated children (i.e., accompanied by a non-parent or trusted adult who supports the child’s border crossing), and (3) unaccompanied children, mostly teens, who are not accompanied by any responsible adult throughout their migration process (“UACs”).
- **Age.** Children of all ages are found at the border, although younger children are generally accompanied by their mothers or both parents, while teenagers are more likely to be travel alone.
- **Additional or different factors and risks faced by particularly vulnerable children.** Girls, LGBTQ+ children, survivors of SGBV, and indigenous children often have additional reasons for undertaking the journey and face different experiences during the journey, crossing and return.
- **Reasons for departure places of origin.** There are typically multiple push and pull factors that lead a child to leave his or her home. These often include criminal and/or domestic violence in their places of origin, a desire for family reunification, and/or economic survival. The main reason for forced migration among these children, however, is the impact of violence caused by organized criminal groups, which often occurs in the collusion with, or due to the inaction of, Mexican authorities.

2. For the purposes of this report, all those who have been directly affected by the intensification of episodes of armed conflict, criminal violence in their places of origin, and sociopolitical violence in Mexico inflicted by different groups of organized crime that seek to maintain or expand their territorial control, in collusion with or due to the inaction of Mexican authorities, are considered victims of forced displacement, with children being the main victims. For further conceptual reference, see: Vanegas López, Julián Alberto; Bolívar Bonilla Baquero, Carlos; Camacho Ordóñez, Leidy Bibiana, *Significado del desplazamiento forzado por conflicto armado para niños y niñas (The Meaning of Forced Displacement Due to Armed Conflict for Children)*. *Fundamentos en Humanidades (Fundamentals in Humanities)*, vol. XII, No. 24, 2011, pp. 163189 Universidad Nacional de San Luis San Luis, Argentina. Available at: <https://www.redalyc.org/pdf/184/18426920007.pdf>.

3. The term “circuit minors” initially arose as a denomination by government institutions, such as the National Immigration Institute and the DIF System, who have direct contact with this population, to differentiate this group from other migrant children, especially due to the characteristics they present in terms of their recidivism in repatriation records as a result of their cyclical participation in border crossing processes. For more information, see DHIA-Juárez, Ni “delincuentes” ni “ilegales”: *El trabajo de niños, niñas y adolescentes fronterizos en los procesos de movilidad humana en el corredor El Paso-Juárez (Neither “Criminals” nor “Illegals”: The Work of Border Children in the Human Migration Processes in the El Paso-Juarez Corridor)* (August 2017) (hereinafter El Paso - Juarez Report), available at <https://dhia.mx/wp-content/uploads/2021/02/nidelincuentes.pdf>

- **Type of housing during migration.** Children—with or without family—who reside in public or private shelters are impacted differently, and have different needs, than children who manage to stay with their families in private accommodations.



Identify states where the children in this study come from (Michoacán, Guerrero, Oaxaca, Chiapas, Veracruz, Tamaulipas y Chihuahua)

Figure 2. Map of major places of origin of unaccompanied Mexican children and crossing points.

Source: Map created with information sourced from Amnesty International’s 2021 Report: PUSHED INTO HARM’S WAY (2021) (hereinafter the “Amnesty Report”) (p.23), with supplemental information gathered through interviews for this report.

This report also documents and highlights that there are **children who are particularly vulnerable** within all the categories mentioned above. **This differentiation arises from structural issues that begin affecting children at their places of origin.** Factors such as gender, belonging to an indigenous group, or LGBTQ+ status, among others, make children more or less vulnerable compared to other children experiencing forced migration. Sufficient and effective programs or policies to address these children's specific needs are sorely lacking.

In other instances, **this increased vulnerability of some children is a result of specific events that occur during the journey, the conditions surrounding their journeys (unaccompanied or accompanied), or the harsh conditions of the journey.** The report documents that due to the tightening of U.S. immigration detention and expulsion policies **many children who initially traveled with their families to the border were forced to cross unaccompanied as a survival strategy, as they would not be permitted into the U.S. as part of a family unit.** This situation is explained in more detail in section 3.3.3 of this report.

As detailed in this report, there is also concern about the normalization of the **circumstances of child victims of human trafficking and forced recruitment networks along the border**, as well as their high immigration frequency and the institutional violence to which they are subjected. There is also a lack of any government intervention to stop both the exploitation of these children and the patterns and conditions that force these children to be exploited by organized crime groups.

“Well, honestly, the dudes on the wall have caught me a shit-ton of times and they have beaten me up. (...) They hit me once, (...) and he had shoes with metal tips, the immigration officer, and “pow!”: he hit me like this (...) because they do discriminate against you here, honestly, they discriminate against you really bad.”
(Anonymous textual testimony taken from the focal group in Ciudad Juarez)

”



Picture. Human Trafficking in Mexico 2 HIP Report

Data on Mexican Children at the Mexico-United States Border: Detentions, Expulsions, and Repatriations

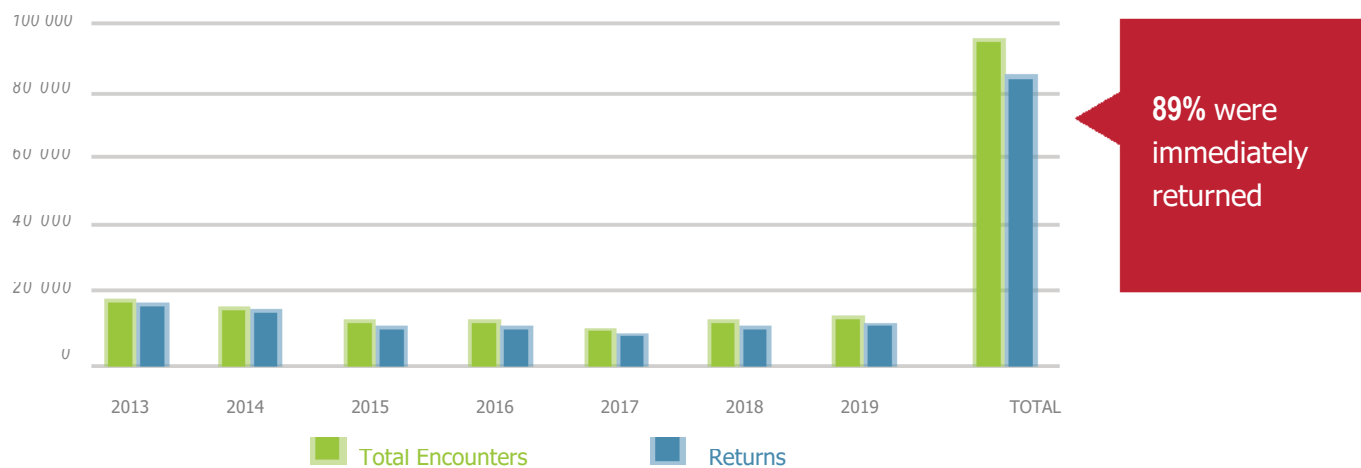
As in 2011, Mexican UACs continue to cross into the United States in large numbers, accounting for approximately 20% of recorded encounters of U.S. Customs and Border Protection (CBP) with UACs.⁴ Despite the screening requirements of the Trafficking Victims Protection Reauthorization Act (TVPRA), most of these Mexican UACs are immediately repatriated. This contrasts with their peers from non-contiguous countries, who are almost never immediately returned. Rather, children from non-contiguous countries benefit from automatic transfer to the custody of the Office of Refugee Resettlement (ORR), which leads to a meaningful opportunity to have their protection claims heard by a judge or a U.S. Citizenship and Immigration Services (USCIS) asylum officer.⁵

The real-world effect of the disparate legal treatment of UACs from contiguous and non-contiguous countries is striking. Between 2013 and 2019, there were 97,735 encounters⁶ between CBP and Mexican UACs, 89% of whom were immediately returned.⁷ (See Figure 3)



Encounters and Returns of Mexican UACs

Figure 3. Encounters and Returns of Mexican UACs by CBP, FY 2013-2019. Source: Original analysis created with publicly available data



provided by U.S. Department of Homeland Security

Compare this with UACs from non-contiguous countries, for whom there were 314,627 encounters with CBP, and of whom only 1.2% of whom were immediately returned.⁸ (See Figure 4)

Based on this information, it can be inferred that at least 8 out of 10 Mexican children repatriated from the United States travel unaccompanied.

4. See William A. Kandel, *Analyst in Immigration Policy*, available at <https://crsreports.congress.gov/product/pdf/IV/IV11638>. Of note, while Mexican UACs now represent a smaller percentage of the total number of UACs entering the U.S. – having been eclipsed by UACs from the Northern Triangle of Central America – the actual numbers of recorded encounters between Mexican UACs and CBP have remained consistently high, with some decrease in FY 2017 and 2020. However, there have been record numbers of encounters in recent years, as discussed in this section.

5. See discussion in Section 4.3 on the benefits of being transferred to ORR and having access to an opportunity to apply for immigration relief before USCIS or the Immigration Court.

6. It is important to note that an “encounter” does not necessarily represent a single, unique UAC. As discussed throughout this report, some Mexican UACs, including victims of cross-border trafficking organizations, cross into the U.S. multiple times per year.

7. See *Department of Homeland Security 2020 Enforcement Lifecycle Report – Detailed Appendix Tables*, Department of Homeland Security, available at https://www.dhs.gov/sites/default/files/publications/2020_enforcement_lifecycle_appendix_tables.xlsx.

8. *Id.*

9. This information was obtained from the 2018 to 2022 Annual Statistical Bulletins on the Return of Mexican Children and Adolescents From the United States, available at: http://www.politicamigratoria.gob.mx/es/PoliticaMigratoria/Boletines_Estadisticos.

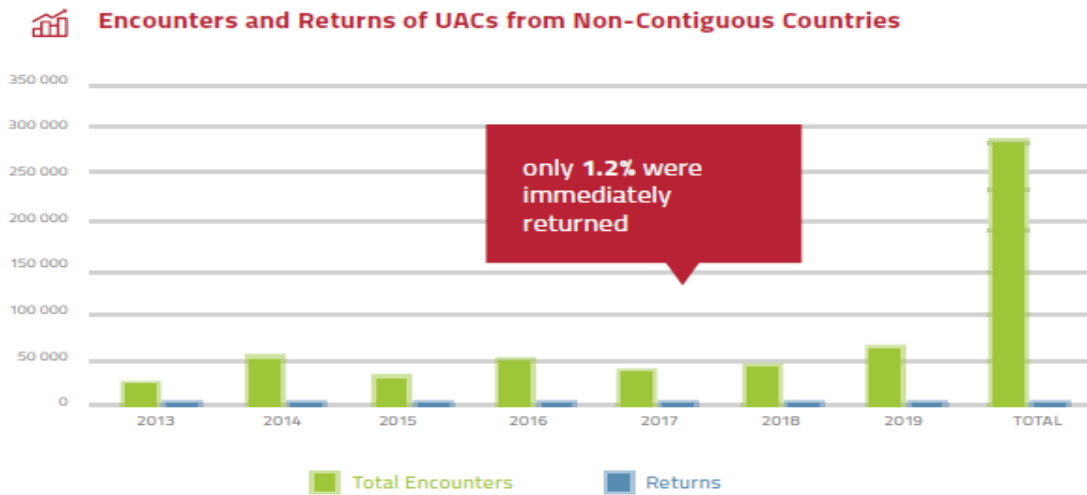


Figure 4. Comparative graph of Mexican UACs and total Mexican children repatriated from the United States from 2018 to 2022.
Source: Original analysis using data obtained from the Unit for the Immigration Policy, Registration, and Identity of Persons.

On the other hand, according to official Mexican government data on the total number of repatriations of children from the United States to Mexico between 2018 and 2022, as recorded by the National Migration Institute (INM), 80% are recorded as UACs. Over this five-year period, 83,909 Mexican children of which 67,803 were UACs, were repatriated from the United States and registered by the Mexican authorities.⁹

It should be noted that the INM recorded an **82% increase in instances of repatriation of Mexican children from 2020 to 2021; while repatriated Mexican UAC cases increased by 94% from 2020 to 2021**,¹⁰ almost doubling the figures in just one year. For 2020, the INM recorded 9,431 Mexican UACs returned by the U.S.¹¹ For 2021, the INM recorded 18,321 Mexican UACs returned by the U.S.¹² In addition, as seen in the graph above and the data recorded by the INM, the upward trend continued in 2022. That year, INM recorded a total of 24,956 Mexican children who returned from the United States, of whom 19,952 were UACs.¹³ Both numbers were the largest registered by the INM in the last five years.

It is important to mention that (1) only some percentage of the CBP “encounters” represent unique UACs attempting to re-enter the U.S. multiple times, and (2) the U.S. data is presented on a fiscal year basis (November through October), whereas the Mexican data is presented on a calendar year basis. Nonetheless, we can say with confidence that a very high percentage of Mexican UACs continue to be immediately repatriated, continuing the trend seen in the CBP data from 2013 to 2019 and the data registered by INM through 2022.

Main reasons for Mexican children to migrate and cross the border

Although the causes leading to the forced migration of children are multiple, complex, and intertwined, our research showed that **the most cited reason for migration was to escape organized criminal violence**. The following graph depicts the reasons why Mexican VACs are forced to leave their homes:

10. Unit for the Immigration Policy, Registration, and Identity of Persons. *Annual statistical newsletters from 2018 to 2021. Data tables on the return of Mexicans from the United States (formerly, repatriation of Mexicans). Events of returns of Mexican Children and Adolescents from the United States, based on age groups, travel condition, and gender* (Table 5.4), Repatriation events of Mexican children from the United States, available at: http://www.politicamigratoria.gob.mx/es/PoliticaMigratoria/Boletines_Estadisticos.

11. *Id* at Table 5.5.

12. *Id*. 2021 annual statistical newsletters. Events of returns of Mexican Children and Adolescents from the United States, based on state of origin, age groups, travel condition, and gender, 2021 (Table 5.5), available at: http://www.politicamigratoria.gob.mx/es/PoliticaMigratoria/Boletines_Estadisticos.

13. *Id*. 2022 annual statistical newsletters. Events of returns of Mexican Children and Adolescents from the United States, based on state of origin, age groups, travel condition, and gender, 2022 (Table 5.5), available at: http://www.politicamigratoria.gob.mx/es/PoliticaMigratoria/Boletines_Estadisticos.



Reasons for the Forced Migration of Mexican Children

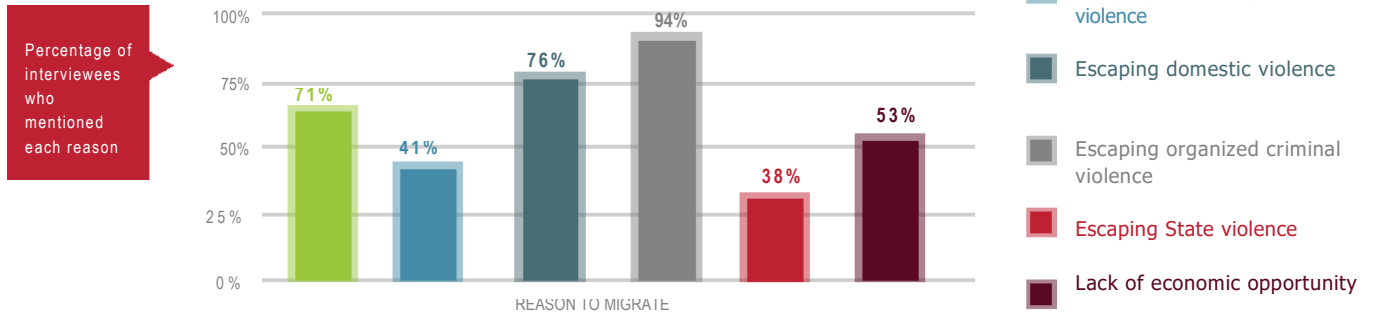


Figure 5. Main reasons for migration of UACs.

Source: Original analysis based on information gathered in interviews.

Throughout this investigation, we discovered that all the participants in the two focus groups held in Nogales, Sonora were fleeing from organized crime. All of these children reported experiencing the murder or disappearance of one or both of their parents or close relatives at the hands of criminal groups, or having suffered, along with their families, death threats, forced evictions, and harassment by members of organized crime. Many of these children reported that government agents at the state and local level were complicit with these criminal groups, offering an insight into the infiltration of organized crime into state institutions. This is even more significant for children on the Mexican side of the border, as they have no protection in their places of origin and there are significant institutional gaps in the mechanisms for ensuring their safety.

It is important to emphasize that **there are gender implications to the violence exercised by organized crime against Mexican children: boys are at greater risk of forced recruitment and girls of suffering violence and sexual exploitation.** This was borne out in the testimonials of the children and their families who participated in this investigation, as well as interviews with non-governmental organizations and shelters that provide humanitarian aid

They leave because of the [in]security in their communities. In 2020, we had many displaced families from one community in Guerrero, in particular. They told us that members of organized crime came to their homes and if their children were boys, these individuals told the families that it was time to take their children, and what these families did was to not resist but to prepare their children to leave their homes in the morning and never return. That happens to boys. Girls were recruited for sexual exploitation when they were between the ages of 12 and 16. They leave their communities and are seeking asylum in the United States, and many are still waiting to do so. (Centro de Atención al Migrante Exodus (CAME), Agua Prieta, Sonora)

Main Problems and Risks Faced by Migrant Children at the Mexico-U.S. Border

The problems and risks that Mexican children experience when they are forced to migrate are also broad and diverse. What is common in these situations is that these children's rights (including the vast majority of the rights recognized for children under national and international laws and norms, especially their rights to physical and emotional integrity and full development) are violated in their places of origin, as well as during their migration, with significant institutional gaps in the mechanisms for ensuring their safety.

This report recounts in detail the wide range of rights violations that migrant children are exposed to throughout the migration process. The violations have been identified by the stakeholders interviewed for this investigation, including migrant children themselves, and through reports from other human rights organizations. It has been observed that forced recruitment by organized crime is the greatest risk children face when migrating unaccompanied.

We also note the **risk that the lack of access to international protection in the United States generates for Mexican UACs**. The vast majority of Mexican UACs who attempt to enter the U.S. and are encountered by CBP are immediately returned, despite legal requirements that they be screened for protection needs. As described throughout this report, that screening is clearly not being properly conducted, resulting in many Mexican UACs not gaining access to the protection they have a right to under U.S. and international law.



Most common risks faced by Mexican UACs during the journey and crossing to the U.S.

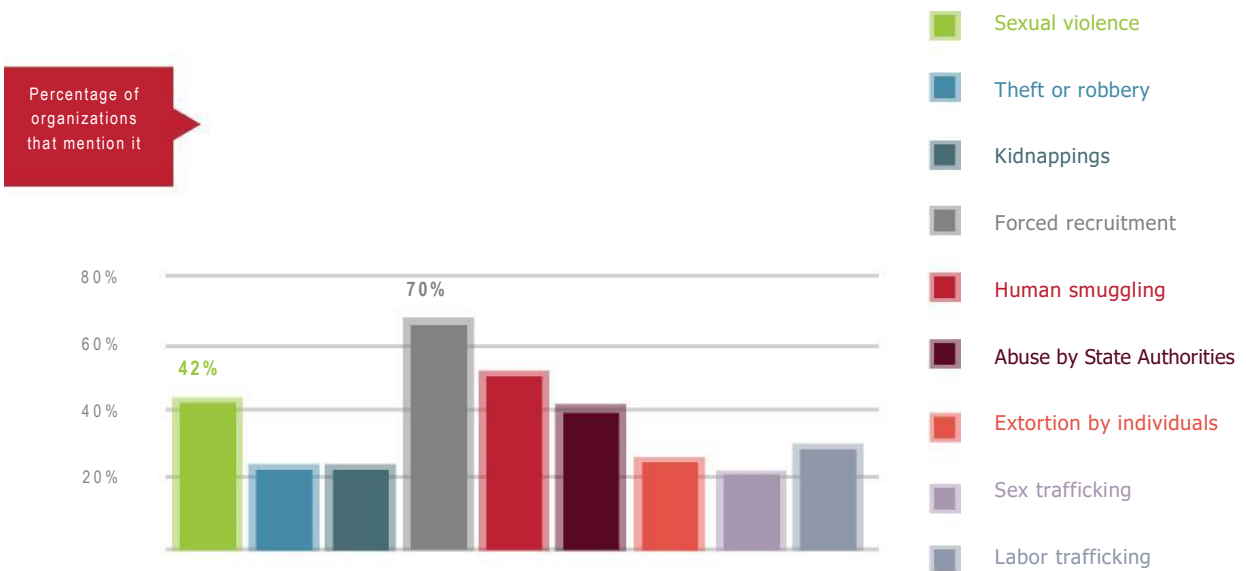


Figure 6. Main risks faced by Mexican UACs during the journey and border crossing from Mexico to the United States
Source: Original analysis based on the information gathered in interviews.

The return to Mexico also entails various risks for this population, especially as a result of the immigration detention that children suffer in the U.S. and institutionalization upon return to Mexico. As detailed in this report, various human rights organizations have identified cases of abuse against Mexican children, both by U.S. and Mexican government authorities. These abuses range from physical and verbal abuse at the time of detention and return, to sexual abuses inside immigration detention centers.

Likewise, it can be said that UACs who are detained in the United States and returned to Mexico experience a form of **double detention due to their status as UACs**. They are effectively isolated and deprived of their freedom in U.S. detention centers before being deported, and then are subsequently institutionalized in DIF shelters on Mexico’s northern border until the Mexican authorities decide how to proceed with the children in their custody.





Most Common Risks Experienced by Mexican UACs During Repatriation

Percentage of organizations that mention it

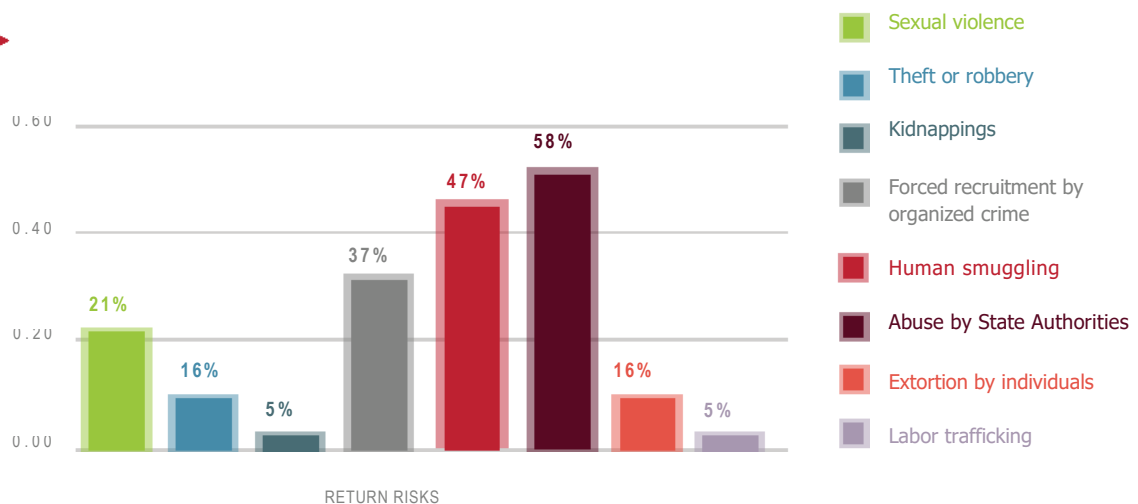


Figure 7. Main risks faced by Mexican UACs during the return to Mexico from the United States.

Source: Original analysis based on information gathered in interviews.

LEGAL RESPONSE TO MEXICAN CHILDREN AT THE BORDER

The protection of the rights of children is extensively regulated both in Mexico and in the United States.

In Mexico, there has been a significant evolution of the legal framework concerning migration and children since Appleseed’s 2011 report. In fact, in 2011—the same year as the report, —Mexico established its first immigration law, as well as the Law on Refugees, Supplemental Protection, and Political Asylum, with implementing regulations being promulgated a year later. Given that these laws and regulations were coming to fruition at nearly the same time as the publication of the 2011 report, it was not possible at that time to analyze the effect these changes would have on the situation of migrants in Mexico.

Another decisive regulatory improvement after the 2011 Report was the publication and enactment of the General Law on the Rights of Children and Adolescents (LGDNNA) at the end of 2014. Its approval has been a significant step towards moving from a system focused on care to a protective system that treats children as rights holders.

This law included a specific chapter (Chap. 19) dedicated to human migration thanks to advocacy by NGOs and international bodies. It also establishes an inter-institutional response with the creation of the National System for the Comprehensive Protection of Children and Adolescents in Mexico (SIPINNA)¹⁴ and the Prosecutor’s Office for the Protection of Children and Adolescents, both at the federal and state levels.

Legislative and regulatory changes have not stopped there. Conflict between the 2014 LGDNNA and the Immigration and Refugee Laws regarding procedures for the care of migrant children was corrected at the end of 2020 with the approval of a decisive reform to both the Immigration Law and Law on Refugees. Before and after this reform, international bodies and NGOs supported the development of various implementing processes related to the LGDNNA, including protocols and operational guidelines detailed in the report. Unlike the 2011 report, this report analyzes and compares advancement and implementation in Mexico with those in the U.S.

14. On December 2, 2015, the National Comprehensive Protection System for Children and Adolescents was officially installed in Mexico. For more information on its progress, see the official public information on SIPINNA, available at: <https://www.gob.mx/segob/documentos/sistema-nacional-de-proteccion-integral-de-ninas-ninos-y-adolescentes-sipinna>.

As in Mexico, the rights of unaccompanied Mexican children in the United States have long been governed by a complex and dynamic legal regime, the basic framework of which has not changed since Appleseed’s 2011 report. Like in 2011, when Mexican UACs encounter U.S. authorities after traversing the Southern border, they are quickly screened under the TVPRA and either repatriated immediately or placed within the custody of the U.S. government until a subsequent determination regarding their continued custody, right to reside in the United States, or both, can be made.

While there have been some recent efforts to improve the training of U.S. immigration officials who interact with UACs, as well as the facilities in which these children are held, the data and anecdotal reports make clear that TVPRA screening is not being conducted consistently and properly, and significant improvements are needed.

This relative lack of progress in implementing the recommendations of Appleseed’s 2011 Report has occurred against the backdrop of a particularly turbulent time in U.S. immigration policy. Because the U.S. Congress has ground to a halt due to intransigent political forces and has largely yielded its role in shaping immigration law to the executive and judicial branches, immigration policy has been subjected to frequent revision by successive presidential administrations, leaving the status of many immigrants, including Mexican UACs, uncertain. Examples include the separation of immigrant families in 2018, the 2019 implementation of the Migrant Protection Protocols (“MPP”), and the expulsion of asylum-seekers during the COVID-19 pandemic under Title 42 of the U.S. Code, all of which created confusion and negative consequences for Mexican UACs. These negative consequences have included the separation of families—as desperate parents sent their children ahead alone in an effort to protect them—, inconsistent implementation of

safeguards like TVPRA screening, and instability in the conditions and standards of care provided to UACs. These policy developments and their consequences are discussed in detail in the body of the report.

The legal section in the full report provides a detailed analysis of the full legal framework affecting the rights and experiences of Mexican UACs in both countries.



ASSESSMENT OF THE INSTITUTIONAL RESPONSE FOR THE PROTECTION OF MEXICAN CHILDREN AT THE BORDER

In its final chapters, this report assesses the response of Mexican and U.S. authorities to migrant Mexican children at the border.

As noted earlier, since 2011 there have been significant legal advancements in Mexico related to the protection of migrant children, while on the U.S. side there have been a number of tightening immigration policies that have had negative effects on Mexican UACs and others, with limited efforts to improve Mexican UACs' access to protection and appropriate care in the U.S.

However, as previously noted in the 2011 report, in Mexico there continues to be a lack of effective implementation of protection mechanisms for repatriated Mexican UACs and an absence of a standardized registration and information system for migrant children, both of which negatively affect these children's rights.¹⁵

For example, we discovered that the data on repatriated children recorded by the Mexican National Immigration Institute and the Secretariat of Foreign Affairs does not match, there being an average of 27.5% of UACs repatriated from the United States who do not appear in the Comprehensive Consular Protection System within the Secretariat of Foreign Affairs. Additionally, the information published by CBP on unaccompanied children of Mexican nationality, detained and deported or expelled from the southern border of the U.S., does not match the figures for unaccompanied children repatriations registered by the INM: CBP reported 55,428 encounters with Mexican UACs between October 1, 2018 (FY 2019) and September 30, 2021 (FY 2021),¹⁶ during which time INM registered only 36,101 repatriations of Mexican UACs.¹⁷ This is a difference of 35%.

While some Mexican UACs surely received proper TVPRA screening and were permitted to remain in the U.S., annual repatriation data from CBP is not publicly available after 2020. We know the rate of retention has been close to 11% over the past decade. This means it is likely that there have been repatriations of Mexican UACs that have not been registered by any Mexican authority.

Despite inconsistent data or gaps in data, we were able to gather sufficient evidence from available data, stakeholder interviews, and secondary sources to make a concrete assessment of the legal and public policy responses of both countries, as well as practical application of these responses. Our main findings and recommendations are presented below.

15. Appleseed. 2011. *Children at the Border: The Screening, Protection and Repatriation of Unaccompanied Mexican Minors*, at p. 20, available at: <https://appleseedmexico.org/biblioteca-archivos/ninos-en-la-frontera-evaluacion-proteccion-y-repatriacion-de-ninos-ninas-y-adolescentes-mexicanos-sin-compania/>.

16. United States Customs and Border Protection. *Southwest Land Border Encounters*, filtered to show Mexican citizenship and unaccompanied minors, available at: <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>. The FY 2019 data is available at <https://www.cbp.gov/document/stats/southwest-land-border-encounters>. The data from March 2020–September 2021 contains both US Border Patrol Title 8 Arrests and Title 42 Expulsions.

FINDINGS AND RECOMMENDATIONS FOR THE PROTECTION OF VULNERABLE MEXICAN CHILDREN

As in 2011, we seek first and foremost to make evidence-based findings and recommendations to improve the rights of migrant Mexican children, especially Mexican UACs, on both sides of the border.

The main findings of this investigation are summarized below, each with its respective recommendations. The majority of these findings and recommendations are aimed at government institutions that interact with migrant children and which must take measures to provide for their protection and care.



Recommendations for Mexico

FINDING 1.

Violence committed by organized crime, often in collusion with or due to the inaction of the authorities, is the primary cause of the forced displacement of Mexican children and families.

Poverty, the need for family reunification, and myriad of other factors have long been push factors for migration of children, whether they are traveling with their families or unaccompanied. However, criminal violence has intensified in many states, including Michoacán, Guerrero, Jalisco, Veracruz, and Chiapas, as well as in border states co-opted by criminal groups, such as Tamaulipas and Chihuahua. This has given rise to an increase in the forced displacement of families and entire communities seeking to escape such violence and the threats of organized crime and has resulted in this organized criminal violence now being the most commonly identified reason for the displacement of Mexican families and children.

RECOMMENDATIONS:

- **Strengthen the capacities and protection mechanisms of the Prosecutor's Offices for the Protection of Children and Adolescents and other federal, state, and local institutions responsible for the care of children experiencing internal forced displacement in their states of origin.**
- **Support public institutions and social and academic entities in studying the causes of forced displacement in Mexico.**
- **Approve and implement, with the appropriate budget and focus on children, gender, and ethnicity and culture, the draft Law on Forced Displacement, which is being considered in Congress as of this report.**

FINDING 2.

Violence committed by organized crime takes different forms based on gender, with boys suffering an increased risk of forced recruitment, and girls facing heightened risks of violence and sexual exploitation.

Violence resulting in the forced displacement of Mexican children is not homogeneous. There are differences in the sources of the violence and how it impacts its victims. For example, insights from interviews with relevant stakeholders and collected testimonies reveal that organized crime primarily targets boys for recruitment into criminal activities, while girls are most likely to be subjected to sexual violence by these criminal networks. These differences extend to other characteristics beyond gender, including age, LGBTQ+ status, and ethnicity. The government currently lacks adequate means to identify and provide support and protection from this differentiated violence, as recently highlighted by the National Supreme Court of Justice.

RECOMMENDATIONS:

- Generate and implement public policies and regulatory frameworks aimed at identifying and addressing the gendered aspects of the forced displacement of children and families in Mexico, with adequate budget and mechanisms for the participation of forcibly displaced children.
- Reform and reinforce the General Law on the Rights of Children and Adolescents of Mexico to address sexual violence and the forced recruitment of children.
- Reinforce the capacities and mechanisms of the Prosecutor's Offices for the Protection of Children and Adolescents and other agencies in the country for the protection of children at all three government levels—federal, state and local—of the Mexican government to prevent forced recruitment and sexual and gender-based violence (SGBV).
- Carry out the necessary legal actions to classify the recruitment of children by criminal groups as a crime. Additionally, it is essential to implement regulatory actions to promote the separation of recruited child victims from criminal organizations, the physical and psychological recovery of such children, and the reintegration of these children into society.

FINDING 3.

Child victims of cross-border trafficking circuits (“circuit children”) are criminalized and lack protection, while the root causes of this victimization and the impact it has on these children remain unrecognized and neglected.

One of the most at-risk groups of migrant Mexican children are the so-called “circuit children.” These minors are the victims of forced recruitment and are co-opted by organized crime groups to be part of cross-border trafficking circuits. They are forced to make multiple crossings for the transfer of people and drugs, among other things. These are typically boys between the ages of 14 and 17 who come from backgrounds characterized by family disintegration, negligence, addiction, and instability. Through the interviews conducted during this investigation, it became clear that this population is not only unprotected, but also subject to constant criminalization and stigma.

RECOMMENDATIONS:

- Change the term used to refer to this group of children from “circuit children” to “child victims of cross-border trafficking and violence circuits.”
- Request the protective intervention of the Mexican Consular Network in coordination with the Prosecutor's Offices for the Protection of Children and Adolescents, particularly the regional Federal Office and that of the state of origin of the children in cases of border-crossing recidivism.
- Strengthen binational coordination between Mexican and U.S. authorities on effective protection actions for child victims of cross-border traffic and violence circuits.
- Develop and implement, in coordination with the child protection authorities in Mexico and the U.S., a notification system for the identification and protection of these children as victims of cross-border violence.

FINDING 4.

Mexican authorities do not actively promote Mexican children’s access to international protection in the U.S., despite the fact that the primary cause for their forced displacement is violence and a lack of protection from that violence by the Mexican government.

This report, as well as others consulted for this investigation, points to violence—and a lack of government protection—as the main triggers for the displacement of children and families. As a result, many of these children are in need of, and eligible for, international protection. However, these same reports, along with official detention and return statistics, confirm that U.S. authorities continue to intercept Mexican UACs and deport them almost immediately, without a proper analysis of reasons for flight and applicable protections. In the face of this, Mexican authorities that support these children during their time in the U.S. have not taken adequate steps to advocate for the rights of these children to international protection in the U.S.

RECOMMENDATIONS:

- Evaluate and reinforce consular protocols and capacities for identifying situations of fear and risk of UACs returning to their home communities.
- From the Mexican side, collaborate with U.S. NGOs—through the provision of technical expertise—in developing strategies for impact litigation and legislative or policy advocacy to guarantee the rights of Mexican UACs to access international protection in the U.S.
- Request that the United Nations re-evaluate the situation of violence and displacement that is experienced in Mexico as a cause for access to international protection.

FINDING 5.

Family separation at the border has increased as a survival strategy in the face of hardening U.S. immigration laws and the inaction of the Mexican government, creating increased risks for children during their crossing.

Over the past five years, human rights organizations have observed a shift in the profile of the families present along the northern Mexican border, resulting from an unprecedented in criminal violence in their places of origin. Despite the fact that these families are fleeing for their lives, U.S. detention and expulsion policies have tightened over the years. As a result, in many instances intact family units have not been permitted to seek protection at the Mexico-U.S. border, though there have often been exceptions for UACs. Because of this, many families have made the difficult decision to send their children to cross the border alone—as UACs—due to the impossibility of crossing together and the limited options for obtaining joint protection. This dramatic situation is generating a new resurgence in family separations, which has myriad negative effects on the development and well-being of the children involved. The separations no longer stem from deliberate actions and regulations aimed at achieving this outcome, as was the situation under the previous U.S. administration. Instead, the separations have arisen due to the lack of adequate options for families to avoid the prevailing policies of widespread detention and deportation.

RECOMMENDATION:

- Strengthen the capacities of the Prosecutor’s Offices for the Protection of Children and Adolescents at the federal, state and local levels of government in Mexico, including for identifying high risk situations in the country. To this end, collaborations with specialized social organizations that support these families should be developed.

FINDING 6.

SIPINNA's Comprehensive Protection Path for the Rights of Migrant Children and Adolescents must be effectively implemented and applied to Mexican children to strengthen inter-institutional coordination for the protection of forcibly displaced and returned Mexican children at the national and binational level.

The 2014 LGDNNA and the creation of the SIPINNA and the Prosecutor's Offices for the Protection of Children and Adolescents strengthened the Mexican system as it relates to the protection of all children in the country, regardless of the children's origin or status. This progress has been accompanied by the creation of protocols and operational mechanisms to make LGDNNA's main provisions a reality, including the development of a Comprehensive Protection Path for the Rights of Migrant Children and Adolescents, which was approved by the SIPINNA in 2015.

However, there is still significant technical and operational work required for the Path to be implemented efficiently for the determination of the best interests of children. The interviews conducted throughout this investigation have indicated that the Plan has not been adequately implemented with respect to Mexican children, in particular. This is further corroborated by the information obtained through freedom of information requests and statistics collected from the DIF and Prosecutor's Offices for the Protection of Children and Adolescents at the federal, state, and local levels of government, which indicated that these measures are almost never applied to migrant Mexican children.

RECOMMENDATIONS:

- **Operationalize the binational working group for the protection of migrant children in Mexico and the United States,¹⁷ with participation by both governments,** to strengthen the coordination and cross-border protection of migrant children who require international protection.
- **Increase the capacities of child welfare institutions in Mexico (INM, PPNNAs, DIF) and implement, in an interdisciplinary manner, SIPINNA's Comprehensive Path to Care for Migrant Children.**
- **Develop, within the framework of the state and local SIPINNAs of the northern border, inter-institutional and binational mechanisms for the effective protection of migrant Mexican children.**
- **Review and reinforce the procedures for the determination of the best interests of the child by the Prosecutor's Offices for the Protection of Children and Adolescents of the Northern States of Mexico** to avoid automatic returns of children to their places of origin without proper protection.

17. National Immigration Institute. *Government of Mexico is enlisting a binational working group for the protection of migrant children in Mexico and the United States. Joint Communication No. 351/2022.* (July 23, 2022), available at: <https://www.gob.mx/inm/prensa/gobierno-de-mexico-alista-grupo-de-trabajo-binacional-para-proteccion-de-menores-en-situacion-de-movilidad-en-mexico-y-estados-unidos>

FINDING 7.

While the U.S. practice is to immediately return Mexican UACs, without a proper evaluation of their best interests or protection needs. In Mexico, the government's automatic practice is the excessive use of institutionalization followed by return to place of origin, without offering alternatives such as family reunification in the United States or other care possibilities, based on the best interests of the child, such as family reunification in the United States or other care options.

When a Mexican UAC is returned, they are almost immediately institutionalized, usually in a public DIF shelter, while a decision is made about the child's care. Alternative care possibilities that could better protect these children are not explored. The situation that returned children experience is concerning, since they are practically deprived of their freedom in the closed-door shelters managed by the DIF under conditions that may violate their human rights. There is a significant gap in addressing the physical and psycho-emotional impacts experienced by these children upon their return, except through the psycho-social support work that is carried out by some non-governmental organizations. These organizations, unfortunately, have very limited contact with these children.

After institutionalization, the authorities frequently return the children to their states of origin, despite the known prevalence in these locations of high rates of violence by organized criminal groups, and a lack of accountability for that violence. This is done without establishing any communication or procedures between the DIF systems of the northern border states and the states of origin to assess the conditions to which the children are being returned.

RECOMMENDATIONS:

- **Limit the use of institutionalization for Mexican children who are returned from the United States** and seeking alternative family and community care options, which are more protective.
- **Strengthen the proper application of the procedures for the determination of the best interest of migrant Mexican children**, with interdisciplinary evaluations that explore the possibilities of family reunification with protections, either in Mexico or in the U.S.
- **Increase the capacity and coordination of child-related authorities at the federal, state, and local levels to carry out evaluations determining the best interest of the child with the technical support of social organizations and specialized international bodies.**
- **Continue to develop and increase, where possible, family reunification alternatives in the U.S. for Mexican children, as required by the child's best interest.**

FINDING 8.

There is a documented lack of ability, inconsistent data, and weak inter-institutional coordination between the Mexican authorities for the protection of children and the consular network, leading to ineffective protection of Mexican children in forced migration.

Testimonials from human rights organizations confirm this lack of comprehensive support and coordination, while children's detention and deportation statistics from the United States substantiate that Mexican UACs are subjected to near-immediate and near-automatic repatriation, without time to clearly establish the causes that motivated the children to migrate or their unique protection needs.

All of this has persisted despite documented situations of high risk and violence in various Mexican states that have resulted in the forced displacement of children. Additionally, we discovered that the information recorded by the National Immigration Institute and the Secretariat of Foreign Affairs on repatriated children is inconsistent. Greater focus and coordination is needed between the Prosecutor's Offices for the Protection of Children and Adolescents at the federal and state levels with the consular authorities of Mexico in the United States. This is essential to prevent repatriation from being the sole alternative and to avoid having the Mexican government serve merely as the repatriation manager for Mexican UACs who are detained in the United States.

RECOMMENDATIONS:

- **Review and update the consular care protocols for migrant children in all key elements of the protection process** (place, interview format, etc.) to provide greater clarity and rigor in the detection and protection processes and improve the coordination between the Mexican child protection authorities and the Mexican consular network in the United States.
- **Increase the coordination between child-related authorities (DIF and PPNNAs) and the Consular Network** to strengthen the care of at-risk Mexican migrant children in the United States.
- **Promote and create local and national coordination agreements between the authorities of both countries to reinforce the identification and protection of migrant children**, including recognition and implementation of differentiated and intersectional approaches (gender, ethno-cultural, disability, age, among others).
- **Design and implement a comprehensive binational protection mechanism between the U.S. and Mexican child protection institutions** to generate adequate protection measures and restitution plans for migrant Mexican children.
- **Implement a national information system for the registration and identification of migrant children**, including Mexican children in the U.S. and those returned to Mexico.

Recommendations for the United States

After interviewing numerous stakeholders in preparing this update, it is clear that many of the recommendations in the 2011 report are still relevant, with some changes and additional recommendations, as follows. Please note that the body of the report contains a more complete explanation of each of the recommendations below:

FINDING 1.

CBP is not properly implementing TVPRA screening, resulting in Mexican UACs being denied access to international protection.

On-the-ground reports from NGOs indicate that at least some CBP officers are not even aware that TVPRA screening is required and have not received sufficient training for interviewing children, including children with special vulnerabilities or those who have experienced trauma. In addition, the number of UACs crossing the border has increased the workload of CBP, placing pressure on a system that is already not working. This has resulted in the near automatic repatriation of most Mexican UACs, including many children with legitimate needs for international protection, including asylum.

As reported in 2011, CBP remains the wrong agency to conduct TVPRA screening for three reasons:

- CBP is a law enforcement agency whose mission is not aligned with child protection;
- After a decade CBP training on TVPRA screening remains insufficient, resulting in inadequate implementation of TVPRA screening; and
- There is another DHS agency with the appropriate skills and mission to provide accurate TVPRA screening and assure that Mexican UACs have access to international protection: USCIS.

RECOMMENDATIONS:

- Transfer TVPRA Screening Responsibilities to USCIS (continued recommendation)
- Continue to allocate or expand funding to better equip USCIS and ORR to care for children in their custody. (new)
- Ensure that All Personnel Determining Status of Mexican UACs Have Appropriate Training, Experience, and Resources (continued)
- Ensure that all personnel have access to interpretation services for indigenous Mexican languages and receive training in accommodating the needs of LGBTQ+ children and survivors of sexual assault, including boys, who are often overlooked (new)

FINDING 2.

CBP facilities continue to be inappropriate environments for the holding or interviewing of children.

Appleseed notes CBP's recent efforts to improve its facilities, hire child welfare professionals and caregivers, implement "trauma-informed holding practices," and provide its staff—including front-line officers—with training on working with children and trauma survivors. However, it is too soon to tell how effective these programs will be, and it is unclear what policies or practices are being implemented for the special care of particularly vulnerable groups, such as LGBTQ+ children, indigenous language speakers, survivors of sexual assault, etc. Additionally, as a law enforcement agency, CBP is not the appropriate agency to hold children for any period of time. As discussed in the report, while there are certainly issues with ORR facilities, including the emergency facilities operated by FEMA and DOD during border surges, ORR is still better equipped to care for children than CBP.

RECOMMENDATIONS:

- CBP Should Transfer Mexican UACs to ORR Custody Upon Identification as Unaccompanied Children (new)
- ORR Must Provide Care that Complies with the Flores Settlement in all Facilities, including Temporary or Emergency Facilities (new)¹⁸
- CBP Should Continue—and Report on—its Recent Efforts to Improve its Facilities and Training (new)
- CBP Should Supplement New Improvements with Specific Policies for the Treatment of the Most Vulnerable Children, if Such Policies do not Exist (new):
- Provide Safe, Secure and Child-Friendly Environments for TVPRA Interviews (continued)

FINDING 3.

The form CBP employs during the TVPRA screening process likely remains insufficient.

Furthermore, while DHS issued improved guidelines in 2019 requiring that Form I-770 (Notice of Rights) be read to all UACs—not just those under 14 years of age—in a language and manner they understand, there have been reports that this is not actually happening.

RECOMMENDATION:

- Improve Forms and Guidance to Elicit Sensitive Information from Unaccompanied Children and to Ensure that a Child's Decision to Return is Independent and Voluntary (continued)

FINDING 4.

Feedback on communications and coordination between US and Mexican authorities around Mexican UACs is mixed, though it largely remains insufficient to protect all Mexican UACs.

In some instances, there are reports of good communication around, for example, repatriation of children to Mexico via plane, whereas in other instances there are reports that Mexican UACs are simply returned at the land border with no DIF officer present and no notification to the Mexican Consulate.

RECOMMENDATION:

- U.S.-Mexico Communications Concerning Unaccompanied Children Should Promote the Best Interest of the Child and Comply with International Law (continued):

18. The Office of the Inspector General, HHS, provides specific recommendations to ensure improved care during future surges in its September 2022 report, cited earlier in this report and available at: <https://oig.hhs.gov/oei/reports/OEI-07-21-00251.pdf>.

FINDING 5.

While DHS is required to collect and enter the identifying information of all UACs into DHS's electronic database, DHS still does not track any information related to TVPRA screening of Mexican UACs.

RECOMMENDATION:

- Track and Publish Data on Unaccompanied Children Screened Pursuant to the TVPRA (continued)

FINDING 6.

Mexican UACs—like all individuals seeking protection before USCIS or defending against removal before EOIR—do not have any right to a free, appointed lawyer if they cannot afford one.

As a result, many children, including many Mexican UACs, face the complex U.S. immigration system on their own, and do not obtain the protection the law affords them. So, the need to protect Mexican UACs is urgent, and inadequate progress has been made over the past decade.

RECOMMENDATION:

- All UACs should have access to a free lawyer to represent them before USCIS and/or EOIR, if they cannot afford one.

FINDING 7.

As an overall conclusion, the need to protect Mexican UACs is urgent as the current process for apprehending, screening, and where required, repatriating Mexican UACs, places those children at immediate risk, and immediate action must be taken. So, it is important that DHS move swiftly.

RECOMMENDATION:

- DHS should move swiftly to put new policies into effect (continued)

Binational recommendations

BINATIONAL FINDING 1.

There is insufficient coordination among Mexican and U.S. government authorities, NGOs in both countries, and international organization to guarantee the protection of Mexican migrant children.

There is insufficient binational coordination between both Mexican and U.S. governmental authorities, as well as between those governmental authorities and the NGOs and international entities that engage in child protection work on both sides of the border. There are contact points between authorities and entities on both sides, but broad and constant coordination has not been identified to implement clear initiatives and paths of action from a truly binational perspective. Care coordination protocols have been identified throughout the investigation, but no effective results have yet been found for these instruments.

RECOMMENDATIONS:

- **Promote the binational working group's initiative to protect migrant children in Mexico and the United States.** We suggest greater transparency in the work being carried out and ensuring the active and effective participation of non-governmental organizations on both sides of the border.
- **Evaluate the results of consular and other binational care protocols that have been formulated in recent years** to readjust what is necessary for their effective implementation.
- **Promote spaces and joint networks between international bodies and non-governmental organizations** that are working to protect migrant children on both sides of the border.
- **In light of the reality that human trafficking is a matter of profound concern for all nations, and of particular concern for Mexican UACs who are frequently victimized by cross-border trafficking networks, there should be an effort to initiate a more robust, coordinated, and multilateral investigative approach to address these issues, including further investigation into the financial models that underpin it.**



BINATIONAL FINDING 2.

Family separation at the border has increased as a survival strategy in the face of hardening U.S. immigration laws and the inaction of the Mexican government.

Over the past five years, human rights organizations have observed a shift in the profile of the family units present along the northern Mexican border, resulting from an unprecedented in criminal violence in their places of origin. Despite the fact that these families are fleeing for their lives, U.S. detention and expulsion policies have tightened over the years. As a result, in many instances intact families have not been permitted to seek protection at the Mexico-U.S. border, though there have often been exceptions for UACs. Because of this, many families have made the difficult decision to send their children to cross the border alone—as UACs—due to the impossibility of crossing together and the limited options for obtaining joint protection. This dramatic situation is generating a new resurgence in family separations, which has myriad negative effects on the development and well-being of these children. The separations no longer stem from deliberate control and regulations aimed at achieving this outcome, as was the situation under the previous U.S. administration. Instead, they have arisen due to the lack of adequate protection options for families against prevailing policies of widespread detention and deportation.

RECOMMENDATIONS:

To address this increase in family separation as an effect of restrictive immigration policies, we recommend:

- **Strengthen and streamline coordination between Mexican and United States authorities** to promote access to international protection for families displaced by violence who reach the border and prevent artificial creation of Mexican UACs.
- **Advocate with U.S. governmental authorities to analyze whether new immigration policies will artificially create Mexican UACs**, and recraft policies to protect family unity and provide open access to international protection.
- **Strengthen the capacities of the Prosecutor's Offices for the Protection of Children and Adolescents at the federal, state and local levels in Mexico, including for identifying high risk situations for family in the country.** To this end, the support of specialized social organizations that support these families should be developed.

EXECUTIVE SUMMARY

APPLESEED MEXICO REPORT 2023 CHILDREN AT THE BORDER

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Evaluation of the Protection
and Care of Unaccompanied
Mexican Migrant Children

—
2023 Update

