

From Grief to Relief?: Analyzing Trends Between Demographics and Eligibility for Immigration Relief of Unaccompanied Immigrant Children

Karen V. Ramirez

University of Illinois at Chicago
United States of America

Illegally immigrating to the U.S. can bring about the risk of coercion, abuse, trafficking, and murder. As a minor, these risks may increase due to the natural susceptibility inherent in youth. Unfortunately, the act of minors immigrating to the U.S. without a guardian has become increasingly prevalent, especially among children from different countries of Central America (Jones & Podkul, 2012). While attempting to cross the border, many of these minors are apprehended by Customs and Border Patrol (CBP) or and detained by Immigration and Customs Enforcement (ICE) and are put under Office of Refugee Resettlement (ORR) custody.

Many minors have fled countries like El Salvador and Guatemala due to high poverty rates or recruitment to gangs such as Marasalvatrucha 13 (MS13) (Grayner, 2012). Young women in some parts of Asia have left their countries to prevent being sold into marriage either as part of a tradition or as a payment of some form of debt (Bedi, Akee, Basu, & Chau, 2009). In an effort to flee these existing conditions, many of these minors risk their own lives by immigrating to the U.S. alone with the hope of finding some type of relief to their situation. Although there are several forms of immigration relief available to unaccompanied minors, the most prevalent cases encountered by legal service providers in Chicago have been T-Visa, U-Visa, Asylum, Asylum Withholding, Special Immigrant Juvenile Status (SIJS), and (rarely) Deferred Action for Childhood Arrivals (DACA).

Asylum cases and asylum withholding are difficult to pursue and were created with adults in mind rather than to fit the needs of minors (Ooi, 2011). According to a legal review conducted by Christopher Nugent in 2005, there had been over 8,000 unaccompanied minors crossing U.S. borders, some which were refugees seeking asylum. In order to qualify, however, the minor must not be present in his or her country of origin, must be unable or unwilling to return to his or her country of origin due to the lack of protection from the government of such country, and must have a well-founded fear of harm based on a number of factors such as his or her religion, race, membership to a particular social group, political opinion, and or nationality (Ooi, 2011; USCIS, 2013). Asylum withholding carries the same principles but differs in it being a temporary form of relief as opposed to a more permanent one like that of asylum withholds removal of the immigrant based on the principals and or requirements of asylum but does not grant a permanent status. These forms of relief may be difficult to pursue, as the minor may not understand the complexities and definition of persecution.

In 2000, Congress issued the Trafficking Victims Protection Act (TVPA), which outlined the definitions, and protections of trafficked victims and eligibility for the T-Visa (Bedi, et. al. 2013). In order to qualify for the T-Visa, the applicant must be under the age of eighteen, have been coerced or forced into forced labor, slavery or sex trafficking, be physically present in the U.S., and have had reasonable cooperation with U.S. authorities (USCIS, 2011). The burden of proof and cooperation with authorities, the latter not being a requirement, have made eligibility for T-Visa difficult for many minors do not wish to act upon fear of being harmed by traffickers.

The most recent form of relief issued in 2012 was the Deferred Action for Childhood Arrivals (DACA). This form of relief does not provide lawful status in the U.S. but instead is a discretionary decision to defer removal from the U.S. DACA allows the minor to reside in the U.S. temporarily and can be renewed biyearly. DACA is available only to those who have resided in the U.S. continuously for more than five years, have entered the U.S. under the age of sixteen, a student or high school graduate (GED recipient may also apply), has no history of criminal activity (felonies or serious misdemeanors) and had been present before June 15, 2012 (USCIS, 2013). This form of temporary relief, however, cannot be applied to the many unaccompanied immigrant children who do not meet eligibility requirements due to their recent immigration to the U.S., amongst other factors. Perhaps the least common form of relief found among the archival data of this particular group of minors used in this study may be U-Visa, which if approved, allows the victim of a crime to reside in the U.S. legally if he or she reported the crime and cooperated with the authorities in the investigation of the crime.

Some minors may be able to qualify for other forms of relief that relate most immediately to their situation with their family, such as that of Special Immigrant Juvenile Status (SIJS). SIJS is available for minors under the age of twenty-one whom have been victims of abandonment, abuse or neglect by one or both parents. With SIJS, the government may take into account the situation of the minor, but as with asylum, immigration law does not fully differentiate between a minor and an adult in regards to providing legal aid. Many among the immigrant community have little knowledge of SIJS, which can bar prevent those who are eligible to apply for such protection.

Gender

Culture has often played a role in how a society perceives or treats its members Gender violence is a prevalent issue found around the world that forces many young girls and women to flee to countries such as the U.S. for protection, some which are able to find a haven in U.S. territory. In some patriarchal societies, such as the ones found in Togo and China, women are sold into marriage; are victims of female genital mutilation (FGM); or become victims of violence such (Atler, 2006). Some women, however, cannot apply for any form of relief based on their gender identity for a variety of reasons including, but not limited to, the overall situation not directly affecting the petitioner. According to Atler (2006), the girls and women of Ciudad Juárez, Mexico often live in fear due to the increased violence against women that results in murder, torture, and corporal mutilation. As many of these women are not directly targeted, but continue to live in an area of general violence, it cannot be argued cannot be argued is more difficult to argue that they have directly suffered and accordingly are ineligible for legal protection from the U.S.; identifying legal relief remains difficult. According to a report by the Women's Refugee Commission (2012), young girls in countries such as El Salvador and Guatemala are often raped and are victims of violence by increased numbers of gang members.

Minimal protection exists for these girls and women from "gender-based" victimization. Impediments include corruption and mistrust in authorities. Many times, these young girls are forced to leave their homes behind and seek asylum in countries such as the Fortunately, some of these women and girls are able to find refuge in the U.S.

Age

The fact that children lack a certain level of physical strength, maturity, and experience to understand the world around them their vulnerability for victimization increases and contributes to an inadequate representation under the law. This inadequate representation may cause a number of minors to fall "through the cracks" in a variety of cases such as human trafficking. Records of human trafficking are often difficult to obtain. According to the research conducted by Basu and colleagues (2009), there are only two countries in the world that have national databases concerning trafficked victims. This lack of reported trafficking cases gives possibility of many minors to continuously become victims of trafficking. Although the increased demand in the sex industry has made many females vulnerable, many young males are also becoming victims of trafficking for labor purposes.

Many Some countries, such as those in South Asian and African countries have cases in which some parents have been forced to sell their children in servitude in order to pay a debt originated from a loan used to provide for the rest of the family (Bedi, et. al. 2009). These instances of trafficking and slavery continue to be present, yet there is little to no awareness of the issue amongst the public.

Child Victims in U.S. legal System

The fact that children lack a certain level of physical strength, maturity, and experience to understand the world around them their vulnerability for victimization increases and contributes to an inadequate representation under the law. Some minors who have been able to enter the U.S. are caught in a legal system that often considers them only as immigrants rather than minors, and seeks to enforce immigration law. This consideration from the law often makes it difficult for the minors to seek and be granted some form of relief.

During a minor's stay under ORR custody, legal service providers are responsible for conducting legal screenings to make a precursory determination as to whether the minor is eligible for immigration relief. As an intern with one of these legal service providers, my responsibilities ranged from providing presentations to detained minors tailored to his or her language and age, to conducting individualized intakes in which I obtained the most information possible regarding their life at home, reasons for immigrating to the US, the presence or absence of his or her parents and if a relationship exists.

Upon gathering this information from each minor, I reviewed each case with my supervisor to assist in identifying if certain factors existed that would make the minor eligible for some form of immigration relief. If none of these factors were found then additional meetings with the minor were conducted to present his or her option of voluntary departure. Additional meetings were also conducted with those who were eligible for relief in order to explain to the minor his or her options.

Study Goals

The purpose of this research project was to identify and analyze any trends that may exist between immigration relief eligibility for minors who immigrate illegally to the U.S., also known as Unaccompanied Alien Children (UAC), and key factors such as age and gender, using archival data. Once I had identified any links between immigration relief eligibility and these key demographic factors, I drew correlations as to which group (male vs. female; young vs. old) had a higher frequency of being determined relief eligible. I also further analyzed the data by identifying which type of relief the minors entering the immigration system in FY2012 were found eligible for immigration relief.

Based on the archival data of CFY2012 (Jan 4, 2011- Dec 28, 2012), I noted the number of UACs found in detention facilities in ORR custody in Chicago during that year. From this number of children, I calculated the percentages of minors found in ORR custody, their age, gender, and nationality. The information tabulated by through statistical analysis and the trends identified for CFY2012 illustrated which demographic groups were most commonly identified as eligible for immigration relief or not. By identifying the population who is most found eligible for immigration relief, I illustrated the population that is potentially the most vulnerable. This information can potentially influence legislative decisions regarding immigration policies, as well as existent forms of relief to better address this prevalent issue.

Method

Participants

Participants were drawn from an archived database. No direct contact was performed with subjects for this research project nor was their identities known. This data was edited to eliminate identifiable information and was collected from FY2012 by the organization where I interned who had regular contact with the minors. Although the participants (N=1,622) were detained in a governmental facility for being undocumented immigrants and their information is confidential, the information is purely archival and does not require informed consent.

Procedure

The research project consisted of categorizing the data for CFY2012 by month on a spreadsheet in which demographics were identified (age, gender, country of origin, and language spoken). Once each month was categorized with corresponding number of unaccompanied minors, I created an additional spreadsheet to consolidate the information so that the number of unaccompanied minors by country can be visible, as well as which country had the most minors with relief or non-relief. I then conducted bivariate regressions in order to identify current trends between demographics (young vs. old; male vs. female) and relief eligibility.

Measure

When detained in ORR custody, each minor was asked a set of questions by NIJC staff in order to determine their eligibility for immigration relief. The setting was in an interview form as opposed to interrogation, keeping in mind the level of comfort of each minor, especially due to the participants' ages. Each set of questions aimed to obtain as much information as possible that could be relevant to the minor's legal case concerning immigration. The minors were asked a series of questions about the relationships with their biological parents or caregivers, their lives during a typical day back in their home country, any threats or abuse they had suffered, their journey to the U.S., and reasons for their journey to the U.S. Once each minor answered these sets of questions, it was determined if and which form of relief he or she was eligible for.

Statistical Analysis

Percentages were tabulated of children from the countries sending the most UAC's, their gender, and their age. Bivariate regression was used in order to predict which group (male vs. female; younger vs. older) would most likely be considered eligible for immigration relief as well as identifying, based on this information, which form of relief was most prevalent.

Results

There were many key findings including: more males than females were entering the U.S.; the majority of UAC ranged from ages 15-18; and the countries with the most UAC immigrating to the U.S. were El Salvador, Honduras, and Guatemala. Other countries that had higher number of UAC were Mexico, Romania, Ecuador, China, and India.

Some findings illustrated only eight known cases of T-visa eligible minors of which seven were males; nine cases of U-visa eligible minors (5 males, 4 females); and two cases of DACA. Of the asylum and asylum withholding cases, approximately more than 50% of females were under 16 years old eligible and more than 50% of males were over 15 years old.

Figure 1: More than 60% of UAC are males while less than 40% were females; (N= 1,612)

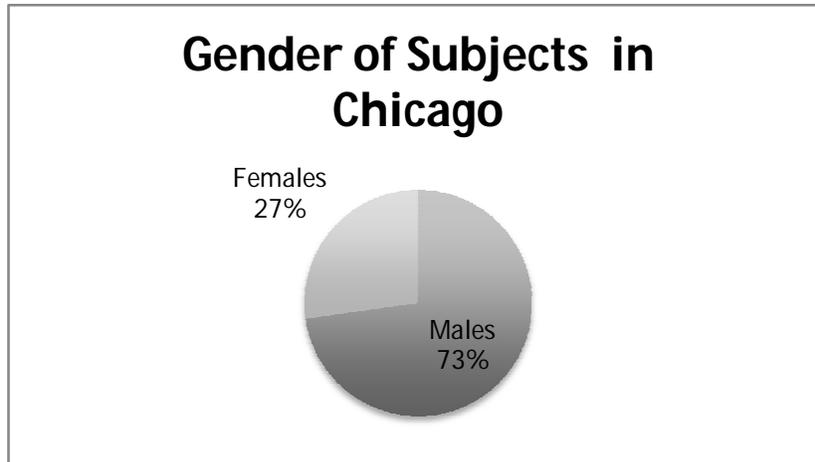


Figure 2: Information gathered from FY 2012; (N=1606), some ages were unknown

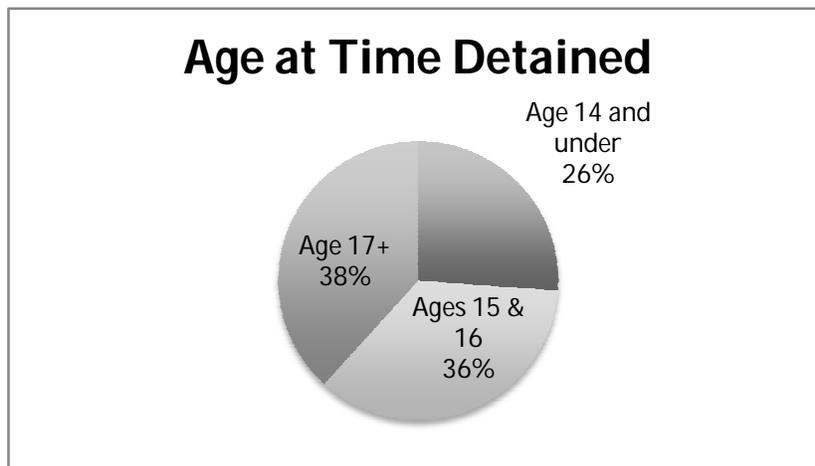


Figure 3: Relief eligibility grouped by region with the most significant percentages. Grouped under N & S America are Mexico and Ecuador; under Europe are Romania, Sweden and Albania; under Africa are Botswana, Ethiopia, Mali, and Rwanda; and under Middle East are Afghanistan, India, and Sri Lanka. Relief-eligible minors in these regions (N=48).

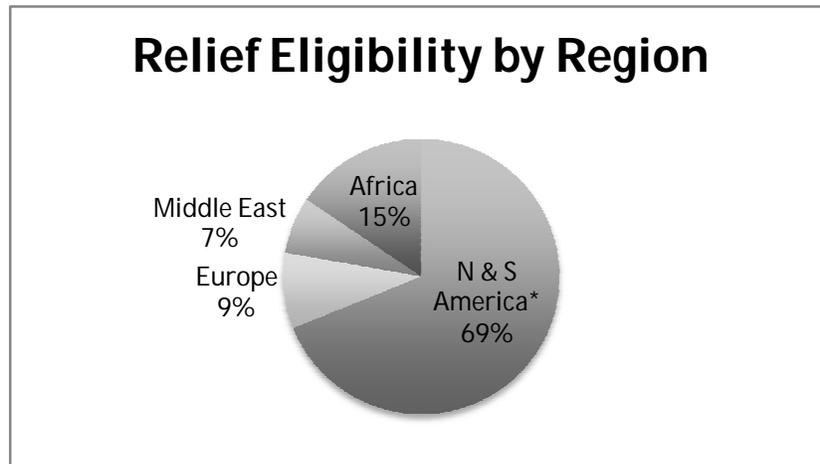


Figure 4: More UAC were determined not eligible to pursue immigration relief (>50%) than those who had precursory determinations of relief eligibility (<45%)

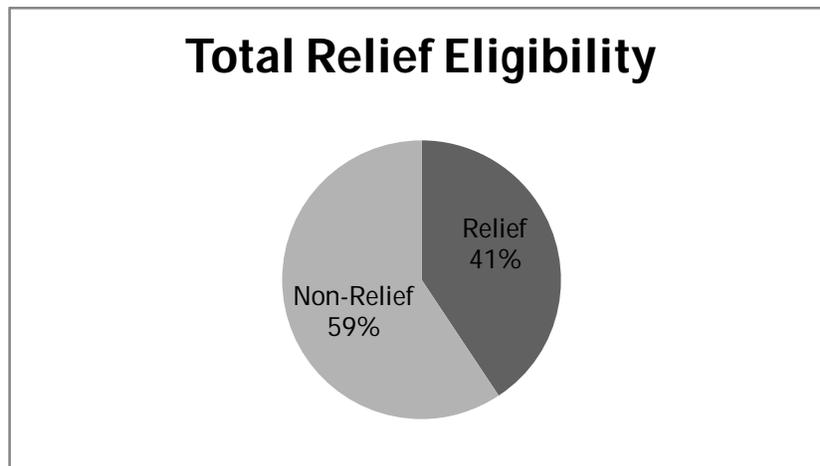


Figure 5: Below are the leading forms of relief eligibility, as well as U-Visa, T-Visa and DACA grouped under “Other”. (N=645)

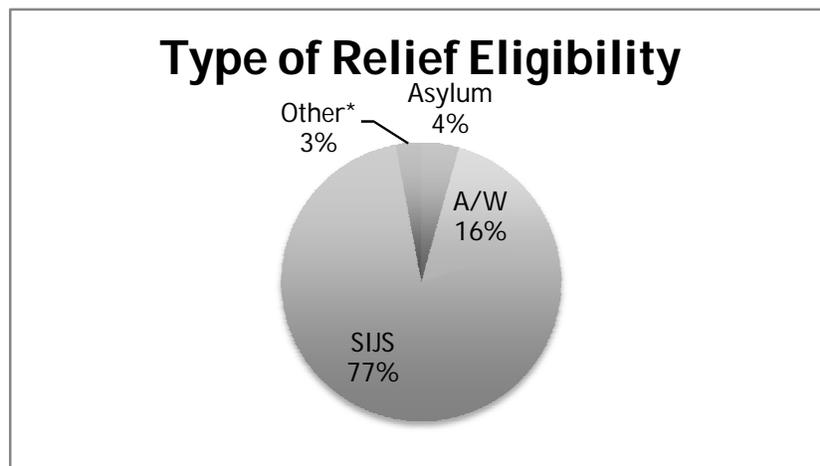


Figure 6 (a), (b): Demographics displaying the number of males and females with precursory eligibility determination for SIJS

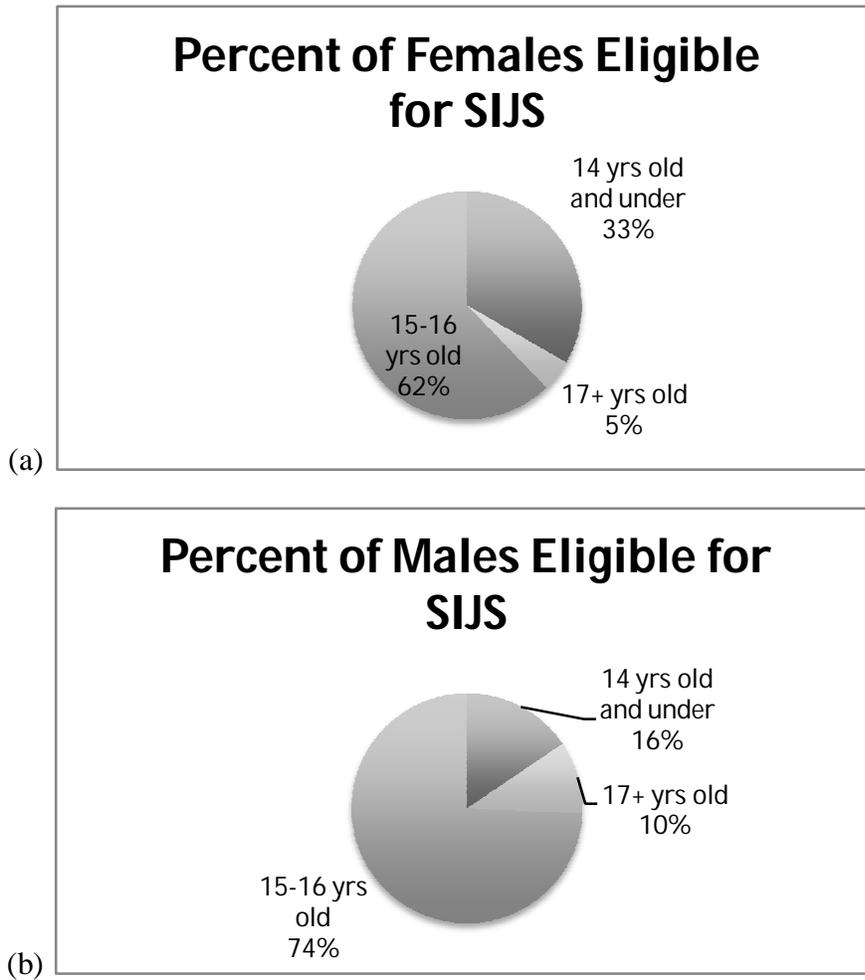


Figure 8: The chart illustrates SIJS eligibility by nationality with the greatest numbers

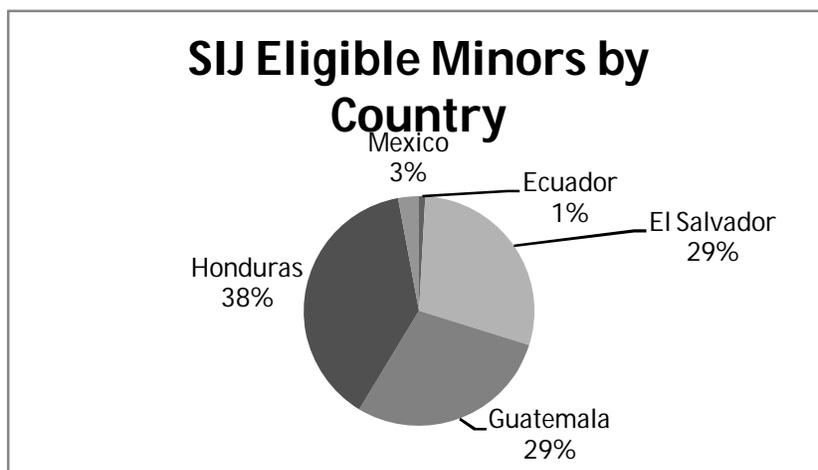
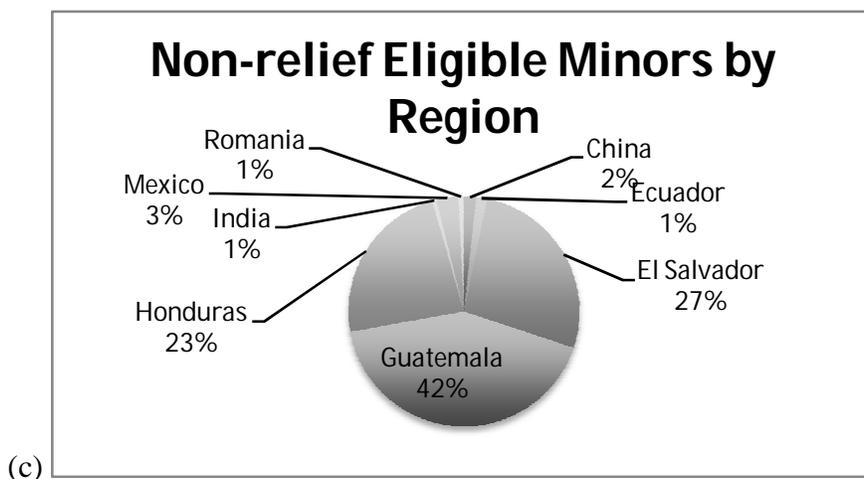
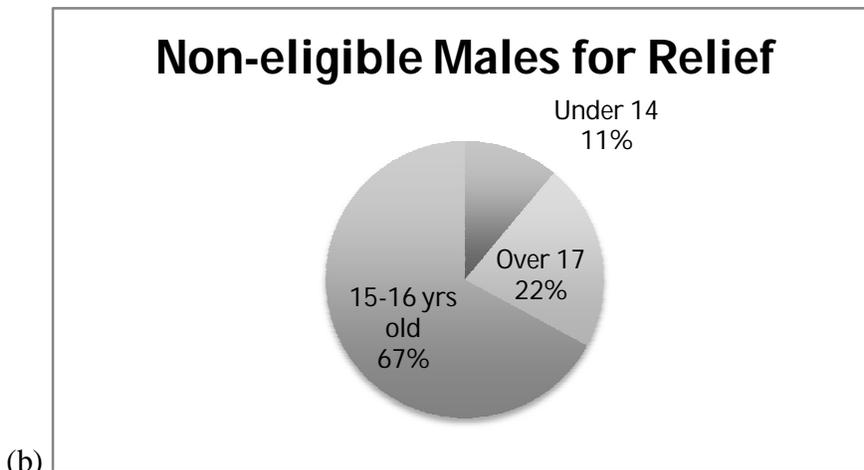
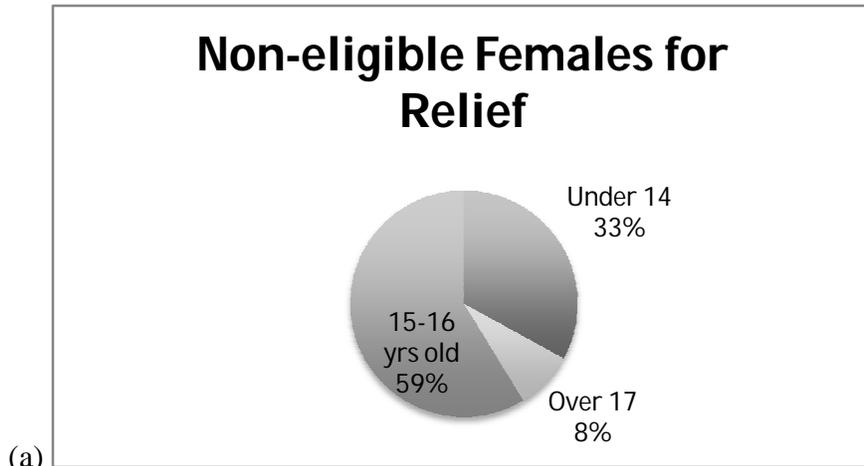


Figure 9(a), (b), (c): Below, minors that are non-eligible for relief in the year 2012 and their demographics



Binary logistic regression analyses were conducted that included gender and age at detainment as simultaneous independent variables and relief eligibility (yes/no) as the dependent variable. The omnibus test of model coefficients was significant, $\chi^2(2, N=1612) = 10.45, p = .01$.

Results also revealed that gender significantly predicted relief eligibility, $\beta = -.26$, $p = .03$, suggesting that females were more likely than males to be found eligible for relief (Females: 92.20%; Males: 68.28%). Age was marginally significant, $\beta = .04$, $p = .06$, indicating that there was a trend that older individuals were less likely to be found eligible for relief than younger individuals (Eligible: $M=15.49$, $SD=2.61$; Not Eligible: $M=15.81$, $SD=2.55$).

Discussion

Unaccompanied immigrant minors illegally immigrating to the U.S. without inspection has become increasingly prevalent, especially among children from different countries of Central America (ORR, 2012). As observed in the results, the majority of these minors are coming from El Salvador, Guatemala, and Honduras. Most being males rather than females and are ranging between the ages of 15 and 18. Many of these minors, based on an initial screening, are not found determined eligible for some form of immigration relief for a variety of reasons such as not meeting statutory requirements yet, specific reasons that are currently unknown for purposes of keeping the data anonymous. For those who are found eligible for immigration relief, the greatest number falls into Special Immigrant Juvenile Status (SIJS), followed by asylum withholding and asylum. These numbers could, however, change if the data analyzed also included subjects from a national database.

Limitations

Limitations to the study were based on the data determinations being precursory. The data collected indicating relief eligibility did not reflect whether the minor decided to pursue legal assistance and whether relief was granted to those who did pursue legal assistance. Other limitations are related to the data being limited to only that collected in Chicago as opposed to a nation-wide sample. Missing information from the database such as the nationality or language of the minor, if he or she has obtained relief or non-relief, or date of birth, also contributed to the limitations of the study. Such missing data, as well as unreported childhood arrivals (not detained by ICEDHS) could potentially influence or determine the links between age, gender, and relief. Other limitations included the demographics found that influenced the results in the bilinear regression performed. The majority of the minors were between the ages of 15 and 18, which influenced the marginal difference between ages and eligibility. Another demographic that limited the results of the bilinear regression performed was the fact that data reflected more males than females, which may have caused relief eligibility to be more prevalent among females than males.

Conclusion

Minors, in general, are often the most vulnerable population found within our societies. When referring to immigration, specifically illegal undocumented immigration, minors are most often victimized or fleeing some form of victimization (either foreseeable or ongoing). Unfortunately, many times they are found with inadequate or nonexistent representation to successfully present their cases in immigration court and obtain some form of relief (T-Visa, SIJS, Asylum or DACA). Many non-profit organizations have continuously made efforts to improve the situation and provide legal representation to minors found in Chicago upon the minor's consent. There are, however, improvements to be made in legislature as well as system concerning relief of the minor. Recent influxes in UAC have also made it difficult to know with certainty if the minor pursued some form of relief for ORR attempts to reunite the minor with his or her family in an effort to prevent overcrowding.

Further analysis would look at the countries of origin of the minors and other external sources (media, journal articles, and previous research done on the topic) to hypothesize as to what reasons may contribute to such minors immigrating to the US and if this may have an effect on the eligibility of the minor for some form of relief. Additional analysis of the research would examine factors such as the number of unreported minors entering the country (minors who have not been detained by U.S. Immigration and Customs Enforcement), and updated information of the minor regarding their approval or denial for immigration relief from the U.S. government.

A look into immigration issues concerning UAC in other countries can also contribute to suggestions as to how better address the problem of immigration of minors and what changes can be made to the current legislation to improve US immigration system.

References

- Atler, T. (2006). Tolerated terror: Mexico's failure to punish gender-based violence in ciudad juarez and potential avenues for relief under U.S. asylum law. 2006 Honors Papers, doi: <http://repository.unm.edu/bitstream/handle/1928/3384/AtlerTimothy.pdf?sequence=1>
- Bedi, A. S., Akee, R. K. Q., Basu, A. K., & Chau, N. H. (2009). Combating trafficking in women and children: A review of international and national legislation, coordination failures and perverse economic incentives. *International Institute of Social Studies of Erasmus University (ISS)*, 1(2), 1-24. doi: http://repub.eur.nl/res/pub/21034/JHRCS_2_2009_p1.pdf
- Grayner, A. (2012). Escaping forced gang recruitment: Establishing eligibility for asylum after matter of SEG. *Hastings LJ*, 63(1417-1417) doi: http://www.hastingslawjournal.org/wp-content/uploads/2012/06/Grayner_63-HLJ-1417.pdf
- Jones, Jessica & Podkul, Jennifer. (October, 2012). Forced from home: The lost boys and girls of central america. *Women's Refugee Commission*, (1-58030-102-9)
- Nafziger, L. Y. (2006). Protection or persecution: The detention of unaccompanied immigrant children in the United States. *Hamline J. Publication. L. & Pol'y*, 28, 357.
- Nugent, C. (2005). Whose children are these-towards ensuring the best interests and empowerment of unaccompanied alien children. *BU Pub. Int. LJ*, 15, 219. doi: <https://www.bu.edu/law/central/jd/organizations/journals/pilj/vol15no2/documents/15-2NugentArticle.pdf>
- OOI, M. M. (2011). Unaccompanied should not mean unprotected: The inadequacies of relief for unaccompanied immigrant minors. *Georgetown Immigration Law Journal*, 25 *Geo. Immigr. L.J.*(883) doi: <http://www.lexisnexis.com.proxy.cc.uic.edu/hottopics/lnacademic/>
- ORR (2012). About unaccompanied children's services. Office of Refugee Resettlement Retrieved, 2013, from <http://www.acf.hhs.gov/programs/orr/programs/ucs/about>
- Taverna, J. G. (2003). Did the government finally get it right-an analysis of the former INS, the office of refugee resettlement and unaccompanied minor aliens' due process rights. *The William and Mary Bill of Rights Journal*, 12, 939. doi: [http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1266&context=wmborj&sei-redir=1&referer=http%3A%2F%2Fscholar.google.com.proxy.cc.uic.edu%2Fscholar%3Fq%3Ddid%2Bthe%2Bgovernment%2Bfinally%2Bget%2Bit%2Bright%253F%2Ban%2Banalysis%2Bof%2Bthe%2Bformer%](http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1266&context=wmborj&sei-redir=1&referer=http%3A%2F%2Fscholar.google.com.proxy.cc.uic.edu%2Fscholar%3Fq%3Ddid%2Bthe%2Bgovernment%2Bfinally%2Bget%2Bit%2Bright%253F%2Ban%2Banalysis%2Bof%2Bthe%2Bformer%2B)
- USCIS (2013) Asylum. Retrieved March 2013 from <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnnextoid=f39d3e4d77d73210VgnVCM100000082ca60aRCRD&vgnnextchannel=f39d3e4d77d73210VgnVCM100000082ca60aRCRD>
- USCIS. (2013). Consideration of deferred action for childhood arrivals process. Retrieved March 2, 2013, from <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnnextoid=f2ef2f19470f7310VgnVCM100000082ca60aRCRD&vgnnextchannel=f2ef2f19470f7310VgnVCM100000082ca60aRCRD>