

## The bureaucratic capture of child migrants

Humphris, Rachel; Sigona, Nando

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## **The bureaucratic capture of child migrants: effects of in/visibility on children on the move**

### **Abstract**

This article investigates the ‘bureaucratic capture’ of migrant children through three technologies of the state: labelling, data production and social services, illuminating the ways visibility and invisibility are constructed and managed in the context of restrictionist immigration regimes. Using the case of unaccompanied asylum seeking children, Roma children and undocumented children we examine how in/visibility is produced; for what purposes, and with what consequences. We demonstrate through the simultaneous broadcasting and disappearance of migrant children, bordering is reconstituted through various performances, rationalities and technologies of immigration governance. The article argues the notion of ‘best interests’ is drawn on when the state can define these interests in accordance with their political aims and resources. The set of cases taken together provide novel insights into how states reconcile conflicting logics and reveals how the implementation of the child rights regime prevents some children from actualising their rights.

### **Introduction: Children in migration, ‘a difficult territory’**

This article examines the encounter between child migrants and the immigration apparatus in the UK. It investigates the ‘bureaucratic capture’ of these children through three technologies of the state: labelling, data production and social services, illuminating the ways visibility and invisibility are constructed and managed in the context of migration governance, and with what effects on the target population. Through three cases of in/visible migrant children we illustrate the processes through which they are purposefully captured or not in bureaucratic systems; for what purpose and with what

consequences. First, we explore how the protection regime for unaccompanied migrant children resolves the tensions of providing rights to vulnerable children while allowing them to be deported when they reach 18 years old. Second, we present how Roma migrant children are rendered visible and vulnerable because of their stigmatised parents resulting in removal into state care. Third, we examine how UK-born undocumented children are an intractable problem and as such are rendered invisible. We focus on migrant children because they embody an underlining and unresolved tension embedded in the handling of migration in liberal Western democracies: to protect the vulnerable whilst also protecting the borders of nation states (Bhabha 2014). The article illustrates the need for a more sophisticated understanding on the effects of visibility and invisibility produced by different technologies of migration governance on migrant children. Our definition of in/visibility moves beyond binary characterisations of visibility as positive and invisibility as negative, and instead considers visibility and invisibility as productive of a range of *effects of truth* that are central to the operation of the immigration apparatus: that is the capacity to label, count, and control migrant bodies. We reveal through the notion of ‘bureaucratic capture’ how different forms of visibility may further deny appropriate responses and protection for child migrants or enable specific forms of framing that ultimately lead to more restrictive approaches to child mobility. We argue that in each case the notion of the ‘best interests of the child’ is used to further restrict migration.

The point of departure for our analysis is the observation that while some migrant children are absent from public and political view (and some extent from scientific one too), others are rendered visible and emerge at the forefront of media and political debates. The article aim is three-fold: to explain how in/visibility is produced; for what purposes, and with what consequences. We show through the simultaneous broadcasting and disappearance of migrant children, bordering is reconstituted through various performances and technologies of immigration governance.

The governance of child migration in the UK is a ‘difficult territory’ in the words of a former British minister (Sigona and Hughes 2012). This reference to the difficulties presented by migrant children

reflects the inherent conceptual and political tensions within the phenomenon of child migration, one that fails to square the commitment to ‘the best interests of the child’ enshrined in the UN Convention on the Rights of the Child (UNCRC) and the political imperative to control immigration which has led to the production of ‘hostile environments’ for migrants in several EU member states (White et al 2011). The main aim of ‘hostile environment’ initiatives is to act as a deterrent for new immigration and to push those already in the country to leave ‘voluntarily’ (Lowndes and Madziva 2016).

For Bhabha (2014: 13), child migrants represent the clearest example of the ambivalence towards migrants within contemporary society ‘where perceptions of vulnerability (poor and innocent children) and otherness (not really like our children) coalesce’. On one hand, liberal democracies believe that the state has a protective obligation toward vulnerable children. On the other, the state is also expected to protect society from threatening, unruly and uncontrolled outsiders, even if they are children. She asserts ‘the concept of ambivalence clarifies why simple “exposé” is not sufficient. Because invisibility is not the fundamental problem, these injustices are not self-correcting when they come to light’ (2014: 11). In this article, we argue that invisibility plays a more complex and ambiguous role in relation to the treatments of child migrants and the agential space that it may enable.

This article builds on legal scholar’s explanation of the tension presented by child migration (Bhabha 2014; Stalford 2017) and the sociology of childhood that has unpacked the Western constructions of migrant children (Crawley 2011, Eastmond and Ascher 2011). We demonstrate not only why revealing the protection gap of some child migrants may not resolve their problems but also, by tracing how different child migrants are variously placed in the spotlight or hidden and by whom, the paper illuminates the wide ranging consequences associated with different forms and degrees of exposure.

In some cases, the state or other institutions are simply not present or powerful enough to ‘see’ all aspects of social life (Scott 1998), or they do not consider certain aspects of life important enough to regulate or beyond their regulative reach or mandate. We acknowledge that invisibility may result

from inadvertent framing to enable institutionalized action, rather than a desire to cause harm. However, in some cases there is a deliberate intention to exclude certain groups from services, rights or protection on the grounds that those excluded are undeserving, not in need, or do not fit into (or even may lead to question) legal categories being used to define inclusion. The purpose of this article is to show how certain categories of migrant children are not in/visible by default but rather by design.

Crucial to understanding how bureaucratic practices reveal or hide migrant children is the children's protection framework. As explained by Pupavac the Children's Rights framework stems from 'the separation of the rights-holder and the moral agent, who is empowered to act by the institutionalisation of children's rights. Although the child is treated as a rights-holder under the convention, the child is not regarded as the moral agent who determines those rights' (2001: 99). Children have, but cannot assert, rights. Therefore the state takes over responsibility to determine a child's 'best interests'<sup>1</sup>. Inherent in children's rights is the need for advocacy on behalf of the child. However, rather than parents or guardians representing the interests of children, the international children's rights regime treats children as rights-holders separate from their parents or guardians. This challenges the capacity of the family to represent children's interests, but also implicitly alludes to mistrust of the family because of the possibility of abuse. This can be seen through the 'safeguarding' and risk prevention agenda that has infused UK welfare provision (Parton 2011). Children are treated as separate, and in conflict with, their parents or guardians. The overall impact of the international children's rights agenda is to displace the child's family as advocates, in favour of outside professionals. Thus the child rights approach places children's best interests at the forefront of the policy response but leaves entirely open what the best interest is and how it should be determined. As we demonstrate in the cases that follow, this simplicity and flexibility of definition in the notion of 'best interests' is key to the underlying logic or 'rationale of governance' (Allsopp and Chase 2017;

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<sup>1</sup> In the UK the duty of the state over parents is enshrined in the notion of 'parens patriae', 'the Sovereign, as parens patriae, has a duty to protect those of his subjects who are unable to protect themselves, particularly children... the powers of the Crown as parens patriae are exercised by the [courts]' (Kennedy, 2010 4.39 – 4.42).

Eastmond and Ascher 2011; Feldman 2011; Humphris and Sigona 2017) that guides which types of migrant children are placed in the bureaucratic spotlight or cast into shadow and public obscurity.

This article traces how liberal democracies such as the UK discharge the tension created by migrant children. To reconcile these conflicting logics the state tries to manage these children through different forms of bureaucratic capture which simultaneously place some children in the spotlight whilst casting others into shadow. We argue that those foregrounded within this system are those who can be most easily slotted into the grooves of the 'best interests' framework. Most saliently, the term 'best interests' separates the child from their parents or guardians, and contributes to constructing them as a 'risk' to the child. This explains why some children, such as unaccompanied migrants and Roma, become visibilised while undocumented children go purposefully unnoticed.

To make this argument the article begins by situating our notion of 'bureaucratic capture' within analytical approaches provided by the anthropology of the state and critical migration studies. Secondly, it describes our methodology including our rationale for each of the three case studies and discusses how we conducted case study based analysis drawing on multiple datasets. Third, we turn to the three case study examples and analyse how in/visibility is produced and sustained, the purpose it serves, and the consequences on those targeted. We conclude by reflecting on what the different cases studies tell us about how the tension epitomised by migrant children is discharged by the state, how these arrangements are entwined with different scales and sites of bordering, and what paths might be left for migrant children.

### **Bureaucratic capture: Seeing, and not seeing, like a state**

The departure point for our examination of in/visibility in the case of migrant children is that states need to simplify and quantify their populations in order to govern. Benedict Anderson's foundational text explained how the very boundedness of the state meant that its component objects were countable, and hence able to be incorporated into state organisation (Anderson 1991: 184). James Scott built on this to argue that 'state simplifications' such as naming populations and then counting

them 'are like maps that are not intended to successfully represent the actual activity of the society they depict but to represent only that slice of it that is of interest for the official observer' (Scott 1998: 3).

In order to undertake this work of simplification, states categorise, label and count people, and group them attaching particular rights, duties, entitlements and resources accordingly. Institutional labelling plays an important role in the process of creating social structures because designating and quantifying populations does much more than reflect social reality; it plays a key role in the construction of that reality (Kertzer and Arel 2002: 2). Labels embed politics into the policy making process, concealing it behind the normalising discourse of bureaucracy (Hastings 1998). Nominating into existence through institutional naming, also implies the reverse in the same act, the refusal to name, count or recognise. Thus there is always a dual process in naming and quantifying both to capture and to push aside. Invisibility is therefore not always an oversight or accidental omission. Invisibility is underpinned by a politics of inclusion and exclusion.

Moreover, through performances and technologies of enforcement, actors are implicated in the reproduction of these categories. Bureaucrats through their daily work make decisions regarding impositions of categories and also uphold their own understandings and justifications of their role (Herzfeld 1992: 80). These roles assume particular salience when bureaucrats are tasked with the role of labelling and categorising. Those on the frontline may be less likely to be able to invisibilise (Kronenfeld 2008) or conversely when visibility carries risks with it local actors are more likely to be able to recognise them and see the advantages of facilitating continued invisibility (Polzer 2008). In addition, those being labelled and counted also contest, negotiate and utilise these structures within their own tactics and strategies of affirmation. As Goldberg explains, 'under some conditions invisibility can be invoked to advance power, personal or political, or as an expression of power itself' (Goldberg 2002: 82). The acknowledgement of the subversive power of in/visibility reveals visibility and invisibility not simply as states or conditions of being but rather as effects of strategic relations and positioning.

Migration studies has been attentive to the conceptual aspects of invisibility, from the perspective of migrants (Kibreab 1999; Chase 2009), in relation to policy (Meloni et al 2017) and in relation to academic knowledge production (Hathaway 2007; Hyndman 2000; Kofman 2000). Migration studies has provided many rich and nuanced case studies which have critically examined invisibility, not only asking who or what is invisible, but invisible to whom, in what ways and why (Polzer and Hammond 2008). This perspective has foregrounded the relational aspect of invisibility, showing how ‘its impacts depend on the power relations and interests connecting those who see and those who are to be seen (or not)’ (ibid: 417). While these case studies provide deep insights into how migrants experience, negotiate and contest policies in particular geographical spaces, less attention has been given to the production of in/visibility and its operation across different contexts.

This can be explained by the inherent problem of studying policy processes, ‘the new world order to which researchers must adapt is not the globalisation of social connections... but rather the disorienting change has been the institutionalisation of social relations mediated by abstract third agents such as statistics, policy representations, high-scale morality’ (Feldman, 2011 184 – 185). Drawing inspiration from this insight, we aim to conceptualise policy as an instrument of rule that is imbedded within particular social and cultural worlds or ‘domains of meaning’ (Shore and Wright 2011). We explore how through policy formation and implementation, a variety of agents seek to classify and regulate spaces and subjects around certain organizing principles, rationalities of rule, governmentalities, and within regimes of knowledge and power. In so doing, these policies legitimate dominant governing projects as well as generate and modify them.

Inda (2006) charts how state departments largely through technologies of enumeration have ‘made up’ certain kinds of migrants, in his case ‘illegal’ migrants. He demonstrates how such technologies are uniquely positioned to produce truths about the social body (Inda 2006: 65). Going further, he argues that mundane technical instruments that contribute to practices of enumeration (surveys, censuses, reports, bureaucratic rules, charts, graphs) translate reality into a particular form and create ‘facts’ that define the realms of plausibility. These techniques create simplified, legible, target populations.

For Feldman, once established these ‘realms of plausibility’ require specific mechanisms through which they can be maintained, regulated and mediated. In particular he draws on Rabinow’s Foucault-inspired conceptualisation of ‘apparatus’ (2003: 49-55), defined as a device of population control and economic management composed of elements such as ‘discourses, architectural arrangements, laws, scientific statements and so on – that coalesce in particular historical conjunctures usually identified as ‘crises’ (Feldman 2011: 16). He argues that the apparatus is held together by ‘rationales of governance’ that are deployed by diffused experts and succeed due to their ‘simplicity and plasticity’ and consist of two elements. Firstly, they are ‘technologically convenient, allowing their users to deploy them as an obvious solution to an obvious problem without the need of central command’. Secondly, they ‘encourage rhetorical tropes that exemplify sentiments and ideas applied to large numbers of unconnected people dispersed across geographic space in order to establish coherence among them’ (ibid.). The notion of ‘best interests of the child’ can be conceived as a rationale of governance that is easily understood by a large range of unconnected policy actors and bureaucrats at different scales, but can also be easily redefined to suit the immediate political landscape and resource constraints. This rationale of governance is used to justify how different children are bureaucratically captured i.e. which children come into view, how they are ‘seen’ by the state, and which children are pushed in the shadows.

Moreover, states are able to simultaneously produce harm and hide the harm they produce (Anderson 2012). This is achieved through making spectacle of the support being provided. As Gottwald argues, loud rhetoric and overt displays of activity can be the most effective means of silencing and hiding exclusion (2004: 10). By the same token, in the case studies that follow we do not equate visibility with empowerment but seek to understand how in/visibility is produced and operates. The main aim of this approach is to explore how the notion of the 'best interest of the child' is used to enforce even more restrictive migration governance.

## **Methodology**

This article is based on the ‘theory building from case studies’ approach (Eisenhardt and Graebner 2007). Case studies are rich, empirical descriptions of particular instances of a phenomenon that are typically based on a variety of data sources (Yin, 2017). The central notion of the theory building from case studies approach is to use cases as the basis from which to develop theory inductively. Conclusions are emergent because they are situated in and developed by recognising patterns of relationships among constructs within and across cases and their underlying logical arguments. Each case serves as a distinct unit that stands on its own as an analytical component. The process occurs via recursive cycling among the case data, emerging patterns and later extant literature where the emphasis is on developing constructs and testable theoretical positions.

This article addresses a phenomenon-driven research question, to understand how, why and with what consequences the in/visibility of migrant children occurs in policy and bureaucratic processes. This phenomenon is increasingly important due to the political and media salience of the so-called Europe’s ‘migration crisis’ and the concerns over the situation of migrant children in the cross Mediterranean flow (Crawley et al. 2017; Stierl 2018). There is also a lack of current viable theory that links across different empirical evidence of migrant children to provide a coherent methodological and conceptual framework that accounts for their differential positioning in policy and bureaucratic processes. In order to locate the policy processes that create in/visibility for migrant children we propose and operationalise the notion of ‘bureaucratic capture’ across three case studies that were chosen because they are revelatory, extreme examples that involved opportunities for unique research access (Yin, 2017).

Cases are selected because they are particularly suitable for illuminating and extending relationships and logics among constructs. These three cases enable comparisons that clarify that the emergent finding of the use of ‘bureaucratic capture’ is not simply idiosyncratic to one single case but is consistently replicated by several cases (Eisenhardt, 1991). The analysis across multiple cases therefore creates more robust conclusions because the propositions are more deeply grounded in

varied empirical evidence. Relationships are more precisely delineated because it is easier to determine accurate definitions and appropriate levels of construct abstraction from multiple cases.

As we have defined the methodology for how we have chosen the set of cases, we will now briefly review the methodologies applied in each case. First we explore the case of unaccompanied migrant children. In the UK, children migrating alone must fall under the category of Unaccompanied Asylum Seeking Children (UASC) to receive protection. UASC are defined as being under 18 years old and applying for asylum in their own right having been separated from both parents and not being cared for by an adult. UASC are protected within welfare policies for looked after children, under Section 20 of the Children Act 1989. Later amended in 2014 and 2017, the Act places responsibility on local authorities, to ‘act in the best interests of looked after children, and promoting their health and wellbeing’ (Department of Education, 2017: 1.a).

This case draws on a mixed-methods research approach combining a Freedom of Information (FOI) request survey of all LAs in England with in-depth semi-structured interviews with state and non-state actors working with unaccompanied asylum seeking children (UASC) in four localities. We submitted FOI requests in order to build a national map of current and former UASC from local level data. It was sent to 152 LAs in November 2015 and 141 responses were received (93%). Utilising the data from the FOI requests, we chose four LAs with differing and contrasting characteristics to carry out a more in-depth analysis of FOI findings. Interviews were conducted between January and July 2016 in four locations across England (for more detail see Humphris and Sigona 2017).

The second case study on Roma children is based on Humphris’ fieldwork involving in-depth participant observation living with three migrant families between January 2013 and March 2014. This fieldwork formed part of her doctoral research where she was in everyday contact with more than 220 new migrants who had been identified as ‘Roma’ by local state actors (Humphris 2019). The majority of the families had moved to the UK in the previous two years. Humphris also interviewed 4 elected officials, 22 local government actors, 26 frontline state actors, 12 non-state actors and eight

volunteers Interviews with local state actors were also supplemented with in-depth participant observation<sup>2</sup>.

The third case study draws on two sets of in-depth semi-structured interviews: 53 interviews with undocumented migrant children and parents, distributed in 49 households; and 30 interviews with stakeholders. Interviews were conducted in London and Birmingham in 2011-2. The research design and sampling strategy were informed by a review study (Sigona and Hughes 2010) that shed light on the demography of undocumented child migration and the complex policy framework governing this population. Through a combination of purposive and snowball samplings, the study identified migrant interviewees and key stakeholders who enabled us to gain insights into the experiences of undocumented migrants, service providers and other stakeholders engaging with them. For the purpose of this article, we will focus on the UK-born children to undocumented parents and their ambiguous position in the British legal system, undocumented and yet entitled to register for citizenship after 10 years in the country.

Migrant children without immigration status were divided into three main sub-groups according to the position they had in relation to their household in Britain: independent migrant children, that is living separated from close family members; migrant children born abroad living with family; and migrant children born in the UK living with family. For the purpose of this case study we will be looking in particular to the latter group.

### **Selective capture: Reconciling the tension between child protection and immigration control**

#### *Visible 'missing' children in Europe's 'migration crisis'*

In this section we demonstrate how the protection regime for unaccompanied migrant children resolves the tension of providing rights to vulnerable children while controlling migration through separating their 'best interests' from that of their family. This process also removes former

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<sup>2</sup> Ethical approval was gained through the relevant University ethics committees for each research project.

unaccompanied children from sight, bureaucratically and for some geographically via forced and voluntary removal, once they turn adult at 18 (Humphris and Sigona 2017). This bureaucratic capture which rests on the rationale of ‘best interests’ hides the harm done to the unaccompanied child through the moral narratives that seek to protect them, such as through rigid categorisations (which also deprioritise family reunification). This allows states to purportedly provide rights to vulnerable children but also protects the nation-state from related adult ‘others’ (however, we do acknowledge that some children’s lives are at risk and in those circumstance there is a role for social services). In the final part of this section we present how children respond to this categorisation through ‘disappearing’ from bureaucratic structures by going missing or refusing to claim asylum, creating their own spaces within the interstices of imposed categories. The media and political focus on making these missing children highly visible represents a strategy of broadcasting that allows states to hide the harm done to unaccompanied migrant children.

Unaccompanied migrant children in Europe have taken on particular salience in statistics and the politics of naming and counting in the ‘refugee crisis’ (Sigona 2018). The more diverse and less accountable the phenomenon being quantified the more difficult and significant decisions regarding data seem to become. In these contexts, what becomes quantified is often the product of what seems to be a problem. The act of numeric representation encodes particular concerns and puts constraints on the kinds of information available. Thus problems are named, brought into being and made visible through refined modes of quantification, while in the same process, invisibilising others that are not brought to the fore through this process of bureaucratic capture.

These processes can be clearly identified through the contestation over quantifying child migrants in Europe ‘refugee crisis’. Bureaucratic categories around migrants develop through the highly politicised narratives that make them credible and evolve to sustain them. These bureaucratic categories therefore are continuously being remade, constantly evolving with shifting attributions of values. Unaccompanied children are primarily constructed through the lens of harm prevention which is mobilised and justified through acting in their ‘best interests’. The language of harm reduction impacts particularly on unaccompanied migrant children because they have been constructed as

inherently vulnerable: young, a migrant and without family/carers. As these children are seen as the paradigm of vulnerability actions can be easily justified on the basis of acting within their ‘best interests’ to protect them from harm.

In this section we explore the contradictions held within this bureaucratic category through as experienced by frontline workers. We demonstrate how the category of UASC bureaucratically captures and makes children visible in specific ways hiding the deprioritisation of family reunification; the likelihood for some that they will be deported when they reach 18 years of age; and the fact that there are no alternative bureaucratic paths apart from claiming asylum through which to accommodate these children in order to assume a legal duty of care over them. Frontline workers are acutely aware that visibility as a UASC carries risks particularly when they reach the age of 18, and the advantages of facilitating continued invisibility. Bill, a housing provider for unaccompanied children, explained:

Bill: I have got people who have gone. For example I had three, they are actually still in the town, there is one who works in a local kebab shop, says hello to me every night. Well it is not for me to tell – you know...you know if the Home Office turned up and they caught him working in the shop, the shop would get a ten thousand pound fine and he would be taken away and whatever, that is why I don’t understand this logic of how they [Home Office] make the decisions.

Moreover, the processes of bureaucratic capture that produce in/visibility is evident through examining how frontline service providers are faced with dilemmas when children do not neatly ‘fit’ into the categories that are laid out for them. For example, in the UK increasing numbers of children are arriving who resist being placed into the asylum system. They arrive in the UK but do not want to be treated as unaccompanied asylum seeking children. They state that they are in the UK to work, not to claim asylum (personal communication, Director of Children’s Services, UK Local Authority). This creates an intractable dilemma for frontline workers as the only administrative and legal route that they can place children, and therefore assume legal duty of care to support them, is through

registering them with the Home Office as asylum seekers. No other legal or bureaucratic path is available. Children may respond to their categorisation and concomitant ‘protection’ by going missing from state care. With increasingly intensified action for ‘trafficked’ children or children caught in ‘modern day slavery’ public attention is diverted from quieter mundane practices of exclusion (Berman 2003)

Those who go missing but are not suspected of being trafficked are not ‘high priority’. They are kept within the system until they reach 21 years old, when they are no longer considered to be a child or care leaver. As Anne, a social worker explained, ‘he just disappeared, because he had the experience of some of his friends being deported without warning, so he just disappeared. He is still my case. The police were informed but they didn’t put him on high risk because he hadn’t been trafficked so it is not for me.’

The numbers of ‘missing children’ in Europe reached a fever pitch rendering these unaccompanied children highly visible (Sigona et al. 2017). Migration scholars have argued that when this form of visibility is invoked as a form of spectacle this does not promote access, opportunity and ability but rather in the process of making spectacle particular categories of migrants (such as unaccompanied children) move into a space of exception where their knowledges and experiences are shifted to a paradigm of victimhood. This shift serves to (re)produce a tightly defined bureaucratic category upheld by strong moral narratives that may undermine the protection it purportedly provides. Ghorashi (2010) demonstrates how increasing visibility does not help access or recognition when the basic assumptions of the dominant discourse are not challenged. She shows that increasingly visibility can reinforce boundaries of isolation and lead to heightened suppression.

Similar arguments have been made by Dobrowolsky (2008) and Arat-Koç (2012) where they argue hypervisibility acts to individualise a ‘problem’ and at the same time normalise and naturalise treatment to others who are not categorised in such a manner. This is evident in the treatment of unaccompanied children as their support does not include family reunification and many are refused asylum leading to deportation when they reach 18 years old are therefore are no longer considered

‘children’. The role of the state in producing vulnerabilities through bureaucratic capture (by detaining children, not prioritising family reunification, deporting children when they reach 18 years old, only providing one bureaucratic pathway regardless of individual children’s’ diverse experiences, motivations and backgrounds) is obscured by emphasising their role as a protector of children who have gone ‘missing’ and therefore have placed themselves in an increasingly vulnerable position. The broadcasting of these missing migrant children and the role of the state in protecting them does three things. First, it does not acknowledge states’ roles in creating the conditions that have led to the disappearance of children in the first instance. Second, it normalises the interpretation of ‘best interests’ that is applied to other unaccompanied migrant children. Third, it leaves other migrant children as invisible and side-lined as they do not fit into the specific categories of vulnerability that are created by the notion of ‘best interests’.

*Exclusionary vision: Bureaucratic super/vision in the case of Roma migrant children*

In this case study we argue that through the process of labelling Roma children are bureaucratically captured through ‘safeguarding’ mechanisms that render them visible and vulnerable because of the stigmatised behaviour of their parents. Little consideration is taken of adults who are only seen through the lens of unsafe parenting enabling access to familial spaces by the bureaucrats. The purpose of this visibility of Roma children allows the removal of them from their families in their ‘best interests’ to protect them from the risks to their wellbeing represented by their parents. We demonstrate how Roma families respond with physical disappearance from local administrative areas.

Since the eastern expansion of the European Union, there has been increased movement from Central and Eastern Europe to Western Europe. Within this context, so-called ‘Romani migration’ has been linked to the long-standing prejudiced perception that Roma are profiteers living on welfare, involved in illegal activities and unwilling to ‘integrate’ (McGarry 2017; Magazzini and Piemontese 2019). In response, hostile rhetoric, securitisation and new governance mechanisms including ‘internal borders’ have developed directly targeting Roma migrants (van Baar 2011; Nacu 2012; Ram 2010; Vermeersch 2012). Roma have become paradigmatic for Western concerns about a ‘threatening flood’

of westward-bound benefit tourists, heightening the stakes of being labelled as such (Allen 2014, Grill 2012).

These notions have been used to justify new control measures in several Western member states, including cash incentives to leave state territory and ‘administrative removals’ (Nagy 2016). A further, but hidden technology of control is heightened supervision of Roma children in their domestic space and the threat of removing children from families and placing them into state care (Vrăbiescu 2016). Roma migrants try to remain invisible in daily bureaucratic welfare encounters to avoid the internal bureaucratic boundaries that now represent the borders of European welfare states (Van Baar 2017; de Genova and Yildiz 2018).

As citizens of an EU member state, being identified, labelled and quantified as Roma creates a risk laden relationship with the state. While single men who work in factories and agriculture are rarely identified in political or public discourse as ‘Roma’ (remaining invisible to state bureaucracy), Roma migrants with children invoke a set of governance mechanisms that reflect the constellation of meanings about childhood evident in the previous case study. Being categorised as Roma with children invokes visibility through ‘safeguarding’ and child protection procedures. These governance mechanisms can also open the family to new kinds of administrative or voluntary ‘removals’ from the state territory through the threat of taking children into state care (Mountz 2003). Once again, the harm caused by this labelling and quantification is masked by and legitimised through the discourse of protecting children from harm and acting within their ‘best interests’, which in this instance is the risk posed by their parents.

Through fieldwork conducted in the UK between January 2013 and March 2014, with everyday contact with more than 200 Roma migrants, Humphris lived with Roma migrant mothers who often declared that they ‘don’t want people looking at my kids’ expressing an awareness of the gaze that fixes on Roma children and the concomitant visibility and supervision that this entails. Rumours spread quickly through families when children had been taken into care. Christina, a twenty-one year old mother of five children consistently shared stories about children in the local area being taken into

care. In February 2013, she was particularly worried saying 'one lady with nine children, they are all gone. Another one with three children gone last week'. These stories had effects for her interactions with state actors and she preferred not to encounter them unless she had to. No Roma family voluntarily used state services such as Children's Centres and many actively evaded interactions with anyone perceived to be a state actor. If specifically asked by a Children's Centre worker or social worker many denied they were Roma, claiming they were Italian, Spanish, Romanian or Argentinean.

However, families were identified and reported to state authorities because of their children. For example, children without shoes or playing in the street rather than being in school were reported to social workers through neighbours, church members and police community support officers. Therefore families were identified, visibilised and bureaucratically captured as Roma through their children and, in the same act, deemed as a 'target group', vulnerable and in need of 'safeguarding' measures. The development of the safeguarding agenda can be traced to the Children's Act 2004 (CA) which requires organisations in the public, private, voluntary and community sectors to put in place shared governance arrangements, policy structures and practice arrangements for safeguarding children. As a 'target group' for safeguarding Roma families are subject to home visits from social workers. Their domestic and familial spaces are opened to state surveillance and assessed on the grounds of providing 'safety' to children.

Many of the Roma families were working in informal and low-paid employment and were excluded from state support so could not afford to provide children with the standard of living that local state actors deemed as 'appropriate' In cases where migrants with children are at risk of destitution, they would normally qualify for support from the local government under the Children Act 1989 (including those who have legally been deemed 'No Recourse to Public Funds'). This support might mitigate the perceived need to take a child into care. However, there are exclusions for EEA nationals, who are denied support provided under Section 17 Children Act 1989 and Section 21 National Assistance Act 1948 (Spencer and Price, 2015).

Due to the construction of ‘best interests’ combined with the stigmatisation of racialized Roma parents the child is seen as ‘at risk’. Therefore, the child is seen as in danger through its hyperdependency on the family, but a family that is denied support to be able to meet the standards deemed to provide ‘safety’. The remedy is to remove the child from the family into the care of the state, or the family removes themselves from the bureaucratic gaze through moving to a different administrative area across local or national boundaries. The visibility of Roma children enforces movement on Roma families through particular kinds of bureaucratic supervision. As they move from one jurisdiction, they become ‘invisible’ and evade bureaucratic capture only to begin the process again in a different locality or country.

Moreover, scholars have argued that these exclusions for EEA nationals from support are designed to threaten family separation and consequently force parents to comply with removal from the UK. As Cunningham and Tomlinson argue ‘Like the Poor Law, where part of the regime of humiliation was for children to be separated from parents, this proposal envisaged the use of the same “pressure of the most painful kind” as a social lever to secure acquiescence’ (2005, 256). Thus rather than the best interests principle being used to protect children, it is used to punish and deter stigmatised and unwanted migrant parents.

### *UK-born undocumented children as invisible citizens in becoming*<sup>3</sup>

In contrast to visible unaccompanied migrant children and Roma children, undocumented migrant children are mostly absent from official policy and public discourse that relate to child protection and safeguarding in Europe. These children are not explicitly considered as undeserving, instead they are made institutionally invisible – as if they are not there. This invisibility is not an accident, it is by design and it is particularly striking in the case of the UK-born children of undocumented migrant parents. By law, these children not only inherit the legal status as undocumented, but also their status as migrants, despite the fact they may have never left the UK in their life.

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<sup>3</sup> This case study draws on the project ‘Undocumented children and families in Britain’ (2010-2012) carried out by Nando Sigona and Vanessa Hughes at the University of Oxford and funded by the Barrow Cadbury Trust. For a detailed analysis, see Sigona and Hughes 2012.

Anderson (2012) remarks that the invisibility of undocumented children in policy discourse and public debate points to the fundamental problem of the construction of children in liberal democratic states as interdependent on a family and the state. Without a legal link to the state the family is seen as an anomaly and morally reprehensible. The sole cause of the difficulties faced by undocumented migrants becomes the criminal individuals who take advantage of their precarious legal status. Human traffickers or labour exploiters are imagined as the key explanatory variable for understanding migrants' vulnerabilities. For undocumented children, similarly to what we witnessed in the case of Roma children, it is their parents who are blamed for placing them in a precarious situation. The role of the state in illegalizing these individuals is passed over (Sciortino 2012).

Children born in the UK to undocumented parents are mostly absent from the political and policy debate in Britain. Their existence happens at the margin of the state, partially captured as 'children' and therefore entitled to compulsory education but only covered to a degree in terms of access to health care. They are constructed as migrant, even if they may never have set foot outside the UK rather than citizen in becoming. In fact, according to the 1981 British Nationality Act, they are entitled to British citizenship after ten uninterrupted years in the UK. Treated as if they were not born in the country, but suddenly granted a right to citizenship that, until recently, was rarely used. While the high cost of citizenship application is certainly one of the reasons, the lack of applications also illustrates a deeper form of exclusion that place them outside the imagined community of deserving citizens. This exclusion is embedded in state practices but also in those of support agencies and advocates.

This deep-rooted exclusion can be seen through health care policy and practice. Although Article 24.1 of the UNCRC recognises 'the right of the child to the enjoyment of the highest attainable standard of health' and commits States 'to ensure that no child is deprived of his or her right of access to such health care services', at present undocumented migrant children, as all undocumented migrants, have access free of charge only to primary and emergency care. Maternity treatment – including birth, ante and postnatal care – is classified as secondary care and is not free of charge, however is treated as 'immediately necessary treatment' and must therefore be provided without delay irrespective of the

patient's residency status or ability to pay. This reinforces the idea that children who are born in the UK are constructed as migrants and not as citizens in becoming. For non-urgent secondary treatment, the Department of Health's guidelines (2011: 48) explain that the decision on whether to treat someone should be made by a clinician on the basis of their clinical needs; however, 'whether the relevant NHS body then withholds or limits that treatment will depend on information received from Overseas Visitors Managers on when the patient can return home (so the clinician can decide if the treatment is urgent or non-urgent) and on the patient's intentions on paying (so that non-urgent treatment does not commence without prior payment)'.

The Confidential Enquiry into Maternal and Child Health (Boywer 2008) is a case in point. While it showed that about 20 per cent of deaths directly or indirectly related to pregnancy occur in women with poor or no antenatal care, it failed to consider that one of the main deterrents to accessing maternity care may be the policy of charging 'non ordinarily resident' patients introduced in 2004. For Maternity Action, charging women for maternity care acts as a deterrent (2010: 10):

Many women with limited resources are not prepared to take on a debt which they are unable to pay. To avoid the debt, they do not access services until they go into labour or something goes wrong.

Similarly, research has focused on the health needs and outcomes of specific categories of migrants, such as refugees, asylum seekers, unaccompanied children, paying significantly less attention to other categories, such as undocumented migrants (Refugee Council 2005; Lukes et al. 2009). Undocumented migrants remain invisible and unaccounted despite their acute health needs (often exacerbated by their legal status) and with little regard for their UK born children who are citizens in becoming.

Sigona and Hughes (2012) found in their study of undocumented children and their parents that fears of deportation directly impacted undocumented children and kept them from accessing services and making themselves visible. Ahmad (Afghan independent minor) explains this in the following way:

No, I am scared to go to the hospital I always think that I will be deported. So I never go to hospital no matter how sick I am.

The combination of precarious immigration status, restricted access to healthcare and financial hardship often has serious effects on migrants' physical and mental health and also has repercussions on children as Michelle explains:

When I'm crying, she always catches me, even when I don't want her to see me. "Mum, what's wrong? Why are you crying? Don't worry, don't worry. It will get better, I'm gonna pray. Don't worry." You know, when an eight year-old says that to you ... it breaks your heart more (Michelle, Jamaican mother).

Few interviewees had sought or needed hospital treatment; the main exception was to give birth. Access to antenatal and postnatal care was overall limited and mostly mediated by the GP. Some interviewees did not feel welcome in hospitals, especially at the emergency department and felt pressure to leave sooner than they would have wanted.

She didn't stay in the hospital for too long... so she left the hospital for home the next day...some people treat you as if you're there to spend their money...; like you're there to spend tax-payers' money (Hao Shuipian, Chinese father).

This case study illustrates a further, articulation of the in/visibility in producing a specific form of bureaucratic capture of children with undocumented parents. We argue that if children born to undocumented parents were visible and acknowledged in policy and practices it would have proved ethically and politically more arduous to justify practices that *de facto* exclude pregnant undocumented mothers from accessing pre- and post- natal care. In contrast, these children and their potential future citizenship status are invisibilised.

## **Conclusions: beyond state capture**

This article has focused less on the lived experiences of migrants who contest and negotiate bureaucratic arrangements and more on policy formation and implementation and the variety of agents that seek to classify and regulate spaces and categories of migrant children. To do this we constructed our set of cases through theoretical sampling using a ‘theory building from case studies’ approach which allowed us to illuminate the underlying organising principles and rationalities that legitimate these governing projects across different empirical contexts. This analysis shows how the normatively-charged binary visibility-invisibility is not sufficient to understand the position of migrant children.

We found that the different forms of in/visibility of migrant children served the same purpose: to discharge the tension between providing rights for the most vulnerable whilst also upholding the exclusionary logic that serves as the foundation for modern liberal democratic welfare states. The underlying principle on which these arrangements are based is the children’s rights regime (codified in the UNCRC) that sees children as nested within the family, but also provides the affordances for states to determine and have ultimate control over their ‘best interests’. This can be clearly seen through the ‘safeguarding’ and risk prevention agenda that has infused all UK welfare provision (Parton 2011). Children’s rights are not only treated as separate but in conflict with those of their parents or guardians.

In the first case study focused on unaccompanied children, the separation of children from their parents and family is key to their visibility as the state can define their best interests in ways that suit the purposes of the political landscape and the resources that are available (Author, 2017). For Roma children, parents are viewed as providing an ‘unsafe’ environment for their children. The safeguarding agenda provide the affordances for a child to be socialised and cared for away from the family. In both cases, going missing is the tactic used to contest these categorisations. However, due to the different scales at which these children are managed there are different effects. Roma children who

are nationals of European member states emerge as an issue for local government and if they go missing and they fall into invisibility.

However, for unaccompanied children, going missing provokes a form of heightened visibility. We argued that foregrounding missing unaccompanied migrant children is effective in hiding the harm that has been produced by nation states through their bureaucratic capture of unaccompanied children more generally (by not prioritising family reunification etc). The state is therefore able to argue that they are providing for the children's 'best interests' while they are without their parents until they are 18 years old and have 'aged out' of the affordances made in the UNCRC for children. Therefore the broadcasting of missing unaccompanied migrant children further strengthens states' abilities to claim they are protecting the 'best interests' of these children.

The case of UK-born undocumented children shows a different articulation of in/visibility. These children are labelled 'migrants' even if they may have never left the UK. The state refuses to recognise them as 'citizens in becoming' despite existing legal provisions. The rights and protection bestowed on any child born in Britain are suspended and superseded by the 'illegality' of status of their parents that excluded them *de jure* and *de facto* from most health care services. The harm done to these children through the non-recognition of their parents is discharged by the state as they are produced as invisible through bureaucratic non-capture.

The border is reconstituted and reified within these different case studies. Through the broadcasting of missing unaccompanied children, states are able to take on the role of protector of unaccompanied children, side-lining the issue of family reunification and allowing the border to be delayed as it will emerge for these children as they 'age out' of children's rights legislation. For Roma children, the border emerges across the parent-child relationship as states assume the role of safeguarding children. When parents are faced with the choice between losing their child or moving from the local administrative area, they often move and become 'invisible' to bureaucratic capture. For undocumented children, they are produced as invisible as to acknowledge and recognise their best interests would jeopardise the foundations of 'hostile environment' agenda (Yeo 2017). As such the

border is a constant spectre for these children, who have no path to recognition or legitimate right of residence.

This paper has argued that to reconcile the conflicting logics of child rights and exclusion of ‘others’ the state tries to manage these children through different forms of bureaucratic capture which simultaneously place some children in the spotlight whilst casting others into shadow. We argue that those who are foregrounded within this system are those who can be most easily slotted into the grooves of the child rights and ‘best interests’ framework and where the state can easily define what the ‘best interests’ of those children entails. Most saliently, and as described above, the term ‘best interests’ separates the child from their parents or guardians, and contributes to constructing them as a ‘risk’ to the child. This explains why some children, such as unaccompanied migrant children and Roma children become visibilised while others such as accompanied, stateless and undocumented children go purposefully unnoticed.

Drawing on three in-depth case studies, this article reveals the organizing principle of a particular view of childhood that has been codified and internationalised through the UNCRC that although a child is viewed as nested within a family, the Convention provides certain affordances for those who formulate and implement policy to hide the harm created by these policies on the people that they purportedly protect. The notion of ‘best interests’, which operates as a rationality of governance, is drawn on when the state can easily define these interests in accordance with their political aims and resources available to them. In so doing, these policies legitimate dominant governing projects. The set of cases taken together provide novel insights into how states reconcile conflicting logics and reveals how conceptions of vulnerability and the implementation of the child rights regime are weaponised to pursue a restrictionist immigration agenda ultimately preventing some children from actualising their rights.

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