PRELIMINARY RESEARCH FINDINGS

Twice Undocumented: How Transnational Advocacy is Mitigating the Issue of Doubly Undocumented Migrants in Oaxacalifornia

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BACKGROUND INFORMATION

The right to birth registration is a fundamental human right consecrated in Article 7 of the United Nation’s Convention on the Rights of the Child (CRC, 1989), which states that every child “shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.” Despite the fact that said Convention was signed by Mexico and ratified by the Senate in 1990, more than 22 years after having assumed this obligation, the statistics of under-registration of births in the world and in Mexico are alarming. In Mexico, according to the Network for Children’s Rights in Mexico (REDIM) 3 out of every 10 children are without a proper birth certificate, denying them the right to an official identity, a recognized name, and a nationality. The most recent estimations of the national index of opportune birth registration vary between 94% and 80.8%, but these national statistics hide enormous variations amongst Mexican states. Chiapas, Guerrero, and Oaxaca are the entities with the lowest rate of opportune birth registration as of 2010 at 55.7%, 59.4%, and 74.3%, respectively (Mercado and Ortiz, 2014). It is no coincidence that this problem disproportionately affects those states with large populations of indigenous peoples, since these are the groups already living on the margins of society.
If being without a birth certificate implies that a Mexican child does not exist or is invisible, when those children migrate to the United States, being without a birth certificate multiplies their problems, as they are then considered “doubly undocumented” and deprived of many basic rights, resources, and opportunities. These migrants’ situation of double vulnerability has converted them into victims of statelessness and of the indifference of the Mexican government by way of their consular offices in the United States. On the forefront of a campaign to get all Mexicans registered domestically and abroad is the Transnational NGO Be Foundation Derecho a la Identidad, also known as Be Foundation, principal driving force of the Reform Initiative of Article 4 of the Mexican Constitution, which passed on March 13, 2014 and establishes that “every person has the right to an identity and to be registered immediately at birth and without cost.” It also standardizes the format of all birth certificates, thereby facilitating the right to a legal identity, a right that the document describes as both “fundamental” and “primordial” to any child born in Mexico.

PURPOSE

Despite becoming a powerful negotiating force and advocacy network within Mexico, questions arise about Be Foundation’s ability to bridge this national legislation with local capacities, especially with unregistered migrants living in the United States. Within the context of this bi-national issue, this thesis examines the issue of under-registration and double invisibility within the Oaxacan migrant community of Los Angeles by comparing the involvement of Be Foundation with those of transnational migrant organizations such as the Binational Front of Indigenous Organizations (FIOB) and the Oaxacan Institute for Migrants (IOAM), in order to understand the way in which
different transnational actors deal with the issue of birth registration on both sides of the border. What are the advocacy roles of these institutions in regards to the issue of doubly undocumented Migrants living in the United States? How did such a small organization manage to pull off a national constitutional reform? To what extent has Be Foundation been able to create a transnational advocacy network committed to their cause? Considering the strong transnational network that already exists within the Oaxacan migrant community, how important is the advocacy role of Be Foundation to the Oaxacan migrant community in the US?

**RESEARCH EXPERIENCE**

This thesis is a comparative case study, as the project includes a comparative analysis of two major transnational actors (Be Foundation and FIOB) that are involved in the fight against the issue of doubly undocumented Oaxacan migrants in California, with an emphasis on their organizational approaches, policy agendas, and strategies. The study is anchored in the literature on transnational NGOs and other transnational migrant organizations. My research is based principally on archival research of existing data, and supplemented with a few expert interviews, as I have detailed below.

A large part of my data about unregistered Mexicans and doubly undocumented Mexican migrants comes from preexisting research and data published by the NGO Be Foundation, since little else has been published on this issue. Be Foundation is the first NGO to have done fieldwork and data collection in this capacity, in order to better
understand the scope of the problem of birth registration in Mexico (specifically Oaxaca, Guerrero and Chiapas). Other academics have documented the efforts of groups like FIOB and the way in which they have institutionalized political participation within the Oaxacan migrant community, but nothing has been said about the way in which these transnational organizations are advocating on behalf of doubly undocumented Oaxacan migrants.

As a supplement to the pre-existing data from these organizations’ web pages and publications, I conducted 3 expert interviews. These were all semi-structured interviews, using an interview guide that was modified for each interviewee, as each person plays a distinct role in the advocacy network under examination. My first interview was with the President of Be Foundation, Karen Mercado, in Mexico City. The goal of this interview was to better understand the way in which this tiny organization was able to put this issue on the political agenda and influence public policy. Mostly, I was interested in understanding whether or not Be Foundation is part of a larger transnational advocacy network, and once that was established, identify the other social and institutional actors that are part of this network. Secondly, in order to better understand the scope of the problem within the Oaxacan community in Los Angeles, my goal was to interview the former director of FIOB and current director of IOAM, Rufino Dominguez. Unfortunately, he was not able to receive me, so I interviewed the Deputy Director of IOAM instead, and planned a third interview upon my return to San Diego with the Vice-Coordinator of FIOB in San Diego, José Gonzalez. Though I did not interview them
personally, I was able to get copies of the interviews Be Foundation conducted with several Oaxacan migrants and an employee of the Civil Registry in Oaxaca City.

In order to better contextualize the issue of birth registration in Oaxaca, where the underregistration of births primarily affects the indigenous population, I also conducted several informal interviews with different members of an indigenous Guatemalan family in the town Santiago de Atitlán. These interviews were meant to serve as a basis of comparison, since in Mexico the barriers to birth registration, which are primarily institutional, economical, and cultural, could also be the same for indigenous families in Guatemala. I was in Guatemala with a friend whose mother sponsors women artisans that are trying to keep themselves and their children in school, which opened the door to many interesting and intimate conversations about family, poverty, and education. I did not prepare interview questions for any of these conversations, as I preferred them to be informal and less of an interrogation than an open dialogue amongst women willing to share their stories.

**GOALS AND GENERAL HYPOTHESIS**

I was under the assumption that Be Foundation was the driving force of a larger transnational network advocating on behalf of Mexicans with no legal identity living domestically and abroad. The main goal of my research was to understand the extent to which Be Foundation played a central role in this transnational advocacy network, and how the involvement of other actors was dependent on the network this NGO had
created. I was under the assumption that there was open communication, sharing of information, and joint advocacy efforts amongst Be Foundation, FIOB, and IOAM, since they are all important social and institutional actors advocating on behalf of doubly undocumented Oaxacan migrants. I believed that Be Foundation’s successful lobbying efforts to reform the Mexican Constitution made them a central player in this advocacy network; however, I also was under the assumption that there were other important organizations working with Be Foundation to make this Constitutional Reform possible. Another major goal of my interviews was to better understand the process that doubly undocumented Oaxacan migrants living in California must go through in order to obtain a birth certificate. In order to understand this process, I first had to understand what it meant to apply for a registro extemporáneo, or late birth registration, which is what any Mexican from Oaxaca must apply for (after the age of 6) if they have never been registered and given a birth certificate. Clearly, this process is even more complicated once these migrants have left Mexico and no longer have access to their municipal civil registry.

**CHALLENGES AND BARRIERS**

One of the major challenges I had was gaining access to quantitative data, in order to understand the extent to which the Oaxacan Civil Registry and IOAM, by way of their program Identidad Sin Fronteras, were able to register unregistered migrants in California. One would think that the collaboration between IOAM, an institution created by the Oaxacan government to attend to Migrants’ needs, would have better
communication with the institution it is working with to register migrants, but that is not the case. Neither Be Foundation nor IOAM were able to provide any quantitative data regarding Oaxacan migrants being registered abroad, and the current director of the Oaxacan Civil Registry, Clarivel Rivera, who is technically in charge of the Identidad sin Fronteras campaign in Mexico and California, ignored all of my messages. Without any data, it is hard to understand how many doubly undocumented Oaxacan migrants are living in California and how successful the efforts of these social and institutional actors have been to get them registered. The former director of the civil registry, Haydeé Soto, claims that over 2,000 migrants were attended to last year, but “attended to” is very vague and does not include data from this year and previous years; FIOB estimates the numbers of Oaxacans receiving birth certificates to be extremely low and has lost all confidence in the Governor it is partly responsible for electing, but has no actual data to back that up; and Be Foundation, the only NGO in Mexico advocating on behalf of these migrants on a national and international level, has had a falling out with Oaxaca since the director of the Civil Registry was replaced, and the current director is not interested in collaborating with anyone at all. So, while the Oaxacan government has done a really documenting their campaigning efforts and taking the essential photo ops with Oaxacan migrants and their birth certificates in order to boost their reputation, I have had no access to any data validating those efforts.

Another major challenge was discovering that Be Foundation was not actually part of a transnational advocacy network, but instead has been operating solo with the moral support of some organizations, academics, research institutions, and the media but with
no real support (financially or participatory) from any other organizations. This came as a huge surprise to me, as my hypothesis was based on the assumption that Be Foundation was a major player in a transnational advocacy network that technically doesn’t exist. This made my interview difficult, as many of my questions were follow up questions to the question: To what extent is Be Foundation part of a transnational advocacy network? Lastly, I was not able to get an interview with Rufino Dominicéz, former director of FIOB and current director of IOAM, whose testimony I believed to be an essential part of my research. As a Oaxacan migrant himself, I believe that both his personal and professional opinions and experiences would be a great contribution to my investigation. Unfortunately, he was unable to see me when I was in Oaxaca, and then stood me up in LA once I returned home.

**FINDINGS**

Karen Mercado of Be Foundation has proven to be an excellent contact, not only because she has been able to answer many of my questions regarding her own organization, Be Foundation, but also because she has been able to put me in contact with Haydeé Soto, the former director of the Oaxacan Civil Registry, as well as Jonathan Fox, a UCSC professor in the Political Science/Latin American Studies department who has written extensively about transnational advocacy and civil society. By way of Jonathan Fox, I was able to speak with José González of FIOB, since Rufino Dominguez was
unavailable. Ricardo Cruz, the Deputy Director of IOAM has also been really helpful, although he has been unable to provide me with any data regarding their program Identidad Sin Fronteras.

By way of several testimonies provided to me by Be Foundation, I was able to understand the complex process unregistered Oaxacans must go through in order to obtain a late birth certificate, known as the *acta de nacimiento extemporánea*. This grueling process (described in detail below) is the main reason why, despite the efforts of Be Foundation, IOAM, and FIOB, it is so difficult to register these “invisible” migrants, both in Mexico and abroad. When a child or adult over the age of 6 has never had a birth certificate, they must first go to the office of Civil Registry designated by their municipal government and solicit a *constancia de inexistencia de registro*, which is a document certifying that you don’t exist. In other words, in Oaxaca, in order to exist, first you have to prove that you don’t exist. However, in order to apply for this document, the person must prove their identity by soliciting a *constancia de origen y vecindad*, which is basically a letter signed by the Municipal President and Secretario Particular saying that you are from where you say you are from, your name is what you say it is, etc. This must be done with two witnesses from your town that can prove you are who you say you are and the cost is $30-$50 pesos. Once you have that, you must pay for the *constancia de inexistencia*, mentioned previously, as well as the search through the database to prove your inexistence. The *constancia* is $198 pesos and the search is $25 pesos per year of the search (they search 5 years before and after your birthday, so that is $250 pesos). The most difficult barrier is transportation. First, to the office of the civil registry designated
by your municipality, which can take up to 3 hours for some families. Once you have
your *constancia de inexistencia* from the municipal civil registry office, proving that you
don’t in fact exist, you must then make the trip to Oaxaca City to solicit a second
*constancia de inexistencia* from the main database in the capital. The trip to and from
Oaxaca City is $234 and the search can take up to 1-2 months because only 40% of all
birth certificates are digitalized. Finally, in order to apply for the late registration, or
*registro extemporáneo*, you must pay the civil registry $715 pesos and provide them with
some other form of documentation, which you probably don’t have because you
technically don’t exist (The civil registry will accept the *constancia de origen y vecindad*
mentioned earlier with a photo ID and two witnesses if this is the case). All of this
doesn’t even include the cost of the actual birth certificate, which is another $71 pesos,
making the process add up to about $1700 pesos, which is more than a poor family in
Oaxaca makes in 5-6 months. Unfortunately, there are many corrupt officials that take
advantage of this strenuous process, and can charge individuals up to $3000 for the entire
process. Of course, many poor indigenous Oaxacans never even start this process because
many of them don’t speak any Spanish and there is no budget in the Oaxacan Civil
Registry for translators, despite the fact that Mixtec and Zapotec are two major languages
spoken in Oaxaca. If this process is complicated for an educated bilingual Oaxacan with
the means to pay for the transportation and the entire bureaucratic process, it is easy to
see why so many Oaxacan citizens are invisible to their own municipal, state, and federal
government.
From the conversations I had with different members of a Guatemalan family in Santiago, it became clear to me that birth registration was indeed an issue for poverty-stricken families, but especially indigenous families that are discriminated against in local hospitals. One woman, who had 5 children 2-3 years apart, only gave birth to 2 of the 5 children in the local hospital. The other 3 were born at home, but only 1 of those 3 was born with the help of a midwife. The reason, she explained, was that she didn’t receive proper attention at the hospital because she is a “poor Indian”. She went to the hospital each time she was supposed to give birth to her children, and several times she was told to go home because she wasn’t close enough to giving birth. Three out of the five times the doctors were wrong and she was forced to have the baby at home or on the way home. Because of the treatment she received, she only registered two out of her five children, since they were the only ones born in the hospital. She also told me stories of other women with similar experiences, and that, in general, indigenous women get no real attention from doctors in her town. Another example of this was the fact that a lot of women take birth control without ever consulting a doctor, since it is readily available at any pharmacy, which, according to her, become darker skinned (mas morenitas) with bad tempers and it also makes them sick. She told me that a lot of Guatemalan children don’t have birth certificates because their parents don’t, and the civil registry is really strict about having the right documents, like the DPI (Personal Identification Document), which the mother must have in order to register their children. Like Oaxaca, there is also a lot of corruption, where the civil registry is willing to look the other way and simplify
the process of a “late registration” if you pay more money. This usually doesn’t happen, however, since most indigenous families barely have enough for their daily expenses. By way of these testimonies, I was able to see the extent to which public institutions have failed vulnerable populations on both sides of the border. It is not a Mexico issue or Guatemala issue, it is an issue of failed institutions, cultural insensitivity and discrimination towards vulnerable populations that are denied the fundamental right to exist.