

Testimony of

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Before

The Senate Committee on Homeland Security & Governmental Affairs

On

Ongoing Migration from Central America: An Examination of FY 2015
Apprehensions



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I am Bishop Mark Seitz, the Roman Catholic bishop of El Paso, Texas. I am pleased to have the opportunity to comment today on behalf of the U.S. Conference of Catholic Bishops (USCCB) on the United States government's response to unaccompanied children and families arriving from Central America.

I would like to thank you, Chairman Johnson, and Ranking Member Carper (D-Delaware), for holding this hearing on such a vital issue to our nation. As you know the care of unaccompanied children and families fleeing violence in Central America is of great importance to our Church.

One of Jesus' first experiences as an infant was to flee for his life from King Herod with his family to Egypt. Indeed, Jesus Himself was a child migrant fleeing violence. Jesus, Mary, and Joseph were asylum-seekers and faced the same choice as the one facing thousands of children fleeing to the United States each year. The Holy Family is the archetype of the refugee families we see today, both at our border and around the world.

Mr. Chairman, we are pleased that children and families are no longer languishing in overcrowded Border Patrol facilities for weeks at a time but note that there is still much work to be done to ensure that they are treated with dignity and protected in their home countries, neighboring countries, along migration routes, at international borders, at the U.S. border, and in American communities. I would like to point out that while the volume of unaccompanied children and families arriving into the United States has decreased from last year, the numbers are still high and the protection needs for these children and families are as apparent and important as ever. Nearly 40,000 unaccompanied children have arrived this recently passed fiscal year, with an equal number of young mothers with children.

Mr. Chairman, USCCB feels that the migration of unaccompanied children and families is a humanitarian and international protection situation that must be viewed regionally. Children and families are facing life-threatening violence and refugee situations and are falling prey to human smuggling and trafficking to escape. As such I organize my testimony today around recommendations for improving the response to these vulnerable populations in Central America, Mexico, the U.S.-Mexico border and in the United States. I recommend the following:

- **IN CENTRAL AMERICA:** The United States should support the efforts of Northern Triangle countries—Guatemala, Honduras, and El Salvador---to strengthen their humanitarian and child protection responses, to include developing and improving education and child welfare systems, increasing opportunities for youth development, and providing safe spaces and alternatives to gang entry and migration. The Administration should work with community-based organizations, the United Nations High Commissioner for Refugees (UNHCR), and country governments to develop a comprehensive strategy, in line with international best practices and standards, to reverse the child protection crisis and ensure access to international protection for those seeking refuge and asylum. Such efforts would build upon and supplement the U.S. Central American Minors (CAM) in-country processing program by ensuring identification of children in need of international protection that might not qualify for CAM and that a durable solution is realized for these children, providing for the safety and well-being of children during CAM processing, and by facilitating emergency transit mechanisms for children who are facing immediate threats. Future U.S. funds should address the root causes of forced migration from Northern Triangle countries and protection for those returning via repatriation and reintegration programs, featuring a community-based and

protection-focused approach to migration. Congress should approve the \$1 billion Administration request for aid to these nations and increase funding for community-based programs for youth.

- **REGIONALLY:** The United States, working with the UNHCR, should facilitate international protection in other nearby countries to which Central American children and families have fled, such as Nicaragua, Panama, and Costa Rica. The United Nations has reported that the numbers of children seeking asylum in other Latin American countries has risen by over 1000% over the past several years.
- **MEXICO:** The United States should encourage the Mexican government to end interdiction efforts and establish robust mechanisms for international protection for families and unaccompanied children. A continuum of care should be established for unaccompanied children in their custody, which would include eliminating child detention and implementing Best Interest Determinations (BIDs) that result in the pursuit of durable solutions. The asylum protection regime in Mexico should be improved, with asylum-seekers being released from detention during the adjudication process, and for asylum to connote protection and integration services. Mexican enforcement officials should be held accountable for human rights abuses of migrants. The United States should not provide financial, material, or political support for interdiction efforts.
- **AT U.S.-MEXICO BORDER:** The Administration should develop and implement better screening mechanisms and training for Department of Homeland Security (DHS) staff that encounter and interact with unaccompanied children at the U.S./Mexico border. DHS should deploy child welfare professionals to help with this training and to assess the welfare of the children. As the United States sends experts to train and provide capacity building support to border officials in Central America and Mexico, the Administration should facilitate robust child and refugee protection screening mechanisms and training so that Mexican officials are trained in the implementation of international protection and durable solutions. If our nation is exporting enforcement, it also must export protection. Young mothers with children should not be detained unnecessarily.
- **IN THE UNITED STATES:** Congress should invest more resources in the care of unaccompanied children currently living in the United States, including augmenting child protection and integration services by increasing funding for post-release social services and legal services, specifically case management all children released from federal custody to assure ongoing safe and appropriate placement; referrals for medical and mental health care; enrollment in school; ongoing orientation regarding legal rights and responsibilities; and access to child advocates and appropriate legal representation.

For families, the Administration, supported by Congress, should institute a community-based case management alternative to detention program instituted by social service providers qualified to ensure that families receive legal representation and appropriate social services. I note that USCCB strongly objects to the detention of migrant families, primarily young women and children, who are arriving in large numbers to the border every day and are being detained in vast institutional detention facilities. USCCB asks that Congress urge the Administration to end this practice. We urge Congress stop appropriating money to detain children and families instead instruct DHS to use more humane and cost-effective community-support alternatives to detention.

I. Catholic Social Teaching

The Catholic Church has a long history of involvement in refugee and asylum protection and child protection, both in the advocacy arena and in welcoming and assimilating waves of immigrants, refugees, and asylum seekers who have helped build our nation. Migration and Refugee Services of USCCB (MRS/USCCB) is the largest refugee resettlement agency in the United States, resettling one million of the three million refugees who have come to our country since 1975. MRS/USCCB is a national leader in caring for unaccompanied alien and refugee children. We work with over 100 Catholic Charities across the country to welcome refugees, asylum-seekers and unaccompanied alien children into our communities. The Catholic Legal Immigration Network, Inc. (CLINIC), a subsidiary of USCCB, supports a rapidly growing network of church and community-based immigration programs. CLINIC's network now consists of over 212 members serving immigrants and their families, including asylum seekers and unaccompanied children, in over 300 offices. MRS/USCCB also provides child welfare services to hundreds of unaccompanied children each year.

The Catholic Church's work in assisting asylum seekers and all migrants stems from the belief that every person is created in God's image. In the New Testament, the image of the migrant is grounded in the life and teachings of Jesus Christ. In his own life and work, Jesus identified himself with newcomers and with other marginalized persons in a special way: "I was a stranger and you welcomed me." (Mt. 25:35).

In modern times, popes over the last 100 years have developed the Church's teaching on migration. Pope Pius XII reaffirmed the Church's commitment to caring for pilgrims, aliens, exiles, and migrants of every kind, affirming that all peoples have the right to conditions worthy of human life and, if these conditions are not present, the right to migrate.¹ Pope Francis defended the rights of asylum-seekers early in his papacy, and has spoken out in concern for these children—stating that his thoughts go to “the tens of thousands of children who migrate alone, unaccompanied, to escape poverty and violence”.²

In his speech to Congress, Pope Francis also encouraged our nation to welcome those fleeing protection, which is in the nation's best interest: “If we want security, let us give security; if we want life, let us give life; if we want opportunity, we must give opportunity. The yardstick we use for others will be the yardstick which time will use for us.”³ He also encouraged us to listen to the stories of those arriving to our nation.

For these reasons, the Catholic Church holds a strong and pervasive pastoral interest in the welfare of migrants, including asylum seekers and unaccompanied children, and welcome newcomers from all lands.

II. Country Conditions and Push Factors

¹ Pope Pius XII, *Exsul Familia* (On the Spiritual Care of Migrants), September, 1952.

² Pope Calls for Protection of Unaccompanied Child Migrants, July 15, 2014 available at http://en.radiovaticana.va/news/2014/07/15/pope_calls_for_protection_of_unaccompanied_child_migrants/1102879

³ Speech of His Holiness Pope Francis to the U.S. Congress, September 24, 2015.

The root causes inducing the mass migration of unaccompanied children from Central America over the last few years as well as the violent and dangerous migration journey that unaccompanied children take through Mexico are well documented. In November 2013, a USCCB delegation traveled to southern Mexico, El Salvador, Guatemala, and Honduras to examine and understand the flight of unaccompanied children and youth from the region and to stand in solidarity with these children and their families. In January 2014, we issued our findings from the trip in a report entitled, *USCCB: Mission to Central America: Flight of the Unaccompanied Immigrant Children to the United States* (USCCB Central America Report 2014).⁴

The delegation found that a series of interrelated factors have contributed to the dramatic increase in migration and that a “perfect storm” of a number of these root causes coalesced to create the phenomenon. Push factors include the absence of economic opportunity, the lack of quality education and access to education generally and the resulting inability for individuals to financially support themselves in their home countries/local communities. The desire to reunify with family in the United States also has contributed to this increase in migration.

While these factors were omnipresent, the delegation found that one overriding factor has played a decisive and forceful role in recent years: life threatening violence at the state and local levels and a corresponding breakdown of the rule of law have threatened citizen security and created a culture of fear and hopelessness. Often the life-threatening journey north is seen as a family strategy to protect a child, as Central American governments are unable to fully protect their citizens.

Mr. Chairman, it is clear that now that the situation is worse and that over the last year violence has increased in communities in the countries of the Northern Triangle—Guatemala, El Salvador, and Honduras. Over the past year, El Salvador has joined Honduras as one of the most violent countries in the world, with 91 murders per 1,000 persons. This is due primarily to violence between the two primary gangs—the Maras and the 18th Street gang. Children and families have been caught in the crossfire, with 593 children killed this year. While Honduras has experienced a reduction in violence this year because of military intervention, it remains one of the most violent nations in the world. In Guatemala, political instability has led to an inability of the government to protect its population.

Since 2011, the United States has seen an unprecedented increase in the number of unaccompanied migrating children arriving to the country, predominately at the US-Mexico border. Whereas the number of children apprehended averaged 6,800 between federal fiscal years (FY) 2004 and 2011, the total jumped to 24,668⁵ in FY 2013 and spiked at 67,339 during the last fiscal year.⁶ This fiscal year the numbers of unaccompanied children arriving is 47% lower, with 20,850 children having been apprehended by CBP as of June 1, 2015.⁷

⁴ USCCB: Mission to Central America: Flight of the Unaccompanied Immigrant Children to the United States (USCCB Central America Report 2014).

⁵ About Unaccompanied Children Services, ORR/HHS website, <http://www.acf.hhs.gov/programs/orr/programs/ucs/about>

⁶ Southwest Border Unaccompanied Alien Children <http://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children>

⁷ Southwest Border Unaccompanied Alien Children <http://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children>

However, later in the summer the number of unaccompanied minors arriving at the southern border has spiked, with 4,652 children apprehended at the southern border in August. This past August exceeded the numbers arriving in August 2014 by 48 percent. The number of members of “family units”—women with children—increased from 4,506 in July to 5,158 in August.⁸ Children and families who have recently arrived have confirmed that increased violence has driven them to undertake the dangerous journey at the hands of smugglers.

While the Obama Administration attributes the reduced numbers of unaccompanied children this year to better preparation, weather patterns, and information campaigns advertising the danger of the journey⁹, the fact remains that the number of unaccompanied children arriving are down in large part due to the interdiction efforts that are occurring at the Mexico-Guatemala border and within Mexico. To this point, Mexico deported 79% more people from Central America’s Northern Triangle in the first four months of 2015 than it did during the same period a year earlier.¹⁰ In El Salvador alone, 4,278 children were deported from Mexico from January to August, 2015, while an equal number of Guatemalan minors were deported from January to May, 2015.¹¹ The increased military presence coupled with the threat of traffickers, cartels, and smuggling networks has made the already dangerous migration route to the United States from Central America treacherous.

Mr. Chairman, because of these interdictions, abuse of migrants, including children, by enforcement officials is on the rise. Through June 2015, Mexican’s National Commission on Human Rights logged 567 complaints of abuse by Mexican enforcement officials, up 39 percent from the previous 12-month period.¹² There have been reports of officials pulling children off the Beast—the train traveling from Guatemala to northern Mexico—using abusive threats and tactics. Most are placed in detention and sent back to their countries, without sufficient screening or an opportunity to pursue asylum.

According to the UNHCR, most of the children from Central America seeking to enter the United States over the last two years, as well as most of the mothers with children making their way to the United States border from that region have valid protection claims. UNHCR found that at least 6 of 10 unaccompanied children fleeing violence had valid asylum claims.

Make no mistake about it, Mr. Chairman, this is a refugee crisis.

Rather than looking at the phenomenon as an immigration crisis, we should be looking at it as a refugee crisis. And if such a crisis was occurring anywhere else in the world, Congress and the President would be imploring neighboring nations to keep their borders open to those children who are fleeing life-and-death danger in their homeland.

We should do no less for these children and families than we demand of other countries when faced with similar situations. To do otherwise would not only imperil the lives of the children at our border, it also would imperil countless other children around the world who seek refuge at a

⁸ Department of Homeland Security Apprehensions Fact Sheet, September, 2015.

⁹ See e.g. White House Council for Women and Girls Recent Accomplishments, at 21 March 2015.

¹⁰Deportations in Mexico up 79% in first four months of 2015 June 11, 2015 available at <http://www.theguardian.com/world/2015/jun/11/deportations-mexico-central-america>Data from Mexico’s National Immigration Institute says that 51,565 immigrants from Guatemala, Honduras and El Salvador were deported between January and April, up from 28,736, during that period in 2014.

¹¹ Catholic Relief Services, Country Reports, September, 2015.

¹² Mexican National Commission on Human Rights, Report on Abuse Complaints, July, 2015.

neighbor's door. At the same time we urge other nations—such as Lebanon, with more than 1.5 million Syrian refugees—to keep their borders open, we are attempting to deny entry to our country in our own backyard.

III. Recommendations to Respond to the Humanitarian Crisis

Mr. Chairman, the humanitarian and international protection crisis for unaccompanied children and families continues, as many of these vulnerable children and families continue to face serious obstacles to accessing protection and justice. Children are locked out of the child welfare and child protection systems in place here in the United States, experience exploitation and extreme hardship in their migration, and face life-threatening violence in their communities in Central America. Families face detention or electronic monitoring and lack social and legal support.

Mr. Chairman, it is clear that the U.S. response to this crisis should include a robust involvement in the region, including increased funding for protection mechanisms and economic development. To their credit, the Administration asked for \$1 billion in aid to the region in their FY 2016 request, but that request has already been drastically reduced in both the House and the U.S. Senate. We urge Congress to revisit this issue and increase funding for youth protection and reintegration programs.

Mr. Chairman, the creation of the Central American minors program (CAM) earlier this year by the Administration was a welcome initiative, as it potentially gives children and families an alternative to taking the dangerous journey north. However, the program has experienced a slow start due to structural and eligibility issues, thus limiting the number of children who can access it. Since it started in December 2014, as of September 1, only 19 children have received asylum out of nearly 120 interviewed—about 12 percent. This is in contrast to the sixty percent finding by UNHCR and 90 percent asylum rate in initial screenings by the United States.

While we support the maintenance of this program, it must be improved and enhanced to become a viable tool for protection. We have several concerns and recommendations for improvement to the program:

Eligibility for the program is restricted. Eligibility for the program is limited to parents of minors who are legally present in the United States. UNHCR has estimated that 64 percent of unaccompanied children from Central America entering the United States have no parent in the United States. Other relatives, including siblings or extended family, should be able to sponsor a child in the program.

Interview process should be amended. We are concerned that children who have experienced trauma may not be able to articulate their fear in one interview. We believe that adjudicators should be trained in child-friendly interview practices that allow the child to feel safe and provide an accurate description of their experiences, and that children should be given more than one interview to articulate their claim.

Information about the program is limited. Catholic partners in Central America that work with migrating children have told us that there is a lack of information about the program and how to access it, particularly for Guatemalan children. Television and the internet are not available to the children most in need. USCCB has helped address this information gap by developing videos, in partnership with the Maya Heritage Foundation, about the program in the six most prominent Mayan languages.

The program does not offer immediate protection for those in need. Children facing imminent threats from organized crime do not have the luxury of traveling to an interview without fear that they will be intercepted by criminal elements before the interview or physically threatened once an interview is completed. In conflict areas, violence is imminent and refugees must flee immediately in order to protect themselves. Absent some sort of safe zone to protect children during the interview and resettlement process, which can take months, children will be placed at risk and not desire to participate in the process.

Those who receive humanitarian parole should be treated as refugees for domestic purposes. While we support the use of humanitarian parole in certain cases, we note that those who may be paroled into the United States do not qualify for refugee resettlement services, including case management services which assist them with integration and reunification, legal representation, school enrollment, and referrals to mental health and medical services. These are critically needed services to ensure that children are protected and cared for in a dignified manner.

Mr. Chairman, the committee should consider reforming the program to address these concerns, plus expanding it in a way that addresses immediate protection concerns, such as the creation of in-country safe zones or humanitarian evacuations.

A. Recommendations for Treatment of Unaccompanied Children and Families in Central America

Congress and the Administration should:

- **Support and enhance the Central American Minors Program (CAM).** This in-country processing program in El Salvador, Honduras, and Guatemala established by PRM/USDOS must be supported so that it can provide safe efficient processing of unaccompanied at-risk children in Central America. As mentioned, reforms in the program should focus upon streamlining the application process, ensuring security in the program, and increasing capacity so more children are processed in a timely manner.
- **Support humanitarian efforts in the region.** These include strengthening the asylum systems and child-welfare systems in El Salvador, Honduras, and Guatemala; and providing best interest determinations and best interest assessments of unaccompanied children in the region when appropriate.
- **Support establishment of an Office of the High Commissioner for Human Rights (OHCHR) in Honduras to address broad human rights concerns.** Honduras has requested such an office and the U.S. should collaborate with other international donors to fund such an office and ensure it has a strong mandate. This will support Honduras in better protecting the rights of people at risk of migrating, decreasing endemic corruption, and addressing widespread impunity.
- **Invest in prevention programs in sending countries.** Through its Youth Builders project, Catholic Relief Services (CRS)-El Salvador and its partners provide at-risk youth with peer support, vocational and entrepreneurial training, job-placement, life skills and leadership development, and community service opportunities. This project targets youth

who are at risk of unemployment, of violence—as victims and as perpetrators, and/or of migration. Through these projects, CRS has served more than 2,500 young people.¹³ Other than programs provided by Catholic Relief Services and other NGOs, source countries do not employ programs to encourage youth to remain and not take the journey north. Such a program should include skill-based training and employment services.

- **Make aid to Northern Triangle countries less focused on increased border security measures and more focused on humane migration and protection efforts.** The recent Plan for Alliance for Prosperity in the Northern Triangle is an ambitious aid plan but it is largely security and economic-focused and does not address the need for greater resources to be devoted to child protection, child development, refugee and anti-trafficking protection, and addressing the root causes of forced migration. Additionally the current House of Representative’s State and Foreign Operations Appropriations bill for FY16 contains language that conditions U.S. assistance to Central American governments on steps taken to “improve border security” and reduce migration of their citizens to the United States.¹⁴ These conditions would encourage the implementation of policies that violate the right of people to emigrate; a right enjoyed by all people, and would dangerously undermine the right of persecuted people to seek territorial access to a country of asylum. The United States must work to ensure that aid efforts include protection-focused goals and funding.

B. Recommendations for Treatment of Children and Families at the U.S.-Mexico Border

- **Customs and Border Patrol (CBP) should reform its screening procedure for unaccompanied children.** In an effort to comply with the TVPRA¹⁵, CBP currently screens all unaccompanied children who they apprehend for risk of trafficking, fear of return, and the child’s capacity to make decisions. CBP should stop screening all unaccompanied children and instead screen only the Mexican unaccompanied children per the TVPRA, as children from countries not contiguous to the United States are sent to ORR for case management and are screened there by child welfare experts. Focusing CBP’s screening efforts on just the Mexican unaccompanied children will eliminate redundancies and enable CBP to spend more time devoted to its mission of protecting our borders.

In addition to streamlining which populations CBP screens, the form that is used to screen unaccompanied children, Form 93, needs to be overhauled. Form 93 is not written in a style that is child-friendly or trauma-informed. At a minimum, it should be retooled with input from child-welfare experts. CBP officers who engage in screening of unaccompanied at-risk children should receive extensive training to conduct such screenings.

- **CBP should place child welfare experts in all border facilities to screen unaccompanied at-risk children.** CBP should hire child welfare experts to assist in the development and implementation of trauma-informed and developmentally appropriate screening mechanisms, which would allow fair and equal access to all unaccompanied

¹³ <http://crs.org/countries/el-salvador>

¹⁴ See “SUSPENSION OF AID” Sec. 7045, page 172, FY 2016 House of Representatives State and Foreign Operations Appropriations Bill

¹⁵ See Section 235 of TVPRA 2008-

children in need of protection irrespective of their country of origin. This would ensure that children are able to tell their stories in a safe environment and increase the likelihood that they receive appropriate protection. As a law enforcement entity, CBP agents are trained to interrogate border crossers using a style that is direct and confrontational not to question vulnerable children who are traumatized. This approach is neither effective nor appropriate when the goal of the interview is to identify victims and those at risk for exploitation. This is particularly true in the case of children, who may be unaware of their victimization and believe that the forced sex, forced labor, or other abuse and exploitation they endure during their journey is the cost of their migration. The child welfare expert should have child welfare experience, possess a child-friendly trauma-informed forensic interview style, and speak Spanish fluently.

- **CBP should implement a juvenile sector coordinator position into its formalized operations and should centralize its unaccompanied at-risk child processing according to sector.** CBP currently has juvenile sector coordinators in certain sectors but the coordinator placement within the sectors is not uniform. Implementing juvenile sector coordinators uniformly within CBP would ensure that the screening and outcomes related to unaccompanied children are consistent and in line with child welfare principles. Additionally a juvenile sector coordinator would also be able to note new trends and outcomes related to unaccompanied children and would enable CBP and, by extension DHS, to be more informed.
- **The screening areas and provision of services to unaccompanied children in CBP facilities need to be improved.** CBP has disparate screening and processing spaces that should be renovated to address the presence of children. All facilities should have discrete areas for screening children that are removed from the general processing area and should have partitions and adequate space to ensure privacy during interviews. Officers, if they are to be conducting the screening, should attempt to be in plain-clothes as to ensure that the children are not overwhelmed and intimidated. Furthermore officers of the same gender as the child they are screening should be used whenever possible. Lastly, children should be consistently informed of their rights to basic amenities such as hot meal, a blanket, and use of the toilet.

C. Recommendations for Treatment of Children and Families in Mexico

- **The United States should end its support of Mexico's interdiction efforts along the Mexico-Guatemala border and throughout Mexico.** Mexico, with U.S. support, has begun interdicting Central American children, particularly at the Mexico-Guatemala border and in Southern Mexico. The interdictions are an effort to prevent the children from reaching the U.S.-Mexico border and accessing legal protection within the United States.

In response to increased migration from Central America, and at the behest of the U.S. government, the Mexican government launched Programa Frontera Sur (Southern Border Program) on July 14, 2014. The program's objective is to improve border and migrant security by ensuring adequate operation of the 12 official border crossings and transforming customs stations into five new "Centros de Atención Integral al Tránsito

Fronterizo” (Comprehensive Border Crossing Attention Centers).¹⁶ Furthermore, Mexican authorities have also begun patrolling “La Bestia” and carrying out 153 raids as of March 2015.¹⁷ As stated earlier, the number of Central Americans deported in 2015 has been staggering. We are deeply concerned about the efforts of the Mexican government to interdict children and prevent them from migrating- effectively leaving them stranded in Mexico or deporting them back to the violence they are attempting to escape.

- **Mexico, with assistance from the United States and child welfare organizations, must build the capacity of the Mexican child welfare system to protect migrating youth.** This includes training for direct care providers and government officials to employ child-appropriate techniques when interviewing and serving migrating children as well as the development of protocols related to identification of safe placement for children, including, but not limited to, those identified to be eligible for refugee status and those who are victims of human trafficking.
- **Mexico, with the United States’ help, must develop a continuum of care for unaccompanied at-risk children.** The Mexican government should establish a continuum of care for unaccompanied children in their custody. Currently, unaccompanied children who are seeking asylum may remain in shelters for as long as six months to years, and children who receive asylum remain in shelter until they are 18. Studies have shown that prolonged stays in restrictive settings impact a child’s development and well-being. The higher the capacity of the care arrangement, the more restrictive the environment becomes. Consistent with child welfare best practice, unaccompanied children should be placed in the least-restrictive setting, ideally, in community-based care, such as foster care, which allows children freedom of movement and access to community. Furthermore, care settings should be constructed to ensure minors are not commingled with gangs or other criminals, who often infiltrate these facilities.
- **The United States and Mexico should support the Bureau of Population Refugees and Migration of the U.S. Department of State (PRM/USDOS) in piloting Section 104 of the TVPRA 08 in Mexico.** Sec. 104 of the TVPRA 08 amends Sec. 107 (a) of the TVPA 2000 to require the “Secretary of State and the Administrator of the United States Agency for international development” to “establish and carry out initiatives in foreign countries in cooperation and coordination with relevant organizations, such as the United Nations High Commissioner for Refugees, the International Organization for Migration, and private nongovernmental organizations¹⁸...for--‘(i) increased protections for refugees and internally displaced persons, including outreach and education efforts to prevent such refugees and internally displaced persons from being exploited by traffickers; and ‘(ii) performance of best interest determinations for unaccompanied and separated children who come to the attention of the United Nations High Commissioner for Refugees, its

¹⁶Pone en marcha el Presidente Enrique Peña Nieto el Programa Frontera Sur, July 2014 available at <http://www.presidencia.gob.mx/articulos-prensa/pone-en-marcha-el-presidente-enrique-pena-nieto-el-programa-frontera-sur/>

¹⁷Mexico Raided Migrant Train 'La Bestia' 153 Times Last Year Huffington Post, March 3, 2015 available at http://www.huffingtonpost.com/2015/03/04/mexico-raided-la-bestia_n_6802078.html

¹⁸<http://www.state.gov/documents/organization/10492.pdf>

partner organizations, or any organization that contracts with the Department of State in order to identify child trafficking victims and to assist their safe integration, reintegration, and resettlement.”¹⁹ Currently, there is no systemic way to identify children who have been trafficked or are at risk of being trafficked, and without a BID, the fate of children who were trafficked or at risk of being trafficked consists of repatriation to their country of origin, often sending them back into the hands of the traffickers. If they receive refugee status in Mexico, remaining in a shelter until they turn 18 years old leaves them vulnerable to exploitation within the shelter and lacking appropriate services to address their trauma and developmental needs.

D. Recommendations for Treatment of Unaccompanied At-Risk Children and Families within the United States:

- **Congress should mandate and fund family reunification and legal orientation programs for all youth to help children integrate into their communities, reunify with their families, and pursue immigration relief.** Often, increased funding to the Office of Refugee Resettlement (ORR), which is responsible for the custody and care of unaccompanied at-risk children, is directed at improving conditions in the temporary shelters in which unaccompanied children reside while waiting for release to their families. There exists little funding for services once children are released, increasing the likelihood for family breakdown, the inability of children to enroll in school and access community resources, and the likelihood that the child will not show up to their immigration hearings. Funding should be directed at increasing the number of home studies provided to sponsors prior to the child’s release from custody to assess any potential risks of the placement, including the protective capacity of the sponsor to ensure the safe reunification of the child. Post-release services should be required for all children to assist the family with navigating complex educational, social service, and legal systems. With intensive and short-term case management services and monitoring by child welfare professionals, it is more likely that children will appear at their immigration proceedings, enroll in school, and integrate into their communities—mitigating risk for future entry into the public child welfare system. In addition, when provided by community-based agencies, post-release services help build the capacity of the communities to respond as agencies establish relationships with and educate systems and service providers that will come in contact with unaccompanied children.

Funding also should be increased for the Department of Justice’s Legal Orientation Program for Custodians (LOPC) which was developed to “inform the children’s custodians of their responsibilities in ensuring the child’s appearance at all immigration proceedings, as well as protecting the child from mistreatment, exploitation, and trafficking,” as provided under the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008.

- **ORR should continue to expand placement options to include small community-based care arrangements with basic to therapeutic programming.** The Flores Settlement Agreement establishes minimum standards of care for children in the custody of ORR and requires that unaccompanied at-risk children be placed in the least restrictive setting that meets their needs. Save the Children notes in a study: “...recent years have seen an increasing emphasis on the development of community-based approaches... to ensure that children who lose, or become separated from their own families, can have the

¹⁹ <http://www.state.gov/j/tip/laws/113178.htm>

benefits of normal family life within the community.” Placing children in the least restrictive setting that can meet their needs is the policy and practice of the child welfare system in the United States. While many of the children in ORR custody are served in basic shelters, this placement setting may not be the most appropriate for some unaccompanied at-risk children, many of whom have complex trauma needs, and would be better served in foster care placements.

- **Funding for the Unaccompanied Refugee Minor (URM) program should be increased.** As the number of unaccompanied at-risk children referred to the URM program has increased, the funding for the care of URM has remained static. Increasing funding for ORR’s Unaccompanied Refugee Minor (URM) program would ensure longer-term care for the increasing number of unaccompanied Central American children who qualify for URM’s longer-term foster care services after obtaining asylum, Special Immigrant Juvenile Status (SIJS), T-visas, and other protections.
- **All children and families in adversarial proceedings should have an attorney.** Legal representation is the single strongest indicator that a child will appear for their immigration court proceeding. For example, for fiscal year 2014, 99.33% of represented unaccompanied children appeared for their immigration court case, whereas 67% of unaccompanied children who were pro se appeared for their immigration court hearing.²⁰ Recently, the rates of legal representation have been falling as nonprofit organizations, law school clinics and pro bono attorneys who have stepped up to represent unaccompanied children for free cannot meet the needs of all the children. A robust mix of government-funded and pro bono representation by the private sector is needed to fill the enormous representation gap that currently exists.
- **The best interest of the child should be applied in legal proceedings involving unaccompanied at-risk children, including creating child-appropriate asylum procedures and unaccompanied child immigration court dockets.** Currently, decisions about the welfare of these children are made separately from the existing U.S. child welfare infrastructure, meaning that court decisions on the welfare of these children are based on their eligibility for immigration relief alone rather than involving a comprehensive assessment of the best interest of the child. Some potential relief for children include asylum, special immigrant visa status (for orphans or abused, abandoned, and neglected children), or status to protect you from human trafficking.

Whenever possible, policies and procedures should be implemented that help the child progress through the system in a way that takes into account his/her vulnerabilities and age, such as the establishment of immigration court dockets for unaccompanied children and the creation of child-appropriate asylum procedures. Concentrating all cases in a child-focused immigration docket with appropriately-trained arbiters and advocates would streamline these cases while also ensuring a less-threatening model for children.

- **State courts need to receive training about Special Immigrant Juvenile Status (SIJS) and their jurisdictional responsibility and state legislatures should provide better guidance about state court responsibility.** DHS should provide more training to state family courts to enable them to better understand their role in SIJS proceedings. A good example of a state legislature that has issued helpful guidance is California, in which SB

²⁰ See Juvenile Deportation Proceeding Data Tool, Syracuse University, Transaction Records Access Clearinghouse (TRAC) available at <http://trac.syr.edu/immigration/reports/359/>

873, signed by Governor Brown has clarified the role of the state courts as it relates to SIJS cases.

- **Families should not be detained and should be released on their own recognizance or placed in a case management alternative to detention program.** It is inhumane to detain young mothers with children who have already been traumatized from their dangerous journey to the United States. Community-based alternatives to detention programs, based on a case management model, have proven to be effective in ensuring that participants receive appropriate legal and social service support and also appear at their hearings. These models have ensured that, on average, 96 percent of participants appear at their hearings.²¹

The situation of forced migration from Central America is a complex one, with no easy answers. While the numbers of unaccompanied at-risk children arriving to the United States has decreased, it is clear that more must be done to address the root causes of this flight and to protect children and youth in the process. This problem is an international humanitarian and international protection problem and it is not going away- instead it continues to represent a challenge to the United States and to the governments of Mexico and Central America and other host countries in the region.

Too often we look at children migrants as adults, but they are still children who are introduced to the injustice and horror of the world at an early age. Anyone who hears the stories of these children would be moved, as they are victims, not perpetrators. Through our work with unaccompanied children and through our delegation trip we have learned that these children long not only for security, but also for a sense of belonging—to a family, a community, and a country. They are often unable to find this belonging in their home country and leave their homes as a last resort.

In evaluating the government's response last year, it is vital to remember that we still have a humanitarian crisis on our hands and more must be done. We must respond to the needs of these children and families, not to turn them away or ostracize them as Americans are a compassionate people.

Mr. Chairman, I again thank you for this opportunity ask that you let me, the USCCB, and the entire Catholic Church charitable network with you to pursue just and humane solutions to the challenge of forced migration.

²¹ USCCB/LIRS Fact Sheet, Alternative to Detention programs, July, 2015.