



Testimony

of

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On

Unaccompanied Children

House Judiciary Committee

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I am Bishop Mark Seitz, bishop of the diocese of El Paso, Texas. I testify today on behalf of the Committee on Migration to give the Catholic Church's perspective about the humanitarian crisis of unaccompanied child migrants arriving at the US-Mexico Border.

I would like to thank Chairman Robert Goodlatte (R-VA), Ranking Member John Conyers Jr. (D-MI), Representative Trey Gowdy (R-SC), and Representative Zoe Lofgren (D-CA) and other committee members for the opportunity to comment on the current situation. I note that the protection of migrant children is an especially important issue for the Catholic Church, as 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.

I am here to speak with you today about this special population of vulnerable children who are very close to my heart as I have met with many of them, some as young as five years old, while they were being cared for in Catholic Charities facilities in my diocese in El Paso. In addition to ministering to these youth in El Paso, in November 2013, I was privileged to lead a United States Conference of Catholic Bishops delegation traveling to Southern Mexico, El Salvador, Guatemala, and Honduras to examine and understand the flight of unaccompanied migrating children and youth from the region and 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" (2014 USCCB Central America Report 2014).¹ Mr. Chairman, I ask that 2014 USCCB Central America Report be included in the hearing record.

During our mission to Central America, we visited migrant children shelters, heard tearful stories from grandmothers waiting to pick up their recently repatriated grandchildren, and listened to children as young as six years old speak solemnly of trafficking and exploitation that was inflicted upon them along their migration journey. The corresponding report that came out of our mission acknowledged that a new paradigm regarding unaccompanied children is upon us- namely it is clear that unaccompanied children are facing new and increased dangers and insecurity and are fleeing in response. As a result, this phenomenon requires a regional and holistic solution rooted in humanitarian and child welfare principles. Since our mission and report issuance, many of the humanitarian challenges facing this vulnerable population have persisted and increased. In my remarks, I will highlight and update our observations and recommendations from that report.

Mr. Chairman, my testimony today will recommend that Congress:

- Address the issue of unaccompanied child migration as a humanitarian crisis requiring cooperation from all branches of the US government and appropriate the necessary funding to respond to the crisis in a holistic and child protection-focused manner;
- Adopts policies to ensure that unaccompanied migrant children receive appropriate child welfare services, legal assistance, and access to immigration protection where appropriate;
- Require that a best interest of the child standard be applied in immigration proceedings governing unaccompanied alien children;
- Examine root causes driving this forced migration situation, such as violence from non-state actors in countries of origin and a lack of citizen security and adequate child protection mechanisms; and
- Seek and support innovative home country and transit country solutions that would enable children to remain and develop safely in their home country.

¹ See USCCB: Mission to Central America: Flight of the Unaccompanied Immigrant Children to the United States available at <http://www.usccb.org/about/migration-policy/upload/Mission-To-Central-America-FINAL-2.pdf>

I. Catholic Social Teaching

The Catholic Church is an immigrant church, as more than one-third of Catholics in the United States are of Hispanic origin. The Catholic Church in the United States is also made up of more than 58 ethnic groups from throughout the world, including Asia, Africa, the Near East, and Latin America.

The Catholic Church has a long history of involvement in child protection and refugee and asylum 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 as well. We work with over 100 Catholic Charities across the country to welcome unaccompanied alien children into our communities and provide for their care and general well-being.

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.

The Catholic Church's work in assisting unaccompanied migrant children stems from the belief that every person is created in God's image. In the Old Testament, God calls upon his people to care for the alien because of their own alien experience: "So, you, too, must befriend the alien, for you were once aliens yourselves in the land of Egypt" (Deut. 10:17-19). 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). Jesus himself was an itinerant preacher without a home of his own, and as noted above, he was a child migrant fleeing to Egypt to avoid violence, persecution, and death. (Mt. 2:15).

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.²

Pope John Paul II stated that there is a need to balance the rights of nations to control their borders with basic human rights, including the right to work: "Interdependence must be transformed into solidarity based upon the principle that the goods of creation are meant for all."³ In his pastoral statement, *Ecclesia in America*, John Paul II reaffirmed the rights of migrants and their families and the need for respecting human dignity, "even in cases of non-legal immigration."⁴

Finally, Pope Francis defended the rights of migrants early in his papacy, traveling to Lampedusa, Italy, to call for their protection. Pope Francis decried the "globalization of indifference" and the "throwaway culture" that lead to the disregard of those fleeing persecution or seeking a better life. In *Evangelii Gaudium*, the Holy Father speaks particularly of the importance of work with migrants and notes that it is essential for Catholics "to draw near to new forms of poverty and vulnerability [including migrants and refugees] in which we are called to recognize the suffering of Christ. . ."⁵

² Pope Pius XII, *Exsul Familia* (On the Spiritual Care of Migrants), September, 1952.

³ Pope John Paul II, *Sollicitudo Rei Socialis*, (On Social Concern), December 30, 1987, No. 39.

⁴ Pope John Paul II, *Ecclesia in America* (The Church in America), January 22, 1999, no. 65.

⁵ Pope Francis, *Evangelii Gaudium*, The Joy of the Gospel, Apostolic Exhortation, December 2013 at 105.

In their joint pastoral letter, *Strangers No Longer: Together on the Journey of Hope, A Pastoral Letter Concerning Migration*, January 23, 2003 (Strangers No Longer), the U.S. and Mexican Catholic bishops further define Church teaching on migration, calling for nations to work toward a “globalization of solidarity.” In *Strangers No Longer*, the bishops stressed that vulnerable immigrant populations, including unaccompanied minors and refugees, should be afforded protection. To this end, the bishops noted that unaccompanied minors, due to their heightened vulnerability, require special consideration and care.⁶ *Strangers No Longer* also addresses the importance of families and notes that humanitarian considerations for families should also be a priority when considering migration issues.⁷

Mr. Chairman, the Catholic Church’s work in assisting unaccompanied migrant children stems from the belief that every person has a unique and sacred dignity. This dignity is not bestowed by governments or by laws or based upon their wealth or where they happen to be born. It inheres within the human being. We seek to be consistent in acknowledging the implications of this, namely that from the time we come to be in our mother’s womb until the moment our life comes to an end we are deserving of respect and care. This is true of the unborn child, the person with disabilities, the immigrant, the prisoner, and the sick. The more vulnerable and weak a person is the more they are deserving of our love. This we understand to be the mark of the Christian and of a healthy society.

For these reasons, while the Catholic Church recognizes governments’ sovereign right to control and protect the border, we hold a strong and pervasive pastoral interest in the welfare of migrants, including unaccompanied children, and welcome newcomers from all lands. The current forced migration continuum of unaccompanied children traveling through Mexico and Central America and towards the U.S.-Mexico border frequently leads to severe traumatization and exploitation of children, violence, family separation, maltreatment and even death and must be closely examined. The aspects of reform that I will address today relate to addressing the root causes propelling children to migrate alone, implementing prevention and treatment programs in the home country and in transit countries and the dignified care and treatment of this vulnerable population while in the United States.

II. The Church Response and Care for Unaccompanied Children

As I mentioned, Mr. Chairman, USCCB has been a leader in the protection of and advocacy for this vulnerable population and the institutional Catholic Church in the United States has played a critical role in the care of unaccompanied children. By virtue of our organizational structure and geographical reach, the U.S. Catholic Church early on has assumed a strong leadership role in the treatment and service of unaccompanied children. Since 1994, USCCB has operated the Unaccompanied Alien Children or "Safe Passages" Family Reunification program.

The Safe Passages Family Reunification program serves undocumented children detained by Department of Homeland Security (DHS) and placed in the custody of the Office of Refugee Resettlement (ORR), which is an office within the Department of Health and Human Services (HHS). The program provides for the family reunification assistance or long-term foster care of unaccompanied children who are in the custody of HHS. From the beginning of fiscal year 2011 (October 1st, 2010) through June 9, 2014, the USCCB/MRS Safe Passages program has served 3,457 youth who arrived as unaccompanied alien children—2,266 through its Family Reunification Program and 1,191 through its foster care programs.

⁶ *Strangers No Longer, Together on the Journey of Hope*, Pastoral Statement Concerning Migration from the US and Mexican Catholic Bishops, ¶82 January 2003.

⁷ *Strangers No Longer Together on The Journey of Hope*, Pastoral Statement Concerning Migration from the US and Mexican Catholic Bishops, January 2003.

A focus of the USCCB Safe Passages program is its home study and post-release services. During a home study, a community-based case worker assesses the safety and suitability of the proposed caregiver and placement, including the caregiver's capacity to meet the child's unique needs, any potential risks of the placement and the caregiver's motivation and commitment to care for the child. Placing the child in the home of an intact family with a husband and wife is the ideal. Home studies result in a recommendation on whether placement with the proposed caregiver is within the child's best interest. Post-release services include risk assessment, action-planning with families around areas of need and concern, systems advocacy with community providers, and culturally-appropriate services and community referrals for social and legal services. These services are integral to the successful and safe placement of children in child-appropriate environments. I will speak more about the importance of these services in my recommendations.

In addition to the work that USCCB undertakes within the United States to serve and care for unaccompanied migrant children, the Catholic Church in the United States has worked extensively on prevention programs in the countries of origin, most notably El Salvador, through our partner, Catholic Relief Services (CRS). Through its Youth Builders project, 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 of forced migration. CRS, in partnership with Caritas Internationalis, strengthens diocesan programs to work with at-risk youth through a network of community and government agencies. Through these projects, CRS has served more than 2,500 young people.⁸ I was able to visit and attend a Youth Builders session in San Salvador in November and saw firsthand the work that was being done to empower local children and give them the courage and skills to remain in their local communities, continue their education, and, in some cases, begin local businesses.

III. Overview of the Current Situation of Unaccompanied Children

Since 2011, the United States has seen an unprecedented increase in the number of unaccompanied migrating children arriving at the US/Mexico border.⁹ These children come from all over the world but predominately from Guatemala, El Salvador, Honduras and Mexico. Whereas in fiscal years (FY) 2004-2011, the number of unaccompanied children apprehended by the US government averaged around 6,000-8,000 year, the total jumped to over 13,000 in FY 2012¹⁰ and over 24,000¹¹ in FY 2013. ORR initially estimated that about 60,000 unaccompanied minors would enter the United States during FY 2014. Recent government estimates have been revised, projecting 90,000 child arrivals in FY 2014 and 130,000 in FY 2015.

As of June 20, Mr. Chairman US Customs and Border Patrol (CBP) have apprehended 52,000 in the Southwest Border region for FY 2014.¹² In response to the increased number of unaccompanied children arriving at the US-Mexico border, HHS requested and received approval from the Department of Defense for the use of Lackland Air Force base in San Antonio and a Naval Base in Ventura County in California, which are, respectively, providing shelter to 1,290 and 600 children. Facilities at Fort

⁸ CRS El Salvador, Civil Society and Governance Programs, CRS El Salvador webpage, available at <http://crs.org/countries/el-salvador>

⁹ Unaccompanied alien children or ("UACs") are undocumented migrant children under the age of 18 who come to the United States without their parent or guardian. Homeland Security Act of 2002, Pub. L. 107-296 §462(g), 116 Stat. 2135, 2205 (2002). "A UAC (A) has no lawful status in the US, (B) has not attained 18 years of age, (C) with respect to whom- (i) there is no parent or legal guardian in the United States; or (ii) no parent or legal guardian in the United States is available to provide care and physical custody."

¹⁰ ORR Year in Review, 2012, HHS website, available at <http://www.acf.hhs.gov/programs/orr/resource/orr-year-in-review-2012> (accessed December 12, 2013)

¹¹ About Unaccompanied Children Services, ORR/HHS website, <http://www.acf.hhs.gov/programs/orr/programs/ucs/about> (accessed December 10, 2013)

¹² U.S. Customs and Border Patrol, Southwest Border Unaccompanied(0-17 yr old) Apprehensions Fiscal Year 2013 and Fiscal Year 2014 through May 31st available at <http://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children>

Sill, Oklahoma, also will house 600 unaccompanied children.¹³ The federal government is currently looking at other housing facilities throughout the United States.

With the increasing numbers of unaccompanied children arriving at the US-Mexico border, we must understand who these children are, what is propelling them to travel alone on an increasingly dangerous journey, and what can be done to best address their welfare. Mr. Chairman, I would like to share the stories of three children—one from El Salvador, Guatemala, and Honduras—to give the committee a sense of the reality of the violence they are fleeing:

Marta, * age 16, was born and raised in El Salvador, where she lived with her mother, father, brother and sister until just a few months ago. Currently, Marta is in a secure juvenile facility in the United States because she entered the U.S. without status.

Marta reports having a very happy childhood, being involved with her church and that she is very close to all her family members. Now she is separated from everyone she knows in the world, because she had to flee for her life.

One day back home, Marta witnessed a fellow student's death as he was shot in the back by the gangs on his way home from school. Then the threats against Marta began. Members of the La Mara Salvatrucha (MS13) gang have repeatedly tried to recruit Marta to assist them in their criminal activities and have threatened to kill her and her family. Marta has been beaten, and threatened with a machete by gang members. At one point, the police intervened by relocating Marta's family to the countryside, but the gang still located Marta. Few community members are willing to assist her family out of fear of the gang. Marta's choice was to flee the country, join the criminal gang, or possibly be killed. After being in hiding for months, Marta's mother sent her to the U.S., to save her daughter's life. The family continues to be in hiding in El Salvador.

Marta cries repeatedly out of fear for her family's safety and is suffering from post-traumatic stress disorder. Marta is applying for asylum in the U.S. and has been approved to transfer to a foster care setting while she navigates immigration proceedings with the aid of a pro-bono attorney.

**Name changed to protect child's identity*

Ana,* age 15, grew up in Totonicapán, Guatemala, living with her biological parents and nine siblings. In an average day, Ana woke up at 5:00 AM to clean the house, and then sewed dresses until 9:00 PM, at which time she would fix dinner for her family and go to bed. Prior to migrating to the U.S., Ana had completed fifth grade before her father decided that her time would be better spent working. The impetus for her migration was the severe physical and emotional abuse she suffered at the hands of her father, who was unable to sustain steady employment and suffered from alcohol abuse. In June of 2013, Ana's mother secretly arranged for her to travel to the United States in hopes of reunifying with her 30 year-old sister in Houston, Texas. She travelled mostly by car, stopping to sleep in basements and warehouses on her way through Mexico.

Once near the northern border of Mexico, she spent three nights in a trailer while the guide waited on other members of the group to arrive. Ana was given little water and nothing to eat while waiting in the trailer. On the third night in the trailer, the guide attempted to rape Ana, but another traveler pulled him away. The next day, after crossing into Texas, the guide again tried to rape her but his efforts were once again thwarted. Angry at her rejection, the guide abandoned Ana in the middle of the desert and returned to Mexico. Ana continued to walk until she found a farm and was subsequently apprehended by Border Patrol.

¹³ American Forces Press Service, Fort Sill to House 600 Unaccompanied Alien Children, U.S. Department of Defense website, Washington, D.C., retrieved June 10, 2014 from <http://www.defense.gov/news/newsarticle.aspx?id=122438>

**Name changed to protect child's identity.*

Maria* is a 16-year-old girl from Honduras who arrived to the US and was placed in ORR custody in July 2013. She was referred for home study due to having been the victim of sexual abuse at the age of 13. While in Honduras, she had suffered additional abuse that began with harassment in her country of origin by La Mara Salvatrucha (MS13) Gang. Maria was pursued, brutalized and attempts at recruiting her culminated into the brutal beating of her mother and other family members, constant threats of kidnapping, and an eventual kidnapping by MS-13 gang members.

Eventually Maria sought assistance and tried to get out of her confinement and recruitment by the gang. She finally devised a plan to escape, and under the ruse of going "shopping", the child arranged to escape to her sister's house. However, when the gang realized that the child had escaped, they surrounded the home to which she fled. Local authorities eventually secured Maria, debriefed her, and helped her relocate to protective custody in another part of the country. The child's mother insisted that she be moved to the care of a family member (aunt) in a nearby city in Honduras, but this only lasted a short time, since gang members found out this location and pursued and harassed Maria at this location as well. Since this incident, Maria has not had any contact or involvement with this gang, and eventually fled to the United States for fear she would be killed. Maria is currently being cared for by a foster-care family and awaits her court date.

**Name is changed to protect child's identity*

IV. Factors Pushing Unaccompanied Children to the U.S. Border

In our delegation to Central America in November 2013, USCCB focused upon learning more about the push factors driving this migration and possible humane solutions to the problem.

While poverty and the desire to reunify with family to attain security are ongoing motivations to migrate, USCCB found that that an overriding symbiotic trend has played a decisive and forceful role in recent years: generalized violence in the home and at the community and state level. Coupled with a corresponding breakdown of the rule of law, the violence has threatened citizen security and created a culture of fear and hopelessness that has pushed children out of their communities and into forced transit situations.

Mr. Chairman, we acknowledged in our trip report in January that each country exhibited individual challenges which have added to these push factors. Additionally, in response to the increased flow of children in recent weeks, we also acknowledge that certain new country-specific factors may have impacted the latest flow of children. One such factor is the recent crackdown of gang-activity from within prisons in Honduras and efforts to increase police presence by newly elected leader Juan Orlando Hernández. With the increased efforts by the Honduran government to stem communications from gang-leaders within prisons, there are reports of increased violence as gangs fragment and mid-level criminal operators compete for control.¹⁴

Mr. Chairman, the ongoing generalized violence, leading to coercion and threats to the lives of citizens—particularly children—of these countries, is the overwhelming factor facing these children and propelling their migration. Extortion, family abuse and instability, kidnapping, threats, and coercive and forcible recruitment of children into criminal activity perpetrated by transnational

¹⁴James Bargent, Honduras Extortion Gangs Undergoing Violent Leadership Crisis, Insight Crime: Organized Crime in the Americas, 3 June 2014.

criminal organizations and gangs have become part of everyday life in all of these countries. In addition to the violence and abuse at the community and national level, transnational criminal organizations, such as the Mexican-based Zeta cartel, which deals in the smuggling and trafficking of humans, drugs, and weapons, operate in these countries and along the migration journey with impunity, and have expanded their influence throughout Central America.

I note that the increase in violence in Guatemala, Honduras and El Salvador forcing children and adults out of their homes is affecting the entire region, not just the United States. For example, since 2008 Mexico, Panama, Nicaragua, Costa Rica, and Belize—the countries surrounding the Northern Triangle countries—have documented a 712% combined increase in the number of asylum applications lodged by people from El Salvador, Honduras, and Guatemala.¹⁵

Mr. Chairman, in our January trip report we detail the increased violence against children and families in Central America. Given the difficult conditions minors must confront in their home countries, USCCB believes that a robust protection regime for children must be implemented in Central America, Mexico, and the United States. Based on our presence in sending countries, we see the following as reasons for the increased number of children arriving in the United States:

- a. **Violence perpetrated by organized transnational gangs, loosely-affiliated criminal imitators of gangs, and drug cartels, has permeated all aspects of life in Central America and is one of the primary factors driving the migration of children from the region.** USCCB found that in each country—particularly Honduras and El Salvador—organized gangs have established themselves as an alternative, if not primary, authority in parts of the countries, particularly in rural areas and towns and cities outside the capitals. Gangs and local criminal actors operating in Honduras, El Salvador, and Guatemala have consolidated their bases of power, expanded and upgraded their criminal enterprises and honed their recruitment and terror tactics. In many cases, the governments are unable to prevent gang violence and intimidation of the general public, especially youth. USCCB heard accounts of gang members infiltrating schools and forcing children to either join their ranks or risk violent retribution to them or their families. Even in prisons, incarcerated gang members are able to order violence against members of the community. There also were reports that law enforcement have collaborated with the gangs or at least have been lax in enforcing laws and prosecuting crimes. For example, according to Casa Alianza, an NGO that works in Honduras, 93 percent of crimes perpetrated against youth in Honduras go unpunished.¹⁶
- b. **Localized violence has severely exacerbated the lack of economic and educational opportunities for youth and has led to stress on the family unit, family breakdown, and even domestic abuse, which leaves children unprotected and extremely vulnerable.** The escalation in violence, combined with the lack of jobs and quality education, has led to a breakdown in the family unit, as male heads of households—or sometimes both parents—have left for the United States, leaving children behind with relatives, often grandparents. Children who have parents working abroad are especially vulnerable to community violence and forced migration as they can become targets for gang extortion due to the perceived or actual remittances they may receive. Additionally, as children enter teenage years and are increasingly at risk for victimization or recruitment by gangs, it becomes increasingly difficult for their relatives, especially elderly grandparents, to protect them. To this end, the United Nations Development Program reports that 26.7% of all inmates in El Salvador they interviewed in 2013 never knew their mother or father growing up.¹⁷ Schools no longer function as social institutions that offer a respite from the violence and instead have become de facto gang recruitment grounds. As a result of

¹⁵ UNHCR, Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection, March 2014

¹⁶ Interview with Casa Alianza (Covenant House) Honduras, Tegucigalpa, Honduras, November 20, 2013.

¹⁷ Citizen Security with a Human Face: Evidence and Proposals for Latin America, Summary Regional Human Development Report 2013-2014, UNDP, November 2013, at 8.

being targeted because of their family situation or perceived wealth, children flee, as a strategy to escape the gangs, to help support the family, and to reunify with their parents or other loved ones, many of whom have been separated for years.

- c. **Abuse in the home also has created stress, fear and motivation to leave the family home as well as the community.** The pressure on families from local violence, economic uncertainty, and family-member absence has a deleterious effect on the family unit, as instances of domestic abuse towards women and children have grown. It has been documented that more unaccompanied children are reporting instances of child abuse and neglect undertaken by non-parental caretakers.¹⁸ Children, in particular girls, are particularly exposed to domestic violence. A survey carried out by UNICEF revealed that 7 out of 10 unaccompanied children reported having been abused in their homes.¹⁹ In El Salvador it was reported that the domestic violence and sexual abuse of women and girls in the private sphere remain largely invisible and are consequently underreported.²⁰
- d. **Migrating children do not find the protection they need once they arrive in Mexico, even those who are eligible for asylum.** The United Nations High Commissioner for Refugees (UNHCR) has consistently reported that an increasing number of unaccompanied children from Central America in particular are vulnerable to exploitation and cannot access protection in Mexico. To this end, USCCB and USCCB are working with government authorities to provide training to law enforcement and protection officers on identifying and screening vulnerable children.

As an example of this lack of protection, USCCB found one children's shelter dedicated to caring for migrant children who may attempt an asylum claim in the Southern Mexico region, in Tapachula. Another shelter in Mexico City, run by the Mexican government's division of child welfare [Desarrollo Integral de la Familia (DIF)] houses children who have won asylum but cannot be released until they are 18.¹⁸

Children who request asylum usually remain in detention for months, with little help to navigate the legal system. Once a child wins asylum, the only placement option available is the DIF child shelter in Mexico City until age 18, as there is no foster care system in place for these children. Shelter care is not intended to be a long-term placement for children, and often leaves children vulnerable to exploitation. Because of the challenges in gaining asylum in Mexico and the absence of an effective child welfare system, children often choose deportation back home so they can try to migrate again.

- e. **Countries of origin lack the capacity to protect children adequately.** USCCB found that Guatemala, Honduras, and El Salvador lack the capacity to protect children in their law enforcement, child and social welfare, and educational systems. As mentioned, organized criminal networks and other criminal elements are active in many communities and schools, and the government is unable to curb their influence because of corruption, lack of political will, or lack of resources. Law enforcement personnel, low-paid and low-skilled, are compromised by these criminal elements. Child welfare services are virtually non-existent, as are foster-care and family reunification and reintegration services.
- f. **A significant number of migrants, particularly youth, have valid child protection claims.** While the popular perception of many in the United States is that migrants come here for economic reasons, USCCB found that a growing number are fleeing violence in their homelands. UNHCR recently

¹⁸ UNHCR, *Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection*, at 46, March 2014. In their report, UNHCR states that 21% of children interviewed revealed that they had experienced some form of abuse by a family member, another adult responsible for their care or a domestic partner.

¹⁹ Rashida Manjoo, Report of the Special Rapporteur on violence against women, its causes and consequences, Addendum Follow-up mission to El Salvador, at p.7 ¶¶19-20, Human Rights Council, 17th Session, A/HRC/17/26/Add.2, 14 February 2011, available at <http://daccess-ods.un.org/TMP/6227008.70037079.html>

²⁰ *Ibid.*

found 58% of the unaccompanied children it interviewed from Central America and Mexico had some sort of international protection claim.²¹ A similar study in 2006 found only 13% of these children had a protection claim. Children who exhibit international protection concerns may be eligible to remain in the United States legally in some form of recognized legal status, such as Special Immigrant Juvenile Status, as an asylee, or with T or U visas.

V. U.S. Response to the Humanitarian Crisis

Mr. Chairman, we support the Administration's immediate response to this crisis, which created an inter-agency response led by the Federal Emergency Management Agency (FEMA). We offer the following recommendations to ensure that children are cared for throughout the legal process:

- a. **For the children, the faithful adherence to the best interest of the child standard is necessary in all decision-making.** The best interest of the child principle is an internationally recognized child-welfare standard used in the U.S. child welfare system. It refers to a process of determining services, care arrangements, caregivers, and placements best suited to meet a child's short-term and long-term needs and ensure safety permanency, and well-being. When applied in the United States special importance is given to family integrity, health, safety, protection of the child, and timely placement. This means that all procedures, protocols, and mechanisms developed are child-friendly, trauma-informed, and administered by child welfare professionals; that children are screened and assessed for their immediate humanitarian protection needs and their long-term international protection needs; that during the pursuit of long-term solutions for the children they are placed in the least-restrictive settings (i.e. community-based); that all children are connected with social and legal services to address their immediate needs; that long-term and durable solutions are pursued that are in the children's best interests; and that where repatriation is the best alternative available that safe repatriation and reintegration be conducted in collaboration and coordination with the children's home governments, NGOs, and other implementing partners.

Consistent with US child welfare norms, children should be placed in smaller community-based programs such as specialized foster care, group or small shelter programs which allow children to reside in family settings in communities. Large facilities are contrary to child welfare principles and the TVPRA, increase the risk of institutionalization, child maltreatment and losing track of children's individual needs.

- b. **For the United States government, a mutually supportive, interagency response is necessary to ensure we are leveraging the expertise and resources of the agencies that bear responsibility for addressing all aspects of the challenge.** As mentioned, Mr. Chairman, we are encouraged by the decision of the Administration to involve all relevant agencies of the government in responding to this crisis. This should include HHS/ORR and also the Administration for Children and Families' domestic child welfare division; the Department of State's (DOS) Agency for International Development, Bureau of Population, Refugees, and Migration, and Western Hemispheric Affairs; the Executive Office for Immigration Review of DOJ; and Citizenship and Immigration Services, Immigration Customs Enforcement, and DHS/CBP. The inter-agency work on the issue should incorporate clear leadership responsibilities and effective collaboration mechanisms to ensure the optimum results both in the United States and throughout the region.
- c. **Children should be properly screened and placed in the least restrictive setting, preferably with family or an appropriate sponsor.** Children should be immediately screened, ideally by a child welfare specialist, as to whether 1) they are victims of human trafficking; and 2) whether they have

²¹ UNHCR, Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection, March 2014

special needs and require specific care, such as trafficking victims, children under 12, pregnant girls, and persons with disabilities. Where possible, children should be reunified with their family members during the course of their legal proceedings. Potential sponsors who can care for the child throughout the child's immigration proceedings should be identified and adequately screened. Children should not be released, pending fingerprint and background checks of their sponsors. HHS and other agencies should monitor, report, and respond to violations against children. As required under the law, expedited removal should not be used against unaccompanied children.

- d. **Families should be kept together, preferably in a community setting, and provided full due process rights.** Families who are part of this migration flow, mainly women with young children, should not be detained in a restrictive setting. Alternatives to detention for these families should be explored, including with faith-based communities. Such models have been implemented in the past, with great success and at reasonable costs. The needs of mothers and children are best met in such a community setting, where their specialized needs can be met. USCCB stands ready to help in providing alternatives to detention for vulnerable families.

Moreover, subjecting these families to expedited removal procedures, as intended by the Administration, could undercut their due process rights. Many would be unable to obtain an attorney and, because of their trauma and the setting of the immigration proceedings, would be unable to adequately articulate their fear of return.

- e. **Post-release reception assistance should be expanded to meet the rising need.** We urge increased post-release services which address family preservation, child safety, community integration, access to counsel and continued participation in immigration proceedings. The lack of sufficient funding for assistance post-release increases the likelihood of family breakdown, makes it more difficult for children to access public education and community services, and decreases the likelihood that the children will show up for their immigration proceedings.

With the release from custody happening on a shorter time frame—now less than 30 days—and with up to 90% of UACs being released from ORR custody to communities, UAC resources need to be prioritized into community-based reception services which are located where families live. ORR could leverage the infrastructure and expertise of the U.S. resettlement agencies by providing all of the children community-based, reception services. Reception services should be required for all UAC to assist the family with navigating the complex educational, social service, and legal systems.

- f. **Pastoral care and services should be provided to children.** Mr. Chairman, these vulnerable children should have access to pastoral services, including visitation by religious, including priests, minister, and other faith leaders. To date, requests for visitation to the border patrol stations and shelters for this purpose has been denied by the Border Patrol and ICE.

VI. RECOMMENDATIONS

In light of the humanitarian crisis and in the best interest of the children who are at risk, USCCB offers the following policy recommendations:

A.

The United States should strengthen protections for children from Central America. Unaccompanied minors who arrive in the United States possess legal rights which should be honored. Often children are scared and are unable to articulate their fears and do not understand what

rights they have under U.S. law. Moreover, children who come into the care of the U.S. government should be treated humanely and with appropriate child protections. We recommend the following:

1. **Robust funding should be appropriated to ensure the care of these children and families fleeing violence in their home countries.** We are heartened that the U.S. Senate has added \$1.9 billion for the Fiscal Year 2015 budget to care for these vulnerable populations. Any funding should be administered in a manner that respects the religious liberty and conscience rights of organizations providing this care.

We recommend that:

- Congress appropriate \$2.28 billion for Fiscal Year 2015 for care of unaccompanied children, consistent with the Administration's request.
 - Congress increase funding in the FY 2015 HHS budget for unaccompanied refugee minors programs to \$100 million, as some of these children should qualify for Unaccompanied Refugee Minor (URM) benefits;
 - Congress appropriate \$100 million for DHS to care for families who have crossed into the United States during the duration of their legal proceedings, including alternative to detention programs, housing and other basic necessities.
 - Congress should appropriate funding in the DOJ budget to provide legal representation for unaccompanied children who cannot secure representation through pro-bono networks.
2. **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 UAC, is directed at improving conditions in the temporary shelters in which unaccompanied children reside while waiting for release to their families. However, under normal conditions the time youth spend in shelter is less than 45 days, at which point 90 percent are released 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 UAC prior to their 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 UAC to assist the family with navigating the complex educational, social service, and legal systems. With appropriate follow up and monitoring by child welfare professionals, it is more likely that children will not abscond and will appear at their immigration proceedings.

Finally, funding 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 of 2008.²²

²² <http://www.justice.gov/eoir/probono/probono.htm>

3. **The best interest of the child should be applied in legal proceedings involving UACs, including creating child-appropriate asylum procedures and unaccompanied child immigration court dockets.** Currently, decisions about the welfare of UAC are made separately from the existing U.S. child welfare infrastructure, meaning that court decisions on the welfare of UAC are based on their eligibility for immigration relief alone rather than involving a comprehensive assessment of the best interest of the child. 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 UAC cases in a child-focused immigration docket with appropriately-trained arbiters and advocates will streamline UAC cases while also ensuring a less-threatening model for children. Additionally, implementing a uniform binding standard that requires all immigration judges, federal judges, and members of the BIA to adopt a child-sensitive approach to asylum cases of child applicants will lead to greater consistency in youth asylum jurisprudence and will also be more reflective of current international and domestic legal requirements. As mentioned, the government should provide legal representation for unaccompanied children, who would be better able to navigate the legal process and obtain immigration relief with an attorney guiding and representing them.

4. **Family reunification should be a central component of implementing the best interest of the child principle.** The U.S. government should adopt a transnational family approach in deciding on durable solutions in the best interest of UAC. This should include family tracing, assessment of all family members for potential reunification, and involvement of all family members in the decision-making process, regardless of geography.

5. **The Department of State should pilot Section 104 of the Trafficking Victims Protection Reauthorization Act of 2008 (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”²³ “in cooperation and coordination with relevant organizations, such as the United Nations High Commissioner for Refugees, the International Organization for Migration, and private nongovernmental organizations...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 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.”²⁴

USCCB interviewed several Central American child victims of trafficking in a DIF shelter in Tapachula, Mexico whom would benefit from a best interest determination (BID) which would result in a recommendation for a durable solution to ensure their protection and permanency. 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.

²³ <http://www.state.gov/documents/organization/10492.pdf>

²⁴ <http://www.state.gov/j/tip/laws/113178.htm>

6. **The Office of Refugee Resettlement (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 UAC 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 benefits of normal family life within the community"²⁵. 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 UAC, many of whom have complex trauma needs, and would be better served in foster care placements through the URM program.
7. **Special attention should be given to Mayan youth.** A significant number of youth migrating from Guatemala are Mayan fleeing domestic violence, organized crime and poverty. The United States is not adequately prepared to identify and assist these youth, as many are unable to understand English or Spanish and thus unable to articulate their fears. We encourage DHS to work with non-government organizations and Mayan leaders to identify and assist Mayan youth.

B.

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. The government, in partnership with child welfare experts should develop and incorporate standardized tools and methods to screen migrating children for symptoms of trauma and for human trafficking.

1. **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.
2. **Best interest determinations (BIDS) should be conducted for children in custody in Mexico.** Rather than immediately deport them back to Central America, Mexico should allow UNHCR to employ a BIDS system for unaccompanied and separated children in detention to ensure they are protected from criminal elements in Mexico and Central America. This would include the possibility of reuniting them with their families in the United States, particularly if they are victims of trafficking or asylum seekers.
3. **The U.S. government should consider child asylum/refugee cases in Mexico for resettlement to the United States through embassy referrals.** Cases of children with valid asylum or refugee claims, especially those with family in the United States, should be considered by the U.S. government

²⁵ "Community-Based Care for Separated Children". Save the Children. 2003. Retrieved from <http://commit.com/en/node/209638/347>

for possible resettlement. In many cases, children are neither safe in Mexico nor the country of origin, and resettlement to the United States is their only option for a durable solution.

4. **The current reliance on consular staff to investigate, handle, and treat children who are intercepted in Mexico during their migration is inadequate and leaves children vulnerable to coyotes, traffickers and further trauma and exploitation.** Currently, in Tapachula, Mexico, the consular officials are responsible for identifying where apprehended unaccompanied children are from, interfacing with the other consulates, collecting information on children's families, and making determinations about their return. The training they receive is on an ad hoc basis, sometimes led by local NGOs. These government officials are performing the work of child welfare experts and should receive adequate training and staff on site within the consulates to help consult on possible child trafficking, smuggling and exploitation cases.

C.

With assistance from the U.S. government, Central American governments must employ systems to protect children so they are able to remain home in safety and with opportunity. The long-term solution to the crisis in Central America is to address the push factors driving minors north. This would include improvements in education, employment, and enforcement, for sure, but also improvements in the social service and child protection systems. We recommend the following:

1. **The United States should invest in repatriation and re-integration in sending countries.** USCCB found that source countries did not employ comprehensive re-integration programs for children returning from the United States and Mexico, programs which would provide follow-up services to children to help them readjust to life in their home country. A program operated by Kids in Need of Defense (KIND) in Guatemala is showing promising results and should be expanded and duplicated.
2. **The United States should invest in prevention programs in sending countries.** 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 would include skill-based training and employment services. Catholic Relief Services operates Youth Builders, a program previously mentioned in my testimony which has helped youth remain at home and live productive lives. Youth Builders offers promise for the benefits of such prevention programs: of the 53 children served by the Youth Builders program to date, 52 have not migrated north.
3. **The United States should consider the implementation of in-country processing in sending countries.** In order to prevent children with persecution claims from risking their lives along the migration journey, the United States should consider in-country processing in Guatemala, El Salvador, and Honduras. This would also undercut the for-profit smuggling networks that are preying on children and families. It also would ensure that children who deserve protection receive it in safety. The United States has conducted successful in-country processing systems in such nations as the former Soviet Union and Haiti.
4. **Anti-violence efforts should include stakeholders from government, civil society, private sector, churches and international donors in order to effectively leverage limited resources and should include job and educational opportunities and training programs.** Anti-violence prevention measures should be tackled at regional and local community levels in addition to national levels. Including key local stakeholders and engaging regional governmental bodies and actors is a vital part of prevention efforts. Additionally, prevention efforts must include systematic training and educational programs in order to fully offer meaningful opportunities for gang members in society once they leave the gang.

5. **Over the long-term, all governments of the region, including the United States, must invest resources into examining and effectively addressing root causes of migration in Central America and Mexico.** This would address the lack of citizen security which is propelling individuals, especially children, to flee. The US and its regional partners must avoid the simplistic approach of addressing the forced migration by forcing children back through increased border enforcement. This response is akin to sending these children back into a burning building they just fled. Instead the approach must prioritize protection for those who are displaced from their homes, especially children, the most vulnerable.

CONCLUSION

The situation of child migration from Central America is a complex one, with no easy answers. It is clear, however, that more must be done to address the root causes of this flight and to protect children and youth in the process. Clearly this problem is not going away; in fact, it is getting more urgent in terms of the dire humanitarian consequences.

Too often, and especially recently in the media, these children are being looked at with distrust and as capable adult actors, instead of as vulnerable and frightened children who have been 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 fleeing violence and terror, not perpetrators. USCCB found 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 conclusion, I ask you to consider the individual stories of these vulnerable child migrants and open your minds and hearts to their plight while seeking meaningful and long-term regional solutions. I ask you to respond to the needs of these children, not to turn them away or ostracize them, as Americans are a compassionate people.

Mr. Chairman, I again thank you for this opportunity to speak with you about these children of God and ask that you let me, my brother bishops, and the entire Catholic Church charitable network work with you to pursue just and humane solutions to the challenge of child migration.