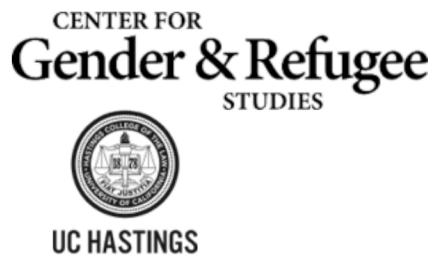


# Childhood and Migration in Central and North America: Causes, Policies, Practices and Challenges

February 2015



## Recommendations

These recommendations flow from research conducted by civil and academic institutions in 2013 and 2014 on the treatment of children and adolescents from Honduras, El Salvador, Guatemala, Mexico, and the United States in the context of the migration—either of the children and adolescents themselves or of their parents.

Specifically, these recommendations are based on an analysis of the following sources: interviews with children and adolescents in the five countries, with their parents, and with key social and political actors throughout the region; documents produced by governmental organizations, research centers, specialized international agencies, and civil society organizations; recommendations made by international human rights mechanisms; statistics compiled by governmental and non-governmental organizations; and, current local, national, bilateral, regional, and international norms and laws.

This initiative has been coordinated by the Center for Gender and Refugee Studies (CGRS) at the University of California Hastings College of Law and the Centro de Justicia y Derechos Humanos of the Universidad Nacional de Lanús (CDHUNLA), with the participation of the following institutions: Casa Alianza (Honduras), Universidad Centroamericana “Jose Simeon Cañas” (El Salvador), Pastoral de la Movilidad Humana and the Asociación Pop No’j (Guatemala); the Fray Matías de Córdova Human Rights Center and the Programa de Defensa Binacional (México); as well as Kids in Need of Defense (KIND) and the Women’s Refugee Commission (United States). This project was made possible thanks to support received from the John D. and Catherine T. MacArthur Foundation, supplemented by the Ford Foundation.

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## I. Regional and bilateral recommendations

- A. *El Salvador, the United States, Guatemala, Honduras, and Mexico should immediately draft and implement a Comprehensive Regional plan for Children, Migration, Human Rights, and Human Development including, among other things, the following commitments:*
1. A joint approach that addresses the structural causes of the migration of children, adolescents, and their family members through coordinated plans and programs that ensure:
    - a. The right of children and adolescents to adequate and comprehensive development in their communities of origin, as a guarantee of the right not to migrate.
    - b. The right to live with family—safeguarding the right of children and adolescents to have physical, psychic, emotional, and spiritual development provided to them by their parents or guardians, with the cooperation of the State.
    - c. A gradual reduction in the different forms of violence that impact society at large, and children in particular, as well as the impunity and corruption associated with violence.
    - d. The prevention and sanction of gender-based violence against women and girls, guaranteeing adequate protection for victims, including access to justice.
    - e. The elimination of all forms of discrimination—direct and indirect—against indigenous peoples, in conditions of full respect where they can exercise their ethnic-cultural diversity and their economic, social, cultural, civil, and political rights.
    - f. The promotion of a policy that is inclusive of diversity related to the sexual identity and orientation of children and adolescents.
  2. Inclusion of short, medium, and long-term measures, as well as periodic goals, that make it possible to confirm/evaluate levels of compliance with the Regional Plan.
  3. Production of quantitative and qualitative information about children and adolescents and their families, as a mechanism for the design, implementation, and evaluation of the programs and actions contained in the Plan, in such a way as to ensure transparency and access to information by civil society and the population in general.
  4. Guarantees for the participation of civil society and international agencies specializing in human rights, migration, and/or asylum in the design, implementation, and periodic evaluation of the Regional Plan.
  5. The participation of autonomous and independent public human rights organizations.

*B. States should agree on a binding regional agreement (in the framework of this Regional Plan or in the context of the Regional Conference on Migration) on respect for, and protection and guarantee of, the rights of child and adolescent migrants and children of migrants in the context of migration in the region. The agreement should include, among other aspects, the following:*

1. The requirement that each State create a procedure to determine the best interest of the child, that will ensure in each case the adoption of immediate protection measures and a search for lasting solutions from the perspective of the human rights of persons seeking refuge, and the rights afforded to them under humanitarian law and international law.
2. The duty to conduct an exhaustive review of legislation, programs, and practices, in order to adjust them fully to the treaties, principles, and standards pertaining to the human rights of children and adolescents, humanitarian law, and international law pertaining to refugees.
3. The commitment to ensure that the country's legal framework and its practices of implementation guarantee the principle of the primacy of comprehensive protection of the child and his/her best interest over and above matters of migratory control and punishment for irregular migration.
4. The full recognition of the right to be heard and the participation of the child or adolescent in migration and asylum proceedings that impact him or her directly or indirectly, ensuring all of the guarantees of due process, including the right to free legal assistance.
5. Guarantees of due process for unaccompanied children and adolescents, including the right to free legal assistance and the right to a guardian.
6. The duty to promote and facilitate the reunification of the child or adolescent with his/her parents in the country of destination, through broad, transparent, and swift mechanisms that ensure legal security and uphold the principle of non-discrimination.
7. The obligation to facilitate a process that allows unaccompanied children and adolescents and their family members to regularize their migration status in the countries of destination through accessible, transparent, and non-discriminatory procedures and measures for social inclusion, human development, and reduction of the vulnerability of child and adolescent migrants.
8. An independent oversight mechanism for progressive compliance by the States.
9. The participation of civil society in the discussion and implementation of the Agreement.

*C. States should review and reformulate existing bilateral agreements—in particular, those pertaining to the return and repatriation of children and adolescents—in order to adjust the content of their legislation to applicable international obligations and to the rights and guarantees due all children and adolescents. The best interest of the child, the right to development, non-discrimination, and due process guarantees must be the central tenets that guide the content and implementation of these agreements.*

## II. Recommendations for countries of origin, transit, and destination.

Note: the following section is divided into recommendations for countries of origin, transit, and destination, but is important to highlight that Guatemala, Honduras, El Salvador, and Mexico are all countries of origin, transit, *and* destination, though Mexico plays a dominant role as a transit country and the United States is a country of destination.

### A. Countries of origin

1. Introduce migration as a crosscutting theme in national human development plans that guarantee a comprehensive human rights and human security perspective, and ensure coordination between institutions and public policies (on children, education, health, employment, citizen security, social protection, gender equity, and interculturality, among others).
2. Strengthen, and create if necessary, institutions for the comprehensive protection of children and adolescents, as bodies responsible for ensuring all of the human rights of children and adolescents in a comprehensive fashion in order to prevent forced migration.
3. Design and implement public policies aimed at preventing and punishing crimes against children and adolescents, ensuring the access of children and adolescents to the justice system as rights holders, and guaranteeing citizen security, including the strengthening of community participation and organization in this area.
4. Strengthen policies to prevent gender violence and to provide comprehensive care for victims, including access to justice and the fight against impunity and corruption.
5. Pass legislation and implement policies to prevent intrafamilial violence against children and adolescents with an absolute prohibition on any type of physical punishment in the home, in schools, and in other places.
6. Guarantee the right to migrate: countries of origin should not stop or attempt to stop individuals from leaving their country in order to migrate to another country in the region, and should not sanction children and adolescents or the families of children and adolescents after repatriation.
7. Promote bilateral and regional actions aimed at facilitating the ability of migrants to obtain regular migration status, particularly migration based on reuniting children and adolescents with family members who reside in a destination country.
8. Create and implement programs aimed at ensuring the appropriate and sustainable return of child and adolescent migrants—if it is in their best interests—using a human rights approach, which includes, among other aspects, programs for social, family, education, and labor reintegration—if age-appropriate—without any discrimination, as well as mechanisms to prevent and protect against all types of violence and to provide psycho-social support when necessary.
9. Design a consular policy for protecting child and adolescent migrants and children of migrants in order to ensure the protection of their human rights in the destination countries, particularly in the context of immigration proceedings that may directly or indirectly impact their rights, with the following instructions:

- a. In the framework of Best interests [of the child] determinations (BIDs) procedures, provide reliable information—through appropriate coordination with child protection organizations in the country of origin—in order to contribute to an appropriate determination of the best interests of the child by competent authorities in the destination country.
- b. Provide legal information to child and adolescent migrants and their families, particularly about their rights in the context of immigration proceedings, about the need to determine and evaluate the best interests of the child, and about free legal services available from government and civil society.
- c. Oversee the return of children and adolescents to their country of origin in order to ensure that return is only used as a protection measure that is based on the best interests of the child, and is not simply used as a response to the irregular migration status of the child or his/her family members.
- d. Help protect the family unity of children and adolescents whose parents are migrants in destination countries, by urging these destination countries to provide a path to regular migration status and to abstain from measures that result in the separation of families contrary to the best interests of the child.

*B. Countries of transit and destination*

1. Guarantee the application of the legal framework for children and the best interests of children and adolescents as a priority over and above the legal framework for migration.
2. Ensure that child protection agencies, rather than institutions responsible for migration control, are charged with responding to migrant children and adolescents and protecting their rights.
3. Implement mechanisms and protocols for inter-institutional coordination between migration authorities and child protection organizations in order to give a comprehensive response to the phenomena of child migration based on applicable human rights principles and standards.
4. Establish appropriate protocols and necessary training for border control organizations in order to ensure that unaccompanied children and adolescents gain admission to the territory and that ensure timely communication so that they are channeled immediately to child protection authorities.
5. Design and implement a procedure to determine the best interests of the child in all institutions for all cases of unaccompanied children and adolescents and to guarantee an evaluation of the best interests of the child in all immigration proceedings where the resolution could impact the rights of the child or adolescent, including cases that may result in the deportation of the parents.
6. Guarantee full respect for the civil, economic, cultural, and social rights of migrant children and adolescents, on equal terms with nationals, without regard for their immigration situation or that of their parents.
7. Ensure, without exception, the full application of the principle of *non-refoulement*, keeping in mind the socio-economic conditions in the country and community of

- origin when evaluating—as a possible durable solution—the return of a child or adolescent migrant or asylum seeker to his or her country of origin.
8. Guarantee in legislation and in practice full compliance with the principle of non-detention of children, adolescents, or their family members under any circumstance based on their immigration status or that of their parents (either as punishment, or as a precautionary measure, or because their family members have also been deprived of liberty).
  9. Ensure alternative custody measures for unaccompanied children and adolescents, migrant families, and asylum seekers, so that instead of being put in detention centers, they are placed under the charge of government institutions specializing in the protection of children within the framework of proceedings aimed at identifying short and long term protection measures, as appropriate.
  10. In the context of any procedure that might impact the rights of migrant children and adolescents or the children of migrants, guarantee the right to an individual evaluation and the right to be heard, through processes that take into consideration and are sensitive to the age, maturity, and development of the child.
  11. Adopt measures necessary for ensuring due legal process in any administrative and/or judicial immigration hearings that might impact the rights of a child or adolescent, including the right to an interpreter, the right to free legal assistance, the right to a guardian in the case of unaccompanied children or adolescents), and the right to consular assistance.
  12. Design and implement programs to stabilize regular, accessible, and transparent routes for legal migration, based on criteria such as family ties, length of time in the country, social and/or labor ties, or the comprehensive protection of the child, in order to facilitate human development and the social integration of children and adolescents and migrant families.
  13. Promote integration policies with an intercultural perspective and a psychosocial approach that includes children and adolescents who, as a result of the application of their best interests, remain temporarily or permanently in the transit or destination country.
  14. Destination countries should not take action to prevent the movement and transit of migrants, for example by training security forces in countries of origin in the region to stop migrants from leaving their countries. Stopping individuals from leaving their countries in order to migrate violates both the right to migrate and the right to *non-refoulement*.

### III. Recommendations by Country

#### A. Honduras

1. Strengthen policies for the comprehensive protection of children and adolescents, using a human rights approach that progressively guarantees the right of all children and adolescents to an adequate standard of living and comprehensive development free from all forms of violence.
2. Draft a migration policy that takes into account the situation of child and adolescent migrants in order to guarantee their civil, economic, social, and cultural

rights in accordance with the Convention on the Rights of the Child and other treaties to which the country is a party.

3. Design and/or reinforce strategies and programs for preventing violence generated by organized criminal groups and the violence created by gang activity and other forms of violence against children and adolescents, including the violent deaths of children and adolescents, forced recruitment, threats, and other types of aggressions against the life and physical integrity of the children, adolescents, and their family members.
4. Create and implement programs to prevent all types of institutional violence against children and adolescents, in particular those who are in situations of greater vulnerability, including mechanisms to protect victims and provide access to justice and comprehensive reparations.
5. Strengthen policies and programs for preventing and punishing gender violence, in particular against girls and adolescents, in order to combat the impunity and corruption associated with these crimes and to guarantee access to justice.
6. The role of the Dirección Nacional de Adolescencia, Niñez, y Familia (DINAF) with regard to child and adolescent migrants should be strengthened so that DINAF's attention is not limited simply to receiving children and adolescents who are deported and then turning them over to their families.
  - a. Honduras should work together with the countries of destination for Honduran children and adolescents in order to conduct family assessments to evaluate the appropriateness of repatriation based on the principle of the best interests of the child, in cases where the only alternative is that of deportation.
  - b. For migrant children and adolescents or families being repatriated: Implement a strategy to guarantee their safe and dignified return to the country with the necessary protection; to ensure they will be received in shelters where they can receive comprehensive care; and to establish effective mechanisms to support and accompany the family and the child or adolescent so they can reintegrate into Honduran society, guaranteeing them the effective exercise of all their rights, in conditions that are free from all types of violence.
7. Guarantee inter-institutional coordination in the child and adolescent protection policy, with special attention to including all aspects related to the migration phenomena and to children affected by migration in different ways (children and adolescents who have been left behind by parents who have migrated; children and adolescents who migrate and then return either voluntarily or forcibly; children and adolescents who may migrate because their rights are not being guaranteed, etc.).
8. Strengthen the work of Honduran consuls in other countries by allocating the necessary human and budgetary resources and by providing training in the area of human rights, including the rights of children and adolescents and their family members, particularly in cases where children, adolescents, or their family members have been apprehended, detained, or returned.



## B. El Salvador

1. In order to address the causes of child and adolescent migration in an appropriate and comprehensive way, and promote greater involvement of the Salvadoran Institution for the Comprehensive Development of Children and Adolescents (*Instituto Salvadoreño para el Desarrollo Integral de la Niñez y la Adolescencia* or ISNA) and the National Council for Children and Adolescents (*Consejo Nacional de Niños, Niñas, y Adolescentes* or CONNA) to guarantee compliance with the Law on the Rights of Children and Adolescents (LEPINA), the following, in particular, must be done:
  - a. Ensure the effective protection of the rights of children and adolescents, especially their social rights.
  - b. Eliminate child labor and all forms of exploitation of children and adolescents.
  - c. Prevent and punish all forms of violence against children and adolescents, including gender and intrafamilial violence, as a basic step for combating the primary causes of migration.
2. Create strategies and programs for preventing gang-related violence against children and adolescents (including forced recruitment), protect victims, and guarantee access to justice.
3. Establish responsibilities within the National System for the Protection of Children and Adolescents (*Sistema Nacional de Protección de la Niñez y la Adolescencia*) created by the LEPINA in order to guarantee comprehensive attention and the promotion of the rights of children and adolescents locally in the context of migration (continue to create local committees on the rights of children and adolescents, and child and adolescent protection boards).
4. Guarantee full enforcement of the Special Law for the Protection and Development of Salvadoran Migrants and their families, and in particular its primary guidelines on the obligation to protect the human rights of Salvadoran persons abroad, independent of their migration status, and to provide special protection to vulnerable groups including children and adolescents and women, within the context of the best interests of the child or adolescent.
5. Strengthen the operation and budget of the National Council for the Protection and Development of Migrants and their Families (*Consejo Nacional para la Protección y Desarrollo de la Persona Migrante y su Familia* or CONMIGRANTES), so that it can fulfill its goal of drafting, proposing, and verifying compliance with the comprehensive protection policy and other policies related to the connections between migration and human development.
6. Create policies and programs that facilitate the appropriate reintegration of repatriated children and adolescents, especially in regards to their social rights, violence prevention, and protection from violence—for those children or adolescents who may have been involved in conflicts and/or threatened by organized crime (gangs etc.) or have been victims of any type of violence.
7. Strengthen the involvement of ISNA and CONNA considering returned children and adolescents as an especially vulnerable group; and establish specific policies for protecting their rights, facilitating their reintegration in society, and —by

- guaranteeing their rights—preventing them from having to migrate again in an irregular or forced manner.
8. Relaunch the Reintegration Program for Returned Migrants (*Programa de Reinserción de Migrantes Retornados*) that was under the Vice-ministry for Salvadorans Abroad with the objective of helping returned Salvadoran migrants to establish roots back in their country, incorporating adolescents as a group that requires priority attention, and basing the program on measures to effectively guarantee rights.
  9. Conduct research and compile statistics on the presence of children and adolescent migrants from other countries in El Salvador to determine the dimension of the phenomena and establish criteria for child protection authorities to intervene to protect them and guarantee their rights while they are in the territory of El Salvador.
  10. Ratify the Optional Protocol of the Convention on the Elimination of all Forms of Discrimination against Women and the Third Optional Protocol of the Convention on the Rights of the Child, allowing both Committees to hear individual reports of the violation of rights enshrined in both conventions, including the violations experienced by child and adolescent migrants.

### *C. Guatemala*

1. Strengthen institutions charged with ensuring the protection of the rights of children and adolescents as the institutional response to guarantee rights and to restore rights that have been violated. To do so, it is important to have specific budgetary allocations, specialized human resources, and adequate infrastructure for the implementation of the Law on Comprehensive Protection of Children and Adolescents (Ley PINA).
2. Create and implement or strengthen policies and programs to prevent and punish all forms of violence against children and adolescents, including gender and intrafamilial violence.
3. Conduct research to make visible the situation of children and adolescents from other countries who are in transit or who reside in Guatemala, in order to provide them with the protection they need.
4. Implement programs to attend to children and adolescents from other countries who are in transit or who reside in Guatemala, refraining from depriving them of their liberty because of their migration status or repatriating them when repatriation is found not to be in the best interests of the child.
5. Expand and strengthen the consular coverage of the Guatemalan Ministry of Foreign Relations (MINEX) in Mexico and the United States to provide for better care and identification of unaccompanied children and adolescents and the children of migrants in those countries.
  - a. In the specific case of Tapachula, Chiapas, it is necessary to create a General Consulate that would permit appropriate consular protection in light of the large number of Guatemalans there and the needs of children and adolescents who are in vulnerable situations, in order to help Mexican authorities ensure their rights through comprehensive protection measures.

- b. Ensure that consular outposts have the specialized personnel necessary to attend to children and adolescents using a rights-based approach, and that they have the resources needed to carry out necessary actions in an effective manner.
6. The Procurator General of the Nation (*Procuraduría General de la Nación* or PGN) should work in coordination with the Secretariat for Social Welfare (*Secretaría de Bienestar Social* or SBS) and other social protection bodies, to create mechanisms for the appropriate family and social reintegration of children and adolescents who have been repatriated from Mexico and the United States, in order to address the causes of a child's migration and provide appropriate and comprehensive follow-up to the cases of unaccompanied children and adolescents.
7. Produce information that is consistent across the different institutions, with reliable and periodic information about the different categories of Guatemalan children and adolescents in the context of migration, including those who have been returned from Mexico and the United States and those whose parents have migrated to another country.
8. Create inter-institutional protocols or agreements (between MINEX, PGN, and SBS, among others) for repatriation and attention to children and adolescents being repatriated, if it is in their best interests, and for family reunification (in Guatemala, Mexico, or the United States, according to the circumstances of each case in accordance with the best interests of the child).
9. Establish a Migration Cabinet composed of the highest authorities of the institutions that make up the Commission for Comprehensive Attention to Child and Adolescent Migrants (*Comisión para la Atención Integral de la Niñez y Adolescencia Migrante*—Governmental Agreement 146-2014).
10. Attend to the cultural diversity of the children and adolescents who migrate, in order to provide culturally appropriate protection and to ensure that children and adolescents who need interpreters have access to them in all procedures, including return and reintegration programs.

#### D. Mexico

1. Design and carry out a comprehensive reform of child protection policies in the country, adjusting them to standards established in the Convention on the Rights of the Child, and including, without exception, measures and decisions regarding the rights of migrant children and adolescents and the children of migrants.
2. Enact a comprehensive reform of migration policy related to children, with the objective of ensuring the primacy of the comprehensive protection policy, over and above immigration control policies, in all the laws, measures, and decisions that impact the rights of child and adolescent migrants and asylum seekers.
3. Ensure that the perspective of the rights of the child prevails over any aspect related to migratory control in legislative, political, and programmatic spheres and in institutional practices.
4. Implement, evaluate, and follow up on the most appropriate mechanisms for inter-institutional articulation and coordination between migratory authorities and agencies charged with the protection of children, in order to provide a

- comprehensive response to the phenomena of child migration from a human rights perspective.
5. Establish clearly the institutional responsibilities of child welfare authorities in order to protect and promote the rights of migrant children and adolescents within the framework of policies for protecting all children and adolescents in the country.
  6. Create comprehensive policies for preventing and attending to all forms of violence and discrimination against children and adolescents, including intrafamilial violence, gender violence, institutional violence, violence related to ethnic origin, and the violence of organized crime, including effective mechanisms of access to justice and for the comprehensive protection of victims.
  7. Design specific mechanisms for the protection of child and adolescent migrants (Mexicans and foreigners) who are in transit in the country. To that end, thoroughly review and revise the policies involving the proliferation of migration control mechanisms that contribute to increasing the vulnerability and risks to child and adolescent migrants.
  8. Design specific policies for the production and periodic evaluation of quantitative and qualitative information, such as rights-focused data on children and adolescents in the context of migration, including:
    - a. Child and adolescent migrants in transit or residing in Mexico.
    - b. Mexican children and adolescents whose parents have migrated to the United States.
    - c. Children and adolescents with migrant parents born in Mexico.
    - d. Mexican children and adolescents who have been returned from the United States alone or accompanied by their parents.
  9. Create, approve, and implement a legal framework for the comprehensive protection of the rights of children and adolescents, that expressly states that migrant children and adolescents enjoy the same rights as nationals in the territory of Mexico.
  10. Revoke and eliminate laws, institutional mechanisms, and institutional practices that permit the detention of children and adolescents and their family members. It should be clearly established that the deprivation of liberty is never in the best interests of the child, and that policies and institutional practices must be adapted to that principle. As long as the practice is to continue depriving migrant and asylum-seeking children and adolescents of their liberty; broad access to civil society organizations, guardians, and lawyers must be guaranteed at migration stations and DIF shelters where children and adolescents may be detained at the hands of the National Migration Agency (INM).
  11. Until the principle of non-detention of child and adolescent migrants and migrant families is put into practice, all children and adolescents detained at migration stations should be transferred immediately to the national agency for Comprehensive Family Development (DIF) for relocation to appropriate placements that do not deprive them of liberty; migrant children and adolescents should be placed in the custody of organizations with a mandate to protect children.
  12. Develop policies and programs that include alternatives to the current model offered by shelters that deprive children and adolescents of their liberty. Child protection centers where children and adolescents are not deprived of their liberty

must be established as swiftly as possible in order to temporarily house children and adolescents and migrant families, in order to ensure the comprehensive protection of their rights.

13. Define and put in place a procedure for BIDs ensuring that all decisions related to unaccompanied child and adolescent migrants will be made in the framework of legal due process with the objective of guaranteeing the comprehensive protection of their rights through immediate protection measures and measures to seek lasting solutions for their development and life with dignity.
14. Establish mechanisms to ensure that children and adolescents will only be repatriated after applying a procedure to determine the best interests of the child, using as a guiding principle the need to guarantee the comprehensive protection of the rights of the child.
15. Alternatives to repatriation must be explicitly considered and may be prioritized over repatriation depending on what is in the best interests of the child. These measures may be: temporary or permanent regularization of migration status in Mexico; including the possibility of allowing the entry of the child's family for reunification purposes, or facilitating settlement and family reunification in a third country.
16. Implement mechanisms to ensure due process guarantees to migrants and, in particular, to children and adolescents, in any migration proceedings that may result in detention or repatriation or have a negative impact on their rights. Such mechanisms include free legal assistance, guardians in the case of unaccompanied children and adolescents, and interpreters if they do not understand the language.
17. Redefine the roles and responsibilities of the Child Protection Officers (*Oficiales de Protección a la Infancia* or OPI), assigning them to a competent child protection institution [rather than the INM] in order to ensure adequate attention to the needs and rights of the child in any contact with or intervention by the INM or any other security institution or body that could impact migrant children.
18. Reinforce the asylum policy of the Mexican government, providing sufficient resources and specialized training to the Mexican Commission for Aid to Refugees (COMAR), in order to give asylum seekers appropriate access to the process of soliciting recognition as a refugee, as well as due process and an adequate evaluation of their requests in accordance with the Cartagena Declaration, and ensure that asylum decisions are not subordinated to the considerations of migration control.
19. Create, implement, and disseminate accessible regularization policies, making it possible for migrant children and adolescents to have documented residence in the country and, therefore, full access to their rights.
20. For cases when family reunification is deemed to be in the best interest of the child, forge procedural protocols between local U.S. governments, Mexican consulates, delegations of the Secretariat of Foreign Relations (*Secretaría de Relaciones Exteriores*), state offices of the System for the Comprehensive Development of the Family (*Sistema para el Desarrollo Integral de la Familia* or SNDIF), and other corresponding authorities in the Guatemalan, Salvadoran, and Honduran consulates, as well as the child protection authorities of those countries.

21. Guarantee to children and adolescents full respect, protection, and promotion of their economic, social, and cultural rights in order to prevent the structural causes that give rise to their migration—both unaccompanied and with family members.
22. Through the DIF, the consulates, and other involved organizations, ensure that Mexican child and adolescent migrants are returned to their country only as a protection measure based on the information gathered in each case.
23. In all processes where the rights of the migrant and asylum-seeking children and adolescents are negatively affected, ensure the direct and priority participation of the government institution charged with child protection.
24. Take necessary measures to ensure that the United States will not repatriate and expel Mexican children and adolescents to high-risk zones like Tamaulipas and Coahuila.
25. When Mexican children and adolescents are repatriated from the United States, their right to family life, as well as the best interests of the child must be safeguarded at all times.
26. It is essential to do an in-depth review of all of the many state processes for receiving, caring for, and re-connecting repatriated Mexican children and adolescents to the country, in order to standardize the repatriation processes based on the applicable human rights standards.
  - a. In the context of this reform, it is imperative that the border state DIF systems communicate with their counterparts in the states of origin, in order to find out whether children and adolescents are successfully reconnecting to their communities, or if they are returning quickly to the border.
27. A protocol for family reunification procedures must be established between local U.S. governments, Mexican consulates, delegations of the Secretariat of Foreign Relations, the state SNDIF, and other corresponding authorities.
28. A protocol permitting an overview of the profiles of the people who are making decisions about the future of the children and adolescents in the various states is needed, and trainings on the human rights of children and adolescents must be developed for use with operational personnel.
29. “Circuit” children and adolescents (*niños y adolescentes de circuito*)<sup>1</sup>, must be seen as being in a situation of permanent risk because they are being exploited and forced into a clandestine life. They require special comprehensive treatment and must be considered first as victims, not as offenders. The state DIF systems must take responsibility in this area in coordination with the federal system.
  - a. Create public policies focused on protecting this vulnerable sector, prioritizing support to their families, so that the children and adolescents will have an opportunity to study and develop in healthier and more harmonious environments, making it possible for them to distance themselves from criminal organizations or not ever become involved in them.

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<sup>1</sup> Children recruited and exploited by organized crime and other criminal actors to guide people or drugs across the border; they are called “circuit” children because of their repeated border crossings).

## E. United States

### Overarching

1. Adopt the best interests of the child standard: Consistent with international human rights law and U.S. child welfare laws, Congress should enact legislation requiring that the best interests of the child shall be a primary consideration in all procedures, agency and judicial proceedings, actions, and decisions concerning immigrant children.
2. Do not deny children and other migrants fleeing persecution territorial access to the United States: The United States should cease training, funding, and encouraging Central American governments and Mexico to interdict migrants in order to prevent them from making the journey north to seek protection. Encouraging interdiction undermines the United States' international obligations and risks returning migrant children and families to persecution or torture, contrary to the principle of *non-refoulement*. The United States should urge and support the capacity of Mexico and other countries in the region to screen migrants for vulnerabilities and ensure that those identified as fleeing persecution, torture, or trafficking have access to protection and due process. In particular, the United States should provide funding to Mexico to increase the capacity of the Mexican Commission for Refugees, (*Comisión Mexicana de Ayuda Refugiados* or COMAR) to adjudicate asylum claims, including by increasing the number of asylum officers in the country. To the extent that the U.S. continues to fund immigration enforcement in Mexico and Central America, funds should cover robust training of Central American and Mexican officials to screen for and identify vulnerable migrants.
3. Provide annual comprehensive data: The Department of Homeland Security (DHS), the Office of Refugee Resettlement (ORR), and the Department of Justice (DOJ) (where relevant) should collect comprehensive statistical information and other data on children in the context of migration and make the data public every six months. The data should include: (1) the age, gender, race, nationality, native language (including any indigenous language), and number of Mexican unaccompanied children repatriated directly from the border, how many of them were found not to have a fear of persecution, how many were found not to be at risk of trafficking, and how many were found to be old enough to make an independent decision to withdraw their applications for admission; (2) the age, gender, race, nationality, native language including any indigenous language), and number of accompanied children repatriated directly from the border, and how many of these children were screened separately from their parent(s); (3) the age, gender, race, nationality, native language including any indigenous language), and number of accompanied children repatriated from a family detention center after being found not to have a credible fear of persecution, and how many of these children were screened separately from their parent(s); (4) the age, gender, race, nationality, native language including any indigenous language), and number of children repatriated following entry into the United States, whether they were unaccompanied or accompanied, which cities these children lived in prior to

coming to the U.S., whether unaccompanied children were reunited with family in the sending country, and whether they were repatriated through voluntary return, voluntary departure, withdrawal of an application for admission, or an order of deportation; (5) the forms of immigration relief sought by children as principal applicants (whether unaccompanied or accompanied), and the number of children granted and the number of children denied each form of relief, as well as a breakdown of grants and denials of each form of relief by age, gender, and nationality of child principal applicants; and (6) the number of U.S. citizen children, permanent resident children, and children with DACA affected by the detention or deportation of a parent. DOJ should provide data on numbers 4 and 5 regarding orders of removal, voluntary departure, withdrawal of applications for admission, and forms of relief granted to children in removal proceedings.

4. Ratify, without delay, the Convention on the Rights of the Child and the Convention on the Rights of All Migrant Workers and Members of Their Families.

*Root causes of migration: funding efforts to catalyze change in Honduras, El Salvador, and Guatemala*

In June, 2014, the Administration announced plans to increase U.S. aid to Honduras, El Salvador, and Guatemala. U.S. aid is critically needed to expand the reach of national human development plans and initiatives, rather than to support further security measures. The "Plan for Prosperity" these three countries introduced as a roadmap for future development includes provisions to strengthen development opportunities. Any U.S. financial or technical assistance should focus on strengthening the rule of law and protections for vulnerable peoples, especially children, in these countries. It is important that development plans:

5. Ensure civil society plays a central role in developing international aid initiatives and make funding transparent and accountable: integrally involve civil society, especially NGOs with a proven track record in citizen security, social inclusion, youth employment, and poverty reduction, in designing, implementing, and evaluating international aid strategies and programs. U.S. funding must include regular reporting requirements.
6. Build the capacity of under-resourced national child welfare systems in Honduras, El Salvador, and Guatemala: the United States should invest in national child welfare systems in the sending countries so that they can build shelters for children throughout each country and not just in the capital cities, increase staff and provide greater training and support for staff, and develop accountability mechanisms to effectively protect children at risk of abuse and neglect. U.S. funding should require national child welfare agencies to work with in-country NGOs focused on child welfare and children's rights and well-positioned to identify systemic deficiencies and make recommendations for improvement. Funding should include assistance for children repatriated to their communities.
7. Increase U.S. funding for employment and educational opportunities: The United States should fund teacher training, effective job training programs for youth, and programs focused on the development of small businesses. The Brazilian



scholarship program Bolsa Familia gives families a stipend to keep children in school and can serve as a model. The United States should require that all aid be accounted for and should put into place clear metrics to measure progress.

8. Fund community-based programs to reduce youth crime and violence: the United States should increase funding for evidence-based, community violence prevention programs that offer training, jobs, and other alternatives to violence, and support children and youth who leave gangs and return to their families and communities. In partnership with local and international organizations, there should be funding for shelter for crime victims and expansion of in-country capacity to respond to violence by enhancing police capacity to prevent violence and investigate crimes.
9. Ensure CARSI funds strategic development initiatives that address the root causes of migration, not just military and law enforcement initiatives: the Central America Regional Security Initiative (CARSI) has largely emphasized combating narco-trafficking and gang activity in the region through law enforcement and military backing. CARSI's approach raises significant concerns because of the well-documented human rights abuses committed by military and police, lack of transparency in judicial systems, and lack of accountability for past human rights abuses. Because many children migrating from Central America are fleeing violence perpetrated by factions similar to those CARSI aims to combat, it should reconfigure its funding to specifically address the root causes of child migration through strategic development initiatives that promote transparency and accountability and respect human rights, including funding for reforming the police and ensuring that militaries comply with basic human rights standards. It should also include assistance to help increase judicial independence, transparency, and accountability, including oversight by civil society. Additionally, CARSI should include in its objectives comprehensive reintegration support, in collaboration with civil society, to children returning from the United States.

#### *Screening and detention*

10. Presume a fear of persecution: DHS should refer all adult individuals and families arriving from Mexico and the Northern Triangle countries for a credible fear interview, under the presumption that they fear persecution based on current levels of violence in their countries.
11. Do not expedite screening of children: Children should never be subject to expedited screening and/or repatriation, which places them at grave risk of return to persecution, torture, trafficking, or other violence by failing to provide the appropriate setting, sufficient time, or adequate safeguards needed to protect children from return to such dangers.
12. Initial screening of unaccompanied children and children traveling with family by child welfare: Child welfare professionals, rather than Customs and Border Protection (CBP) agents and officers, should conduct initial screenings of unaccompanied children traveling with family.

13. Meet children's needs consistently and without exception: In every stage of federal custody—including during initial apprehension by CBP—children should have access to nutritious food, drinking water, restrooms, blanket and mattress for sleeping, and basic medical and psychological care as needed. The U.S. must uphold federal standards regarding conditions for children and the treatment of children in immigration custody (see *Flores v. Reno* settlement), regardless of where children are detained or which agency has custody. Children in ORR facilities should receive a broad array of social services, including intake screening, legal orientation and screening, medical and dental care, case management, educational programming, access to telephones and help contacting family, and counseling and mental health care. These services should never be compromised.
14. Issue public, enforceable standards for conditions and treatment of migrants: For its 700+ facilities, CBP must issue and enforce standards that specifically address how to handle unaccompanied children and families. CBP agents should receive additional training on how to interact with children and meet their needs.
15. Design and implement alternatives to detention: DHS should not detain migrant children or families. Alternatives to detention have proven effective and are more humane than practices that involve the deprivation of liberty.<sup>2</sup> In addition, DHS should not detain parents caring for children. Detaining parents causes needless, painful separation and denies them the ability to make responsible decisions about arrangements for their children. This is especially urgent given the Administration's expansion of family detention centers to detain recently arrived mothers with young children from Central America. It is also critical given that the November 20, 2014 enforcement memos emphasize that recent border crossers—many of whom were unaccompanied children with relatives in the United States or families traveling together—are a high priority for enforcement and removal. These mothers and children should be released and/or placed in alternatives to detention, especially when the mother and/or children may have an asylum claim.
16. Institute zero tolerance for human rights abuses: DHS should institutionalize a zero tolerance policy toward agents who violate the human rights of migrant children and adolescents.
17. Develop an oversight system to monitor ICE and CBP detention conditions and ORR facilities: ORR, ICE,<sup>3</sup> and CBP should develop clear, independent oversight systems to monitor conditions and treatment of children in their custody and allow civil society organizations to monitor detention or shelter facilities. All three agencies should have comparable oversight and monitoring standards.
18. Expand post-release services: ORR should expand post-release services to all children released from custody and reunified with family or friends of family throughout the course of their immigration court proceedings, including ensuring that the placement continues to be safe and that the child is receiving all necessary services such as education, legal representation, mental health services, case management services, and medical care.

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<sup>2</sup> *Alternatives to Detention Programs, an International Perspective* (May 15, 2009) Lutheran Immigration and Refugee Service.

<sup>3</sup> While DHS detention standards include independent monitoring, greater clarity on the standards is needed.

*Procedural rights and protections*

19. Mandate the right to counsel: Congress should mandate the appointment of counsel for all children in removal proceedings who are principal applicants<sup>4</sup> on a claim for relief and who lack an attorney.
20. Appoint child advocates: Congress should mandate that an independent child advocate be appointed for all unaccompanied children. Until Congress acts, ORR should appoint a child advocate for all unaccompanied children in its custody. We commend ORR for its initiative to increase the number of child advocates assigned to unaccompanied children's cases; this initiative should be expanded to reach all unaccompanied children in removal proceedings.
21. Do not expedite removal proceedings and asylum interviews: expediting cases places families and unaccompanied children at risk of removal to life-threatening situations or situations contrary to their best interests. The Executive Office for Immigration Review (EOIR) should stop expediting unaccompanied children's initial court hearings. The September 10, 2014 EOIR memoranda<sup>5</sup> permitting judges to grant continuances for good cause does not solve the problem. United States Citizenship and Immigration Services (USCIS) should also stop expediting unaccompanied children's asylum interviews.
22. Ensure that children can seek immigration relief outside the adversarial removal process: immigration judges should determine whether a child is unaccompanied for purposes of USCIS's initial jurisdiction over unaccompanied children's asylum claims. Rather, immigration judges should grant administrative closure or long continuances for all children who plan to seek asylum and who qualify as unaccompanied under USCIS's May 28, 2013 memorandum, "Updated Procedures for Determination of Initial Jurisdiction Over Asylum Applications Filed by Unaccompanied Children," or who have pending claims for other forms of relief, such as Special Immigrant Juvenile Status (SIJS).
23. Issue child-sensitive regulations as required under TVPRA §235(d)(8): DOJ, in coordination with DHS, should adopt mandatory regulations binding on all immigration judges that meet the TVPRA requirement to ensure that the specialized needs of unaccompanied children are taken into account in all procedural aspects of their cases.

*Immigration relief*

24. Ensure children are not returned to harm: Congress should enact a form of discretionary "best interests" relief that halts removal proceedings and grants lawful permanent resident status to migrant children ineligible for other forms of

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<sup>4</sup> A principal applicant is a child who seeks immigration relief on his or her own, as opposed to as a derivative on his or her parent's application. Principal child applicants can be unaccompanied or accompanied.

<sup>5</sup> See *Docketing Practices Relating to Unaccompanied Children Cases in Light of New Priorities*, Brian O'Leary, Chief Immigration Judge, Executive Office for Immigration Review, September 10, 2014, retrieved from <http://www.justice.gov/eoir/statspub/Docketing-Practices-Related-to-UACs-Sept2014.pdf>.

relief when repatriation is against their best interests. Until Congress acts, these children should be granted administrative relief such as deferred action.

25. Reform immigration policies and the immigration system: Congress should immediately enact immigration system reform that places immigrants in irregular status on a path to citizenship, including parents of U.S. citizen and lawful permanent resident children, and expands visa availability and categories for family unity and for laborers such as domestic workers, nannies, and construction workers. Immigration reform should also create a path to citizenship for DAPA and DACA recipients and should ensure that deported parents of U.S. citizen children, lawful permanent residents, and DACA beneficiaries are allowed to re-enter the U.S. and apply for immigration relief. This type of comprehensive reform is the only way to provide mixed status families with long-term stability.
26. Meaningful implementation of expanded Deferred Action and/or Prosecutorial Discretion: following the November 20, 2014 announcements to exercise prosecutorial discretion for certain undocumented immigrants, the U.S. government should implement its welcome administrative reforms to provide relief to the millions of individuals currently residing in the U.S. who may qualify for relief under future immigration reform, while ensuring strong oversight to ensure that all those eligible have a chance to apply and that no one with protection concerns is excluded. For the November 20, 2014 directive to end Secure Communities and replace it with the Priority Enforcement Program, the government should institute strong oversight and accountability mechanisms and ensure that the program does not unnecessarily or inappropriately use detention or deportation, such as the detention or deportation of immigrants without a criminal conviction. As DHS makes its deportation policy more humane, it should also strengthen prosecutorial discretion by making non-criminal immigration offenses (such as re-entry) a lower priority for removals. While the Administration's announcement is welcome, it should be expanded to include those who are parents of DACA-eligible children; parents who have resided in the U.S. for less than five years; children whose parents have temporary status that is not conferrable to them (e.g. Temporary Protected Status); children under the age of 15 who are too young to apply for DACA; those who have lived in the U.S. for an extended period of time even if they did not enter prior to the age of 16; and others who have significant family or community ties. Congress should enact legislation that codifies the November 20, 2014 administrative reforms so that they become permanent.
27. Analyze asylum claims in a manner consistent with international standards: The Administration should issue asylum regulations clarifying standards for asylum consistent with international law and guidance. The standard for proving membership in a particular social group, should – consistent with UNHCR guidance and the majority of refugee receiving countries – require that group members share an immutable or fundamental characteristic, with no additional requirement. The regulations should clearly state that evidence that the State, society, or legal or social norms accept or tolerate patterns of violence against individuals similarly situated to the applicant establishes nexus (the link to a protected ground). In the meantime, the United States should grant humanitarian

relief to migrants at risk of suffering serious harm upon return to their countries, but who do not meet the definition of a refugee. Other signatories to the 1951 Refugee Convention or its 1967 Protocol provide this type of humanitarian relief (i.e., indefinite leave or humanitarian visa).

28. Clarify that claims based on violence by gangs and other organized criminal syndicates can be a legitimate basis for refugee protection: in 2014, the Administration stated that the majority of Central American children coming to the U.S. were fleeing gang violence and that they would not qualify them for asylum. This incorrect categorical statement may bias Immigration Judges and Asylum Officers analyzing children’s asylum claims. As a matter of law, asylum determinations must be made case-by-case, and numerous courts have granted claims based on violence at the hands of criminal gangs.<sup>6</sup> The Administration should immediately and publicly clarify that each child’s case must be determined on its own merits and that claims based on violence by criminal gangs may be a basis for asylum.
29. Set standards for children’s claims for relief: DOJ and DHS should issue regulations on children’s claims for relief that “take into account the specialized needs” of unaccompanied children, as the TVPRA requires, and should require adjudicators to analyze children’s claims in a child-centered and child-sensitive manner, considering a child’s best interests, age, developmental stage, mental health, and cultural factors, and granting each child the liberal benefit of the doubt.

#### *Family reunification and separation*

In order to ensure that the right to family unity is fully addressed, both federal and local policies must address the challenges that immigrant families face. The following recommendations focus on legislative and administrative reforms at all levels. With regard to the 2014 executive action, many questions remain as to how the new directives will be implemented. In addition, although the action takes a significant step, the imperative remains for more a more comprehensive, permanent, legislative solution.

30. Better align U.S. immigration law and policy with the right to family enshrined in international law, recognizing that the family unit is fundamental and requires State protection without discrimination based on immigration status. Consistent with Article 9 of the Convention on the Rights of the Child, the right to family includes both the right to family unity and the right of children not to be separated from their parents unless separation is determined to be in the best interests of the child. Until this alignment is achieved, the U.S. should consider the best interests of the child as a primary consideration, as well as the right to family unity and family reunification in all immigration decisions. Existing executive actions and policies that facilitate family unity (e.g., DAPA, DACA, and prosecutorial discretion) should be interpreted and applied generously.

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<sup>6</sup> See *Matter of M-E-V-G-*, 26 I&N Dec. 227 (BIA 2014) (clarifying that particular social group determinations are record-based and that the mere fact that an applicant did not establish membership in a social group in one case does not bar an applicant from arguing membership in a similar social group in a different case).

31. Expand judicial discretion and consider the best interests of the child in decisions about deporting parents: immigration judges should have increased discretion to consider the best interests of the child in all removal cases affecting a child, including the impact of deporting a parent when they adjudicate removal cases and waivers to grounds of inadmissibility. Immigration and Customs Enforcement (ICE) should prioritize the best interests of children in decisions that affect their well-being (including the arrest, prosecution, detention, and deportation of parents).
32. Coordinate between federal immigration agencies and local child welfare agencies: federal immigration agencies and local child welfare agencies must coordinate their policies and procedures to ensure that the rights of families and the welfare of children are not compromised. For example, agencies should collaborate in developing protocols to ensure that detained parents have access to relevant court proceedings and can meet case plan requirements and to help facilitate reunification when or after a parent is removed. Both systems should receive training on the other system and relevant tools and resources available to them.
33. Protect against inappropriate termination of parental rights due to immigration enforcement: Congress should amend federal law to require states to consider on a case-by-case basis a parent's detention or deportation as a "compelling reason" to delay filing for termination of parental rights unless reunification with the parent would not be in the child's best interests.
34. Mandate sensitivity training for DHS personnel on reducing trauma to children: all DHS personnel who come into contact with children during immigration enforcement actions against parents should be trained by child welfare professionals on minimizing the children's trauma when such actions are performed in their presence.
35. Policies and procedures for state, county, and local child welfare agencies on handling cases involving detained or deported parents: child welfare agencies should develop guidance and protocols to help promote reunification and maintain family ties for children with detained or deported parents. For example, agencies can facilitate the placement of children with relatives, including undocumented relatives, by ensuring that immigration status alone is not a disqualifying factor and permitting foreign documents to establish background and identity. Child welfare staff should also receive training on how to contact the local ICE contact responsible for the parental interest directive as well as other ICE policies and tools, such as the online detainee locator system.
36. State and local child welfare agencies should establish guidelines for handling cases involving foreign entities: guidelines should address how to work with foreign child welfare entities, conduct searches for parents and other relatives abroad (including those who may have been deported), conduct culturally appropriate home studies, and develop Memoranda of Understanding (MOUs) with foreign consulates for purposes of family reunification when that is in the best interests of the child. MOUs should be developed with Mexico as well as Central American countries.

37. Increased cultural awareness in family and dependency courts: Family and dependency court judges and frontline staff should receive training on the immigration enforcement system as well as cultural competency awareness to address bias against undocumented caregivers or individuals in immigration proceedings. For example, training should address the feasibility of placing children with undocumented caregivers as well as placing U.S. citizen children or other lawfully present children with parents and caregivers living abroad.
38. Build the capacity of schools, faith-based institutions, and immigrant-serving organizations to serve children and families impacted by immigration enforcement: research has shown that trusted community-based organizations, religious institutions, and schools can valuably assist and support children and families affected by immigration enforcement. These groups can connect families to counseling services, tutoring assistance, and important safety net programs, such as food assistance and health coverage for eligible children.

#### *Repatriation and reintegration*

39. Ensure an individualized BID prior to the repatriation of any unaccompanied child or adolescent: the United States should require BIDs prior to repatriating unaccompanied children and should develop a BID procedure that identifies a child's immediate protection needs and the most appropriate durable solutions that meet the child's needs and guarantee the child's rights.
40. Require due process before repatriation: unaccompanied children must be able to seek all forms of immigration relief available to them and have access to an attorney to represent them in all types of immigration proceedings and a child advocate to advocate for their best interests before a repatriation process can be initiated.
41. When repatriation is determined to be in a child's best interests, create an individualized repatriation plan for each child that reflects a child's right to development in the broadest sense and the right to family life: a plan should be put into place in advance for a safe and dignified return for a child, including ensuring that the child's family can meet the child, informing the child of the return process, and identifying the child's social service needs. Plans should include wide ranging services such as:
  - a. *Safe return*: family contact, family reunification, transportation from the city where the child is returned to the child's home town, overnight emergency shelter for family, and an emergency meal on the day of arrival.
  - b. *Follow up*: home visit, home and community assessment, goal setting.
  - c. *Health and psychosocial services*: referral to medical and dental clinics, psychosocial services, and to counseling.
  - d. *Education*: school enrollment, school supplies, scholarship search, financial assistance with bus fare, enrollment fees, uniforms, books.
  - e. *Skills training for children and for families*: computer classes, skill building workshops, vocational training.
  - f. *Food and clothing referrals*: referrals for food assistance.

- g. *Other support services* such as loans to families to start a business or help for the entire family to reintegrate the child sustainably.
  - h. *Gender*: plans must consider the challenges that girls face at home and in their communities in order to ensure successful reintegration. Upholding protections for survivors of domestic and other gender violence is critically important to ensure the safe and sustainable repatriation and reintegration of girls. Service needs for girls include pre-natal care and medical care for mother and child during and after birth, and support for girls who want to go to school.
42. Create best practices and sustainable programs for repatriation and reintegration: the Administrator of the U.S. Agency for International Development (USAID), in conjunction with the Secretary of State, the Secretary of Health and Human Services, the Attorney General, international organizations, and NGOs in the U.S. with expertise in repatriation and reintegration, should create a program to develop and implement best practices and sustainable programs in the U.S. and within the country of return to ensure the safe and sustainable repatriation and reintegration of unaccompanied children when repatriation is found to be in their best interests. Programs should help youth find alternatives to re-migration and address the root causes of migration. Programs should work with local community organizations that are linguistically and culturally competent to ensure non-discrimination based on gender, language, or other basis, and to ensure culturally appropriate services. Providing comprehensive return and reintegration support to children who return home requires a collaborative effort by various stakeholders, especially community organizations familiar with the local culture, language, and support systems. It is critical that this program complement the national and regional human development and human rights plans discussed in recommendations I.A. and II.A.1. that address the structural causes of migration.
  43. Expand target population of Public Law 109-95, Assistance for Orphans and Other Vulnerable Children Developing Countries Act of 2005, to include repatriated child migrants: this law mandates that the U.S. government, and its partners, respond to the needs of at-risk children in the developing world in a comprehensive, coordinated, and effective manner. It should include child migrants.
  44. The U.S. must connect development and rule of law programs in the region to reintegration programs: TVPRA's requirement of safe and sustainable reintegration has not been fully implemented and has not been connected to larger development projects, a major shortfall. For reintegration to succeed, it must be connected to efforts to ensure safety and access to opportunities in the sending countries. We need robust U.S. government support, in collaboration with these countries, for reintegration services so children can stay home sustainably and be safely reunified with their families.



*Overseas refugee processing*

45. Use in-country processing to supplement, but not replace, the U.S. asylum system: In-country screening and adjudication standards should be consistent with the international definition of a refugee. In-country processing should not justify denying migrants access or entry to the United States to seek asylum or other humanitarian relief. Similarly, a negative overseas refugee determination should not be used against a child or other migrant if he/she later seeks entry to or asylum in the United States.
46. In-country processing should be expanded to any child in-country who meets the definition of a refugee: the Administration's announced in-country processing program excludes children who do not have a parent "lawfully" in the United States. However, these children are no less vulnerable. Given that in-country processing aims to reduce the need for children to make the dangerous journey to the United States through irregular channels, it should be expanded to all children who qualify as refugees.
47. Develop protection mechanisms for children and families waiting for in-country refugee processing: the United States should implement systems to expedite in-country processing so that children are not placed at further risk of harm while waiting for adjudication by ensuring, for example, enough officers on the ground to quickly process claims. The United States should work with UNHCR and with local NGOs to ensure safe shelter or other protection for children with pending in-country refugee claims. The United States should also implement mechanisms such as granting immediate humanitarian parole to individuals who cannot safely wait their turn in-country.