



# Frequently Asked Questions: Unaccompanied Alien Children

## Why Are Children Forced to Flee?

- Violence that threatens the lives of citizens in the Northern Triangle (El Salvador, Honduras, and Guatemala)—coupled with lack of state protection—is a primary factor propelling the migration of youth from their countries of origin.
- The violence children encounter takes many forms, such as sexual assault by gang members, and domestic and interfamilial violence.
- The Northern Triangle is one of the most dangerous regions in the world. According to [data](#) from the United Nations Office on Drugs and Crime,<sup>1</sup> Honduras ranks first, El Salvador fifth, and Guatemala sixth for rates of homicide globally. The [homicide rate](#) in El Salvador in 2015 rose dramatically to 103.1 homicides per 100,000 inhabitants.<sup>2</sup>
- The United Nations' refugee-protection agency (UNHCR) [found](#) that the majority children fleeing the Northern Triangle “were forcibly displaced because they suffered or faced harms that indicated a potential or actual need for international protection.”<sup>3</sup>
- Since 2012, there has been a large increase in the number of unaccompanied alien children (UAC) entering the United States, primarily from the Northern Triangle.<sup>4</sup> From Fiscal Year (FY) 2009 to

FY 2012, the number of unaccompanied children arriving at our southern border averaged about [19,000](#). In the past three years, average arrival numbers have climbed to over [55,000](#). Most recently, in FY 2016, U.S. Border Protection (CBP) apprehended approximately [59,000](#) UAC at the U.S./Mexico border.<sup>5</sup>

## What Is the Church's Position on Unaccompanied Children?

- The Catholic Church's work in assisting UAC stems from the belief that every person has a unique and sacred dignity and that we must help protect and defend the vulnerable.
- 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.
- While the Catholic Church recognizes governments' right to control their borders and enforce immigration laws, we hold a strong and pervasive pastoral interest in the welfare and humane treatment of unaccompanied children.
- The Church recognizes the extreme violence and persecution that children are facing and seeks to ensure their safety and well-being.

1 UNITED NATIONS OFFICE ON DRUGS AND CRIME (UNODC), GLOBAL STUDY ON HOMICIDE (UNODC, ed. 2013).

2 *El Salvador 2016 Crime & Safety Report*, DEPARTMENT OF STATE (March 3, 2016), <https://www.osac.gov/pages/ContentReportDetails.aspx?cid=19257>.

3 THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR), CHILDREN ON THE RUN 6 (UNHCR, ed. 2014).

4 Homeland Security Act of 2002, 6 U.S.C. § 279(g)(2) (2002) (defining “unaccompanied alien children” as children who cross our borders and (1) have no lawful immigration status in the United States; (2) have not attained 18 years of age; and (3) have no

parent or legal guardian in the United States or no parent or legal guardian in the United States who is available to provide for their care and physical custody).

5 *United States Border Patrol Southwest Family Unit Subject and Unaccompanied Alien Children Apprehensions*, U.S. CUSTOMS AND BORDER PROTECTION (2016), <https://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children/fy-2016>.

## What Is Our Programmatic Response?

- Since 1994, USCCB's Safe Passages program has served unaccompanied alien children who arrive in the United States and are placed in the custody and care of the Department of Health and Human Services' (HHS) Office of Refugee Resettlement (ORR).
- In FY 2016, the program served 2,610 UAC, providing family reunification services to 2,104 children and families and residential services to 506 unaccompanied children.
- The program provides foster care to UAC in ORR custody, screening of placements prior to the release of children to relatives or family friends pending their immigration proceedings ("home studies"), and support to UAC and their families after children are released from ORR custody ("post-release services"). The program also helps connect children to legal representation for their immigration cases.

## What are Our Key Recommendations?

### Address Root Causes of Migration

- As noted above, many children in the Northern Triangle are forced to choose between seeking protection in another country or living in unsafe conditions due to pervasive violence and lack of state protection. We must recognize that many unaccompanied children are fleeing for their lives and treat the situation in the Northern Triangle as a humanitarian and refugee crisis.

- All governments of the Central American region, including Mexico and United States, should invest resources into examining and addressing root causes of migration in the Northern Triangle and Mexico. This effort must address the violence, government corruption, and lack of youth opportunity, which are all factors forcing children to flee.

### Improve Identification of Protection Needs and Promote Avenues to Protection

- Identification of children in need of protection poses a challenge to the Northern Triangle countries where child protection systems are lacking or under resourced. The result is that children who are in need of protection are not proactively identified.
- Consequently, the choice may be to flee to another country or stay and face possible harm, sexual assault, recruitment into criminal organizations, and in the worst cases, death.
- We urge the United States to partner with UNHCR, Central American governments, and international NGOs to increase efforts to identify children in need of protection through Best Interest Assessments (BIAs) and Best Interest Determinations (BIDs).<sup>6</sup>
- The United States should work to ensure that child asylum seekers and trafficking victims are identified, anywhere they may be in the region, screened appropriately, and granted access to fair and efficient immigration proceedings.

<sup>6</sup> BIAs assess the needs of vulnerable refugee children and ensure immediate protection needs are addressed through referrals to local governmental and nongovernmental service providers. BIDs, which ensure consultation with the child and the child's family and caregivers, describe a process of identifying long-term durable solutions, which include repatriation, family reunification, or resettlement.

- We further urge the United States to expand existing and implement additional legal migration programs.

## Improve Care and Family Reunification in the United States

- The United States has a legal and moral responsibility to ensure that alien children arriving at our border receive appropriate care and protection.
- UAC are at heightened risk for trafficking and exploitation due to prior victimization in their home countries or during their journeys, large debts that they incur for smuggling fees, and their undocumented status.
- In accordance with domestic child welfare best practices, ORR should increase the number UC and families receiving family reunification services (home studies<sup>7</sup> and post-release services<sup>8</sup>). These services help prevent family breakdown and reduce the likelihood that UC are released to situations of abuse, neglect, or trafficking.

## Ensure Legal Representation

- The practice of immigration law in general and relief from removal (what most UAC are applying for) require both extensive legal knowledge as well as the ability to articulate a comprehensive fact pattern in an adversarial setting. Given this, it is not surprising that immigrants with counsel are both more likely to [seek and obtain relief](#).<sup>9</sup>

- Nonetheless, the vast [majority](#) of unaccompanied children are expected to defend themselves in immigration court without the assistance of counsel because, under current law, there is no right to representation for UAC.<sup>10</sup>
- It is unrealistic to assume that a child, and particularly one with limited to no English proficiency, can effectively seek relief without legal representation.
- Congress should pass laws allowing all UAC the benefit of competent legal representation by an attorney—at the expense of the government if necessary—to ensure that children are not forced to defend themselves in court alone and that they are able to access the relief for which they qualify.

## Provide Safe Repatriation

- To ensure that repatriation of UAC to the Northern Triangle is accomplished safely, it is recommended that the U.S. government work with governments and NGOs in the region to provide repatriation and re-integration programs.
- Such programs will ensure that children are returned safely to appropriate caregivers and provided with follow-up services to help them reintegrate into their communities, with the goal of preventing re-migration.

7 Home studies are provided to assess any potential risks of placement prior to release of a child from ORR custody.

8 These services include apprising UC of their rights, ensuring they attend their immigration hearings, facilitating access to services, and ensuring that children are protected in the family and community setting.

9 AMERICAN IMMIGRATION COUNSEL, ACCESS TO COUNSEL IN IMMIGRATION COURT 18 (2016).

10 See TRAC, *Representation for Unaccompanied Children in Immigration Court* (Oct. 31, 2014), <http://trac.syr.edu/immigration/reports/371/>.