



Alliance to End Slavery and
Trafficking
1700 Pennsylvania Avenue, NW
Suite 520
Washington, DC 20006
www.endslaveryandtrafficking.org

July 2, 2015

The Honorable Ron Johnson
Chairman, U.S. Senate Committee on Homeland Security and Government Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Thomas Carper
Ranking Member, U.S. Senate Committee on Homeland Security and Government Affairs
513 Hart Office Building
Washington, DC 20510

Dear Chairman Johnson and Ranking Member Carper:

We respectfully request that you include the attached written statement in the formal written record for the hearing on the 2014 Humanitarian Crisis at Our Border: A Review of the Government's Response to Unaccompanied Minors One Year Later, before the Senate Homeland Security and Governmental Affairs Committee on July 7, 2015.

We appreciate your attention to this matter. If you have additional questions, please contact Melysa Sperber, ATEST Director, at msperber@humanityunited.org or (631) 374-0749.

Sincerely,

Coalition to Abolish Slavery and Trafficking (CAST)

Coalition of Immokalee Workers (CIW)

ECPAT-USA

Free the Slaves

National Domestic Workers Alliance (NDWA)

National Network for Youth (NN4Y)

Polaris

Safe Horizon

Solidarity Center

Verité

Vital Voices Global Partnership

World Vision

The Alliance to End Slavery and Trafficking (ATEST) is a U.S. based coalition that advocates for solutions to prevent and end all forms of human trafficking and modern slavery around the world. ATEST member organizations include: Coalition to Abolish Slavery and Trafficking (CAST), Coalition of Immokalee Workers (CIW), ECPAT-USA, Free the Slaves, Futures Without Violence (FUTURES), International Justice Mission, National Domestic Workers Alliance (NDWA), National Network for Youth (NN4Y), Polaris, Safe Horizon, Solidarity Center, Verité, Vital Voices Global Partnership, and World Vision. ATEST is a project of Humanity United.

Statement for the Record
U.S. Senate Committee on Homeland Security and Government Affairs,
July 7, 2015
“The 2014 Humanitarian Crisis at Our Border: A Review of the Government’s
Response to Unaccompanied Minors One Year Later”

The Alliance to End Slavery and Trafficking (ATEST) is a U.S.-based coalition that advocates for solutions to prevent and end all forms of human trafficking and modern slavery around the world. One year ago, we watched the humanitarian crisis with unaccompanied children unfold at our border. With several of our members working with this extremely vulnerable population both in their home countries and once they arrive in the United States, we knew the hardships, trauma, and exploitation faced by so many who arrived at the U.S. border to turn themselves in. Fortunately, there were safeguards put in place by Congress to provide due process for these children and to determine whether they were eligible for status as a human trafficking survivor or refugee. We were saddened to see the response from members of Congress calling for the swift removal of these vulnerable children, denying them any due process to determine if their cases of exploitation or well-founded fear of persecution were valid.

Despite a drop in the numbers of unaccompanied minors trying to cross into the United States, we are alarmed that efforts to deny such due process for these children continue in Congress. In particular, we are writing to express our serious concerns about calls by Congress for changes to the Trafficking Victims Protection Reauthorization Act of 2008 (“TVPRA”) intended to circumvent a fair process within the removal proceedings. Amending the TVPRA is not the solution. The proposed changes would weaken legal and human rights protections for the many unaccompanied children who would qualify for asylum or other existing forms of relief. These changes would also increase the vulnerabilities of victims of human trafficking by curtailing access to due process, legal representation, and child-appropriate services. Eliminating these protections does not provide additional immigration benefits to these children – it only provides time and process for children’s voices to be heard.

ATEST opposes any attempt to amend or eliminate section 235 of the TVPRA, which provides important procedural protections for unaccompanied children and assists them in navigating the complex immigration process for an accurate determination of eligibility for relief as victims of trafficking or persecution. We are deeply concerned about legislative attempts to circumvent these important protections and remove the children apprehended at the border through a non-judicial process. We should abide by our own national values as well as international obligations and affording these children proper screening for trafficking and persecution, as well as the opportunity to receive fair and full consideration of their legal claims before an immigration judge. However, members of Congress propose expedited removal of children without access to legal counsel. Removals would follow cursory screenings that have already proven entirely inadequate to identify genuine refugee and trafficking claims among Mexican children.

Traumatized children, including victims of human trafficking, do not open up immediately. Given the corruption of police in their home countries, their ability to trust law enforcement officials here is severely compromised. They often need time in an appropriate setting not only to express their true reasons for fleeing to the United States, but also to be interviewed by the right individuals – namely, those who have expertise and training in human trafficking, as well as child welfare and development.

There are multiple examples of the current provisions working to properly identify trafficking victims from the children that have crossed the border. For instance, “Sara” was living with women after her mother left to find work in the United States. When she was 15 years old, a group of men kidnapped her and forced her to live with them. They abused her sexually and made her have sex with other men who paid them. When she was 17, she finally was able to escape and tried to come to the U.S. to find her mother. Sara was arrested by immigration officials while crossing the southern U.S. border. She was held in detention for about two months. She didn't see a judge or talk to legal aid, but she spoke to a social worker who ultimately identified her as a trafficking victim.

Sara was identified as a human trafficking victim because she interfaced with the right people. She was identified because she was not summarily deported from the border when she arrived to the United States. She was identified because of the procedure protections Congress instituted in the 2008 TVPRA. ATEST knows through the work of its member organizations that trafficked children will not self-identify and instead need individuals trained in child welfare and human trafficking to ask very specific, child-sensitive questions.

Congress gave consideration to the unique circumstances of children when it unanimously passed the bi-partisan TVPRA in 2008. The law includes protections such as the access to counsel and the appointment of child advocates, which help ensure that unaccompanied children from non-contiguous countries receive proper care and that their requests for asylum and other legal relief are processed fairly and in a way that is consistent with age and development. In addition, the Homeland Security Act of 2002 requires that all unaccompanied minors be transferred from Department of Homeland Security (DHS) custody to the Department of Health & Human Services (HHS) Office of Refugee Resettlement (ORR) within 72 hours of apprehension because ORR has the expertise and training to care for children. The role of HHS in this humanitarian crisis is essential, and ATEST opposes any attempt to weaken this framework.

If Congress amends section 235 of the 2008 TVPRA, girls like Sara will not be identified. Girls like Sara will be forced back into sexual slavery. Children are forced by their traffickers to commit crimes, such as being induced or coerced into child sexual exploitation. Traffickers use threats and violence to create additional barriers for children reporting what really happened. An armed, uniformed border officer with no training to work with children or trafficking victims, yet with the final say to determine whether a child stays or goes, risks sending already-vulnerable populations back to certain harm.

Given the violence in the key sending countries, we question whether changes in law would have a substantial impact on the flow of children to the United States. Instead of focusing on rolling

back due process protections for children and sending them back to danger, ATEST recommends Congress put their efforts toward the following areas.

Addressing the Root Causes:

The humanitarian crisis demands greater international cooperation, particularly regional approaches, to strengthen child protection systems in the countries from which vulnerable youth are fleeing. The United States should work with social service providers and government agencies in countries of origin to provide additional resources and training to provide protection to children fleeing physical abuse, sexual abuse, and human trafficking at home, and forced conscription into gangs, much like child soldier recruitment. In addition, the U.S. Government should support NGOs and coordinate closely with child welfare service providers, educators, and medical and other social service providers to prevent abuse, as well as working with prosecutors in countries to hold traffickers, child abusers, perpetrators, and gangs accountable for their actions. The U.S. should be working with NGOs and the governments of origin to ensure the safe repatriation and reintegration of any children who are returned to their home countries after fleeing to the United States, including specialized services for human trafficking victims. Finally, the U.S. should work with the origin governments to address other root causes of migration, including violence against adults, the lack of safe and decent work in origin countries, and the lack of appropriate education services, the absence of which denies children a system of support and protection.

Screening:

Child welfare specialists who have been trained in recognizing not only signs of child abuse, but also indicators of human trafficking should be deployed to Customs and Border Protection stations that regularly process unaccompanied children and to ORR surge shelters where they can help identify potential victims of human trafficking. In a child-friendly and child-appropriate environment, Department of Homeland Security officials should ensure all children are asked specific questions to determine if a child has been trafficked in the United States or abroad prior to repatriation, especially asking questions that lead to the identification of “attempt to traffic” cases, and cases that indicate a pattern of trafficking children to prevent future trafficking cases. DHS should contract with NGOs that have experience in identifying and providing services to child trafficking victims. Assistance provided from the U.S. Government to Mexico to strengthen its interdiction efforts should be conditioned on screening to identify vulnerable children at risk of human trafficking or other abuses.

Shelter:

Once a child has been identified as a potential victim of human trafficking, ORR should expedite a request for appropriate shelter placement. The child victim should not remain at surge shelters or transit centers. Immediately, ORR should assign a child advocate to each child victim and should provide access to an attorney. Finally, ORR should refer each child victim to a social service provider that should locate a shelter that specializes in serving trafficked children, or the social service provider should work with the local child protective service division to facilitate

services for trafficked children. Resources must be released to service providers and other community-based entities that are likely to encounter children released from ORR custody, such as Runaway & Homeless Youth agencies, child welfare institutions, and even schools.

Release:

While many children have family members in the United States who can care for them, there is a risk that traffickers would try to manipulate the system and pose as family members. Traffickers may pose as sponsors; thus, family relationships need to receive careful scrutiny. In releasing a child, it is imperative ORR takes precautionary steps to ensure that the sponsor will care for and protect the child upon release. Precautions should include fingerprinting the sponsors and conducting a home visit if necessary. Fingerprinting all sponsors applying for release of UACs is essential because it serves a first line of defense against releasing a child to a potential trafficker. ORR, however, should not share such fingerprint information with DHS-ICE for immigration enforcement purposes.

Recommendations:

- (1) **Don't change the TVPRA.** Blaming existing law for the UAC crisis is illogical, as these protections have been in effect for six years. Significant increases in UACs entering the United States began only three years ago, as violence escalated in many of the children's home countries. If that law were to blame, UACs would be coming from all countries, while in reality they are coming primarily from countries where violence is taking place.
- (2) **Recognize that UACs are at risk of being trafficked.** The increased vulnerability of unaccompanied children was why the provisions in the legislation existed and why the TVPRA's protections should continue. The protections do not grant amnesty; rather they ensure that basic human rights are met.
- (3) **The U.S. Government should ensure all unaccompanied children are afforded basic legal protections.** Even though numbers of UAC's have dropped considerably, from initial screening to the final stages of release or removal, the United States has a responsibility to protect any child's most fundamental rights not to be exploited or persecuted. And U.S. Government efforts should not stop there. They need to address the root causes of the crisis, including violence, lawlessness, and persecution in the home countries.
- (4) **Show the world that the U.S. Government is a leader in the fight against human trafficking.** The U.S. response to this crisis puts the country at risk of losing the moral authority to ask other nations to strengthen efforts to identify and protect trafficked and persecuted children.

We recognize the challenges and pressures you face as you work toward a just solution for the unaccompanied immigrant children. The efforts we've outlined are a better approach than weakening the protections that these children deserve. We hope that you will continue to oppose any changes that would eliminate current policies that protect and serve child victims of human trafficking.