

The TVPRA and Central American Child Refugees



Many of our state and federal leaders have suggested that the solutions to the current crisis should include amending the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) so Central American youth are subject to the “expedited” deportation process currently used for Mexican youth. However, expediting the deportation of Central American youth will simply subject them to the same broken process currently failing Mexican children.

Diminishing the TVPRA’s protections will leave Central American children without a safety net and facilitate the deportation of child refugees fleeing some of the world’s most dangerous cities.¹

The TVPRA, which has come to the forefront of the recent child refugee debate, was signed into law by President George W. Bush after unanimous approval by Congress. The TVPRA was passed to:

- Ensure increased protections for victims of human trafficking and other vulnerable populations, particularly children.
- Reduce the likelihood of children returning to their home countries and falling prey to traffickers or exploitation.
- Create a safety net to ensure child refugees have a chance to present a valid defense to deportation.

Although **every** child apprehended at the border is placed in some type of deportation proceeding, the TVPRA outlines a different process for children from contiguous countries, which largely affects Mexican children.²

- Customs & border patrol (CBP) agents screen Mexican youth in CBP facilities and must determine within 48 hours:
 - that the child has *not* been a trafficking victim;
 - that the child will not be at *risk* of being trafficked upon return to his/her country;
 - that the child does *not* fear returning to Mexico based on a fear of persecution;
 - that the child is able to make an independent decision to withdraw the child’s application for admission to the U.S.
- If CBP is able to affirm each of these, the child may be voluntarily returned to Mexico. Most Mexican children are voluntarily returned.

¹ Pamela Engel, Christina Sterbenz and Gus Lubin, *The 50 Most Violent Cities in the World*, (Nov. 27, 2013), available at <http://www.businessinsider.com/the-most-violent-cities-in-the-world-2013-11?op=1>.

² Canadian children are also included, but the vast majority of children subject to expedited screenings are Mexican.

Central American children are instead transferred to the custody of the Office of Refugee Resettlement (ORR), where they are placed into removal proceedings, but receive more in-depth screenings. Pending removal proceedings, they may be released to the custody of a “sponsor” (usually a family member or friend) or placed in a shelter or foster home.

Unfortunately, the “expedited” process that the Mexican children are subject to has proven to be problematic.

Children at the Border, a 2011 report issued by Mexico Appleseed and national Appleseed based on close to 200 interviews, with children, government officials, and stakeholders, found:

- CBP is not the appropriate agency to conduct initial screenings. As law enforcement officers, these agents are simply not trained to conduct screenings on sensitive issues with youth who are often suffering trauma.
- CBP facilities are inappropriate environments for conducting these screenings.
- The forms used to interview children are inadequate, not used consistently, and not supplemented with necessary information by CBP agents.

Mexican youth are poorly screened and often returned to abusive or exploitative environments, and placed at high risk of trafficking.³

Weakening TVPRA protections for Central American child refugees is not a tenable solution. It will place these children back in circumstances where murder, forced recruitment into gangs (similar to the forced conscription of child soldiers in African countries)⁴, rape, and torture are realities.⁵ We cannot allow this to happen.

The United States must act with compassion and uphold its legal and moral responsibility to ensure the safety of vulnerable children who come to our borders seeking refuge.⁶

³ Betsy Cavendish and Maru Cortazar, *Children at the Border: The Screening, Protection and Repatriation of Unaccompanied Mexican Minors*, Appleseed (2011), available at <http://appleseednetwork.org/wp-content/uploads/2012/05/Children-At-The-Border1.pdf>.

⁴ P.J. Tobia, *No Country for Lost Kids*, (Jun. 20, 2014), available at <http://www.pbs.org/newshour/updates/country-lost-kids/>.

⁵ Jessica Jones and Jennifer Podkul, *Forced from Home: The Lost Boys and Girls of Central America*, Women’s Refugee Commission (2012), available at <http://bit.ly/WfEzOc>.

⁶ See also Mexico Appleseed, Appleseed & Texas Appleseed, *Core Principles: Child Refugees in the United States* (Jul. 17, 2014), available at http://www.texasappleseed.net/index.php?option=com_docman&task=doc_download&gid=1127&Itemid= (discussing concepts central to laws and outlining core principles that must be considered in laws and processes applying to children).