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Unaccompanied Migrant Children from Central America

Context, Causes, and Responses

by Dennis Stinchcomb and Eric Hershberg

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EXECUTIVE SUMMARY

This paper offers a comprehensive orientation to the recent surge in migration to the United States by unaccompanied children and families from the Northern Triangle countries of Central America: El Salvador, Guatemala, and Honduras. To inform advocates and others working on behalf of these new arrivals, this report seeks to:

- Set the unprecedented expansion in the number of youth and family border crossings in the context of long-term migration trends from the region;
- Present a detailed account of the country conditions (“push factors”) driving the exodus of Central American minors and families; and
- Consider new arrivals’ prospects for remaining in the U.S. in light of available forms of deportation relief as well as current policy and advocacy responses.

To familiarize *pro bono* attorneys and other advocates with the nature and extent of the violence faced by their child clients, special attention is paid throughout to how conditions in their home countries relate to specific legal remedies that may be available to migrant youth and families.

This report is a product of research at American University’s Center for Latin American & Latino Studies (CLALS) exploring the factors behind the migration of Central American children and families. It draws on extensive investigative reporting carried out by Center research fellows and the CLALS-affiliated research foundation InSight Crime, as well as the Center’s portfolio of research on Central America’s political economy. Data generated by these initiatives have frequently been used as the basis for expert affidavits and testimony in immigration court proceedings. This study is intended to further inform the preparation of expert analyses that can be used in judicial and administrative review processes pertaining to the status of recent migrants.

PART 1: UACs and Trends in Central American Migration

- » UAC migration from Central America has steadily increased over the past four years.
- » As undocumented Mexican migration has leveled off, undocumented migration from Central America has continued to rise.
- » Internal displacement numbers and data on asylum applications filed in neighboring countries

show that Northern Triangle migrants are seeking safety wherever they can, suggesting that “pull” factors such as recent U.S. policy changes are not a principal factor driving the surge in migration to the U.S.

PART 2: Contextual Factors Fueling Youth and Family Migration

- » Sending communities are widely distributed throughout Northern Triangle countries and motives for migration appear to vary geographically.
- » Lack of access to jobs and basic state services has created a powerful recipe for social exclusion in the Northern Triangle, which fuels both violence and perceptions of insecurity among growing segments of the population.
- » Extreme levels of violence by street gangs are displacing families and increasingly affecting the region’s youth.
- » Household violence is also on the rise, driven largely by dynamics of social exclusion and family disruption, including parental absence and neglect.
- » Drug trafficking has created an environment in which already weak and unaccountable state institutions are easily overwhelmed and sometimes captured by transnational criminal networks.
- » Impunity reigns in environments where resource-deprived and overburdened police forces and judicial systems are unable—and often unwilling because of their complicity with organized crime groups—to provide protection to children and families.

PART 3: The Immigration System, Legal Outcomes, and Policy Responses

- » Unaccompanied children are being placed with family sponsors in states with long-established Central American communities.
- » Access to legal counsel is crucial to children’s chances of remaining in the U.S.
- » Children seeking refugee status on account of gang-based persecution encounter an asylum law system that has not evolved to recognize forms of persecution carried out by powerful non-state actors that operate with impunity and that target large, diffuse segments of society.
- » Proposed policy changes and procedural modifications can affect the legal outcomes of children’s cases.

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For project updates and other resources, see: www.american.edu/clals/migrant-rights.cfm.

Glossary of Acronyms

BIA	Board of Immigration Appeals
CARSI	Central American Regional Security Initiative
CBP	Customs and Border Protection
CLALS	Center for Latin American and Latino Studies
CNCS	Corporation for National and Community Service
CNDH	Mexican Human Rights Commission
DACA	Deferred Action for Childhood Arrivals
DHS	Department of Homeland Security
DTO	Drug trafficking organization
ECLAC	Economic Commission for Latin America and the Caribbean
EOIR	Executive Office for Immigration Review
HHS	Department of Health and Human Services
ICE	U.S. Immigration and Customs Enforcement
ICEFI	Instituto Centroamericano de Estudios Fiscales
IDMC	Internal Displacement Monitoring Centre
INA	Immigration and Nationality Act
IOM	International Organization for Migration
IRCA	Immigration Reform and Control Act
ISNA	Salvadoran Institute for Children and Adolescents
IUDOP	Instituto Universitario de Opinión Pública (University Public Opinion Institute)
KIND	Kids in Need of Defense
LPR	Legal Permanent Resident
OECD	Organization for Economic Cooperation and Development
ORR	Office of Refugee Resettlement
PNC	National Civil Police (El Salvador)
PSG	Particular social group
RNR	National Refugee Network
SIJ	Special Immigrant Juvenile
TPS	Temporary Protected Status
TRAC	Transactional Records Access Clearinghouse
TVPRA	Trafficking Victims Protection Reauthorization Act
UAC	Unaccompanied children
UNHCR	United Nations High Commissioner for Refugees
USAID	U.S. Agency for International Development
USCIS	U.S. Citizenship and Immigration Services

I. THE CRISIS IN CONTEXT: UACS AND TRENDS IN CENTRAL AMERICAN MIGRATION

For the first time in decades, Central America made headlines in the United States during the summer of 2014, as record numbers of unaccompanied children (UACs) and families crossed the U.S.-Mexico border after having abandoned their homes in El Salvador, Guatemala, and Honduras.¹

The dramatic surge in border apprehensions came at a moment when comprehensive immigration reform had stalled in the Congress and the Obama administration had promised imminent executive action to normalize the status of a considerable portion of the 11 million undocumented immigrants in the country. Debates over immigration policy occupied center stage in a highly polarized political environment gearing up for mid-term elections in November 2014. Responding to what some observers labeled a humanitarian crisis at the border and others deemed a sign of Washington's failure to secure that very border, U.S. government agencies scrambled to reallocate resources in an attempt to promptly screen and shelter the new arrivals, while assuring an increasingly concerned public that the majority would face expedited hearings followed by swift return to their home countries. Meanwhile, administration officials—under intense media scrutiny and political pressure—appealed to Central American governments to help stem the tide of migrants, and launched a multimedia public awareness campaign to discourage parents from sending their children on the treacherous journey north. Mexico, under intense diplomatic pressure from Washington, escalated immigration enforcement along its southern border and took measures to prevent migrants from boarding the infamous freight trains known as *La Bestia* (The Beast) that haul tens of thousands of Central American migrants to northern Mexico each year.²

The effect of these and other responses is difficult to gauge. The number of unaccompanied children apprehended at the U.S.-Mexico border dropped to 3,141 in August, a 70 percent decrease from the peak of 10,622 in June. Family unit apprehensions (consisting mostly of women with one or more minor children) also declined considerably, falling from 16,329 at the height of the crisis to 3,295 in August. This sudden downturn is in line with the usual drop in border apprehensions during the

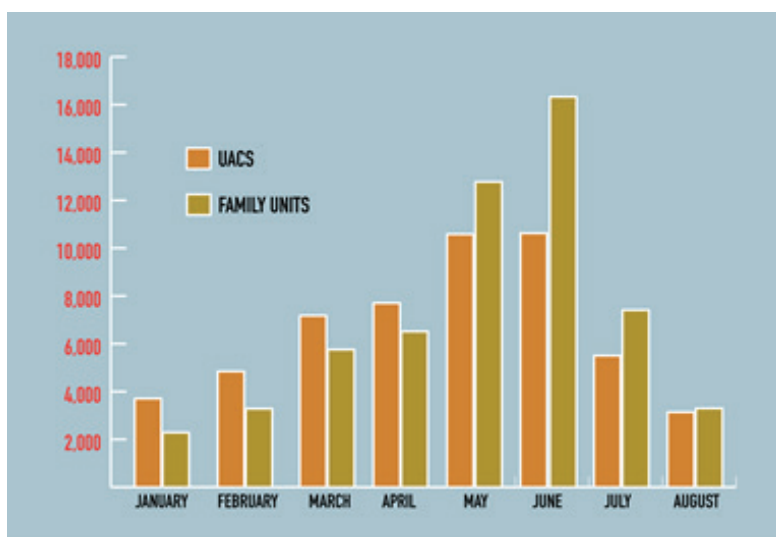
¹ The figures used in this section are for apprehensions. The number of border crossings can only be estimated, but with most UACs apparently turning themselves in to authorities, the apprehensions number approximates the overall number.

² Maureen Meyer, Clay Boggs, and Rodolfo Córdova, "New Developments along Mexico's Southern Border," Washington Office on Latin America, October 1, 2014.

Of the more than 68,000 UACs apprehended in FY2014, 51,705 (75 percent) were from the “Northern Triangle” countries of Central America.

mid-to-late summer months, when desert heat makes the perilous crossing all the more daunting. It is thus premature to reach firm conclusions regarding the effectiveness of government responses in dissuading youth and families from attempting the dangerous trek north. Aware of this seasonal pattern, administration officials have been careful not to declare victory, though they insist that significant progress has been made in curbing the flood of migrants. Even as the numbers hover around pre-crisis levels, however, they reflect the past decade’s pronounced upward trend in undocumented migration from Central America. While the crisis has now largely faded from the headlines, this pattern should warrant concern and a multifaceted effort to improve socioeconomic and security conditions in the countries of origin. Absent such a response, another spike in arrivals may be inevitable.

Figure 1: UAC and Family Border Apprehensions, January-August 2014



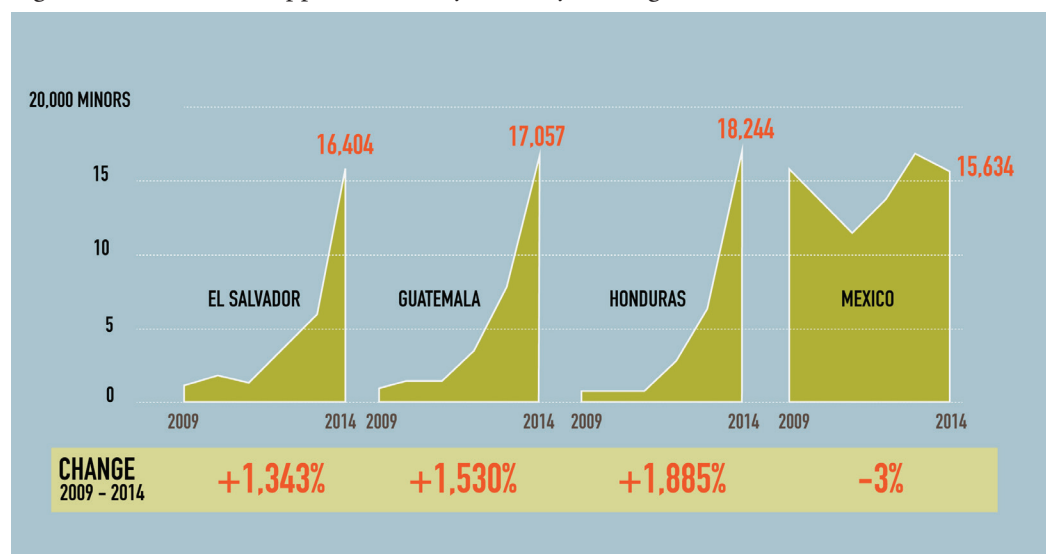
Data Source: U.S. Department of Homeland Security, “Statement by Secretary Johnson About the Situation Along the Southwest Border,” September 8, 2014.

UAC and Family Unit Migration from Central America, FY2009-2014

During fiscal year (FY) 2014, U.S. Customs and Border Protection (CBP) reported the apprehension of 68,541 unaccompanied minors—a striking 77 percent increase from the previous fiscal year and a 429 percent increase from just 15,949 UAC apprehensions in FY2011. Family unit apprehensions along the southwest border also skyrocketed 461 percent, from 14,855 in FY2013 to 68,445 in FY2014.

The sheer volume of UAC and family unit border crossings is just one part of the story; the other is the nationality of the migrants. Of the more than 68,000 UACs apprehended in FY2014, 51,705 (75 percent) were from the “Northern Triangle” countries of Central America: El Salvador, Guatemala, and Honduras. The number of unaccompanied children from these countries has increased over 15-fold in the past five years alone. While the FY2014 surge was startling, UAC migration from Central America is clearly not a new phenomenon. Indeed, CBP has recorded double and triple-digit percent yearly increases in UAC apprehensions from Northern Triangle countries since FY2011.

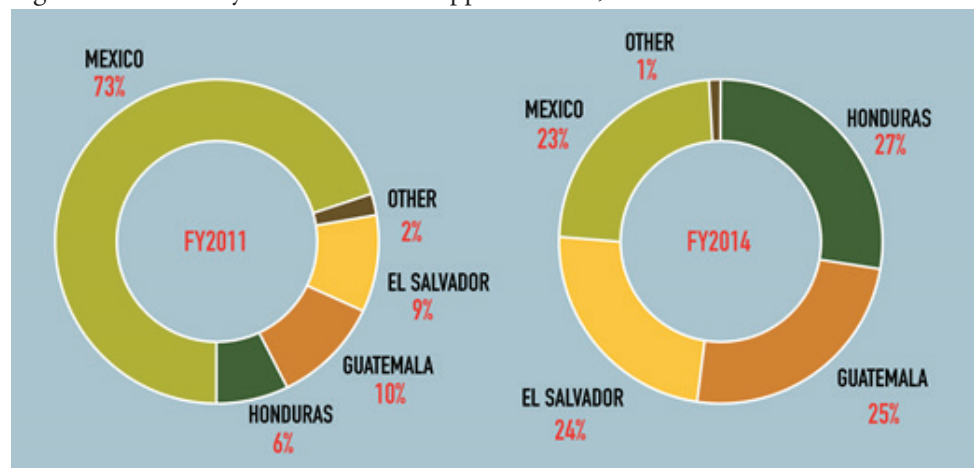
Figure 2: UAC Border Apprehensions by Country of Origin, FY2009-2014



Data Source: U.S. Customs and Border Protection, “Southwest Border Unaccompanied Alien Children.”

Despite this surge in Central American migration, overall apprehensions at the U.S.-Mexico border remain at historic lows. This is due, in large part, to ever-stricter border security and to a leveling off of undocumented Mexican migration since the financial crisis of 2007-2008.³ With the number of unaccompanied Mexican minors on the decline, unaccompanied children from Central America now make up a far larger share of the UAC population. In 2011, unaccompanied minors from El Salvador, Guatemala, and Honduras were one-fourth of all UAC apprehensions at the border; they now make up over three-fourths.

Figure 3: Nationality of UAC Border Apprehensions, FY2011 and FY2014



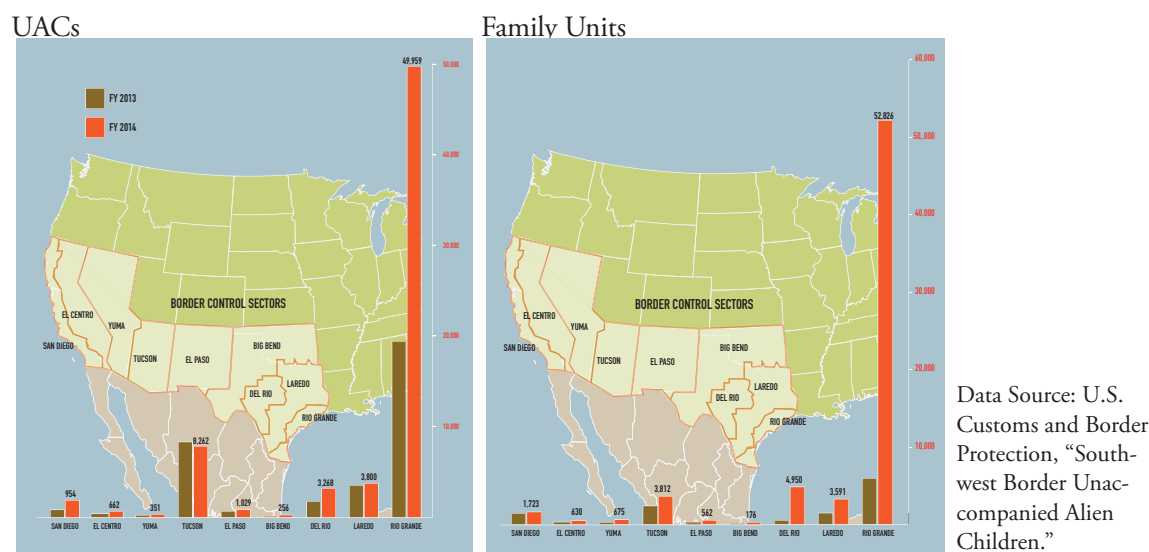
Data Source: U.S. Customs and Border Protection, “Southwest Border Unaccompanied Alien Children.”

³ Jeffrey S. Passel, D’Vera Cohn, and Ana Gonzalez-Barrera, “Net Migration from Mexico Falls to Zero—and Perhaps Less,” Pew Research Center, April 23, 2012. See also William C. Gruben and Tony Payan, “‘Illegal’ Immigration on the U.S. Mexico Border: Is It Really a Crisis?,” James A. Baker III Institute for Public Policy, October 17, 2014.

UAC apprehensions in the Rio Grande border control sector increased 132 percent from FY2013 to 2014; family unit apprehensions were up a staggering 620 percent.

This demographic shift in undocumented immigration is reflected in where migrants choose to enter the U.S. The Rio Grande Valley along Texas' southern border with Mexico has long been the preferred point of entry for Central American migrants, and is precisely where tens of thousands of unaccompanied children and families turned themselves over to CBP agents during the spring and early summer of 2014. UAC apprehensions in the Rio Grande border control sector increased 132 percent from FY2013 to 2014; family unit apprehensions were up a staggering 620 percent. Experts suggest that human smuggling rings catering to Central American youth and families prefer this region because of its proximity to the Central American isthmus and its more manageable terrain.⁴

Figure 4: Apprehensions by Border Control Sector, FY2013-2014



Passage via Mexico⁵

The Mexican Human Rights Commission (CNDH) estimates that 400,000 undocumented migrants from Central America attempt to pass through Mexico each year en route to the U.S.⁶ The journey, by all accounts, is rife with danger, but especially so for vulnerable children, women, and families. Criminal groups and corrupt Mexican authorities have long exploited migrants on their trek north, but reports from journalists, NGO and local migrant shelters indicate that the security situation has deteriorated significantly in recent years. Given the range and severity of the abuses listed below, UAC migration on a mass scale seems implausible absent grave, even life-threatening circumstances in migrants' communities of origin.

Extortion: Organized criminal groups have turned control of train and bus routes north into a lucrative business, charging migrants a standard fee—or *cuota*—of \$100 for passage. Extortion, however,

⁴ Daniel Gonzalez, "Border Kids: Crossing the River of Hope, Despair," *AZCentral*, July 14, 2014.

⁵ For further information on transit migration through Mexico, see Amelia Frank-Vitale, "Central American Migrants in Mexico: Implications for U.S. Security and Immigration Policy," CLALS Working Paper Series No. 2, December 13, 2013; Maureen Meyer and Clay Boggs, "The Other Crisis: Abuses Against Children and Other Migrants Traveling through Mexico," Washington Office on Latin America (WOLA), June 27, 2014.

⁶ "Estado debe garantizar atención médica a migrantes: CNDH," *El Universal*, January 19, 2013.

is not limited to drug cartels; it is increasingly practiced by Mexican authorities posted at immigration checkpoints. Alarming, data on abuses gathered by a migrant shelter in the Mexican city of Saltillo, Coahuila during the second half of 2013 show that Mexican Federal Police agents were identified as the aggressor in nearly half (47 percent) of reported incidents of extortion.⁷

Sexual Assault: Eighty percent of women and girls are reportedly sexually assaulted during their trek through Mexico.⁸ This is particularly troublesome given that the number of Central American girls under the age of 18 apprehended at the border during the first eight months of FY2014 was 77 percent higher than apprehensions during the entire FY2013.⁹ Sexual violence has become so prevalent that women and girls routinely take contraceptives before leaving home.

Kidnapping: A 2009 CNDH report records 9,758 migrant kidnappings between September 2008 and February 2009.¹⁰ A subsequent CNDH report (2011) cited 11,333 abductions between April and September 2010.¹¹ These estimates have led many advocates to estimate 20,000 migrant kidnappings each year.

Human Trafficking: Kidnapped migrants unable to meet ransom demands are often forced to carry out illicit activities on behalf of drug cartels. According to reporting by InSight Crime, human trafficking in Mexico generates \$42 million annually and involves 47 criminal organizations.¹² Victims of human trafficking could potentially be eligible for nonimmigrant T status.

Forced Disappearance: The latest Mexican government estimate places the number of disappeared migrants at 16,000 during 2012.¹³ Estimates from local advocacy organizations are much higher, with one citing 70,000 disappearances between 2006 and 2012.¹⁴

Under current U.S. immigration policy, the most common forms of relief from removal require applicants to demonstrate that they would endure unusual and severe harm if returned to their country of origin. This means that abuses suffered by Central American minors and families as they traverse Mexico are unlikely to have much bearing on their prospects for remaining in the U.S., though given the transnational nature of many organized crime groups operating in the region, cases in which forms of persecution extend across national borders are conceivable.

⁷ Manu Ureste, “Federales extorsionan a más migrantes que el crimen organizado,” *Animal Político*, January 30, 2014.

⁸ Erin Siegal McIntyre and Deborah Bonello, “Is Rape the Price to Pay for Migrant Women Chasing the American Dream?,” *Fusion*, September 10, 2014.

⁹ Jens Manuel Krogstad, Ana Gonzalez-Barrera, and Mark Hugo Lopez, “At the Border, a Sharp Rise in Unaccompanied Girls Fleeing Honduras,” Pew Research Center, July 25, 2014.

¹⁰ Comisión Nacional de Derechos Humanos, *Informe especial sobre los casos de secuestro en contra de migrantes*, June 15, 2009.

¹¹ Comisión Nacional de Derechos Humanos, *Informe especial sobre los casos de secuestro en contra de migrantes*, February 22, 2011.

¹² Kyra Gurney, “Mexico Human Trafficking Web Exposes Changing Role of Cartels,” *InSight Crime*, July 31, 2014.

¹³ Alberto Morales, “Segob precisa cifra de desaparecidos; ascienden a 16 mil,” *El Universal*, June 16, 2014.

¹⁴ Pepe Jacques Medina, “Caravana de Madres Centroamericanas 2012,” *Movimiento Migrante Mesoamericano*, October 9, 2012.

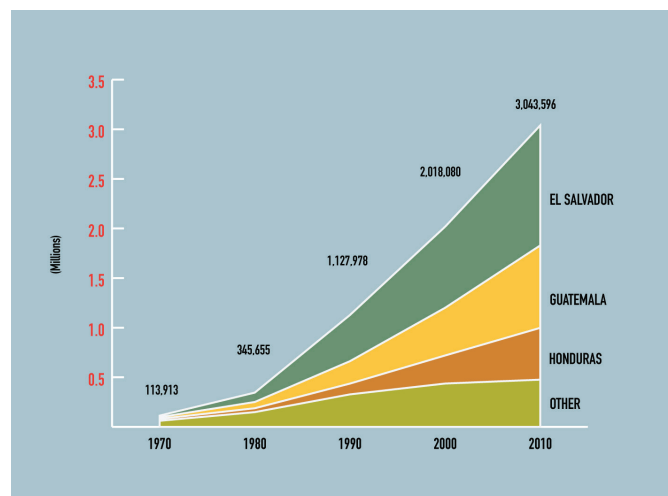
Since 1960, the Central American-born population in the U.S. has grown more than 60-fold, now totaling over 3 million and growing faster than any other region-of-origin population from Latin America.

Historical Trends in Central American Migration

While the record influx of UACs from Central America is being driven largely by current dynamics in their home countries (see Part II), the recent surge is taking place on the heels of nearly half-a-century of steady migration from the region, both documented and undocumented. Since 1960, the Central American-born population in the U.S. has grown more than 60-fold, now totaling over 3 million and growing faster than any other region-of-origin population from Latin America. Increased immigration from El Salvador, Guatemala, and Honduras accounts for 85 percent of the growth in this population over the last five decades.¹⁵

Bloody civil conflicts born of centuries of oligarchic rule plagued the region through the 1970s and 1980s, causing millions to seek refuge abroad. But Guatemalans and Salvadorans were systematically denied asylum as Cold War paranoia over revolutionary movements in Central America motivated successive U.S. administrations to ally with repressive military governments. An estimated 200,000 Central Americans who had arrived in the U.S. prior to 1982, however, were fortunate enough to obtain legal status through the 1986 Immigration Reform and Control Act (IRCA). During the following decade, this newly legalized population (many of them subsequently naturalized) served as a bridge for hundreds of thousands of family members who took advantage of IRCA's family unification provisions in order to migrate lawfully into the U.S.¹⁶

Figure 5: Foreign-Born Population from Central America Residing in the U.S., 1970-2010



Data Source: U.S. Census Bureau, *1960-2000 Decennial Censuses; 2010 American Community Survey*.

The granting of temporary protected status (TPS) to Honduran, Nicaraguan, and Salvadoran nationals following a series of natural disasters between 1998 and 2001

¹⁵ Sierra Stoney and Jeanne Batalova, "Central American Immigrants in the United States," Migration Policy Institute, March 18, 2013.

¹⁶ Sarah J. Mahler and Dusan Ugrina, "Central America: Crossroads of the Americas," Migration Policy Institute, April 1, 2006.

proved another windfall for unauthorized Central Americans living in the U.S.¹⁷ The current designations for these three Central American countries date back to Hurricane Mitch in 1999 and to two major earthquakes suffered by El Salvador in 2001. TPS for nationals residing in the U.S. at the time of the original designation has been continuously renewed for over 15 years in the case of Honduras and Nicaragua, and for over 13 years in the case of El Salvador, allowing beneficiaries to maintain their authorization to legally live and work in the U.S.¹⁸

An estimated 280,000 Salvadorans, Hondurans, and Nicaraguans currently have TPS status. The U.S. government has cited these impoverished countries’ inability to accommodate the return of their nationals as the reason for extension. Nonetheless, the U.S. Department of Homeland Security (DHS)—the same agency extending TPS designations based on a country’s inability to repatriate its nationals—deported nearly 60,000 Hondurans, Nicaraguans, and Salvadorans during FY2013 alone.

Undocumented immigrants—including the most recent influx of UACs and family units—are not eligible for this form of relief, having arrived in the U.S. after the initial TPS designation. Several Central American leaders, most notably Guatemalan President Otto Pérez Molina, have petitioned the Obama administration to grant TPS to Central Americans residing in the U.S. as a result of the recent crisis. As of this writing, Washington has seemed disinclined. Regardless, while TPS is an effective means of securing a provisional reprieve from removal, it is far from a permanent solution to the present dilemma faced by tens of thousands of children and families seeking to legally remain in the country.¹⁹

Table 1: Central American Countries Currently Designated for Temporary Protected Status

	EL SALVADOR	HONDURAS	NICARAGUA
ESTIMATED BENEFICIARIES	212,000	64,000	3,000
MOST RECENT DESIGNATION DATE	EARTHQUAKE (2001)	HURRICANE MITCH (1999)	HURRICANE MITCH (1999)
CURRENT EXPIRATION DATE	MARCH 9, 2015	JANUARY 5, 2015	JANUARY 5, 2015

Data Source: U.S. Citizenship and Immigration Services, “Temporary Protected Status”; Extension of the Designation of El Salvador for Temporary Protected Status, 78 Federal Register 32418, May 30, 2013; Extension of the Designation of Honduras for Temporary Protected Status, 78 Federal Register 20123, April 3, 2013; Extension of the Designation of Nicaragua for Temporary Protected Status, 78 Federal Register 20128, April 3, 2013.

Undocumented migration has also fueled the growth of long-established Central American immigrant communities in the U.S. The undocumented population from Northern Triangle countries has tripled since 1990 and now accounts for 14 percent of all unauthorized persons in the U.S. As net

¹⁷ TPS is a form of humanitarian relief granted to nationals of select countries that are in a state of ongoing armed conflict or have suffered a natural disaster.

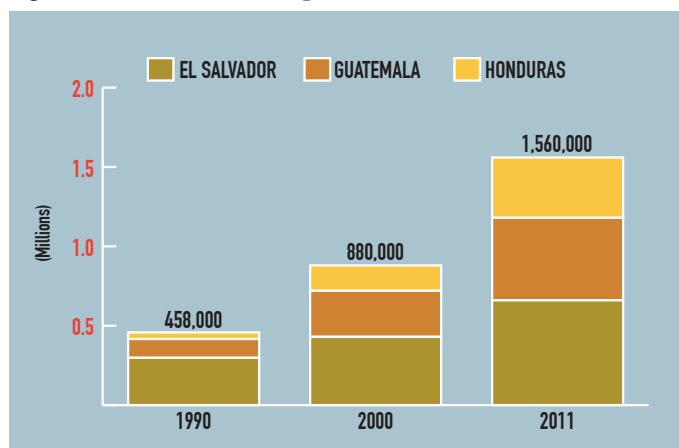
¹⁸ Every 12 to 18 months TPS beneficiaries pay fees ranging between \$380 and \$465 to re-register for TPS and, if they choose, renew their work authorization. The Salvadoran Ambassador to the U.S. calculates that revenues from TPS registration fees exceed the amount of U.S. aid received by El Salvador throughout the duration of that country’s TPS designation. Francisco Altschul, “Public presentation on the topic of immigration reform,” American University, Washington, DC, February 12, 2013.

¹⁹ Madeline Messick and Claire Bergeron, “Temporary Protected Status in the United States: A Grant of Humanitarian Relief that is Less than Permanent,” Migration Policy Institute, July 2, 2014.

Several Central American leaders, most notably Guatemalan President Otto Pérez Molina, have petitioned the Obama administration to grant TPS to Central Americans residing in the U.S. as a result of the recent crisis.

Mexican migration has remained flat, Central American migration is on the rise. A 2013 study by the Pew Research Center points to increased migration from Central America as one of the principal factors contributing to modest growth—or at least stabilization in light of decreased Mexican flows—in the size of the unauthorized immigrant population in the U.S. following the Great Recession.²⁰

Figure 6: Unauthorized Population from the Northern Triangle Residing in the U.S., 1990-2011



Data Source: U.S. Immigration and Naturalization Service, “Estimates of the Unauthorized Population Residing in the United States: 1990 to 2000”; U.S. Department of Homeland Security, “Estimates of the Unauthorized Population Residing in the United States: January 2011.”

Marketing Migration

- » Human smugglers—known colloquially as *coyotes*—have capitalized on the grave economic and security conditions in Central America. As Mexican migration declined in the aftermath of the global financial crisis, coyotes have endeavored to expand a long-time client base—Central Americans.
- » As of 2010, the human export industry was generating \$6.6 billion annually ferrying migrants across the U.S.-Mexico border, according to estimates from the United Nations Office on Drugs and Crime.²¹
- » U.S. officials estimate that 75-80 percent of unaccompanied minors hire smugglers.²²
- » Central Americans routinely pay between \$4,000 and \$10,000 to cross, making the high-risk business more profitable than drug smuggling. Once across the border, coyotes have been known to extort families for additional profit, refusing to release migrants until further payment is made.²³
- » Migrant smugglers are encouraging common misconceptions in the region regarding recent and

²⁰ Jeffrey S. Passel, D’Vera Cohn, and Ana Gonzalez-Barrera, *Population Decline of Unauthorized Immigrants Stalls, May Have Reversed*, Pew Research Center, September 23, 2013.

²¹ United Nations Office on Drugs and Crime, *The Globalization of Crime: A Transnational Organized Crime Threat Assessment*, 2010.

²² White House, Office of the Vice President, “Remarks to the Press with Q&A by Vice President Joe Biden in Guatemala,” press release, June 20, 2014.

²³ See, for example, Damien Cave and Frances Robles, “A Smuggled Girl’s Odyssey of False Promises and Fear,” *The New York Times*, October 5, 2014.

pending U.S. immigration policies. “Green light” messages are coming from coyotes, not U.S. government policies.²⁴

- » Human smugglers are actively targeting poor families and those with family in the U.S., convincing them to take out bank loans or hand over property titles as a form of down payment.

Long-established immigrant communities in the U.S. undoubtedly are significant “pull factors,” attracting Central American youth and single-parent families seeking to reunite with relatives already in the U.S. But while *El Norte* (The North) remains the safe haven of choice for citizens of the Northern Triangle countries fleeing physical and economic insecurity in their home countries, the U.S. is not the sole destination. According to the United Nations High Commissioner for Refugees (UNHCR), asylum applications from Salvadoran, Guatemalan, and Honduran citizens in Mexico and other neighboring countries (Belize, Costa Rica, Nicaragua, and Panama) increased by 712 percent from 2008 to 2013.²⁵ Nicaragua, which borders violence-ridden Honduras and where income levels are no higher than its neighbors, documented a 420 percent increase in asylum claims from 2012 to 2013 alone.

Larger still are the numbers of those who, because of limited resources, are forced to seek refuge within their own borders. The Internal Displacement Monitoring Centre (IDMC) reports that as of the end of 2013, 242,000 Guatemalans and 17,000 Hondurans were internally displaced as a result of natural disasters or violence perpetrated by either state or non-state actors. Extrapolating from survey data gathered by the University Public Opinion Institute (Instituto Universitario de Opinión Pública, IUDOP), an estimated 130,000 Salvadorans have been forced to relocate internally as street gangs seize individual homes to use as safe houses.²⁶

Internal displacement numbers and data on asylum applications filed in neighboring countries suggest that Northern Triangle migrants are seeking relief wherever they can, just as they did during past crises. These numbers cast doubt on unsubstantiated allegations that lax border enforcement and U.S. immigration policies, such as the Deferred Action for Childhood Arrivals (DACA) program, are primarily to blame for the surge in Central American migration. The ever-rising numbers of asylum seekers at other borders in the region suggest that conditions in the Northern Triangle countries are the decisive factor driving the recent exodus.

Asylum applications from Salvadoran, Guatemalan, and Honduran citizens in Mexico and other neighboring countries increased by 712 percent from 2008 to 2013.

²⁴ U.S. Department of Homeland Security, “Written Testimony of DHS Secretary Jeh Johnson for a House Committee on Homeland Security Hearing Titled ‘Dangerous Passage: The Growing Problem of Unaccompanied Children Crossing the Border,’” June 24, 2014. While it is widely reported that smugglers are disseminating misinformation to Central American families regarding U.S. immigration policies, their claims that unaccompanied children will not be turned away at the border are not entirely unfounded. As detailed in Part 3 of this report, the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) does not allow for the voluntary return or expedited removal of UACs from non-contiguous countries (i.e., Central America).

²⁵ “Three Myths about Central American Migration to the United States,” Washington Office on Latin America, June 10, 2014.

²⁶ See Testimony of Richard Jones, Deputy Regional Director for Latin America and the Caribbean, Catholic Relief Services, before the Senate Committee on Homeland Security and Governmental Affairs, “Challenges at the Border: Examining and Addressing the Root Causes Behind the Rise in Apprehensions at the Southern Border,” 113th Congress, 2nd Session, July 16, 2014.

II. COUNTRIES AND COMMUNITIES OF ORIGIN: CONTEXTUAL FACTORS FUELING YOUTH AND FAMILY MIGRATION

Locations of origin are highly dispersed throughout the Northern Triangle countries, with a significant concentration in urban areas.

Near-identical trends in UAC and family migration from El Salvador, Guatemala, and Honduras—and the drop in numbers of unaccompanied Mexican youth (as seen in Part 1)—have led regional experts to focus on specific factors in Northern Triangle countries as the principal cause of the recent surge in arrivals.²⁷ As immigration proceedings get underway for tens of thousands of unaccompanied children, reliable data on country-of-origin contexts is crucial for the task of validating claims and proving the legal grounds for humanitarian relief. In an effort to contribute to the above mentioned body of resources, Part 2 of this report provides an overview of where children are coming from, followed by a detailed account of the push factors motivating children and families to abandon their homes and seek refuge elsewhere, whether in the U.S., neighboring countries, or within their own borders.

DHS data on UACs arriving between January 1 and May 14, 2014 show that their locations of origin are highly dispersed throughout the Northern Triangle countries, with a significant concentration in urban areas. But while major cities such as San Pedro Sula, Honduras; San Salvador, El Salvador; and Guatemala City, Guatemala are sending proportionately higher numbers of unaccompanied children to the United States, nearly half of the top-20 sending locations are rural towns, such as Juticalpa, Honduras, and Huehuetenango, Guatemala, sending approximately 800 and 400 UACs respectively in the months preceding the peak of the surge at the U.S. border.

Drawing on data from interviews with 2,283 Salvadoran UACs detained in Texas and Arizona, the breakdown of unaccompanied children by department of origin (Figure 8) shows a similarly diffuse portrait of youth migration from El Salvador. Just as many children are fleeing the densely populated metropolitan area of San Salvador as the rural department of La Unión, pointing to country-wide

²⁷ See, for example, United Nations High Commissioner for Refugees, *Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection*, March 12, 2014; Charles Parkinson, “Unaccompanied Child Migrants and the Central American Exodus,” *InSight Crime*, May 22, 2014; Elizabeth G. Kennedy, “‘No Place for Children’: Central America’s Youth Exodus,” *InSight Crime*, June 23, 2014; William A. Kandel, Andorra Brunbo, Peter J. Meyer, Clare Ribando Seelke, Maureen Taft-Morales, and Ruth Ellen Wasem, “Unaccompanied Alien Children: Potential Factors Contributing to Recent Immigration,” Congressional Research Service Report R43628, July 3, 2014; Manuel Orozco and Julia Yansura, “Understanding Central American Migration,” *Inter-American Dialogue*, August 2014; “WOLA’s Resources and Analysis on the Crisis of Migrant Children,” Washington Office on Latin America, August 8, 2014.

According to World Bank data, 42 percent of Salvadorans, 54 percent of Guatemalans, and 52 percent of Hondurans live on less than \$4/day, with the number of those living on \$2.50/day ranging between 23 and 37 percent.

The following section addresses six factors that motivate migration: social exclusion, societal violence, household violence, drug trafficking, corruption, and institutional incapacity. It shows which factors disproportionately affect certain geographic areas or subpopulations as well as how factors tend to overlap, resulting in an accumulation of adverse conditions that, taken as a whole, outweigh the risks posed by migration.

Social Exclusion

Economic stagnation has plagued El Salvador, Guatemala, and Honduras since the Great Recession. Excessive dependence on remittances from diasporas in the United States and on sporadic infusions of foreign investment has only exacerbated the effects of the global financial crisis. Even during the prior decade of relative economic stability, the Northern Triangle countries had some of the highest rates of inequality and poverty in the Western Hemisphere—legacies of centuries-old oligarchic rule, decades of civil war in the case of El Salvador and Guatemala, and the devastation wreaked by repeated natural disasters. The inherent problems posed by fragile economies and limited resources are further compounded by the fact that business elites maintain disproportionate control over these countries' wealth. In Guatemala and Honduras, nearly half of national income is distributed among the richest 10 percent of the population, while the bottom 20 percent garners less than 3 percent of income.²⁹

Table 2: Select Demographic and Socioeconomic Indicators

	EL SALVADOR	GUATEMALA	HONDURAS
GDP PER CAPITA US\$ (2013)	3,826	3,478	2,291
PERCENT OF POP. LIVING ON: \$4/DAY \$2.50/DAY	(2009) 42.7 23.1	(2006) 53.5 33.9	(2009) 52.3 36.5
UNDEREMPLOYMENT RATE	46.2 (2012)	41.25 (2013)	52.5 (2013)
PERCENT OF POP. UNDER 25 (2014)	49	58	56
COMPLETION RATE	45.1 (2011)	25.6 (2006)	36 (2010)
ANNUAL NET MIGRATION/1,000 POP. (2014)	-8.44	-2	-1.18

Data Source: For GDP per capita and poverty data, The World Bank, World Development Indicators; For underemployment rates, El Salvador, Programas de las Naciones Unidas para el Desarrollo; Guatemala: Instituto Nacional de Estadística; Honduras: Observatorio de Mercado Laboral; For secondary education completion rates, Economic Commission for Latin America and the Caribbean, Social Indicators and Statistics; For population age and annual net migration rates, Central Intelligence Agency, *The World Factbook*.

This income disparity leaves large sectors of the population without the minimum resources needed to sustain households. These extreme levels of economic deprivation stand out as particularly severe in comparison to other Latin American countries.

But poverty and inequality rates fail to capture the full extent of the socio-economic crisis in Central

The Lost Boys and Girls of Central America, October 2012.

²⁹ Economic Commission for Latin America and the Caribbean, *Statistical Yearbook for Latin America and the Caribbean*, 2013, December 2013.

America. While the correlation between poverty, inequality, and crime is well documented, ongoing research suggests that the combination of scarce jobs and the absence of state institutions that might supply minimal resources or services is critical to understanding the link between economic deprivation, violence, and migration.³⁰ Northern Triangle countries exemplify this combination. The result, as documented by researchers at the Latin American Faculty of Social Sciences (FLACSO-Costa Rica), is a condition that can be characterized as social exclusion, a combination of estrangement from both labor markets and state services which is far more destructive than poverty or inequality per se.

Northern Triangle economies have been unable to develop—much less incorporate—the human capital represented by expanding working-age populations. The number of young people in the three countries is exceptionally high, with the proportion of those under age 25 either at or exceeding 50 percent. Yet the economic prospects for this burgeoning population are especially dismal. According to the most recent ECLAC data, only 45 percent of Salvadorans, 26 percent of Guatemalans, and 36 percent of Hondurans complete secondary education. In Honduras, enrollment rates from seventh to ninth grade are only 49 percent, the rates for 10th and 11th grades drop to 25 percent.³¹ In some cases, lack of labor market incentives and/or family dynamics are fueling high dropout rates. Compelling studies find that threats of violence and forced gang recruitment are keeping children from school. The Honduran Secretariat of Education estimated that, in 2013, 2,000 children under the age of 14 were forced to leave school because of death threats from gangs in the city of San Pedro Sula alone.³²

Meanwhile, underemployment is endemic, with 46 percent of Salvadorans, 41 percent of Guatemalans, and 53 percent of Hondurans lacking minimum wage-level employment. The rates are even higher for youth. In El Salvador, 60 percent of youth with nine years or less of education are either unemployed or underemployed.³³

This confluence of bleak socioeconomic outcomes has been driving migration from the region for decades, particularly from the most impoverished rural areas such as the predominantly indigenous communities of Guatemala's Western Highlands. The current surge in unaccompanied youth migration appears to be following a similar pattern, with children from rural areas more likely to cite the quest for economic betterment as their primary reason for leaving home.³⁴ Years of inadequate state responses have created an atmosphere of desperation among parents who see their children as part of a generation with no options.

Societal Violence

Social exclusion spawns what is widely considered the leading driver of the dramatic spike in youth

46 percent of Salvadorans, 41 percent of Guatemalans, and 53 percent of Hondurans lack minimum wage-level employment.

³⁰ For more information on this research carried out by a team of social scientists at the Latin American Faculty of Social Sciences, Costa Rica (Facultad Latinoamericana de Ciencias Sociales, FLACSO-Costa Rica), see "Exclusion, Violence, and Community Responses in Central American Cities," CLALS, available at <http://www.american.edu/clals/exclusion-and-violence.cfm>.

³¹ U.S. Department of State, "Country Reports on Human Rights Practices for 2013: Honduras."

³² See, "2,000 niños hondureños huyen de escuelas por acoso de mareros," *El Heraldo*, May 19, 2014.

³³ U.S. Department of State, "Country Reports on Human Rights Practices for 2013: El Salvador."

³⁴ Elizabeth G. Kennedy, *No Childhood Here: Why Central American Children Are Fleeing Their Homes*, American Immigration Council, July 2014.

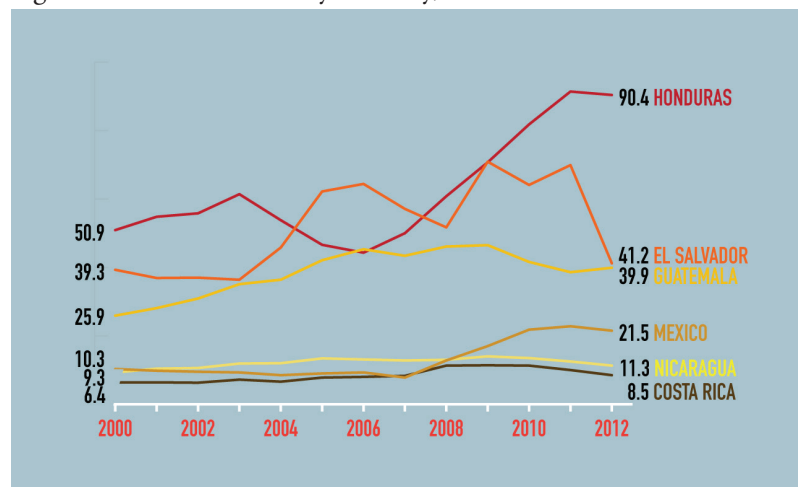
San Pedro Sula, Honduras's second largest city, is the deadliest in the world. With 187 homicides for every 100,000 residents, the city's murder rate eclipses that of war zones such as Afghanistan and Iraq.

and family migration—a climate of generalized violence. Per capita homicide rates vividly depict chronic insecurity in terms of lethal violence. In 2012, all three Northern Triangle countries had the ignoble distinction of being in the top-five of the most murderous countries in the world. Honduras led the list with a staggering 90.4 homicides per 100,000 people; El Salvador was fourth and Guatemala fifth.

Since then, conditions have only deteriorated. The 2009 military coup in Honduras triggered a downward spiral from which the country has yet to recover. San Pedro Sula, Honduras's second largest city, is the deadliest in the world. With 187 homicides for every 100,000 residents, the city's murder rate eclipses that of war zones such as Afghanistan and Iraq.³⁵ It is little surprise, then, that children from San Pedro Sula accounted for five percent of all UAC apprehensions during the first four-and-a-half months of 2014 (Figure 7). Honduran children often fall victim to this lethal violence; the local advocacy organization Covenant House (Casa Alianza) estimates that 88 children are murdered in Honduras each month.³⁶

In El Salvador, a drastic decline in the number of homicides as a result of a controversial gang truce brokered in March 2012 has come to an abrupt end, sending the daily average of murders back to pre-truce levels. With around 12 murders each day, El Salvador's homicide rate is on track to double during 2014.³⁷ As in Honduras, children are not immune. Data from El Salvador's Institute of Legal Medicine shows that youth ages 15-19 are most at risk for violent death in El Salvador.³⁸ Moreover, Salvadoran police report that murders of children under the age of 17 were up 77 percent during the first half of 2014 compared to the previous year.³⁹ These trends stand in stark contrast to rates posted by the neighboring countries of Nicaragua and Costa Rica, even dwarfing homicide levels in cartel-plagued Mexico.

Figure 9: Homicide Rates by Country, 2000-2012



Data Source: United Nations Office on Drugs and Crime, Global Study on Homicide 2013.

³⁵ Douglas Farah, "Five Myths About the Border Crisis," *The Washington Post*, August 8, 2014.

³⁶ "Casa Alianza: Nueve niños asesinados o ejecutados a diario en Honduras," *Conexihon*, August 20, 2014.

³⁷ Kyra Gurney, "Homicides in El Salvador Reach Pre-Gang Truce Levels," *InSight Crime*, July 8, 2014. See also Camilo Mejia Giraldo, "New El Salvador Govt Yet to Take Action as Homicides Rocket," *InSight Crime*, July 29, 2014.

³⁸ IUOP, *La situación de la seguridad y la justicia 2009-2014*, 2014.

³⁹ Frances Robles, "Fleeing Gangs, Children Head to the U.S. Border," *The New York Times*, July 9, 2014.

The Gang Truce in El Salvador

In March 2012, authorities from the government and the Catholic Church brokered a truce between El Salvador's largest and most deadly rival street gangs, *Mara Salvatrucha* (MS-13) and 18th Street.⁴⁰ In exchange for a promised reduction in homicides and a moratorium on the forced recruitment of minors, Salvadoran Security Minister David Munguía Payés secretly agreed to a number of concessions, including the transfer of imprisoned gang leaders to lower-security facilities. As homicides plummeted to record lows, the Salvadoran government, initially reluctant to admit its role in the pact, embraced the path-breaking—though no less controversial—security strategy, raising questions as to whether government-gang negotiations might prove a panacea for the region's endemic violence.

The truce, however, failed to increase security for local communities, where the number of those displaced by threats of violence continued to soar. The terms of the pact allowed gangs to continue with business as usual, extorting local business owners while further consolidating their territorial control throughout the country. Decreased vigilance allowed imprisoned gang members to expand extortion operations from jails, using children to deliver threatening messages to local businesses via cell phone.⁴¹

The truce has since unraveled, and homicides have returned to pre-truce levels. Several of the key negotiators of the truce have been arrested on charges ranging from influence trafficking to the smuggling of illicit objects into jails. Security Minister Munguía Payés is under investigation for alleged arms trafficking.⁴² Despite attempts by gang leaders to renew negotiations with the government, the new administration, sworn in on May 1, seems unlikely to follow the path of its predecessor.⁴³

Other non-lethal criminal activities also impact the daily lives of children and families. Extortion, theft, and robbery are core components of the business model pursued by local street gangs. But mistrust of police and security forces and fear of reprisals mean that only a fraction of these crimes are reported to authorities. Salvadoran police, for example, estimate that only 10 percent of extortion victims file reports.⁴⁴ As a result, comparing crime data across countries in the region can often be misleading. In Nicaragua, for instance, where street gangs are far less prevalent, the National Police recorded 50 percent more cases of threats and double the number of thefts per 100,000 inhabitants in 2012 than in El Salvador.⁴⁵ The underreporting of crime presents a significant challenge to quantifying the insecurity and probability of harm faced by a child if returned to his or her country of origin.

⁴⁰ For a detailed account of the origins of the truce, see Steven Dudley, "The El Salvador Gang Truce and the Church: What was the role of the Catholic Church," CLALS Working Paper Series No. 1, May 5, 2013.

⁴¹ Miriam Wells, "'Rising Extortion' Signals Trouble for El Salvador's Gang Truce," *InSight Crime*, March 18, 2013.

⁴² James Bargent, "El Salvador Investigates Both Sets of Gang Truce Negotiators," *InSight Crime*, August 26, 2014.

⁴³ Kyra Gurney, "Rival El Salvador Gangs Announce 'Phase 2' of Truce," *InSight Crime*, September 1, 2014.

⁴⁴ Miriam Wells, "'Rising Extortion' Signals Trouble for El Salvador's Gang Truce," *InSight Crime*, March 18, 2013.

⁴⁵ Policía Nacional de Nicaragua, *Anuario estadístico 2012, 2013*.

Table 3: Select Crime Indicators in the Northern Triangle

EL SALVADOR (2013)					
CRIME	TOTAL	RATE			
THREATS	6,353	101			
EXTORTION	2,785	44.3			
THEFT	9,268	147.4			
ROBBERY	5,346	85			
HONDURAS (2012)			GUATEMALA (2012)		
CRIME	TOTAL	RATE	CRIME	TOTAL	RATE
EXTORTION (2013)	1,960	23.3	EXTORTION	2,739	36
THEFT	3,779	45	THEFT AND ROBBERY	17,840	118.4
ROBBERY	8,887	105.8			

Data Source: For El Salvador, Instituto Universitario de Opinión Pública, *La situación de la seguridad y la justicia 2009-2014*; for Guatemala, Instituto Nacional de Estadística; for Honduras, Observatorio Nacional de la Violencia.

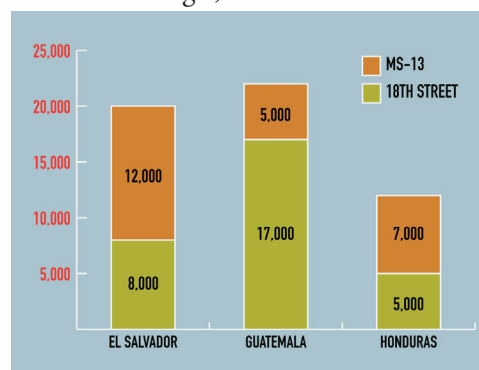
The majority of these crimes are attributed to street gangs—some now transnational in nature—which have usurped control of vast stretches of territory in all three Northern Triangle countries, overpowering outnumbered and ill-equipped police forces. The two largest gangs, Mara Salvatrucha (MS-13) and 18th Street, trace their origins back to the U.S. cities of Los Angeles and Chicago, where Central American youth fleeing civil wars in their home countries formed gangs of their own. Beginning in the mid-1990s, an increase in the deportation of ex-convicts from the U.S., many of them gang members, replicated the gang phenomenon in Central America. Having just emerged from decades of internal conflict, nascent democracies in El Salvador and Guatemala proved unable to offer youth a viable alternative, and gang ranks swelled.⁴⁶

Since 2001, deportations have soared as U.S. immigration enforcement policies emphasized expelling convicted criminals. The number of convicted offenders returned to Northern Triangle countries doubled between 2005 and 2012. This practice—compounded by the U.S. refusal to share data on deportees' criminal backgrounds—has had devastating consequences for Northern Triangle societies. Conservative estimates now place the number of MS-13 and 18th Street members at approximately 60,000. U.S. State Department officials warn there could be as many as 85,000 gang members in the three countries.⁴⁷

⁴⁶ Steven Dudley, "Part II: Gangs, Deportation, and Violence in Central America," *InSight Crime*, November 24, 2012.

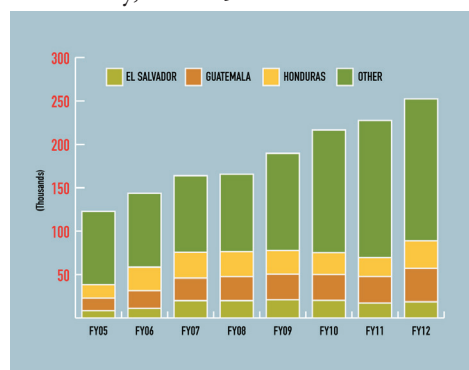
⁴⁷ U.S. Department of State, "Gangs, Youth, and Drugs – Breaking the Cycle of Violence," Remarks by William R. Brownfield, Assistant Secretary, Bureau of International Narcotics and Law Enforcement Affairs, at the Institute of the Americas, press release, October 1, 2012.

Figure 10: Gang Membership Estimates in the Northern Triangle, 2012



Data Source: United Nations Office on Drugs and Crime, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*.

Figure 11: Criminal Removals by Nationality, FY2005-2012



Data Source: U.S. Department of Homeland Security, Office of Immigration Statistics.

Children and families are paying the price as gang violence reaches epidemic proportions. Children suffer forced conscription, extortion, physical assault, threats, and sexual violence. They are increasingly used by gangs to monitor territories, sell drugs, and collect extortion payments. When they resist being coerced into serving as the gangs' foot soldiers, the consequences can be gruesome.⁴⁸ In interviews with 322 children returned to El Salvador, 59 percent of boys and 61 percent of girls listed crime, gang threats, or violence as one of the reasons for their emigration. Nearly one-third of all children cited gang-related violence as the sole factor in their decision to leave home.⁴⁹

Household Violence

Many Northern Triangle children are unable to find refuge from violence even at home. The domestic sphere, typically considered a protective space amidst rampant insecurity in these communities, has also become a stage for violence resulting from the processes of social exclusion mentioned earlier—lack of employment opportunities and basic state services.⁵⁰ In many cases, male heads of household, frustrated by the inability to generate income sufficient to satisfy even the most minimal necessities for household survival, become aggressors not only in the public sphere but in the private one as well. Wives and children become victims of this complex chain of violence. Though most cases of abuse go unreported, several indicators, along with anecdotal evidence, suggest that household violence is widespread. In interviews conducted by UNHCR with 302 unaccompanied children from El Salvador, Guatemala, and Honduras, nearly one-fifth (23 percent) of children reported some form of abuse in the home.⁵¹

In interviews with 322 children returned to El Salvador, 59 percent of boys and 61 percent of girls listed crime, gang threats, or violence as one of the reasons for their emigration.

⁴⁸ See, for example, "Asesinan a niños por no entrar en las pandillas en Honduras," *La Opinión*, May 7, 2014; Ricardo Flores, "305 estudiantes asesinados desde 2010," *La Prensa Gráfica*, December 31, 2013.

⁴⁹ Elizabeth G. Kennedy, *No Childhood Here: Why Central American Children Are Fleeing Their Homes*, American Immigration Council, July 2014.

⁵⁰ Juan Pablo Pérez Sáinz, "Social Exclusion and Societal Violence: The Household Dimension," *AULA Blog*, March 6, 2014.

⁵¹ United Nations High Commissioner for Refugees, *Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection*, March 12, 2014.

Why Not Nicaragua?⁵²

Nicaragua is not experiencing the same massive levels of out-migration as neighboring El Salvador, Guatemala, and Honduras. During the first 10 months of FY2014, while tens of thousands of UACs from the Northern Triangle were flooding the U.S.-Mexico border, only 194 Nicaraguan children were detained by U.S. authorities.⁵³

Astute observers have questioned why. Nicaragua is not, after all, exempt from the economic and geographic challenges shared by her neighbors to the north. In fact, Nicaragua is the second poorest country in the hemisphere—behind only Haiti—and like her Central American counterparts has been designated a major drug transit point by the U.S. government.⁵⁴

The relative absence of Nicaraguan children showing up at the southwest border makes the Nicaraguan case strikingly illustrative of the interplay between contextual push factors. So why the difference?

- » In contrast to Guatemala and Honduras, Nicaragua's lengthy internal conflict resulted in a **revolution**, an enduring legacy of which was the **cleansing of the country's military and police forces**. This overhaul has made these institutions less vulnerable to penetration by organized crime groups and more capable of preventing gang control over communities.
- » During the 1990s, the Nicaraguan National Police implemented a model of **community-based preventative policing**. Homicide rates have since plunged, while public confidence in law enforcement agents remains the highest in the region.
- » The **concentration of Nicaraguan immigrants in Florida**, rather than in gang-ridden Los Angeles or Chicago, means that Nicaragua has been affected to a much lesser degree by criminal deportations from the U.S.
- » Impoverished Nicaraguans find it nearly impossible to finance the journey north, preferring instead to **seek employment or reunite with family in Costa Rica to the south**.

The disintegration of nuclear families as a result of migration is also a contributing factor. While children may benefit economically from remittances sent by a parent in the U.S., parental loss—especially separation from a mother—increases a child's vulnerability to different forms of abuse in the home.⁵⁵ Children whose parents have emigrated to the U.S. and left them in the care of extended family members or friends are also more vulnerable to forced recruitment by gangs.

Abandonment is also on the rise. In the Honduran city of San Pedro Sula, for instance, some 3,000 girls between the ages of 12 and 17 work as child prostitutes; another 5,000 under the age of 18 sleep

⁵² "Nicaragua," *InSight Crime*.

⁵³ Tim Johnson, "Why Are Nicaraguan Youths Staying Put While Neighbors Migrate North?," *Christian Science Monitor*, September 1, 2014.

⁵⁴ White House, "Presidential Determination—Major Drug Transit and Drug Producing Countries for FY2014," press release, September 13, 2013.

⁵⁵ Caroline Bakker, Martina Elings-Pels, and Michele Reis, "The Impact of Migration on Children in the Caribbean," UNICEF, Paper No.4, August 2009.

on the streets, according to a report by the Honduran Institute of Childhood and Family.⁵⁶ During the first nine months of 2013, the Salvadoran Institute for Children and Adolescents (ISNA) reported sheltering 496 abused children.⁵⁷ Sexual abuse in the home is another problem. According to a 2012 World Bank report, 12 percent of first pregnancies of girls between the ages of 10 and 19 resulted from sexual abuse by a family member.⁵⁸ Child victims of parental abuse, neglect, or abandonment could potentially be eligible for Special Immigrant Juvenile (SIJ) status, as discussed in Part III.

Drug Trafficking, Corruption, and Institutional Incapacity

Central America's misfortune is to be located on an isthmus connecting the world's largest drug producing countries in South America with the world's largest consumer of illicit drugs, the United States. U.S.-supported counter-narcotics efforts in Colombia and Mexico have redrawn drug trafficking routes throughout Central America, igniting turf wars between major drug cartels, international drug trafficking organizations (DTOs), and local transportistas, all vying for control of land and maritime routes and enlisting, to varying degrees, the support of less sophisticated street gangs for storage and local distribution.⁵⁹ The transit of drugs through the region generates an environment in which already weak and unaccountable state institutions are easily penetrated or outright taken over by transnational criminal networks. This has had grave consequences for the effectiveness of security forces and the overall functionality of these countries' justice systems.⁶⁰ Public confidence in local law enforcement has eroded, and many citizens choose not to report crimes to the police either because they know the crime will go uninvestigated or—as is becoming increasingly common in Honduras—for fear of victimization at the hands of security forces. In October 2014, for instance, authorities in Honduras uncovered a child prostitution ring in which security forces not only protected the criminal operations but also served as clients.⁶¹ The girls were recruited from Juticalpa, the same rural community that sent the third highest number of unaccompanied minors to the U.S. during the first four-and-a-half months of 2014.

This example also points up the well-documented link between drug trafficking, migrant smuggling, and sex trafficking in the region.⁶² Counter-narcotics operations have compelled organized crime groups specializing in drug smuggling to move into new businesses and thus diversify their income.⁶³ Consequently, sex trafficking and, to a lesser extent, forced labor, now pose a serious threat

Counter-narcotics operations have compelled organized crime groups specializing in drug smuggling to move into new businesses.

⁵⁶ Marguerite Cawley, "Youth in LatAm Increasingly Perpetrators, Victims of Violent Crime," *InSight Crime*, January 24, 2014.

⁵⁷ U.S. Department of State, "Country Reports on Human Rights Practices for 2013: El Salvador."

⁵⁸ *Ibid.*

⁵⁹ For a comprehensive analysis of drug trafficking in Central America, see Steven S. Dudley, "Drug trafficking organizations in Central America: *Transportistas*, Mexican Cartels and *Maras*," Woodrow Wilson International Center for Scholars, May 2010.

⁶⁰ For a case study of the infiltration of El Salvador's National Civil Police (PNC) by organized crime groups, see Héctor Silva Ávalos, "Corruption in El Salvador: Politicians, Police, and Transportistas," CLALS Working Paper Series No. 4, March 2010.

⁶¹ Marguerite Cawley, "Hondurans Bust Child Prostitution Ring Used by Security Forces," *InSight Crime*, October 17, 2014.

⁶² Geoffrey Ramsey, "The Many Forms of Sex Trafficking in Central America," *InSight Crime*, September 20, 2011.

⁶³ Kyra Gurney, "Mexico Human Trafficking Web Exposes Changing Role of Cartels," *InSight Crime*, July 31, 2014.

Of the 48,947 homicides in the Northern Triangle during 2011-2013 only 2,295 (five percent) resulted in convictions.

to Northern Triangle populations, including children. In its annual report on human trafficking, the U.S. State Department noted that neither El Salvador, Guatemala, nor Honduras comply with the minimum standards for the elimination of trafficking, and that government efforts in El Salvador and Honduras to assist victims of sex trafficking remain inadequate.⁶⁴

High levels of impunity have allowed criminal groups to take root and prosper in all three Northern Triangle countries.⁶⁵ And despite substantial progress made in Guatemala during the tenure of Attorney General Paz y Paz, experts have interpreted her removal from office in the summer of 2014 as heralding yet another era of impunity guaranteed by murky networks of allied elites, corrupt politicians, and organized crime groups.⁶⁶ In April 2014, InSight Crime reported that of the 48,947 homicides in the Northern Triangle during the previous three years, only 2,295 (five percent) resulted in convictions.⁶⁷ Impunity is also the norm in crimes against children. An estimated 93 percent of crimes against youth in Honduras end without arrest of the perpetrators.⁶⁸ Between January 1, 2013 and August 28, 2013, the Salvadoran Attorney General's Office reported 1,445 cases of alleged rape of minors, only 37 resulting in convictions.⁶⁹ During roughly the same period, the Public Ministry of Guatemala reported 2,639 complaints of sexual assault or rape against minors, with only 11 convictions.⁷⁰

Poor financing of key institutions has, in part, opened the door to infiltration by organized crime groups, corruption, and rampant impunity. Inadequate public spending on citizen security has frequently been traced to the region's regressive tax policies and to high rates of tax evasion among economic elites.⁷¹

Tax revenue as a percentage of GDP for all three Northern Triangle countries is well below the average of 20.7 percent for Latin America and the Caribbean. El Salvador, Guatemala, and Honduras collect half the taxes as the average member country of the Organization for Economic Cooperation and Development (OECD). The chronic underfinancing of the state has consequences far beyond issues of security and impunity, and indeed constitutes a central explanation for the region's chronic economic stagnation. Change on this front is improbable, however, given the influence of elites on fiscal policymaking. And high levels of corruption suggest any additional tax-generated revenue would be misappropriated.

⁶⁴ U.S. Department of State, *Trafficking in Persons Report 2014*, June 2014.

⁶⁵ James Bargent, "Impunity Reigns in Latin America's Org Crime Hotspots: HRW," *InSight Crime*, January 22, 2014.

⁶⁶ Jose Luis Sanz, "Guatemala: The Fall of Paz y Paz, the End of a Judicial Awakening," *InSight Crime*, August 15, 2014.

⁶⁷ Suchit Chavez and Jessica Avalos, "The Northern Triangle: The Countries That Don't Cry for Their Dead," *InSight Crime*, April 23, 2014.

⁶⁸ Laura Notess, "Considerations for Hondurans in the American Asylum Process: Relevant Law and Country of Origin Information," Jesuit Conference of the United States, March 28, 2014.

⁶⁹ U.S. Department of State, "Country Reports on Human Rights Practices for 2013: El Salvador."

⁷⁰ U.S. Department of State, "Country Reports on Human Rights Practices for 2013: Guatemala."

⁷¹ Steven Dudley, "Guatemala, Honduras Presidents Blame US, Ignore Own Problems," *InSight Crime*, August 21, 2014. For more information on how fiscal policies impact citizen security in the region, see "Fiscal Policies Worsen Security Crisis in Central America," *AULA Blog*, July 12, 2012.

Table 4: Total Tax Revenue as Percentage, 2012

TOTAL TAX REVENUE AS PERCENTAGE OF GDP (2012)	
EL SALVADOR	15.7
GUATEMALA	12.3
HONDURAS	17.5
LATIN AMERICA AND CARIBBEAN AVERAGE	20.7
OECD (COUNTRY AVERAGE)	34.6

Data Source: Organization for Economic Cooperation and Development, *Revenue Statistics in Latin America 2014*.

Resource-deprived police forces and courts are simply unable—and often unwilling by nature of their complicity with organized crime groups—to provide protection to children and families. These are, of course, crucial considerations when asylum officers, immigration officials, and immigration judges make decisions regarding deportation relief.

Repatriation of Deportees

Resource-strained institutions also negatively impact the wellbeing of migrants who have been voluntarily returned or forcibly removed from the U.S. As the Obama administration has stepped up immigration enforcement, Northern Triangle countries have struggled to keep pace with the increasing flow of returned expatriates needing reintegration services. During FY2013 alone, El Salvador received 21,481 nationals from the U.S., Guatemala 48,213, and Honduras 37,438.⁷² These numbers do not take into account repatriations from Mexico and other Central American countries.

Despite funding from the U.S. Agency for International Development (USAID) channeled through the International Organization for Migration (IOM) and additional support provided by local, often faith-based NGOs, the services available to returned migrants remain rudimentary. These services typically include temporary shelter and basic needs provision upon arrival for a maximum of one to two days, along with limited employment, medical, psychological, and educational assistance. In Guatemala, which has benefited most from private sector support and assistance from U.S.-based NGOs such as Kids in Need of Defense (KIND), returned citizens appear to be offered a more extensive range of services.

Though there is growing awareness among Northern Triangle governments of the need to support repatriates and budget allocations to meet this need are slowly increasing, only a fraction of repatriates benefit. For example, out of the 88,153 Guatemalans repatriated between June 2011 and July 2013, only 4,457 received temporary shelter, 3,265 received employment services, 397 were referred for jobs, and only 55 were actually hired.⁷³

These figures cast serious doubt on the capability of Northern Triangle countries to reintegrate, much less protect, the over 50,000 citizens apprehended at the U.S. border during this past fiscal year. Even more troublesome, however, is the wholesale lack of services tailored to meet the specific needs of unaccompanied children.

⁷² DHS, “Yearbook of Immigration Statistics: 2013 Enforcement Actions.”

⁷³ International Organization for Migration, “IOM Guatemala: Weekly Return and Reintegration Report,” July 2013, available at <http://www.iom.int/files/live/sites/iom/files/Country/docs/Weekly-Report-AVRR.pdf>.

U.S. Engagement in the Region

The United States has not been blind to the security crisis unfolding south of its border, or to the institutional breakdown of Central American states that renders the complex cycle of violence virtually impossible to break. The bulk of U.S. assistance to the region over the past decade has been allocated through the Central American Regional Security Initiative (CARSI), which has spent to date over \$800 million for economic, counter-narcotics, and security support. Despite this substantial investment, critics contend that CARSI remains a hodgepodge of uncoordinated, loosely integrated programs lacking strategic vision and clear measures of progress.⁷⁴ To date there have been no systematic studies of Central American perceptions of the efficacy of CARSI programming, but our consultations with officials in the region reveal deep skepticism about both levels and allocations of resources.

Despite the nature and extent of the challenge faced by El Salvador, Guatemala, and Honduras, only slightly more than half of CARSI funds have been allocated to the Northern Triangle (Figure 12). From FY2008 to 2012, 16.3 percent of CARSI funding was allocated to El Salvador, 22.5 percent to Guatemala, and 17.3 percent to Honduras. While the Obama administration has shifted some funds from strictly security categories toward training and capacity building initiatives, including educational exchanges and programs for at-risk youth, the majority of funding over the past four years has continued to go to programs to strengthen law enforcement institutions and judicial capabilities. The returns on U.S. investment have been scarce, as detailed above.

Table 5: Central American Regional Security Initiative (CARSI) Funding, FY2008-2015

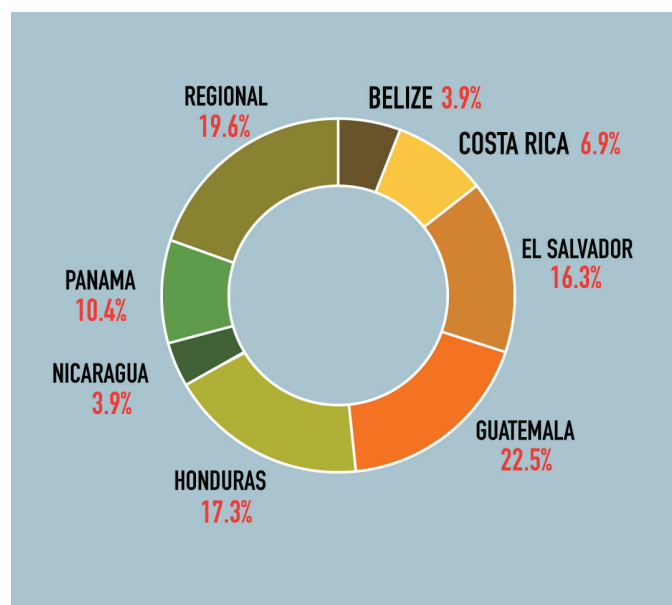
(in millions of U.S. dollars)	ECONOMIC SUPPORT (ESF)	NARCOTIC CONTROL AND POLICE/MILITARY SUPPORT (INCLE, NADR, FMF)	TOTAL
FY2008	25.0	35.0	60.0
FY2009	18.0	77.0	105.0
FY2010	23.0	72.0	95.0
FY2011	30.0	71.5	101.5
FY2012	50.0	85.0	135.0
FY2013	50.6	95.0	145.6
FY2014 (EST.)	61.5	100.0	161.5
TOTAL FY2008-2014	258.1	545.5	803.6
FY2015 (REQ.)	60.0	70.0	130.0

Data Source: Peter J. Meyer and Clare Ribando Seelke, "Central American Regional Security Initiative: Background and Policy Issues for Congress," Congressional Research Service Report R4173, May 6, 2014.

Notes: ESF = Economic Support Fund; INCLE = International Narcotics Control and Law Enforcement; NADR = Nonproliferation, Anti-Terrorism, De-mining and Related Programs; and FMF = Foreign Military Financing.

⁷⁴ U.S. Government Accountability Office, "Central America: U.S. Agencies Considered Various Factors in Funding Security Initiatives, but Need to Assess Progress in Achieving Interagency Objectives," GAO-13-1771, September 2013.

Figure 12: CARSI Allocations by Country, FY2008-2012



Data Source: U.S. Government Accountability Office, "Central America: U.S. Agencies Considered Various Factors in Funding Security Activities, but Need to Assess Progress in Achieving Interagency Objectives," GAO-13-1771, September 25, 2013.

Northern Triangle governments are, of course, equally to blame for CARSI's shortcomings. Their failure to produce measurable results after years of assistance has made both the Obama administration and Congress reluctant to funnel more aid to what appear to be dysfunctional governments, in spite of requests from Central American presidents for a "mini-Marshall Plan" or a local reincarnation of "Plan Colombia."⁷⁵ U.S. Vice President Biden observed in September 2014 that "Central American governments aren't even close to being prepared . . . for a Plan Colombia."⁷⁶

⁷⁵ Kyra Gurney, "Presidents Call for U.S. to Invest in CentAm Version of 'Plan Colombia,'" *InSight Crime*, July 25, 2014.

⁷⁶ AFP, "Huge US antidrugs plan in Central America not imminent: Biden," August 6, 2014. www.news.yahoo.com/biden-us-cannot-offer-huge-antidrugs-plan-central-002645645.html (accessed Nov. 1, 2014).

III. CENTRAL AMERICAN UACS IN THE U.S.: THE IMMIGRATION SYSTEM, LEGAL OUTCOMES, AND POLICY RESPONSES

Upon arrival in the U.S., unaccompanied minors from Central America are subject to distinct administrative processes, which determine, in turn, their rights under U.S. immigration law, the legal avenues through which they can solicit deportation relief, and by extension their prospects for remaining in the country. What follows is an overview of 1) the path of Central American UACs through the U.S. immigration system; 2) available forms of humanitarian relief; and 3) current policy proposals that could potentially alter the system. In addressing the particular legal remedies currently available to unaccompanied minors, attention will be paid to how Central Americans on the whole have fared in securing approval and to the ways in which the specific country conditions outlined in Part II impact a child's likelihood of remaining in the U.S.

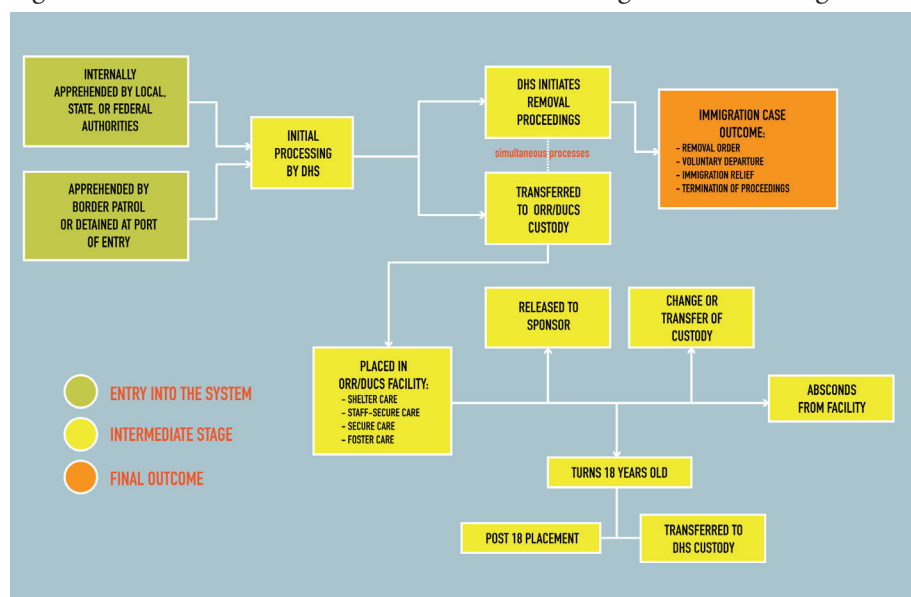
UACs and the Immigration System

Under the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPPRA), unaccompanied minors from non-contiguous countries, such as those of the Northern Triangle, are processed differently from their Mexican or Canadian counterparts.⁷⁷ Once apprehended, the majority of Mexican minors consent to voluntary return and are transported back across the border within 48 hours, unless the child requests a hearing before an immigration judge or presents a credible fear of persecution upon return. In the latter case, unaccompanied Mexican children then follow the same trajectory through the immigration system as Central American UACs.⁷⁸

⁷⁷ See Section 235. For the most up-to-date overview of U.S. policies governing the treatment and administrative processing of UACs, see Lisa Seghetti, Alison Siskin, and Ruth Ellen Wasem, "Unaccompanied Alien Children: An Overview," Congressional Research Service Report R43599, September 8, 2014. For an indispensable, detailed guide to UAC engagement with the U.S. Immigration System from apprehension to case closure, see Olga Byrne and Elise Miller, "The Flow of Unaccompanied Children Through the Immigration System: A Resource for Practitioners, Policy Makers, and Researchers," Vera Institute of Justice, March 2012.

⁷⁸ Betsy Cavendish and Moru Cortazar, *Children at the Border: The Screening, Protection, and Repatriation of Unaccompanied Mexican Minors*, Appleseed, 2011.

Figure 13: The Flow of Central American UACs through the U.S. Immigration System



Data Source: Olga Byrne and Elise Miller, “The Flow of Unaccompanied Children Through the Immigration System: A Resource for Practitioners, Policy Makers, and Researchers,” Vera Institute of Justice, March 2012.

In the case of unaccompanied children from Central America, however, once federal authorities have confirmed that the child is an unaccompanied minor, DHS agents are obligated to transfer custody to the Department of Health and Human Services’ (HHS) Office of Refugee Resettlement (ORR) within 72 hours.⁷⁹ Under the TVPRA, this transfer of custody happens irrespective of whether the child meets the credible fear standard or may be eligible for relief as a victim of trafficking or other qualifying crimes. DHS initiates removal proceedings while ORR, on the basis of information regarding the child’s best interests and security risk, places the child in one of four detention settings: shelter care (the most common), staff-secure care, secure care, or short-term foster care.

While the removal case is pending, ORR personnel determine whether a child can be reunified with an adult sponsor in the U.S., typically a parent, adult sibling, or extended family member. According to ORR, approximately 85 percent of children are temporarily released to family in the U.S. pending determination of their immigration status.⁸⁰ That trend seems to be holding true for UAC referrals during the current fiscal year. Lack of space and resources to shelter the massive influx of children has made sponsor placement a priority for ORR, which has reported releasing 43,419 children to sponsors between January 1 and August 31.⁸¹

ORR data shows that UACs are being sent to live with sponsors in states with long-established Central American communities. The top six receiving states are Texas, New York, California, Florida, Virginia, and Maryland. The map indicating where UACs are currently residing in the U.S. is

UACs are being sent to live with sponsors in states with long-established Central American communities. The top six receiving states are Texas, New York, California, Florida, Virginia, and Maryland.

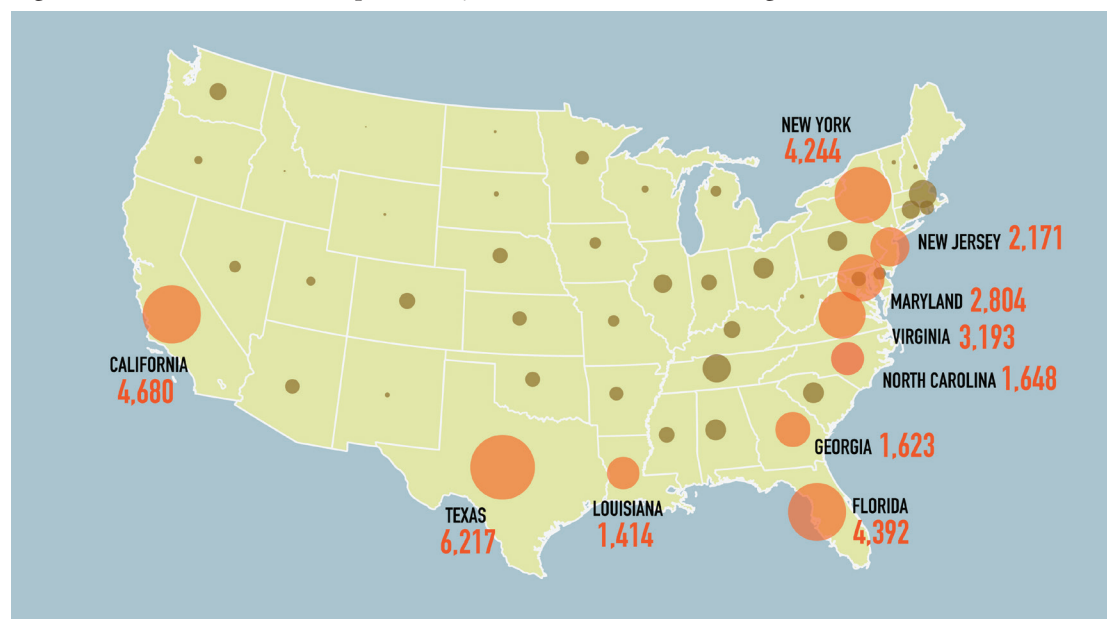
⁷⁹ To meet the statutory definition of “unaccompanied minor,” a child must be without lawful immigration status in the U.S., be under the age of 18, and be without a parent or legal guardian in the U.S. or without a parent or legal guardian in the U.S. within geographic proximity at the time of apprehension to provide care and physical custody.

⁸⁰ Office of Refugee Resettlement, “Fact Sheet,” May 2014.

⁸¹ Office of Refugee Resettlement, “Unaccompanied Children Released to Sponsors By State.”

nearly identical to census-generated maps showing the location of Salvadoran, Guatemalan, and Honduran immigrant communities throughout the country.

Figure 14: UACs Released to Sponsors by State and Northern Triangle Communities in the U.S.



Data Source: Office of Refugee Resettlement, “Unaccompanied Children Released to Sponsors By State”; U.S. Census Bureau, *Census 2010*, SF1 table PCT11.



Children remaining in ORR custody have immediate access to a range of services provided by a network of ORR-funded care providers. However, only a fraction of those children discharged from ORR custody are aware of or have access to similar services, translating into a considerable service gap for children who are temporarily placed with a sponsor.⁸²

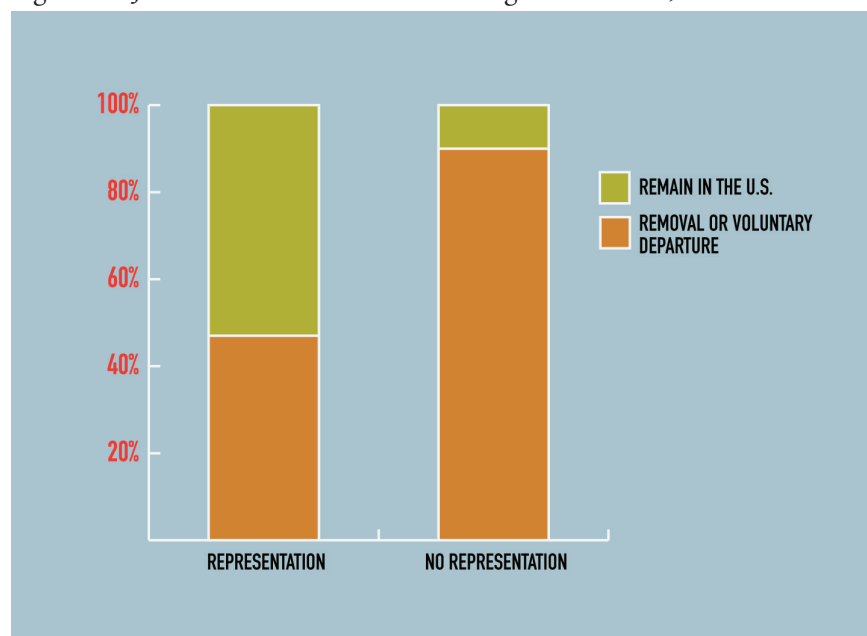
Legal Outcomes

The Homeland Security Act of 2002 mandates that ORR develop a plan to ensure that children in ORR custody have access to legal representation, though counsel is not guaranteed at government expense. Because of that mandate, children who remain in ORR custody have typically had higher rates of representation than those released to sponsor care. A review by the Transactional Records Access Clearinghouse (TRAC) of 100,000 juvenile cases in immigration courts between 2005 and

⁸² Olga Byrne and Elise Miller, “The Flow of Unaccompanied Children Through the Immigration System: A Resource for Practitioners, Policy Makers, and Researchers,” Vera Institute of Justice, March 2012.

June 2014 demonstrates how crucial legal representation is to a child's chances of remaining in the U.S. According to the study, 90 percent of children appearing without an attorney were ordered to leave the U.S., 77 percent through a removal order and 13 percent through a voluntary departure order. With an attorney, however, a child's odds of remaining in the U.S. increased from 10 percent to nearly 50 percent. The study also found that despite widespread recognition of the importance of legal representation, as of June 30 only 31 percent of juveniles with pending cases in immigration courts have been able to secure an attorney. While significant strides have been made in the creation of a *pro bono* movement of law firms providing quality legal counsel to these children, the resources are simply insufficient to meet the demand posed by nearly 70,000 UAC referrals in a single year.

Figure 15: Juvenile Case Outcomes in Immigration Courts, 2005-2014



Data Source: Transactional Records Access Clearinghouse (TRAC), "New Data on Unaccompanied Children in Immigration Court," July 15, 2014.

With access to an attorney, a child's odds of remaining in the U.S. increased from 10 percent to nearly 50 percent.

Despite assertions from the Obama administration that the majority of unaccompanied minors will be returned to their home countries, UACs are likely to benefit from several forms of available relief from removal.⁸³ These forms of humanitarian relief include asylum, Special Immigrant Juvenile (SIJ) status, and nonimmigrant visas for victims of trafficking or other qualifying crimes.

Asylum: Asylum applicants follow one of two processes for soliciting refugee status. If the applicant has already been placed in removal proceedings, he or she must apply for asylum "defensively," meaning that the claim will be decided by an immigration judge. If the applicant initiates the request without having been placed in removal proceedings, he or she must follow the "affirmative" route. In the affirmative process, individuals are required to submit an application to the U.S. Citizenship and Immigration Services' (USCIS) Asylum Office. Their claim is then evaluated by a USCIS asylum officer. UACs represent the only exception to these standard protocols. Despite having already been

⁸³ White House, "Press Briefing by Press Secretary Josh Earnest, 7/7/2014," press release, July 7, 2014.

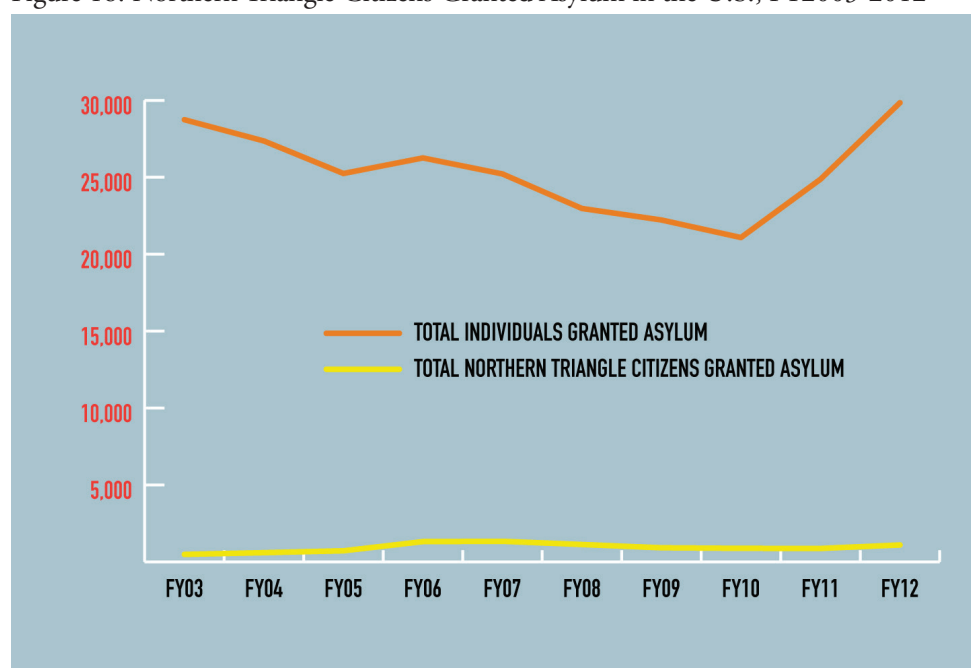
placed in removal proceedings, under the TVPRA unaccompanied minors are allowed to seek asylum affirmatively.⁸⁴

If the claim is denied by a USCIS asylum officer, the child is permitted to have the application re-evaluated “defensively,” as part of his or her removal proceedings. Jurisdiction over the application is then transferred to the Executive Office for Immigration Review (EOIR), where the claim is adjudicated by an immigration judge with authority to uphold or overturn the Asylum Office’s decision.

In general, though Salvadorans, Guatemalans, and Hondurans have filed a disproportionate number of asylum applications, they have typically struggled to articulate their claims within the narrow framework of the legally protected grounds (discussed below) established by the Immigration and Nationality Act (INA).⁸⁵

This reality is reflected in well below average grant rates; in FY2012, Northern Triangle citizens accounted for less than four percent of total persons granted asylum in the U.S. through both affirmative and defensive processes.

Figure 16: Northern Triangle Citizens Granted Asylum in the U.S., FY2003-2012



Data Source: U.S. Department of Homeland Security, Office of Immigration Statistics.

Central Americans fare particularly poorly in comparison to other nationalities when their claims are decided in the adversarial setting of immigration court, as the majority are. While the average defensive asylum grant rate for FY2013 was 53 percent, asylum requests submitted by Northern Triangle nationals were granted just 14 percent of the time.

⁸⁴ Section 235(d)(7).

⁸⁵ Section 101(a)(42)(A) and Section 208.

Table 6: Asylum Granted Defensively, FY2009-2013

IMMIGRATION COURT ASYLUM GRANT RATE				IMMIGRATION COURT ASYLUM GRANT RATE FOR NORTHERN TRIANGLE COUNTRIES			
	GRANTS	DENIALS	GRANT RATE		GRANTS	DENIALS	GRANT RATE
FY09	8,800	9,876	47%	FY09	257	2,430	10%
FY10	8,518	8,335	51%	FY10	310	2,138	13%
FY11	10,137	9,280	52%	FY11	340	2,413	12%
FY12	10,711	8,502	56%	FY12	427	2,182	16%
FY13	9,933	8,823	53%	FY13	426	2,590	14%

FY2013 GRANT RATES BY COUNTRY			
	GRANTS	DENIALS	GRANT RATE
EL SALVADOR	181	1186	13%
GUATEMALA	153	829	16%
HONDURAS	92	575	14%

Data Source: Executive Office for Immigration Review, *FY2013 Statistics Yearbook*, April 2014.

Past evidence suggests, however, that unaccompanied minors who apply affirmatively have a much greater chance of receiving asylum than their compatriots who, either because they were accompanied across the border or are over the age of 17, must apply defensively. A report generated by the United States Citizenship and Immigration Services (USCIS) Refugees, Asylum, and Parole System records an 85.1 percent approval rate for affirmative applications during the first nine months of FY2014. The rate is even higher for minors, at 94.7 percent.⁸⁶ However, data on the outcomes of asylum cases filed by more recent arrivals may be long in coming. Though USCIS has already seen claims from applicants under the age of 18 double over the past year, applications from minors are submitted an average of 300 days after apprehension, meaning that the bulk of claims may not be filed until spring of 2015.⁸⁷ Nonetheless, the higher affirmative grant rate portends a more receptive climate for gang-based asylum applications from children. It also reflects USCIS asylum officers' greater interpretive flexibility regarding the refugee definition as opposed to immigration judges as detailed below.

The obstacles faced by Central Americans applying for asylum stem from the nature of the violence detailed in Part 2 of this report. To be eligible, applicants must establish that they have been persecuted or fear future persecution on account of one or more of the five protected categories: race, religion, nationality, membership in a particular social group, or political opinion. Generalized violence exacerbated by dismal economic realities and the relative absence of the state fails to fit easily into one of the protected categories, no matter how lethal the combination may prove for the region's most vulnerable citizens.⁸⁸ Immigration judges have typically interpreted gang violence as economi-

⁸⁶ U.S. Citizenship and Immigration Services, "Refugees, Asylum, and Parole System MPA and PRL Report: 10/01/13-06/30/14," available at http://www.uscis.gov/sites/default/files/USCIS/Outreach/Minors_FY14_Q3.pdf.

⁸⁷ Susan Ferriss, "A Life-and-Death Struggle for Asylum in America: Lawyers and Feds Scramble to Unravel the Truth from Kids Fleeing Central America," Center for Public Integrity, October 8, 2014.

⁸⁸ For a meticulously well-documented discussion of the difficulties faced by Central Americans applying for asylum, see Laura Notess, "Considerations for Hondurans in the American Asylum Process: Relevant Law and Country of Origin Information," Jesuit Conference of the United States, March 28, 2014. Though dated, the

Asylum law in the U.S. has not evolved to recognize forms of persecution carried out by powerful non-state actors—gangs or organized crime groups—that operate with impunity and that target large, diffuse segments of society.

cally motivated, and thus outside of the traditional protected categories. This has led the majority of Central Americans fleeing gang-related violence to argue that persecution has been on account of their membership in a particular social group (PSG). As described below, this strategy has produced mixed results. Asylum law in the U.S. has not evolved to recognize forms of persecution carried out by powerful non-state actors—gangs or organized crime groups—that operate with impunity and that target large, diffuse segments of society.

Even if an applicant is successful in linking past or future persecution to one of the five protected grounds, he or she must also prove that the government is unable or unwilling to provide adequate protection and that relocation within the country of origin is unreasonable, hence the critical importance of data on country and community conditions and the institutional capacity of Central American governments.

Towards a Definition of “Particular Social Group” (PSG)⁸⁹

Most Central Americans fleeing gang-related violence or forced recruitment attempt to establish membership in a particular social group, often combining group membership with claims of religious- or political-based persecution. What in fact constitutes a PSG has been the subject of intense legal debate for decades. The lack of clear legal precedents in this area has given immigration judges a great deal of latitude in deciding what social groups meet the refugee definition standard.

The Board of Immigration Appeals (BIA) has often intervened to establish clearer standards for determining the validity of an alleged social group, though circuit courts have notoriously applied these precedents unevenly. BIA holds that particular social groups must be:

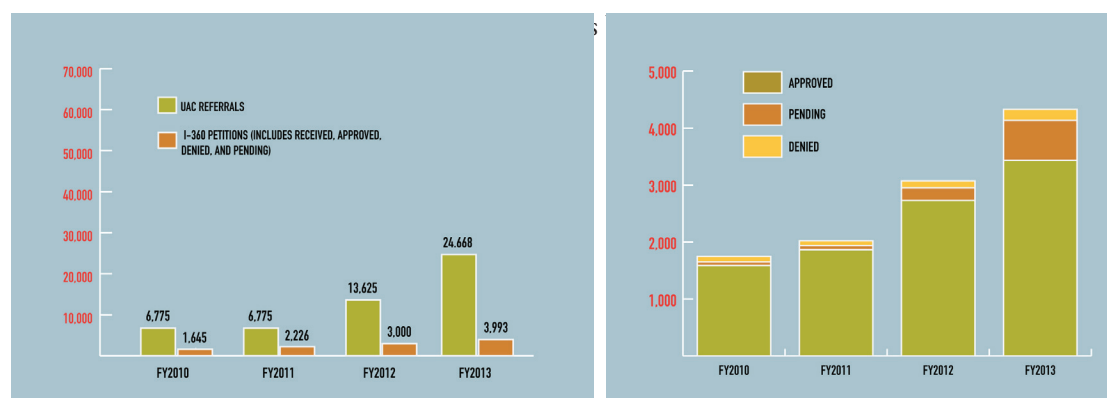
- » composed of members who share a “common, immutable characteristic” that one cannot change or should not be required to change
see *Matter of Acosta*, 19 I&N Dec. 211, 222 (BIA 1985)
- » defined with “particularity,” understood a group with “particular and well defined boundaries” and recognized by society as a “discrete class of persons.”
see *Matter of W-G-R*, 26 I&N Dec. 208 (BIA 2014)
see *Matter of M-E-V-G*, 26 I&N Dec. 227 (BIA 2014)
- » “socially distinct” within the society in question
see *Matter of W-G-R*, 26 I&N Dec. 208 (BIA 2014)
see *Matter of M-E-V-G*, 26 I&N Dec. 227 (BIA 2014)

Specific case law has also set precedents regarding the recognition of PSGs, though interpretations have varied widely. There has been limited success in cases that defined particular social groups on the basis of family ties, religious affiliation, gender, and age.

following resource is also informative: Washington Office on Latin America, “Central American Gang-Related Asylum: A Resource Guide,” May 2008.

⁸⁹ For an in-depth analysis of the challenges to establishing membership in a particular social group, see Center for Gender & Refugee Studies and Kids in Need of Defense, *A Treacherous Journey: Child Migrants Navigating the U.S. Immigration System*, February 2014.

SIJ Status: Children who have been abused, neglected, or abandoned by one or both parents and who have been declared dependent on a juvenile court or placed in the custody of another individual or entity can apply for Special Immigrant Juvenile (SIJ) status. The court must also issue an order declaring that reunification with one or both parents is not viable and that it is not in the child’s best interests to return to their home country. Like asylum, SIJ status leads to legal permanent resident (LPR) status. Data on intra-family violence presented in Part 2 of this report suggest that a large number of recent child arrivals could be eligible for classification as special immigrant juveniles. In recent years, between 15 and 30 percent of UAC referrals applied for SIJ status, with high approval rates.



Data Source: U.S. Citizenship and Immigration Services, “Number of I-360 Petitions for Special Immigrant with a Classification of Special Immigrant Juvenile (SIJ) by Fiscal Year and Case Status 2010-2013.”

T and U Nonimmigrant Status: Children who are victims of severe forms of trafficking (i.e., sex trafficking or forced labor, not migrant smuggling) may be eligible for T nonimmigrant status. To qualify, children must demonstrate that they would suffer extreme hardship involving unusual and severe harm if returned to their country of origin. The increasing involvement of organized crime groups and some street gangs in forms of human trafficking suggests that many newly arrived UACs could be eligible for T visas. U visas are an option for children who have been victims of certain criminal activities and who have or will assist authorities in the investigation or prosecution of that crime. Qualifying criminal activities include extortion, kidnapping, rape, and sexual assault, among others.⁹⁰

Estimates vary as to how many of the unaccompanied children from El Salvador, Guatemala, and Honduras could potentially be eligible for the above forms of relief. Legal screenings of 925 unaccompanied minors carried out by the non-profit RAICES in Texas found that 63 percent could likely benefit from some form of relief.⁹¹ Whether unaccompanied children actually receive relief will depend primarily on their ability to access competent legal representation.

⁹⁰ Children with either T or U nonimmigrant status can have their legal status extended to members of their immediate family via a derivative visa.

⁹¹ Refugee and Immigrant Center for Education and Legal Service, “At Least 63% of Refugee Children at Lackland Air Force Base Qualify for Relief,” July 22, 2014.

The influx of over 65,000 unaccompanied children has resulted in a series of proposed policy changes and procedural modifications that could potentially impact the legal outcomes of these children's cases.

Policy Responses

The challenge posed by the influx of over 65,000 unaccompanied children has resulted in a series of proposed policy changes and procedural modifications that could potentially impact the legal outcomes of these children's cases and the management of future UAC apprehensions. On both the domestic and foreign policy fronts, the Obama administration's response has been guided by two overarching objectives: to expedite the evaluation of UAC cases and deter subsequent waves of migrants. As detailed below, these measures are at various stages of debate or implementation.

TVPRA Amendments: In a June 30, 2014 letter to Congress, President Obama requested congressional assistance in “providing the DHS Secretary additional authority to exercise discretion in processing the return and removal of unaccompanied minor children from non-contiguous countries like Guatemala, Honduras, and El Salvador.”⁹² Conservative members of Congress responded with a flurry of proposed legislation seeking to amend the TVPRA, which as previously noted, requires that Central American minors traveling alone be transferred into ORR custody within 72 hours. The proposed measures would remove the special provisions applied to UACs from non-contiguous countries, subjecting Central American children to immediate voluntary return or expedited removal.⁹³ To date, none of the bills have been passed by either congressional body.

Expedited Hearings: In mid-July the Department of Justice announced that it would prioritize the cases of newly arrived unaccompanied minors, requiring courts to hold initial hearings within 21 days of the initiation of removal proceedings by U.S. Immigration and Customs Enforcement (ICE).⁹⁴ This accelerated review process has been mandated in states that have received the highest number of unaccompanied children, including Texas, New York, California, Florida, Virginia, and Maryland. Advocates and immigration attorneys have voiced concern over the so called “rocket-dockets,” arguing that expediting cases undermines children's right to due process and could potentially further burden immigration courts—already struggling with a backlog of cases—with time-consuming appeals. In cases involving juveniles, judges typically issue a continuance until children are able to secure legal counsel. Reports from advocates suggest that the majority of UAC cases are being handled similarly, meaning that fast-track hearings have yet to result in expedited case closures.⁹⁵

Provision of Legal Counsel: Under intense pressure from immigrant advocacy groups, the Obama administration has taken limited steps to provide legal representation for unaccompanied minors in removal proceedings. In partnership with the Corporation for National and Community Service (CNCS), the Department of Justice has launched “Justice AmeriCorps,” a \$1.8 million program designed to enable legal aid organizations in 29 cities to enroll approximately 100 lawyers and paralegals

⁹² White House, “Letter from the President—Efforts to Address the Humanitarian Situation in the Rio Grande Valley Areas of Our Nation's Southwest Border,” press release, June 30, 2014.

⁹³ Examples include the Humane Act, Expedited Family Reunification Act of 2014, CREST Act, and Protection of Children Act. For more detailed information on proposed amendments to the TVPRA, see Lazaro Zamora, “Unaccompanied Alien Children: A Primer,” Bipartisan Policy Center, July 21, 2014.

⁹⁴ U.S. Department of Justice, “Department of Justice Announces New Priorities to Address Surge of Migrants Crossing into the U.S.,” press release, July 9, 2014.

⁹⁵ Muzaffar Chishti and Faye Hipsman, “Unaccompanied Minors Crisis Has Receded from Headlines But Major Issues Remain,” Migration Policy Institute, September 25, 2014.

to represent children.⁹⁶ Congress denied the president's emergency supplemental request for \$3.7 billion in response to the surge, which would have included an additional \$15 million in direct legal representation services to minors.⁹⁷ At the end of September, the Obama administration announced that it would allocate another \$9 million to provide legal help for an estimated 2,600 children over the following two years.⁹⁸ While recognizing the importance of legal counsel, the Obama administration has denied that it is obligated under either immigration law or the Constitution to guarantee attorneys for unaccompanied minors at government expense.⁹⁹ Immigrant rights groups disagree, and filed a class-action lawsuit against the federal government in July.¹⁰⁰ Meanwhile, a growing list of state and local governments including California and New York City have stepped in to fill the gap and provide migrant children with legal and other social services.¹⁰¹

Refugee Processing Centers: In an effort to further deter migration from the Northern Triangle, President Obama recently authorized the establishment of in-country refugee processing centers in El Salvador, Guatemala, and Honduras. At the same time, however, the administration capped the number of refugee visas available for Latin America and the Caribbean at 4,000—1,000 less than during FY2014.¹⁰² During FY2013, Cubans alone accounted for more than 4,200 of the 4,500 visas allotted to the region, leaving many advocates wondering whether any visas will be left for Northern Triangle citizens.¹⁰³

⁹⁶ U.S. Department of Justice, "Justice Department and CNCS Announce \$1.8 Million in Grants to Enhance Immigration Court Proceedings and Provide Legal Assistance to Unaccompanied Children," press release, September 12, 2014.

⁹⁷ White House, "Fact Sheet: Emergency Supplemental Request to Address the Increase in Child and Adult Migration from Central America in the Rio Grande Valley Areas of the Southwest Border," press release, July 8, 2014.

⁹⁸ Niraj Chokshi, "Obama Administration to Provide \$9 Million in Legal Help to Undocumented Children," *The Washington Post*, October 2, 2014.

⁹⁹ Attorney General Eric Holder has argued that though no legal or constitutional obligation exists, the U.S. maintains a "moral obligation to ensure the presence of counsel." See William Helbling, "Holder Argues for Legal Representation for Migrant Children," *Jurist*, September 14, 2014.

¹⁰⁰ See American Civil Liberties Union, "Groups Sue Federal Government over Failure to Provide Legal Representation for Children Placed into Deportation Proceedings," July 9, 2014.

¹⁰¹ See, for example, Niraj Chokshi, "California Will Give Undocumented Immigrant Children \$3 Million in Free Legal Services," *The Washington Post*, September 29, 2014; Benjamin Mueller, "To Help Unaccompanied Minors, New York City Posts Representatives at Immigration Court," *The New York Times*, September 16, 2014; Harry Bruinius, "New York to Provide Free Legal Aid, IDs to Undocumented Immigrants," June 16, 2014.

¹⁰² White House, "Presidential Memorandum—FY2015 Refugee Admissions," September 30, 2014.

¹⁰³ Daniel C. Martin and James E. Yankay, "Refugees and Asylees: 2013," U.S. Department of Homeland Security, August 2014.

CONCLUSION

In the aftermath of the November 6, 2014 U.S. mid-term elections, immigration policy arose immediately as a subject of contention between the Obama administration and an emboldened Republican opposition. House speaker John Boehner pointedly warned the President that any Executive Action aimed at fulfilling his pledge to provide legal status to undocumented populations would poison the political environment in Washington and ensure that no immigration legislation would emerge from the Congress during the ensuing two years. The two branches of government appeared to be on a collision course, as the White House reiterated its pledge to alter the landscape by decree given the legislature's failure to enact comprehensive immigration reform. The unresolved status of unaccompanied minors and families that have surged across the border in recent years adds fuel to the fire, and any elements of an Executive order that specifically address their fate are certain to be contested vehemently.

Meanwhile, observers in the U.S. capital awaited a November 13-14 visit of the three Northern Triangles and their Foreign Ministers, an occasion for high level talks aimed at formulating a strategy for ameliorating the conditions motivating tens of thousands of Central Americans to flee the region. Pledges of cooperation will undoubtedly result from the encounter, but tangible achievements are unlikely: the principal objective of the Central American presidents is to secure commitments of massive investments in development assistance, particularly in infrastructure to stimulate economic growth and job training to curtail unemployment, but in the current political climate Washington has neither the inclination nor the capacity to appropriate substantial sums to support an economic transformation in the region. Nor have the Northern Triangle governments or economic elites demonstrated the political will necessary to reverse their countries' trajectory of growing violence amidst impunity. State officials continue to tolerate collusion between criminal organizations and segments of the security apparatus, and elites remain unwilling to contribute resources needed for governments to have a meaningful impact on social exclusion. The underlying conditions propelling the mass exodus of imperiled citizens are virtually certain to persist for the foreseeable future. Indeed, there is every reason to anticipate that these conditions will worsen before they improve.

In that context, while advocates for Central American children and migrants reaching the U.S. should continue to call on political leaders to address conditions of violence and exclusion that

plague the Northern Triangle, their immediate objective must be to provide a safe and hospitable environment in which the victims of the region's crisis can live their lives with dignity. This study has shown that the provision of legal representation is imperative in order to ensure that the rights of vulnerable populations are protected. The government must ensure access to legal counsel in all immigration proceedings, and non-governmental advocates must intensify their efforts to provide representation. In addition, U.S. states and localities must follow the lead of California, New York City, and other jurisdictions in ensuring access to schools and social services required for the well-being of children and families. Where necessary, the courts must intervene to compel states and localities to meet their obligations to do so. Finally, there is an urgent need for reforms to the existing legal frameworks for determining the status of individuals and groups fleeing the lethal environment that now prevails across much of El Salvador, Guatemala, and Honduras. The expansion of Temporary Protected Status to encompass recent arrivals from those three countries is an appropriate first step, as the disaster sweeping the region today is no less catastrophic than those which resulted from the floods and earthquakes that motivated previous extensions of TPS. Reforms to the asylum granting process are urgent as well: existing criteria for determining membership in a particular social group must be broadened to encompass the specific threats to life and limb that compel Central American youth to seek protection outside their countries of origin.

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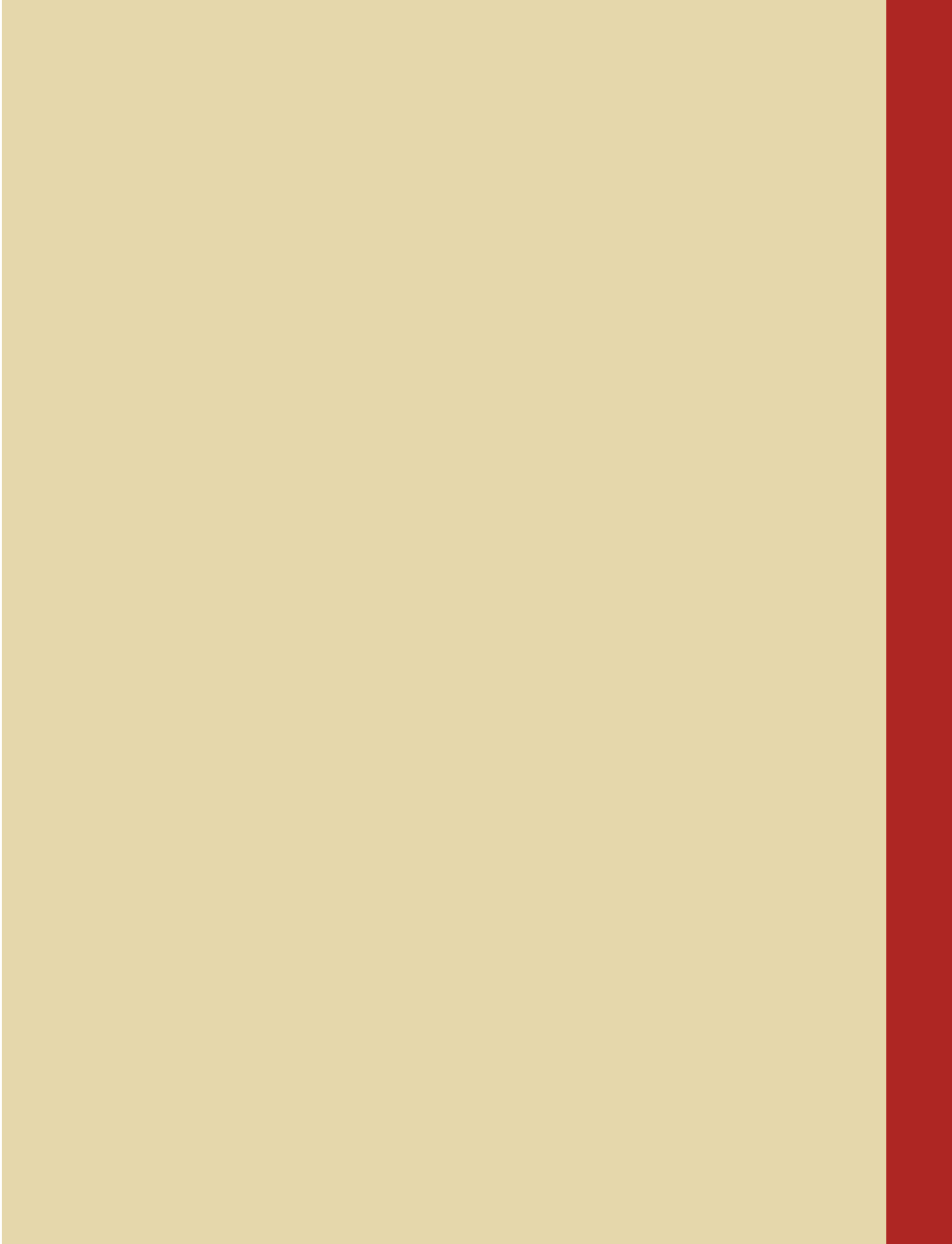
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CENTER FOR
LATIN AMERICAN & LATINO STUDIES
AMERICAN UNIVERSITY • WASHINGTON, DC

MAILING ADDRESS

Center for Latin American and Latino Studies
American University
4400 Massachusetts Ave., NW
Washington, DC 20016-8137 USA

OFFICE LOCATION

4545 42nd St., NW, Suite 308
Washington, DC 20016 USA

T: 1-202-885-6178
F: 1-202-885-6430
clals@american.edu
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