

KIND

KIDS IN NEED OF DEFENSE

KIND BLUEPRINT

EXECUTIVE SUMMARY

CONCRETE STEPS TO PROTECT
UNACCOMPANIED CHILDREN ON
THE MOVE



Executive Summary

KIND's Blueprint for the protection of unaccompanied children provides guidance on how the U.S. government should uphold its responsibility to treat these children humanely and in accordance with the law and this country's ideals. Their unique vulnerabilities require a legal and policy framework that provides enhanced procedural safeguards and protection mechanisms essential to helping unaccompanied children overcome daunting obstacles to relief.

This resource provides an administrative blueprint for establishing those safeguards and mechanisms and for best protecting children at every stage of their migration journey. It outlines a comprehensive set of policy recommendations, spanning a range of federal agencies and issue areas. KIND's recommendations are grounded in over a decade of experience working directly with thousands of unaccompanied children and in our vision for a world in which children's rights and well-being are protected as they migrate alone in search of safety.

Protection for Unaccompanied Children

The U.S. government should ensure that all unaccompanied children in immigration proceedings have attorneys. Legal counsel is essential to ensuring due process for unaccompanied children. It is virtually impossible for children to navigate the U.S. immigration system alone. The U.S. government must support and take robust measures to maximize funding for children's counsel and postpone children's immigration court hearings until they obtain lawyers.

The U.S. government should adopt a fundamentally humanitarian approach at the U.S.-Mexico border that recognizes unaccompanied children's need for protection and ensures their appropriate reception, screening, and care. This includes ending the CDC order barring the entry of unaccompanied children and asylum seekers; adhering to all Trafficking Victims Protection Reauthorization Act requirements; enlisting humanitarian and child welfare experts at the border; and ending all measures that needlessly restrict children's access to humanitarian protection at the border.

The U.S. government should establish a senior position in the White House dedicated to ensuring that all relevant government components uphold the safety, well-being, and access to legal protection of unaccompanied and refugee children. Among other things, this position would help ensure that the Office of Refugee Resettlement (ORR) operates with necessary independence from law enforcement components.

ORR should strengthen care and custody of unaccompanied children by fully anchoring its policies and practices in the best interests of the child. Towards this end, the August 2019 final rule that eviscerates Flores Settlement Agreement protections and standards must be rescinded and replace it with a rule that upholds and strengthens those protections and standards. The Department of Health and Human Services should also end unwarranted information sharing with the Department of Homeland Security and the immigration courts; maximize placement in smaller-scale facilities and transitional and long-term foster care while prioritizing community and family-based care broadly; and enhance monitoring of ORR facilities to ensure compliance with federal, state, and local standards.

The U.S. government should improve fairness in adjudications of unaccompanied children's cases by reinstating judicial independence to ensure a child's case can be efficiently and fairly considered and that the best interest of the child is a primary consideration in adjudications and case management. The administration should also establish a special corps of immigration judges and adjudicators guided by unaccompanied children's best interests and trained in trauma-informed techniques. Additionally, guidance



should be provided clarifying that TVPRA protections and procedures apply to unaccompanied children for the duration of their cases.

When immigration relief is not granted or when children choose to return to their countries of origin and return is in their best interests, the U.S. government must ensure that children return safely. Children should also receive comprehensive reintegration services to help them upon arrival and for a period of time following their return. Children who are provided modest assistance are much more likely to be able to remain home safely and sustainably and are significantly less likely to re-migrate.

DHS should immediately halt all parent-child and guardian-child separations. In the exceptional case where separation is deemed necessary due to child welfare concerns, a child welfare professional should be responsible for determining its necessity before separation occurs. The U.S. government should also provide an independent process for challenging such separations and for promptly reunifying families who had previously been separated by the government.

The U.S. government should ensure that unaccompanied children's legal rights and safety are fully upheld during the COVID-19 pandemic. For the duration of the pandemic, immigration proceedings for unaccompanied children should be postponed, unless otherwise requested by the child's attorney and is in the child's best interests. Deportations of unaccompanied children should also be paused. Voluntary Departures should be carried out only if requested by the child's attorney and if child welfare experts have determined it to be in the child's best interests.

Protecting Children Beyond U.S. Borders

The U.S. government should prioritize foreign assistance to Central America and invest in programs to address the root causes of migration to ensure that fewer children feel compelled to flee their countries to seek safety. Unaccompanied children who come to the United States are most often fleeing gender-based, gang, and familial violence. The United States should provide substantial long-term development assistance to local civil society organizations that address these issues, particularly for gender equality and community-based violence prevention programming, and for capacity building for national child welfare and protection systems.

New and expanded refugee processing and resettlement programs are needed in Central America to provide safe, legal alternatives for children in need of international protection. These programs can prevent the need for dangerous migration journeys by enabling children to apply for refugee protection in their home country or nearby countries. To be effective, programs must expand their scope and eligibility, ensure that children have legal assistance, and incorporate best interests standards in their processes.

The U.S. government should focus diplomacy and foreign assistance on strengthening Mexico's capacity to protect migrants and receive asylum seekers, particularly children, families, and other vulnerable groups. Children who travel through Mexico or seek to remain there are faced with a system with little capacity, resources, or infrastructure to ensure their safety. Many are never informed of their right to ask for protection in Mexico and some are denied access to the asylum system; others are detained throughout their adjudication in substandard facilities.

The United States government must develop a whole-of-government strategy to respond to and prevent gender-based violence and serve survivors at all levels of government. While gender-based violence (GBV) is one of the leading drivers of child migration, its prevalence and severity among migrant children is not well known by many U.S. government officials. Any strategy must include specific recommendations and actions for U.S. agencies and staff who work with unaccompanied children and child survivors of GBV, including guidelines and trainings for how to better serve their protection needs.



Protecting Unaccompanied Children on the Move

Unaccompanied children, many of whom have fled life-threatening danger, are among the world's most vulnerable groups.

Here is what we need to do to ensure their protection:



In Countries of Origin



- Address the Root Causes of Child Migration Through U.S. Foreign Policy
- Expand Refugee Processing in Latin America

In Transit



- Improve Protections for Migrant Children in Mexico
- Ensure Proper Screening and Care of Children at the U.S.-Mexico Border

In U.S. Custody



- Strengthen ORR Care and Custody of Unaccompanied Children
- End Parent-Child Separations and Promote Family Unity

In Court



- Fairly Adjudicate Unaccompanied Children's Cases
- Ensure Legal Representation of Unaccompanied Children

In Their Destination



- Assist Unaccompanied Children with Integration into the U.S.
- Ensure Safe Returns and Successful Reintegration to Countries of Origin

At Every Stage



- Advance a Whole-of-Government Strategy on Gender-Based Violence Prevention and Response that Includes Migrant Children
- Ensure Unaccompanied Children's Health and Legal Rights During the COVID-19 Pandemic