



# THWARTED POTENTIAL

THE NEED TO REVIVE AND EXPAND THE  
CENTRAL AMERICAN MINORS (CAM)  
PROGRAM AS A KEY PATH TO PROTECTION  
FOR AT-RISK UNACCOMPANIED CHILDREN



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## Introduction

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In the summer of 2014, a dramatic rise in the number of unaccompanied children who were fleeing violence and danger in their home countries, particularly from the northern countries of Central America—El Salvador, Guatemala, and Honduras—led the Obama Administration to create an alternative mechanism for reuniting parents and children, one that would reduce the need for children to strike out on a dangerous journey to the United States alone and unprotected. From its inception in December 2014, the Central American Minors Refugee/Parole Program (CAM<sup>1</sup>) provided an important lifeline for many Central American children at risk of persecution or other violence, whose parents were lawfully present in the United States. The CAM program utilized the U.S. Refugee Admissions Program (USRAP) to conduct “in-country” refugee processing, which allowed children to be interviewed for refugee status without leaving their home country, but CAM also allowed them to be paroled into the United States if they were found to be in danger, even if they were not found to be refugees. The program also allowed certain family members to accompany the child to the United States. This humanitarian exercise offered a new model for refugee adjudications in Central America that had enormous potential to change the pattern of unauthorized migration from the Northern Triangle to the United States, especially for unaccompanied children.

From December 2014 to November 2017, when it was terminated by the Trump Administration, the CAM program received approximately 13,000 applications from parents residing in the United States,<sup>2</sup> each seeking to bring one or more children to the United States. In total, 1,627 children were admitted through the program as refugees; while another 1,465 children had been paroled into the United States.<sup>3</sup> Another 2,714 conditional parole approvals were rescinded following termination of the parole portion of the program in August 2017 and thousands more children and parents had applications pending at the time the Trump Administration fully terminated CAM.<sup>4</sup> On March 1, 2019, a federal court ordered the Trump Administration to resume processing the revoked cases.<sup>5</sup> Slowly these children are finally reuniting with their parents, but thousands more remain at risk with no alternative but to make the dangerous journey north in order to flee persecution and other grave harm.<sup>6</sup>

The resuscitation of the CAM program, at least retroactively, is a reminder of the important role CAM played in protecting young people at risk and should generate renewed interest in the program’s thwarted potential. This presents an opportunity to revisit the program as a whole and to consider the value of supporting a broader refugee processing program in Central America, one that will assist more unaccompanied children and avoid some of the problems that plagued the first iteration of the program, including an artificially low number of refugee eligibility determinations. This paper briefly summarizes the critiques and offers recommendations for expanding and improving an in-country refugee processing program designed to assist those most at risk in the Northern Triangle.

## Brief Description and Critique of the CAM Program

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The Obama Administration first announced its decision to offer an in-country processing opportunity for Central American children whose parents were living lawfully in the United States in August 2014, as part of

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<sup>1</sup> The initial criteria and procedures for the Central American Minors Program can be found at <https://2009-2017.state.gov/j/prm/releases/factsheets/2014/234067.htm>

<sup>2</sup> U.S. Embassy in Honduras, “Central American Minors Program,” <https://hn.usembassy.gov/visas/central-american-minors-program/>

<sup>3</sup> Marcelo Rochabrun, “Trump Administration Plans to End a Refugee Program for Children,” Pro Publica, September 14, 2017. <https://www.propublica.org/article/the-trump-administration-to-end-a-refugee-program-for-central-america-children>

<sup>4</sup> U.S. Citizenship and Immigration Services, “In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (Central American Minors – CAM),” <https://www.uscis.gov/CAM>

<sup>5</sup> S.A. at 29-30.

<sup>6</sup> According to the government’s 5<sup>th</sup> quarterly report on compliance, as of June 22, 2020, 338 individuals had been paroled into the United States under the S.A. settlement; hundreds more who had been approved for travel were waiting for the resumption of flights shut down during the COVID-19 pandemic. <https://refugeerights.org/wp-content/uploads/2020/07/105-Defendants-Fifth-Quarterly-Report-of-July-1-2020-2.pdf>



its broader strategy to address expanded migration of children and families from El Salvador, Guatemala, and Honduras. This strategy also included multiple security and development programs as well as an infusion of \$750 million into the region to address root causes of migration such as corruption, poverty, gang violence, and sexual abuse and gender-based violence. The President authorized the Department of Homeland Security (DHS) and the Department of State (DOS) to conduct refugee processing from within El Salvador, Honduras, and Guatemala for children eligible for CAM. In-country processing had been used in many other areas of the world where the need for refugee protection was great, but individuals were blocked from leaving their countries or risked extremely dangerous migration routes, such as in Cuba, and the former Soviet Union. The CAM program, however, was tied to the presence of a parent living in the United States who could submit an application, provide DNA and other required evidence, and finance the transport of the child if the child was paroled rather than granted refugee status.

CAM further limited consideration to those children whose parents had acquired certain forms of lawful status in the United States, such as permanent residence or Temporary Protected Status. Parents who believed their children could qualify for the program would be directed to a U.S. resettlement agency, which would assist them in submitting the paperwork.<sup>7</sup> The government contracted with the International Organization for Migration to serve as the Resettlement Support Center (RSC) to provide screening and other services to manage the program on the ground and would send members of the DHS Refugee Corps, and in some cases Asylum Corps, to conduct interviews. Children who were able to establish that they had suffered or feared persecution under U.S. law would be recommended for admission to the United States as refugees, a legal status that ultimately can lead to U.S. citizenship. Those who could not meet the standard, but nonetheless demonstrated significant risk of harm, were conditionally approved for parole into the United States, which allowed them to reunite with their parents but offered no permanent legal status.

As with many new programs, CAM got off to a slow start. Despite the tens of thousands of children who might have benefitted from consideration under CAM, applications were slow to arrive; from December 2014 to mid-July 2016, CAM received roughly 9,500 applications.<sup>8</sup> Only 563 children, however, were relocated to the United States during that time, and the majority received humanitarian parole.<sup>9</sup> Many supporters of the program believed that the CAM program was performing well below its potential. KIND and other organizations pressed the administration to permit legal counsel for children during interviews, believing that in many cases the lack of access to counsel both before and during the interview resulted in numerous denials of refugee status to children with viable claims.<sup>10</sup> Organizations also argued strongly for changes to both the eligibility and access criteria, noting that many children were excluded from the program because their access to the program was tied to their parents' legal status or the child's physical presence in the home country. Many of KIND's partners throughout Central America and Mexico were concerned for children who were at risk of harm but could not apply for the CAM program because they had already fled their country.<sup>11</sup> A subsequent program initiated by UNHCR, the Protection Transfer Arrangement protocol, which sought to identify high-risk individuals in need of transfer to a safe third country while awaiting a refugee resettlement, focused on risk rather than country of origin as a defining factor, but it was underutilized by the United States.<sup>12</sup>

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<sup>7</sup> Parents in the United States without authorization could not participate in the program, even if they were asylum applicants themselves.

<sup>8</sup> Kids in Need of Defense (KIND), *Improving the Protection and Fair Treatment of Unaccompanied Children*, 13, September 2016 [https://supportkind.org/wp-content/uploads/2016/09/KIND-Protection-and-Fair-Treatment-Report\\_September-2016-FINAL.pdf](https://supportkind.org/wp-content/uploads/2016/09/KIND-Protection-and-Fair-Treatment-Report_September-2016-FINAL.pdf).

<sup>9</sup> Id. note 38 "As of July 29, 2016, of the 563 individuals who have arrived in the United States via the CAM program (385 from El Salvador, 11 from Guatemala, and 167 from Honduras), 191 arrived as refugees and 372 arrived as parolees."

<sup>10</sup> Id. at 15-16.

<sup>11</sup> For example, in an August 19, 2015 letter to DHS Secretary Jeh Johnson, KIND described the difficulties faced by many Salvadoran, Guatemalan, and Honduran children who were either in detention in Mexico or temporarily residing there who had no avenue for accessing the program unless they returned to their home country, which they had fled out of fears for their safety.

[https://www.uscis.gov/sites/default/files/document/foia/Central\\_American\\_Minors\\_Refugee-Parole\\_Program\\_CAM.pdf](https://www.uscis.gov/sites/default/files/document/foia/Central_American_Minors_Refugee-Parole_Program_CAM.pdf).

<sup>12</sup> See Emmanuelle Diehl, Evaluation of the Effectiveness of the Protection Transfer Arrangement in Central America, UNHCR (December 2018). <https://www.unhcr.org/5c7e63064.pdf>.



By the end of 2016, the administration had broadened access to the program, announcing that it would consider sons and daughters over the age of 21, permit biological unmarried parents and other related caregivers to accompany a child, and was exploring other options for resettlement for refugees in the region. U.S. Citizenship and Immigration Services (USCIS) had also committed to a pilot program permitting counsel to be present in interviews, but there continued to be significant resistance to expanding the program to children whose parents were not authorized to live in the United States and to uniformly recognizing the impact of gang violence and corruption in defining who qualifies as a refugee.

Notably, the USCIS Services Ombudsman (the Ombudsman) issued a series of recommendations in December 2016 that affirmed many of the concerns raised by advocates, but also addressed more specific logistical, safety, and access issues within the program.<sup>13</sup> Among the challenges identified were:

- Long processing times that created additional uncertainty and risk for some children
- A lack of emergency protection mechanisms for children in urgent need of immediate protection
- Restrictive eligibility criteria that limited access to the program
- Costs to applicants that limited access such as DNA testing
- Uncertainty regarding program eligibility, application process, and case status
- Insufficient funding for resettlement agencies' CAM-related activities
- Lack of access to counsel during CAM interviews
- Barriers for CAM parolees, such as travel costs, lack of resettlement assistance, and adjustment of status limitations.<sup>14</sup>

From the Ombudsman's perspective, each of these challenges reduced the ability of the program to meet children's protection needs, although only some of them were within the control of USCIS. Increased resources, including offering more interviews, streamlining internal procedures for processing approvals and managing travel, and developing emergency protocols for helping children at risk not only would improve the program, but could increase confidence among parents that the program was a viable alternative to a dangerous migration journey, according to the Ombudsman. Similarly, making information about the program more readily available could boost participation, as would providing additional funds for resettlement agencies, who were only reimbursed for those cases in which a child was deemed to be a refugee, and consequently could not always cover their costs.

But the most difficult challenges identified by both stakeholders and the Ombudsman were eligibility criteria that did not address the actual needs within the region. KIND and other stakeholders argued that tying the application process to a parent's immigration status was a political calculation; the Obama Administration appeared to believe that the public and Congress would not support reuniting undocumented immigrants with their children, even if the child was found to be a refugee. Parole, in particular, presented a challenge because, even if the parent had some form of legal status, there was no certainty that the child could qualify for the same status. Temporary Protected Status (TPS), for instance, which many Salvadoran parents held, could not be conferred on the child upon arrival in the United States unless a subsequent renewal of TPS allowed the child to register independently. The distribution of lawful status among the eligible population also varied by country: far more Salvadoran parents could claim some form of legal status than either

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<sup>13</sup> Maria Odom, Citizenship and Immigration Services Ombudsman, *Recommendation on the Central American Minors (CAM) Refugee/Parole Program*, December 21, 2016. Ms. Odom has served as the Vice President for Legal Programs at KIND since 2017.

<sup>14</sup> *Id.* at 6.



Guatemalans or Hondurans.<sup>15</sup> Thus, many children who might have qualified for the program could not even have access to it because their parents lacked the requisite forms of legal status in the United States.

Frequently USCIS determined that children did not qualify as refugees, even when their claims satisfied relevant requirements under U.S. and international law. In many cases, the problem may have been a young child's difficulty articulating the facts necessary to meet a refugee determination, particularly without the assistance of counsel to help prepare them for the interview.<sup>16</sup> KIND, in fact, had already begun to work with pro bono counsel to prepare children for interviews, resulting in several successful grants of refugee status. For example, pro bono counsel in one case was able to elicit information about domestic abuse that the children had initially been afraid to disclose, leading to their approval for refugee status and subsequent travel to the United States. In other cases, where KIND learned about a child's case after a denial, KIND was able to provide legal assistance on requests for review, ultimately securing reversal of several decisions. Similarly, KIND assisted a Honduran youth whose initial refugee claim was denied because he did not understand that the violence he suffered because of his sexual orientation could establish eligibility for refugee status, and the USCIS interviewing officer failed to elicit information from him regarding sexual orientation. KIND helped him submit a request for reconsideration based on sexual orientation and he was granted refugee status. As these examples show, legal assistance makes a critical difference in refugee claims, particularly when those claims involve highly complex legal analysis, such as particular social group claims based on domestic abuse, gang violence or control of a region, or family-based claims.

The approval rate for refugee status within the CAM program was also significantly lower than in other U.S. refugee programs, in part because the program was tied to the parent's status and application, rather than an independent referral from UNHCR or another entity that a child met the refugee criteria required by the United States, as is the case for most of the refugee interviews conducted by USCIS. The complexities of the legal claims raised by many applicants also posed a barrier; many of the claims involved a fear of persecution based on membership in a particular social group, persecution by gang members, and gender-based violence, all of which often require complex legal analysis and reasoning which children, without assistance of counsel, are likely unable to articulate. Although UNHCR had offered legal opinions and recommendations supporting a finding that opposition to gangs, which in many areas of northern Central American countries serve as a *de facto* government, could be a form of political opinion,<sup>17</sup> the government has been reluctant to consider this legal theory. Additionally, because many overseas refugee claims are not based on membership in a particular social group, the complexity of evaluating particular social group claims was a challenge for some Refugee Officers who were confronting new categories for the first time, or required additional training to recognize possible eligibility factors and to understand country conditions in a region unfamiliar to many officers given the newness of refugee processing out of northern Central America. Consequently, viable refugee claims were likely rejected, despite past harm or the risk of severe harm, in favor of a grant of parole. Unfortunately, as parolees, rather than refugees, such children were not eligible for refugee assistance made available to refugees upon arrival in the United States.

In addition to these challenges, the structure of the CAM program further complicated children's ability to successfully participate in interviews or comply with other program requirements. Children often faced

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<sup>15</sup> In 2016, the Department of State acknowledged that only 1 percent of those who qualified for refugee status or parole under CAM were from Guatemala, in large part because Guatemalans do not have TPS. See Amber Moulton, et.al, *Waiting for Refuge, Benefits and Challenges of the Central American Minors In-Country Refugee Processing Program*, Unitarian Universalist Service Committee, 26, December 2016. <https://www.uusc.org/wp-content/uploads/2016/12/Waiting-for-Refuge-December-2016.pdf>.

<sup>16</sup> Supra n.5.

<sup>17</sup> See UN High Commissioner for Refugees (UNHCR), "UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from El Salvador," March 15, 2016, HCR/EG/SLV/16/01, available at: <https://www.refworld.org/docid/56e706e94.html> [accessed September 24, 2020]; UN High Commissioner for Refugees (UNHCR), "UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Honduras," July 27, 2016, HCR/EG/HND/16/03, available at: <https://www.refworld.org/docid/579767434.html> [accessed September 24, 2020]



danger traveling to interviews that took place many hours from their home.<sup>18</sup> Others could not wait months for an interview or a departure date, and risked traveling on their own through Central America and Mexico, rather than continue to face dangers at home. Reports indicate that some children were killed or injured while waiting for their application to be processed. One “expedited” case involving young girls under threat from gang violence took 13 months to complete.<sup>19</sup>

Taken together, these obstacles meant that the CAM program could not fully meet its pledge to provide a safer, faster, and more reliable alternative to migration. Looking back at the program, the American Bar Association’s Commission on Immigration noted in 2019, “Although the initiative created a welcome avenue for relief for qualifying individuals to find refuge in the United States, long processing times and the relatively low number of successful applications challenged its use as a means to alleviate the tremendous need for humanitarian relief for Central Americans.”<sup>20</sup>

Despite such concerns, CAM offered an alternative that brought some measure of safety and protection to over 5,000 children and their families. A revitalized version of the program could do far more, particularly if the government addresses the logistical and eligibility issues described above.

## Regional Issues that Will Affect Implementation of a Revived CAM Program

Since the program was fully terminated in November 2017, the situation for children within the northern countries of Central America has become more precarious and dangerous. Political developments, increased corruption, violence, and a breakdown in civil authority within the region have led to even more Central Americans fleeing their homes. In Fiscal Year 2019, Border Patrol reported 76,136 apprehensions of unaccompanied minors,<sup>21</sup> up from 50,145 the prior year, and 474,161 individuals traveling together as families, up from 107,495,<sup>22</sup> the vast majority of whom were from the northern Central American countries of El Salvador, Guatemala, and Honduras. Harsh policies restricting access to asylum in the United States have left many people stranded in camps along the U.S.-Mexico border awaiting hearings under the Migrant Protection Protocols; a hundred thousand more, including 10,000 children traveling alone, have been forcefully expelled from the United States without any hearing whatsoever under DHS’s response to the COVID-19 pandemic.

In turn, the pandemic is devastating the economies of the northern Central American countries,<sup>23</sup> exacerbating gang violence, gender-based violence and child abuse, and straining the fragile government structures in these countries to their limits. In El Salvador, for example, rival gangs solidified their control over certain areas of the country as the national police forces addressed the pandemic; in some instances, gangs took charge of ensuring compliance with public health orders while simultaneously engaging in more violent behavior as they competed for dwindling revenue from extortion and drug-running. The additional instability brought on by the pandemic is likely to make it even harder for those suffering from persecution

<sup>18</sup> Moulton at 29-32.

<sup>19</sup> Letter from NGOs to DHS protesting termination of CAM program, September 12, 2017, [https://supportkind.org/wp-content/uploads/2019/02/CAM-Refugee-Program-NGO-sign-on\\_final\\_09\\_12\\_17.pdf](https://supportkind.org/wp-content/uploads/2019/02/CAM-Refugee-Program-NGO-sign-on_final_09_12_17.pdf).

<sup>20</sup> Commission on Immigration, 2019 *Update: Reforming the Immigration System, Executive Summary*, American Bar Association, 13 (March 2019).

<sup>21</sup> U.S. Border Patrol, “Total Unaccompanied Alien Children (0-17 Years Old) Apprehensions by Month – FY 2010 – FY 2019,” [https://www.cbp.gov/sites/default/files/assets/documents/2020-Jan/U.S.%20Border%20Patrol%20Total%20Monthly%20UAC%20Apprehensions%20by%20Sector%2028FY%202010%20-%20FY%202019%29\\_0.pdf](https://www.cbp.gov/sites/default/files/assets/documents/2020-Jan/U.S.%20Border%20Patrol%20Total%20Monthly%20UAC%20Apprehensions%20by%20Sector%2028FY%202010%20-%20FY%202019%29_0.pdf).

<sup>22</sup> U.S. Border Patrol, “Total Family Unit Apprehensions by Month – FY 2013 – FY 2019,” [https://www.cbp.gov/sites/default/files/assets/documents/2020-Jan/U.S.%20Border%20Patrol%20Total%20Monthly%20Family%20Unit%20Apprehensions%20by%20Sector%2028FY%202013%20-%20FY%202019%29\\_1.pdf](https://www.cbp.gov/sites/default/files/assets/documents/2020-Jan/U.S.%20Border%20Patrol%20Total%20Monthly%20Family%20Unit%20Apprehensions%20by%20Sector%2028FY%202013%20-%20FY%202019%29_1.pdf).

<sup>23</sup> See “Policy Brief: The Impact of Covid-19 on Latin America and the Caribbean,” United Nations, (July 2020) [https://www.un.org/sites/un2.un.org/files/sg\\_policy\\_brief\\_covid\\_lac.pdf](https://www.un.org/sites/un2.un.org/files/sg_policy_brief_covid_lac.pdf).



to turn to their government for protection. The coronavirus crisis has further exacerbated existing gender inequalities and heightened the risk of gender-based violence for children and women in Central America. Mandatory lockdowns and restrictions on movement combined with limited functioning of child protection systems and other government institutions have left many children trapped at home in situations of abuse or neglect with extremely limited options for seeking protection and support.

Even before COVID-19, however, the sheer level of displacement and forced migration within the northern countries of Central America had finally captured the world's attention. Since CAM was first implemented in 2014, there has been significant growth in the number of U.S., international, and regional organizations at work within these countries, including far more legal service providers, international refugee relief organizations, and community-based organizations poised to assist refugees. UNHCR, in particular, has significantly increased its presence in the area. Better networks and coordination among U.S. organizations and their Mexican and Central American partners represent an opportunity to tap into a variety of service providers who can provide on-the-ground assistance in identifying and supporting the refugees of the region. Although a revived CAM will require an investment of resources, the new program has the opportunity to tap into the expertise of a much larger group of organizations committed to the safety and welfare of children.

## Underlying Principles of a Re-Envisioned CAM Program

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Although the CAM program was conducted as a refugee program, its limitations and focus on ties to the United States meant that many potential refugees could not access the program. Under a revived CAM, the emphasis should be first and foremost upon identifying children in need of refugee protection, without regard to a parent's legal status or location within the region. The following factors should guide all aspects of an expanded program.

- A re-envisioned CAM program should be open to any at-risk child from El Salvador, Guatemala, or Honduras, including those living outside the United States and unable to access protection in their host country, who fall within the eligibility categories established for the program, regardless of a parent's immigration status or ties to the United States.
- The program should continue to offer the dual options of refugee admission or parole, but a re-envisioned program should incorporate the most generous legal standards possible to ensure that the ratio of refugee admissions to parole grants better reflects the realities of persecution on the ground.
- Access to counsel, a child-friendly process, and eligibility criteria that recognize the particular forms of persecution and challenges children may face in articulating a claim should be hallmarks of the program.
- Prioritizing the immediate removal of children to a safe space—whether internally, to a temporary transit location outside their country, or directly to the United States—must remain central to the program. Children identified as at immediate risk should be moved to safety as quickly as possible and admitted to the United States under clearly delineated and publicly available expedited procedures. Expedited criteria should be publicly available and decisions should be transparent. Sufficient funding and personnel should be devoted to the program to ensure that all cases are handled as quickly as possible, and that every child who must wait for a decision waits in safety.
- The United States should work closely with UNHCR, IOM, nongovernmental organizations and other community-based organizations to identify and assist at-risk children consistent with the fundamental goals of refugee protection. The best interests process should be used to inform parole decisions where refugee status cannot be granted and, if parole itself cannot be granted, the process



should form the basis of recommendations to assist organizations on the ground in providing appropriate assistance.

- As a rescue program, CAM should be viewed as a necessary intervention that relieves pressure on migration and saves lives while the United States supports a multi-pronged and regional approach to ending systemic violence, crime, poverty, abuse, impunity, and corruption within the northern countries of Central America.

## Specific Recommendations

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### A. The Scope of the Program Should be Expanded to Include More Refugees

1. A revived CAM program should provide a broader range of options for accessing the program and should recognize the evolving nature of refugee protection. The children of the northern countries of Central America remain at extraordinary risk and should be prioritized as individuals in need of refugee protection.
2. Parents and other family members within the United States, regardless of immigration status, should be able to submit an application on behalf of a minor child.
3. Concurrently, the United States should work with UNHCR and regional partners to develop alternate resettlement opportunities for young adults ages 18 to 21.
4. The Department of State should develop outreach mechanisms within each CAM country that allows UN agencies, international organizations, local NGOs, child welfare and other community organizations to identify high-risk children who are likely candidates for referral to the Refugee Program.
5. A child who is no longer residing in his or her home country should not be excluded from CAM based solely on this factor. Although it may require a high level of coordination with neighboring countries, children who are identified as at risk through the CAM program should continue to be assessed for eligibility even if they have been forced to flee their home.

### B. The CAM Program Should Work on the Cutting Edge of Refugee Protection, Applying All Relevant Legal Theories in Determining Eligibility

1. Legal representation should be available to all children interviewed for the program and attorneys should be permitted to attend interviews with their clients.
2. USCIS should adopt UNHCR recommendations regarding conditions under which gang violence may serve as the basis for a refugee claim based on political opinion, and should continue to support existing and new formulations addressing particular social group claims based on family, domestic violence, and -based violence, regardless of existing regulations or policies that seek to limit access to asylum in the United States.<sup>24</sup>
3. Child friendly interviewing techniques and analytical tools should be reinforced in training and preparation of adjudicators.<sup>25</sup> Assessing children's claims within the context of their

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<sup>24</sup> For a further discussion of KIND's recommendations regarding reversal of harmful asylum policies, regulations, and administrative caselaw, see *KIND Blueprint: Concrete Steps to Protect Unaccompanied Children on the Move*, November 2, 2020

<sup>25</sup> See *Guidelines on Policies and Procedures for Dealing with Unaccompanied Children Seeking Asylum*, UNHCR (February 1997) <https://www.unhcr.org/en-us/publications/legal/3d4f91cf4/guidelines-policies-procedures-dealing-unaccompanied-children-seeking-asylum.html>; *Guidelines for Interviewing Unaccompanied Minors and Preparing Social Histories*, UNHCR (1985) <https://www.refworld.org/docid/47fdfae5d.html>



perspective and life experience and recognizing that persecution and other legal concepts may be more fluid in dealing with children's claims should be emphasized.

4. Annual Presidential Determinations on Refugee Admissions should prioritize at-risk children and consider other vulnerable groups within the northern countries of Central America, such as survivors of gender-based violence and indigenous populations, for CAM and other resettlement programs.

### **C. Parole Should Remain a Viable Alternative when a Child Does Not Qualify for Refugee Status**

1. The parole component of the CAM program represents an innovative approach to reuniting children at risk of harm with their parents or other family members in the United States. Viewing parole as a critical safety valve for mitigating immediate risk and preventing unauthorized migration of children presents an opportunity to more actively manage migration flows and should be assessed in that light.
2. As a child protection program, the government should allocate funds to ensure that the costs of travel are covered or are not charged at the front end of the process. Similarly, service providers should receive necessary funding to facilitate CAM applications, regardless of whether a child is granted refugee status or is paroled into the United States.

### **D. A Best Interest Process Should Be Established to Be Used in Appropriate Cases**

1. As a child protection program, all decisions under CAM that affect a child's welfare and safety should be taken in line with the best interests of the child. A best interest process should be established for the program, in line with UNHCR and other international guidelines.<sup>26</sup> The process should guide when a best interests assessment or determination will be required for children in different circumstances; identify the State authorities, organizations, and other professionals to be involved in the best interest process in each country; and ensure that best interests assessments or determinations appropriately inform decisions.
2. Where CAM is facilitating family reunification, there should be a presumption that reunification is in the child's best interest and, absent mitigating factors, reunification should proceed as rapidly as possible. In other situations, a more detailed analysis may be necessary, particularly where questions about appropriate placement arise in the course of a child's case. A best interests determination may be more appropriate than a best interests assessment, for example, in cases involving very young children, or children with severe special needs or other heightened vulnerability factors.

### **E. Government Oversight and Support Should Be More Robust**

1. Organizations such as resettlement agencies or resettlement centers officially tasked to provide application support, whether in the United States or within the region, should be provided sufficient financial support to address initial processing costs, irrespective of whether the applicant is eventually determined to be a refugee.
2. Interagency efforts should be coordinated at the White House level with clear mechanisms for elevating disputes, monitoring progress, and facilitating emergency placements.

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<sup>26</sup> Id.



## **F. Safety and Security Must be Enhanced**

1. For children facing imminent danger, the government should work with UNHCR to ensure that evacuation protocols are in place and that sufficient temporary shelters are available for internal relocation in those cases where exit permits are delayed for children granted refugee status or parole.
2. Sufficient resources should be provided to the program to station refugee teams within the region, allowing for more interviews to be conducted in a timely manner, providing multiple sites to reduce the risks of travel for children. Sufficient resources should be provided to NGOs and international protection agencies such as UNHCR to identify and protect children who likely fall within the U.S. refugee definition until such time as they can be interviewed. The criteria for expedited processing should be readily available to partner organizations and timelines for identifying and removing children from imminent danger should be established and strictly followed.
3. In cases where a child will be reunited with a parent or other relative in the United States, grants or microloans should be made available to assist relatives in covering the costs of travel if the travel is not otherwise covered. No child found to be at risk should remain in a dangerous situation for lack of transportation funds.
4. In cases where a child will be admitted to the United States as an unaccompanied refugee minor, the child should not return to a dangerous setting but should be housed in safety while awaiting final transportation details.
5. Where security, DNA, or other screening reviews are necessary, they should be expedited to minimize delays in completing processing. Costs should be absorbed by the program and, where this is not possible, microloans and other payment arrangements should be made available to parents and other relatives to prevent unnecessary delays in meeting protection needs.

## **G. Return to a Robust Public Engagement Strategy for Building and Implementing a Revised CAM Program Will Be Vital to Success**

1. Prior to implementing a new program, the government should pro-actively and expeditiously seek comments and assistance from knowledgeable stakeholders in the United States, Mexico, and the Northern Triangle, to refine the program as much as possible.
2. Ensure that a rapid response network for emergency evacuations and assistance is firmly in place prior to implementing the program, to ensure that urgent cases are handled as quickly and efficiently as possible.
3. Provide detailed information to the public within the United States and the home countries that is clear, consistent and up-to-date, and is available in multiple languages.
4. Provide real-time case tracking information to avoid anxiety and uncertainty about case processing times. Where children must be moved to protect them from danger, ensure that notification procedures are in place that will contact relatives where appropriate.
5. Maintain strong channels of communication with stakeholders, routinely meeting with them and providing opportunities for dialogue, feedback, and case assistance.



## Systemic Change

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Because the CAM program was created within the four corners of the Refugee Act of 1980, as well as other measures that support refugee assistance, the recommendations KIND offers in this paper can be accomplished through the executive branch. To truly address the scope of the refugee crisis in Central America, however, requires continued regional efforts and a strengthening of U.S. refugee law. By its nature, migration affects numerous countries; adequately addressing all of the challenges raised by a robust in-country processing program for children in El Salvador, Honduras, and Guatemala will require careful regional coordination and commitment to the cause of child protection.

On the domestic front, legislative change to broaden humanitarian protection is long overdue. Of particular importance for an in-country refugee processing program is an adaptation of the Lautenberg Amendment, which relaxes certain individual evidentiary and legal requirements where systemic persecution is well established, to the regional crisis in Central America. This would allow adjudicators to recognize the systemic nature of persecution within the northern countries of Central America and require less individualized evidence of harm, while still adhering to the statutory definition of a refugee. Preservation of existing laws, such as the Refugee Act of 1980 and the Trafficking Victims Protection Reauthorization Act of 2008 are also core components of maintaining a strong humanitarian protection response. Long-term investment in addressing the root causes of migration in the region is a necessity.<sup>27</sup> And, additional efforts to recognize the need for humanitarian visas and greater flexibility in promoting work and family-based visas from the region are also critical. Recognizing the value of parole as a humanitarian measure that can help to quickly avert tragedies and offering mechanisms for converting parole into longer-term status are also needed to expand the range of tools available to protect individuals. Taken together, such measures will provide the long-term support necessary to create the kind of nimble and strategic approach to managing migration flows that the United States must adopt for the future. The CAM program could prove to be both an example and lynchpin for future reforms.

## Conclusion

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This analysis provides a roadmap for reconsidering the CAM program, a landmark acknowledgement that there are, in fact, refugees in Central America. That many of these refugees are children and that they continue to seek U.S. assistance by risking their lives to reach this country is an ongoing tragedy. Reviving CAM will not eliminate the need for an aggressive campaign to address the systemic violence, corruption, and other root causes that plague much of the northern countries of Central America, but it will provide a lifeline for those in most immediate need, and in the process can contribute to building a more sensible and sustainable response to the forced migration patterns that continue to challenge the United States and put the lives of people on the move at great risk.

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<sup>27</sup> For a more detailed discussion of regional solutions, see [KIND Blueprint: Concrete Steps to Protect Unaccompanied Children on the Move](#), November 2, 2020.

