

*U.S. Senate Committee on the Judiciary  
Subcommittee on Border Security and Immigration  
TVPPRA and Exploited Loopholes Affecting Unaccompanied Alien Children  
Remarks for the record by Senator Bob Menendez  
Wednesday, May 23, 2018*

**Introduction:**

Chairman Tillis, Ranking Member Durbin – I appreciate the opportunity to offer testimony today.

To begin, I ask we be honest about who these unaccompanied minors who travel to the U.S. border seeking refuge actually are. They are children... children fleeing unspeakable violence in their home countries.

Children like thirteen year-old Juliana, who made the harrowing trek from El Salvador to the U.S. after being kidnapped, beaten and raped, seeing her father murdered and her mother stabbed by gang members.

We're talking about children. Nearly a third under the age of 14. Nearly a third of them girls – a number that's growing alongside increasing gender-based violence.

Most of these children come from Guatemala, El Salvador, and Honduras – collectively known as the “Northern Triangle” – a region plagued by gang violence, weak institutions, and poverty.

These children undertake the perilous journey to the U.S. because, like Juliana, they've faced forced gang recruitment, kidnapping, rape, human trafficking and sometimes even death.

To be blunt, it's stay and die, or flee and live.

### **Root Causes:**

We cannot tweet our way out of this problem. We must address the root causes of this forced migration.

In 2015, El Salvador had the highest homicide rate in the world. Today it remains eleven times that of the United States. And Honduras and Guatemala rank among the top six most violent countries in the region. Additionally, all three countries have pervasive rates of violence against women. In Guatemala, an average of 62 women are murdered every month. In El Salvador, a woman is murdered every 19 hours, and in Honduras – the country with the highest homicide rate for women in the world – a woman is killed every 16 hours.

If we aim to reduce forced migration, we must improve the conditions in the region. Our only hope at doing so is by working with the Governments of the Northern Triangle.

Such an effort demands robust support – and funding – for the State Department and USAID. From 2015 to 2016, in neighborhoods where USAID operated, homicides declined by 78% in Honduras and 61% in El Salvador. Clearly, our diplomatic and development efforts that help strengthen the rule of law, promote good governance, and create economic opportunity in these

countries have proven to be effective. And yet, the President's latest budget request called for a staggering 38 percent cut from fiscal year 2017 for the U.S. Strategy for Central America, which funds our efforts to address the root causes of migration. That is not a serious policy response.

**TPS:**

Nor is the Administration's recent decision to end Temporary Protective Status (TPS) for El Salvador and Honduras. This will only exacerbate the problem. In recent weeks, I published findings from Senate Foreign Relations Committee staff indicating the decision to end TPS for El Salvador and Honduras was likely politicized.

U.S. diplomats and State Department officials advised the Trump Administration against it. They warned it would: weaken U.S. national security, undercut bilateral cooperation against transnational gang violence, increase illegal immigration and likely endanger the lives of TPS beneficiaries and their U.S. citizen children by exposing them to gang violence.

Warned of these dangers, the Administration did it anyway. That's why I'm urging the Government Accountability Office to investigate this decision.

**TVPRA:**

The Administration may wish Northern Triangle's problems would just "go away", but once these children reach the border, we must afford them due process.

The bipartisan Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) strengthened federal anti-trafficking laws and established a process for children who arrive to the

U.S. alone, by ensuring all children are screened for trafficking and by prohibiting their quick deportation.

Our laws say children from non-contiguous countries must be granted an immigration hearing, allowed to consult with an advocate, and turned over to the Department of Health and Human Services.

These laws are grounded in due process and child welfare principles so that the United States does not return a child to their death or subject young children to prolonged detention simply because they are seeking refugee status.

**Asylum Claims:**

President Trump claims our asylum laws are full of “loopholes” and that we have “open borders”.

Well, either he doesn’t understand the law, doesn’t care to learn, or both.

Those granted asylum undergo security background checks. Those posing security threats are barred from receiving it.

Asylum-seekers must prove a well-founded fear of persecution based on race, religion, nationality, political opinion or membership in a particular social group and is no easy task.

But the President and some Congressional Republicans would rather dismantle legal protections for children and sow fear to score cheap political points with their nationalist base.

Calling these children “gang bangers” and deporting them won’t address the complex problems in Central America.

### **Family Separation:**

Rather than propose solutions, the Trump Administration’s practice of separating children from their parents at the border is actually creating more unaccompanied minors. Parents are criminally prosecuted while children are left to the whims of the Federal Government.

Such policies will not stem the violence in the Northern Triangle driving this forced migration. President Trump is instead creating a new class of de facto foster children and manufacturing a child welfare crisis.

More than 700 children have been separated from their parents – at least 100 younger than four years-old. Tearing innocent children away from their parents is shameful, cruel, and un-American.

This Administration claims to be for law and order. But it deals in chaos and discord.

### **Conclusion:**

Instead of doing the hard work of governing, the Trump Administration takes shortcuts, which turn into crises.

Do not be fooled: criminalizing asylum seekers simply because they didn't assert their claims at an arbitrary checkpoint runs counter to established refugee and asylum law.

This Administration must stop conflating all immigrants with criminals.

They did it with DACA. They did it with TPS. Now, they're doing it with unaccompanied children.

The combined approximately 33,000 DACA recipients in Nevada and New Jersey are not criminals. Nor are the combined 12,500 TPS holders from El Salvador in Nevada and New Jersey. And these unaccompanied children shouldn't be labeled criminals either.

The decisions we make at home can aggravate and destabilize conditions abroad. We must engage with the governments of the Northern Triangle, address the root causes and treat children humanely.

Otherwise, stories like Juliana's will continue, and children and families will continue to flee and seek refuge in the U.S.