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refugees.org

May 20, 2020

The Honorable Chad Wolf
Acting Secretary
Department of Homeland Security
1880 2nd Street SW
Washington, DC 20024

The Honorable Robert R. Redfield, MD
Director
Centers for Disease Control and Prevention
1600 Clifton Road
Atlanta, GA 30333

Dear Acting Secretary Wolf and Director Redfield:

The undersigned 15 organizations write to express our concern over the treatment of unaccompanied children at the U.S.'s southern border. As frontline organizations that provide care for unaccompanied children in 21 states, we are acutely aware of the harms that unaccompanied children face and that are exacerbated by current DHS policies. We call upon CDC and DHS to follow the requirements of the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) to process unaccompanied children at the southern border, and allow them access to the services required by law and necessary to their best interests.

Unaccompanied children comprise one of the most vulnerable groups seeking help and protection. They have commonly fled from extreme violence and exploitation. Their immediate needs include a stable environment, with access to medical care, psychological care, and appropriate space for their cognitive and social development. Such needs are also their legal rights under U.S. law. Moreover, when the U.S. fails to fulfill its obligations to unaccompanied

children—obligations that are both legal and moral—it puts these youth at risk for future harms, including as victims of interpersonal violence and human trafficking.

We are deeply troubled by recent reports that DHS is not following the statutory mandates of the TVPRA. Under the TVPRA, DHS is obligated to transfer unaccompanied children from non-contiguous countries to HHS within 72 hours. Using the novel legal construction “unaccompanied juveniles,” U.S. Customs and Border Protection (CBP) instead has expelled unaccompanied children without conducting adequate screening, and without referring children in need of protection to the Office of Refugee Resettlement (ORR).

Organizations that provide care to unaccompanied children are uniquely qualified to identify the consequences of letting medical, mental health, cognitive and safety needs go unmet.

Unaccompanied children who are denied protection are at risk for future victimization and forms of harm that no child deserves. By foregoing the screenings mandated by TVPRA, officials are ignoring active situations of trafficking and those that pose future risks to children. Children at the border may be trafficked by an accompanying adult, or a child and adult together may be victims. Failures to screen put children at risk of remaining in their trafficking situation, and of the forms of exploitation related to trafficking. Similarly, by summarily expelling all so-called “unaccompanied juveniles,” U.S. officials condemn children in need of protection to unsafe environments, whether in border cities in Mexico or, if returned, to the very situations that the children were forced to flee.

As care providers, it is common for us to hear the stories of violence and exploitation that unaccompanied children have already endured over the course of their young lives. For those who have suffered trafficking or abuse, their placement into ORR custody is essential for them to gain a sense of safety, process trauma, obtain counsel, and to safely and expeditiously unify them with family members to create the stability necessary for their lives to proceed. For those unaccompanied children who may fear persecution, it is imperative that their differential needs be recognized and all forms of protection and assistance that they qualify for be given to them.

As a legal matter, we also note that expulsions run contrary to U.S. laws and treaty obligations. The U.S. government is required to provide a meaningful opportunity for all to pursue the right to asylum in a fair and full process. Likewise, the government has a fundamental obligation not to refoal any individual to a situation where they will be persecuted, regardless of the merits of a protection claim. The United Nations High Commissioner for Refugees recently affirmed these continuing obligations, noting “that while States may put in place measures which may include a health screening or testing of persons seeking international protection...such measures may not result in denying them an effective opportunity to seek asylum or result in refoulement.”¹

¹ UN High Commissioner for Refugees, “Key Legal Considerations on access to territory for persons in need of international protection in the context of the COVID-19 response,” (Mar. 2020); <https://www.refworld.org/docid/5e7132834.html>.

The undersigned organizations support comprehensive health measures to protect public health. We have undertaken numerous measures to protect the health of the children in our care. CBP, in conjunction with the CDC, should implement protection protocols that assess individuals for the presence of communicable diseases while providing children safety from trafficking, abuse and persecution. As our own experience shows, upholding our obligations to unaccompanied children and protecting public health are mutually reinforcing goals. The United States must continue to protect the most vulnerable, even in times of crisis.

Sincerely,

A handwritten signature in black ink, appearing to read "Eskinder Negash". The signature is fluid and cursive, with the first name "Eskinder" written in a larger, more prominent script than the last name "Negash".

Eskinder Negash, CEO and President
U.S. Committee for Refugees and Immigrants

And an additional 14 organizations (available by request to Mario Bruzzone,
mbruzzo@uscrimail.org)