

Background

The Trump administration has recently made [calls](#) to roll back or eliminate protections contained within the William Wilberforce [Trafficking Victims Protection Reauthorization Act](#) of 2008 (“TVPRA”) in a flawed and misguided attempt to deter unaccompanied children from making the journey to the United States to seek protection and to accelerate processing for those children already present in the United States. These proposals, if adopted, would drastically undermine children’s safety and due process. The TVPRA, which was enacted by Congress with broad bipartisan support after careful review and consideration, represented a significant advance in US child-welfare and anti-human trafficking efforts.

Provisions of the TVPRA regarding unaccompanied children should be preserved, because:

- » ***Prior to the TVPRA, child survivors of trafficking were falling through the cracks.*** The TVPRA filled a crucial legislative gap in US anti-human trafficking efforts by bringing all victims, including those formerly precluded from receiving assistance, such as unaccompanied children, within the scope of US legal protections. Prior to the TVPRA, migrant children were not being screened by the Department of Homeland Security (DHS) to detect whether they were survivors of trafficking or at future risk of being trafficked or persecuted in their home countries. These children—even those who were not Mexican citizens—were summarily turned away at the US/Mexico border, where they were left without any protection. As a result, many of them ended up in the hands of smugglers and traffickers who were waiting for them on the Mexican side of the border.
- » ***The TVPRA establishes minimum safeguards for vulnerable children.*** The TVPRA provides for a process to screen all children arriving to the US to identify child survivors of trafficking more readily, and it establishes vital protections for those children. The TVPRA also improves upon policies to prevent children from being trafficked, should circumstances suggest that this may be likely, such as ensuring that children are not repatriated into the hands of traffickers or abusive families and are well cared for while in the United States.
- » ***The TVPRA establishes the obligation to treat unaccompanied children humanely.*** By recognizing the special vulnerability of unaccompanied children, the TVPRA provides survivors or those at risk of being trafficked with emergency interim assistance and a safe place to stay, run by child welfare professionals.
- » ***The TVPRA establishes the obligation to treat unaccompanied children fairly.*** The law protects unaccompanied children by ensuring they have a fair chance to tell their story, including providing adequate time to find legal assistance and to make a claim for protection. The TVPRA also guarantees due process for child survivors of trafficking: under this law, children are provided access to courts to ensure their claims for protection are properly adjudicated instead of being summarily returned to potentially dangerous situations.

Calls to treat all unaccompanied children the same may sound fair, but if implemented would actually reduce the protections available. The TVPRA establishes that all unaccompanied children arriving from non-contiguous countries (countries other than Mexico or Canada) should be transferred to the care of the Office of Refugee Resettlement (ORR), an agency under the Department of Health and Human Services, within 72 hours of apprehension. Screenings to determine the protection needs of a child from these countries take place in ORR custody. Children from contiguous countries, however, are not afforded this same protection; rather, for these children to be referred to ORR, officers from US Customs and Border Protection (CBP), an agency within DHS, must determine within 48 hours of apprehension that these children have either been trafficked or are susceptible to human trafficking if returned to their home country; and/or that the children have a credible fear of returning to their home country; or that the children are unable to make an independent decision to return.

For years, the Women’s Refugee Commission has documented CBP’s insufficient screenings of unaccompanied children, especially those from Mexico, for protection concerns as required under the TVPRA (see, for example, [here](#), [here](#), and [here](#)). **Reducing existing protections for immigrant children from Central America, so they are treated in the same way as children from contiguous countries, will not do anything to deter children from seeking protection in the United States. It will, however, put vulnerable children in danger of abuse, exploitation, trafficking, or even death.** All children should be able to access protection, without additional hurdles, and should not be returned to their home country without first having a thorough screening conducted by professionals with child welfare experience and being given a fair chance to make a claim for protection.

For more information, contact:

Leah Chavla, Policy Advisor, leahc@wrcommission.org

April 2019