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## Children on the Move: The Plight of Immigrant and Refugee Children

By Nathalie Lummert

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The Plight of Immigrant and Refugee Children**

United States Catholic Conference  
Migration and Refugee Services



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The United States Catholic Conference is the public policy and social action agency of the Catholic Bishops of the United States. Migration and Refugee Services (MRS) carries out the Church's pastoral and social policy on migration, refugee and immigration issues. MRS provides program assistance and support to a national network of diocesan offices in its efforts to fulfill the Bishops' mandate.

Within MRS, the *Office for the Pastoral Care of Migrants and Refugees* responds to the spiritual needs of newcomers and people on the move. The *Office of Migration and Refugee Policy* advocates for fair and just public policies towards immigrants, migrants and refugees. The *Office of Refugee Programs* administers programs of welcome and service to refugees resettled by the Church in the United States.

**CHILDREN ON THE MOVE:  
The Plight of Immigrant and Refugee Children**

By  
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This Migration and Refugee Services staff paper highlights the Church's interest in matters relating to certain groups of children on the move, including migrant, refugee, unaccompanied, trafficked and internally displaced children. It reflects the perspective of Catholic social teaching relating to children on the move; explores several immigration and policy areas and their impact on children; and presents specific principles for the development of future immigration and refugee laws and policies and use in advocacy work on behalf of immigrant and refugee children. This paper is being used by the Bishops' Committee on Migration to further consider public policy initiatives and has been issued with the expressed approval of the chairman.

-- Mark D. Franken  
Executive Director

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## *Children on the Move: The Plight of Immigrant and Refugee Children*

“Let the children come to me and do not prevent them; for the kingdom of heaven belongs to such as these.” (Mt 19:14).

### ***Introduction***

Children are the most vulnerable of immigrants and refugees, unable to protect themselves adequately from danger and, because of their youth, are often subject to abuse or exploitation. In the past, the U.S. Catholic bishops have identified the special needs of immigrant and refugee children and have expressed concern with regard to their situations, especially in war-torn countries or as the victims of smuggling or trafficking organizations. In fact, the U.S. Bishop’s Committee on Migration has worked to direct U.S. immigration and refugee policy toward the special needs of children. It is therefore appropriate to analyze how current immigration and refugee policies affect children and suggest policy directions for addressing their vital and special needs.

Today the world often does not separate the needs of children from adults. In modern warfare and other refugee producing situations, children increasingly have become prime targets and victims. Because of their age and inexperience, children may not be able to articulate their views or testify to their needs with the same degree of accuracy as adults. Despite these facts, laws and policies have been developed and implemented without careful attention to their impact on children; the particular concerns of children need to be taken into account in policy analysis and advocacy approaches.

This paper attempts to highlight the Church’s interest in matters relating to “children on the move” and identifies and discusses several specific categories of children at risk. The paper includes the perspective of Catholic social teaching relating to children on the move; summarizes the Church’s advocacy in the international arena for children’s rights; and explores several immigration and refugee policy areas and their impact on children. It also presents specific principles which should be applied to children in the development of future immigration and refugee laws and policies and used in advocacy work on behalf of immigrant and refugee children.

### **I. Special Relevance of Children in Catholic Social Teaching**

#### ***Children in the context of the family***

In Catholic social teaching, the rights of children are placed within the context of the family. Depriving children of the warmth of a family is a detriment to peace in our society, and although a government can and should at times provide support, the family ensures an irreplaceable

climate of security and trust.<sup>1</sup> The Church recognizes the right of the family to raise children in their own religion, traditions, and values as well as the family's right to have suitable housing and to emigrate in search of a better life. In *Familiaris Consortio*, Pope John Paul II teaches about concern for the family, noting that special attention should be given to children and a concern for their rights.<sup>2</sup> Speaking to the World Summit on Children, he noted that the State has a role to protect the family as the cell and first school of virtues from which the society develops: "The well-being of the world's children therefore depends greatly on the measures taken by States to support and help families to fulfill their natural life-giving and formative functions." Children "cry out for greater respect for their inalienable individual dignity and for their right to life from the first moment of conception, even in the face of difficult circumstances or personal handicap."<sup>3</sup>

Although they are often voiceless and vulnerable members of society, children do call out for their protection and care to those who have the means or responsibility to better their lives. Pope John Paul II emphasizes the importance children should hold to States:

"No country on earth, no political system can think of its own future otherwise than through the image of these new generations that will receive from their parents the manifold heritage of values, duties and aspirations of the nation to which they belong and of the whole human family. Concern for the child, even before birth, from the first moment of conception and then throughout the years of infancy and youth, is the primary and fundamental test of the relationship of one human being to another. And so, what better wish can I express for every nation and for the whole of mankind, and for all the children of the world than *a better future* in which respect for human rights will become a complete reality."<sup>4</sup>

### ***The Church's Role in International Children's Rights***

In October of 1999, the Vatican representative to the United Nations, Archbishop Renato R. Martino, called on the international community to examine the treatment of children and families worldwide. He insisted that any government committed to protecting children should strengthen

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<sup>1</sup> Pope John Paul II, *Message for the XXVII World Day of Peace: The Family Creates The Peace of the Human Family* (January 1, 1994).

<sup>2</sup> Pope John Paul II, Apostolic Exhortation *Familiaris Consortio*, No. 26 & 46, (November 22, 1981)

<sup>3</sup> Message of His Holiness Pope John Paul II To His Excellency Javier Perez De Cuellar, Secretary-General of the United Nations, on the occasion of the World Summit for Children. September 22, 1990. In *Serving the Human Family: The Holy See at the Major United Nations Conferences*, p. 48. (Path to Peace Foundation New York: 1997)

<sup>4</sup> Pope John Paul II, *Address to the United Nations General Assembly*, no. 21. (October 2, 1979)

the family.<sup>5</sup>

The Vatican was a leader in the ratification of the Convention on the Rights of the Child (CRC), becoming one of the first signatories to the convention after it was adopted by the General Assembly in November 1989.<sup>6</sup> The CRC establishes standards for the treatment and rights of refugee children: "States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law procedures shall, whether unaccompanied or accompanied by his or her parents, receive appropriate protection and humanitarian assistance..."<sup>7</sup> While Article 22 directly addresses the concerns of refugee children, many of the other articles address concerns which relate to all children on the move. The Holy See endorsed the Convention with three reservations. These reservations include a clarification of the Holy See's definition of "family planning," protection for children from the moment of conception, and freedom for the parents' religious life and education of their children. The Holy See also has articulated that the convention be implemented within the context of the Vatican City State and its sources of law.<sup>8</sup>

The Holy See's report on its application of the CRC affirms the rights of children found in the teachings of the Church. These rights include the dignity of the child, the well-being of the child in the context of the family, the right to life, the right to education and the right of freedom of religion. In the absence of family, children must receive particular attention: "The State, with regard to foster-care or adoption, must provide legislation which assists suitable families to welcome into their home children who are in need of permanent or temporary care. This legislation must, at the same time, respect the natural rights of parents."<sup>9</sup>

With the aid of international Catholic organizations, the Holy See has been active in the campaign to obtain universal ratification of the Convention.<sup>10</sup> In the Holy See's report to the United Nations, it explains that it has, with the Episcopal Conferences throughout the world and other Catholic organizations, mobilized around issues of concern in the area of children's rights.

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<sup>5</sup> Tracy Early, *U.N. Nuncio Calls On Nations to Review How They Treat Children*. Catholic News Service (October 29, 1999).

<sup>6</sup> *The Holy See's Initial Report to the Committee on the Rights of the Child, in Application of Article 44 of the Convention on the Rights of the Child*. March 2, 1994. In *Serving the Human Family: The Holy See at the Major United Nations Conferences*. p. 82-85. (New York: Path to Peace Foundation, 1997). The United States Catholic Conference has not taken a position on the Convention on the Rights of the Child.

<sup>7</sup> UN Convention on the Rights of the Child, Article 22, November, 1989.

<sup>8</sup> Above, p. 82-85.

<sup>9</sup> Above, p. 80.

<sup>10</sup> Above, p.85.

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These concerns address many groups of children: sexually-exploited children and children used in prostitution, street children, children forced to work, and children who are prisoners or refugees.<sup>11</sup> The Holy See's report mentions, among other organizations, the Pontifical Council for the Pastoral Care of Migrants and Itinerant People as a Catholic entity involved in these children's rights issues.

### ***The Church's call to Protect Children in the Americas***

In his *Post-Synodal Apostolic Exhortation Ecclesia In America* in 1999, Pope John Paul II expressed his concern for the denial of children's rights, and even their lives, due to the lack of adequate care. The Pope repeated an urgent plea that all those in authority "do all in their power to alleviate the suffering of children in America," which includes children from all countries in North, Central, and South America.<sup>12</sup> In 1991, the U.S. bishops issued a statement that called for renewed attention to children and families in our nation and the world. They challenged others to conversion and action in a "spiritual and social reawakening to the moral and human cost of neglecting our children."<sup>13</sup> Many children on the move continue to hurt as a result of policies which affect them and their families.

In conclusion, Church teaching is clear that children, including immigrant and refugee children, deserve special consideration in laws and policies followed by individual countries. Children on the move, who are without a home and the proper support to grow physically, spiritually, and emotionally, are particularly vulnerable and should receive special consideration under the law.

## **II. Children at Risk**

### ***Children in Agricultural Farmworker Communities***

*"The first field we visited could have been mistaken for a day care center. There were many small children in the field with their parents. Some were sitting in the dirt, just being near their families. Some were picking strawberries just like their parents and older siblings. We saw a baby stroller which was advanced a few feet occasionally to keep up with the progress of the picking. The families were together, but there wasn't much joy. At 12 cents a pound for the strawberries, minus room and board costs, this day care center was a part of survival." -Scott Pike, Optometrist (Testimonies from the Fields, Pineros y Campesinos Unidos del Noroeste, Woodburn, OR, 1997)<sup>14</sup>*

Approximately three million to five million farmworkers and family members travel each year

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<sup>11</sup> Above, p.90-92.

<sup>12</sup> Pope John Paul II, *Post-Synodal Apostolic Exhortation Ecclesia In America*. Given at Mexico City, January 22, 1999.

<sup>13</sup> United States Catholic Conference. *Putting Children and Families First: A Challenge for Our Church, Nation, and World* (December 10, 1991).

<sup>14</sup> The National Resources Defense Council. *Trouble on the Farm: Growing Up with Pesticides in Agricultural Communities*, Chapter 3. (1998).



within the United States searching for agricultural employment. Most workers are under the age of 35, with the number of young boys working in agriculture increasing. Even unaccompanied children as young as 13 travel and work in U.S. agriculture.<sup>15</sup>

The Catholic Church in the United States has long upheld the rights and dignity of migrant workers in this country. Bishop Nicholas DiMarzio, chairman of the U.S. Catholic Bishop's Committee on Migration, issued a statement in May 1999 in which he reiterated the Church's view that all agricultural workers are "entitled to safe working conditions, adequate housing, and benefits for themselves and their families."<sup>16</sup>

Children of migrant farmworkers are often disadvantaged in educational and developmental opportunities. Due to the nature of seasonal work, they often travel and live in several states each year as their families follow the harvest of various crops to find employment. One government study found that only about 22 percent of agricultural families remain in just one location throughout the year.<sup>17</sup> At a time in their lives when children need stability, this mobile lifestyle makes a stable educational situation difficult, with children having to adjust to different learning environments. The migrant child must register in different schools and adapt to a different environment in each: changing teachers, different class schedules, and different classmates. Government educational programs for migrant children lack an adequate system of transferring information about students between different locations, resulting in inappropriate classroom placements, repeat immunizations, and even failure to complete graduation requirements.<sup>18</sup> Those who work directly with migrant children in educational programs find that the children frequently miss classes as a result of the effects of health and housing conditions similar to those found in developing countries.<sup>19</sup> All of these factors result in many children struggling to keep up with their classmates: one estimate cites the high school dropout rate for

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<sup>15</sup> General Accounting Office, Report to Congressional Requesters, *Migrant Children: Education and HHS Need to Improve the Exchange of Participant Information* (October 1999).

<sup>16</sup> Statement of Bishop Nicholas A. DiMarzio, Chairman of U.S. Catholic Bishops' Committee on Migration on behalf of Migration and Refugee Services, U.S. Catholic Conference, May 12, 1999.

<sup>17</sup> National Agricultural Worker Survey of Migrant Head Start Parents, 1993-94, Cited in *Migrant Children: Education and HHS Need to Improve the Exchange of Participant Information*, General Accounting Office, Report to Congressional Requesters (October 1999).

<sup>18</sup> General Accounting Office, Report to Congressional Requesters *Migrant Children: Education and HHS Need to Improve the Exchange of Participant Information* (October 1999).

<sup>19</sup> La Escuela de San Jose, Migrant Education Ministry, the Sisters of Mercy of the Americas, Program information.

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children of migrant workers to be as high as 50 percent, more than twice the national average.<sup>20</sup>

Many migrant children work in agricultural work, often to the detriment of an education, simply as a result of their parents' inability to earn a living wage in agriculture. While many parents do not wish for their children to work in agriculture and want to give them better educational opportunities, they may be forced to have their children beside them working in the fields or caring for younger children simply to enable the family to survive economically. Federal laws to protect child labor in agriculture are less stringent than in other occupations, allowing children to work at younger ages and at more hazardous tasks in agriculture than other, less dangerous industries. For example, a 12-year-old may not perform clerical work in an office, but may pick fruits and vegetables. Children as young as 12 may work in agricultural employment outside of school hours in nonhazardous jobs, either with a parent's written consent or on the same farm as their parents.<sup>21</sup> While in nonagricultural occupations there exist limits for allowable work hours for children age 14 and 15, the same age group in agriculture may work unlimited hours outside of school.

Agriculture is generally considered one of the most dangerous occupations in the country. According to the National Institute for Occupational Safety and Health, more than 100,000 children and youth under the age of 20 are injured and 100 are killed each year on farms.<sup>22</sup> As a result of inconsistent labor laws, children working in agriculture are subject to more hazardous situations. For example, "a 16-year-old may not operate a power saw in a shop or a forklift in a warehouse but may operate either on a farm."<sup>23</sup>

Despite lenient laws governing child labor in agriculture, violations of the laws still occur, and often remain undetected. A 1998 General Accounting Office (GAO) report found weaknesses in the enforcement activities of existing child labor laws, concluding that Department of Labor (DOL) inspectors lacked procedures to document if a child was old enough to work.<sup>24</sup> In an Associated Press investigation, reporters found more illegal child labor on farms than in any

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<sup>20</sup> Pamela Mendels, *Children of Migrant Workers Keep Up Studies on the Internet*, The New York Times, Wednesday, August 25, 1999.

<sup>21</sup> General Accounting Office(GAO) Report, *Child Labor in Agriculture: Changes Needed to Better Protect Health and Educational Opportunities*, August 1998, and Employment Standards Administration, Wage and Hour Division.

<sup>22</sup> U.S. Department of Labor, Employment Standards Administration, Press release, August 12, 1998.

<sup>23</sup> GAO, p. 30.

<sup>24</sup> Above, p. 6.

other industry, citing 104 incidents of illegal child labor in agriculture in a five-month period.<sup>25</sup> Reporters witnessed children as young as four, working with their parents, picking peppers and cucumbers, and consuming pesticide-covered vegetables for lunch.

The increased use of pesticides on U.S. farms is yet another hazardous condition for migrant farmworker children. Children are more vulnerable than adults to pesticides because pound for pound of body weight they eat and breathe more than adults. Consequently, they bear higher risks as a result of pesticide usage. Unborn children, infants, and children also cannot efficiently detoxify and eliminate chemicals and have a longer lifetime to experience the consequences of pesticide exposure. Children come into contact with pesticides on their parents' clothing, contaminated play areas, food eaten directly from the fields, and in contaminated drinking water.<sup>26</sup> A National Resources Defense Council (NRDC) report found that children with the greatest pesticide exposures are from migrant farmworker families.<sup>27</sup> The NRDC found pesticides used only in agriculture in the urine of two-thirds of children of agricultural workers. The practice of young workers in agricultural employment and children accompanying their parents in the fields "can result in acute poisonings and deaths."<sup>28</sup> In their report, the NRDC emphasized the vulnerability of farm children to pesticides:

"Farm children are like canaries in a coal mine . . . We are putting farm children in a situation where they receive some of the highest pesticide exposures in our country. Children, like canaries, have greater susceptibility to the health effects than do adults. Yet in this case we cannot afford to wait and see if science proves conclusively that illnesses among these children are due to pesticides—particularly since many of the expected health effects occur years or even decades after the exposures."<sup>29</sup>

### ***Principles relevant to children of migrant farmworkers***

- As children of one of the most vulnerable populations in the country, children in migrant agricultural worker families deserve special attention in policy decisions which affect all agricultural workers.
- More emphasis should be placed on the educational and health programs designed to improve the quality of life of migrant children and their families.

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<sup>25</sup> David Foster and Farrell Kramer, America's Secret Child Labor Force, the Associated Press, December 14, 1997.

<sup>26</sup> Natural Resource Defense Council report Executive Summary, *Trouble on the Farm, Growing Up with Pesticides in Agricultural Communities* (October 1998).

<sup>27</sup> Above, p. 6.

<sup>28</sup> Above, p. 7.

<sup>29</sup> Above, p. 9.

- Farmworker families should be paid a living wage so that their children are not forced to work in harmful situations. Labor law should protect children working in agriculture from labor abuses which hinders their opportunities for quality education and from dangerous situations involving pesticides or other hazards.

### ***Children Crossing the U.S./Mexico Border***

*"Where I lived, there were few trees left standing. It was horrible. I made the decision because I wanted to work and help my family."* -a 16-year-old Honduran boy in INS custody after crossing the U.S. border in the aftermath of Hurricane Mitch.<sup>30</sup>

In 1996, there were an estimated five million undocumented persons in the United States.<sup>31</sup> The U.S. bishops acknowledge the vulnerability to exploitation which undocumented populations face and have spoken out against how the undocumented "are exposed to serious health risks, live in squalid housing, are denied pay for work completed, and are subjected to threats and intimidation."<sup>32</sup> The U.S. bishops have also pointed out that political, social, and economic inequities in the world represent the root cause of undocumented migration.

The conditions at the United States/Mexico border highlight desperate situations many undocumented migrants, including children, encounter as they attempt to enter the United States. Children with or without their families cross rivers at night, travel through deserts, or travel in unsafe conditions in trucks or trains, often without sufficient food, water, and clothing for the varying conditions through which they travel. One recent study found that in a five-year period, 24 youth under the age of 20 had died on the northern side of the United States/Mexico border, and at least 18 of these were under the age of 10.<sup>33</sup> This number includes only those deaths which have been documented by government officials; it does not include deaths which occur on the journey to the United States or back to their place of origin.

Children also are victimized by smugglers who they or their parents pay to help them cross the border. Smuggling networks have even been found to use infants as tools in border crossings: smugglers have rented or perhaps even kidnapped infants from impoverished families to avoid a

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<sup>30</sup> Diane Smith and Marisa Taylor, *Fleeing poverty and abuse, immigrant children are illegally entering the U.S. in record numbers*, The Fort Worth Star-Telegram, March 19, 1999. As many as 120,000 undocumented children in the United States may be working in unsafe or illegal situations.

<sup>31</sup> U.S. Department of Justice, Immigration and Naturalization Service, Office of Public Affairs News release, February 7, 1997.

<sup>32</sup> U.S. Bishop's Committee on Migration, *A Statement By the Committee on Migration About Undocumented Persons*, March 1996.

<sup>33</sup> Karl Eschbach, Jacqueline Hagan, Nestor Rodriguez, et al. *International Migration Review. Death at the Border*. 33:2 (1999).

quick deportation from the United States.<sup>34</sup>

Children often attempt to travel alone across the U.S./Mexico border to the United States.<sup>35</sup> Especially in the aftermath of Hurricane Mitch in 1998, unaccompanied children entered the United States to earn money for their families back home in Central American countries. Among the unaccompanied children reaching the United States are children with no home except the streets in their native countries, and they may pursue political asylum because they fear persecution by gangs and police in their countries. One immigrant rights group estimates the number of such "street" children in INS custody to be 100 to 200 a year.<sup>36</sup>

The number of street children and the conditions they live in back home are alarming. The United Nations Committee on Economic, Social and Cultural Rights recently reported 20,000 children on the streets in Mexico.<sup>37</sup> In El Salvador, Honduras, and Guatemala, street children have been victims of direct violence committed by law enforcement officials.<sup>38</sup> The State Department reported in 1999 that in Honduras, "the government was unable to prevent the abuse of street children and child laborers."<sup>39</sup> Migrant street children and other poor children may leave their home countries only to experience the vulnerabilities, difficulties, and often dead-end future of street children in this country: although independent and brave, they remain vulnerable to exploitation.

Children who manage to enter the United States from Mexico at times experience harsh treatment from U.S. officials when they arrive at a border checkpoint or are intercepted by Border Patrol officers outside of regular points of entry. While it is unclear as to how uniformly immigration laws are being applied to children crossing the border, these children may be subjected to limited expedited removal procedures, returned to their country of origin, placed in juvenile detention facilities, voluntarily return home, or pursue asylum or other forms of relief from removal.

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<sup>34</sup> The New York Times, *Babies Being Used in Ruse at Border by Illegal Aliens*, June 18, 1999.

<sup>35</sup> James Pinkerton, *Border Patrol detains more than 9,000 kids over past 2 years*, Houston Chronicle, January 31, 2000. In the past two years, more than 9,000 children have been detained by the INS after entering the United States by themselves.

<sup>36</sup> Pinkerton, 2000. (Estimate from ProBar, a nonprofit immigration law project aiding unaccompanied minors in INS detention.)

<sup>37</sup> UN Wire, *UN Worried About Street Children, Domestic Violence*, December 20, 1999.

<sup>38</sup> The State Department Bureau of Democracy, Human Rights, and Labor, *Report on Human Rights Practices for 1998*, February 26, 1999.

<sup>39</sup> The State Department Bureau of Democracy, Human Rights, and Labor, *Report on Human Rights Practices for 1998*, February 26, 1999.

### ***Principle Relevant to Children crossing the U.S./Mexico Border***

- Government policies, including immigration and border policies, should recognize and address the root causes, including political, social, and economic inequities, which affect the movement of children and their families across borders.

### ***The Trafficking of Children***

The United Nations estimates that over a million persons are victims of trafficking in sex and commercial trade each year, a multi-billion dollar industry.<sup>40</sup> Victims, including many children, are moved by means of force or deception for purposes of forced labor, domestic servitude and/or prostitution. More than 50,000 women and children are victims of trafficking into the United States each year, mostly from the former Soviet Union and Southeast Asia; half of these are deceived or coerced into sweatshop labor and domestic servitude. Among the many causes of the trafficking of individuals worldwide include economic hardship and few job opportunities in countries of origin, rising unemployment, little risk of prosecution of traffickers, profit potentials for traffickers, and lack of preventive information.<sup>41</sup> In many cases, children and other victims of trafficking are not conscious of the dangers of trafficking.

U.S. law enforcement officials have tracked and documented the trafficking of children to developed countries. In the United States, adolescent Mexican girls have been forced into prostitution in Florida and the Carolinas, while Mexican agricultural workers have been smuggled and forced to repay smuggling fees in debt bondage in South Carolina.<sup>42</sup> Young Asian girls have been smuggled into the United States to work as prostitutes, some of whom believed they were coming to work as seamstresses.<sup>43</sup> Covenant House of Honduras, a private Catholic agency providing services to street children, recently exposed a kidnapping ring that used as many as 200 children as drug carriers or prostitutes in Canada.<sup>44</sup>

Children become victims of trafficking in various ways. Destitute families in developing countries are deceived by traffickers who tell them that their children will be given a job or an education. Some families even make deals with traffickers, despite knowing what lies ahead for

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<sup>40</sup> USAID Office of Women in Development, GenderReach Project, *Women as Chattel: The Emerging Global Market in Trafficking*. Gender Matters Quarterly. (February 1999).

<sup>41</sup> Teresa Loar, director of the President's Interagency Council on Women and Senior Coordinator for International Women's Issues at the State Department, Testimony on Trafficking in Women and Children, before the Committee on International Relations, U.S. House of Representatives, September 14, 1999.

<sup>42</sup> Loar, 1999.

<sup>43</sup> William Booth, *13 Charged in Gang Importing Prostitutes*, The Washington Post. August 21, 1999.

<sup>44</sup> The State Department Bureau of Democracy, Human Rights, and Labor. *Honduras Country Report on Human Rights Practices for 1998*, February 26, 1999.

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their children.<sup>45</sup> Other children are merely kidnapped. The international community must begin to address this ever growing problem and prevent the use of children in this way for profit.

***Principles Relevant to Children who are victims of trafficking***

- Prevention, including public information to children and families, is important in combating trafficking.
- The trafficking of children is a heinous crime that should be opposed with every legitimate tool available.
- Social service programs should help address the social, emotional, and physical consequences to children who are trafficked.
- Minors who are victims of trafficking should receive generous protection of relief from removal under immigration laws.

***Unaccompanied minors in INS Custody***

*"She was detained at age 15. Though charged with no crime, she was sent to a secure detention facility in Pennsylvania, where she was housed with children accused of murder, rape, and drug trafficking. She was assigned a small concrete cell, bare except for bedding and a Bible in a language that she could not read. She was forbidden to wear her own clothes or keep any personal possessions--jewelry, hair ties, perfume, deodorant--in her cell. She was forbidden to laugh or speak her native language."* - Jo Becker, Director of Children's Rights Advocacy for Human Rights Watch, in the Miami Herald, January 7, 2000.

*"It is difficult to survive . . . I miss my parents. I never thought I would end up in a jail like this."* - A fifteen-year-old Chinese girl in INS custody in Portland.<sup>46</sup>

Unaccompanied minors enter the United States under a variety of circumstances. While some seek to reunite with family members, others may have no relatives in this country. Still others are asylum seekers who have experienced persecution against themselves or their family members and seek protection or children who have been smuggled into the country and are at risk of being caught again by smugglers and forced into sweatshop labor or worse. Many unaccompanied children cross the border from Mexico, are apprehended, and are returned to their country. Others, including those traveling from Central America, China, India, and other countries, may remain for an indefinite time period in secure facilities and in INS custody until their immigration status is resolved. Thousands more who enter the United States may remain undetected by authorities.

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<sup>45</sup> International Organization on Migration, *Trafficking in Children: Prevention Before Victimization*, Quarterly Bulletin, December 1997-January 1998.

<sup>46</sup> Julie Sullivan, The [Portland] Oregonian, *Political Asylum and a child behind bars*, December 10, 1999.

The INS is responsible for the apprehension, detention, care, placement, legal protection, and removal procedures of unaccompanied minors, conflicting responsibilities which can undercut the best interests of the child. Between 350-550 unaccompanied children are placed in INS custody at any given time, practically all of whom are children between the ages of 15-17.<sup>47 48</sup> Children may be detained in separate facilities from their parents and other family members and remain in secure facilities for months until their status is resolved or they are deported to their country of origin. Of particular concern is the placement of some children in secure detention centers with juvenile offenders, some of whom have committed violent crimes. In these detention centers, children remain confined and have few opportunities for education in their native language or any field trips outside of the facility.<sup>49</sup>

According to reports by Human Rights Watch and the Catholic Legal Immigration Network Inc. (CLINIC), children in INS custody receive little information about legal resources and are sometimes held in areas of the country where free legal help may be difficult to obtain.<sup>50</sup> As a result, even those children with valid asylum claims may face tremendous obstacles in achieving fair representation. When there is no staff member who speaks a child's language, he or she may wait a long period of time without communicating with anyone. The time spent in INS custody can be lonely, frightening, and confusing to children.

The emotional state of unaccompanied minors warrants special care and consideration. Unaccompanied youth who escape traumatic events may react to separation from their families by becoming depressed, moody, withdrawn, aggressive, or by experiencing psychosomatic symptoms.<sup>51</sup> Separated from their communities of origin, unaccompanied children experience an unfamiliar culture, differences in values, and the loss of a social network. The negative effects of separation can be minimized if appropriate alternative care is provided, such as loving

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<sup>47</sup> United States Department of Justice. Immigration and Naturalization Service. Office of International Affairs. *Alien Minors Shelter Care Program: Policy Guidelines and Requirements*. October, 1996.

<sup>48</sup> Although the total number of undocumented unaccompanied minors in the country is unknown, The Immigration and Naturalization Service had 4,295 youth in its custody in 1998, compared to 1,188 in 1994.-Fort Worth Star-Telegram, *Fleeing Poverty and abuse, immigrant children are illegally entering the U.S. in record numbers*. March 19, 1999.

<sup>49</sup> Human Rights Watch, *Detained and Deprived of Rights: Children in the Custody of the U.S. Immigration and Naturalization Service*, December 1998.

<sup>50</sup> Human Rights Watch, *Slipping Through the Cracks: Unaccompanied Children Detained by the U.S. Immigration and Naturalization Service*, April 1997, and *Detained and Deprived of Rights: Children in the Custody of the U.S. Immigration and Naturalization Service*. December 1998.

<sup>51</sup> E.M. Ressler, N. Boothby, and D.J. Steinbock, *Unaccompanied Children: Care & Protection in Wars, Natural Disasters, and Refugee Movement*, (New York: Oxford, 1988) And N.G. Baker, Substitute Care of Unaccompanied Minors. *Child Welfare*. 61:6. (1982) pp. 353-363 .



foster-care families or with extended family members, if available.

***Principles for unaccompanied minors in INS custody***

- Regardless of their status upon entry into the United States, all unaccompanied children warrant special considerations because of their separation from both their families and communities of origin and because they may be escaping persecution in their native countries.
- The care and placement of unaccompanied minors apprehended by the INS should be provided by child welfare agencies experienced in serving the special needs of children.
- Unaccompanied minors should not be held in any type of secure facilities unless absolutely necessary for their immediate safety. Secure facilities should protect the child from potential dangers, separate them from criminal offenders, and not hinder their rights or well-being.
- Minors should be reunited with parents, guardians, or other family members as soon as possible. While a family is in temporary detention, they should not be separated unless it is in the best interests of the child.

***Unaccompanied minors seeking Asylum***

Seeking refuge from persecution should not be considered a crime. Yet, as described previously, children are often detained while they wait for their asylum cases to be considered. According to the United Nations High Commissioner for Refugees (UNHCR), unaccompanied minors should not be detained, and should be provided with an attorney and a guardian through an independent organization. Additionally, unaccompanied minors seeking asylum should be allowed to stay with family members or in foster care until their cases are resolved. In refugee status determinations, factual elements of the claim should include several considerations, including “circumstances such as the child’s stage of development, his or her possibly limited knowledge of conditions in the country of origin, and their significance to the legal concept of refugee status, as well as his or her special vulnerability.” If a child does not qualify for asylum, his or her best interests should be considered in his or her placement.<sup>52</sup>

The Immigration and Naturalization Service in 1998 issued guidelines to asylum officers to help evaluate the claims of children asylum seekers. For example, the guidelines, stressing that children experience persecution differently than adults and may not be able to present their cases with the same ability as adults, support the “best interests of the child” principle as appropriate in interview procedures. They also acknowledge that some governments and cultures, by their

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<sup>52</sup> United Nations High Commissioner for Refugees, *Guidelines on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum*, (February 1997).

inaction, condone rights abuses against children.<sup>53</sup> While useful to INS asylum officers, the principles within the asylum guidelines should be disseminated to other INS officials, such as inspectors and detention and deportation officers, Border Patrol agents, and other immigration personnel who may come into contact with children.

Unaccompanied minors seeking asylum also require an adult guardian to assist them through the asylum process and to speak on their behalf where appropriate and within the bounds of the law. Guardians can assist children in their asylum interviews and help make decisions regarding the best interests of the child.

### ***Principles relevant to unaccompanied minors seeking asylum***

- Legal representation should be provided to all unaccompanied minors in INS custody. Immigration-status decisions should take into account the conditions to which children would be sent back in their native countries, (provided that the parents cannot be found and their wishes for their child remain unknown).
- The principles within the children asylum guidelines should be used throughout the Immigration and Naturalization Service for all children. A guardian ad litem should be appointed by an independent actor to protect the interests of the child.

### ***Refugee Children***

*"I tell you, you cannot feel the pain of this suffering if you don't see it physically. If you only glance at it, a sword of sorrow will pierce your heart . . . what on earth is it that man today does not care for his fellow humans?" - Ugandan school girl.<sup>54</sup>*

Refugee issues are children's issues. Children represent 50 percent of the refugee population in many refugee crises.<sup>55</sup> According to the United Nations High Commissioner for Refugees (UNHCR), "each day another 5,000 children become refugees; one in every 230 persons in the world is a child or adolescent who has been forced to flee his or her home."<sup>56</sup> Like their parents, they are fleeing persecution, but they are more vulnerable to the effects of a traumatic refugee

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<sup>53</sup> U.S. Department of Justice, Immigration and Naturalization Service, *Guidelines For Children's Asylum Claims*. (December 10, 1998).

<sup>54</sup> UNICEF, *The State of the World's Children*, 2000. p. 2

<sup>55</sup> United Nations High Commissioner for Refugees, 1999 Global Appeal. According to Olara A. Otunnu, UN Secretary General's Special Representative for Children and Armed Conflict, 70% of the refugees fleeing Kosovo in some of the Balkan camps were children, (quoted in The Los Angeles Times, *Wars to 'Annihilate' Devastate the Children*, October 23, 1999).

<sup>56</sup> UNHCR, 1999 Global Appeal.

experience. In situations where basic needs such as food and medicine are denied, children are some of the first to die.

Many refugee children have experienced war situations and seen horrific acts of violence, causing them trauma or emotional problems well into their adult lives. In today's warfare, children are often direct victims as they are injured, deprived of basic needs, or killed. More than nine million children have been killed, injured, orphaned or separated from their parents in the past ten years due to armed conflicts.<sup>57</sup> Children are even recruited to be soldiers in warfare where they experience physical and sexual abuse, and are direct targets of military violence.<sup>58</sup>

Regardless of the refugee crisis situation, children do not cease to have normal childhood needs; they continue to need the support of a family and community. Parents, facing harsh uprooting situations, often find it difficult to provide the care their children need, and, anxious and stressed themselves, can negatively impact the emotional well-being of their children. The sudden drastic changes in children's lives during a refugee crisis can be great detriments to their normal development psychologically, physically, intellectually, culturally, and socially. Refugee children experience high levels of stress, mental health concerns, and extreme emotional sufferings. For example, one study identified sleeping and eating disorders, withdrawal or aggression, and separation fear among children from Bosnia and Herzegovina.<sup>59</sup>

Refugee children on the move from dangerous situations or in refugee camps have their education interrupted or ceased. The UNHCR estimates that a majority of refugee children do not receive even basic education; perhaps only 30 percent receive educational services.<sup>60</sup> Refugee girls are even more disadvantaged regarding educational services, as some cultures may not place emphasis on education for girls.

UNHCR has documented how the refugee experience affects children during stays in refugee camps, where children often live in poor conditions and lack enough educational or social activities. Extended stays in refugee camps, sometimes adding up to years, can negatively impact a child's development; a child may be vulnerable to delinquency from inactivity and to feelings of despair or may become passive, act out in violent behavior, or suffer from depression. Drug abuse and even suicides among adolescents have been a reflection of the despair in long-

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<sup>57</sup> Dennis McNamara, Director, Division of International Protection, UNHCR, *A Human Rights Approach to the Protection of Refugee Children*, November 14, 1998.

<sup>58</sup> Graca Machel, *UN Study on the Impact of Armed Conflict on Children*, 1996.

<sup>59</sup> M. Ajudokovic and D. Ajudokovic. *Psychological Well-Being of Refugee Children*, in *Child Abuse and Neglect*, 17:6, pp. 843-54.

<sup>60</sup> UNHCR, *Refugee Children: Guidelines on Protection and Care*, 1994, p. 109.

term refugee camp situations.<sup>61</sup> After leaving an extended stay in a camp or even growing up in one, a refugee may experience challenges adjusting to a normal life outside the camp.

### ***Internally Displaced Children***

*"They came to collect, and my father said he didn't have the money. They asked me to go with them. My father said no. They took me anyway."*-14 year-old boy who fought with the FARC, a guerrilla group in Colombia.<sup>62</sup>

Internally displaced children are those who live in refugee-type situations but who have not crossed an international border. As part of internally displaced populations, they do not receive the same attention of the international community as refugees and do not receive the same aid or legal protection given to refugees. Despite the long-term needs of many internally displaced children and their families in many countries in the world, there is "no clear institutional responsibility for their protection and assistance needs" among international organizations.<sup>63</sup>

Internally displaced populations can suffer more than refugees. The internally displaced may remain closer to the scene of conflicts and are more likely to have to repeatedly escape dangerous situations. Even if internally displaced families have refuge with relatives and friends, they may not be secure if they have to share very limited resources.<sup>64</sup>

As in refugee situations, children make up 50 percent of an internally displaced population. Constant flight can make health and educational services inaccessible, or children may not be allowed to register for services in another part of the country. In Colombia, for example, which has one of the largest internally displaced populations in the world, children live in constant fear of being kidnapped or killed, while children as young as 12 and 14 are recruited by guerrilla and paramilitary forces in Colombia. Only by December of 1999 did the Colombian army stop recruiting minors under the age of 18 into its army.<sup>65</sup>

### ***Unaccompanied Refugee Minors***

*"The first riots broke out in Burundi last October in broad daylight. The children who were at school at the time fled in one direction, the mothers left home in another, and the fathers from work in a third."*-UNHCR relief staff in Burundi.<sup>66</sup>

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<sup>61</sup> Above, p. 46

<sup>62</sup> Tim Johnson, *Child Soldiers*, The Miami Herald, January 23, 2000.

<sup>63</sup> Machel, 1996, p. 27.

<sup>64</sup> Above, p. 23.

<sup>65</sup> Tim Johnson, *Child Soldiers*, The Miami Herald, January 23, 2000.

<sup>66</sup> UNHCR, *Alone in the World*, 1994.

The Catholic Church has been a leader in advocating for protection and more aggressive pursuit of durable solutions, including the provision of resettlement opportunities, for unaccompanied refugee minors. Bishop DiMarzio, Chairman of the U.S. Bishops' Committee on Migration, recently expressed concern at a Congressional hearing that too few unaccompanied minors have been resettled to the United States in recent years, reiterating the bishops' concern regarding their vulnerable situations around the world.<sup>67</sup> In 1997, Bishop John Cummins, then Chairman of the Bishops' Committee on Migration, wrote to Madame Sadako Ogata, United Nations High Commissioner for Refugees, to appeal directly for more attention to the plight of unaccompanied refugee minors, especially with regard to pursuing durable solutions, rather than allowing these children to languish in camps, sometimes for many years.<sup>68</sup>

Unaccompanied refugee children are the most likely to be killed, raped, and recruited as child soldiers, because they have no parent or guardian to shield them from forced recruitment and influential military forces.<sup>69</sup> Unaccompanied girls may be forced into young marriages and both boys and girls may stay with a "foster" family of a similar culture in refugee camps; however, the family may leave the child behind when they are repatriated.

According to UNHCR, even short time separation from parents can cause a child to experience feelings of anxiety, fear, rejection and abandonment.<sup>70</sup> Long-term separation has profound effects on a child's development and well-being.

Tracing services, used to unite unaccompanied minors with their families in refugee situations, should remain a priority and should receive continued support. For example, in April of last year, 776 parents in refugee camps in Macedonia had reported that their children were missing, but only 54 children had been reunited through the Red Cross and non-governmental organizations. Many children were unaccounted for, as there were more children reported missing than there were unaccompanied children identified.<sup>71</sup> Reuniting children with their parents often takes a lengthy period, especially when the children come from regions where conflicts still continue, but tracing should not continue indefinitely if it keeps children languishing in camps with no hope for the future.

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<sup>67</sup> Bishop Nicholas A. DiMarzio, Bishop of Camden, Chairman, National Conference of Catholic Bishops' Committee on Migration, Testimony before the Senate Judiciary Committee Subcommittee on Immigration, August 4, 1999.

<sup>68</sup> Bishop John Cummins, Letter from to Madame Sadako Ogata, November 14, 1997.

<sup>69</sup> Machel, 1996.

<sup>70</sup> UNHCR, *Resettlement of Refugees With Special Needs*, 1999.

<sup>71</sup> David Rohde, *In Macedonia, Lost Children Wait Helplessly for Reunions*, The New York Times, April 27, 1999.

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While most are not orphans, resettlement to a third country remains the only durable solution for some unaccompanied children. The resettlement of unaccompanied refugee minors to the United States has been decreasing rapidly over the past several years. In 1988 there were 3,312 minors placed in unaccompanied minors programs through the U.S. Office of Refugee Resettlement. Despite the domestic capacity of the Catholic Church and others to provide services to these children, there were only 244 unaccompanied minors in care in 1999.<sup>72</sup> Over the past three years, only 39 unaccompanied refugee minors have been resettled in the United States.<sup>73</sup>

In June of 1998, the U.S. Catholic Conference joined with Lutheran Immigration and Refugee Services (LIRS) and UNHCR on a joint mission to Kakuma refugee camp in northern Kenya. Representatives of the trip learned that approximately 5,000 unaccompanied Sudanese refugee youth languished in the camp, some for years. Since that time, UNHCR has taken some steps to expedite resettlement processing for many of these youth, but as of March 2000 not one minor from Kakuma has been referred for resettlement in the United States. Our government officials, along with UNHCR representatives, must accelerate this process and give special consideration for resettlement to unaccompanied refugee minors both in Kakuma camp and throughout the world.

***Principles relevant to internally displaced, refugee, and unaccompanied children***

- Increased attention and concern should be given to the risk factors of refugee children. Resources to refugee camps should provide the resources children need for their health and well-being, including education for both girls and boys. Resources to unite unaccompanied refugee minors with their families should be a priority.
- Internally displaced children face the same experiences as refugee children and should receive the same international protection and attention in services.
- Resettlement in a third country should be considered a durable solution for unaccompanied minors, when appropriate.

***Children in Immigrant Families and Public Benefits***

The U.S. bishops have long advocated that basic necessities should be made available to individuals in need, regardless of their race, creed, ethnic origin, or nationality. In a 1994 statement responding to California's Proposition 187, the U.S. bishops stated that "health-care

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<sup>72</sup> The Office of Refugee Resettlement, Information from 1999 ORR Conference.

<sup>73</sup> The United States Catholic Conference/Migration and Refugee Services and Lutheran Immigration and Refugee Service, Program information.

and education are among the basic rights to which all people have a moral claim.”<sup>74</sup>

Undocumented families often face great challenges in maintaining a healthy lifestyle for their children. Parents, fearing deportation, may not seek the educational or health services their children need.

Immigrants, like any citizens, sometimes require help with basic necessities to support themselves and their children. Yet, as a result of the passage of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) and the Illegal Immigration Reform and Immigrant Responsibility Act (IRRIRA) in 1996, many legal immigrants remain ineligible for basic health-care, nutrition, and other important benefit programs. Under current law, States do not receive reimbursement from the federal government for enrollment of legal immigrant children into Medicaid or the Children’s Health Insurance Program (CHIP) if the children entered the United States after August 22, 1996, and have not been in the United States for at least five years. As a result, immigrant children may not receive adequate medical care before symptoms become severe and need emergency medical care.

Immigrants with disabilities are ineligible for Supplemental Security Income (SSI) and associated Medicaid unless they meet the definition of a “qualified” immigrant and entered the United States prior to August 22, 1996. Despite the partial restoration of food stamps to legal immigrants in 1997 and 1998, many qualified immigrants remain ineligible for basic food stamp assistance. Immigrant parents with eligible children are by and large not eligible for food stamp assistance, nor are immigrants who entered the United States after the enactment of the law.

Several 1999 studies by the Urban Institute have shown that many children in immigrant families are suffering from welfare legislation and current administration of public benefits programs. Public benefit use by noncitizen and refugee households dropped significantly from 1994 to 1997, and welfare reform and immigration changes have discouraged immigrants from using benefits because of confusion or fear of immigration authorities. Among immigrant households with children, use of benefits decreased to half the rate of citizens after welfare reform was passed in 1996.<sup>75</sup>

Three-fourths of all children in immigrant families are U.S. citizens.<sup>76</sup> While Congress restored benefits to noncitizen children, U.S. citizen children of immigrant parents end up receiving fewer

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<sup>74</sup> William Cardinal Keeler, former President of the National Conference of Catholic Bishops, *Welcoming the Stranger: A Reflection on the Current Immigration Debate*, November 17, 1994.

<sup>75</sup> Michael Fix and Jeffrey S. Passel, *Trends in Noncitizens’ and Citizens’ Use of Public Benefits Following Welfare Reform, 1994-97*, The Urban Institute, March 9, 1999.

<sup>76</sup> Michael Fix and Wendy Zimmermann, *All Under One Roof: Mixed-Status Families in an Era of Reform*, The Urban Institute, June 24, 1999.

benefits because their parents may be ineligible for food stamps and the food stamps designated for the children are needed to feed the entire family.<sup>77</sup> A December 1999 Urban Institute study found that some immigrant families still believe that receiving public benefits could threaten their immigration status.<sup>78</sup>

### ***Principles Regarding Public Benefits and Children***

- Access to basic necessities such as food and health care is a moral issue of basic rights.
- Withholding public benefits hurts children. If basic services are withheld from immigrant children and prenatal care from immigrant women, overall public health declines.
- Basic public benefits should be provided to all children, regardless of their legal status.

### **III. Conclusion**

Over the past several months, U.S. citizens and citizens of Cuba have witnessed the controversy over Elián González, the young Cuban boy who was rescued from the waters off Florida and is the center of an international custody battle. The U.S. bishops are sympathetic to the complicated case and have prayed for its quick and just resolution. However, there exist numerous other children who enter the United States each year who do not receive the same amount of attention but deserve equal consideration and support. Policy makers must remember these children as they reexamine our immigration and refugee policies in the future.

Many children in this country and others can be included in more than one of the categories outlined in this paper. Despite the obstacles which confront them, children possess unique strengths which help them survive difficult situations. Public policies must build upon their strengths yet also recognize and accommodate their vulnerabilities. Catholics and all persons of good will should honor the innate desire to protect children in all the aspects of our advocacy and hold elected officials accountable for the policies which affect the most vulnerable among us, children.

The Catholic Church has underscored the special support children require in attempting to navigate the complex problems in the world today. The words of Pope John Paul II summarize the special place children merit in our world, including those on the move:

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<sup>77</sup> Wendy Zimmermann and Karen Tumlin, *Patchwork Policies Lead to Partial Benefits for Immigrants*, The Urban Institute, June 2, 1999.

<sup>78</sup> Genevieve M. Kenney, Jennifer M. Haley, and Frank Ullman, *Most Uninsured Children Are in Families Served by Government Programs*, The Urban Institute, December 1999.



“...Christ Himself put the child at the heart of the kingdom of God: ‘Let the children come to me.; for to such belongs the kingdom of heaven’ (Mt. 19:14). And these words of Christ spoken on behalf of destitute humans, and which will judge us all, ‘I was hungry and you gave me food.; I was naked and you clothed me, I was sick and you visited me’ (Mt.25:35-36), do they not apply particularly to the helpless child? Hunger for bread, hunger for affection, hunger for education . . . Yes, the Church wishes to take an ever greater part in this action in favor of children, and to stimulate it more widely.”<sup>79</sup>

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<sup>79</sup> Pope John Paul II, *Protect Childhood for the Good of Society*, in *The Family: Center of Love and Life*. (Daughters of St. Paul, 1981), reprinted from *L'Osservatore Romano*.

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