TRUMP'S SIEGE ON UNACCOMPANIED IMMIGRANT CHILDREN AND THE PATH FORWARD TO MEANINGFUL PROTECTION

*Lisa Frydman**

More than 250 000 unaccompanied children arrived in the United States between 2014 and April 2019 (Diebold, Evans, and Hornung, 2019). The majority are fleeing unprecedented levels of violence and extreme poverty in Honduras, El Salvador, and Guatemala. The United Nations High Commissioner for Refugees (UNHCR) has for years emphasized that children, "because of their age, social status, and physical and mental development, are often more vulnerable than adults in situations of forced displacement," and has called on states to strengthen protection of them to respond to their particular needs (UNHCR, 2007). Although the United States has made important strides to develop and bolster protections for children arriving on their own seeking safety, certain glaring gaps remain. Rather than responding to the 250 000 unaccompanied children with protections appropriate to their needs and vulnerability, the United States —and the Trump administration in particular— has attempted to block them from arriving and to gut existing protections. The Trump administration's efforts to roll back advancements made on behalf of children exposes the weaknesses of existing provisions designed to protect them. Trump's threats bring into sharp focus the need to revise and strengthen laws and policies in order to ensure genuine protection for unaccompanied children. This article analyzes U.S. treatment of unaccompanied immigrant children over the past twenty years. It first focuses on unaccompanied children prior to enactment of the Homeland Security Act of 2002. It next addresses the provisions in the Homeland Security Act that improved conditions for them and then analyzes the Trafficking Victim Protection Reauthorization Act's provisions on unaccompanied children. It then focuses on threats to protections that arose under President Obama and

* Kids in Need of Defense; lfrydman@supportkind.org

follows with President Trump's efforts to strip children of protections and to seize upon existing gaps in protection in order to restrict options for them. The article ends with proposals for closing these gaps in order to ensure meaningful and lasting protections for unaccompanied children.

Treatment of Unaccompanied Children Prior to the Homeland Security Act of 2002

Prior to 2002, the term "unaccompanied alien child" had no legal definition under U.S. law. The plight of unaccompanied children seldom made national news and was a virtually unknown phenomenon before coverage of the Elián González case. As a result, children like then-eight-year-old "Fega" languished in immigration custody, in her case for over 15 months (Schmitt, 2001). Human Rights Watch described children in immigration custody as "invisible: they have slipped through the cracks in [U.S.] America's legal system. They are arrested by the INS [immigration agency], detained in highly restrictive settings, and provided with little information about their legal rights and status" (Human Rights Watch, 1997: 1).

Unaccompanied children apprehended by immigration officials prior to the Homeland Security Act's enactment were placed in the custody of the Immigration and Naturalization Service (INS).[1] Until the early 1980s, no standardized INS policy governed the detention and release of unaccompanied minors in its custody. Disparate practices existed across different regional offices, with some, in rare cases, releasing children to parents and legal guardians, and others releasing them more regularly to responsible adults or community-based organizations (Office of the Inspector General, 2001: 1-2). The blanket no-release policy of some INS regions, as well as the conditions of children in INS custody, led to the filing of a class action lawsuit *Flores v Meese* on behalf of unaccompanied children. Following the settlement of that lawsuit in 1996, the "Flores Settlement" standards were put into place regarding detention, release, and custody of immigrant children. The Flores Settlement

[1] At the time, the INS was the federal agency charged with both enforcing U.S. immigration law, through apprehension, detention, and deportation of immigrants found to be in the United States without authorization or in violation of immigration laws, as well as adjudicating applications for immigration benefits, such as family petitions and citizenship applications.

favors release of children in immigration custody to a relative or other appropriate caregiver whenever possible and placing immigrant children in the least restrictive environment when they must be in custody; it also sets out minimum standards for care and treatment of children in immigration custody. *Flores* was a critical development for children because it created standards that had not previously existed. However, despite that progress, significant holes in protection for unaccompanied children remained.

In the case of unaccompanied children, the INS played several roles: it detained children; its attorneys argued in the immigration courts for deportation of children; and it deported children ordered removed. At the same time, it was responsible for providing care for unaccompanied children and to adjudicate their claims for certain immigration benefits. These roles involved inherent conflict. On the one hand, the INS could be providing services for a child in custody while at the same time arguing against that child's claim for asylum. One comprehensive study found that "children [in INS] detention are systematically denied rights that are fundamental under international agreements and under the U.S. Constitution and statutory law: they are denied due process, denied access to legal representation, denied humane living conditions, denied personal privacy, and denied meaningful opportunities to understand what is happening to them and why." The study also determined that "the blame for this situation falls squarely on the U.S. government, and in particular on the INS, which has demonstrated incompetence, neglect, and bad faith in addressing the needs and rights of detained children" (Human Rights Watch, 1997: 70).

The role of INS as jailer, immigration law enforcer, and legal custodian of unaccompanied children in immigration custody concerned child welfare advocates and lawmakers alike. Senator Edward Kennedy (2002) made a case to the Senate Judiciary Committee for the need for legislation to separate out these roles in order to protect immigrant children, stating,

> Part of the problem facing unaccompanied minors arises from INS's dual mission of enforcing immigration laws and providing services. Many convincingly argue that the competing responsibilities of prosecuting and caring for these children make impartial consideration of the children's best interests almost impossible.

Advocates expressed concern that the INS used children as bait to locate and arrest their undocumented family members (Montero, 2001). When the INS suspected an unaccompanied child had an undocumented parent in the country, for example, the agency would refuse to release the child to another family member such as a grandparent or aunt. Yet when undocumented family members claimed their children, the INS would arrest them or initiate deportation proceedings against them, placing the family, and the child, who believed this to be his/her fault, in turmoil.

When these children were taken to immigration court, they faced an immigration judge, in many cases without an attorney to represent them, and an INS attorney arguing for their deportation. INS attorneys and immigration judges alike had little training or understanding of how to interview children or of child development, and, although favorable guidance was issued by the INS in 1998 on adjudicating children's asylum claims, the guidance was not binding on immigration judges. As a result of that, as well as of the fact that the asylum statute does not set out a child-specific standard, INS attorneys and immigration judges often evaluated children's claims in the same way as those of adults (Center for Gender and Refugee Studies, 2014: 8-10). Unaccompanied children thus faced adversarial proceedings with high evidentiary standards and with government officials who lacked training in how to talk to them or understand their plight, confusing and overwhelming many children (Bhabha and Schmidt, 2007: 148). In her remarks regarding the Unaccompanied Alien Child Protection Act, Senator Feinstein shared with the Senate Judiciary Committee her concern that INS attorneys emphasized immigration enforcement over child welfare, arguing for deportation of unaccompanied children, even to danger. She referenced the case of a Thai baby, who had been a victim of human trafficking to the United States, in whose case INS attorneys argued he should be sent back to Thailand and returned to the same family members that had sold him to a trafficker (U.S. Government Printing Office, 2002).

Numerous additional concerns persisted regarding other policies and practices related to unaccompanied children. Central concerns included:

1) Unaccompanied children could be expeditiously removed, a fast-track deportation process through which they could be removed without ever seeing a judge or attorney. Although the INS generally did not expe-

ditiously remove unaccompanied children, they did remove children who had prior removal orders or had previously been deported from the United States, certain children with a criminal history, and children who reached the United States as stowaways (Bhabha and Schmidt, 2007: 76). Expedited removal places children at risk of being returned to persecution or other danger without ever meeting with an attorney or seeing a judge.

2) Children were repatriated unsafely and with inconsistent practices across different border patrol sectors. No statutes regulated the repatriation of unaccompanied children or required safe and secure removal/repatriation practices (Thompson, 2008: 53). Unaccompanied children from Mexico were returned quickly, with very minimal or no screening for risk factors or possible return to danger. Mexican children were frequently returned within hours of apprehension directly from border patrol stations. In some cases, Border Patrol returned children to Mexico without even informing Mexican consular officials (Thompson, 2008: 28-31). Children from Central America typically did not undergo immediate repatriation and instead were placed in INS custody and seen by an immigration judge. Some Central American children, however, claimed to be Mexican when they were apprehended specifically so that they could more easily attempt to return to the United States. These children figured out that if they claimed Mexican nationality they would quickly be sent to Mexico and could attempt to return to the United States within hours or days.
3) Unaccompanied children in INS custody were prevented in most cases from accessing the protection of Special Immigrant Juvenile Status (SIJS), a form of relief specifically designated for abused, abandoned, neglected immigrant children (regardless of unaccompanied status) who meet certain requirements. As a prerequisite to filing an application for SIJS, a state court judge with expertise in child welfare must make certain findings about the child's ability to reunify with parents and the child's best interests. However, the SIJS statute as written at the time required the attorney general to grant consent in order for a state court to take jurisdiction over children in immigration custody. The INS rarely consented to state court jurisdiction in these cases, even when supported by strong evidence of child abuse, abandonment, or neglect.

Ongoing concern by advocates as well as damning reports issued by civil society organizations and a 2001 Office of the Inspector General Report detecting "deficiencies with the implementation of the policies and procedures developed in response to *Flores* [...that] could lead to potentially serious consequences affecting the well-being of the juveniles" led to proposed legislation on unaccompanied children (Office of the Inspector General, 2001). Incorporated into the Homeland Security Act, this legislation would shift the custody and care function for unaccompanied children to an agency with expertise in child welfare, the Office of Refugee Resettlement, part of the federal Department of Health and Human Services. Although this change was a crucial step forward, it would not be enough to protect unaccompanied children entering the United States from returning to danger or to ensure policies, procedures, and decisions consistent with their well-being and vulnerability.

The Homeland Security Act, Progress for Unaccompanied Children

Section 462 of the Homeland Security Act of 2002 on "Children's Affairs" made important advancements for unaccompanied children.[2] Notable wins for children include:

1) The term "unaccompanied alien child" was defined. This was the first time Congress had recognized unaccompanied children as a distinct group of immigrants needing a unique set of protections under federal legislation (6 U.S.C. Section 279g).
2) Physical and legal custody of unaccompanied children was transferred from the INS to the Office of Refugee Resettlement (ORR), assigning children's care to a refugee protection and child welfare focused agency, rather than an immigration enforcement agency. ORR was granted both custody and the authority to make release decisions for unac-

[2] Section 462, Children's Affairs, Homeland Security Act of 2002 (codified at 6 U.S.C., Section 279) came from one part of the Unaccompanied Alien Child Protection Act, a law that addressed a broader range of protections and rights for unaccompanied children than were ultimately incorporated into Section 462.

companied children, in consultation with the immigration agency, now the Department of Homeland Security (DHS).[3]

3) The legislation called on ORR to develop a plan to ensure qualified independent counsel for unaccompanied children. This was a step in the right direction, but did not go far enough, as it did not guarantee counsel (6 USC 279 Section [b][1][A]).
4) The legislation required ORR to "consider the interests" of the child in decisions relating to care and custody. This provision falls below the international standard that compels primary consideration of the "best interest" of the child;[4] but the fact that the government was now obligated to pay attention to the "interests" of the child marked important progress (6 U.S.C. Sec 279 [b][1][B]).

Section 462 of the Homeland Security Act made needed headway for unaccompanied children, but extensive gaps in protection persisted (Amnesty International, 2003: 5). Chief among these were:

1) Children still had no guaranteed counsel to represent them in immigration proceedings. Consistent with the Homeland Security Act, ORR began to encourage *pro bono* representation of unaccompanied children, but at least 50 percent of them remained unrepresented in immigration court.
2) Unaccompanied children continued to be subject to expedited removal and therefore at risk of repatriation to danger without access to due process. Unsafe repatriation of children and inconsistent repatriation practices across different border patrol sectors persisted. Mexican children continued to be deported very quickly and Central American children claimed to be Mexican in order to avoid return to their country of origin.
3) Immigration judges still decided unaccompanied children's asylum claims in an adversarial setting and applying the same standards used for adults.

[3] The Homeland Security Act dissolved the INS and created the DHS to address both immigration and domestic security threats and concerns.

[4] Under international law the "best interest" of the child must be a "primary consideration" in all actions and decisions by the state that affect him/her (United Nations Human Rights, 1990).

4) Unaccompanied children in ORR custody continued to be prevented from accessing juvenile courts in order to seek SIJS (Bhabha and Schmidt, 2007: 52).

Advocates, international organizations, and the child welfare community continued to call attention to the plight of unaccompanied children and their need for additional protections, and the Unaccompanied Alien Child Protection Act was introduced in the 110th Congress. Finally, in 2008, the Trafficking Victims Protection Reauthorization Act (TVPRA), a bi-partisan bill, was enacted into law and included section 235 on unaccompanied children to strengthen their rights, protect them from human traffickers, and ensure safe repatriation for those returning to their countries of origin (U.S. Department of State, 2008).

TVPRA, a Major Victory for Child Protection

The TVPRA made significant progress for unaccompanied children (Lee et al., 2009: 1). It addresses unaccompanied children much more comprehensively than did the Homeland Security Act, governing apprehension and processing, placement in removal proceedings, detention, release to family, repatriation, immigration remedies, and more. TVPRA's main protective provisions for unaccompanied children include:

1) Ensuring that children from non-contiguous countries are processed into the United States, placed in removal proceedings, and granted access to due process, rather than potentially subjecting them to expedited removal (8 U.S.C. Section 1232 [b]).
2) Providing for screening of unaccompanied children from contiguous countries —most relevant in the case of Mexico— to prevent expedited return of unaccompanied Mexican children at risk of trafficking or persecution, or those too young to determine their returning to Mexico independently (8 U.S.C. Section 1232 [a][2]). Placing Mexican children in ORR custody and in removal proceedings and ensuring access to an immigration judge for those deemed to be at risk following this mandated screening (8 U.S.C. Section 1232 [a][4]). This provi-

sion is controversial because it grants lesser protection to children from contiguous countries than those from non-contiguous countries. Nonetheless, mandating screening of contiguous-country children and requiring placement of those found to be at risk of harm in ORR care and in removal proceedings before a judge provided more protection than previously had been in place for Mexican children.

3) Increasing legal representation of children by charging ORR to "ensure to the greatest extent practicable" that unaccompanied children have counsel "to represent them in legal proceedings or matters and protect them from mistreatment, exploitation, and trafficking" (8 U.S.C. Section 1232 [c][5]).[5]
4) Authorizing the Department of Health and Human Services (HHS) to appoint child advocates for victims of human trafficking and particularly vulnerable unaccompanied children in order to assess and advocate for children's best interests (8 U.S.C. Section 1232 [c][6]).[6]
5) Requiring ORR and the Executive Office for Immigration Review (EOIR)[7] to work together to ensure legal orientations for custodians of unaccompanied children regarding the importance of children attending court and helping families connect to counsel for children (8 U.S.C. Section 1232 [c][4]).
6) Requiring DHS, HHS, and the attorney general to work together to ensure safe repatriation practices and calling on DHS to review country conditions prior to deciding whether to repatriate a child. The repatriation provisions marked the first time that immigration officials were directed to consider children's safety prior to repatriation, as well as to develop child-appropriate repatriation practices (8 U.S.C. Section 1232 [a][5]).
7) Requiring ORR to place unaccompanied children in the least restrictive setting "that is in the best interest of the child" and limiting the use of secure facilities to children deemed to pose a risk to themselves or

[5] TVPRA thus built on the language in the Homeland Security Act requiring ORR to develop a plan for counsel, now calling on ORR to ensure counsel.

[6] A child advocate is an independent trained adult focused on determining and advancing the best interest of a child.

[7] The Executive Office for Immigration Review is the federal administrative agency that oversees the U.S. immigration courts and the Board of Immigration Appeals, the appellate immigration tribunal.

others (8 U.S.C. Section 1232[c][2]). This mandated consideration of the best interests of the child in placement decisions was an advance in line with international and child welfare standards.

8) Requiring home studies prior to release of children with special needs, child trafficking victims, child survivors of sexual or physical abuse, children whose proposed sponsor "presents a risk of abuse, maltreatment, exploitation, or trafficking," and mandating follow-up/post-release services whenever a home study is conducted (8 U.S.C. Section 1232[c][3][B]). The provision of post-release services for particularly vulnerable children demonstrated better understanding of the comprehensive range of unaccompanied children's needs.
9) TVPRA expanded the definition of a Special Immigrant Juvenile, making SIJS available to children who suffered abuse, abandonment, neglect, or similar harm by one parent —previously SIJS had required mistreatment by both parents— and broadened and waived numerous grounds of inadmissibility for children granted SIJS. TVPRA also shifted the authority to grant consent to state court jurisdiction over children in ORR custody from DHS to ORR. DHS had been very restrictive about granting consent for children in ORR custody to seek a prerequisite order in a juvenile court, and this meant that few children in immigration custody could move forward on SIJS as a form of relief. These changes made SIJS available to many more children (8 U.S.C. Section 1232[d][1-6]).
10) Exempting unaccompanied children from certain requirements that would otherwise limit their eligibility to file for asylum based on their vulnerability, thereby making asylum more available to children (8 U.S.C. Section 1232[d][7]).[8]
11) Shifting initial jurisdiction over unaccompanied children's asylum claims to the U.S. Citizenship and Immigration Services (USCIS) Asylum Office and away from the immigration courts (8 U.S.C. Section 1232[d][7]). This consequential change allowed children to proceed with asylum claims in an office setting, before an officer trained in interview-

[8] TVPRA excused unaccompanied children from the burdensome requirement that asylum applications must be filed within one year of arrival to the United States. The "one-year filing deadline" has barred many adults from seeking asylum. TVPRA also exempted unaccompanied children from the provisions of the Safe Third Country agreement that could otherwise force some to seek asylum in Canada.

ing trauma survivors and children and with expertise on asylum, including children's asylum cases, without undergoing cross-examination or facing a government lawyer arguing against their asylum claim.

These changes under TVPRA shifted the landscape of unaccompanied children's cases. Still, significant shortfalls in the United States system for unaccompanied children endured. These were, principally, U.S. failure to consider the best interests of the child when deciding children's claims for relief and/or decisions to repatriate, the lack of guaranteed legal representation for unaccompanied children, screening of unaccompanied children by law enforcement (CBP) rather than by child welfare professionals, and ongoing challenges in procedural and substantive handling of children's asylum and other claims for relief (Center for Gender and Refugee Studies, 2014: ii-iii).

TVPRA and *Flores* Protections Threatened under Obama

Comprehensive immigration reform came close to being achieved in 2013 under President Obama, but ultimately failed. Numerous provisions in the lead bills would have benefitted unaccompanied children, and some provisions directly addressed the holes in protection for them. Some of the administration's policies benefitted children.[9] However, its response to the surge in arrivals of unaccompanied children in 2014 placed protections at risk, prevented progress toward lasting improvements, and provided a blueprint for the Trump administration.

TVPRA protections for unaccompanied children were tested in fiscal year 2014, when 68 000 unaccompanied children arrived in the United States. The highest number on record to that point had been 38 759 in fiscal year 2013 (New York Civil Liberties Union, 2018). This "surge" of unaccompanied child arrivals stretched the U.S. system because Border Patrol stations and ports of entry were not designed to house unaccompanied children in high numbers and because ORR was unprepared to shelter the number of unaccompanied children arriving in the timeline required (that is, within 72 hours

[9] Two of these, for example, were the launch of an in-country refugee processing program for certain Central American children located in their countries of origin and the issuance of a published decision approving domestic violence as a basis for asylum.

of children entering CBP custody). As a result, unaccompanied children spent extended time in CBP custody, sometimes up to two weeks (Lind, 2014). The number of immigrant families coming to the United States border also soared in fiscal year 2014, with 68 554 family unit arrivals (Lind, 2014).

The Obama administration described the increase in families and unaccompanied children arriving at the U.S. border as a "crisis." Although the administration increased foreign assistance to the region and emphasized the need to address the root causes of migration, at the same time it obsessively focused on how to stop children and families from arriving at the U.S. border to seek protection. The administration pressured Mexico to enforce its southern border to prevent immigrants from reaching the United States (Lakhani, 2016). Reduction of child migration from El Salvador, Honduras, and Guatemala was included as a pre-condition for foreign aid to these countries, and then-DHS Secretary Jeh Johnson sent the strong message that children should not come to the United States and that those who did would be deported (Zezima, 2014). At one point the administration requested that Congress consider ending TVPRA's protections for children from non-contiguous countries; at other points, it contemplated keeping asylum seekers in Mexico during their proceedings, detaining children throughout their proceedings, and detaining children in tent cities near the border. It also attempted to detain families long term to deter future family migration, but this policy was ultimately determined to be illegal by a federal judge who ruled the administration could not detain families beyond twenty days (Gerstein, 2015).

Ultimately, the protections for unaccompanied children in the TVPRA survived the Obama administration and the most radical of the administration's proposals did not materialize. They did, however, expose potential weaknesses in the protection system for children that the Trump administration would later exploit.

Trump Administration Guts Protections for Children

From the moment Donald Trump first assumed the office of president he began dismantling protections for unaccompanied children. He signaled in a January 25, 2017 Executive Order on Border Security and Enforcement

that unaccompanied children were a priority for his administration (White House, 2017).

Trump has characterized unaccompanied children as security risks, gang members, murderers, and rapists (Lind, 2019). He has repeated the trope that existing laws on unaccompanied children are a "loophole" that prevent the United States from managing the border and achieving security (White House, 2018), and he implemented policy changes directed at immigrant children quickly after his inauguration.

In perhaps the most vicious of all policies, the administration forcibly separated thousands of immigrant families. The policy intended to inflict pain on families in order to deter migration by sending the message to parents that their children would be taken away if they migrated with them (Currier, 2018). Under the "zero-tolerance" policy, parents were separated from their children, prosecuted for illegal entry or reentry to the United States, and placed in criminal custody. Their children were rendered unaccompanied and placed in ORR custody. Although widespread separation of families launched in May 2018, the Trump administration began separating families in summer 2017. International outrage over forced family separation and widespread recognition of the extreme and enduring harm caused by family separation ensued. Ultimately this blanket family separation policy ended when a federal judge issued an injunction as part of a class action lawsuit and ordered reunification of separated families.[10] Through the lawsuit the U.S. government ultimately identified over 4000 class members, children separated from a parent between July 1, 2017 and June 26, 2018, the date the injunction was issued (Lind, 2019). The injunction's halting of the policy itself, however, did nothing to stop the Department of Homeland Security (DHS) from separating children in individual cases it claimed fell out of the class protected under the lawsuit, such as those involving even minor criminal history by the parent,[11] a parent's alleged gang membership, or subjective determination by DHS that the parent was unfit to care for the child (ACLU, 2019: 6-13).[12] DHS has separated at

[10] For more information on the Ms. L lawsuit challenging the Trump administration's family separation policy, including court documents filed, see https://www.aclu.org/cases/ms-l-v-ice

[11] One parent was separated due to "malicious destruction of property value $5," for which the father received a six-day jail sentence with six months of probation.

[12] One parent was separated from a child because of the parents' HIV+ status; another was separated because of a parent's failure to change a toddler's diaper (ACLU, 2019).

least 1500 additional children from a parent from between date the injunction was issued to October 2019.

Other significant Trump policy changes directed at children include:

1) Stripping children of unaccompanied status: In February 2018, then-Secretary of Homeland Security John Kelly issued implementing memoranda calling on USCIS, CBP, and ICE to set out procedures to strip unaccompanied status from children when they turn eighteen or when they reunify with a parent (Kelly, 2017: Section L). This proposal has been included in other administrative memoranda and ultimately in regulations. The problem with this approach is that even after reunifying with a parent, unaccompanied children face removal proceedings alone and are at risk of being removed alone, without their parent. Re-classifying children as accompanied or as adults strips them of protections meant to respond to their vulnerability and unique needs, such as the provision granting the USCIS Asylum Office jurisdiction over their initial asylum claims, rather than the adversarial immigration courts.
2) Calling for expedited deportation: The administration has repeatedly asked Congress to amend the TVPRA in order to be able to quickly repatriate Central American children, the same as Mexican children. Under the TVPRA Mexican children must receive screening prior to their return to Mexico, but the process is expedited and does not include the opportunity to meet with an attorney or see a judge, and numerous reports have determined that CBP fails to thoroughly screen Mexican children and repatriates them to danger (U.S. Government Accountability Office, 2015: 22-34). Extending this law to Central American children would lead to the return of more children to grave danger or even death.
3) Targeting relatives of unaccompanied children for immigration enforcement: Although ORR makes placement determinations for unaccompanied children, including approving placement with a family member or other potential "sponsor," at times under the Trump administration, DHS has implemented policies that have had a chilling effect on potential sponsors for unaccompanied children. In June 2017, the administration arrested and threatened to prosecute spon-

sors who they alleged had paid to "smuggle" their unaccompanied child relative (Ordoñez, 2017). In May 2018, ORR, ICE, and CBP entered into a Memorandum of Agreement to share information on unaccompanied children, under which ORR provides fingerprints of proposed sponsors and address information to ICE, and ICE conducts criminal and immigration checks on the sponsors (Memorandum of Agreement, 2018). This shift discouraged some undocumented family members from seeking to sponsor children for fear of immigration detention and deportation (National Immigrant Justice Center, 2019: 4-5). In February 2019, for example, Kids in Need of Defense (KIND) spoke with an undocumented mother whose children arrived in the United States to seek asylum. The children endured years of abuse in Mexico. Unfortunately, the mother did not feel safe to sponsor them because of her immigration status and instead suggested another family member do so, despite the fact that the children do not have a close relationship with that family member. The fiscal year (FY) 2019 appropriations agreement for DHS, signed into law on February 15, 2019, included language limiting DHS from using information obtained through the MOA for enforcement actions against certain sponsors and household members. Although these limitations provide protection for some potential sponsors and other household members, they do not protect all and will expire at the end of FY 2019.

4) Long-term and secure detention: Significant delays in completing fingerprint and background checks of potential sponsors of unaccompanied children have at times during the Trump administration resulted in longer detention of children. In March 2019, for example, the average time an unaccompanied child spent in ORR custody was 3.5 months, when under the Obama administration it was 30 days (New York Civil Liberties Union, 2018). Over the course of the entire fiscal year 2019, unaccompanied children remained in ORR custody for an average of sixty-six days (ORR, 2019). Under the Trump administration, ORR has placed a higher percentage of unaccompanied children in "secure" facilities —akin to juvenile hall facilities for juvenile delinquents— based often on unsubstantiated allegations of gang affiliation. Although the children ultimately can be stepped down to a less "secure" or restrictive setting, the Trump administration re-

quires the director of ORR's Children's Services to approve every child's movement out of a secure facility, slowing the process. A third change by the administration that harms children in custody involves transferring unaccompanied children from ORR custody to adult detention on their eighteenth birthday, rather than releasing them to youth shelters or programs willing to host them, or in some cases re-detaining released children on their eighteenth birthday and placing them in an adult detention facility (Kids in Need of Defense, 2018a).

5) Regulations to terminate the Flores Agreement: From his early days in office, President Trump railed against the Flores Agreement, which he termed another "loophole" in the immigration system. Even as he signed the executive order ending forced family separation, he called for a shift in the law that would enable him to detain families beyond the current twenty-day legal limit. In September 2018, his administration introduced a proposed rule on Apprehension, Processing, Care, and Custody of Alien Minors and Unaccompanied Alien Children that became a final rule on August 23, 2019. This rule permits long term detention of families in facilities that can never meet the existing standards of care for immigrant children in custody set out in the 1997 Flores Stipulated Settlement Decree (Homeland Security Department and Health and Human Services Department, 2019). The rule grants the government broad discretion to repeatedly re-determine whether a child who arrives in the United States unaccompanied continues to remain unaccompanied, for example when the child turns eighteen or reunifies with a parent or legal guardian in the United States, for the sole purpose of stripping the child of legal protections granted to unaccompanied children. Among other protection reductions, it also strips unaccompanied children of the right to a bond hearing before an immigration judge, and instead provides for a hearing before an officer employed by the Department of Health and Human Services, limiting children's access to meaningful review of their custody determination. In September 2019, a federal judge rejected the regulations, ruling that they are not consistent with the over-twenty-year-old Flores agreement; an appeal by the government is pending (Judge Ghee, 2019).
6) Seriously restricting Special Immigrant Juvenile Status: There has been significant backlash against SIJS claims under Trump. USCIS denial

rates have soared. USCIS had particularly been denying SIJS petitions of children who initiated the process between ages eighteen to twenty-one, even though the statute itself covers children up to the age of twenty-one, and although these cases were previously regularly approved. As of fall 2019, however, the Administrative Appeals Unit (AAO) of USCIS clarified that USCIS can grant SIJS to petitioners over the age of eighteen, so long as the state court that issued the prerequisite order required in SIJS claims has jurisdiction under state law to issue such orders to 18+-year-olds. Over the years, progress had been made in limiting USCIS's role in SIJS cases to adjudicating the immigration claim and not the underlying child welfare requirements (decided by juvenile judges with expertise in child welfare law). Under the Trump administration, however, USCIS has returned to the practice of seeking information regarding the bases of the underlying state court orders and the evidence submitted in support of the orders, essentially re-adjudicating the child welfare claims that are clearly not within the agency's expertise.

7) Turn-backs at the border: The TVPRA requires CBP to process unaccompanied children seeking to enter the United States. Under the Trump administration, however, CBP has engaged in unlawfully turning children back to Mexico (Kids in Need of Defense, 2018b). Children who are turned away from the ports or are blocked from entry face a range of risks in border towns notorious for their levels of violence. Some children decide to cross the border between ports of entry and evade detection, running extreme risks to reach the United States; others risk falling prey to human traffickers (Kids in Need of Defense, 2018b).
8) Proposed rule barring from asylum individuals who enter the United States between ports of entry: The administration introduced a proposed rule in November 2018 that would bar individuals, including unaccompanied children, from asylum if they enter the United States between ports of entry (Homeland Security Department and Executive Office for Immigration Review, 2018). This proposed rule goes directly against U.S. statutory requirements regarding asylum seekers and against the TVPRA and marks a drastic change in U.S. refugee policy. In tandem with the unlawful practice of turn-backs it signifies the

administration's effort to prevent individuals from accessing the United States and its asylum system. Under this rule unaccompanied children may be returned to the very persecution they fled. A federal court ultimately ruled that this "asylum ban" was illegal and could not go into effect (Judge Moss, 2019).

9) Third Country Transit Ban: In July 2019, the administration published an Interim Final Rule banning all people, including unaccompanied children, who have traveled through another country to reach the United States from applying for asylum (Homeland Security Department and Executive Office for Immigration Review, 2019). The rule renders individuals ineligible for asylum if they arrived in the United States through the southern border on or after July 16, 2019 after having passed through another country on their way to the United States, unless they applied for and were denied asylum in at least one other country through which they traveled. The rule contains limited exceptions for victims of severe forms of human trafficking and noncitizens who came to the United States through countries that are not parties to international treaties regarding asylum and refugees, but has no exception for unaccompanied children, contravening protections for children included in the TVPRA.[13] Litigation on this rule is pending in federal court.
10) Less child-friendly courts: In December 2017, the Executive Office for Immigration Review (EOIR) issued a memorandum to all immigration judges with new instructions on how to proceed with cases in court involving children. The revised guideline weakens the use of child-friendly practices in court (such as the ability to view an empty courtroom before testifying) and directs judges to "be vigilant in adjudicating cases of a purported UAC [unaccompanied child]" to guard against fraud and abuse, citing "an incentive to misrepresent accompaniment status or age in order to attempt to qualify for the benefits associated with [unaccompanied] status" (Keller, 2017: 7-8). These revised instructions do nothing to substantively change the ways in which the government can test the veracity of a child's story, but serve only to make courts that are naturally adversarial even more so and more skeptical

[13] The TVPRA includes an express exception to application of Safe Third Country agreements in cases of unaccompanied children.

of these particularly vulnerable children as they try to explain the harrowing experiences at the core of their claims for relief.

In addition to these changes to immigration courts for children, former Attorney General Sessions used an unusual regulatory authority to review and overturn prior precedent that granted procedural flexibility to unaccompanied children in immigration courts (McManus, 2018). This flexibility was key when children needed more time to prepare their case, for example, because their mental health made it too difficult to proceed according to the timeframe set by the court. Then-Attorney General Sessions also closed the door on an important procedural tool formerly used in children's cases. Previously, children seeking SIJS or other relief before USCIS could have their immigration court cases temporarily closed while USCIS adjudicated their claims. Since May 2018, children must proceed with their removal hearings and risk being ordered removed and returned to abuse or to human traffickers, even if they have a pending claim with USCIS. Compounding this procedural regression, EOIR also came out with a new policy: this one requires judges to complete 700 cases per year, leaving them little flexibility to schedule cases according to the needs of a child or the child's ability to proceed with his/her case (Torbati, 2018). This change is especially problematic for an unaccompanied child seeking relief in immigration court, given the complexities involved in eliciting testimony from children and their difficultly in collecting evidence.

11) Access to counsel: One of the first policy shifts targeting unaccompanied children was the Department of Justice's (DOJ) decision in June 2017 to terminate a program that provided counsel for unaccompanied children. The program, known as Justice AmeriCorps (JAC), was a three-year endeavor that provided critical funding for legal fellows in twenty-nine cities around the country to support free legal services for unaccompanied children under the age of eighteen (Simich, n.d.). The program aimed to improve court efficiency in a cost-effective manner and to identify children who had been victims of human trafficking or abuse and, as appropriate, refer them to others to assist in the investigation and prosecution of those who perpetrate such crimes. The administration's summary elimination of this program limits access to crucial legal assistance for very young children.

12) Rolling back asylum protections for women and children seeking asylum: In 2018 then-Attorney General Sessions issued a decision, Matter of A-B-, overturning years of settled caselaw on domestic violence as a basis for asylum (Attorney General, 2018). The decision uses broad language that attempts to prevent individuals fleeing intra-familial violence, gang violence, and persecution by actors other than the government from qualifying for asylum. This decision has led to denials of many asylum claims. Taken together, Matter of A-B- and a new policy requiring review of all recommended asylum approvals for unaccompanied children have resulted in a drop in USCIS asylum approval rates for unaccompanied children. During the third quarter of fiscal year 2014, 85 percent of unaccompanied children's asylum claims were approved across all U.S. asylum offices, whereas in the fourth quarter of fiscal year 2018, only 28 percent of children's claims were approved across asylum offices, and only 10 percent of those were approved in Houston (Wu, 2018).

The Path Forward: Closing the Protection Gaps For Unaccompanied Children

The Trump administration's efforts to end protections for unaccompanied children and to stop them from reaching the United States have uncovered several key weaknesses in the legislative and administrative protections achieved for them over the past two decades. These weaknesses require advocates to re-think current laws and policies regarding unaccompanied children and develop proposals to address the true loopholes to ensuring meaningful protection. Of course. the damage caused by the negative policies discussed in this article must be addressed swiftly. Looking beyond undoing Trump administration policies harmful to unaccompanied children and fully restoring previous protections, proposals that seek to solidify lasting protections for children follow.[14]

[14] Detailed proposals should be developed to close the protection gaps. Decisions about whether and when to advance proposals, as well as whether they should come in the form of administrative or legislative change, must be carefully considered and constantly re-evaluated based on current context, political climate, the composition of Congress, the results of the 2020 presidential election, and other factors.

1) The United States should ratify the Convention on the Rights of the Child and incorporate the best-interest-of-the-child standard into domestic legislation, requiring the best interests of the child as a primary consideration in administrative and judicial actions and decisions affecting them. Domestic legislation should clarify that the best-interest-of-the-child standard should infuse the handling of unaccompanied children's cases from start to finish, and that a best-interest assessment or determination must be completed and considered prior to any decision to repatriate a child. These changes are consistent with the Convention on the Rights of the Child and child welfare principles.

   All unaccompanied children in immigration proceedings should be provided an attorney to represent them and representation should continue throughout the case, even if a child reunifies with family or turns eighteen. This can be achieved by enacting legislation like the proposed Fair Day in Court for Kids Act (115th Congress, 2018). To achieve the most cost-effective representation and broadest coverage of children, representation should be provided through a combination of private sector *pro bono* representation and direct representation by non-profit legal organizations with expertise in representing immigrant children.
2) The term "unaccompanied alien child" must be defined or applied in a manner that captures this population's vulnerability. The circumstances that make an unaccompanied child particularly vulnerable include travel to the United States alone, apprehension by immigration officials alone, placement in immigration custody on their own, and facing removal proceedings on their own. Thus, the definition should cover all of these circumstances and ensure that children on their own in any of these situations are deemed unaccompanied. A child may move from "accompanied" status to unaccompanied status, for example, if the child enters the United States with a parent but is separated from that parent and placed in ORR on their own. Once a child is determined to be "unaccompanied," however, the status and its protections should not be removed. Multiple determinations of unaccompanied status have been found to be cumbersome, an inefficient use of government resources, and to lead to inconsistencies in the pro-

cessing and treatment of children, while stripping them of protections (Citizenship and Immigration Services Ombudsman, 2012: 4).

3) The child advocate program has been critical in advancing children's rights and best interests. The program should be expanded so that all unaccompanied children held in long-term custody be assigned a child advocate, as should children whose interests conflict with those of their parent(s) and those facing potential removal or other repatriation to their country of origin. These children are in particularly vulnerable circumstances.
4) The TVPRA should be amended to ensure that, regardless of country of origin, all unaccompanied children detected or apprehended by CBP are quickly transferred to ORR custody, placed in removal proceedings, and given an opportunity to have their claims heard by a judge and to meet with an attorney, and that no unaccompanied child is subject to expedited processing for removal or repatriation.
5) Independent child welfare professionals, not law enforcement, should conduct screening of unaccompanied children at the border and provide specialized care. Hiring officials with appropriate child welfare expertise will not only improve conditions for children, it will also ensure that CBP officers and agents have the time to devote to law enforcement duties more in line with their expertise.
6) The Immigration and Nationality Act should be revised to categorically exempt unaccompanied children from the provision being used to force asylum seekers to wait in Mexico during adjudication of their claims (known as the Remain-in-Mexico policy). The Remain-in-Mexico policy traps asylum seekers in border towns with few services and high rates of homicide, femicide, sexual abuse, and other violence. Although the administration has thus far maintained the position that Remain-in-Mexico does not apply to unaccompanied children, that position could change at any point. The policy should be ended immediately and never implemented again, but to ensure children are protected against such policies in the future, section 235(b)(2)(c) of the INA should be amended to expressly exempt unaccompanied children.
7) The United States must broaden its recognition of families beyond nuclear families to include children raised by adult relatives or care-

givers other than a parent or legal guardian, and can do so either through legislation or agency guidance. In addition, family separations should only occur when a child welfare professional, not an immigration official, determines that separation is necessary to ensure a child's safety and best interests. Alternatives to detention, such as the successful family case management model, should be used to keep families together and out of detention. DHS should set out a formal appeals process for cases involving the separation of a child from a parent, legal guardian, or primary caregiver, and, when separation occurs, the parent and/or primary caregiver and child should immediately be provided information about the reasons for separation and how to appeal the decision.

8) Children should be placed with the most appropriate caregiver, regardless of that caregiver's immigration status, and should never be used as bait to ensnare parents or other relatives. It is in the best interests of the child to be with family in the least restrictive setting. To ensure that this is not a policy vulnerable to shifts depending on the administration, TVPRA should be amended to incorporate the idea that immigration status of a sponsor does not determine placement of a child, and that information obtained on potential sponsors or other household members during the sponsor vetting process should not be used for law enforcement purposes.
9) Children should not be held in long-term ORR custody. Although many children are released from custody while their cases are pending, too many linger in custody, some in juvenile-hall-like facilities. Children in long-term detention suffer anxiety and depression, and some even contemplate suicide, while others abandon their claims for relief and even face the prospect of return to harm in order to get out of detention (Linton, Griffin, and Shapiro, 2017). To protect against long-term detention, children's custody determination should be reviewed every thirty days and all potential options for release should be considered. For children remaining still in custody after sixty days, a child advocate should be appointed. These changes should be incorporated into the TVPRA.
10) The fundamental principles established by the Flores Settlement Agreement are critical to providing basic protections for detained immigrant children and should be codified into law to ensure their availability as well as congressional oversight.

11) The DOJ, in coordination with DHS, should adopt mandatory regulations that are binding on all immigration judges and which, as required by the TVPRA, better ensure that the specialized needs of unaccompanied alien children are taken into account in the procedural and substantive aspects of handling unaccompanied children's cases.
12) Consistent with the TVPRA, USAID, in conjunction with the Departments of State and Health and Human Services, international organizations, and civil society organizations in the United States, Mexico, and Central America with expertise in repatriation and reintegration, should create a program to develop and implement best practices and sustainable programs in collaboration with a wide range of expert partners to ensure the safe and sustainable repatriation and reintegration of unaccompanied children into their country of nationality.
13) The United States and other stakeholders should address the root causes that are driving people to make the life-threatening journey to try to enter the United States by helping El Salvador, Honduras, and Guatemala strengthen child protection and the rule of law and address corruption and the gang and narco-trafficker violence that pushes most children and families to flee.
14) The DHS and DOJ should issue asylum regulations that "take into account the specialized needs of unaccompanied alien children," as required by the TVPRA, and provide adjudicators with guidance on child-sensitive techniques and how to assess children's claims in a child-centered manner, taking into account age, development, maturity, mental health, and cultural factors, and granting each child the liberal benefit of the doubt.
15) The attorney general's decision in Matter of A-B- should be vacated as it is a political decision not based in law and is designed to deprive individuals with strong claims for refugee status protection.
16) The refugee definition must be clarified. Over the past ten or so years a series of decisions have sown confusion in cases involving persecution based on membership in "a particular social group," and the correct standard for proving "nexus" or the connection between the persecution and the statutorily protected ground.[15] These decisions have made

[15] Persecution must be "on account of" or for reasons of a statutorily protected ground. These include political opinion, race, nationality, religion, and membership in a "particular social group."

claims for asylum ever more difficult to establish, particularly for unaccompanied children. Legislation such as the Refugee Protection Act of 2016 provides a model.

17) USCIS's role in SIJS adjudications must be limited to reviewing eligibility for the immigration benefit and not the validity of the underlying state court order. USCIS should not be able to question the jurisdiction of a state court to hear a case or to issue an order and should be prohibited from seeking to re-adjudicate state court determinations or orders. USCIS' role should focus on the child's eligibility for SIJS under the definition and admissibility grounds. This should likely be done through administrative policy reform, but can also be accomplished legislatively.

Despite significant advances in the treatment and protection of unaccompanied children in the U.S. immigration system accomplished prior to the Trump administration, substantial gaps remain. The escalating number of unaccompanied children coming to the United States in recent years, the challenges they face in the immigration system, and the fragility of protections gained on their behalf highlight the pressing need for legal and policy reform to ensure an immigration system in which children's rights and welfare are paramount and rest on solid ground.

Bibliography

115TH CONGRESS

2018 S. 2468, A Fair Day in Court for Kids Act of 2018, Second Session, February 28, https://www.govtrack.us/congress/bills/115/s2468/text, accessed April 20, 2019.

ACLU (AMERICAN CIVIL LIBERTIES UNION)

2019 "Memorandum in Support of Motion to Enforce Preliminary Injunction," July 30, https://www.aclu.org/legal-document/ms-l-v-ice-memo-support-motion-enforce-pi, accessed January 20, 2020.

Amnesty International USA
2003 *Why Am I Here? Children in Immigration Detention.* New York, https://www.amnestyusa.org/wp-content/uploads/2017/09/why_am_i_here.pdf, accessed April 23, 2019.

Attorney General
2018 "Matter of A-B-, Respondent," U.S. Department of Justice, June 11, https://www.justice.gov/eoir/page/file/1070866/download, accessed April 20, 2019.

Bhabha, Jacqueline, and Susan Schmidt
2007 "Seeking Asylum Alone: Unaccompanied and Separated Children and Refugee Protection in the United States," *The Journal of the History of Childhood and Youth* 1: 52, 76, and 148, https://www.researchgate.net/publication/267042020_Seeking_Asylum_Alone_Unaccompanied_and_Separated_Children_and_Refugee _Protection_in_the_US/download, accessed April 22, 2019.

Center for Gender and Refugee Studies (cgrs)
2014 *Treacherous Journey, Child Migrants Navigating the U.S. Immigration System*, ii-iii, 8-10, http://www.uchastings.edu/centers/cgrs-docs/treacherous_journey_cgrs_kind_report.pdf, accessed April 22, 2019.

Citizenship and Immigration Services Ombudsman
2012 "Ensuring Fair and Effective Asylum Process for Unaccompanied Children," Homeland Security, September 20: 4, https://www.dhs.gov/sites/default/files/publications/cisomb-ensuring-fair-asylum-process-for-uac.pdf, accessed April 20, 2019.

Currier, Cora
2018 "Prosecuting Parents –and– Separating Families – Was Meant to Deter Migration, Signed Memo Confirms," *Intercept*, September 25, https://theintercept.com/2018/09/25/family-separation-border-crossings-zero-tolerance/, accessed April 24, 2019.

Diebold, Kylie, Kerri Evans, and Emily Hornung
2019 "Educating Unaccompanied Children in U.S. Shelters," *Forced Migration Review*, March, https://www.fmreview.org/education-displacement/diebold-evans-hornung, accessed July 16, 2019.

Gerstein, Josh
2015 "Citing Surge in Families at Border, Feds Ask to Speed Immigration Appeal," *Politico*, December 2, https://www.politico.com/blogs/under-the-radar/2015/12/citing-surge-in-families-at-border-feds-ask-to-speed-immigration-appeal-216365, accessed April 24, 2019.

Homeland Security Act
2002 Homeland Security Act of 2002, Public Law no. 207-296, 116 stat., codified at 6 U.S.C. Section 279, https://www.dhs.gov/sites/default/files/publications/hr_5005_enr.pdf, accessed April, 21 2019.

Homeland Security Department and Executive Office for Immigration Review
2019 "Asylum Eligibility and Procedural Modifications," *Federal Register*, July 16, https://www.federalregister.gov/documents/2019/07/16/2019-15246/asylum-eligibility-and-procedural-modifications, accessed January 20, 2020.
2018 "Aliens Subject to a Bar on Entry under Certain Presidential Proclamations; Procedures for Protection Claims," *Federal Register*, November 9, https://www.federalregister.gov/documents/2018/11/09/2018-24594/aliens-subject-to-a-bar-on-entry-under-certain-presidential-proclamations-procedures-for-protection, accessed April 21, 2019.

Homeland Security Department and Health and Human Services Department
2019 "Apprehension, Processing, Care and Custody of Alien Minors and Unaccompanied Alien Children," *Federal Register*, August 23, https://www.federalregister.gov/documents/2019/08/23/2019-17927/apprehension-processing-care-and-custody-of-alien-minors-and-unaccompanied-alien-children, accessed January 20, 2020.

2018 "Apprehension, Processing, Care, and Custody of Alien Minors and Unaccompanied Alien Minors," *Federal Register*, September 7, https://www.federalregister.gov/documents/2018/09/07/2018-19052/apprehension-processing-care-and-custody-of-alien-minors-and-unaccompanied-alien-children, accessed April 21, 2019.

Human Rights Watch

1997 *Slipping Through the Cracks: Unaccompanied Children Detained by the U.S. Immigration and Naturalization Service*. New York: Human Rights Watch: 1, 70, https://www.hrw.org/sites/default/files/reports/us974.pdf, accessed April 21, 2019.

Judge Ghee

2019 "Flores v. Barr, In Chambers Order Re Plaintiffs' Motion to Enforce Settlement and Defendants' Notice of Termination and Motion in the Alternative to Terminate the Flores Settlement Agreement," September 27, https://youthlaw.org/wp-content/uploads/2019/06/9.27-Flores-Order.pdf, accessed January 15, 2020.

Judge Moss

2019 "O.A. et al. v. Donald Trump, S.M.S.R. v. Donald Trump, Memorandum Opinion," August 2, https://www.courthousenews.com/wp-content/uploads/2019/08/AsylumDC-sjORDER.pdf, accessed January 15, 2020.

Keller, Mary Beth

2017 "Operating Policies and Procedures Memorandum 17-03: Guidelines for Immigration Court Cases Involving Juveniles, Including Unaccompanied Alien Children," December 20: 7, https://www.justice.gov/eoir/file/oppm17-03/download, accessed April 21, 2019.

Kelly, John

2017 "Implementing the President's Border Security and Immigration Enforcement Improvement Policies," *Homeland Security*, February 20, https://www.dhs.gov/publication/implementing-presidents-border-security-and-immigration-enforcement-improvement-policies, accessed April 23, 2019.

Kennedy, Edward
2002 "Testimony Unaccompanied Alien Child Protection Act," Subcommittee on Immigration, Committee on the Judiciary of the United States, February 28: 4, https://www.govinfo.gov/content/pkg/CHRG- 107shrg 85520/html/CHRG-107shrg85520.htm, accessed April 23, 2020.

Kids in Need of Defense
2018a *A Timeline of How the Trump Administration Is Rolling Back Protections for Children*, July, https://supportkind.org/wp-content/uploads/2018/07/Rolling-Back-Protections_Timeline_Updated-7.24.2018.pdf, accessed April 22, 2019.
2018b *The Protection Gauntlet: How the United States Is Blocking Access to Asylum Seekers and Endangering the Lives of Children at the U.S. Border*, December 21: 3-4, https://supportkind.org/resources/the-protection-gauntlet-how-the-united-states-is-blocking-access-to-asylum-seekers-and-endangering-the-lives-of-children-at-the-u-s-border/, accessed April 21, 2019.

Lakhani, Nina
2016 "Human Rights Groups Sue U.S. over Immigration Payments to Mexico," *The Guardian*, February 12, https://www.theguardian.com/us-news/2016/feb/12/human-rights-group-sue-immigration-mexico, accessed April 21, 2019.

Lee, Deborah, Manoj Govindaiah, Angela Morrison, and David Thronson
2009 "Update on Legal Relief Options for Unaccompanied Alien Children Following the Enactment of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008," *Immigration Law Commons*, February 19: 1, https://www.immigrantjustice.org/sites/default/files/tvpra%2520Practice%2520Advisory.pdf, accessed April 24, 2019.

Lind, Dara
2019 "Trump Has a Long History of Fearmongering about Immigrant Murder," *Vox*, February 5, https://www.vox.com/2019/2/5/ 18213077/

state-of-the-union-2019-trump-david-killed-immigrant-family, accessed April 24, 2019.

2014 "The 2014 Central America Immigrant Crisis," *Vox*, October 10, https://www.vox.com/2014/10/10/18088638/child-migrant-crisis-unaccompanied-alien-children-rio-grande-valley-obama-immigration, accessed April 20, 2019.

Linton, Julie, Marsha Griffin, and Alan Shapiro

2017 "Detention of Immigrant Children," Council on Community Pediatrics, https://pediatrics.aappublications.org/content/139/5/e20170483.full, accessed April 20, 2019.

McManus, Ian

2018 "A Bad Summer for Immigration Judges: The Elimination of Administrative Closure and Changes to the Procedure for Continuances," *University of Cincinnati Law Review*, September 4, https://uclawreview.org/2018/09/04/a-bad-summer-for-immigration-judges-the-elimination-of-administrative-closure-and-changes-to-the-procedure-for-continuances/, accessed April 22, 2019.

Memorandum of Agreement

2018 *Memorandum of Agreement among the Office of Refugee Resettlement and U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection accessed Regarding Consultation and Information Sharing in Unaccompanied Alien Children Matters*, April 2018, https://www.texasmonthly.com/wp-content/uploads/2018/06/Read-the-Memo-of-Agreement.pdf, accessed April 22, 2019.

Montero, Douglas

2001 "Feds Use Kids as Bait to Snare Immigrant Parents," *New York Post*, January 29, https://nypost.com/2001/01/29/feds-use-kids-as-bait-to-snare-immigrant-parents/, accessed April 25, 2020.

National Conference on Legislatures

2014 "Child Migrants to the United States," October 28, http://www.ncsl.org/research/immigration/child-migrants-to-the-united-states.aspx, accessed April 20, 2019.

National Immigrant Justice Center
2019 "Children as Bait: Impacts of the ORR-DHS Information-Sharing Agreement," March 26, https://www.immigrantjustice.org/research-items/report-children-bait-impacts-orr-dhs-information-sharing-agreement, accessed 20 January, 2020.

New York Civil Liberties Union
2018 "Hundreds of Immigrant Children Detained for Months Awaiting ORR Director Scott Lloyd's Personal Approval to Reunite with Families," May 1, https://www.nyclu.org/en/press-releases/hundreds-immigrant-children-detained-months-awaiting-orr-director-scott-lloyds, accessed April 22, 2019.

Office of the Inspector General, U.S. Department of Justice
2001 "Unaccompanied Juveniles in INS Custody," Report Number I-2001-009: 1-2, https://oig.justice.gov/reports/INS/e0109/chapter1.htm, accessed April 22, 2019.

Ordoñez, Franco
2017 "Trump Administration Targets Parents Who Paid to Smuggle Children into U.S.," *The State*, June 29, https://www.thestate.com/news/politics-government/article158953664.html, accessed April 23, 2019.

ORR (Office of Refugee Resettlement)
2019 "Facts and Data," https://www.acf.hhs.gov/orr/about/ucs/facts-and-data, accessed January 20, 2020.

Schmitt, Eric
2001 "INS Both Jailer and Parent to a Child without a Nation," *New York Times*, June 24, https://www.nytimes.com/2001/06/24/us/ins-both-jailer-and-parent-to-a-child-without-a-nation.html, accessed April 26, 2019.

Simich, Laura
n.d. "Evaluation of the Justice Americorps Legal Services for Unaccompanied Children Program," Vera Institute of Justice, https://www.vera.org/

projects/evaluation-of-justice-americorps-legal-services-for-unaccompanied-children-program/learn-more, accessed April 22, 2019.

Thompson, Amy
2008 *A Child Alone Without Papers*. Texas: Center for Public Policy Priorities: 28-31, 53, http://library.cppp.org/files/4/Repatriation_v8b.pdf, accessed April 21, 2019.

Torbati, Yeganeh
2018 "Head of Immigration Judges Union Denounces Trump Quota Plan," Reuters, September 21, https://www.reuters.com/article/us-usa-immigration-judges/head-of-u-s-immigration-judges-union-denounces-trump-quota-plan-idUSKCN1M12LZ, accessed April 22, 2019.

unhcr, Executive Committee of the High Commissioner's Program
2007 "Conclusion on Children at Risk, No. 107," United Nations High Commissioner for Refugees, October 5: a, accessed April 21, 2019.

United Nations Human Rights, Office of the High Commissioner
1990 "Convention on the Rights of the Child," September 2, http://www.ohchr.org/en/professionalinterest/pages/crc.aspx, accessed April 22, 2019.

U.S. Department of State
2008 "William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008," January 1, https://www.state.gov/william-wilberforce-trafficking-victims-protection-reauthorization-act-of-2008/

U.S. Government Accountability Office
2015 *Unaccompanied Alien Children: Actions Needed to Ensure Children Receive Required Care in dhs Custody*, July: 15-1521, 22-34, https://www.gao.gov/assets/680/671393.pdf, accessed April 23, 2019.

U.S. Government Printing Office
2002 "The Unaccompanied Alien Child Protection Act," February 28, https://www.govinfo.gov/content/pkg/CHRG-107shrg85520/html/CHRG-107shrg85520.htm, accessed April 23, 2020.

White House
2018 "Loopholes in Child Trafficking Laws Put Victims –and American Citizens– at Risk," April 5, https://www.whitehouse.gov/articles/loopholes-child-trafficking-laws-put-victims-american-citizens-risk/, accessed April 24, 2019.
2017 "Executive Order Border Security and Immigration Enforcement Improvements," White House, January 25, https://www.whitehouse.gov/presidential-actions/executive-order-border-security-immigration-enforcement-improvements/, accessed April 24, 2019.

Wu, Nicholas
2018 "The Trump Administration Is Closing the Door on Migrant Children," *The Atlantic*, December 25, https://www.theatlantic.com/politics/archive/2018/12/asylum-approvals-children-have-plummeted-under-trump/578614/, accessed April 20, 2019.

Zezima, Katie
2014 "White House: Most Unaccompanied Minors at the Border Will Likely be Deported," *Washington Post*, July 27, https://www.washingtonpost.com/news/post-politics/wp/2014/07/07/white-house-most-unaccompanied-minors-at-border-will-likely-be-deported/?utm_term=.2a8ca270dcac, accessed April 25, 2019.