

# “You Will Never See Your Child Again”

The Persistent Psychological Effects of Family Separation

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*Cover: A Guatemalan mother is reunited with her four-year-old son after they were separated for one month when they crossed into the United States.  
Photo: Joe Raedle/Getty Images*

# Executive Summary

The Trump administration's crackdown on asylum seekers has included the brutal intimidation tactics of family separation and family detention. These policies have profound health implications for migrant adults and children and violate basic human rights, including the right to be free from torture and enforced disappearance.

A new Physicians for Human Rights (PHR) investigation, based on psychological evaluations of asylum-seeking parents and children who were separated by the U.S. government in 2018, found pervasive symptoms and behaviors consistent with trauma; most met diagnostic criteria for at least one mental health condition, such as post-traumatic stress disorder, major depressive disorder, or generalized anxiety disorder consistent with, and likely linked to, the trauma of family separation.

PHR evaluated 17 adults and nine children who had been separated under the policy for an average of 60-69 days; all but one child had been reunited at the time of evaluation. The investigation sought to explore two key questions: 1) What traumatic experiences did these asylum seekers report in their home countries, during their journey to the United States, and during and after their apprehension at the border?; and 2) What were the psychological effects associated with the forced separation of children from their parents and other family members after entry into the United States? The rich and intense narratives of our illustrative cohort help shed light on the experiences of separated families.

Due to targeted acts of violence in their home countries, all parents arrived at the U.S. border having already been exposed to trauma – most often as victims of gang activity – from death threats, physical assault, relatives killed, extortion, sexual assault, or robbery. All parents expressed fear that their child would be harmed or killed if they stayed in their home country. In almost all cases, their children had already faced severe harm before fleeing – gangs drugged, kidnapped, poisoned, and threatened children, including threats of death, violence, or kidnapping, if they or their parents did not comply with the gang's demands. Parents were confident that the journey to the United States would result in protection for their children.

When they arrived in the United States, however, parents reported that immigration authorities forcibly removed children from their parents' arms, removed parents while their children slept, or simply "disappeared" the children while their parents were in court rooms or receiving medical care. Almost all reported that immigration authorities failed to provide any explanation as to why they were being separated, where their family members were being sent, and if or how they would be reunited. In addition, the asylum narratives documented instances of four parents who were taunted and mocked by immigration authorities when asking for the whereabouts of their children. Half of the parents interviewed by PHR clinicians reported poor conditions at the detention facilities where they were held, and the children also reported being mistreated or living in poor conditions while detained and while in foster care.

PHR clinicians chronicled that nearly everyone interviewed exhibited symptoms and behaviors consistent with trauma and its effects: being confused and upset,

**The U.S. government's treatment of asylum seekers through its policy of family separation constitutes cruel, inhuman, and degrading treatment and, in all cases evaluated by PHR experts, constitutes torture.**

constantly worried, crying a lot, having sleeping difficulties, not eating well, having nightmares, being preoccupied, having severely depressed moods, overwhelming symptoms of anxiety, and physiological manifestations of panic and despair (racing heart, shortness of breath, and headaches), feeling “pure agony” and hopelessness, feeling emotional and mental anguish, and being “incredibly despondent.” The evaluating clinicians noted that the children exhibited reactions that included regression in age-appropriate behaviors, crying, not eating, having nightmares and other sleeping difficulties, loss of developmental milestones, as well as clinging to parents and feeling scared following reunification with their parents.

The vast majority of mental health diagnoses given by the evaluating clinicians and depicted in the expert affidavits produced for immigration proceedings were highly consistent with these parents’ and children’s reports of their traumatic experiences in detention and family separation. At the same time, several clinicians commented on the likelihood that the present symptoms were exacerbated by pre-existing trauma from events and incidents in their home country. According to PHR’s clinicians, most individuals (both adults and children) met diagnostic criteria for at least one mental health condition, such as post-traumatic stress disorder, major depressive disorder, or generalized anxiety disorder.



*A two-year-old Honduran girl and her mother are detained near McAllen, Texas before being sent to a Border Patrol processing center for possible separation.*

*Photo: John Moore/Getty Images*

PHR's experts noted that all the individuals they interviewed demonstrated appropriate emotional reactions and did not show signs of exaggerating their plight, and uniformly described the asylum seekers as credible.

This study's findings provide evidence of the adverse physical and mental health effects linked to the Trump administration's family separation policy. In nearly every case encountered, PHR's expert medical evaluators noted that the trauma suffered by the parents and the children warranted further intervention and ongoing therapeutic support, because the events were causing "significant distress" and ongoing functional impairment. The interventions most frequently recommended included trauma-focused psychotherapy, removal from detention, and psychiatric medications.

PHR finds that the U.S. government's treatment of asylum seekers through its policy of family separation constitutes cruel, inhuman, and degrading treatment and, in all cases evaluated by PHR experts, rises to the level of torture.

As defined by the United Nations Convention Against Torture,<sup>1</sup> torture is an act 1) which causes severe physical or mental suffering, 2) done intentionally, 3) for the purpose of coercion, punishment, intimidation, or for a discriminatory reason, 4) by a state official or with state consent or acquiescence. In the cases that PHR documented, U.S. officials intentionally carried out actions causing severe pain and suffering, in order to punish, coerce, and intimidate Central American asylum seekers to give up their asylum claims, in a discriminatory manner. Torture and cruel, inhuman, and degrading treatment are violations of human rights and are prohibited under domestic and international law in any and all circumstances.

In addition, PHR concludes that the policy and practice of family separation also constitutes enforced disappearance, which occurs when state agents conceal the fate or whereabouts of a person who is deprived of liberty. In all cases included in the study, there was a period where parents were unaware of their children's whereabouts and were not able to contact them. Government failure to track children and parents, to facilitate parental contact, or to plan for reunification deprived children of protection under the rule of law, because they were deprived of parental oversight and consent for their welfare without due process.

The U.S. government must uphold domestic and international standards by fulfilling its obligations to: provide redress to victims of torture and ill-treatment, including in the form of rehabilitative services; ensure the families of disappeared children know the truth of their family members' whereabouts by dedicating adequate government resources to ensure timely reunification for all separated families, including deported parents; and prosecute U.S. officials who have broken the law.

## Introduction

Reports, beginning in 2018, that the Trump administration was separating young migrant children from their parents, apparently causing severe trauma, led to a nationwide outcry and became a fault line in the national immigration debate. Perspectives differ greatly over how the United States should manage migration flows, particularly when families and young children are involved. These

All of the parents included in this study feared that their children would be harmed or killed if they stayed in their home country.

hardening policy positions are based, on one side, on suspicions about why migrants are coming to the United States with children and skepticism that forced separation of parents and children results in any real harm, and, on the other side, on anger and indignation over immigration policies that are viewed as yet another outrage by a controversial administration. In an increasingly polarized society, evidenced-based opinions on this inflammatory issue are in short supply.

Physicians for Human Rights (PHR) can only speak to the cases we documented. However, what we found was that all of the parents included in this study feared that their children would be harmed or killed if they stayed in their home country. The Trump administration – as part of an effort to discourage migration – set out to separate thousands of migrant children and parents, without any system in place for tracking or reuniting them. Due to opposition from litigators and immigrant rights advocates, the courts halted this policy. The United States continues to separate parents in cases where authorities allege that parents have a criminal history, gang affiliation, or a communicable disease. This means that parents who were accused but not convicted of a crime, have an outdated traffic violation, or are HIV+ are being deprived of custody without an assessment by child welfare professionals. According to the latest numbers provided by Department of Homeland Security, as of December 2019, 1,142 families had been separated after the court injunction.<sup>2</sup> However, the persistent and damaging psychological effects documented by PHR, particularly on children, call out for acknowledgement, accountability, and reparation.

## Background

### Family Separation Was Rare in Previous U.S. Administrations

Trump administration officials have argued, when defending the government's policy and practice of family separation, that previous administrations used family detention and separation as deterrence methods and that the Trump administration simply drew upon these preexisting policies.<sup>3</sup> In fact, neither the Bush nor Obama administrations employed a policy of widespread family separation to deter migrants from seeking asylum in the United States. The Bush administration's 2005 Operation Streamline policy increased prosecutions for illegal border crossings, but families were generally kept together in family residential centers.<sup>4</sup> The government formally recognized that, except in cases where there was a proven danger to the child, the Department of Homeland Security's (DHS) priority was to keep families together.<sup>5</sup>

In 2014, a major demographic shift in immigration patterns occurred from largely single young adult men to unaccompanied minors and families arriving at the southern border to request asylum (a shift known as "the surge"). In fiscal year 2013, Customs and Border Protection (CBP) apprehended a total of 14,855 families at the southern border,<sup>6</sup> while in fiscal year 2014, that number spiked to 68,455.<sup>7</sup> In response to this shift, the Obama administration implemented a much-criticized family detention policy with the aim of deterring the arrival of

other families from Central America and Mexico.<sup>8</sup> Unlike its predecessor, the Obama administration shifted away from family shelters and instead opened four family residential detention centers, three of which are still in operation today and one of which was closed after an internal investigation uncovered dangerous conditions.<sup>9</sup> This policy was markedly different from the practices under the current administration, however, in that the separations occurred only in limited situations: for example, when a mother and child were detained together while the father was sent to a separate facility.<sup>10</sup>

#### Family Separation Planned and Tested in El Paso, Texas

From July 2017 to October 2017, the Trump administration began a trial of physically separating children from their parents in El Paso, Texas.<sup>11</sup> Immigration and Customs Enforcement (ICE) and CBP officials viewed the El Paso pilot program as a success and reportedly used the dwindling number of apprehensions to persuade former secretary of homeland security Kirstjen Nielsen to expand the policy to the rest of the southern border.<sup>12</sup>

In fiscal year 2018, the year in which the family separation policy was rolled out, a record number of 107,212 families were apprehended at the southern border.<sup>13</sup> DHS statistics from 2017 show that a large portion of asylum cases referred to the Department of Justice's Executive Office for Immigration Review were for asylum seekers from Northern Triangle countries (El Salvador, Guatemala, and Honduras), up to 76,328 from 42,663 in the previous year.<sup>14</sup> The increased flow of migrants from these countries reveals the extreme push factors that cause asylum seekers to flee their home countries and seek refuge in the United States: indiscriminate violence, physical and sexual violence targeting women and children, forced recruitment into gangs, and extortion.<sup>15</sup> Instead of recognizing these regional displacement trends, U.S. government officials portrayed asylum seekers as "bad hombres,"<sup>16</sup> "smugglers and traffickers, MS-13 members, criminals and abusers,"<sup>17</sup> characterizing parents fleeing with their children as traffickers and gang members fraudulently migrating with children to gain access to the United States.<sup>18</sup> However, according to DHS's own statistics, in the first five months of fiscal year 2018, the rate of children brought in with and separated from traffickers is statistically insignificant at 0.61 percent of all apprehensions at the border, and rates have generally been recorded as low as 0.1 percent.<sup>19</sup>

Nevertheless, on May 7, 2018, then-attorney general Jeff Sessions announced the national rollout of the administration's policy and sought to justify this punitive policy by claiming that it targeted criminals violating U.S. law. Yet, challenging this justification, asylum-seeking families presenting at ports of entry were also subjected to arbitrary detention and separation.<sup>20</sup> During the following six weeks, more than 2,814 children – who were reclassified as unaccompanied minors and sent to shelters – were forcibly separated from their families at the southern border.<sup>21</sup> Nearly all of these children have now been reunited with their families.<sup>22</sup> An internal government watchdog who interviewed clinicians and other staff caring for separated children in shelters during this time reported extreme levels of distress due to separation, including inconsolable crying and self-harm, which staff were unprepared and under-resourced to address.<sup>23</sup> Amidst public outcry, on June 20, 2018, President Trump issued an Executive Order instructing the government to detain families together indefinitely, calling for Congress to end existing federal detention limitations for children which might otherwise be violated by this instruction.<sup>24</sup> The Executive Order failed to address the reunification of the families that had been separated as a result of the policy or to

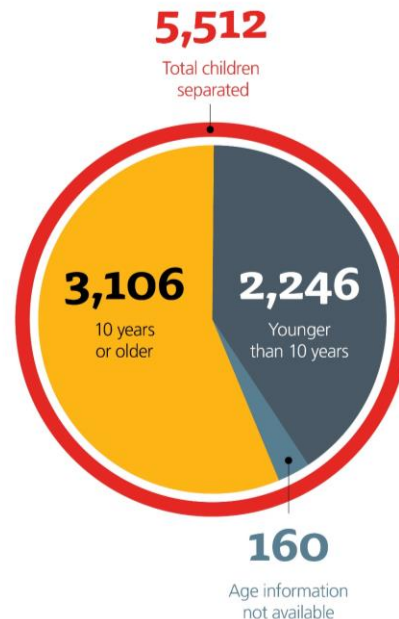
explicitly halt the separation of parents and children, stating that the government’s policy had always been to maintain family unity.

### Family Separation Halted as a Threat to Constitutional Rights

On February 26, 2018, attorneys from the American Civil Liberties Union (ACLU) representing parents who had been separated – some of them deported without their children – filed a federal lawsuit, *Ms. L v. ICE*, to halt any continuing separations, reunify families, and require the government to provide information about how many families had been separated.<sup>25</sup> Six days after President Trump issued his June 20 Executive Order, the United States District Court of the Southern District of California recognized that these cases demonstrate a strong likelihood of a violation of constitutional rights to family integrity. The court stated that the Executive Order was a reactive response to government-created chaos and that it belied due process.<sup>26</sup> On June 26, 2018, the court granted a preliminary injunction and called for the government to halt separations, including those taking place through deportation, to ensure speedy reunification of parents and children who were separated, to facilitate parental contact with children until reunification, and to ensure appropriate coordination between government agencies.

Despite the preliminary injunction, as of this writing, human rights groups continue to document cases of family separation at the southern border.<sup>27</sup> According to government statistics given to the ACLU, at least 1,142 children were separated from their parents after the injunction; while the ACLU asserted that these separations are in defiance of the June 2018 preliminary injunction, a U.S. District Court in San Diego accepted the government’s justification for the on-going separations.<sup>28</sup> In total, 5,512 children were separated since July 2017.<sup>29</sup> Determining the extent of the responsibility of the U.S. government towards separated and reunited families remains the subject of litigation. On November 6, 2019, a U.S. District Court in the Central District of California issued an injunction which required the federal government to make available mental health screenings and treatment to separated families due to the deliberate indifference of government officials toward the trauma resulting from family separation.<sup>30</sup>

### Total Number of Migrant Children Separated from Their Parents July 2017 to December 2019



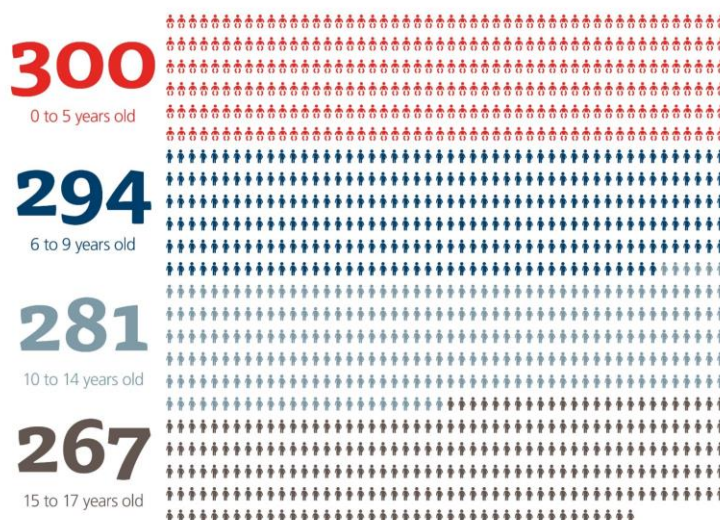
Source: U.S. Departments of Homeland Security and Health and Human Services, as provided to the American Civil Liberties Union.

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## U.S. Officials Are Still Separating Migrant Children

From June 2018 to December 2019 alone, 1,142 children were separated from their families. 300 were very young children 5 years and under.



Source: U.S. Departments of Homeland Security and Health and Human Services, as provided to the American Civil Liberties Union.

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## Methodology

### PHR Asylum Evaluations and the Istanbul Protocol

For more than 30 years, members of the Physicians for Human Rights (PHR) Asylum Network, comprising 1,700 volunteer health professionals, have conducted forensic evaluations for asylum seekers involved in U.S. immigration proceedings.<sup>31</sup> These evaluations – conducted in accordance with the principles and methods of the international standards of the Istanbul Protocol<sup>32</sup> – are requested by attorneys who identify a need for trained clinicians to document and assess physical and psychological evidence of their clients’ accounts of alleged torture or persecution. The medical-legal affidavits are submitted to the Department of Homeland Security’s United States Citizenship and Immigration Services and the Department of Justice’s Executive Office for Immigration Review to highlight the degree of consistency between asylum seekers’ accounts of persecution and their physical signs of injuries and psychological symptoms. Although these evaluations alone cannot determine the legitimacy of asylum claims, they are intended to document any severe physical health and mental health harms experienced by the asylum seeker. Other essential elements needed for the asylum case, such as determining discriminatory intent of persecutors or failure of the state to control persecutors, are not directly addressed in these affidavits. At times, collateral information in the affidavits may be present related to those elements of the criteria for asylum.

## Data Collection and Analysis

From July 26, 2018 through August 12, 2019, PHR's Asylum Program received 37 requests made by attorneys representing asylum seekers – both adults and children – who were separated from their family members at the U.S. border under the new Trump administration policy. PHR was able to match all 37 requests with health professional volunteers in the clients' local areas who conducted in-depth evaluations of these asylum seekers and wrote up their findings in medical-legal affidavits.<sup>33</sup> In addition, PHR sent a team of clinicians to South Texas Family Residential Center in Dilley, Texas to provide forensic evaluations of mothers detained at the facility.

The research team excluded medical affidavits of 11 asylum seekers where the family was separated but the evaluations focused on their asylum case and did not address family separation. We analyzed the remaining 26 affidavits out of the completed 37 evaluations. Clients and attorneys gave consent for the use of de-identified data from these affidavits for research and advocacy. The University of Michigan Institutional Review Board reviewed the research plan and designated it as exempt as defined by Title 45 CRF part 46 provisions for protection of human subjects. During the research design, the decision was made to use data which was gathered as part of the work of the Asylum Program, with client and attorney consent, rather than conducting separate research interviews with families, which could be re-traumatizing. The attorneys reviewed and revised the affidavits with their clients as needed and used the affidavits in their legal cases. Providing pro bono forensic evaluations for clients who contributed data to the study fulfilled an ethical obligation to provide appropriate assistance or referrals to vulnerable populations when conducting research; giving the clients access to their affidavits which are revised in line with their feedback to their attorneys also reflects a commitment to the democratization of knowledge.<sup>34</sup>

The co-investigators qualitatively analyzed data and content from the 26 affidavits, looking for themes and sub-themes. We coded content from the affidavits, as written by the clinicians performing the evaluations and summarizing findings from their interviews with asylum seekers (adults and children), through open coding (creating tentative labels), axial coding (identifying connections among the codes), and selective coding (comparing all the codes to the core question).<sup>35</sup> The co-investigators jointly developed a coding tool after reading the collected affidavits. University of Michigan faculty and students and PHR staff coded the medical-legal affidavits using Dedoose, a qualitative analysis software program, capturing basic demographic information, trauma exposure history, logistics of separation, and medical and mental health outcomes related to the separation.

Members of the research team participated in an intercoder agreement process, where coders independently evaluate the data to check whether they will reach the same conclusions, to ensure best practices for data analysis, and to check the consistency of coding. The research team found that the data reached code saturation by the second intercoder agreement trial, as no new codes were added after that point. The researchers reached meaning saturation by the fourth intercoder agreement, which means that the coders were no longer refining the definitions of the codes.<sup>36</sup> Three members of the research team conducted four intercoder agreement trials in which the researchers coded a transcript independently, then crosschecked their codes with the rest of the team. After four trials, the research team established a 78 percent intercoder reliability agreement. A highly experienced qualitative researcher conducted a peer audit of

the coding. Through an iterative and consensus-based process, the research team revised themes and sub-themes.

## Limitations

This data was not collected for research purposes, rather we were presented with an opportunity to analyze rich content that would enable us to explore and deepen our understanding of the effects of family separation on a select group of individuals with this lived experience. The population captured in our analysis was not selected in a systematic manner and may be unique in that they all had legal representation. Nevertheless, we believe that the rich and intense narratives of this cohort help shed light on the experiences of many other separated families.<sup>37</sup>

In addition, the affidavits we reviewed did not capture the experiences of parents who were deported without their children, which means that the findings do not focus on how deportation exacerbated trauma or impeded reunification. No children under the age of six were included in the dataset, so the potentially severe impact of separation on infants and toddlers is not assessed in this study. Most of the families included in this data set were separated for an average of 30-70 days. Families who were separated for much longer may have experienced even greater negative health consequences as a result of the separation. Thus, further study is needed regarding the impact of separation on these populations. Finally, the materials analyzed are narrative reports of clinicians who interviewed survivors and are not direct transcriptions of interviews with the affected individuals. As such, reporting bias is a major limitation.

We shared our findings with the U.S. Department of Homeland Security and requested a response but had not received any as of the date of publication.

## Findings

### Introduction

The affidavits involved 20 family separation cases, comprising a total of 26 individuals, including five parent/child pairs and a husband/wife pair (the husband was separated from their daughter at the U.S. border, the wife migrated afterwards with their son). Nine of the families were from Honduras, five from Guatemala, and five from El Salvador.<sup>38</sup> Of the 26 individuals, 13 were women, four were men, six were boys, and three were girls. Ages of the children ranged from six to 17 (eight out of the nine children were under the age of 10), and, of the adults, from 24 to 45 years old.

	Adults age ranges (24-45)	Children age ranges (6-17)	Total
Women/girls	13	3	16
Men/boys	4	6	10
Total	17	9	26

For the purpose of accuracy, quotations are taken directly from the clinicians' expert affidavits. Direct quotations from children and adults are only included if present in the clinician's evaluation.

## Families Fled Physical Violence and Death Threats from Gangs

Due to targeted violence in their home countries, parents arrived at the U.S. border with trauma exposure. All parents reported to Physicians for Human Rights' (PHR) clinicians that they experienced symptoms related to their pre-migration trauma when they arrived at the border, which was then compounded by the distress and panic they experienced during the separation process. Symptoms which began in their home country, and that they reported continued in the United States, included nightmares, insomnia, intrusive flashbacks, pervasive anxiety, and impairment in carrying out daily activities.

Within the group of families evaluated by PHR experts, death threats were the most common type of persecution experienced, with 15 out of the 17 adults interviewed receiving death threats in their country of origin. Many of the families suffered physical assault (eight), or their friends or relatives were killed (nine). Families also reported to PHR clinicians that they were subjected to extortion (six), sexual assault (five) and robbery (five), as well as two kidnappings and a poisoning case. All but one of the adults reported being subjected to multiple forms of persecution.

Most of the families reported being targeted by gangs or cartels, with 14 out of the 17 adults reporting such targeting. Six families were subjected to domestic violence (two by intimate partners and four by other family members), but four of those six were also victims of gang violence, reinforcing the dominance of persecution by gangs.

Almost all individuals reported being targeted based on their reported personal characteristics and past experiences. The two main trends were having a family member who was a gang target (11) and resisting gang coercion (eight): five adults resisted gang extortion or robbery, one refused to be a "girlfriend"/sex slave of a gang member, and two resisted gang/cartel recruitment. Other reasons for being targeted included: being a farmer or business owner (three), single mother living alone (three), people with relatives working in the United States (three), woman unable to leave a relationship (two), indigenous background (two), sexual violence survivor (two), and member of a minority religion (two). Their accounts indicated that the incidents were not random acts of generalized violence in society, but rather were specific and targeted to each individual based on traits which the individual could not or should not be expected to change.

In terms of efforts to address persecution, 15 of the 17 adults reported attempting different strategies for trying to avoid those who were harming them. The most common strategies were internal relocation, either moving to another city or to another neighborhood (six), or restricting movement and going into hiding (four), often in combination. In four cases, the individuals stated that they did not attempt relocation within their country because their persecutor had contacts nationwide. Other tactics included changing phone numbers and going silent on social media (two), meeting extortion demands (two), seeking safety with family or friends (three), and not resisting a robbery (one). In two cases, the adults had

**All parents reported to PHR clinicians that they experienced symptoms related to their pre-migration trauma when they arrived at the border, which was then compounded by the distress and panic they experienced during the separation process.**

sought to flee to the United States on two previous occasions, between ports of entry. One mother reported that she was “turned away” from the U.S. border in April 2018 and was then allowed to cross in May 2018.

Twelve of the 17 adults made reference to local law enforcement in their interviews. Four had filed police reports in their home country: in three cases, police did not investigate and in one case the investigation produced no result. In four cases, the individual did not file a police report, due to the risk of retaliation (two), concerns about corruption (one), and because it would be too emotionally taxing to relive the abuse (one). In another case, a man received death threats for filing a police report. Filing a police report, one asylum-seeker explained, is “like having a noose on your neck,” because you are immediately vulnerable to deadly retaliation. Gang members tried to recruit a teenager in Honduras as a lookout for police presence and threatened to beat him if he refused. There was one positive example where police effectively intervened in a domestic violence case; however, the same woman was later threatened because a gang thought her police report was about them. Although she had changed her phone number, the gang members found her new phone number and threatened to “cut out her tongue” because they thought she had gone to the police. The asylum seekers reported that the police were afraid of the gangs. In one town, the cartel killed several police officers and even dismembered one as a warning. In another, the police arrived at a murder scene near the police station hours after the crime occurred.

### Children Struggle to Recount Persecution Alone

The affidavits of children illustrated the children’s difficulty in describing the persecution they and their families faced in their home countries. Due to their level of development and maturity, young children often lack understanding or have difficulty articulating what they know. Separated from their parents, these children would have difficulties accessing asylum due to their lack of knowledge related to the persecution, in spite of the serious danger they face if returned. Critically, out of the nine children evaluated by PHR clinicians, only one, who is 17 years old, was able to narrate the story of the persecution he experienced in his country of origin. The other children were between the ages of six and nine. Even when being evaluated by PHR clinicians who are experts in child psychology, children’s narratives were limited: “He does not know why he and his mother left Honduras. His mother was not happy there but he did not know why”; “She did not know what had happened in the room or what the man did” [when her mother was raped in her presence]; “He is afraid to return to Honduras because there are bad people there.” Clinicians reported children saying: “Bad things happened” and “The bad people are killing good people. I could only take one small toy.” One seven-year-old girl would not answer any questions about the traumatic events her family had experienced; the evaluator stated, “Her participation in the Squiggle Game<sup>39</sup> is one of the more inhibited I have seen in the almost twenty years since I began using this technique, a level of inhibition that is very consistent with high levels of deep-seated anxiety.” However, once reunited with their parents, some children’s accounts could be fleshed out. “As expected for her age and level of development, the details she was able to provide were rudimentary but consistent with her father’s report”; “[He asked] his mother which room the bad men had put her in, and after she answered he drew his mother in that room ‘with the bad men holding a gun to her head.’”

## Parents Decided to Seek Protection for Their Children

All parents expressed fear that their child would be harmed or killed if they stayed in their home country. In almost all cases, their children had already faced severe harm before fleeing – gangs drugged, kidnapped, poisoned, and threatened children with death, violence, or kidnapping if they or their parents did not comply with the gang’s demands. Children were either direct targets for gang recruitment, or they were threatened in order to coerce their parents. Gangs benefit from underage recruits in their operations, because anti-gang laws have reduced penalties for juvenile offenders.<sup>40</sup> A consistent theme in the interviews was the use of schools as battlegrounds for gang violence. Families were fearful of children being targeted by gangs on the way to school, and most parents did not allow their children to walk to school alone in order to lower their risk of violence. A mother from El Salvador switched her daughter’s school several times so gang members could not find and kill her. Due to their dependency, children are also more likely to be affected by harm to family members, especially parents, than adults are. One mother from Honduras said, “I was scared to be killed and leave my children without a mother.”

Parents were confident that the journey to the United States would result in protection for their children. One father and his wife prioritized their most vulnerable child, deciding that the father would migrate with their youngest daughter first because she was more at risk since she was attending school. Another father decided to go ahead with his son so that he could send money back for travel costs for his wife and newborn daughter to join them. A mother said that she brought her daughter with her because she was convinced that she would be much safer than if she were left behind with relatives in Guatemala. Indeed, previous PHR research describes how children who are left behind when a parent migrates face an increased risk of harm and abuse in their home country.<sup>41</sup>

## Families Were Forcibly Separated at the Border

As mentioned above, all the parents included in this study feared that their children would be harmed or killed if they stayed in their home country. All made the difficult decision to undertake a long and arduous journey to seek asylum in the United States. A father from Honduras recalled traveling by train and foot to reach Mexico and then crossing the Rio Grande by raft to enter the United States.<sup>42</sup> Another mother also reported crossing the Rio Grande by raft and others reported taking buses, in desperation resorting to smugglers to keep their families safe in transit, and traveling through dangerous parts of Mexico.

What awaited these parents at the U.S. border after their journeys was an unexpected, chaotic, and haphazard separation from their children.

**Immigration authorities forcibly removed children from their parents’ arms, removed parents while their children slept, or simply “disappeared” the children while their parents were in different holding cells or receiving medical care.**

Nine of the 17 parents reported to PHR clinicians that immigration authorities abruptly separated them from their children and that they were prohibited from saying goodbye or consoling them. Immigration authorities forcibly removed children from their parents' arms, removed parents while their children slept, or simply "disappeared" the children while their parents were in different holding cells or receiving medical care. A mother from El Salvador recalled the "nightmare," starting "when officers woke her up at 2 a.m. and interrogated her with her daughter present. They told her she had broken the law and hence she would be arrested. They handcuffed her in front of her daughter and then proceeded to take her daughter to another room." A father from Honduras, who was separated from his daughter after presenting at a port of entry on the U.S.-Mexico border, reported that the guards at a detention center in Texas physically removed his daughter and he recalls her crying for him as they took her away.

In a few cases, PHR clinicians documented instances of parents being separated from their children while the children slept. A father from Honduras described being "woken up around four in the morning and told that he had to go to court to see a judge. Up to this point, he had been told he was going to be deported and they would not clarify if his son would be deported with him. He asked if he could wake up his son but was told no because he would be with him again soon after court. He left his son there on the floor covered with an aluminum blanket." Despite being told that he would be reunited with his son "soon after court," he would not see him again for another 73 days. One mother reported being taken to the hospital to receive medical care for a large cut on her finger. When she was released from the hospital, her two sons were gone, and no one would explain to her where they went.

According to the narratives captured in the affidavits, U.S. immigration authorities separated these families in a haphazard and chaotic manner. No care or concern was given for the families and, in particular, for the children. Immigration authorities did not share contact information or timelines for reunification with any of the separated families in this study. These accounts corroborate the Department of Homeland Security's (DHS) Office of Inspector General's (OIG) review of family separation under the Zero Tolerance policy, in which OIG found that DHS provided inconsistent information to asylum seekers traveling with families, which resulted in a chaotic reunification process.<sup>43</sup> They also corroborate a more recent OIG report, which confirmed that DHS lacked the IT capability needed to track and reunite separated families, despite knowing about these deficiencies since November 2017.<sup>44</sup>

## Separated for No Good Reason and Without Due Process

*"I missed my father. I had no idea whether he was alive or not."*

*A 17-year-old boy from El Salvador*

Within the group of families evaluated by PHR clinicians, almost all reported that immigration authorities failed to provide any explanation as to why they were being separated, where their family members were being sent, and how they would be reunited. A mother from Honduras told a PHR clinician that while in a

*“She asked the official why her daughter was being taken away from her. The official reportedly responded that [her daughter] was going to be adopted by an American family and that [she] would be deported and that she would never see her daughter again.”*

PHR psychologist describing a mother from El Salvador

Customs and Border Protection (CBP) processing center, she was informed that she and her son were going to be separated but the only explanation given as to *why* they were being separated was that the agents were simply “following orders.”

In addition, the asylum narratives documented four instances of parents being treated cruelly by immigration authorities when asking for the whereabouts of their children. A mother from El Salvador recounted “an interaction with a U.S. official in which she asked the official why her daughter was being taken away from her. The official reportedly responded that [her daughter] was going to be adopted by an American family and that [she] would be deported and that she would never see her daughter again.” Another mother, when asking about her child, reported “the officers would ignore her, or tell her that she was never going to see her daughter again, and that she should learn to deal with it.”

Other parents were accused of breaking the law, despite all being asylum seekers, and were told that the separation from their children was punishment for this “crime.” A mother from Guatemala who was detained at the South Texas Family Residential Center in Dilley, Texas recalled that, while detained, “an official yelled at all the women, telling them that their children had been taken away and they were never going to get them back.” Another mother from Guatemala recounted immigration authorities using coercive tactics to force her to abandon her asylum claim. She “reported being told that officers were going to separate her from her daughter unless [she] signed deportation paperwork that was written in English. They also said that they were going to make sure that she would never see her daughter again.”

Despite the government claiming that asylum seekers who enter at a port of entry would be exempt from forcible separation from their children,<sup>45</sup> the recorded accounts show that these same asylum seekers were targeted and then accused of breaking the law. Immigration authorities then used the separation as a method to coerce the asylum seekers to abandon their asylum claims and be subject to deportation. None of the parents in this cohort received any hearing or judicial review to justify the separation. One father was accused by immigration officials of trafficking his daughter and was asked, “How do we know she is really your daughter, how do we know you didn’t steal her?” No justification was given for the false accusation.

## Families Were Afraid of Never Seeing Each Other Again

Given the minimal information provided to the parents and children as to when they would be reunited, multiple families expressed a fear of never seeing their loved ones again. Four parents reported to PHR clinicians that, while separated, they worried they would never get the chance to see their children again. Two of



*“My life had no value, it felt as if my body was gone.”*  
A mother from El Salvador after being separated from  
her sons

the mothers interviewed by the clinicians expressed feelings of guilt and the perception that they were “bad mothers” for letting their children be taken from them. Other parents felt hopeless, desperate to be reunited with their children, as if their life had no value, and shocked that this could happen to them in the United States – a country where they had sought safe haven.

Parents also experienced heightened anxiety and nervousness (nine), low appetite (five), lack of motivation, exhaustion, and an inability to sleep. Parents reported feeling “devastated,” that their minds were on “overload,” and they could do nothing but think of their children and whether they were safe (four). Multiple parents (four) reported crying and feeling like they were in a “black hole.” Two of the 17 parents experienced thoughts of suicide while separated from their children.<sup>46</sup> A mother from El Salvador who was separated from her daughter “described the separation as ‘emotional turmoil’ where she could not eat, sleep or have any motivation to do anything productive. She felt she was in a ‘black hole’ and lost track of place and time. She contemplated suicide because [she] was in such emotional and mental despair.” Another parent, a father from Honduras, told PHR “that the only time he ever thought about [suicide] was when he was separated from his son and while watching the TV coverage of all the deported children who were separated from their parents.”

Unable to articulate the trauma they experienced in the same manner as their parents, children used simpler terms such as feeling “sad” and “scared” as a result of the separation (four). Children feared that they would never be reunited with their parents and, worse, that their parents were dead (four). One child, a six-year-old from Guatemala, told PHR that she felt abandoned by her mother and “continued to wonder where her mother was and when they would see each other again.” The same child said, “Every night I would go to bed alone, I was sad, and I would cry by myself.”

## Children Sent Hundreds and Thousands of Miles Away

The families interviewed by PHR clinicians were separated from a minimum of 30 days to more than 90 days. Most of the families were separated from 60 to 69 days. PHR clinicians also interviewed a child who was still separated from his parent at the time of the evaluation. Although this is a shorter amount of time than the median length of separation estimated by the American Civil Liberties Union (ACLU) for all separated families using numbers provided by the government (154 days), the parents in PHR’s cohort spent weeks without

*“She could not eat, sleep or have any motivation to do anything productive. She felt she was in a ‘black hole’ and lost track of place and time. She contemplated suicide because [she] was in such emotional and mental despair.”*

A PHR clinician describing a mother from El Salvador who was separated from her daughter

*“Every night I would go to bed alone, I was sad, and I would cry to myself.”*

*A six-year-old girl from Guatemala who said she felt abandoned after being separated from her mother*

contact with their children and were imprisoned and detained in different parts of the country.<sup>47</sup>

Almost all the families were held in different states during their separation. Five of the 17 parents reported being transferred to several different facilities – from CBP processing centers (known to migrants as *las hieleras* and *la perrera*, or “iceboxes” and “the dog pound”), to county jails, and to Immigration and Customs Enforcement (ICE) detention centers. Parents in this cohort were held in Arizona, Montana, New Jersey, and Texas. Meanwhile, their children were sent to foster care homes in Kansas, Michigan (two), New York (five), Pennsylvania, South Carolina, and undisclosed states.

The trauma caused by the separation was exacerbated by the minimal or no contact the parents had with their children. Parents reported going several weeks without being allowed to speak to their children. One mother who asked to speak to her nine-year-old son “was given a phone number and was told that she could call that number to ‘keep in communication with her son.’ She reports that when she tried calling the number, she discovered that it was ‘fake and wasn’t true.’” The three fathers interviewed by PHR clinicians reported being denied contact with their children while in immigration detention. One father who was separated from his son for 73 days “sent multiple letters to ICE in an attempt to locate his son.” The other father reported “trying so hard to contact his son but no one was able to give him information about where his son was.”

## Families Reported Terrible Detention Conditions

Eight of the 17 parents interviewed by PHR reported poor conditions at the centers where they were held. One mother, held in a detention center with her child prior to separation, recalled being “mistreated ... [and] reports that they asked for water and food for the children and were fed only once a day.” Two other mothers recalled being handcuffed while being moved from one facility to another. Other parents reported overcrowding, poor quality of food, being forced to sleep on the floor, and cold temperatures inside the facilities. It should be noted that two of the mothers held at the South Texas Family Residential Center in Dilley, Texas told PHR evaluators that they had access to mental health services and “activities” while detained.

Children also reported being mistreated or living in poor conditions while detained and while in foster care. A nine-year-old boy told his mother that “while he was in detention, he was beaten by the people working in the detention

*“They would hit me with my shoes when I was sleeping to try and wake me up.”*

*A nine-year-old boy from Honduras, describing conditions in immigration detention*

center.... They yelled at him and forced him to eat... [and] would hit him with his shoes to wake him up.” Similar to their parents, the other children reported sleeping on the floor, poor quality of food, overcrowding, and being deprived of fresh air and sunlight. A clinician related how a six-year-old girl from Guatemala described her time in foster care (or what she referred to as “jail”): “During this period of time, she slept on the floor. She also described being very hungry. The only things the children were given to eat, she stated, were apples, cookies, and bottled water. She described becoming close to some of the children detained with her, ‘but then they took those girls away.’ She stated that she was scared in jail.” Only one child told PHR that he had access to medical and education services while in foster care.

## Parents Struggled With Credible Fear Interviews While Separated from Their Children

*“In that moment, nothing else mattered.”*

*A mother from Guatemala who was separated from her sons*

Seven of the 17 parents interviewed by PHR clinicians did not pass their credible fear interview (CFI) – an initial screening conducted by DHS’ United States Citizenship and Immigration Services Asylum Officers – while separated from their children.<sup>48</sup> A Guatemalan mother reported an inability to concentrate during her interview with an asylum officer, as she felt worry and fear over her sons’ whereabouts. “In that moment, nothing else mattered,” she told a PHR clinician. Another mother who had experienced lack of sleep due to her separation from her son recounted how during her interview “her mind was dark.” A clinician documenting one parent’s state of mind during her CFI wrote: “grief, despair and terror that she would never see her son again might well have diminished her ability to think entirely.”

Multiple medical evaluations commented on how the parents’ anxiety, distress, and fear of never seeing their children again impaired their ability to concentrate and recount their persecution in a linear and detailed manner during their CFIs. In fact, a federal judge – in response to a lawsuit filed by parents separated from their child(ren) during the CFI process, who failed their CFIs – provided preliminary approval for a settlement that would allow reunited families to retake their CFI, thus giving them a second chance at their asylum claim.<sup>49</sup>

## DHS Had No Plan to Implement the Reunification of Families

DHS was unprepared and ill-equipped to handle the reunification of families after their lengthy separation; although DHS originally planned to separate as many as 26,000 children,<sup>50</sup> they knew in advance that they did not have the technological capability to track these cases.<sup>51</sup> Some of the parents interviewed by PHR clinicians sought assistance from attorneys and non-governmental organizations when released from detention. Others were given erroneous information as to when and how they would be reunited. Immigration authorities told one mother that, upon her release from a prison in Arizona, she would be

Even after reunification, at the time of the PHR evaluation, all families reported that they still struggled with the trauma inflicted by the family separation policy.

reunited with her children and given a “permit” to stay in the United States for a year. Instead of being released, she was transferred to a family detention center where she was reunited with her two sons. At the time of her evaluation with PHR, the mother and her two sons were still detained. In addition, ICE escorted one of the fathers to Michigan, claiming that he would be reunited with his son there. Instead he was detained for another 15 days. When he was finally reunited with his son, it had been 73 days since he last saw him. Even after reunification, at the time of the PHR evaluation, all families reported that they still struggled with the trauma inflicted by the family separation policy.

## Reported Symptoms and Psychological and Behavioral Reactions to Family Separation

In children, exposure to trauma can have persistent effects. Such childhood exposures are also known as Adverse Childhood Events, or ACEs.<sup>52</sup> Whether a one-time event or multiple events, trauma can cause helplessness, general fear, worries about safety, and difficulty describing emotions or events. These can manifest as a loss of previously attained developmental or age-appropriate behavioral skills, or through more vague somatic complaints such as headaches, stomach aches, and generalized pain. Children who experienced trauma often have sleeping difficulties and exhibit heightened responses to perceived threats – such as a separation from a family member or trusted adult – in the form of crying, being fearful, or clinging to a trusted adult. Aggressive behaviors are also common, as is regression – bed wetting, loss of language, return to thumb sucking, and inability to control bowel movements and urination. Such symptoms were consistently described by the evaluators following family separation, and, in many cases, as not resolving even after reunification. It may take several years and may require rigorous psychological and social support for children to overcome such trauma.

In summarizing the emotional status and reactions of the asylum seekers both to the family separation and at the time of the examination, PHR clinicians chronicled nearly everyone interviewed as exhibiting symptoms and behaviors consistent with trauma and its long-lasting effects: being confused and upset; being constantly worried; frequent crying; having sleeping difficulties; not eating well; having nightmares; being preoccupied; having severely depressed moods, overwhelming symptoms of anxiety, or physiological manifestations of panic and despair (racing heart, shortness of breath, and headaches); feeling “pure agony,” despair, and hopelessness; feeling emotional and mental despair; and being “incredibly despondent.”

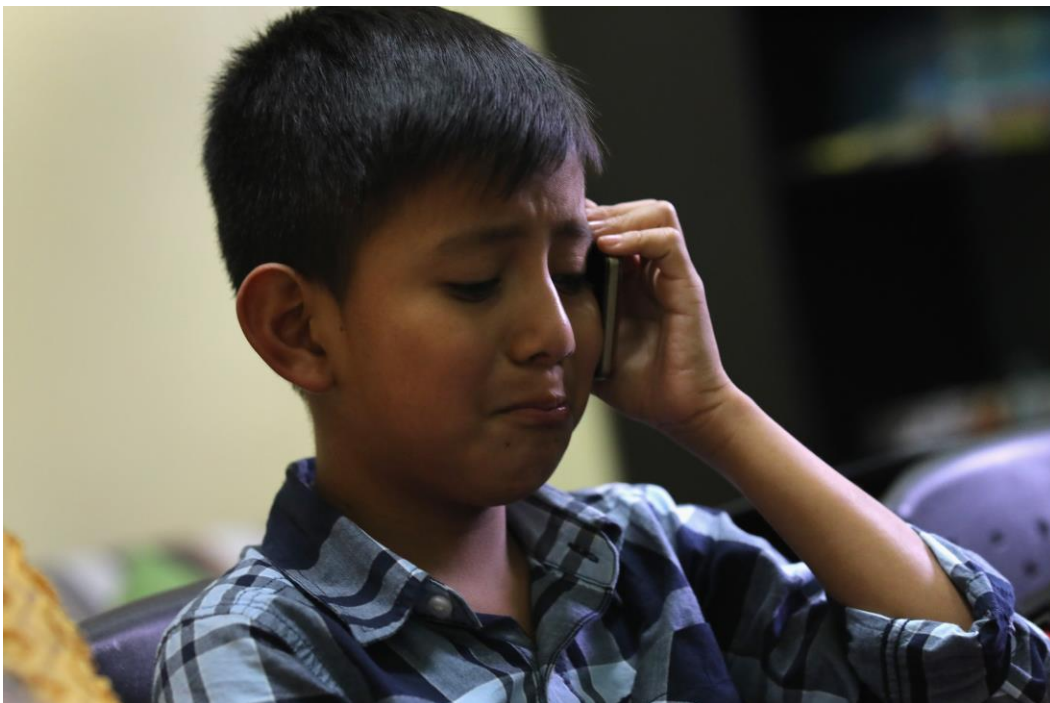
*“It was a month of desperate sorrow and fear.”*  
A mother from Honduras, speaking of the time she was separated from her son

**It may take several years and may require rigorous psychological and social support for children to overcome such trauma.**

One mother who had reported meeting with a mental health professional at the detention center following separation from her child reported that they told her that “what she needed was not medication but rather reunification with her child.”

Trauma exposure in adults can manifest physically as well as psychologically, emotionally, and spiritually. Common signs of trauma include lethargy, fatigue, poor concentration, a racing heartbeat, bouts of anxiety, panic attacks, depression, or vague somatic symptoms (e.g., headaches, abdominal pain, general pain). The narratives recounted by separated parents to PHR’s clinicians are highly consistent with what is commonly observed in people affected by trauma.

The evaluating clinicians noted that the children exhibited reactions that included regression in their age-appropriate behaviors, crying, not eating, having nightmares and other sleeping difficulties, as well as clinging to parents and feeling scared following reunification with their parents. One six-year-old girl from Guatemala who was separated from her father for four months and taken to New York to live with foster families, was reported by a social worker who had seen her while in New York to be “crying in the foster home, difficulties getting out of the bed in the morning, difficulties sleeping alone, difficulties with attention, refusal to engage in daily activities like brushing her teeth or eating, and aggressive behaviors towards others including biting, kicking, and hitting



*Abner Raul, 10, speaks with his mother on the phone after being reunited with his father in Guatemala City. He was returned to his family months after they were separated in the United States and his parents deported.*

*Photo: John Moore/Getty Images*

others.” The social worker commented that the girl’s “aggressive behaviors towards peers seemed to increase following contact with her mother through video-calling.”

One Honduran father recounted that, following reunification and release from detention, a psychologist came to their apartment four times in an attempt to work with his traumatized son: “Each time the son would refuse to cooperate and would throw things at the therapist.... It appears his son was afraid of strangers, afraid they will take him away from his father. When his son gets nervous he will pace and suck his thumb.”

## Diagnoses Observed and Recorded

The vast majority of mental health diagnoses given by the evaluating clinicians and depicted in the affidavits were found to be highly consistent with these parents’ and children’s reports of their traumatic experiences in detention and family separation. At the same time, several clinicians commented on the likelihood that the present symptoms were exacerbated by pre-existing trauma from events and incidents in the asylum seekers’ home countries. According to the clinicians, most individuals (both adults and children) met diagnostic criteria for at least one mental health condition such as post-traumatic stress disorder (PTSD), major depressive disorder (MDD), or generalized anxiety disorder (GAD). While several people did not meet all diagnostic criteria for these conditions, nearly everyone exhibited some hallmark features and symptoms of these three major conditions. Some of the children were described as exhibiting symptoms of regression – manifested by behavioral changes, an inability to sleep independently, clinging to caregivers, and an inability to hold their urine.

## Consistency and Credibility

PHR’s experts who evaluated the parents and the children noted that all the individuals they had interviewed and observed had “demonstrated appropriate emotional reactions to stressful and traumatic situations,” and did not show any signs of malingering (described in the DSM-V as “the intentional production of false or grossly exaggerated physical or psychological problems” that are motivated by external incentives). Following their in-depth evaluations, often lasting more than three hours, they uniformly described the asylum seekers in terms such as “credible historian,” “did not show any evidence of malingering,” “her history was consistent,” “I find him to be credible,” “consistent throughout the interview and appropriately correlated with the content of the conversation,” showing “no evidence of exaggeration or deception,” providing an account that “constitutes an entirely expectable, natural and cohesive psychological story,” having “no indication of exaggerating or faking symptoms,” and “displayed none of the cardinal features of the malingering patient.”

*“She and her son need time and a place in which to recover emotionally from the scars of the trauma they experienced upon entering the USA.”*

PHR clinician describing a mother from Honduras who was separated from her son

The Persistent Psychological Effects of Family Separation  
Mental Health Diagnoses of Migrant Parents and Children Separated  
by U.S. Immigration Policies



Physicians for  
Human Rights

Parents

Gender	Age	Country of Origin	Duration of Separation	Diagnoses		
				PTSD	Depression	Anxiety
Male †	36	El Salvador	26 to 30 days	—	—	—
Female	30	Honduras	< 30 days	●	—	—
Female	28	El Salvador	30 days	●	—	—
Female	26	Honduras	40 to 41 days	●	●	—
Female	**	Guatemala	57 days	●	●	●
Female	24	***	< 60 days	●	●	●
Female	**	Honduras	60 days	●	—	—
Female	27	Guatemala	60 days	●	—	—
Female	39	Honduras	60 days	●	●	—
Male	40	El Salvador	60 days	●	—	—
Female	**	El Salvador	66 days	●	—	—
Female	29	Guatemala	71 days	●	●	—
Female	45	El Salvador	73 days	●	—	—
Male	32	Honduras	73 days	●	●	●
Female	29	Honduras	< 90 days	●	●	●
Female	24	Honduras	≈ 90 days	●	●	—
* †	33	Honduras	N/A	—	—	—

Children

Gender	Age	Country of Origin	Duration of Separation	Diagnoses		
				PTSD	Depression	Anxiety
Female	7	El Salvador	30 days	—	—	●
Male	8	Honduras	40-41 days	●	●	●
Male	8	Honduras	44 days	●	—	—
Female	6	Guatemala	51 days	●	●	●
Male ‡	6	Guatemala	60 days	●	●	●
Male	9	Honduras	60 days	●	—	—
Male	17	El Salvador	60 days	●	—	—
Female	6	Guatemala	4 months	●	—	—
Male	8	Honduras	> 4 months	—	●	●

Key

- \* Gender withheld at attorney's request
- \*\* Age withheld at attorney's request
- \*\*\* Country of origin withheld at attorney's request

- † Symptoms suggestive of trauma
- ‡ Split personality features

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## Clinical Recommendations

In virtually every case encountered, PHR's expert evaluators noted that the trauma suffered by the parents and the children warranted further intervention and ongoing therapeutic support, because the events were causing "significant distress" and ongoing functional impairment. The interventions most frequently recommended included "trauma-focused psychotherapy," removal from detention, and psychiatric medications.

The clinical experts also commented on the risks involved in asylum seekers being returned to their country of origin. They noted that a return to the country of origin would mean worsening symptoms due to a lack of available services, as well as – in one case – due to "returning to the site of her initial traumas." "The specific mental health therapy that (she) requires is not accessible to her in Guatemala. Her sons also need pediatric-specific, trauma-informed therapy that cannot be provided for them in Guatemala," the clinician noted.

In many cases, symptoms and distress continued after reunification, prompting the evaluators to recommend not only therapy but removal from detention. "Her symptoms are expected to continue until she is removed from detention, which is a constant reminder of the trauma of the separation from her sons, and receives appropriate, trauma-focused psychotherapy.... She needs to be in an environment that does not constantly remind her of the trauma of the separation. It is my professional recommendation that she and her sons be released from detention and treated with trauma-focused therapy in the U.S.... [She] would also benefit from medication." Of a 30-year-old mother, the clinician noted: "The presence of immigration officers is a constant reminder of the trauma she experienced at the hands of immigration officers at the border."

The examining clinicians recommended that many of the adults and children receive professional mental health support because, as was stated regarding one of the children, "if left untreated... (he) would be at high risk for future psychological and physical problems." One expert clinician wrote of a six-year-old girl from Guatemala, (she) "is in need not only of stability and the ongoing security provided by her mother's care, but also of long-term mental health services to address the terror and sense of abandonment she experienced when forcibly separated from her mother. Such services would be impossible to obtain in Guatemala."

Untreated trauma can have chronic and long-lasting effects on both adults and on children and adversely affect their physical health, mental health, and behaviors. Those who experience trauma, especially as children, have higher rates of chronic medical conditions, such as cardiovascular disease, cancer, and premature death. In addition, there is an increased risk of psychiatric disorders such as anxiety, depression, and psychosis, and of detrimental coping behaviors such as smoking and the use of alcohol or drugs. Recovery from trauma is possible but requires psychiatric and behavioral health interventions in the context of strong social and family-mediated support.

*"[She] is in need of ... long-term mental health services to address the terror and sense of abandonment she experienced when forcibly separated from her mother."  
A PHR clinician describing a six-year-old Guatemalan girl*



# Legal Framework

## Forced Family Separation as Implemented in the United States Violated Rights

Forced separation of children and parents in the manner described by clients to PHR's clinicians violates fundamental rights under U.S. and international law. Following reunification with their family members, several of these clients have sued the federal government, stating that the practice of forced family separation violated their constitutional rights, as well as their rights under the 1980 Refugee Act.

All persons under U.S. jurisdiction, including non-citizens, are protected by rights under the U.S. constitution, human rights treaties ratified by the United States, and customary international law. All persons have the right to due process under the law,<sup>53</sup> to equal protection under the law without discrimination,<sup>54</sup> to freedom from torture and cruel, inhuman, and degrading treatment,<sup>55</sup> and to protection from arbitrary interference in family integrity.<sup>56</sup> Under international law incorporated into U.S. law, individuals fleeing persecution in other countries have the right to seek asylum in the United States.<sup>57</sup>

The treatment of these families by U.S. officials raises numerous legal issues. Using just one category of human rights violation to describe the forced family separation policy is not adequate to account for the range of abuses it comprises and the harms inflicted; assessing the policy and practice requires application of laws related to multiple categories of violations.

According to the reports described in these medical affidavits, some government officials:

- Took children from parents without due process (no parents examined by PHR clinicians were afforded hearings or judicial review prior to deprivation of their parental rights);
- Did not give parents or children a legitimate or compelling reason (or any reason, in some cases) for the separation;
- Did not disclose the whereabouts of children in a reasonable amount of time;
- Did not facilitate timely contact with children;
- Did not independently ensure reunification of families (families reported that reunification required facilitation by attorneys, civil society organizations, and non-detained family members);
- Told parents that their children would be adopted and that they would not see their children again;
- Used the separation to coerce and intimidate families into signing government forms which would terminate their asylum claims;
- Treated the families in an inhumane manner before and during separation, which exacerbated their trauma; and
- Subjected the families to poor conditions of confinement before and during separation, which exacerbated their trauma.

As a result of the forced separation of families, severe harms were inflicted:

- Separation resulted in severe psychological harm and trauma both for parents and children, with ongoing negative impacts documented at the time of the PHR evaluation;
- Separation interfered with the parents' ability to make their cases during their credible fear interviews due to the associated trauma, which made them unable to concentrate and think logically because their immediate and only concern was to be reunited with their children;
- Young children were unable to articulate their persecution claim alone without their parents; and
- Post-reunification, the government failed to provide families with psychosocial services to recover from the trauma of separation.

## Government Cruelty Increased the Severity of Harm

**The government did not keep accurate records of the separated families and ... failed to make adequate, or any, provision for tracing and reunifying separated families.... The nationwide implementation of this policy inspired terror in the families.**

It is clear from internal government oversight reports and ongoing litigation that the government did not keep accurate records of the separated families and did not seek to compile or release existing records to legal counsel until compelled by a court order.<sup>58</sup> The parents evaluated by Physicians for Human Rights (PHR) clinicians could not have known about these circumstances at the time. Therefore, what the parents reported to PHR – that they were denied information about the whereabouts of, contact information for, and eventual reunification process with their children – was not merely happenstance, but was instead the direct result of deliberate inaction on the part of the government, which failed to make adequate, or any, provision for tracing and reunifying separated families. An internal government report confirmed that DHS knew since November 2017 that the department lacked the IT capability needed to track and reunite separated families, yet proceeded to implement the policy anyway.<sup>59</sup> This policy also separated hundreds of preverbal children, thereby, according to the government's own internal assessment, endangering children's very right to their names and identities,<sup>60</sup> a serious violation of children's rights.<sup>61</sup> Internal documents and emails obtained through a Freedom of Information Act request also demonstrate that DHS officials were warned numerous times by Department of Health and Human Services staff and consultants about the psychological harm caused to children by abrupt forced separation from their parents, including through filing hundreds of significant incident reports.<sup>62</sup>

The policy context also aggravated the severity of harm, as the nationwide implementation of this policy inspired terror in the families. Several parents evaluated by PHR clinicians reported being told by U.S. officials that their children would be adopted by American families. A few mothers reported crying together in groups, after being told by U.S. officials that they would never see their children again; a father described how he contemplated suicide while watching the television news coverage of other families separated across the United States. One mother who was still in Honduras while her husband and

daughter were separated said she thought that she had “lost” her daughter and could not eat for days after her husband told her the news.

Forced separation is an ongoing form of harm, as almost all of the family members, both parents and children, reported to PHR that they still fear that they will be separated again by the U.S. government. The government’s failure to keep accurate, or any, records while ramping up implementation of a nationwide policy targeting migrants has greatly contributed to increased harms from the forced family separations, including the risk of children losing their identities, which continue to haunt parents and children until today. This aggravating circumstance has increased the gravity of the violation and the severity of the inflicted harms.

Separation resulted in severe psychological harm and trauma both for parents and children.... almost all of the family members, both parents and children, reported to PHR that they still fear that they will be separated again by the U.S. government.

## U.S. Family Separation Cases Documented by PHR Meet Criteria for Torture

Torture is defined as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”<sup>63</sup> In other words, torture is an act which 1) causes severe physical or mental suffering, 2) is done intentionally, 3) for the purpose of coercion, punishment, intimidation, or for a discriminatory reason, 4) by a state official or with state consent or acquiescence.

PHR finds that the U.S. government’s treatment of asylum seekers through its policy of family separation constitutes cruel, inhuman, and degrading treatment and constitutes torture in all of the cases documented by PHR. PHR’s evaluations were conducted according to the principles of the Istanbul Protocol, the UN guidelines for documenting torture. In the cases that PHR documented, U.S. officials intentionally carried out and condoned unlawful actions causing severe pain and suffering, in order to punish, coerce, and intimidate Central American asylum seekers to give up their asylum claims, in a discriminatory manner. Torture and cruel, inhuman, and degrading treatment are violations of human rights and are prohibited under domestic and international law in any and all circumstances. PHR’s findings corroborate the assessment of other human rights experts who have found that the family separation process as implemented in the United States meets the legal definition of torture.<sup>64</sup>

The International Covenant on Civil and Political Rights prohibits both torture and cruel, inhuman, or degrading treatment or punishment in all circumstances, even during times of national emergency.<sup>65</sup> The Istanbul Protocol, in its upcoming updated edition, states that the determining factor for distinguishing torture from cruel, inhuman, or degrading treatment “may best be understood to

be the purpose of the conduct and the powerlessness of the victim, rather than the intensity of the pain or suffering inflicted.”<sup>66</sup> In addition to the torturer’s purpose and victim’s status, other international bodies have considered the types of acts involved, the severity of resulting harm, the official status of the torturer, and whether the harm was related to a lawful sanction.<sup>67</sup>

PHR’s evidence suggests that 1) the harm was severe, especially when considering the impact on small children, who have a special vulnerability to mental and physical harm; 2) there was clear intentionality related to intimidation and coercion; 3) the practice was carried out by government actors; and 4) cannot be justified by a lawful sanction, since parents were separated who did not cross the border irregularly. All of these elements speak to the classification of U.S immigration enforcement actions in these cases as torture rather than cruel and degrading treatment.

The UN Convention Against Torture imposes the following obligations on states related to both torture and cruel, inhuman, and degrading treatment: to ensure that all government officials are properly trained in the prohibition of torture, to systematically review all policies and practices related to deprivation of liberty in order to prevent torture, to ensure a prompt and impartial investigation of any act of torture, and to protect all complainants and witnesses from retaliation. However, only in the case of torture do states have the legal obligation to prosecute or extradite torturers, to ensure judicial remedies for torture victims, to provide redress and adequate compensation and rehabilitation, and to negate the legality of all statements obtained through torture.<sup>68</sup>

**U.S. officials intentionally carried out and condoned unlawful actions causing severe pain and suffering, in order to punish, coerce, and intimidate Central American asylum seekers to give up their asylum claims.**

## The U.S. Family Separation Policy Meets Criteria for Enforced Disappearance

In addition, PHR concludes that the U.S. policy and practice of family separation also constitutes enforced disappearance, which is prohibited under international law in all circumstances, including war or public emergencies.<sup>69</sup> Enforced disappearance is defined as any deprivation of liberty by the state where there is concealment of the fate or whereabouts of the disappeared person.<sup>70</sup> In all cases documented by PHR, there was a period where parents were unaware of their children’s whereabouts, were not able to contact them and had no assurance of, or timeline for, eventual contact or reunification. Government failure to track children and parents, to facilitate parental contact, or plan for reunification deprived children of protection under the rule of law, because they were deprived of parental oversight and consent for their welfare, without appropriate due process, such as a hearing involving child welfare professionals. Parents who asked U.S. officials about the wellbeing and whereabouts of their children were not given answers for weeks and months at a time. The concealment and lack of contact points to the crime of enforced disappearance.<sup>71</sup> Parents’ and children’s reasonable fear of permanent disappearance, and experience of temporary disappearance, substantively increased the traumatic nature of the separation event. Even after the June 2018 injunction – which prohibited further

separations – ordered the government to provide numbers of separated children and to facilitate reunification, the government did not provide complete information about the extent of the previous and ongoing separations.<sup>72</sup>

The UN Working Group on Enforced or Involuntary Disappearances has expressed concerns about the practices of states which increase the risk of disappearance. Separating families, without informing family members about whereabouts or allowing communication, may amount to temporary disappearances; disappearances, no matter how temporary, should be strenuously avoided.<sup>73</sup> The International Convention for the Protection of All Persons from Enforced Disappearance prohibits any form of deprivation of liberty by agents of the state, followed by concealment of the fate or whereabouts of the person, which place such a person outside the protection of the law.<sup>74</sup> In order to prevent the crime of enforced disappearance, states parties are obligated to guarantee that persons deprived of liberty have contact with their family and legal counsel and to keep accurate records of detainees which shall be promptly available to any judicial or other competent authority, as well as relatives and legal counsel,<sup>75</sup> and with special protections for children, given their special vulnerability in the case of disappearance.<sup>76</sup> Without adequate verification and registration measures and contact with family and legal counsel at each stage in the detention process, migrants run a great risk of becoming a victim of enforced disappearance.<sup>77</sup>

Parents who asked U.S. officials about the wellbeing and whereabouts of their children were not given answers for weeks and months at a time. The concealment and lack of contact points to the crime of enforced disappearance.



*A Honduran father and his six-year-old son, who were separated for 85 days after they crossed into the United States. The father, who was detained in Oklahoma while his son was sent to New York, said it took six weeks from the time of separation before he was able to call his son.*

*Photo: Mario Tama/Getty Images*

## U.S. Government Actions Were Contrary to Domestic and International Law

Decisions made at the highest levels of government must be discerned from public statements and release of official documents; however, based on reports of PHR's clients, we can assess reported actions and statements by U.S. officials implementing the policy at the ground level. The actions reported by those interviewed contribute to the understanding of the pattern of conduct under this widespread operational policy.

The U.S. officials operated under the guise of legality while depriving parents and children of their right to family integrity, without due process. Officials exceeded their authority and broke the law by separating parents and children who had sought asylum without due process and without proof that the parents were unfit or a danger to the child, as well as by withholding information about children's whereabouts and contact information. According to PHR client reports, U.S. officials justified their actions by stating that they were following orders, that the asylum seekers were criminals, and in one case even implying that the father was a trafficker rather than a parent.

The lack of coordination with other agencies can be seen in the response of judges, whose hearings were often the only official point of government contact for parents, since there were no hearings held in relation to deprivation of their parental rights. In one case, a judge told the mother not to ask about the whereabouts of her children. Another judge blamed a mother for not knowing the whereabouts of her child during the separation period, although she had been asking U.S. officials for this information without a response.

Serious psychological harm to children and families was a foreseeable result of Department of Homeland Security implementation of the forced family separation policy. It was within the government's power to prevent separation through use of alternatives to detention, to reduce the duration of separation through a reunification plan, and to ensure timely information about the wellbeing, whereabouts, and contact information for children and parents by setting up appropriate information and communications channels. Instead, the U.S. government took no reasonable measures to minimize the predictable psychological harms which resulted from its policy to separate parents and children. In many cases, individuals employed by the U.S. government similarly did not take additional measures to prevent these harms.

Government rhetoric was clear that preventing Central American migrants from seeking asylum in the United States was the desired ultimate outcome of the family separation policy.<sup>78</sup>

**Preventing Central American migrants from seeking asylum in the United States was the desired ultimate outcome of the family separation policy.... [and the] U.S. government took no reasonable measures to minimize the predictable psychological harms which resulted from its policy to separate parents and children.**

# Conclusion

This study's findings provide evidence of the adverse physical and mental health effects that resulted from the Trump administration's family separation policy and its illegality. The asylum seekers interviewed by PHR clinicians reported symptoms consistent with post-traumatic stress disorder, major depressive disorder, and generalized anxiety disorder. Exacerbating any existing pre-migration trauma, the families in this report, upon arrival to the United States, were subjected to forcible separation and given no explanation by immigration authorities as to why they were separated and when they would be reunited, which led many to believe that they would never see their loved ones again.

The U.S. government must uphold domestic and international standards by fulfilling its obligations to provide redress to victims of torture and ill-treatment, including in the form of rehabilitative services;<sup>79</sup> to ensure the families of disappeared children know the truth of their family members' whereabouts by dedicating adequate government resources to ensure timely reunification for all separated families, including deported parents;<sup>80</sup> and to prosecute U.S. officials who have broken the law.

In addition, the asylum seekers in this study reported inhumane detention conditions and cruel treatment by immigration authorities, providing further evidence of the administration's disregard for the human dignity of migrant families. While the Bush and Obama administrations introduced deterrence methods and increased family detention, the Trump administration violated several fundamental human rights by separating asylum seeking families and sought to undermine the right to seek asylum. Physicians for Human Rights calls upon the U.S. government to end all enforcement policies, including family separation, that have adverse health effects and restrict the right of people to seek asylum in the United States.

# Recommendations

## To the U.S. Government

The U.S. Administration, Department of Justice, and Department of Homeland Security should:

### **Protect families from future violations through reforming policies and practices:**

- Prohibit the separation of families arriving together at the U.S.-Mexico border, except in cases where there has been a rigorous assessment of proven risk of present harm to the child, according to a best interest determination reflecting child protection best practices;
- Fully disclose information about numbers of separated and reunited families, the whereabouts and status of separated parents and children, and best interest determination findings to all family members and their legal counsel, and record this information in official records;

- Establish appropriate interagency communications and tracking systems for cases where parents and children are separated for lawful reasons in accordance with due process;
- Increase resources for and utilization of alternatives to detention through contracts with nonprofit organizations, such as the previous Family Case Management Program,<sup>81</sup> and prioritize the timely release of children to community settings with referrals to low-cost legal and community resources;
- End detention of children, which is never in their best interest, and abide by federal standards for care of children in custody, including time limitations and licensing requirements determined by the *Flores* Settlement Agreement;<sup>82</sup>
- End family detention, which has been shown to have unacceptably high health risks for children and is harmful to their psychological wellbeing, even when they are held with their parents;
- Ensure humane and adequate conditions of confinement in immigration detention, whether in Customs and Border Protection (CBP) or Immigration and Customs Enforcement facilities, including access to medical screening and treatment, and adequate food, water, and sleeping conditions;
- Fully implement all recommendations of the Department of Homeland Security (DHS) and Department of Health and Human Services Office of Inspector General and increase funding for independent oversight and review;
- Recognize and address displacement trends driven by human rights abuses by ensuring access to asylum in the United States.

**Provide reparations to victims who suffered harm through forced separations:**

- Immediately reunify all families separated by the U.S. government, including a full reconsideration of parents who have allegedly waived reunification, and expeditiously review any alleged “red flag” cases with a trauma-informed lens;
- Establish a recovery fund to provide mental health screenings, psychiatric and behavioral health interventions, and trauma-informed remedial medical and mental health services for separated families, with special consideration for the wellbeing of children;
- Provide redress in monetary compensation for the injuries families suffered resulting from the unlawful conduct of federal officers who intentionally inflicted this emotional distress;
- Provide redress in the form of attorneys’ fees and costs which were incurred in order to address the consequences of forced separation.

**Ensure accountability for rights violated through forced family separations:**

- Acknowledge forced family separation without due process as unlawful and guarantee non-repetition, including through criminal prosecution of government officials who have engaged in unlawful conduct;
- Investigate and ensure accountability for all allegations of verbal and physical abuse in U.S. government custody.



The U.S. Congress should:

**Protect families from rights abuses in the context of border and immigration enforcement:**

- Enact legislation banning family separation and detention;
- Continue to exercise oversight of DHS agencies to halt any further family separations and hold government officials accountable to acknowledge the persistent harms of the family separation practice and to provide reparation to families injured by unlawful government conduct;
- Require DHS to provide information about numbers of separated and reunited families and the whereabouts and status of previously separated parents and children to appropriate Congressional committees and make aggregated data publicly available;
- Codify the minimum child protection standards of the *Flores* Settlement Agreement into law, in order to prevent indefinite detention of children in inhumane conditions;
- Require rigorous independent oversight for any funding related to CBP field operations and immigration detention, especially family and child detention;
- Decriminalize irregular entry, as required by the Refugee Convention, to ensure that administrative penalties for crossing between ports of entry are proportionate;
- Oppose policies that unlawfully limit access to asylum and uphold U.S. law, which establishes the asylum process for those with a credible fear of persecution, as well as the right to not be returned to likely persecution;
- Ratify the UN Convention on the Rights of the Child, signed by the United States in 1995 and ratified by every other country in the world.

**Fund meaningful policy alternatives which are rights-respecting:**

- Increase funding for alternatives to detention programming, contracted with non-profit organizations, that enable families to remain in the community and access basic services while their proceedings are pending;
- Increase funding to add asylum processing capacity by dedicating resources to the Executive Office of Immigration Review for immigration judges and to U.S. Citizenship and Immigration Services for asylum officers.

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- <sup>47</sup> “Family Separation by the Numbers,” American Civil Liberties Union, Oct. 2, 2018, [aclu.org/issues/immigrants-rights/immigrants-rights-and-detention/family-separation](https://www.aclu.org/issues/immigrants-rights/immigrants-rights-and-detention/family-separation). However, for many separations, the ACLU was not provided with the duration of separation.
- <sup>48</sup> A credible fear interview is an initial screening conducted by the Department of Homeland Security’s United States Citizenship and Immigration Services asylum officers. During the screening, asylum officers ask the asylum seeker a series of questions to establish if there is a “significant possibility” that the respondent has been persecuted or has a well-founded fear of persecution on account of their race, religion, nationality, membership in a particular social group, or political opinion if returned to their country. If an asylum seeker is found to have a credible fear, their case is referred to an immigration judge under the Department of Justice’s Executive Office for Immigration Review.

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United States Department of Homeland Security, United States Citizenship and Immigration Services, “Questions & Answers: Credible Fear Screening,” Sep. 4, 2009, [uscis.gov/humanitarian/refugees-asylum/asylum/questions-answers-credible-fear-screening](https://uscis.gov/humanitarian/refugees-asylum/asylum/questions-answers-credible-fear-screening).

<sup>49</sup> Ms. L v. ICE, 3:18-cv-428-DMS (S.D. Cal 2018), “Order Granting Preliminary Approval of Proposed Settlement,” [muslimadvocates.org/files/2018-10-09-Order-Granting-dckt-256\\_0.pdf](https://muslimadvocates.org/files/2018-10-09-Order-Granting-dckt-256_0.pdf).

<sup>50</sup> Julia Ainsley and Jacob Soboroff, “Trump admin projected it would separate 26,000 migrant kids at border, DHS watchdog says,” *NBC News*, Nov. 27, 2019, [nbcnews.com/politics/immigration/trump-admin-projected-it-would-separate-26-000-migrant-kids-n1092571](https://nbcnews.com/politics/immigration/trump-admin-projected-it-would-separate-26-000-migrant-kids-n1092571).

<sup>51</sup> Office of Inspector General, “DHS Lacked Technology Needed to Successfully Account for Separated Migrant Families.”

<sup>52</sup> Resmiye Oral et al., “Adverse childhood experiences and trauma informed care: the future of health care,” *Pediatric Research* 79 (2016): 227–233, [ncbi.nlm.nih.gov/pubmed/26460523](https://ncbi.nlm.nih.gov/pubmed/26460523).

<sup>53</sup> “US Const.,” amend. 5.; United Nations General Assembly, “International Covenant on Civil and Political Rights,” Dec. 16, 1966, Art. 14 & 16, [ohchr.org/en/professionalinterest/pages/ccpr.aspx](https://ohchr.org/en/professionalinterest/pages/ccpr.aspx).

<sup>54</sup> 14<sup>th</sup> Amendment, Art 2 ICCPR, CERD.

<sup>55</sup> 8<sup>th</sup> Amendment, Art 7 ICCPR, CAT.

<sup>56</sup> 4<sup>th</sup> amendment, Art 17 and 23 ICCPR.

<sup>57</sup> 1980 Refugee Act, 1967 Protocol to the Convention relating to the status of refugees.

<sup>58</sup> “Ms. L v. ICE - Order Granting Plaintiffs' Motion for Classwide Preliminary Injunction,” (American Civil Liberties Union, September 11, 2019), <https://www.aclu.org/legal-document/ms-l-v-ice-order-granting-plaintiffs-motion-classwide-preliminary-injunction>; “DHS Lacked Technology Needed to Successfully Account for Separated Migrant Families,” Office of Inspector General, November 25, 2019.

<sup>59</sup> “DHS Lacked Technology Needed to Successfully Account for Separated Migrant Families,” Office of Inspector General, November 25, 2019.

<sup>60</sup> DHS OIG report, <https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-84-Sep18.pdf>.

<sup>61</sup> Art 8 and 9, UN CRC.

<sup>62</sup> Susan Ferriss, “Early Reports Warned Migrant Kids Suffered From Separations,” December 16, 2019, The Center for Public Integrity/ Texas Tribune, <https://publicintegrity.org/inequality-poverty-opportunity/immigration/migrant-children-family-separations/>.

<sup>63</sup> Art 1(1). UN General Assembly, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984, United Nations, Treaty Series, vol. 1465, p. 85.

<sup>64</sup> Art 1, UN CAT; “You don’t have any rights here”: Illegal Pushbacks, Arbitrary Detention and Ill Treatment of Asylum-seekers in the United States, Amnesty International, 2018, accessed at: <https://www.amnesty.org/en/latest/research/2018/10/usa-treatment-of-asylum-seekers-southern-border/>; Beth Van Schaak, “The Torture of Forcibly Separating Children from their Parents,” Just Security, October 18, 2018, <https://www.justsecurity.org/61138/torture-forcibly-separating-children-parents/>; Redacted GJC et al Brief Amici Curiae, February 2019, <https://chrgj.org/wp-content/uploads/2019/02/Redacted-GJC-et-al-Brief-Amici-Curiae-Feb-2019.pdf>.

<sup>65</sup> Article 7, UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171.

<sup>66</sup> Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“Istanbul Protocol”), 2020 edition, submitted to UN Office of the High Commissioner for Human Rights for consideration for publication.

<sup>67</sup> David Weissbrodt and Cheryl Heilman, Defining Torture and Cruel, Inhuman, and Degrading Treatment, 29 LAW & INEQ. 343 (2011), [https://scholarship.law.umn.edu/faculty\\_articles/366](https://scholarship.law.umn.edu/faculty_articles/366).

<sup>68</sup> Christian M. De Vos, “Mind the Gap: Purpose, Pain, and the Difference between Torture and Inhuman Treatment,”

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<https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1206&context=hrbrief>.

<sup>69</sup> Art 1, UN CED.

<sup>70</sup> Article 2, UN General Assembly, International Convention for the Protection of All Persons from Enforced Disappearance, 20 December 2006.

<sup>71</sup> A/HRC/36/39/Add.2, Report of the Working Group on Enforced or Involuntary Disappearances on enforced disappearances in the context of migration, 28 July 2017.

<sup>72</sup> DHHS OIG report, <https://oig.hhs.gov/oei/reports/oei-09-18-00431.pdf>.

<sup>73</sup> “Report of the Working Group on Enforced or Involuntary Disappearances on Enforced Disappearances in the Context of Migration,” United Nations Human Rights Council, July 28, 2017, accessed January 8, 2019, <https://reliefweb.int/sites/reliefweb.int/files/resources/G1722672.pdf>.

<sup>74</sup> Art 2, UN CED.

<sup>75</sup> Art 17, UN CED.

<sup>76</sup> Art 25, UN CED.

<sup>77</sup> Art 17(3)h, UN CED; Bernard Duhaime and Andreeanne Thibault, “Protection of migrants from enforced disappearance: A human rights perspective,” *International Review of the Red Cross* (2017), 99 (2), 569–587.

<sup>78</sup> See the background section of this report.

<sup>79</sup> Art 14(1), UN CAT.

<sup>80</sup> Art 24, UN CED.

<sup>81</sup> The FCMP was a formal alternative to the Immigration and Customs Enforcement detention program that operated from January 2016 through June 2017, when the Trump administration terminated it.

<sup>82</sup> The *Flores* settlement is a 1997 court-supervised stipulated settlement agreement which is binding on federal agencies regarding the detention, transfer, and release of migrant children.



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