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Family Separation along the US/Mexico Southwest Border: An Interdisciplinary Approach to Trauma, Human Rights and Childhood Needs

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Family Separation along the US/Mexico Southwest Border:
An Interdisciplinary Approach to Trauma, Human Rights and Childhood Needs

Senior Project Submitted to
The Division of Social Studies
of Bard College

by
Christina Secor

Annandale-on-Hudson, New York

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An Introduction

“Nobody takes care of us here. I try to take care of my little brother and sister since no one will take care of them. There are little kids here who have no one to take care of them, not even a big brother or sister. Some kids are only 2 or 3-years-old and they have no one to take care of them.” An 11-year-old boy detained with his younger siblings (Long 2019)

Do children need special protection? If they need it do they also have a right to it? Whose job is it to provide this protection: parents, communities, the government? Is protection the same as care? Who ensures that protection and care is adequate? Do these needs change depending on a child's age? On their immigration status? Should their rights depend on their age? Or their immigration status?

Physicians, sociologists, anthropologists, and psychologists alike agree that a stable and supportive family is key to the healthy development of a child. That said, worldwide there are various situations that lead to the separation of the family unit. Previously, the United States has engaged in policies that promote family unity and American values are grounded in the values of the nuclear family, but on April 6th of 2018, the Trump Administration issued legislation contradictory to family unity. Jeff Sessions issued a memorandum for federal prosecutors on the southwest border which made the entry of any individual crossing the border in an unapproved manner illegal, in doing so the US government legalized the separation of children from their parents. This unprecedented change in policy has cascading effects to this day that cannot go unaddressed.

While my specific goals behind this project have evolved since I began researching and writing, my overarching intentions have remained the same. In its most basic form, the intent of

this project is to utilize an interdisciplinary approach to highlight the complex negative implications the family separation policy has on the children involved. I will demonstrate to the reader what the most basic needs of a child are, how these needs translate into rights, how separating parents from their children and the subsequent conditions are in violation of these needs and rights, and what the variety of lenses to view this complex situation are. The importance of an interdisciplinary approach cannot be underestimated, therefore, while this project is nested in the psychology discipline, its content draws from other disciplines, specifically human rights. To analyze a situation as complex as family separation along the US/Mexico border, we must be grounded in various fields to gain a more expansive understanding so as not to focus solely on the individual, the medical, the social, or the political --but instead to examine all of these fields in conversation with each other.

On February 25th, 2020 the Physicians for Human Rights (PHR) published a comprehensive report on the persistent psychological effects of family separation. It proved to be instrumental in providing data taken from those experiencing family separation at the US/Mexico border as well as personal testimonials from parents and children. The same group also published findings on the violence those seeking asylum were fleeing from. These reports as well as affidavits from children in detention added testimonial evidence to my argument and allowed me to use this platform to amplify the voices of those who this policy has affected.

In my first chapter, I will present the background and legislative measures taken prior to and during this period of separation. I will unpack trends of increased migration and their causes, specifically the driving forces in families making their way to the border to cross. I will then go through the specifics of the “Zero Tolerance Policy,” the timeline for implementation and

revocation, as well as analyzing specific language tools used. The chapter is concluded by an analysis of the conditions in which children are held and the consequences of these poor conditions, overcrowded facilities, lack of medical access, and extended stays. This chapter aims to help the reader understand the driving motivation behind this project, shedding more light on the specifics of the process and context for the separation.

The second chapter will articulate the developmentally established needs of children, specifically 0-6 year-olds. This chapter will structure the arguments made throughout the rest of the project and further lay the foundation for understanding the basic needs of children. What has occurred along the border is catastrophic in two different ways related to a child's needs. The first is an outright violation of a child's needs at this age, the other is a disruption in development where caregivers are the key component in supporting the child.

This unpacking of the specific needs of the child leads us into "The Declaration of the Rights of the Child" --a document that takes many of these needs and codifies them into rights. In my third chapter, I will argue that to separate a child from their parents under these circumstances and then hold them in unsafe and unsanitary conditions is a violation of the child's human rights. This chapter gives us the tools, language, and support to specify the ways in which the separation of children from their parents is a violation of that child's rights. It supports the idea that children have specific and unique rights and that these rights vary depending on the age of the child. The chapter outlines the multiple articles that are violated as well as some of the arguments those opposed to the US signing this treaty have used.

The final chapter will focus specifically on trauma. Firstly, I parse the differences between refugees, asylum seekers, migrants, and immigrants. Prior to the publication of the PHR

report my hypotheses were grounded in research on refugee trauma and the changing world of global mental health. Understanding which components of the refugee experience mirror that of asylum seekers is imperative to apply this body of research to family separation along the US/Mexico border. What follows is a thorough analysis of what makes both childhood trauma and refugee trauma unique, focusing on the places where they intersect. The final section of the chapter outlines some of the different frameworks to view and address the issue of trauma focusing on two distinct perspectives. One is grounded firmly in western medicine including an analysis of Post Traumatic Stress Disorder. The second perspective problematizes the use of the term traumatization and argues for a more cultural relativist approach.

While the Zero- Tolerance policy itself has ended, the practice of separating children from their parents along the US/Mexico border has not. The livelihood and wellbeing of children is at stake, as well as the United States' reputation in the eyes of the global community. If we continue to allow the practice of family separation to endure, a generation of children will carry this and our reputation as a nation will forever be stained with our violations of these children's rights. A violation of both children's developmental needs their rights is inexcusable regardless of the political atmosphere.

Chapter One: The SouthWest Border

There is a necessity for clinicians and humanitarians to become more politically aware and active when interacting with individuals, particularly those fleeing from persecution. Passive blame on policy and structural limitations does a disservice to those they are attempting to aid. Framing an understanding of the individual not only symptomatically, but to avoid a fragmentation of the self, understanding their public self, their religious self, their role as a caregiver, their marital relationship, and the culture from which they come is necessary to assess their needs. To do so, in this chapter I will give the reader an understanding of historical policies surrounding family separation, the migrational pattern shifts, and what drove them. I will also explain the logistics of implementing the “Zero Tolerance Policy”, reasons for its revocation, and the conditions in which children were held. This chapter will be a key reference point for the rest of the project.

1.1 Systems of Separation

The idea of institutionally supported separation of families is not a small scale problem. The U.S Department of Health and Human Services under the Office of Inspector General published a joint issue brief, published in January of 2019, based on a comprehensive overview of family separation at the U.S./ Mexico border. This information gathered and presented by the U.S government in combination with independent news sources helps to create a more comprehensive picture of what occurred there. The Office of Refugee Resettlement (ORR) manages a program for Unaccompanied Alien Children within the Department of Health and Human Services; it is this program that has facilitated the detainment of children. An unaccompanied alien child is “a minor who has no parent or legal guardian in the country

available to provide care or physical custody” (United States Department of Health and Human Services 2019). Most children who are referred to this office have either turned themselves in at ports of entry or been apprehended by immigration officers entering the United States with no parent or legal guardian. Historically, there was also a small portion of children who were sent to this office after being separated from their parents due to circumstances such as medical emergencies or after a determination that the parent was a threat to the child's safety (United States Department of Health and Human Services 2019). In 2016 the ORR began to informally track family separations which gave them the ability to notice changing trends and recognize that new efforts would be necessary to track children separated from their parent. They noted the proportion of children separated from their family had increased from roughly .3 percent of all unaccompanied alien children in late 2016 to 3.6 percent by August of 2017 (United States Department of Health and Human Services 2019). This is important in that it demonstrates a significant increase in family separations prior to the Zero Tolerance Policy which indicating a trend in behavior by the Trump administration. The ORR created informal systems to track children as family separations increased including excel spreadsheets and a SharePoint database, unfortunately, these tools were not formalized into official intake procedures by the Department of Homeland Security.

Increased Migration- There are a number of factors that led to the drastic increase in migrant families coming to the United States. In 2014 there was a shift from high concentrations of single young adult men to unaccompanied minors and families requesting asylum. This is known as the “surge”. The number of families apprehended at the southwest border went from 14,855 in the fiscal year of 2013 to 68,455 in the fiscal year of 2014. (United States Border

Patrol 2019). By 2018 there was a record number of family units apprehended at the border-- totaling 107,212 (United States Border Patrol 2019). Based on data collected by the U.S. Customs and Border Patrol there were increases of up to 1,243% of Family Units Apprehended while crossing the Southwest border between the fiscal year of 2018 and the fiscal year of 2019. When broken down by country, between the fiscal years of 2016 and 2019 there have been increases in the number of migrant apprehensions from El Salvador, Guatemala, and Honduras. While there have also been increases in migrants from Mexico, these numbers are much lower. (United States Department of Homeland Security 2020).

Increased Asylum-Seeking- Asylum can be obtained via three different routes: the affirmative asylum process, the defensive and the follow-to-join beneficiaries (this last route is not relevant to the project at hand). Asylum may be granted directly through the affirmative asylum process after an interview with an asylum officer. During this interview, officers will determine if “the applicant meets the definition of a refugee, is credible, is not barred from obtaining asylum, and warrants a grant of asylum as a matter of discretion” (United States Department of Homeland Security 2019 March). Seeking asylum this way is challenging and expensive- you often need to provide your own translator and there can be a long wait for the interview due to backlogs. There has been an increase of Affirmative asylum applications, particularly from Central America’s Northern Triangle (El Salvador, Guatemala, and Honduras). Defensive asylum is filed if the individual has not previously filed for asylum and is currently in removal proceedings after being identified by immigration officers as either, “illegally present, in violation of their status when apprehended, or were apprehended while attempting to illegally enter the United States without proper documentation” (United States Department of Homeland

Security 2019 March). This is the type of asylum claim individuals who were apprehended at the border would make and it is also this kind of claim that will play a role in the “Zero Tolerance Policy”. In 2012 there were 3,523 and in 2017 there were 31,066 applications. Unaccompanied children filed for at least 50% of the applications in 2015, 2016, and 2017. Numbers of defensive applications have also risen, from 65,747 in 2015 to 119,303 in 2017-- with most of the applications coming from the Northern Triangle (United States Department of Homeland Security 2019 March).

Trend explanations- Prior to its report on the psychological effects of family separation the Physicians for Human Rights documented and reported on asylum seekers waiting in Tijuana, Mexico, they were especially concerned with the threats driving families to flee from their home countries. A

sampling of 18 cases from Mexico and Central America (El Salvador, Honduras, and Nicaragua) added testimonial evidence to already observed trends in the driving forces for the increase of asylum applications. They found that violence occurred in

Mexican and Central American Asylum Seekers are Fleeing Extreme Violence
Survivor Statistics from PHR Evaluations

No.	Age	Gender	Pseudonym	Country of Origin	Perpetrator of Violence		Type of Violence Involved							Psychological Impact		
					Gangs and Organized Crime	State Authorities	Targeting of Witnesses	Beatings and Other Physical Attacks	Threats and Extortion	Forcible Gang Recruitment	Sexual Violence	Domestic Violence	LGBTI Discrimination	PTSD	Depression	
1	16	Female	Adriana	El Salvador	●	—	—	●	●	—	—	—	●	—	●	*
2	36	Female	Josefina	El Salvador	●	—	—	—	●	—	—	—	—	—	—	—
3	18	Male	Benjamin	El Salvador	—	●	—	●	●	—	—	—	—	—	●	●
4	18	Male	David	Honduras	●	—	—	—	●	●	—	—	—	—	●	●
5	35	Female	Hortensia	Mexico	●	—	●	—	●	—	—	—	—	—	●	●
6	36	Male	Javier	El Salvador	●	—	—	●	●	—	—	—	—	—	●	●
7	25	Female	Rosa	El Salvador	●	—	—	—	●	—	—	—	—	—	●	●
8	21	Female	Jimena	Honduras	●	—	—	—	●	●	●	—	—	—	●	●
9	60	Male	Jorge	Honduras	●	—	—	●	●	●	—	—	—	—	—	●
10	27	Female	Juana	El Salvador	—	●	—	—	●	—	—	●	—	●	●	—
11	18	Male	Manuel	El Salvador	●	—	●	●	●	●	—	—	—	●	●	●
12	56	Female	Marta	Nicaragua	—	●	—	—	●	—	—	—	—	—	●	●
13	20s	Female	Natalia	Mexico	●	—	—	—	●	—	—	●	●	—	●	—
14	35	Female	Romina	Honduras	●	—	—	●	●	—	—	—	—	—	●	●
15	29	Male	Sergio	Honduras	●	—	●	—	●	—	—	—	—	—	*	*
16	9	Male	Miguel	Honduras	●	—	—	●	●	—	—	—	—	—	—	*
17	8	Male	Antonio	Honduras	●	—	—	●	●	—	—	—	—	—	●	*
18	43	Female	Silvia	Mexico	●	—	●	—	●	—	—	—	—	—	●	●

Figure 1: Violence in Home Country Survivor Statistics

All names changed for security reasons.
* PTSD and/or depression screenings not available.

their home country from both state actors (such as the police) and non-state actors (such as gang violence). See Figure 1 for the breakdown by individual. “This violence included beatings, rape, and murder. Many of the people who were targeted by gangs and organized crime described how government authorities in their country failed to protect them from the violence” (Habbach, H., Hampton, K., & Mishori, R. 2020).

“I am afraid. I think something would happen to me. I think they would kill me and my parents.”

Antonio, eight-year-old boy, Honduras (Habbach et al. 2020)

1.2 Zero Tolerance

On April 6, 2018, in response to the increases in migrants --specifically migrant families, Jeff Sessions issued a memorandum for Federal Prosecutors along the Southwest border to implement a “Zero Tolerance Policy” under 8 U.S.C 1325(a). This addressed the “improper entrance by an alien” (See Appendix A for memorandum). The result of this policy was that the Department of Homeland Security would be referring all adults making/attempting illegal crossings to the Department of Justice. In the words Jeff Sessions, “illegally entering this country will not be rewarded, but will instead be met with the full prosecutorial powers of the Department of Justice” (Sessions 2018 April).

This “Zero Tolerance” policy acts as the catalyst for the legal separation of children from their parents. When families cross the border and are apprehended together, the Department of Homeland Security separates them because the parent must be placed in U.S Marshal custody to await trial. The parent is forced to be unavailable to care for their child and the child is therefore designated an Unaccompanied Alien child and treated as such. On May 7th, Jeff Sessions spoke

on the Immigration Enforcement Actions of the Trump Administration to a San Dago audience and said “ if you are smuggling a child, then we will prosecute you and that child will be separated from you as required by law” (Sessions 2018 May). The public was made aware that children would be separated from those they were crossing with and that this practice was not only sanctioned but mandated by law. It is important to note the rhetoric used to discuss this policy as it is this rhetoric that helped to appease the greater public. Instead of recognizing the serious and often life-threatening fears forcing families to flee and seek asylum, those attempting to cross the border were labeled as criminals, “bad-hombres”, gang members, and abusers. Specifically, family units and adults traveling with children were framed as human traffickers and smugglers. In reality, the number of children arriving with and separated from smugglers is .61% of all apprehensions (Bump 2018).

Two months later, due to a large scale class-action lawsuit *Ms. L vs ICE* as well as public pressure, the “Zero-Tolerance” policy was repealed. Adults who had entered the United States and were detained in immigration custody who also have a child that had been separated from them without a clear determination that the parent is dangerous (criminal history) to the child or that is unfit to parent (communicable disease) fell under this class (United States Department of Health and Human Services 2019). The United States District Court of the Southern District of South Carolina concluded that the case demonstrated “a strong likelihood of a violation of constitutional rights to family integrity” (Habbach et al. 2020). Public pressure included a joint letter from the American Association of Pediatrics, UNICEF USA, Child Welfare League of America, and child fund of America (See Appendix B and C). Due to the lawsuit and the public pressure, the policy was repealed in two ways. The first was Executive order under the Donald

Trump administration on June 20th, 2018. While this executive order did not change the prosecution policy for parents it did state that “ It is also the policy of this administration to maintain family unity, including by detaining alien families together where appropriate and consistent with law and available resources" (Trump 2018). The Second was a ruling by Judge Sabraw on June 26th. Judge Sabraw barred the Federal Government from detaining parents without their minor children and set out guidelines for the reunification of families that had already been separated. Judge Sawbrow gave the Federal government 14 days to reunite children under the age of five with their families and 30 days to reunite children 5-17. By July there was a certified list of 2,654 children that the ORR believed had been separated from parents who fell under the class action lawsuit. Between the months of July and December, new information came to light and there was a final total of 2,737 children who were separated from those who fell under the class action (United States Department of Health and Human Services 2019).

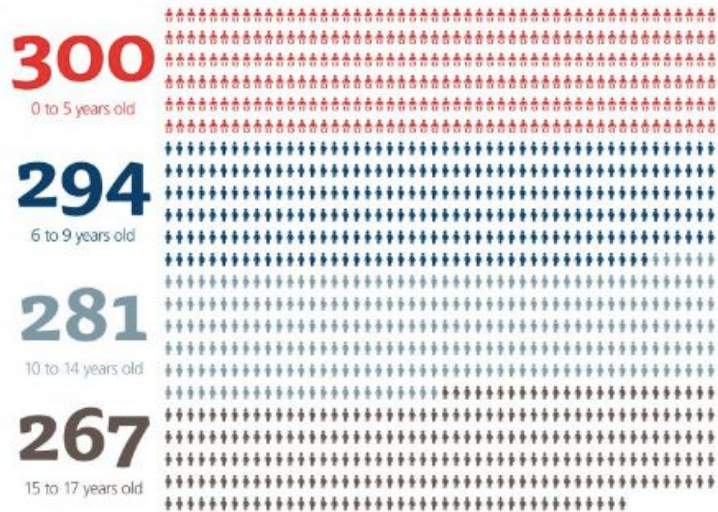
Post Zero Tolerance- Identifying those children that had been separated from their parents is only the first step, what follows would prove to be even more challenging. Although it was legal protocol to separate children from their parents, there was no formal system implemented to accurately keep track of them. Thus, Judge Sawbrow’s time frame for reuniting was logistically impossible. There was no centralized system to identify, track, or connect families that had been separated. By December of 2018 most of the children in the class- action had been released: 2,131 were reunited with their parents and 526 were released to sponsors. Of the 159 children that remained in ORR care only 24 of them were due to the parent’s fitness or concerns that the parent might be dangerous to the child. That is to say out of the 2,816 children included in the class-action only 24 had been separated for concerns for the child. Only 24 of

them would have been separated under previous Legislation (United States Department of Health and Human Services 2019).

While the families that fell under this class action have been reunited and the Zero Tolerance policy has been removed, the practice of family separation persists.

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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Figure 2: Post Zero Tolerance Family Separations
Habbach 2020

1.3 Conditions

The conditions that children were held in will be relevant to our understanding of this action as a violation of their basic needs and rights. To unpack the effects of the situation one must first understand the conditions they “lived” in. Finding reliable data for this section was a particular challenge as there has been a concerted effort to keep the media and others out of the holding centers. Therefore this information is focused on a few reports from individuals and groups allowed access. Some of the main complaints of those in holding were about food and sanitation. Both of these problems are exacerbated by overcrowding and extended stays in facilities not built with infrastructure to support the needs of those there.

“I was apprehended with my father. The immigration agents separated me from my father right away. I was very frightened and scared. I cried. I have not seen my father again... I have had a cold and cough for several days. I have not seen a doctor and I have not been given any medicine.”

Boy age 5 (Stuart 2019)

Nutrition- Numerous reports from the border have expressed concern with the types of food provided for children. A food writer, Corby Kummer spoke with Hannah Uebele on Boston Public Radio about the food conditions. He stated that “The institutional cruelty of the food that’s being fed to people in five detention centers, mostly around Texas, is just disgusting. It’s everything processed that’s easy to buy, cheap to serve and is associated with obesity, bad dental health, chronic disease like diabetes” (Uebele 2019). He said that mothers were given three bottles of formula per day and that it is likely they are mixing infant and toddler formulas. According to House Democrats, as reported in a New York Times article, they found toddlers who were fed burritos instead of more age-appropriate foods (Kanno-Youngs 2019). Representative Elija Cummings stated that “One detainee alleged that a Border Patrol agent told a child who had spilled soup that the child would not receive more food unless the child drank the spilled soup off the floor” (Kanno-Youngs 2019). The same house Democrats also reported that migrants complained about spoiled food. Lawyers investigating a holding facility in Clint Texas said children had told them they were fed uncooked frozen food or rice (Mendoza, Garance Burke & Martha). Similar reports found that children were being fed the same three meals every day, “instant oats for breakfast, instant noodles for lunch, a frozen burrito for dinner, along with a few cookies and juice packets” (Dickerson 2019). One lawyer stated that “nearly every child I spoke with said that they were hungry” (Dickerson 2019).

Unsafe- Conditions in Clint Texas, reported by Ms. Mukherjee, the director of the Immigrants’ Rights Clinic at Columbia Law School. Under the 1997 Flores settlement, lawyers are allowed to inspect conditions of government facilities holding migrant children- Ms. Mukherjee and her team have been doing so for years. After her visit on June 17, 2019, she reported that the facility in Clint was the worst she had seen in her twelve-year career. With relevance to the scope of this project, she found the facility to be holding three infants, all of whom had teen mothers. In addition, there was a 1-year-old, two 2-year-olds, and a 3-year-old. Dozens of more children under the age of 12 were also housed in the facility. Observed among other holding facilities and in this one was a practice of adolescents and children caring for infants and toddlers. Some children as young as 7 and 8 were caring for infants they met within the facility. Toddlers were without diapers, not potty trained; they relieved themselves in their pants. “Teenage mothers are wearing clothes stained with breast milk”(Dickerson 2019). Many of the children in the facility have not been able to shower since they arrived- “They have no access to toothbrushes, toothpaste or soap” (Dickerson 2019). Some of the minors had been there for over a month. Ms.

Mukherjee stated that “The children are locked in their cells and cages nearly all day long,”...“A few of the kids said they had some opportunities to go outside and play, but they

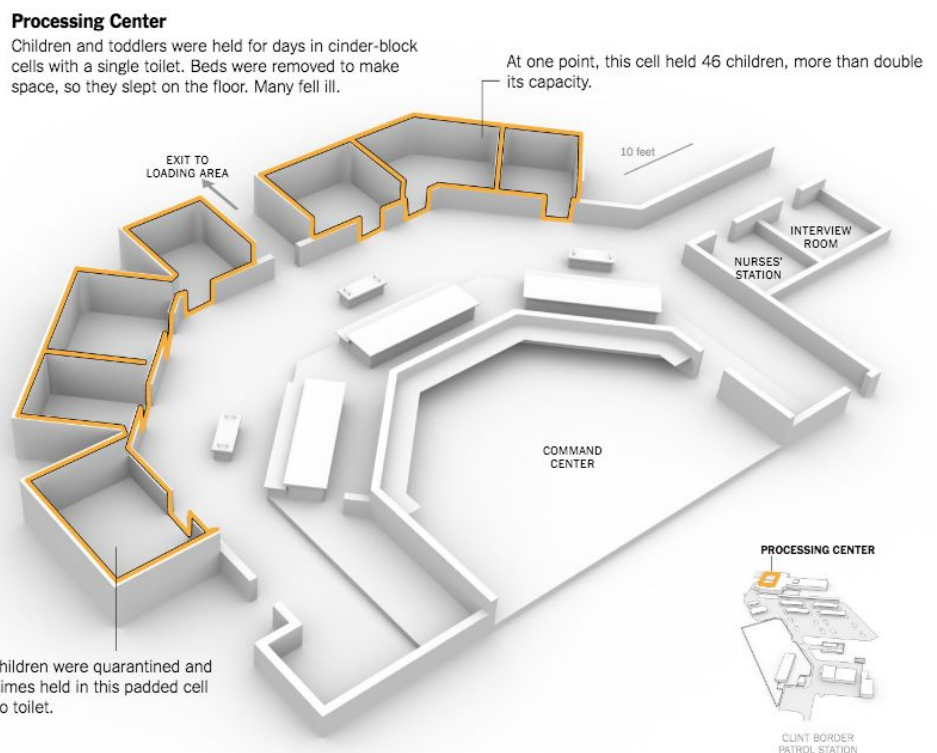


Figure 3: Clint Texas Border Patrol Station- Processing Center (Romero, Kanno-Youngs, Fernandez, Borunda, Montes & Dickerson 2019)

said they can't bring themselves to play because they are trying to stay alive in there"(Dickerson 2019). The group of lawyers met with 60 children housed in the facility ranging from 5 months to 17 years old. The infants were either children of individuals who were minors themselves and were also detained or they had been separated from adult family members crossing the border. As mentioned earlier, in the absence of an adult caretaker, other children were obligated to take on this role. She also found that "So many children are sick, they have the flu, and they're not being properly treated". (Dickerson 2019)

"I started taking care of [name redacted, age five] in the Ice Box after they separated her from her father. I did not know either of them before that. She was very upset. The workers did nothing to try to comfort her. I tried to comfort her and she has been with me ever since. [Redacted] sleeps on a mat with me on the concrete floor. We spend all day every day in that room. There are no activities, only crying."

Girl, age 15 (Stuart 2019)

Overcrowding- CPB is only supposed to hold migrants for short periods of time while they are initially processed and then sent to other government agencies. Individuals are supposed to be transferred out after this initial processing but this is only possible if there is space. U.S. Immigration and Customs Enforcement (ICE) has space for single adults and some families, and the U.S. Department of Health and Human Services (HHS) has space for "Unaccompanied Alien Minors". Due to the recent influx of migrants both ICE and HHS are operating at or above capacity, thus CBP has experienced increasing instances of prolonged detention in its facilities. My Project is particularly concerned with overcrowding as it pertains to "at-risk populations"

such as family units and unaccompanied alien children (United States Department of Homeland Security 2019 July).

Extended stay- “In addition to the overcrowding, we observed, Border Patrol’s custody data indicates that 826 (31 percent) of the 2,669 children at these facilities had been held longer than the 72 hours generally permitted under the TEDS standards and the Flores Agreement” (United States Department of Homeland Security 2019 July). In McAllen, TX, “806 had already been processed and were awaiting transfer to HHS custody. Of the 806 that were already processed, 165 had been in custody longer than a week” (United States Department of Homeland Security 2019 July). More than 50 Unaccompanied Alien Children younger than 7 years old, and some of them had been in custody over two weeks while awaiting transfer. Three of the five facilities had no access to showers, even though they are mandated to make “reasonable efforts” to get shower access to children approaching 48 hours of detention. Facilities also had limited spare clothes and no laundry facilities. “Additionally, while Border Patrol tried to provide the least restrictive setting available for children (e.g., by leaving holding room doors open), the limited space for medical isolation resulted in some unaccompanied alien children and families being held in closed cells” (United States Department of Homeland Security 2019 July) . In a follow-up response the Department of Homeland Security said that they have been able to reduce the number of unaccompanied alien children in Border Patrol custody from 2,800 on June 7, 2019, to less than 1,000 on June 25, 2019 (United States Department of Homeland Security 2019 July).

1.4 Deaths

Not only have there been reports of inadequate conditions in holding facilities- a number of deaths have been linked to practices in such facilities. Between May of 2018 and 2019, at least seven children are known to have died in immigration custody. Some pediatricians, advocates, and lawyers believe this is a product of the current administration's policy of keeping minors in custody for longer periods of time. "Children are not like adults. They get sick more quickly and each hour of delay can be associated with serious complications, especially in cases of infectious diseases. Delays can lead to death," Dr. Julie Linton, co-chair of the immigrant health special interest group at the American Academy of Pediatrics, told NBC News (Acevedo 2019). What follows are brief details of children that have died while in custody or immediately following their release: 7-year-old Jakelin Caal Maquin, who died in CBP (Customs and Border Patrol) custody, succumbed to "a rapidly progressive infection" that shut down her vital organs. Customs and Border Patrol sent Jakelin on a 90-mile bus ride to another location after she was taken into custody, even though her father had told officials she was vomiting and feeling ill before they left. "1-year-old Mariee Juarez died after being released from U.S. Immigration and Customs Enforcement custody. Mariee died from complications of a respiratory illness her mother and lawyers say she allegedly developed while detained" (Acevedo 2019). Felipe Gómez Alonzo, 8, was held in CBP custody for nearly one week before he died on Christmas Eve. Medical investigators later determined the boy had been suffering from the flu while he was under the agency's care. Wilmer Josué Ramírez Vásquez, a 2½-year-old, died after being detained by Border Patrol in early April and spending about a month in a hospital, where he was

diagnosed with pneumonia (Acevedo 2019). Jakelin Caal Maquin. Mariee Juarez. Felipe Gómez Alonzo. Wilmer Josué Ramírez Vásquez.

Conclusion

The combination of overcrowded facilities and extended stay, the conditions in which these children were held are unsafe and in some cases deadly. The inability to reunite children with their parents after the “Zero Tolerance Policy” was lifted demonstrates the administration's lack of forethought as to the cascading effects of this policy. Rhetorical tools used to frame desperate and scared parents fleeing dangerous home countries as smugglers and criminals looking for an easy way out is only one of the numerous ways that the US media tried to take the blame off of those who implemented the policy. I would also be remiss if I did not at least note the United States' complicated role in Central America and its support of regimes that perpetrated the violence that forced families and individuals to flee. The United States is in no way uninvolved from the violence that occurs there.

Chapter Two: Needs

Before we can establish that the presented scenario is a threat to the wellbeing of a child, we need to establish what the child's most basic needs are. For the purpose of further analysis in this project, I will be focusing on key psychological developmental markers between the ages of 0-6 as well as a few physical needs. The focus of this chapter is on factors such as emotion, and attachment as well as nutrition, physical activity, and vaccinations. The information presented in this chapter is grounded in developmental psychological research.

A through-line of this chapter is the concept of sensitive periods. Bornstein (1989) describes sensitive periods as phases that “are unique in that during select times in the life cycle many structures and functions become especially susceptible to specific experiences (or to the absence of those experiences) in a way that alters some future instantiation of that (or a related) structure or function”. That is to say that there are specific time frames (sensitive periods) that hold the most influence over future abilities of specific traits. If something goes wrong during this sensitive period, there may be lifelong consequences. If development is disrupted in the sensitive period, it will be either impossible or extremely difficult to develop that skill to one's fullest potential. This chapter illustrates the many developmental milestones that are disrupted by separating the child from their parents and placing them in holding. It also outlines the ways in which this disruption, in many cases occurring during the sensitive period for that factor, has consequences on future life outcomes.

2.1 Emotion

Throughout infancy, children are developing the ability to understand others' emotions. Early in infancy, they are experiencing emotional contagion, this can be observed when babies

cry in response to others' cries. By four to five months they can recognize others' facial expressions and can identify an angry face and voice. By eight to ten months they are using social referencing and checking in with others to navigate how they should feel about a situation. They rely on others' emotional responses to navigate novel situations. In early infancy, children are modeling their emotional responses to that of trusted individuals around them, in most cases their caregiver (Walden 1991). When separated from their caregivers these children lose their emotional model, in some cases turning to the other children around them as models. While they rely on caregivers to interpret novel situations and regulate their emotions, even at this age, they understand emotion, both in tonal and facial expressions. They are particularly sensitive to the tonal and facial expressions of their caregiver (Kahana-Kalman & Walker-Andrews 2001).

Infants and children who are separated from their parents would understand and respond to the distress of their parents as well as the harsh tones used by those "guarding" them, and the distress of the other children they are surrounded by in holding. As they enter early childhood they not only need caregivers to aid in emotional responses but also emotional self-regulation. Emotion self-regulation refers to strategies used to "adjust our emotional state to a comfortable level of intensity so we can accomplish our goals" (Berk & Meyers 2015 p. 258). It is also defined by Thompson (1994) as "the extrinsic and intrinsic processes responsible for monitoring, evaluating, and modifying emotional reactions, especially their intensive and temporal features, to accomplish one's goals" (Thompson 1994 p.27). By the age of three children can judge the causes, consequences, and behavioral signs of emotion. By this age, they can also use strategies to manage and adjust their own emotions- but these strategies must be taught or modeled by someone. Their ability to use strategies such as effortful control [voluntary effortful management

of emotions] (inhibiting impulse and shifting attention) is affected by temperament and parenting. Effortful control is key to the development of cooperative and low-problem behavior children. “A good start in regulating emotion during the first two years contributes greatly to autonomy and mastery of cognitive and social skills” (Berk & Meyers 2015 p.258). It is early in life with the guidance of parents that children develop key skills that are integral to lifetime success. Children need caregivers to mirror in order to develop more mature emotional expressions. Without caregivers to model these skills they are left ill-prepared to navigate and regulate their emotions when exposed to the kinds of distressing situations caused by separation and the conditions of their holding along the border.

Fear - By the second half of their first year, infants begin to develop fears; this develops around the time they are able to move around the space on their own. Fears can be understood as specific facial features (raised and straightened brows, widened eyes with tense lower eyelids, and horizontally retracted lips) and behavioral responses to the adverse stimuli (Sullivan & Lewis 2003). These fears include things like loud noise, height, certain animals, etc. By 8-12 months they begin to experience stranger anxiety, which is believed to be adaptive as they begin to explore their surroundings. Stranger anxiety can be observed in the strange situation test (Ainsworth 1979) where children are distressed when left alone with a stranger and cannot be comforted by them. That is to say, not just anyone can fill the role of the caregiver. It needs to be someone the child is intimately familiar with.

2.2 Attachment:

Attachment is a learned and relational style between caregiver (most often a parent) and child. There are three main attachment styles assessed through the “strange situations”

(Ainsworth 1979). The first, and most common is secure attachment. This is characterized by observable comfort in novel environments with the presence of the caregiver. This demonstrates that the caregiver is a secure base and the child will explore the environment. When the caregiver leaves, the infant is distressed but can be comforted upon the return of the caregiver. This behavior demonstrates what is considered to be a healthy relationship between caregiver and child. There are two types of insecure attachment, anxious- ambivalence (resistant), and avoidant. Avoidant is more common and is characterized by a disinterest in the parent when they are around and continued disinterest/ lack of distress when they have left and returned. This type of attachment can develop when children are frequently left on their own, they have become accustomed to being in distress and not to have anyone come thus they no longer express distress when their caregiver is absent. The second type of insecure attachment is anxious/ambivalent (resistant), these children are excessively upset. Like securely attached children they are in distress when their caregiver leaves but unlike securely attached children they cannot be comforted upon the return of the caregiver; they may lash out in anger at the caregiver upon arrival. This type of attachment occurs when caregivers and children have a hot and cold relationship, sometimes they are very attentive, and other times they are absent. The child has no way to predict the behavior of the caregiver. “ As a result, the baby is both overly dependent as well as angry at the [caregivers] lack of involvement” (Berk & Meyers 2015 p. 274). This is occasionally associated with mental illness in the caregiver.

While in the United States secure attachment is considered the most healthy, in other cultures this is different. Some cultures place more value on emotional stoicism, thus it is more common for children to demonstrate avoidant attachment with their caregivers. Factors such as

perceived partner support must be analyzed through a culturally specific lens (Durrett Otaki & Richards 1984). There are also communities where intergenerational living is common and thus children are raised with many caregivers, developing attachments to multiple people. Divergent from the Western rearing standard, in many rural farming communities children spend the most time with infants, therefore infants' central attachment is with another child (Keller 2018). While trends in attachment vary cross-culturally it is necessary for children to have a healthy attachment with their caregiver as healthy attachments mediate lifetime outcomes.

In a longitudinal study conducted by Elicker, Englund, and Sroufe (1992), they found that preschoolers who were securely attached as babies were more likely to be rated higher in self-esteem, social skills, and empathy by their teachers than their insecurely attached counterparts (Read in Berk & Meyers 2015 pg.281). There are other studies that suggest secure attachment in infancy is predictive of healthy cognitive, emotional, and social competency later in life. That said, there is contradictory evidence to demonstrate this is not always the case. In regard to that, there is a growing body of research that indicates it is the consistency of caregiving which determines whether attachment style is predictive of later outcomes (Berk & Meyers 2015 pg.281).

Length of separation is also key when understanding effects on attachment. While the process by which parents are separated from their children at the border mimics the strange situation test in some ways: children are in a novel environment, and sometimes with no notice or explanation, their parents leave, it is different in that unlike the strange situation test, the caregiver will not return. The strange situation is emotionally distressing to both secure and resistant attached children. As the time of separation lengthens securely attached children

transition from initial distress to a phase of despair (Wood 2018). This phase is characterized by “crying weakens, movement lessens and children reject the approach of alternative adults” (Wood 2018). Eventually, with prolonged absence, children will become detached from parents “living in a perceived state of ‘fear without resolution’ (Wood 2018). They may appear passive and compliant, which to those supervising them in holding may seem as if they have “settled in”. This becomes extremely problematic upon reunification where children may respond to their parents in a hostile manner, in some cases treating them as if they are strangers. I will expand upon the traumatic effects that disruption of attachment can have in Chapter four.

2.3 Language/ and Literacy

Language is key in connecting children to their surrounding communities and caregivers are a vital component in structuring language development. Language comprehension is essential to establishing cognitive processes for speech production (Fowler, Ogston, Roberts & Swenson 2006). Used Phonemes vary across languages, all have some overlapping sounds, but it is in the distinct variation that makes each language unique. Despite these differences, most children’s first words overlap in meaning. Cross-culturally first words for infants, occurring around their first birthday, tend to be words used for parents (Tardif, Fletcher, P., Liang, Zhang, Kaciroti & Marchamn 2008). Mama, Papa, Papi, padre, etc. This is one of the many ways to understand how important initial caregivers are for infants.

The two most important developmental systems to influence young children are families and schools, with the family as the primary system because it is generally a lifelong resource (Sheridan, Knoche, Kupzyk, Edwards & Marvin 2011). Few educational interventions have produced such positive outcomes, measured in “consistently positive, significant, and stable

effects over time, geographic context, developmental level, and subject areas” as parental support and participation (Sheridan et al. 2011). Early language skills upon entry to school are predictive of future school outcomes (and in many cases lifetime outcomes) and there are significant differences in children’s early language environment. These differences are in both the quality and quantity of language they are immersed in due to their caregivers (Leffel & Suskind 2013). Thus, interventions focused on closing the gaps before entering school are key. These interventions are focused on the primary developmental system- the family, specifically in increasing parental support and involvement. One such intervention is the William Fowler Language intervention. This was a home-based language intervention that focused on parent-infant turn-taking, in both language and action. After a series of studies, they found that the language and cognitive developments that occurred over the course of the study support the importance of language enrichment in early childhood (Fowler et al. 2006). The give and take nature of parent-child interaction is key in the development of language skills; without a parent or caregiver, this interaction is impossible.

Early language and social learning happen within the context of interactive experiences within the family. For this to happen parents/ caregivers need to be highly engaged. As read in Sheridan “Parental efforts to enhance the learning and literacy environment at home through rich verbal exposure, joint book reading, and provision of print materials are positively related to preschool children's emergent literacy skills” (Sheridan et al. 2011). For any of this to be possible parents/caregivers must be present.

Differences in linguistic input often mirror substantial achievement gaps. While the literature on these gaps is focused on children from low SES households or immigrant

households it can also be used to support the importance of a rich language environment. The differences observed in low SES households are that these children often have less language input and the input they do receive is less varied (Leffel & Suskind 2013). Thus they develop a less robust and more limited vocabulary. As read in Leffel and Suskind, Hart and Riesley found that “by age 3, children from families of low SES heard over 30 million fewer words than children from families who were of high SES” (Leffel & Suskind 2013). This wide gap is evident on the first day of school and remains throughout their educational careers. The problem in these situations is limited exposure to language at the most sensitive time period for developing language skills. Separating children from their parents and placing them in holding cells with only other children limits their language input to the vocabulary of the children around them. If children are in their sensitive period for learning language, this disruption can have lifelong effects on language, speech, and literacy. Not only are the children who arrive at the border already at risk for poor language development, as they are fleeing in many cases from extreme poverty, but this risk is also compounded by the conditions they are held in at the border. Thus disruptions in language development are especially harmful to children who are already at a disadvantage-- the result of cumulative risk factors.

2.4 Nutrition and Physical Activity

Throughout early childhood, the nutritional needs of children are specific and changing. Nutrition is fundamental for good health and development. Mayo Clinic outlines guidelines for boys and girls ages 2-3 and then for children ages 4-8 and they are divided between sexes. The WHO states that “ If children do not eat the right amounts of macronutrients like protein, fat, and carbohydrates and micronutrients like vitamin A, iodine, iron, and zinc, they may become ill,

have delayed mental and motor development that can have enduring adverse effects beyond childhood, or die” (*WHO | Early Child Development – Nutrition and the Early Years* n.d.) In thinking about sensitive periods the WHO also states that optimal nutrition and correction of deficiency are especially important, as, after two years of age, a reversal of the consequences is difficult. While there is a body of literature around prenatal health and low birth weight as predictive for future outcomes, there is an emerging field of study on the importance of nutrition in infancy to prevent stunted growth by age 3. Using longitudinal data from Vietnam, Duc and Behram (2017) examined the predictive nature of early childhood nutrition. They found that height for age and weight for age scores at 12 months was predictive of the height and weight at eight years old. They also found weight gain and height gain to be predictive of educational outcomes at eight years. A longitudinal study conducted in the Philippines found that malnutrition in the second year of life had the greatest impact on cognitive development (Glewwe & King 2001). These studies support that malnutrition at an early age can be predictive for both future body size and cognitive development. The food provided at detention centers is undeniably unacceptable based upon the aforementioned standards and the impact of this shortcoming by detention centers has lifelong consequences.

The CDC states the consequences of inactivity in children to be: energy imbalance, which can increase risk of becoming overweight or obese; an increase of risk factors for cardiovascular disease; increase the risk for developing type two diabetes; increase the risk for developing breast, colon, endometrial, and lung cancers: and that it can lead to low bone density, which in turn, leads to osteoporosis (*CDC | Physical Activity | Facts | Healthy Schools* 2020). The Physical Activity Guideline Second Edition says that while the specific amount of activity

necessary to improve bone health and avoid excess fat in young children is not well defined, a reasonable goal is three hours a day. This can include activities of varying types and intensities. It also states that children ages 3-5 should be physically active throughout the day to enhance growth and development. Suggested activities for bone development are ones that involve “hopping, skipping, jumping, and tumbling” (United States Department of Health and Human Services 2018). None of these activities are possible in overcrowded holding cells.

2.5 Vaccines

Vaccines have changed the life expectancy outlook of millions of infants' lives. Thanks to vaccines numerous deadly diseases have been eradicated. The flu vaccine has also improved the lives of many children and in cases when living conditions may be unsanitary/ unsafe have saved children's lives. In the United States, there is a specific schedule for receiving these vaccines. Many of them are administered in the first few months and the first few years of a child's life. In receiving these vaccines at such a young age they are protected at the time when they are most vulnerable and susceptible to the most dangerous symptoms of these diseases. As previously addressed in section 1.5, children in holding are dying from a virus that could have been either prevented or mitigated by receiving vaccines. See Appendix D for the recommended schedule for the administration of vaccines in the United States. Children in holding are both getting sick with the flu and in a few cases dying from it. Herd immunity is the way in which groups of immunized people protect individuals who cannot be immunized. Children are coming from various countries with different policies on vaccine administration therefore holding centers have little to no herd immunity and diseases would spread quickly. Were there to be an outbreak

of something like measles, the conditions of holding are ideal for the spread of disease and these children would be left vulnerable and unprotected- especially if most of them are unvaccinated.

Conclusion

To separate a child from their parent and place them in unsafe and unsanitary conditions is disruptive to their developmental needs in many ways. It disrupts cognitive and social milestones and can stunt body growth. While children are strong and resilient people, the folk belief that they will simply bounce back from something like this is false. As has been made evident, there are lifelong consequences of the events that are occurring along the border. These children may never be the same.

Chapter Three: Rights

After establishing some of the basic physical and developmental needs of the child, the next step is understanding how these needs are translated and codified into specific rights. This chapter is focused on The United Nations Convention on the Rights of the Child, which was adopted by the UN in 1989 and came into effect in September of 1990 (see appendix E for full treaty). Although the United States played a significant role in the drafting of the treaty and signed it in 1996 under the Clinton Administration, it has yet to ratify it. Family Separation along the US/Mexico southwest border violates numerous articles under this treaty. I will break down the violations into three categories: the first is rights-based directly on the aforementioned physical and developmental needs, the second section will pertain to rights specifically related to the child's right to their parent/caregiver, and the third section will address rights specific to detainment.

The final section of this chapter will be devoted to addressing other human rights claims that can be made about the situation at the border, specifically, as documented by the Physicians for Human Rights --the family separation cases meet the criteria for torture.

3.1 Congressional Resistance

To be a signatory is more symbolic in nature-- it signifies an intention to adhere to the convention and is a preliminary endorsement but holds less commitment than ratifying a treaty. When ratifying a treaty a country is making a commitment to uphold the text, a formal agreement to be bound by its terms. In a seemingly contradictory manner, the United States places great value on "The American Family" yet has not ratified this treaty. A Congressional Research Service brief from April of 2013 outlines past and current (at the time of publication)

positions and Congressional perspectives on ratifying the treaty as well as specific policy concerns. Congressional opponents to the treaty argue that it would undermine U.S Sovereignty-- specifically as it pertains to policy areas traditionally addressed by the state including education and the juvenile justice system. While overall most state and federal laws comply with the treaty there are a few key points of difference. These include concern about the treaty taking precedence over national and local laws. Critics also note that the treaty would influence abortion legislature, parental rights, and the role of the national government in raising children (Blanchfield 2013).

3.2 *Others Concern*

I am not the first to connect the Convention on the Rights of the Child to family separation along the US/Mexico border. A number of notable parties have used this treaty to defend the claim that family separation is unacceptable and illegal. Among those using the treaty are UNICEF, Human Rights Watch, The Council on Foreign Relations as well as an article in the American Medical Association (AMA) Journal of Ethics. There have also been references made to the treaty in New York Times articles drawing attention to the many problematic aspects of family separation. UNICEF Executive Director Henrietta Fore made an appeal to the US government in regard to the zero-tolerance policy in which she said children are in need of international protection and “have the right to be protected...and be with their families” (*Migrant children at US border have right to protection and ‘be with their families’: UNICEF chief* 2018). A later statement by a UNICEF spokesperson cited Article 9 of the treaty which specifically states “a child shall not be separated from his or her parents against their will” (*Migrant children at US border have right to protection and ‘be with their families’: UNICEF chief* 2018). In an

article on the US detention of child migrants, the Council on Foreign Relations references the Convention on the Rights of the Child as the most notable UN agreement outlining a state's responsibility to child migrants (Cheatham 2020). In an article by Human Rights Watch titled “Can Human Rights Law Help Children at the Border”, they refer to the Convention on the Rights of the Child as the most widely ratified Human Rights Treaty. The article notes that while wide acceptance of this treaty has formed international norms and consensus, the United States’ failure to sign it weakens its power nationally (Bochenek & Binford 2019). The AMA Journal of Ethics published an article entitled “Rights Disappear When US Policy Engages Children as Weapons of Deterrence”. This article concludes that “By failing to ratify the CRC, the United States not only abdicates moral leadership, but also invites other nations to emulate its lack of care for children” (Mousin 2019). These credible established parties in the human rights and humanitarian communities have turned to this treaty as the backbone for the rights of children, especially when they are left unprotected by national laws. The United States policy of family separation is in clear violation of at least seven articles.

3.3 Rights Related to Developmental and Physical Needs

The following two articles exemplify the ways that needs can translate directly into codified rights. These rights demonstrate clear relationships to established developmental/physical needs, therefore, they can draw empirical support from the body of literature defining those needs.

Article 24 (1) and (2)

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: (a) To diminish **infant and child mortality**. (b) To ensure the provision of necessary medical assistance and health care to all children with an emphasis on the development of primary health care; (c) To combat **disease and malnutrition**, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate **nutritious foods** and clean drinking-water, taking into consideration the dangers and risks of environmental pollution; (d) **To ensure appropriate prenatal and postnatal health care for mothers**; (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents; (f) To develop preventive health care, guidance for parents and family planning education and services.

Article 24 touches on various aspects of the physical and developmental guidelines mentioned in Chapter Two and it is also clear that the facilities children were held in violated numerous aspects of this article. The first specific violation is to subsection 2a. Section 1.4 addressed a few of the deaths associated with children held in these facilities. Many of these deaths could have been prevented with relatively simple measures such as providing a flu vaccination. This brings me to the next violation of subsection 2c. Section 2.5 outlines the extreme dangers of not vaccinating children who are subsequently held in crowded unsanitary facilities. The conditions in which children are held are extremely susceptible to disease spread. This subsection also correlates directly to nutritional needs for children and the developmental and physical ramifications of malnutrition at a young age. As is stated in the Nutrition section of 1.3, nearly every child that lawyers spoke to in one holding facility said that they were hungry. The next violation is of subsection 2d. Many of the infants in holding centers are the children of young mothers. Not only were these young mothers left with no postnatal care, but they also

ended up acting as proxy caregivers for children in holding that were not their own. Cramped facilities can also limit mothers' privacy to breastfeed.

Article 27 (1) and (2)

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral, and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

An operationalization of what “standard of living adequate for the child’s physical, mental, spiritual, moral, and social development” can be analyzed through an examination of the aforementioned developmental needs. Language and emotional development fall under mental development and attachment (as well as emotional and language) and is necessary for their social development. As has been established in the previous chapter, for healthy language, attachment and emotional development a parent or caregiver is necessary. By separating parents from their children, the US government acts in opposition to this article. They are actively disrupting “ a standard of living adequate for the child's physical, mental, spiritual, moral, and social development”. The conditions in which children are held also violates this article as it limits their physical growth in various ways. This includes body growth due to restricted nutritional options and body/bone developmental delay due to a lack of physical activity.

3.4 Rights Related to the Parent

Relevant to this project the treaty takes a particular angle differentiating the parent’s right to control, and the child’s right to their parent. The treaty’s limitations on parental rights that were concerning to Congress were those pertaining to: privacy-Article 16(1), freedom of

expression- Article 13(1), freedom of thought, conscience, and religion- Article 14(1), access to information- Article 17, education- Article 28 (1) specifically homeschooling- Article 29(1), and corporal punishment- Article 19(1) (Blanchfield 2013). Despite congressional concern and arguments that the convention is anti-family values, in actuality it functions as a treaty grounded in the rights of the child for their parent, therefore it is a family rights document.

Article 5

States Parties shall respect the **responsibilities, rights, and duties** of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the **evolving capacities of the child**, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 5 sets up the basic understanding that governmental actors must allow the space for parents and caregivers to provide for their child. The article specifically acknowledges the right of the parent to provide this guidance but is careful in specifying the parent/caregiver's role as evolving in relation to the evolving capacities of the child. This specification draws on empirical evidence that children have developmentally specific needs and that these needs change as the child ages. This is relevant to sensitive periods, discussed in chapter 2, in that at certain periods of time certain traits are in their peak development. Another example of this would be nutritional needs that change drastically as the child ages. This is also understood in the inverse: not only does the parent/caregiver have the right and responsibility to care for the child, but the child has the right to be cared for by their parent/caregiver.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Not only does Article 7 highlight the child's right to a parent, but the use of the word “care” is particularly important. This article supports article 5 and expands upon the role of the parent/caregiver. The parent/caregiver has not only the “responsibility, right and duty” to provide “appropriate direction and guidance” but there is also a more nurturing component to the relationship. There is care. The other key component of this article is the note that there needs to be particular care for those who may “otherwise be stateless.” Some of the families crossing the border are fleeing life-threatening violence in their home countries and may be in “forced exile.” They feared for their lives at home, and the risk may have increased due to their departure. The article states that all children deserve protection under national law, but that even if the child is stateless-- they still deserve protection. While children in holding may not be stateless they are certainly a more politically and legally vulnerable population, as many were not protected under their own national law, which is why they fled. Referring to Figure One, individuals were not only fleeing violence by actors such as gangs, but also state actors like the police.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or

neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain **personal relations and direct contact with both parents on a regular basis**, except if it is contrary to the child's best interests.

4. Where such separation results from **any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death** (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the **essential information concerning the whereabouts of the absent member(s) of the family** unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Violations falling under article 9 are some of the most direct violations. This article sets out clear guidelines for situations exactly like what occurs along the border. The first clause aligns with the ORR's guidelines as to which children should be separated from their parents--parents who are unfit due to disease or criminal history. As is stated in 1.2 post-zero tolerance, only 24 of the children separated during zero tolerance were separated out of concern for the child's well being. While the media may lead the general population to believe that children are separated for their safety, taken away from criminals and smugglers--this is not the case. The second violation is of section 3. Children were housed in different facilities that their parents and testimonial evidence shows that in many cases, parents were unable to contact their children and did not have information as to where they were being held. One father interviewed by PGR physicians reported, *trying so hard to contact his son but no one was able to give him information about where his son was.* (Habbach et al. 2020)

The same was true for the children-- they did not know where their parents were and were not given ways to contact them. While those who implemented this policy may argue that the parents committed a crime (attempting to cross the border) therefore they should not be able to contact their children-- this article has specifications for those who are in “detention, imprisonment, exile, deported or dead.” Even in these cases, all parties have the right to know the whereabouts of the absent parties. Therefore if the child is not being held as a criminal- just separated from their parent (the “criminal”), they have the right to know where their parent is.

3.5 Rights in the Care of the State

The following two articles pertain to the rights of the child in the case that they are separated from their parents. These articles outline the obligations of the state not only to provide care but also to treat them with humanity and respect.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be **entitled to special protection and assistance provided by the State**.
 2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
 3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in **suitable institutions for the care of children**. When considering solutions, due regard shall be paid to the desirability of **continuity in a child's upbringing** and to the child's ethnic, religious, cultural, and linguistic background.
-

Article 20 acknowledges that there may be some circumstances in which a child is separated from their parent. While most of the children separated from their parents were not separated for the child’s best interest, even if they were the state still failed to meet the guidelines set forth by the treaty. The first clause notes the necessity for special protection by the state. I

believe that this means the state must absorb the responsibility to care and protect a child. Children who have been separated from their parents have unique needs different from those who are with them. As has been established, parents help children interpret the world around them and respond appropriately. The state now must assume the role of caregiver, while the state is an insufficient replacement for a caregiver--special protection and assistance is possible. The third clause is more specific as to what this would look like and states that anywhere the child is placed should be suitable for the care of children. Referring to figure three in chapter one, the holding center in Clint seems far more like a place focused on maximized efficiency and less about care. This also goes back to Article 7, it is not only supervision-- bare necessities that these children have the right to, it is care. The final piece of this article that holds importance relative to this project is the idea of "continuity in a child's upbringing". For many of the physical and psychological needs addressed in chapter two the issue at hand was a disruption in their development. A disruption in development acts in a manner contradictory to the continuity of care.

Article 37

States Parties shall ensure that:

- (a) No child shall be subjected to **torture** or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, **detention** or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the **shortest appropriate period of time**;
- (c) Every child deprived of liberty shall be treated with **humanity and respect for the inherent dignity of the human person**, and in a manner which takes into account **the needs of persons of his or her age**. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have **the right to maintain contact with his or her family** through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Finally, article 37 also specifically addresses cases of family separation and detention. It states that detaining a child should only be used as a last resort and if it is necessary, for the shortest amount of time possible. As discussed in section 1.3 one of the biggest issues in the facilities was the extended stays. Facilities were not built to hold children for so long therefore there were inadequate sanitary measures. This also goes back to the issue around reunification. Had the facilities utilized proper tracking methods, children could have been reunited with their parents earlier, thus had a shorter stay in the facilities. The specifications in subsection c ask us to remind ourselves that all children are human beings, deserving of respect and dignity. Just because they are younger and may not be able to act autonomously, they are still individuals with their own specific rights. This subsection is in part what makes human rights what they are, not only about physical needs for survival but about the way we interact with each other and the things that make us human.

This article also returns to the necessity to be age-specific when considering the needs of a child. Holding facilities kept children of all ages in the same place, fed the same food, and treated the same way. This does not take into account the specific age-related needs of the child. Article 37 reinforces the claim made in article 9 about the right of the child to remain in contact with their family. This article adds that even if the child is the one being held (be it in detention or imprisoned for committing a crime) they still have the right to remain in contact with their family.

3.6 Torture

An argument for a violation of human rights-based strictly on the Convention on the Rights of the Child is not the only way to call out the unacceptable actions of the state. Physicians for Human Rights made the claim that the cases that they documented met the criteria for torture. Based on the UN definition, torture is an act that causes severe suffering (physical or mental), is done intentionally, with the purpose of coercion, punishment, intimidation, or for another discriminatory reason; and is done either by a state official or with the state consent. Based on this understanding of torture it is clear that family separation within the conditions at the border meets the criteria for torture. This was clear based on the cases documented by PHR but is also clear based on the understanding developed throughout this project (Nelson & Habbach 2019). It has been established that there has been a disruption to both mental and physical development. While this alone could be considered suffering- keep this clause in mind as you read chapter four which will expand on the mental suffering that separated children experienced. The separation was intentional, given the establishment of a new policy. Its intent was to address the increase in families requesting asylum and crossing the border by punishing them with the “full prosecutorial power of the Department of Justice”. It was also implemented through the state. Given these truths, one must agree with the findings of the PHR-- that family separation as it was conducted along the US/Mexico southwest border constitutes torture. The PHR also makes the claim that the Family Separation Policy meets the criteria for Enforced Disappearances, and that the U.S government's actions were contrary to both domestic and international law (Nelson & Habbach 2019).

Conclusion

A key distinction to make here is the difference between Human Rights and Humanitarian Aid. The Minimum Standards of Protection of Children in Humanitarian Aid defines the objectives of humanitarian action are to “ Save lives, alleviate suffering and maintain human dignity during and after disasters; and strengthen preparedness for any future crises”. While this is important, what is not one of these is to intervene in the case of Human Rights violations. Humanitarian organizations face the complex problem of whether or not to become politically involved in a situation. If they do, states committing human rights violations may limit or cut off humanitarian access. On the other hand, if they do not intervene and stay silent, do they become a complicit party to the violations. The already limited voice and public platform given to children adds another layer of complication to this conflict. Parties attempting to intervene on the behalf of the children at the border need permission from the US government, thus to accuse an administration of violating human rights may result in expulsion from the premises with little overall change. Or as was the case for the Zero Tolerance policy, with enough public outrage and established professional opposition, the policy was revoked. It is a tough decision to make, but one has to take into account the power one has versus the power those you are advocating for have. Given this concern, documents such as the Minimum Standards of Protection of Children in Humanitarian Aid, which is grounded in the Rights established by the Convention on the Rights of the Child, are integral to give practical methods of aiding those in need while supporting and protecting their Human Rights.

Chapter Four: Trauma

In an ideal world, all of the aforementioned needs for children at this age addressed in chapter two would be met, unfortunately, this is not always the case. Violations of these needs have an array of effects—one of which is exposure to stressful events, which can result in trauma. This chapter is based largely on a body of research around refugees and global migration. Internal and international conflict compounded with a swiftly changing climate has created an emerging crisis of how to best aid those displaced. I had the privilege of attending a conference organized by the Consortium on Forced Migration, Displacement, and Education--the first of three intending to begin to tackle Global Displacement and Mental Health. This conference equipped me with both a rhetorical toolset to discuss these issues and reinforced the direction of my research.

This chapter analyses both established methods of approaching trauma and mental health in forced migration as well as introduce an emerging body of work on rethinking the approach to mental health in situations of forced migration. This will include giving a background in childhood trauma and the specific differences between refugees, asylum seekers, migrants, and immigrants. I will also unpack specific concerns with trauma in the context of refugees and asylum seekers. This will include information on PTSD and western methods of treatment as well as introducing concepts such as cultural relativism and social suffering.

4.1 Refugee, Asylum Seeker, Migrant and Immigrants

To properly navigate this chapter it is important to understand the differences and similarities to these groups. Both the International Rescue Committee (IRC) and Amnesty International have web pages dedicated to helping to parse the similarities and differences.

According to IRC, a Refugee is someone who has been forced to flee their country due to war, persecution, or violence. They are unable to return to their home country until conditions there change (International Rescue Committee 2020). Amnesty International adds that a refugee is someone who has fled their home country because they are at risk for serious human rights violations (Amnesty International n.d.). Under Article 1 of the 1951 Convention Relating to the Status of Refugees, a refugee is someone who “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country”. Refugee status must be determined by an official entity such as the government or the UN Refugee Agency. Those with refugee status have specific enumerated rights under international law which provides them with certain protections.

An asylum seeker is someone who is also fleeing dangers in their home country and seeking international protection, but who has not been given refugee status. Asylum seekers must apply for protection in the country of destination, therefore they must either be at the border or cross it to apply (see 1.1 *Increased Asylum-Seeking* for details on the different US paths to claim asylum). The IRC uses the situation at the border in the explanation of asylum seekers, noting the violence they fled from at home and the United States’ problematic rhetorical methods of framing them as “illegal immigrants”. IRC director of Immigration Olga Byrne stated that “It doesn’t matter how you enter the country: If you’re in the U.S. or you arrive at a port of entry you can seek asylum. There’s no way to ask for a visa or any type of authorization in advance, you just have to show up” (IRC 2020). Amnesty International says that seeking asylum is a

human right, therefore everyone is allowed to enter a country and seek asylum (Amnesty International n.d.).

An immigrant is someone who has made the conscious decision to leave their country and move to another with the intention of settling there. There is often an extensive vetting process to immigrate to a new country, many immigrants seek pathways to citizenship. They are also allowed to return to their home country freely. Amnesty International notes that there is no internationally accepted definition for a migrant, they like many other organizations understand a migrant to be people staying outside their country who are not asylum seekers or refugees (Amnesty International n.d.). IRC defines a migrant as someone who is moving place to place, whether within their own country or crossing borders. They note that this movement is usually due to economic concerns, like immigrants they have chosen to leave their country. They were not forced to leave for fear of violence and persecution but instead are seeking better opportunities (IRC 2020).

Parsing these terms is pertinent to this chapter in that much of the research presented here is focused specifically on refugees. As is made clear above refugees and asylum seekers have many things in common, but their situations do not exactly mirror each other. In addition, a key rhetorical tool used by the United States was to call those at the border migrants. For many of families at the border, that is not the case. As has been made clear they are fleeing violence in their home countries and have expressed concern for their safety were they to return home.

4.2 Childhood Trauma

The American Psychological Association defines trauma to be an emotional response to a terrible event. As trauma is the emotional response to these events, what is traumatic to one may

not be to another. This distinction will be key when discussing the potential for “traumatized populations.” There are responses to a terrible event in the immediate time period afterward that are considered “normal,” such as shock and denial. However, these normal reactions become pathologized when they are disproportionately intense or there are continuous symptoms following a traumatic event. This can lead to a psychiatric condition, diagnosed under the Trauma and Stress-Related Disorders in the Diagnostic and Statistical Manual of Mental Disorders fifth edition (DSM 5).

The National Child Traumatic Stress Network outlines some of the different types of trauma events to be: community violence, complex trauma, disasters, early childhood trauma, physical abuse, refugee trauma, sexual abuse, and traumatic grief (<https://www.nctsn.org/what-is-child-trauma/trauma-types>). These categories are events considered to be stressful for children, but not all children who experience these things meet the diagnostic criteria for a trauma disorder. Many of these categories overlap, with a few of them (community violence, complex trauma, early childhood trauma, and traumatic grief) intersecting in the category of refugee trauma.

Attachment - Childhood Trauma can affect a child’s developing attachment. As described in 2.2, attachment is the way in which children relate to their caregiver. In a healthy (secure) attachment children know they have a secure protective base and are also given the space to act independently. This secure attachment is created through the availability and responsiveness of parents. Traumatic experiences can create a sense of distrust between parent and child thus damaging a previously secure attachment. Regardless of the parent’s ability to control the situation, children may view their parent’s inability to protect them from experiencing or

observing a stressful event as a violation of their established relationship. The quality of a child's attachment influences their ability to respond and recover from stressful events and in turn, the exposure to these events affects their relationship to their caregiver. Children with insecure attachment have more severe traumatic stress reactions (Lieberman 2011). For children exposed to multiple stressful events, the first event damages the attachment relationship thus the children are less capable to recover from the later ones. In line with the 0-6 specific PTSD diagnosis (see section 4.4), a threat to the main caregiver has been identified as a traumatic stressor to young children. Securely attached children understand their caregiver to be a secure base, the person that helps them safely navigate the world around them. Therefore a threat to that individual may be considered to be a threat to the child themselves. This means that both children who are securely attached and those who have insecure attachments are at risk for negative impacts in relation to their attachment style due to exposure to a traumatic event. In interviews with PHR clinicians, a 6-year-old girl from Guatemala said that she felt abandoned by her mother and “continued to wonder where her mother was and when they would see each other again” (Habbach et al. 2020). The same child said,

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

This is not uncommon among children in this situation, as read in Wood (2018), Claesson and Sohlberg (2002) found that “when children interpret themselves as ‘abandoned’ by parents, they may develop a profound sense that they have done something wrong to cause their caregiver to leave, igniting shame and complex emotions that can damage the lifelong relationships with themselves and others”.

4.3 Refugee Trauma

While refugee trauma is a category in itself, traumatic grief, community violence, and complex trauma are all common with refugee populations. Fazen and Stein (2002) identify the three stages of Traumatic events specific to refugee populations. The first is the trauma occurring in their place of origin- often the reason for their displacement (physically forced or chosen for safety). They highlight t that many of these children have no memory of a stable environment. The second stage of traumatic experiences lies in the journey to a new place. This is most relevant when thinking about the border in that this “traumatic event” is what occurs in both the journey to the US border but most importantly what happens upon arrival. Fazen and Stein note that it is in this stage that children may experience separation from parents whether intentionally or forced. The final stage of refugee trauma is in traumatic events that occur in integration with the new country and the difficulty of creating social bonds. This is specific to refugees, as asylum seekers are **seeking** asylum and have yet to settle in the new country.

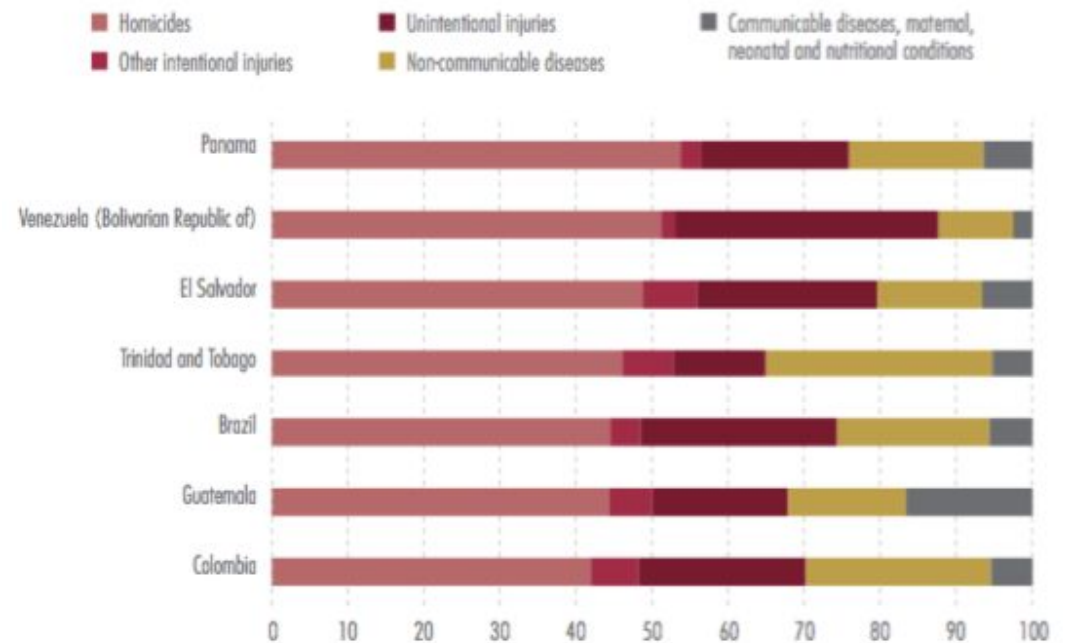
Cumulative Risk- Another way of understanding refugee and asylum seekers’ experiences is through the lens of cumulative risk factors. The more risk factors a child accumulates, the more likely they are to develop a psychological disorder (Fazel & Stein 2002). One way to interpret this is with the Adverse Childhood Experiences (ACE) questionnaire developed for the ACE study. The National Comorbidity replication Study found an association with high scores on the ACE questionnaire and the number of adult psychiatric diagnoses (Lieberman 2011). Refugee children are at risk in their home countries. The risk increases as children reach adolescence. According to a 2014 publication on Violence against Children, the highest homicide levels of children and adolescents are found in Latin America and the

Caribbean (Cappa 2014 pg. 40). In the case studies gathered by PHR, all parents expressed concern that their child would be harmed or killed if they remained in their country (Nelson & Habbach 2019). Their children were either the direct target for gang recruitment or used as a tool to extort something from the parent. There was an urgency to flee both due to immediate danger, and concern for the child as they age. As can be seen in Figure 4, homicide is the leading cause in adolescent boys in many of the countries families are fleeing from. This risk at home compounded by separation from their parent/caregiver places these children at an even higher risk for a psychiatric disorder and other adverse outcomes of exposure to trauma. For each negative experience (ie. dangers at home, separation from their parent, unsafe conditions, prolonged separation) the detrimental effects of each event increases, compounding upon one another.

Figure 4: Adolescent Deaths in Seven Latin American and Caribbean Countries
Cappa 2014

In seven countries in Latin America and the Caribbean, homicide is the leading cause of death among adolescent boys

Percentage distribution of deaths among boys aged 10 to 19 years in 2012, by cause, in the seven countries with the highest homicide rates worldwide among this population group



Source: World Health Organization, *Global Health Estimates (GHE) Summary Tables: Deaths by cause, age, sex and region, 2012*, WHO, Geneva, 2014.

“Most young men are returned [to their families] dead in black bags. And even those are lucky because they often kill the family, too. If I went back to El Salvador, I would not survive.”

Benjamín, 18-year-old man, El Salvador (Nelson & Habbach)

Complex Trauma- Another point of distinction from other types of exposure to trauma, that is key here is that most often refugee and asylum-seeking children are exposed to complex trauma. That is exposure to multiple traumatic events that are severe and pervasive, often interpersonal (<https://www.nctsn.org/what-is-child-trauma/trauma-types/complex-trauma>). A child’s response to complex trauma often manifests itself in different symptoms than the typical PTSD related symptoms. Instead, there are often problems with attachment to others, emotional regulation, dissociation, behavior problems, and distorted self-concept (Mash & Wolfe 2018 p.437). Kaplan, Stow, and Szwarc (2016) found that to best help refugees one has to understand the extent to which traumatic events, particularly those associated with persecution-- involving severe and organized violence-- has complicated effects on the psyche. Those effects can include both the way one views themselves, adversely affecting a sense of agency and control --as well as the way one relates to others, often affecting attachment and relationships. In addition, those who have experienced personal severe long term trauma may experience a shift in their fundamental values and the way they view and experience human dignity. The types of experiences that forced people to leave their homes and seek asylum in the United States are products of persecution and identity-based violence. In some cases, such interpersonal violence has been ignored by the global communities which can lead to a further negative shift in their understanding of themselves and human dignity. To be denied basic human rights and then feel

as if that has been ignored by the international community poses its own risk separate from the experiences themselves.

4.4 PTSD

While there are dangers of diagnosing an entire population without proper assessment, the children who have been separated from their parents at the Southwest border are at great risk for a trauma-related psychiatric disorder. Thus, an understanding of Post Traumatic Stress Disorder and its effects are pertinent to understanding the risks that family separation and detainment poses.

Post Traumatic Stress Disorder for Children 6 Years and Younger

A. In children 6 years and younger, exposure to **actual or threatened death, serious injury, or sexual violence** in one (or more) of the following ways:

1. Directly experiencing the traumatic event(s).
2. Witnessing, in person, the event(s) as it occurred to others, especially primary caregivers.

Note: Witnessing does not include events that are witnessed only in electronic media, television, movies, or pictures.

3. **Learning that the traumatic event(s) occurred to a parent or caregiving figure.**

B. Presence of one (or more) of the following intrusion symptoms associated with the traumatic event(s), beginning after the traumatic event(s) occurred:

1. Recurrent, involuntary, and intrusive distressing memories of the traumatic event(s).

Note: Spontaneous and intrusive memories may not necessarily appear distressing and may be expressed as play reenactment.

2. Recurrent distressing dreams in which the content and/or affect of the dream are related to the traumatic event(s).

Note: It may not be possible to ascertain that the frightening content is related to the traumatic event.

3. Dissociative reactions (e.g., flashbacks) in which the child feels or acts as if the traumatic event(s) were recurring. (Such reactions may occur on a continuum, with the most extreme expression being a complete loss of awareness of present surroundings.) Such trauma-specific reenactment may occur in play.

4. Intense or prolonged psychological distress at exposure to internal or external cues that symbolize or resemble an aspect of the traumatic event(s).

5. Marked physiological reactions to reminders of the traumatic event(s).

C. One (or more) of the following symptoms, representing either persistent avoidance of stimuli associated with the traumatic event(s) or negative alterations in cognitions and

mood associated with the traumatic event(s), must be present, beginning after the event(s) or worsening after the event(s):

Persistent Avoidance of Stimuli

1. Avoidance of or efforts to avoid activities, places, or physical reminders that arouse recollections of the traumatic event(s).
2. Avoidance of or efforts to avoid people, conversations, or interpersonal situations that arouse recollections of the traumatic event(s).

Negative Alterations in Cognitions

3. Substantially increased frequency of negative emotional states (e.g., fear, guilt, sadness, shame, confusion).
4. Markedly diminished interest or participation in significant activities, including con- striction of play.
5. Socially withdrawn behavior.
6. Persistent reduction in expression of positive emotions.

D. Alterations in arousal and reactivity associated with the traumatic event(s), beginning or worsening after the traumatic event(s) occurred, as evidenced by two (or more) of the following:

1. Irritable behavior and angry outbursts (with little or no provocation) typically ex- pressed as verbal or physical aggression toward people or objects (including extreme temper tantrums).
 2. Hypervigilance.
 3. Exaggerated startle response.
 4. Problems with concentration.
 5. Sleep disturbance (e.g., difficulty falling or staying asleep or restless sleep).
- E.** The duration of the disturbance is more than 1 month.

There are logistical problems when assessing children, while young children are likely unable to articulate exactly what they have seen/ experienced that does not mean they have not been exposed to numerous events that could be classified as traumatic. Even clinicians from Physicians for Human Rights who were trained specifically in child psychology found they were only able to get limited narratives from the children. Children would say things like “Bad things happened” and “The bad people are killing good people” (Habbach et al 2020).

“He does not know why he and his mother left Honduras. His mother was not happy there but he did not know why” (Habbach et al. 2020).

After children were reunited with their parents they were better able to articulate what happened to them. Importantly, their age-appropriate rudimentary explanations of what happened aligned with their parents' accounts which helps to validate what the children said. This is one of the reasons that a specific diagnosis was created for children under six, "because of young children's limitations in expressing thoughts or labeling emotions, negative alterations in mood or cognition tend to involve primarily mood changes" (American Psychiatric Association, 2013).

At the time of diagnosis, many clinicians stated that it was likely present symptoms were exacerbated by pre-existing trauma from events and incidents in their home countries. This is an example of cumulative trauma. 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, almost everyone exhibited some features or 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." (Habbach et al. 2020). The children interviewed by PHR clinicians also reported experiencing intrusion symptoms before they left home and that these symptoms persisted and in some cases worsened while being detained along the border. These symptoms included "nightmares, insomnia, intrusive flashbacks, pervasive anxiety, and impairment in carrying out daily activities" (Habbach et al. 2020).

The DSM also outlines some of the risk factors and protective factors for developing PTSD. Environmental risk factors include

“ include lower socioeconomic status; lower education; exposure to prior trauma (especially during childhood); childhood adversity (e.g., economic deprivation, family dysfunction, parental separation or death); cultural characteristics (e.g., fatalistic or self-blaming coping strategies); lower intelligence; minority racial/ethnic status; and a family psychiatric history” (American Psychiatric Association, 2013).

These risk factors touch on the dangers related to cumulative trauma. Many of the dangers in their home countries stem from systematic poverty which can also affect educational options. The key risk factor included in the DSM is the separation from a parent. This is also linked to the main posttraumatic protective factor which is “Social support (including family stability, for children)” (American Psychiatric Association, 2013). The presence of family members can moderate the effects of the traumatic experience. Family separation policies not only put the child at a greater risk for developing PTSD but also prevent social support, one of the best protective factors for the child.

One critique of the diagnostic criteria as it pertains to refugees and asylum seekers is a change between the DSM 4 and 5. Criterion A in the DSM 5 was vaguer, it defines a traumatic event as a “threat to physical integrity” (Pai, Suris & North 2017). This leaves open the door to interpret more events to be traumatic instead of limiting it so specifically on the body as the DSM 5 does. While the term physical integrity is still grounded in the physical it also includes ideas such as bodily and personal autonomy (control over one’s own body). This gives room to understand events that may be a violation of one’s rights “ be treated with humanity and respect for the inherent dignity of the human person” (Convention on the Rights of the Child) to qualify as a trauma under this diagnosis. While there may not be physical harm, to be treated as less than

human should be able to qualify as exposure to trauma. More general critiques of the use of the PTSD diagnosis for refugee and asylum-seeking populations are in section 4.7.

4.5 NET

The current standard for treating PTSD is Prolonged Exposure Therapy (PE). There is an emerging body of literature in support of a newer therapy - Narrative Exposure Therapy. NET was developed with the unique concerns relevant to Refugees (such as complex and cumulative trauma) in mind.

There are many differences between PE and NET one of which is the use of the past tense. NET is grounded in the past tense with the intention of grounding the experience in a larger historical context. This historical framework is key in contextualizing traumatic experiences within a society filled with conflict and can often help to relieve some guilt and blame from the individual. This is important for both parents and children. Two of the mothers interviewed by PHR clinicians expressed guilt and believed they were “bad mothers” because they allowed their children to be taken from them. Others said they felt hopeless and as if their life had no meaning. Contextualizing the circumstances that lead to the separation from their child could help to relieve some of this individual guilt. Another key difference when comparing NET and PE is that NET requires both fewer sessions and does not require participants to do homework (Mørkved, Hartmann, Aarsheim, Holen, Milde, Bomyea & Thorp 2014). Thus it is less time consuming for patients and can be done in a shorter period of time. This is key because the timeline of individuals at the border is never clear and the population is a particularly mobile one.

One component of NET that could be used to assist even those not experiencing diagnosable PTSD symptoms is the piece that involves the creation of a testimonial that is witnessed and documented by a licensed professional. NET builds on the principle of testimony therapy and involves the creation of a detailed biography fit into a historical and societal context. This has the potential to be used in a credible fear interview during the asylum-seeking process as validated documentation of what they have experienced in their home countries.

4.6 Alternative Frameworks

There is a division between those who believe in individualized trauma-focused psychotherapies and those who advocate for a psychosocial model that focuses on communities as a whole and promotes self-directed recovery and building resilience. Those who adopt a transcultural perspective take the stance that “ the tendency by Western mental health professionals to transfer Western diagnostic categories such as PTSD and associated trauma-focused therapies to the cultural distinct environments in which most refugees live”, is an ineffective way to address these situations (Silove, D., Ventevogel, P., & Rees, S. 2017).

Western psychology - A western locus of enunciation is only one of many systems of knowledge about the mind (Mignolo 2005). When using the term “Western psychology” another way of understanding this concept is to use the term biomedicine or biomedical psychiatry (Fernando 2010). These terms describe the mechanisms in which concepts of coping, distress, illness, and health are woven into the western system of identifying symptoms and analyzing causes of illnesses. “ Yet even today, cultural diversity in how illness and health are seen, how distress and coping are handled and the meanings attached to all of these- together with racist assumptions connected to all -render the whole system of biomedical psychiatry and western

psychology extremely suspect for universal application” (Fernando 2010 pg. 47). The argument made by Fernando is not that western psychology is useless, but that it can not be assumed to be the universal gold standard. Some, like Fernando and Summerfield, feel that the concepts of Trauma and PTSD encompass such diverse and varied experiences that individualized therapies are found to be ineffective, in part because these individualized forms of therapy (Prolonged Exposure for example) are taken out of the context of the society, culture, and community the individual is embedded in. Instead one must support the importance of acknowledging and promoting ways of dealing with the effects of conflict and violence that are relevant to these societies, cultures, and communities.

The concept of trauma may well be inappropriately applied; its application may disregard the reality of life events experienced by people and communities in terms of connections these events have with a variety of social, cultural, psychological and political corollaries each of which may be felt and interpreted differently depending on the background of each individual, family, and community...The individualized approach that underpins western psychotherapy may well miss most or all of these. (Fernando 2019 pg. 95- 96)

If trauma is examined from a communal rather than individualistic angle, a traumatic event has the potential to have long term effects on “community cohesion/ disruption, kinship ties, and antagonism, and the way people relate to each other both as individuals and as communities” (Fernando 2010 pg.100). This all plays back into the individuals’ experience and way of processing that experience. NET is one example of contextualizing the event within the community.

Social suffering - Another term that is helpful in unpacking and decolonizing one's understanding of mental health and psychiatry is "social suffering". Social suffering as Fernando (2010) defines it is a "term that brings together human problems that have their origins and consequences in the devastating injuries that social force can inflict on human experience... and.. Simultaneously involve health welfare legal moral and religious issues". In designating suffering as social it links the problems of the individual to the problems of the society and community.

Homogenized Identity- In using the term trauma, some believe that this reduces complex experiences into a single pathologized category. Derek Summerfield is a psychiatrist who problematizes' the concept of trauma and works in opposition to the medicalization of human distress and the assumption that Western psychiatry is universally valid. If all refugees/conflict survivors are inherently 'traumatized', it may be inaccurately diagnosing an entire population. To understand the refugee as traumatized names them as a 'sick' individual, this can complicate social integration into the host country and can affect paths to citizenship. In labeling a population as traumatized it can be understood as the medicalization of distress and pathologizing of suffering. One way this is actualized is through the diagnosis of PTSD (conference). This path of analysis can lead to a focus on analyzing specific traumatic experiences of the past and leaves out the sociopolitical factors, and the cultural environment the individual is immersed in (Summerfield 2000). It is also important to note that not while all children seeking asylum at the US border are fleeing some type of danger in their home country this may not result in symptoms of trauma. While they are at extreme risk due to the cumulative nature of their problems, that does not necessarily mean they will develop a psychiatric disorder. Extreme suffering does not always equate to traumatization (Summerfield 1999). An

individualized understanding of their symptoms, experiences, and coping strategies is necessary to provide aid --not an overarching diagnosis of an entire population.

Cultural relativism - Some psychologists have taken the preexisting ways of understanding “trauma” and have superimposed these diagnoses and treatments onto refugee populations. Another group of psychologists has taken more of a cultural relativist approach. Cultural relativism is a way to view individuals based on their own culture, instead of judging them against the criteria of another culture. An example of this within the context of mental health and refugees is that in some cultures, there may not be a direct translation of some mental health terms. There are different ways of thinking about suffering. In some cases it is on the body, in others, it may be more culturally relevant to talk about the way suffering affects the soul. Some places have very different conceptualizations about mental health. In a meta-analysis on mental health outcomes for youth living in refugee camps, the authors noted one of their significant limitations to be issues around translation and consistent reliable measurement tools. “As the majority of these measures are created in the West, it may not be applicable or even translatable for every study to use the same set of measurements” (Vossoughi, Jackson, Gusler, & Stone 2016). Their proposed solution was to use a combination of common standardized measures as well as “locally created measures or new measures designed for a specific culture or language group (Vossoughi et al. 2016). This aligns with cultural relativist practices. A cultural relativist would invest in understanding how that specific group talks about emotion, distress, what it means to face atrocity and fear, how they process and define their experiences (conference). These different approaches hold different consequences in terms of ‘treatment’ but

also inherent differences in the way in which we understand the child to have agency and act independently as well as the influences culture has on the individual (Summerfield 2000).

Conclusion

Children who have been separated from their parents along the US/ Mexico southwest border are at extreme risk for developing a psychological disorder and other detrimental effects as a result of their exposure to stressful and traumatic events. These children are suffering, in part due to the separation from their parents. They are suffering without a key protective factor --their parent/caregiver. While this suffering cannot be understated, the way in which humanitarians and psychiatrists alike intervene must be done in a thoughtful and aware manner. Particularly awareness of the bias their locus on enunciation and the ways that it creates bias when interpreting a scenario. The field of mental health, and the expanding field of global mental health have been defined by western locus of enunciations. This is observable in the use of measurement tools validated in western populations as well as an imposition of western definitions on different populations. This in itself is an act of colonization and can create tension in between mental health practitioners and those they want to help. To avoid this mental health practitioners must take a cultural relativist approach in assessing and treating individuals.

Reflections: A Guide for Future Action

Throughout this project, I have established that family separation has extreme and lifelong detrimental effects on the child. Family separation violates both the developmental and physical needs of the child, as well as their rights as a human being under the Convention on the Rights of the Child. And yet, it persists. What once held the public attention has faded into the background, drowned out by news deemed more pressing. With the public spotlight faded, those with the power to amplify the voices and experiences of those who have been separated from their family must do so.

The Trump Administration's Zero Tolerance policy was undeniably racially motivated. Rhetorical tactics to frame families seeking asylum as migrants coming to steal jobs, smugglers harming children, and hardened criminals coming to take American lives are undeniably racist and intentionally misleading. While this holds true, the Trump administration is not the first to politically evade the support of human rights. The Convention on the Rights of the Child is just one of many human rights treaties that the US has failed to ratify. These treaties include ones intended to "eliminate discrimination against women, to enumerate everyone's economic, social, and cultural rights, to protect migrant workers and their families, to fortify the rights of people with disabilities, and to establish the International Criminal Court to hold those responsible for war crimes and genocide accountable" (Bochenek & Binford 2019). Unless there is a radical change, the United States will continue to use individual liberty and freedom as a defense to deny basic human rights.

The problem of how to address the changing landscape of Global Mental health is a broader question that encompasses the issue of family separation. The conference I attended

--The Consortium on Forced Displacement and Mental Health sought to both begin to answer this question, but also rethink the kinds of questions we should be asking. One of the main purposes of this conference was to rethink the way undergraduate psychology is taught. This in part was in response to well-established professionals in the field of Global Mental health that found they had to forget everything they thought they knew about treatment and mental health to effectively aid different populations. They proposed that interdisciplinary work and the Liberal Arts experience will be instrumental in progressing the field. My hope is that this project can add to an expanding body of resources for those looking to take an interdisciplinary approach to their work.

While there is satisfaction in answering some questions, I feel that over the course of my research I have been left asking even more. At its inception, there were varying paths that this project could have taken. One would be to focus on a different age range. As presented in Figure 4 there are life-threatening risks that drastically increase as they reach adolescence in many of the countries children are fleeing from. To focus on an older age range would be an entirely separate project as they have different developmental needs and are affected differently by family separation. While I took an interdisciplinary approach to this issue, it was still grounded firstly in psychology. One can approach this from a variety of other disciplines which would lead to a focus on another aspect of the problem. Another path would have been to focus more specifically on US policy including more current policies pertaining to family separation and asylum-seeking including the Migrant Protection Protocol. Were there to be a fifth chapter to this project I would look to take one step back and get into the issues facing the field of global mental

health. While I have touched on some of them, there are still questions left unanswered and avenues left to explore.

I would like to take a moment to remind the reader that while this is an academic piece of writing intended to analyze and discuss this issue, family separation is not only a political and academic problem. It is a reality for too many families and we cannot forget the individuals who this policy has affected and continues to affect. What I cannot conclude this project without discussing is the current dangers for those who are being detained in any kind of holding facility. In a time where six feet, a face mask, and basic sanitation are what stands between people and a serious communicable disease, the detention centers along the US southwest border are one of the most unsafe places a person can be. Not only are holding facilities unsafe but so are the courts where deportation hearings are still being held, as well as the camps and shelters in Mexico where families wait for asylum hearings.

The more I read the more I realized how unaware I really was. If you have the privilege of time, use it to educate yourself on the policies of the nation you live in and the consequences of these policies. Take the time to assess your own bias and what you can do to proactively act with awareness. My hope is that each reader of this piece will take a component of it and share it with their own circles and communities. The more this knowledge and information are spread the more effective change can become.

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Office of the Attorney General
Washington, D. C. 20530

APRIL 6, 2018

MEMORANDUM FOR FEDERAL PROSECUTORS ALONG THE SOUTHWEST BORDER

FROM:

THE ATTORNEY GENERAL

A handwritten signature in black ink, appearing to be "J. Sessions", with the date "4/6/18" written below it.

SUBJECT:

Zero-Tolerance for Offenses Under 8 U.S.C. § 1325(a)

On April 11, 2017, I issued a memorandum to all federal prosecutors entitled “Renewed Commitment to Criminal Immigration Enforcement,” in which I directed the prioritization of the prosecution of certain criminal immigration offenses. I further directed each United States Attorney’s Office along the Southwest Border to work with the Department of Homeland Security to develop guidelines for prosecuting offenses under 8 U.S.C. § 1325(a).

Those seeking to further an illegal goal constantly alter their tactics to take advantage of weak points. That means we must effectively respond with smart changes also. The recent increase in aliens illegally crossing our Southwest Border requires an updated approach. Past prosecution initiatives in certain districts—such as Operation Streamline—led to a decrease in illegal activities in those districts. We must continue to execute effective policies to meet new challenges.

Accordingly, I direct each United States Attorney’s Office along the Southwest Border—to the extent practicable, and in consultation with DHS—to adopt immediately a zero-tolerance policy for all offenses referred for prosecution under section 1325(a). This zero-tolerance policy shall supersede any existing policies. If adopting such a policy requires additional resources, each office shall identify and request such additional resources.

You are on the front lines of this battle. I respect you and your team. Your dedication and insight into border reality is invaluable. Keep us informed, and don’t hesitate to give us suggestions for improvement. Remember, our goal is not simply more cases. It is to end the illegality in our immigration system.

This guidance is not intended to, does not, and may not be relied upon to create, any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

February 2, 2018

The Honorable Kirstjen M. Nielsen
Secretary of Homeland Security
Washington, DC 20528

Dear Secretary Nielsen:

As executives of organizations focused on the well-being of children, we are deeply troubled by media reports that the Administration is again considering a proposal to separate children from their parents at our Nation's borders. We are writing to strongly urge you to reject this misguided and harmful proposal.

The premise that separating families will deter immigration significantly and over the long term is false. Rather than discouraging migration, such a policy will likely encourage families to rely even more on criminal smuggling networks, at much greater financial and physical risk.¹

One thing that is absolutely clear: separating children from parents is a highly destabilizing, traumatic experience that has long term consequences on child well-being, safety, and development.²

Secretary Nielsen, our Nation understands that the stability and security of family is not only one of the fundamental pillars of societies, it is extremely important to the protection and well-being of children. The relationship with a parent or primary caregiver is critical to a child's sense of self, safety, and trust. This principle holds true for any child, regardless of nationality.

Separation from family leaves children more vulnerable to exploitation and abuse, no matter what the care setting. In addition, traumatic separation from parents creates toxic stress in children and adolescents that can profoundly impact their development. Strong scientific evidence shows that toxic stress disrupts the development of brain architecture and other organ systems, and increases the risk for stress-related disease and cognitive impairment well into the adult years.^{3,4} Studies have shown that children who experience such traumatic events can suffer from symptoms of anxiety and post-traumatic stress disorder, have poorer behavioral and educational outcomes, and experience higher rates of poverty and food insecurity.

For these reasons, the Immigration and Customs Enforcement Advisory Committee on Family Residential Centers noted that detention or the separation of families for purposes of

¹ Cf. <http://thehill.com/opinion/immigration/367115-taking-away-their-children-wont-stop-central-american-border-crossers> , published January 2, 2018.

² See AAP Council on Community Pediatrics, *Detention of Immigrant Children* (2017)

³ AAP Committee on Psychosocial Aspects of Child and Family Health, *Early Childhood Adversity, Toxic Stress, and the Role of the Pediatrician: Translating Developmental Science into Lifelong Health* (2012)

⁴ See https://www.childwelfare.gov/pubPDFs/brain_development.pdf

immigration enforcement or management are never in the best interest of children, and must be avoided.⁵ We strongly agree.

Separating children from their families will not deter immigration, but will cause irreparable damage to children. We urge you to reject this proposal.

Sincerely,

Caryl M. Stern
President and CEO
UNICEF USA

Karen Remley, MD, MBA, MPH, FAAP
CEO/EVP
American Academy of Pediatrics

Christine James Brown
President and CEO
Child Welfare League of America

Anne Lynam Goddard
President and CEO
ChildFund International

Julie Gilbert Rosicky
Executive Director
International Social Service, USA

⁵ *Report of the ICE Advisory Committee on Family Residential Centers*, October 7, 2016, p. 5.; <https://www.ice.gov/sites/default/files/documents/Report/2016/acfrc-report-final-102016.pdf>



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March 1, 2018

The Honorable Kirstjen M. Nielsen
U.S. Secretary of Homeland Security
Washington, DC 20528

Dear Secretary Nielsen:

On behalf of the American Academy of Pediatrics (AAP), a non-profit professional organization of 66,000 primary care pediatricians, pediatric medical subspecialists, and pediatric surgical specialists dedicated to the health, safety, and well-being of infants, children, adolescents, and young adults, I write to follow-up on my January 11th letter seeking a meeting to discuss how the Department of Homeland Security (DHS) can best safeguard the health and well-being of immigrant children.

In our previous letter, the Academy urged you in the strongest possible terms to reject a policy that would separate children from their parents at the border. To our knowledge, no decision has been made with respect to this policy. However, we are aware of reports that parents and children are being forcibly separated at our borders. We write to implore you to intervene with immigration enforcement and put an end to the separation of parents and children.

As pediatricians, it is our view that the separation of children from their parents as a tool of law enforcement to deter immigration is inhumane and counterproductive. We remind you that the people most affected by a policy of parental separation are children. Many of these children are terrified, young, and are victims of or witnesses to violence themselves. As noted by the authors of a recent *New York Times* [op-ed](#), "Parents will continue to flee violence to protect their children and themselves. It is reprehensible to punish them for that basic human impulse."

Children are not just little adults. Children have unique needs including medical, developmental, dietary, and other physical needs and, as such, our immigration system must recognize this reality. Children may not even know why they were brought to the U.S. if their parent understandably chose to protect them from the dangerous circumstances that forced them to flee their home country.

Separation from the very parents who would provide them with love, stability and reassurance only exacerbates children's suffering. Separation of children from their parents increases the number of unaccompanied children and, in some cases, increases the number of children in foster care in the U.S. At a time when the U.S. is shifting child welfare practice to recognize the importance of keeping families safely together where possible, it is extremely concerning that immigrant children are facing the unnecessary trauma of entering foster care for reasons unrelated to their safety.

We ask you to put children first and not exacerbate their suffering by the additional trauma of being separated from their parents. As children develop, their brains change in response to environments and experiences. Fear and stress, particularly prolonged exposure to serious stress without the buffering protection afforded by stable, responsive relationships— known as toxic stress – can harm the developing brain and harm short- and long-term health. Pediatricians work to keep families together in times of strife because we know that in any time of anxiety and stress, children need to be with their parents, family members and caregivers.

The AAP looks forward to hearing from you on our request for a meeting. To arrange that meeting, please contact Tamar Haro at tharo@aap.org or 202-347-8600. In the meantime, we urge you to publicly reject the separation of parents and children at our nation’s borders.

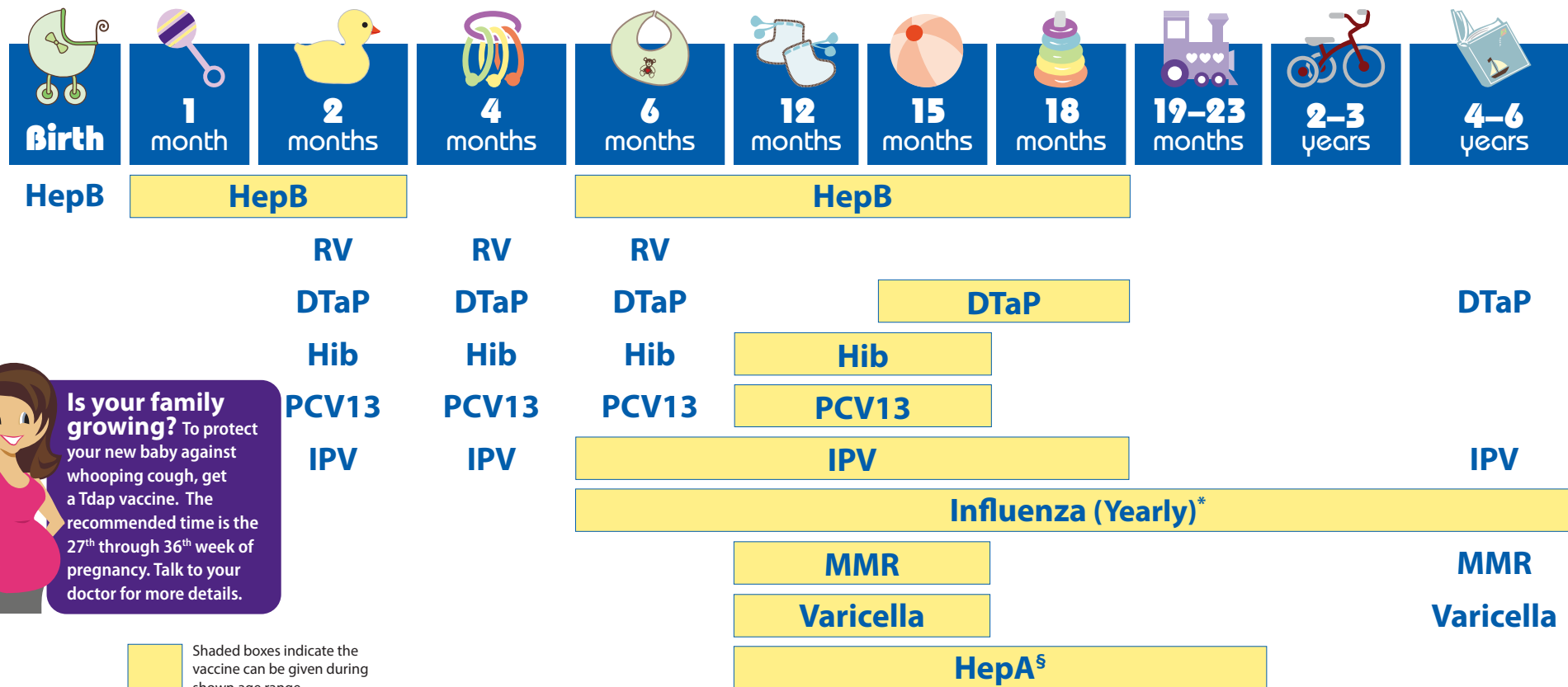
Sincerely,

A handwritten signature in cursive script that reads "Colleen A. Kraft". The signature is enclosed in a thin black rectangular border.

Colleen A. Kraft, MD, FAAP
President

CAK/tmh

2020 Recommended Immunizations for Children from Birth Through 6 Years Old



Is your family growing? To protect your new baby against whooping cough, get a Tdap vaccine. The recommended time is the 27th through 36th week of pregnancy. Talk to your doctor for more details.

Shaded boxes indicate the vaccine can be given during shown age range.

NOTE: If your child misses a shot, you don't need to start over. Just go back to your child's doctor for the next shot. Talk with your child's doctor if you have questions about vaccines.

FOOTNOTES:

- * Two doses given at least four weeks apart are recommended for children age 6 months through 8 years of age who are getting an influenza (flu) vaccine for the first time and for some other children in this age group.
- § Two doses of HepA vaccine are needed for lasting protection. The first dose of HepA vaccine should be given between 12 months and 23 months of age. The second dose should be given 6 months after the first dose. All children and adolescents over 24 months of age who have not been vaccinated should also receive 2 doses of HepA vaccine.

If your child has any medical conditions that put him at risk for infection or is traveling outside the United States, talk to your child's doctor about additional vaccines that he or she may need.

See back page for more information on vaccine-preventable diseases and the vaccines that prevent them.

For more information, call toll-free
1-800-CDC-INFO (1-800-232-4636)
 or visit
www.cdc.gov/vaccines/parents



U.S. Department of Health and Human Services
 Centers for Disease Control and Prevention

Vaccine-Preventable Diseases and the Vaccines that Prevent Them

Disease	Vaccine	Disease spread by	Disease symptoms	Disease complications
Chickenpox	Varicella vaccine protects against chickenpox.	Air, direct contact	Rash, tiredness, headache, fever	Infected blisters, bleeding disorders, encephalitis (brain swelling), pneumonia (infection in the lungs)
Diphtheria	DTaP* vaccine protects against diphtheria.	Air, direct contact	Sore throat, mild fever, weakness, swollen glands in neck	Swelling of the heart muscle, heart failure, coma, paralysis, death
Hib	Hib vaccine protects against <i>Haemophilus influenzae</i> type b.	Air, direct contact	May be no symptoms unless bacteria enter the blood	Meningitis (infection of the covering around the brain and spinal cord), intellectual disability, epiglottitis (life-threatening infection that can block the windpipe and lead to serious breathing problems), pneumonia (infection in the lungs), death
Hepatitis A	HepA vaccine protects against hepatitis A.	Direct contact, contaminated food or water	May be no symptoms, fever, stomach pain, loss of appetite, fatigue, vomiting, jaundice (yellowing of skin and eyes), dark urine	Liver failure, arthralgia (joint pain), kidney, pancreatic and blood disorders
Hepatitis B	HepB vaccine protects against hepatitis B.	Contact with blood or body fluids	May be no symptoms, fever, headache, weakness, vomiting, jaundice (yellowing of skin and eyes), joint pain	Chronic liver infection, liver failure, liver cancer
Influenza (Flu)	Flu vaccine protects against influenza.	Air, direct contact	Fever, muscle pain, sore throat, cough, extreme fatigue	Pneumonia (infection in the lungs)
Measles	MMR** vaccine protects against measles.	Air, direct contact	Rash, fever, cough, runny nose, pink eye	Encephalitis (brain swelling), pneumonia (infection in the lungs), death
Mumps	MMR** vaccine protects against mumps.	Air, direct contact	Swollen salivary glands (under the jaw), fever, headache, tiredness, muscle pain	Meningitis (infection of the covering around the brain and spinal cord), encephalitis (brain swelling), inflammation of testicles or ovaries, deafness
Pertussis	DTaP* vaccine protects against pertussis (whooping cough).	Air, direct contact	Severe cough, runny nose, apnea (a pause in breathing in infants)	Pneumonia (infection in the lungs), death
Polio	IPV vaccine protects against polio.	Air, direct contact, through the mouth	May be no symptoms, sore throat, fever, nausea, headache	Paralysis, death
Pneumococcal	PCV13 vaccine protects against pneumococcus.	Air, direct contact	May be no symptoms, pneumonia (infection in the lungs)	Bacteremia (blood infection), meningitis (infection of the covering around the brain and spinal cord), death
Rotavirus	RV vaccine protects against rotavirus.	Through the mouth	Diarrhea, fever, vomiting	Severe diarrhea, dehydration
Rubella	MMR** vaccine protects against rubella.	Air, direct contact	Sometimes rash, fever, swollen lymph nodes	Very serious in pregnant women—can lead to miscarriage, stillbirth, premature delivery, birth defects
Tetanus	DTaP* vaccine protects against tetanus.	Exposure through cuts in skin	Stiffness in neck and abdominal muscles, difficulty swallowing, muscle spasms, fever	Broken bones, breathing difficulty, death

* DTaP combines protection against diphtheria, tetanus, and pertussis.

** MMR combines protection against measles, mumps, and rubella.

Convention on the Rights of the Child

Adopted and opened for signature, ratification and accession by General Assembly
resolution 44/25 of 20 November 1989

entry into force 2 September 1990, in accordance with article 49

Preamble

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the

Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict, Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child, Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

PART I

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life.

2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a

request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (*ordre public*), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.

2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others; or

(b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.

To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;

(d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;

(e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;

(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;

(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in

order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason , as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development

4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(a) To diminish infant and child mortality;

(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.
4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
 - (a) Make primary education compulsory and available free to all;
 - (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
 - (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
 - (d) Make educational and vocational information and guidance available and accessible to all children;
 - (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.
2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

- (a) Provide for a minimum age or minimum ages for admission to employment;
- (b) Provide for appropriate regulation of the hours and conditions of employment;
- (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.

2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.

3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.

4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

(i) To be presumed innocent until proven guilty according to law;

(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected. 4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

(a) The law of a State party; or

(b) International law in force for that State.

PART II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.

2. The Committee shall consist of eighteen experts of high moral standing and recognized competence in the field covered by this Convention.^{1/} The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.
3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.
4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.
5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.
7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.
8. The Committee shall establish its own rules of procedure.
9. The Committee shall elect its officers for a period of two years.
10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights

(a) Within two years of the entry into force of the Convention for the State Party concerned;

(b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

(a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective

mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

(c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;

(d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

PART III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations. In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

1/ The General Assembly, in its resolution 50/155 of 21 December 1995 , approved the amendment to article 43, paragraph 2, of the Convention on the Rights of the Child, replacing the word “ten” with the word “eighteen”. The amendment entered into force on 18 November 2002 when it had been accepted by a two-thirds majority of the States parties (128 out of 191).