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Forced Child–Family Separations in the Southwestern U.S. Border Under the "Zero-Tolerance" Policy: Preventing Human Rights Violations and Child Abduction into Adoption (Part 1)

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Abstract
This article focuses on the "zero-tolerance" policy adopted in spring, 2018, in the USA. This immigration policy criminalized the undocumented or illegal entry of child migrants and their families on the southwestern U.S. border. Those affected were mostly from Guatemala, El Salvador, and Honduras. The implementation of this policy resulted in the forced separation of children from their families and the violation of human rights of those detained in authorized facilities and foster care. The policy coincides with limited U.S. government case management of unaccompanied and accompanied minors. We examine critical issues to include international conventions regarding child rights and the best interest of the child that provide globally recognized guidance to prevent separations of children from their parents. These discriminating policies and unjust practices have already triggered institutional condemnations and legal complaints at the national and international levels. Informed by our own studies of forced migration and child abduction into adoption from two of the mentioned Central American countries, we suggest how social workers, as human rights defenders and gatekeepers of child welfare practices, may respond to these unjust policies and practices. This article is part 1 of two papers on the subject; the second article is focused on the resulting trauma of those affected.

Keywords Forced family separation · Unaccompanied minors · Central America migration · Human rights crisis · Human/child rights · Social work policy and practice

The latest human rights crisis at the southwestern U.S. border is characterized not only by an increase in the number of immigrant children and their families—predominantly from Guatemala, El Salvador, and Honduras—but also by the explicit policies and widespread practices resulting in forced separation of families. Over the past decade, many of those reaching the U.S. border have qualified to request asylum, fearing for their safety in their home countries. Violence has reached epidemic levels, particularly societal and familial violence against women (Ayon et al. 2017), which was previously recognized as a claim for Central American women seeking asylum in the U.S. (Costantino et al. 2012). As the authors (hereinafter "we") explore in this paper, which constitutes the first of a two-part article, many women and other caregivers from these countries often arrive with children, and they have experienced forced family separation more extensively since the introduction of new immigration policies under President Donald Trump's administration.

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From a Border Humanitarian Crisis to the Widespread Violation of Human Rights of Migrant Children and Their Families

Over the course of the past decade, families have been "…fleeing human rights violations yet also suffer human rights violations once apprehended in the U.S., including detention, abuse, denial of medical care, and restrictions in access to legal representation" (Androff 2016, p. 76). This migration push is a result of multiple factors, including weak states controlled by narco-traffickers and

other elements of organized crime which flourish in an environment of impunity and inequality. This context is the result, in part, from U.S. policies, including the "decades long 'War on Drugs' [that] has produced such significant collateral damage. But perhaps even more troubling is the U.S.'s inability (or refusal) to recognize the substantial human costs of this war, and appropriately change course" (Gendle and Monico 2017, p. 17). The "invisible war" taking place in Central America is often forgotten, even when U.S. policies are responsible for driving migration underground through smuggling and human trafficking (Cone and Bosch Bonacasa 2018). The consequence of U.S. policies combined with extreme poverty in the weak states of that region, characterized by violence and inequality, is human suffering and the resulting exodus as people flee their homes and communities to seek safety and refuge elsewhere.

The June 2018 border crisis was punctuated by the third caravan organized by People Without Borders in which roughly 1500 Central Americans participated. Fifty of these individuals intended to seek political asylum based on gang-related death threats, the killing of family members, rape as revenge, and political persecution. Only 20 immigrants, however, were allowed by the Customs and Border Patrol (CBP) to reach the final fence because the facility in San Ysidro was said to be full (Schrank 2018). Then, on April 6, 2018, the U.S. Attorney General (Jeff Sessions) announced the "zero-tolerance" policy aimed at affirming the criminalization of illegal entry into the U.S.. Direction was given to the U.S. attorneys' offices in the southwestern districts of California, New Mexico, and Texas "…to adopt a policy to prosecute all Department of Homeland Security [DHS] referrals of section 1325(a) violations" (U.S. Department of Justice 2018, p. 1); that is, for actual and attempted illegal entries across the U.S. border.

The administrative practices of immigration officers following these orders illustrate the way family–child separations is used as an immigration "deterrent" strategy. U.S. General Attorney Jeff Sessions openly admitted that the policy was meant to send a "message" to stay away or risk parent–child separation (CNN Politics 2018). Among other abuses, reportedly in an unknown number of cases, immigration agents hastily administrated documents that were essentially child relinquishment paperwork (written in English). Reportedly, detained parents were required to sign over their parental rights under circumstances of great duress without due process. According to credible press reports, an unknown number of immigrants were essentially forced to sign their children into custody of the U.S. government without any guarantee of rights of their children's return to their care and ultimately to family reunification (Barajas 2018).

The zero-tolerance policy and the cruel tactics of family–child separation come as DHS "…reported a 203 percent increase in illegal border crossings from March 2017 to March 2018, and a 37 percent increase from February 2018 to March 2018—the largest month-to-month increase since 2011" (U.S. Department of Justice 2018, p. 1). As of May 29, 2018, 10,773 migrant children were in custody of the Office of Refugee Resettlement (ORR), an office of the Administration of Children and Families of the U.S. Department of Health and Human Services Department (HHS), which represents a 21% increase from the 8886 individuals in April 2018. The agency declared that it has roughly 100 shelters in 17 states, and 95% are at their capacity, but the agency has a reserve of 1300 beds on military bases as the "last option" to increase holding capacity (Miroff 2018).

In fact, the immigration of children, accompanied or not by caretakers, into the southwestern U.S. has been on the rise. The Immigration and Nationality Act (INA), which is the basic body of U.S. law in this field, "does not provide a specific framework for the detention of alien families during the removal… leaving the general release of family units together as the only clearly viable option under current law" (Peck and Harrington 2018, p. 1). By law, minors are to remain in DHS custody unless determined that they are "unaccompanied" (Peck and Harrington 2018, p. 5); that is, unless classified as unaccompanied alien children (UAC). UAC apprehensions during Fiscal Year (FY) 2018 (October 1, 2017–May 31, 2018) increased by 4% compared with FY 2017, from 31,063 to 32,372, respectively (U.S. Department of Homeland Security 2018). During November 2018 alone, a record number of 25,172 "family unit members" were apprehended crossing the U.S. Southwest border (Miroff and Moore 2018). The UAC status is determined when a child under 18 years old lacks legal immigration status and has no secure parental care or an authorized guardian for physical custody (Immigrant Legal Resource Center 2017). As discussed later, the UAC status was applied to the children affected by the zero-tolerance policy regardless of the fact that most of them were accompanied by parents and relatives when stepping into the southwestern U.S. border.

Immigrant advocates expressed concern regarding President Trump's administration's efforts to limit the number of youths classified as UAC with the corresponding consequences of expedited removal or "fast track" deportation and quick removal of UAC benefits after turning 18 years old. They also warned about the criminalization of youths, given the fact that the "definition of a criminal alien is incredibly broad, including people with criminal convictions, but also those charged with criminal offenses, or who have committed acts that could constitute a criminal offense" (Immigrant Legal Resource Center 2017, p. 2). These practices are particularly worrisome when parents, many without legal representation, are admitting to crossing the U.S. border without proper inspection by immigration authorities. Many parents remain detained for an extended period once charged with this automatic misdemeanor offense, separated from their children, without due process even when they formally request asylum or intend to do so.

On July 31, 2018, the Senate Judiciary Committee held a full committee meeting as an Oversight of Immigration Enforcement and Family Reunification Effort to hold the government accountable regarding the aforementioned judicial order. Concerns included allegations of sexual assault and other abuses of immigrants in detention facilities. In this hearing, additional data confirmed the lack of compliance and of systematic abuse by pertinent government agencies. At that time, of the 2551 children (ages 5 through 17) affected by this policy, only 1442 were reunited with their parents, 20 children were believed to have been deported, 431 had their parents deported, the identity of the parents of 94 children is unknown, and 67 were not reunified due to "red flags" (unknown law infractions) found in the history of their parents (U.S. Senate 2018). According to ACLU (2018d), as of October 15, 2018, 120 children remained in ORR custody; 50 of them with parents deported, and 70 with parents in the U.S., most of whom not eligible for reunification.

The unjust immigration policies and unfair practices have triggered the public and institutional condemnations and legal complaints at the national and international levels. On June 25, 2018, challenging the violations of constitutional rights, federal right to asylum, and the June 20, 2018 executive order to keep families together, the ACLU filed an extension of the lawsuit of *Ms. L. v. U.S. Immigration and Customs Enforcement* (ICE) to include all families that have been forcibly separated in the southwestern U.S. border upon entry. A U.S. federal court ordered that all separated families "…must be reunited within 30 days; children under five within 14 days; and all parents must be able to speak with their children within 10 days. The court also prohibited any deportation of parents without their children, absent of a knowing waiver. In the future, no child can be separated unless it is genuinely in the child's best interest" (ACLU 2018a, p. 1), which is examined at length when discussing relevant international convention. The original court injunction in favor of Ms. L., an immigrant from Congo who sought asylum upon port entry, resulted in the reunification with her toddler in March 2018. The U.S. District Judge Dana Sabraw granted ACLU the expanded injunction ordering the reunification of the children affected by the implementation of the zero-tolerance policy within the aforementioned timeframe (UCLU 2018b); as of the submission of this paper, the relevant government agencies had not complied with this order and did not assume responsibility for the reunification process.

Authorities involved in the implementation of the zero-tolerance policy have confirmed that family separation is an unjust policy. For instance, on July 16, 2018, Elizabeth Holtzman resigned her position as a Homeland Security Advisory Council member, arguing that the zero-tolerance policy "…is child kidnapping, plain and simple "(Murdock 2018). The HHS commander, Jonathan D. White, who oversees the UAC Reunification Effort at the U.S. Public Health Service Commissioned Corps, confirmed during the U.S. Judiciary Committee hearing several ORR concerns regarding the policy's impact, including the possibility of trauma among children separated from their parents, in particular, "significant risk of harm to children" and "psychological injury" (U.S. Senate 2018). As a follow-up to the assessment of the aforementioned injunction, Judge Sabraw categorized the order compliance as "unacceptable" and is expected to require the federal government to reunify the children of those people deported by August 10, 2018 (Soboroff and Ainsle 2018).

This latest border crisis at the southwestern U.S. border points to other flaws in the immigration and resettlement systems. For instance, the 1-800 hotline number the ORR created was reported to generate long waits and busy signals, and the DHS hotline for ORR caseworkers and attorneys to locate parents has been unresponsive to the requests (ACLU 2018a). As a result, families are unable to communicate, remaining in isolation and without proper assistance. Up until the submission of this paper, no one has been held accountable for ongoing administrative errors, including the inability to properly track the cases of those separated at entry, which has made the process of reunification unnecessarily challenging.

The chaos and uncertainty and the inevitable erasure of identity for those children who are separated for long periods (inhibited first-language development and rights to family life, etc.) and the trauma that results from this most serious of human rights abuse are profound (Rotabi and Bromfield 2017; Rotabi et al. 2008; Zayas 2018). Forced separation of children from their families impacts brain functioning and adversely impacts child development (National Prevention Science Coalition 2018). In practice, these administrative failures violate of the rights of children, their parents, and caretakers during the detention of immigrant children, youths, and adults, as well as the temporary care of migrant children.

Human and immigrant rights organizations have documented the impact of these unacceptable practices of detention and processing of migrant children and their families in order to undertake further action in the international arena. For instance, in May 2018, the Texas Civil Rights Project, the Women's Refugee Commission, the University of Texas School of Law Immigration Clinic, and Garcia & Garcia Attorneys at Law, P.L.L.C., submitted to the Inter-American Commission on Human Rights an emergency request for precautionary measures on behalf of five parents separated from their children at the U.S.–Mexico border. As of June 28, 2018, the project had conducted interviews with an additional 376 families facing similar situations. Of those, 266 parents remained detained but separated from their children, 101 adults appeared to have been deported without their children, and two children have been confirmed to have been deported without their parents (Texas Civil Rights Project 2018). Furthermore, in June 22, 2018, the United Nations condemned the forced family separation that the USA is conducting on its

southwestern U.S. border, and a group of 11 experts stated that the executive order fails to protect the children already in custody. They asserted that "…migrant children need to be treated first and foremost as children. While family unity needs to be preserved at all costs, it cannot be done at the expense of detaining entire families with children. Family-based alternatives to deprivation of liberty must be adopted urgently" (United Nations 2018a, p. 1). This international legal claim is still pending.

In light of this national and international pressure and the increased number of legal claims, U.S. government agencies are recognizing the flawed policies and administrative procedures put in place since the zero-tolerance policy was enacted, and later nullified with the executive order. On December 18, 2018, Lynn Johnson, HHS Assistant Secretary, recently announced that close to 2000 children could be released from custody before Christmas because "The children should be home with their parents. The government makes lousy parents"; she also admitted the failure of the rule that has prevented reunification with suitable relatives and caretakers by placing extra background checks on sponsors of migrant children—in total, 14,600 migrant children (most of them declared UAC) are under custody in 137 shelters and system that has capacity a capacity for 16,000 (Burnett 2018, p. 1). Although the Tornillo shelter in Texas, known as the last tent city for migrant children with the highest occupancy of 3,800 in September 2018, released the last children on January 11, 2019 (Moore 2019), the cruel government practice of child separation from their families has continued at apprehension in the Southwestern U.S. border.

In this article, we consider the rights and needs of these children as they now face uncertain futures in foster care and other substitute care scenarios. Their forced separation is a critical human rights violation that must be rectified with reunification practices oriented to meet basic standards of child protection, permanency, and well-being, which are the core goals of the child welfare system (U.S. Department of Health and Human Services 2013). Before we explore these important concepts and make practice recommendations, we examine the immigration patterns from the Central American region and the history of unethical and illicit adoptions in Guatemala and El Salvador. We then discuss how current U.S. immigration policy is linked to other U.S. policies creating a balloon effect, forcing people to migrate en masse from Central America to the North (Gendle and Monico 2017).

Fundamentally, we assert that too many of these historical cases were really child abductions into adoption in which inappropriate processes and procedures enabled the severance of family ties permanently. The recent forced family–child separations are part of the history of child abduction into adoption in the USA, a result of the quagmire created by the administrative policy of separating children and families at the southwestern U.S. border in mid-2018. To make our case, we first contextualize the problem, including the observance of human rights, Conventions, instruments, and frameworks that are important for guidance in conceptualization of the problems. Then we present practice recommendations for the children currently caught in foster care and other group care scenarios.

The Longer View: the Flow of Immigrants from Mexico and the Northern Triangle Since the Turn of the Millennium

Although the peak of irregular migration was in FY 2000 when the U.S. Border Patrol agents apprehended close to 1.7 million people, migration flows into the USA continued, with 303,916 immigrants detained in FY 2017. This lower number, however, "should not be confused with a gentler, kinder approach to border security—in fact, just the opposite" since the number of Border Patrol agents in the southwestern states almost doubled (from over 9000 to over 16,000) and the fencing along the border almost tripled (from 705 to 2000 mi; Lawfare 2018, p. 1). The immigrant population has also changed, from about 98% of Mexican nationality in FY 2000 to more than 50% from Guatemala, El Salvador, and Honduras during the past fiscal year, with about half a million citizens from those countries been apprehended between FY 1995 and FY 2016 (Lawfare 2018). Given the described changes in the immigrant population, family separation in the latest border crisis seems to be affecting more children and their families entering the USA from Guatemala, El Salvador, and Honduras (countries without U.S. land border), as compared to that of Mexico, bordering the USA.

Using the Freedom of Information Act requests over the course of several months, the Immigrant Legal Resource Center (ILRC) obtained extensive data that DHS compiled from November 4 and 6, 2017. This included "contracts, demographics, medical care providers, and inspections history for more than 1,000 federal facilities that detain immigrants, including county jails, Bureau of Prisons facilities, ORR centers, hospitals, and hotels" (National Immigrant Justice Center 2018a, p. 1). Of the total daily population in a given month, 51% were considered "noncriminal," which assumes that the other 49% were posing "no threat"; in addition, 23% of the total were placed on a "level 1" threat (people with low-level and nonviolent criminal convictions), and 15% of the total were classified on the highest threat level (National Immigrant Justice Center 2018a).

The conditions of those detained while crossing the U.S. border without inspection have worsened, particularly for migrant children. In response to complaints by immigration groups regarding the conditions of detainees under U.S. Immigration and Customs Enforcement (ICE) custody, the Office of the Inspector General (OIG) conducted an inspection at the end of 2017 of four contracted detention facilities (OIG 2017). This report identified

"…problems that undermine the protection of detainees' rights, their humane treatment, and the provision of a safe and healthy environment" (U.S. Department of Homeland Security 2018). Using as a source the same ILRC data mentioned earlier, of the nine ICE-contracted facilities holding immigrant juveniles under 18, six hold them for less than 72 hours and three for longer periods, between 100 hours and 240 days. This means that children were held for months in remote facilities and apart from their families. Despite reported medical neglect and poor detention conditions for immigrant detainees, facilities authorized by ICE continue to pass satisfactory inspections since 2012 (National Immigrant Justice Center 2018a). Furthermore, ICE has been underestimating the overall cost of immigrant detention, with great inaccuracy and without sufficient justification to its budget requests (U.S. Government Accountability Office 2018), with an estimated cost of $775 a day to shelter a child in Tornillo (Moore 2019). However, the mistreatment of children has been documented in the controversial 2009 lawsuit that immigrant rights groups filed against a former Texas facility (Hutto) given the deplorable conditions of that facility (Human Rights First n.d.).

Protections adopted for ensuring the rights of immigrants have been ineffective or eliminated under the Trump administration. For instance, the U.S. Court of Appeals for the Ninth Circuit (2011), in *Diouf v. Napolitano*, upheld the respect of the constitutional right of due process by noncitizens on U.S. soil, claiming that prolonged detention of incoming immigrants raised concerns regarding inadequate procedural protections. Additionally, the American Immigration Council (2016) found that there is unequal access to immigration representation—only 14% of immigration detainees have legal counsel for immigration, and access to such services varies across nationalities and across jurisdictions. Fundamentally, immigrants with representation are more likely to be released from detention, appear in court, win removal cases, and seek and obtain release from deportation. Regarding keeping families together, the Family Case Management Program was suspended in June 2018. This program kept them connected to their case managers and legal advisors, "…ensured they understood how to apply for asylum and attend immigration court proceedings," and increased to 99.6% the rate of appearance in immigration court by those released (ACLU 2018c, p. 1). Thus, the evidence supports the notion that immigrants in detention, particularly children, endure conditions that violate basic human rights to remain with their families and strip them of their basic civil rights, including informed, timely, and fair legal representation.

A Review of International Human Rights Instruments and U.S. Implementation of a Rights-Based Approach to Children's Care

In stark contrast to the present climate, the U.S. historically took on a leadership role in global human rights, particularly as related to defining asylum. The country has hirstorically been a haven for children whose families are experiencing conflict and extreme violence. First Lady Eleanor Roosevelt personally involved herself in receiving children from Europe to escape the violence of W.W. II. She carried out her work through the United States Committee for the Care of European Children at the request of her husband (Teaching Eleanor Roosevelt n.d.). These children included those who were actively persecuted—Jewish children and children whose families were living in severely impacted communities, enduring the bombings of London, for example (Rusby and Tasker 2009).

The children who entered the U.S. unaccompanied during this W.W. II era were separated from their families, intentionally in many cases, and the process of their care and protection was fundamentally a foster care model designed to be a short-term solution with family reunification ultimately as an expectation and plan. Roosevelt personally greeted many of the children and even took an interest in many of the necessary processes, including physical examinations by pediatricians (Rotabi and Bromfield 2017). As it was a long-term plan to return the children to their families in Europe, keeping records was essential, even without the technological advances of today. Many of the children were reunited with their families, while others reached the age of majority while living overseas. It was never the objective of their families or the U.S. government to permanently hand over children to the care of another unrelated family (called "sponsors") without plans for and ultimately concerted reunification efforts (United States Committee for the Care of European Children 1952).

Reflecting upon these efforts in 1948, when Eleanor Roosevelt took on critical leadership in drafting the Universal Declaration of Human Rights (UDHR), she was deeply committed to a range of rights that had been informed by W.W. II. Related to the topic at hand, she was determined to ensure the right to seek asylum in another country (Art. 14) and the right to family life (Art. 16), and that motherhood and childhood are entitled to special care and assistance (Art. 25). Roosevelt's efforts were not without controversy, as the U.S. population was not entirely comfortable involving itself in the problems of Europe—particularly receiving immigrants who were not prepared to work and care for themselves (Davis 2011). She faced criticism by isolationists, and immigration quotas were of great concern during the war as well as in the post-conflict era. In the end, several thousand children of the war were evacuated and hosted by U.S. sponsoring families; many of those children were cared for by their sponsors and then they were eventually reunified with their families of origin (Rotabi and Bromfield 2017; United States Committee for the Care of European Children 1952).

More recently, when the United Nations was developing the Convention on the Rights of the Child (CRC)—the most agreed-upon human rights instrument in the world—greater

clarity on child rights was developed within the conception of *the best interest of the child* (Cantwell 2014; Rotabi 2012). When a child's care and protection come into question, the best interest of the child is expected to be weighed with multiple considerations, including children's right to remain with their family group and specifically not to be forcibly removed from their parents (Art. 8). It should be noted, that although this particular human rights instrument has global agreement and the USA signed the agreement in 1995, it is the only country in the world that has failed to ratify the CRC (Androff 2016). This failure to ratify the CRC, as the prime international child rights instrument, evades obligations to adopt CRC principles in U.S. child welfare laws. However, U.S. federal and state child welfare laws share the best interests of the child principle—it is an international standard of child protection (UNICEF 2016). Ultimately, the U.S. legal framework for the care and protection of children has many strengths in practice when executed correctly. The forced family–child separation immigration policy, however, was fueled by the populist and anti-immigrant rhetoric of the Trump administration. This policy did not adhere to the basic values of the CRC and best practices in child protection as child rights were clearly violated as evidenced by the several thousand children separated from their families and placed into foster care or other alternative care with nonrelatives.

Members of The Committee on the Protection of the Rights of All Migrant Workers and Members of their Families and the Committee on the Rights of the Child expressed their concerns regarding the human rights of children in the context of international migration (United Nations 2017). In this joint comment, they stressed the multiple vulnerabilities migrant children face because they "(a) are migrants themselves, either alone or with their families, (b) were born to migrant parents in countries of destination or (c) remain in their country of origin while one or both parents have migrated to another country" (United Nations 2017, p. 1). Therefore, they encouraged States to align "all legislative, administrative and judicial proceedings and decisions, and in all migration policies and programmes that are relevant to and have an impact on children, including consular protection policies and services" to the principle of best interests of the child (United Nations 2017, p. 7). This is particularly pertinent in conducting relevant assessments and determinations while children are in detention, in temporary placement, and in cases of potential return or adoption, as to "ensure due process safeguards are established, including the right to free, qualified and independent legal representation" (United Nations 2017, p. 7). In the joint comment, members of both committees endorsed the United Nations (2009) Guidelines for the Alternative Care of Children. This particular guidance document for alternative care provides guidance for ensuring protection to children in special circumstances, such as the appropriate assistance to unaccompanied minors and the handling of cases of parental deportation. Reinforced is the need to entrust child protection authorities within the respective country's child protection systems to make the best-interest assessments and determinations; it called for the provision of comprehensive services through interinstitutional coordination; and it underscored the importance of the age-appropriate participation of children in all relevant procedures (United Nations 2017).

To end this review, we recall the legacy of Eleanor Roosevelt and those who volunteered to help the children of Europe. U.S. citizens have always had open arms for the children of other countries. As a country, the U.S. has been identified as an "Adoption Nation" (Pertman 2001), and the movement of children from the southwestern U.S. border to over a dozen U.S. states with scant documentation is of great concern to those committed to the ethical care and protection of children. The most recent policy of placing migrant children forcibly removed from their families with adoption agencies, such as the well-known Christian adoption agency Bethany Christian Services, raises a red flag (Joyce 2018). Great caution must be taken to ensure that these children do not become victims of forced adoptions (Cheney and Rotabi 2018)—government-sanctioned child abduction into adoption—given the manner and method in which these children were removed from their families at the border (Burke and Mendoza 2018). Bethany Christian Services, along with other agencies, have been active in the adoption of children from Central America in the past. Considering that history, the problems of adoption of children from this region, including child abduction into adoption, call for great caution as policies and procedures unfold in this human rights crisis scenario.

Lessons Learned from Child Abduction into Adoption Within the Americas: El Salvador and Guatemala Cases

Early adoptions from Latin America began largely in the 1970s when North American missionaries in the region began to adopt children with increasing regularity. Then, in the early 1980s until the early 1990s, Latin America began to see a significant and rapid rise in intercountry adoptions and the parallel problems of illicit practices, including child sales and child abduction into adoption (Briggs and Marre 2009; Herrmann Jr. and Kasper 1992). In this section, we examine the evolution of child abduction in the context of intercountry adoption, using two country case studies from the region where the majority of mentioned migrant children and their families are coming.

Several countries in Latin America stand out in terms of conflict and poverty, including the various forces of the Cold War. Guatemala and El Salvador are two Central American countries with well-documented child adoption fraud with an array of child rights violations (Dubinsky 2010; Monico and

Rotabi 2012). Mexico, Honduras, Peru, and Brazil have also had had significant problems in the intercountry adoption system during the rise of adoptions from Latin America (Briggs and Marre 2009). Since most families being separated at the southwestern U.S. border come from Guatemala, El Salvador, and Honduras, this article focuses on the discussion of conditions and events in those Central American countries, specifically Guatemala and El Salvador as case examples that illustrate detailed documentation of child abduction into adoption.

El Salvador

Civil conflict created fertile ground for intercountry adoption (ICA). The two-decade civil war in El Salvador (1970–1990) resulted in an estimated 75,000 Salvadorans killed and an additional half million people internally displaced. There were also nearly a million refugees, many relocating to the USA, Canada, and elsewhere (United States Institute for Peace 2001). The conflict also left an unknown number of forced separations and disappearances of children for placement in residential care institutions, internal or domestic adoptions, and intercountry adoptions—in the case of the latter, children were sent mainly to the USA, Italy, France, and Honduras (Pro-Busqueda 2002). Documentation of the atrocities that took place related to the forcible removal of children from their parents for adoption is such that a small nongovernmental organization called Pro-Busqueda has actively engaged in documenting the oral histories of those children lost into adoption networks during the war years. Pro-Busqueda's evidence in El Salvador indicates that unscrupulous entrepreneurs were charging up to $10,000 per adoption, an enormous sum during the war years (Pro-Busqueda 2002).

Among the illicit activities in El Salvador, beyond the forced separation, were falsified documents (child laundering) necessary to carry out child abduction into adoption. Today, over 433 lost children and their biological families have been reunited with the investigative and psychological support of Pro-Busqueda. The reunions are highly emotional—scenes of family reunions have caught international media attention, which further underscores the atrocities carried out during the war years (Monico and Rotabi 2012). Pro-Busqueda's documentation was precise and detailed, ultimately offering a glimpse into the horrific conditions of war (Pro-Busqueda 2002).

Incriminating records have been used in advocacy efforts as the organization made statements in high-profile human rights advocacy efforts. For example, testimonies were given before the Inter-American Human Rights Court, including several high-profile cases as a result of Pro-Busqueda's advocacy work (Monico and Rotabi 2012). Within El Salvador, the small NGO was also relatively powerful, reminding current politicians and government bureaucrats of their complicity in the problem as well as the obligation to help families find each other as a part of the peace and reconciliation process for healing. Although the organization has struggled since an intentional fire was set to destroy its records, it is an important model that includes a well-documented process in which social workers act in the role of mediators and facilitators in the family reunification process (Monico and Rotabi 2012).

It should be noted that the abduction of children for adoption during the war years is one crime that can be prosecuted years later. After the civil war, these children were not returned to their biological families, and as a result, the crime was ongoing after the cutoff date for pardons in the truth and reconciliation process (Briggs and Marre 2009). These children are the "living disappeared" of the war years (Rotabi 2012). Active steps to hold the politicians and bureaucrats in El Salvador responsible have been a clear threat to the political elites who have continued to enjoy privilege and power in the post-conflict society. The problems with intercountry adoption in El Salvador are so notorious that the country is largely closed as a source of children to be adopted internationally today, given its strict legal frameworks and cumbersome processes.

Guatemala

Neighboring Guatemala has a similar history as documented by their truth and reconciliation process at the end of the civil war (1960–1996). During testimony related to the truth-seeking process, it was learned that military officers and their wives were actors in child abduction into adoption during the war years. Some of those children fell into intercountry adoption networks in similar circumstances as the events in El Salvador (Dubinsky 2010; REMHI 1999).

This history of child abduction is an undercurrent as Guatemala struggles in its post-conflict era. Illicit adoptions during the war continue to receive media attention today. A stark example is found in a press story in 2015 when allegations were made against a high-ranking government official implicated in illegal adoptions during the civil war. The *Boston Globe* published an opinion piece titled "Diplomat should be removed from UN over inquiry" (Reynolds 2015), and the narrative captured the story of how Guatemala's highest-ranking appointee to the United Nations engaged in "a shrewd scheme where the children's biological parents signed a document granting custody of their children….[and] tourist visas were then issued for the infants and in just two months they were on a plane to Canada." The press piece goes on to document that the individual in question "… was imprisoned after the police raided a hotel in Guatemala City where four Canadian women were preparing to leave the country with five Guatemalan babies, but he was released after a short time" (Reynolds 2015, p. 1). This was a story of illicit adoption activities during the war years and then

how that individual remained in an important position of influence at the United Nations.

In the post-conflict era, over 30,000 Guatemalan adoptees joined families in the USA and elsewhere through intercountry adoption. In fact, for several years at the turn of the millennium, Guatemala was the most active source country for intercountry adoptees joining families in the USA (Rotabi and Bromfield 2017). The sad truth was that the majority of these adoptions had highly questionable paperwork—including incomplete information about the child's origin and family ties, raising concerns about an adoption marketplace rather than legitimate social services (Casa Alianza et al. 2007; Bunkers et al. 2009; Dubinsky 2010). Eventually, the system shut down because of extreme elements of corruption, including very high-profile cases of child abduction into adoption (Monico 2013).

Today, legal and social service systems reform has been a priority in Guatemala, and the country is currently closed to out-migration of children as adoptees to the USA and elsewhere. Domestic adoptions and other child welfare interventions designed to support families and preserve family life are the priority (Roby et al. 2014; Rotabi and Monico 2016), thereby meeting international standards of child rights and regulation of child adoption activities. There has been some discussion of re-opening the system to include the potential of a program for intercountry adoption of special needs children to other countries where medical care can be realized, but that has yet to occur (Rotabi and Bromfield 2017).

Child Abduction into Adoption as Lessons to Prevent Forced Family Separation

Intercountry adoption serves as a lesson on policies and procedures to avoid forced family–child separations and ultimately child abduction into adoption. An examination of the literature on intercountry adoption is informative to understand when and how the best interest of children prevails, particularly in the context of human and natural disasters. Social workers and other scholars in aligned fields have contributed to this literature with critical observations about the ethics of child adoption practices and the need for great caution when removing children from their family life (Rotabi et al. 2015a, b). Ethical policies and procedures are clearly oriented to legitimate child abandonment verification and child relinquishment practices that are not coercive. Furthermore, international agreements serve as important reminders of child adoption ethics and the related policies and procedures.

Under the auspices of The Hague Conference on Private International Law (HCCH), The Hague Convention of May 29, 1993, on Protection of Children and Co-operation in Respect of Intercountry Adoption (hereafter referred to as The Hague Convention or simply the HCIA) provides the guiding framework for our discussion. This international private law now has over 100 contracting countries (HCCH 2018). The Hague Convention's Preamble recognizes that children "should grow up in a [nurturing, suitable] family environment but countries must ensure that intercountry adoptions are made in the best interests of the child and with respect for his or her fundamental rights, and to prevent the abduction, the sale of, or traffic in children" (HCCH 1993, p. 1). Therefore, contracting countries (including the USA) acknowledge that families play a critical role in the physical and emotional development and well-being of children. Governments have a responsibility to ensure that children grow up with their birth family or an alternative family (including extended family) within their country of origin—through domestic adoption or other possibilities for in-country care before considering intercountry adoption (HCCH 2005; Rotabi and Gibbons 2012). Only when placement in in-country settings is not possible should intercountry adoption be used to provide the child a permanent, loving home (HCCH 2005) as a form of the continuum of care for children to uphold the best interest of the child, as explained next. Only with a child rights–based approach to prevent the abduction, sale, and trafficking of children can the USA meet the child welfare goals mentioned earlier.

Best Interest of the Child

Both the HCIA and the U.N. Convention on the Rights of Children (United Nations 1989) consider the best interest of the child as "paramount" (HCCH 1993; Hollingsworth 2003; McKinney 2007; Rotabi 2008; United Nations 1989; Yemm 2010). Articles 1, 4, and 16 of the HCIA provide guidance for determining the best interests of the child (HCCH 1993). Specifically, Article 1 reinforces the principle that intercountry adoption should take place in the best interests of the child and within the child's fundamental rights. Article 16 makes clear that the sending country should consider a foreign placement only after the child has been deemed adoptable and the proper parental consents have been obtained (HCCH 1993).

This international regulatory approach is not without controversy, and some intercountry adoption scholars argue that the best interest of an adoptable child resides in the provision of the most basic human right of a child—to grow up in a family environment. Additionally, if the child is parentless or the parents are unable to care for the child, intercountry adoption should be favored over all other in-country alternative care arrangements, even domestic adoption (Bartholet 2007, 2010; Stelzner 2003). The position of these promoters of intercountry adoption often calls for expediting child adoptions to minimize the harm to children who may be languishing in nonfamily care scenarios while a final case determination is made. This approach, however, risks the violation of the HCIA's guiding principles, which call for the

consideration of family and kinship placement and national adoption prior to the consideration of intercountry adoption. To minimize the risk of harm in "rescuing" or "saving" children, particularly in emergency contexts or humanitarian crises, the HCCH (2008) recommends determining the adoptability of a child in an assessment of the child's need of care—forcible removal of a child from his or her parents is counter to the values of the HCIA. In fact, the HCIA very clearly defines child abduction into adoption and was developed to prevent such human rights abuses, whenever possible (Duncan 2000).

Relevant to the best interest of the child is the issue of "subsidiarity" or the *principle of subsidiarity* which expects a child to grow up in a family environment while upholding the continuum of care that ensures due diligence to in-country alternative options before considering intercountry adoption. This is a critically important concept that is outlined in the HCIA Preamble which states that "appropriate measures [must be taken] to enable the child to remain in the care of his or her family of origin" and that intercountry adoption should be considered only if "a suitable family cannot be found in his or her State of origin" (HCCH 1993, p. 1). Article 4 restates this notion and adds that intercountry adoption should be considered only if the adoptability of the child has been established and no possibilities of adoption have been found within the country of origin (HCCH 1993). Article 5 reinforces the role of competent authorities in ensuring the eligibility and suitability of the prospective adoptive parents prior to making the placement (HCCH 1993).

Some intercountry adoption scholars argue that community-based alternatives are more culturally appropriate in countries such as Guatemala and that these interventions should be considered and exhausted before intercountry adoption (Rotabi et al. 2011). An opposing view is that "strict subsidiarity, crudely applied, leads unnecessarily to institutionalization or abusive forms of foster placement . . . [as] 'suitable local family placement' might refer to a wide range of delayed adoption, extended family or non-family foster placement, or household service arrangements that are not in a child's best interests" (Carlson 2010, pp. 735, 737).

In a public debate on the principle of subsidiarity (Bartholet and Smolin 2012), Bartholet claims that the U.N. Committee on the Rights of the Child, UNICEF, and Save the Children favor the more rigid interpretation of this principle contained in the CRC, which gives preference to in-country alternatives over intercountry adoption for cultural heritage reasons. These claims do not seem justified since the HCCH's Permanent Bureau, which is responsible for monitoring the implementation of the HCIA, has produced specific guidelines regarding the principle of subsidiarity (HCCH 2008). The HCIA Guide to Good Practice states that "the Convention does not impose an obligation on Contracting States to engage in intercountry adoption and it is based on the subsidiarity principle according to which intercountry adoption may be considered as an option only after the possibilities for placement of the child within the country of origin have been considered" (HCCH 2008, p. 103). In fact, the Guide states that "the child should ideally be raised in his or her family of birth. If that is not possible, then *a family* should be sought in his or her country of origin. When that is also not possible, then intercountry adoption may provide the child with *a permanent, loving home*" (HCCH 2008, p. 22, italics added).

The HCIA supports a continuum of care or the provision of comprehensive services that holds family preservation as a fundamental value and then family reunification as needed (Bunkers et al. 2009, p. 652). Regarding ethical standards, the literature indicates that the best interests of the child do not exist in a vacuum but in a particular cultural or ecological context. Smolin (2005) has emphasized the importance of upholding not only the rights of the child but also the rights of the birth family to be connected with that child and the right of the child to be connected with his or her birth parents, even while growing up with adoptive parents.

Child Rights–Based Framework

A prominent child rights framework in the field of intercountry adoption, which is applicable to any country contracting the HCIA, is that of Roby (2007). Specifically, Roby identifies that children's rights should be observed before, during, and after adoption. Before adoption, children's rights include the right to life, maternal and prenatal care and health care; the right to grow up in a family; and the right to grow up in his or her own culture. During adoption, children's rights include the right to a determination of adoptability, the right to be placed with a properly prepared adoptive family, the right to be matched with families who can and will provide for special needs, the right of protection from becoming a commodity, the right to competent and ethical professional care, and the right to give consent or express own opinion. After adoption, children's rights include the right to full family membership, the right to social acceptance, and the right to have access to birth and identity records (Roby 2007).

Roby (2007) claims that this set of rights should inform the public policy decisions and administrative measures to ensure that every child is able to enjoy adequate protection and the proper environment for appropriate child development. Furthermore, she argues that nations help the poorest of the poor to ensure family preservation so that families do not feel forced to give up their children. They should also provide a right to be adopted by extended family or other nationals while not disregarding the possibility of intercountry adoption after all of the in-country options have been exhausted. Roby (2007) also recognizes that countries receiving foreign-born children into care should also enact regulations aimed at eliminating unethical practices on the part of public servants,

private adoption agencies, and others involved in the intercountry adoption chain.

The continuum of child rights found in Roby's (2007) analysis is codified in the United Nations (2009) Guidelines for Alternative Care of Children (Davidson et al. 2017; United Nations 2009). This international agreement holds the family unit as paramount and that family–child separations are to be avoided whenever possible, including times of disaster and migration to avoid the consequences of unaccompanied children (Rotabi et al. 2015a, b). Then reunification strategies must be employed with expedience when a child is separated from her or his family life (United Nations 2009). Support systems are expected to be shaped by the vision that children and families should remain together, with a commitment to avoiding traumatic forced family–child separations, including evacuations related to disasters and humanitarian crises.

A Rights-Based Approach to Managing Child Migration into the USA

In spite of the recent protective measures adopted to respect the rights of migrant children, the U.S. has failed to ensure the best interest of those children. In 1985, immigrant rights defenders filed a class action lawsuit against the former ICE office (the Immigration and Naturalization Service) regarding the detention, treatment, and release of immigrant children. Litigation before the United States Supreme Court led to an agreement in 1997 (Human Rights First n.d.). The Flores Agreement Settlement (FSA) mandates the government "… to release children from immigration detention without unnecessary delay to, in order of preference, parents, other adult relatives, or licensed programs willing to accept custody. If a suitable placement is not immediately available, the government is obligated to place children in the 'least restrictive' setting appropriate to their age and any special needs [and] implement standards relating to the care and treatment of children in immigration detention" (Human Rights First n.d., p. 1). In practice, DHS has been found to be in violation of the FSA numerous times (American Immigration Lawyers Association 2018), along with the ORR, who have "failed to issue regulations implementing the terms of the settlement, as required by the parties' 2001 stipulation extending the agreement" (Human Rights First n.d.). These agencies must comply with the FSA regardless of the changes that this may undergo as a result of the September 7, 2018, proposed rule by the Homeland Security Department and the Health and Human Services Department, for which written comments and related material have been accepted by November 6, 2018 (Office of Federal Registry 2018).

The proposed rule aimed at terminating the FSA is arguably "ensuring that all juveniles in the government's custody are treated with dignity, respect, and special concern for their particular vulnerability as minors…. [to align it with] provisions of the HSA [Homeland Security Act of 2002] and TVPRA [William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008] [while establishing] an alternative to the existing licensed program requirement for family residential centers, so that ICE may use appropriate facilities to detain family units together during their immigration proceedings, consistent with applicable law" (Office of Federal Registry 2018, summary). Critics of the proposed rule argue that it is likely to undermine the provisions built in the FSA, TVPRA, and relevant laws protecting children by granting due process in the treatment of accompanied and unaccompanied children. For instance, the proposed rule grants greater discretion to DHS and HHS in the best-interest assessments and determinations, including age determination of children in custody, the establishment of family-based, self-licensed facilities run by DHS, heightening of "the standard for release on parole for children in expedited removal proceedings [and the] limit release options for children in government custody" (National Immigrant Justice Center 2018b, p. 2).

In practice, the proposed rule would not only terminate the FSA but it will strip migrant children and their families from basic protections granted in the international conventions mentioned earlier; furthermore, it will undermine the best interest of the child, while giving the assigned agencies the power to hold both children and their families in detention, indefinitely. On this regard, after conducting extensive research during 2017 and 2018, Amnesty International (2018) concluded that "the policy and practice of indefinitely detaining asylum-seekers, based solely on their migration status, constitute arbitrary detention in violation of US and international law. Indefinite detention without criminal charge is in violation of the UN Convention Against Torture, which the United States ratified and integrated into US law" (p. 2). The latest threat of ruling indefinite detention is further discussed later in this paper.

Ordinarily, after DHS arrests immigrant children and they are determined to meet the Unaccompanied Alien Child criteria, ORR assumes responsibility for the children "taking into account potential flight risk and danger to self and others. State-licensed ORR-funded facility services include: Classroom education, Mental and medical health services, Case management, Socialization and recreation [and] Family reunification services" (U.S. Department of Health and Human Services 2018b, p. 2). Among other responsibilities, ORR is responsible for "Ensuring that the interests of the child are considered in decisions related to the care and custody of UAC… Overseeing the infrastructure and personnel of ORR-funded care provider facilities [and] Conducting on-site monitoring visits of ORR-funded care provider facilities and ensuring compliance with ORR national care standards" (U.S. Department of Health and Human Services 2018a, p. 1).

In practice, the children forcibly separated from their parents upon detention at the southwestern U.S. border have been categorized as UAC even if they entered the country with their parents—that is, without applying the criteria stated above. The policy of separating children from families essentially created UACs and hindered the ORR mandate of family–child reunification. However, immigrant advocates believe that "the UAC designation is generally beneficial because the law provides for more child-friendly standards for UACs" (Immigrant Legal Resource Center 2017, p. 1). Thus, this agency must assume the functions for which it was created: to ensure that children are not stripped of their right to remain with their biological family (parents or extended family), and to provide the necessary support to biological parents to become suitable caregivers. Parity treatment in implementing the aims of the child welfare system for the immigrant children is imperative.

The president's executive order affirms the criminalization of those crossing the border without inspection, promising to discontinue the practice of separating parents for children by continuing to place families in detention facilities until their cases are considered by a court (Shear et al. 2018). What complicates the executive order implementation is that Administration for Children and Families, a division of the Department of Health and Human Services, confirmed that this executive order was not applicable to past cases, and the reunification of the 2300 separated families detained was not ensured (Shear et al. 2018). During detention, most parents of the separated children did not know the whereabouts of their children at some point since they had limited or no communication with them. The forced family separation is an ongoing reality for those parents still not reunited with their children.

In June 2018, ICE announced the suspension of its "family case management" program for asylum-seekers (Bendix 2017), posing greater challenges to immigrant families with the handling of their cases. At one point, there were about 1500 children claimed to be "missing" in the system as a result of the lack of parental reporting and the government's inability to locate these children after 30 days of custody release. The ORR has refuted that these children are "lost," arguing that "the tracking of UAC after release is just one of the recent headlines that focus on the symptoms of our broken immigration system while ignoring its fundamental flaws" (U.S. Health and Human Services Department 2018a). The U.S. immigration policy flaw is the lack of respect of international conventions regarding the rights of children, particularly the best interest of children and the many dimensions previously explored here.

Roby's (2007) child rights framework can be useful in an analysis of the forced separation of children from their families at the southwestern U.S. border. The U.S. must remain involved with the international organizations concerned with human rights—such as the United Nations Council on Human Rights—in order to benefit from the advice and technical assistance of these global institutions that play an important role in monitoring the implementation of agreements related to human rights, particularly the rights of children. Unfortunately, in June of 2018, the USA resigned from this particular council. This disengagement and severance of relationship in this venue is unacceptable. We advocate U.S. active engagement in human rights discourse and defense. Ultimately, we must also continue to advocate for the ratification of the Convention on the Rights of the Child as a long-term goal.

As an immediate goal, DHS and ORR need to issue a clear explanation of how it intends to ensure the best interest of children in the cases not grandfathered by the executive order, the children caught in policy debate. These agencies need to ensure the safety, permanency, and well-being of the children detained in child and family facilities throughout the U.S. after the executive order and other subsequent legal claims that may be filed. These agencies need to assume responsibility for both the "missing" children as well as the families not reunited since the zero-tolerance policy ended. Due diligence to these cases is paramount for these agencies to fulfill their mandates and ultimately uphold their ethical obligations to care and protect the most vulnerable: children separated from their families.

Conclusion

Fundamentally, unjust policies and unfair practices at the southwestern U.S. border have been separating children from their families. The ongoing quagmire is a human rights crisis resulting in significant child and family trauma (Zayas 2018). The children who are caught in the system of forced separations must receive care and attention and be reunited with their biological families. Such an approach will require careful case management that is oriented to their rights. Prolonged family–child separations, with children remaining in alternative care scenarios, especially foster care, runs the risk of becoming a de facto adoption, particularly as adult family members have multiple barriers of reunification such as immigration status and inability to financially acquire legal representation and being deported back to their home countries.

Although it may be argued that these conditions would not ordinarily be viewed as grounds for termination of parental rights and resulting in child adoption, one Guatemalan mother detained for deportation did lose custody of her U.S. citizen child in 2012. The judge in this Missouri case found this contesting mother to be unfit to care for the child because "illegally smuggling herself into the country is not a lifestyle that can provide any stability for the child" (Ross and Hill 2012, p. 1). This stunning ruling is counter to the best interests of the child principle and the implementation of the zero-tolerance policy in many of the cases discussed in this article

have turned migrant children into "Trump's small hostages," as the Opinion columnist Frank Bruni (2018) has characterized the children affected by the border crisis.

The implications are profound and the problems underscored in this paper are the tip of the iceberg in terms of child rights and welfare in the U.S. in the context of immigration deportation policies. Some of the members of the "mixed-status" families face imminent or eventual deportation, while other members do not live that daily threat, as citizens. These families have endured forced separation for many decades now, particularly migrant workers and those living in areas of persistent raids by immigration authorities. The reality is stark and cruel when parents are detained and deported because many of the children affected are often left behind in the U.S. with older siblings and other close relatives and friends of the family—many of whom are undocumented themselves or have uncertain or undefined status. Other children are placed in foster care as they enter the child welfare system as a result of the detention and deportation of their parents. Many remain in the U.S. due to their rights as citizen children, while others suffer a form of U.S. citizen deportation when they join their parents. These children too face child adoption as a possible outcome of public child welfare intervention, and the ethics of such adoptions are outside of the scope of our analysis in this paper. However, this group of children and their families should not be forgotten in the larger discourse about the practice of child welfare and the interface of social work with children and families caught in the U.S. immigration crisis and the intersection with foster care and adoption.

As social workers, human rights defenders, and gatekeepers of child welfare practices and ethical codes of conduct interested in avoiding further criminalization of immigrant children and their families, we must step in and demand action to address their immediate needs while engaging in social policy and legal advocacy (Furman et al. 2012) that will keep human rights crises of child migrants and their families from reoccurring. In this type of cases, the "social work response should move beyond professional practice, into the realm of policy reform, advocacy, lobbying, direct action, and research" (Androff 2016, p. 76). In fact, there has been insufficient deliberation and public stances within the social work community regarding this human rights crisis. Although the National Association of Social Workers and alike associations condemned the zero-tolerance policy, the practices of forced family separation, and the associated prolonged detention and mistreatment of children, many social workers lack essential knowledge and skills related to immigration and child welfare to assume a leading role in addressing these unjust policies and unfair practices (Finno-Velasquez and Monica 2018). In this paper, we offer important evidence and guidance to aid in articulating kinder and more effective responses, including historical lessons about the policy and practice pathways forward.

As this paper was revised for final submission, the Trump administration has announced that it is considering to introduce a "binary choice" policy, which seeks "to detain asylum-seeking families together for up to 20 days, then give parents a choice — stay in family detention with their child for months or years as their immigration case proceeds, or allow children to be taken to a government shelter so other relatives or guardians can seek custody" (Miroff et al. 2018). As this new policy is likely be challenged by a new caravan on its way to the southwestern U.S. border, which was originally comprised of 1,600 Hondurans and grew by other thousands of Central Americans; in fact, the Mexican Foreign Ministry and Interior Ministry (2018) announced a joint press release indicating that the governments of Mexico, Honduras, Guatemala and El Salvador requesting the United Nations High Commissioner of Refugees (UNHCR) to grant this group refugee status and assist them at the Mexico's southwestern border. Like many other "new" immigration policies, this proposed change has been a practice, at least since ending the zero-tolerance policy.

The real problem with this proposal is the de facto prolonged detention, which violates international human rights convention, and is quite simply just as a new phase of the same human rights abuses. The proposition of being reunited with guardians is proving to be a deception because it is either too cumbersome or impossible for undocumented relatives/guardians to gain custody of the unaccompanied children, as they fear imminent detention if and when they come forward as concerned relatives. Meanwhile, children remain institutionalized during a time in history in the U.S. child welfare system that favors de-institutionalization. Thus, indefinite detention vs. institutionalization seems the real options unfolding, paired with scare tactics and ongoing terror toward migrant children and their families. Yet, the quest for justice is not over. On December 19, 2018, the United States District Judge of the United States District Court for the District of Columbia Emmet Gael Sullivan dismissed U.S. General Attorney Jeff Sessions' attempts to limit asylum claims of immigrants on the grounds of domestic violence or gang violence, categorizing these administrative rules as "arbitrary, capricious and in violation of the [existing] immigration laws" (Gregorian 2018, p. 1). Two days later, the U.S. Supreme Court upheld this decision on the lawsuit of the Southern Poverty Law Center (2018) and its partners.

The massive and prolonged detention of Central American children and their families crossing the southwestern U.S. border (with the intent to seek safe haven and political asylum) is not only part of a growing transnational problem (Furman et al. 2015) but also a natural consequence of turning the increasingly downsized privately run prison industrial complex into an accelerated privatized system of criminalization of immigrants in the U.S. (Ackerman and Furman 2014). As part of the criminalization of parents, the Trump administration continues to play the "blame game" as it has been in the case of the death of 7-year-old, Keq'chi girl Jakelin Amei

Rosemary Caal Maquin from Alta Verapaz, Guatemala, who was part of the latest caravan reaching the New Mexico desert, who died of exhaustion, septic shock, fever, and dehydration under the custody of Border Patrol Custody on December 6, 2018 (Miroff and Moore 2018; Heidbrink and Statz 2018); in fact, the DHS Secretary Kirstjen Nielsen claims that "This is just a very sad example of the dangers of this journey. This family chose to cross illegally" (p. 1). On December 24, 2018, the U.N. Special Rapporteur on the human rights of migrants, Felipe González Morales, requested the full investigation in this case (United Nations 2018b). With such cavalier disregard for human dignity and the rights to seek asylum by the U.S. government, the 8-year-old boy from Guatemala, Felipe Alonzo-Gomez, died on December 25, 2018, in New Mexico under the custody of U.S. Customs and Border Protection; while "the official cause of the child's death is still unknown… CBP's Office of Professional Responsibility will conduct a review, consistent with policy [and the CBP will] begin informing Congress and the media within 24 hours after someone dies in its custody" (Silva 2018, p.1). These immigrant policies and practices are unacceptable, as they violate national law and international human rights conventions and leave us to question if we have now entered into an era of crimes against humanity on the border.

The challenges ahead will demand both our deep knowledge of direct child welfare practice with children and families and political advocacy, recognizing that failure to halt and abolish the related immigration policies ignores the ultimate historical milestone of human rights abuses—the Holocaust. Notably, the 1948 Genocide Convention explicitly recognizes the forcible removal of children from family life as a form of genocide. In fact, the United Nations was one of the first international organizations condemning forced family separation at the southwestern U.S. border, claiming that "…migrant children need to be treated first and foremost as children. While family unity needs to be preserved at all costs, it cannot be done at the expense of detaining entire families with children. Family-based alternatives to deprivation of liberty must be adopted urgently" (United Nations 2018a, b, p. 1). Resettlement policies need to be culturally sensitive and agencies must set up service delivery schemes that are "proactively flexible to allow for unique approaches to working with the diverse cultures… [while] enhancing the use of clients' natural helping systems" (Potocky 1996, p. 171). This can be accomplished by not keeping children in inadequate facilities for extended periods and by lifting unnecessary restrictions to reunification. The resulting child trauma is discussed in the part 2 of this article, which is focused on child well-being and current immigration policies, including the inherent problems of detaining children in prison-like settings with their parents' immigration cases being processed on the southwestern U.S. border.

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