



The
CENTER for
VICTIMS of
TORTURE

Statement for the Record by the Center for Victims of Torture
U.S. House of Representatives Committee on the Judiciary
“Oversight of the Trump Administration’s Family Separation Policy”
February 26, 2019

The Center for Victims of Torture (CVT) commends the House Judiciary Committee for holding an oversight hearing on the Trump Administration’s family separation policy, which created an *actual* crisis at the U.S. southern border. We appreciate the opportunity to submit this statement for the record.¹

Founded in 1985 as an independent non-governmental organization, the Center for Victims of Torture is the oldest and largest torture survivor rehabilitation center in the United States and one of the two largest in the world. Through programs operating in the U.S., the Middle East, and Africa—involving psychologists, social workers, physical therapists, physicians, psychiatrists, and nurses—CVT annually rebuilds the lives of nearly 25,000 primary and secondary survivors, including children. CVT also conducts research, training, and advocacy, with each of those programs rooted in CVT’s healing services. The organization’s policy advocacy leverages the expertise of five stakeholder groups: survivors, clinicians, human rights lawyers, operational / humanitarian aid providers, and foreign policy experts. The vast majority of CVT’s clients in the United States are asylum seekers. Indeed, according to the Department of Health and Human Services Office of Refugee Resettlement, research indicates that 44% of asylum seekers, asylees and refugees now living in the United States are torture survivors.²

CVT’s extensive experience providing mental health services to asylum seekers and refugees in the United States and around the globe uniquely positions us to speak to the adverse effects

¹ For questions or for more information about CVT’s work in this area and on related issues, please contact Andrea Carcamo, Senior Policy Counsel at the Center for Victims of Torture at acarcamo@cvt.org.

² Office of Refugee Resettlement. *Survivors of Torture Program*. Retrieved from <https://www.acf.hhs.gov/orr/programs/survivors-of-torture>

family separation has on the mental health of children and adults fleeing persecution, as well as the United States' dwindling reputation as a global leader in human rights.

Family Separation Exacerbates the Trauma faced by Families fleeing Persecution

A significant number of the Central American families who come to the United States are survivors of torture,³ and many more are fleeing persecution. Because of the nature of trauma, oftentimes children who accompany traumatized parents experience symptoms as secondary survivors (even if they have not been directly harmed previously). These highly-traumatized populations are particularly vulnerable to the adverse effects of detention and separation from their loved ones.

According to Susan Jasko MSW, LICSW, a CVT therapist with over 20 years of clinical experience working with children and families:

“When children are young, they are bonding with their parents, and good bonding leads to positive relationships with other people in adolescence and adulthood. Breaking that bond can have consequences in the child’s ability to socialize with others. When children come from an area where they experienced violence, it teaches them that the world is not safe. Then, when they are separated from their parent, this idea is solidified, which can have a profound effect on the development of the child. If a child lives in a state of trauma, as children fleeing conflict areas that are separated from their families do, it can affect their brain development at a biological level as well.”

Many of the children Ms. Jasko has treated over the years were struggling with separation from or loss of parents, and all presented severe symptoms, including nightmares, fears, anxiety and depression.

Ms. Jasko’s experience is far from unique. Indeed, over 20,000 medical and mental health professionals and researchers working in the United States (including Andrea Northwood, CVT director of client services), have previously made clear—directly to the DHS—that “[t]he relationship of parents and children is the strongest social tie most people experience, and a threat to that tie is among the most traumatic events people can experience.”⁴ They further explained that separating a child from a parent causes an effect known as adverse childhood experience (ACE), which can lead to multiple forms of impairment and increased risk of serious mental health conditions including post-traumatic stress disorder (PTSD).

³ Meyer and Pachico (Feb 1, 2018). Washington Office on Latin America. *Fact Sheet: U.S. Immigration and Central American Asylum Seekers*. Retrieved from <https://www.wola.org/analysis/fact-sheet-united-states-immigration-central-american-asylum-seekers/>.

⁴ Physicians for Human Rights (June 14, 2018). *Letter to Secretary Nielsen and Attorney General Sessions*. Retrieved from https://s3.amazonaws.com/PHR_other/Separation_Letter_FINAL.pdf.

Disturbingly, this information was not new to officials from the Trump administration: on July 31, 2018, Commander Jonathan White, formerly of the Department of Health and Human Services, testified that he raised the very real concern that separating families could cause long-term emotional and psychological effects on children when the policy was presented to him before its implementation.⁵

While the damage to children must be central to this hearing, we urge Members also to appreciate the harm family separation has caused, and continues to cause, to affected parents. At CVT, 67 percent of U.S. based clients—refugees and asylum seekers from around the world—have been separated from their families, sometimes by force and other times by necessity when clients must flee without warning to escape imminent danger. During her time at CVT, in addition to her work with children, Ms. Jasko has also treated adult clients seeking asylum who had no option but to leave their country without their children. “The uncertainty of not knowing when they will next see their children makes me worry about my clients,” she says, “as they express feelings of hopelessness and suicidal thoughts.”

Family Separation is a Technique Utilized by Tyrants and Other Oppressors That the United States Has Long Condemned

CVT has served hundreds of children, some of whom were subjected to separation as a tool to coerce their parents. For example, Jana, a 10-year-old Syrian girl, endured forced separation from her family and imprisonment before crossing the Syrian-Jordanian border seeking safety. She had been detained—along with other children—for nearly a month in an attempt to force her father to turn himself in. He did, and he was murdered. Saad’s brother, a young boy, was held for two weeks in prison and tortured. The militia sent pictures of his abuse to Saad’s family with a message warning them to leave Iraq. When his little brother was returned to them, Saad and his family fled to Jordan.

This is what tyrants, dictators, and other oppressors do. It is not how democracies are supposed to behave. And yet, the Trump Administration embraced the practice of separating children from their parents admittedly as a deterrent: to dissuade vulnerable people from seeking safe haven in the United States at all, and for those it did not entirely deter then to coerce them into forgoing their right to seek asylum and to sign a deportation order, which for many would return them to countries and circumstances where they face significant risk of further persecution, violence, or even death.⁶

⁵ C-Span (July 13, 2018). *Public Health Service Commander Warned Against Family Separation*. Retrieved from <https://www.c-span.org/video/?c4742969/public-health-service-commander-warned-family-separations>.

⁶ Van Schaak, Beth (Nov 27, 2018). *Just Security*. *New Proof Surfaces that Family Separation was About Deterrence and Punishment*. Retrieved from <https://www.justsecurity.org/61621/proof-surfaces-family-separation-deterrence-punishment/>; Bernal, Rafael (June 19, 2018). *The Hill*. *HHS Official Says Family Separation Policy will*

Family separation of this kind is not only immoral, it is also unlawful. Most directly, Article 31 of the Refugee Convention prohibits contracting states from “impos[ing] penalties” on the basis of how a refugee arrived to the U.S.—whether through illegal entry, presence, or without authorization. Indeed, the international community has recognized the importance of a child’s bond with a parent, for example through Article 9 of the United Nations Conventions on the Rights of the Child (CRC), 196 countries have agreed that they “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.”⁷ Although the U.S. has not ratified this treaty (the only country in the world not to have done so), as a signatory the U.S. is bound to not engage in actions that “defeat” the CRC’s “object and purpose.”⁸

The United States must not underestimate how its actions reverberate globally; in particular the implicit permission that U.S. practice might give other nations to act the same. The United States cannot maintain a credible global leadership role in the human rights sphere if separating families to deter asylum seekers is the kind of example the executive branch is going to set.

Conclusion and Recommendations

The separation of families is an actual crisis at our Southern border, one that has had a profound impact on the lives of some of the world’s most vulnerable people, torture survivors among them. The practice must be stopped, those responsible should be held accountable, victims deserve redress, and preventive mechanisms need to be adopted. More specifically, we urge the executive branch and Congress to take the following actions, respectively:

Executive branch:

- Immediately reunify all families.

‘have Deterrence Effect.’ Retrieved from <https://thehill.com/latino/393000-hhs-official-says-family-separation-policy-will-have-deterrence-effect>.

⁷ United Nations Human Rights, Office of the High Commissioner (Sept 2, 1990). *Convention on the Rights of the Child*. Retrieved from <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

⁸ United Nations Treaty Collection, Chapter XXIII (May 23, 1969). *Vienna Convention on the Law of Treaties, Article 18*. Retrieved from https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXIII1&chapter=23&Temp=mtdsg3&clang=en. Although the United States is not a party to the Vienna Convention, “many commentators claim that Article 18 reflects customary international law that is binding on nations that have not joined the Convention, a claim that the United States has not denied.” Curtis A. Bradley, *Unratified Treaties, Domestic Politics, and the U.S. Constitution*, 48 *Harv. Int’l L. J.* 307, 307-308 & n.1 (2007); see also *Roper v. Simmons*, 543 U.S. 551 (2005) (acknowledging “the overwhelming weight of international opinion against the juvenile death penalty,” including the direct prohibition in Article 37 of the CRC).

- End the practice of separating families to deter individuals from coming to the United States and seeking refuge.
- Ensure family separation determinations are not arbitrary, but instead made by child welfare professionals where the child's safety is the primary consideration.
- Whenever there is an appropriate determination to separate a child from a parent for the child's safety, ensure there is an adequate system to track the family and their relationship to each other.
- ICE and CBP must facilitate communications between a child and a parent who have been separated.

Congress

- Conduct rigorous, ongoing oversight of family separation and its consequences, with an immediate focus on ensuring the executive branch reunifies families and discontinues the practice of arbitrary family separation.
- Support the REUNITE Act.