

DO WE TREAT AMERICA'S WARTIME DETAINEES BETTER THAN MIGRANT CHILDREN?

ENGY ABDELKADER, RYAN VOGEL, LEE GELERNT, ALVARO BOTERO,
AND CHLOE WALKER[∞]

From November 2019 to April 2020, the ABA Section of Civil Rights and Social Justice's Rights of Immigrants Committee hosted a six-part webinar series exploring immigration at the intersection of national security law, public international law, and U.S. Constitutional law. What follows is a transcript from the fifth panel of the series, which took place on March 18, 2020. The transcript has been edited for clarity.

Engy Abdelkader: Welcome to the American Bar Association's webinar, "Do We Treat America's Wartime Detainees Better Than Migrant Children?" My name is Engy Abdelkader and I'll be acting as the program's moderator. Today's webinar is hosted by the Section of Civil Rights and Social Justice and it's sponsored by the Rights of Immigrants Committee. It's part of a six-part national lecture series with a new program on the third Wednesday of every month.

We're excited to have a number of other important co-sponsors including the ABA Commission on Immigration, the ABA Criminal Justice Section, the ABA Center for Public Interest Law, the ABA Section of International Law, and the ABA Government and Public Sector Lawyers Division. We appreciate all of your support. It's also important to highlight that none of this would be possible without

[∞] A fellow with the Public Religion Research Institute and German Marshall Fund of the United States, Engy Abdelkader teaches at Rutgers University. She chairs the Rights of Immigrants Committee with the American Bar Association Section of Civil Rights and Social Justice. In that capacity, she designed, organized and moderated this panel series.

Ryan Vogel is an assistant professor and founding director of the Center for National Security Studies at Utah Valley University. Vogel has worked in the U.S. Department of Defense, State Department, and Senate. He earned his B.S. from Utah Valley University, his M.A. and J.D. from American University, and his LLM from Georgetown University Law Center.

Lee Gelernt Lee is the Deputy Director of the ACLU's Immigrants' Rights Project. He is an adjunct professor at Columbia Law School. During the past 18 months he's argued several groundbreaking challenges to Trump Administration policies. He regularly appears in the national and international media, including a 2018 *New York Times Magazine* cover story about the ACLU. Gelernt earned his J.D. from Columbia Law School.

Alvaro Botero is a rapporteur for the United Nations Committee on the Protection of the Rights of all Migrant Workers and Members of their Families, as well as a coordinator of the Organization of American States Unit on Refugees and Forced Displacement. Botero is also an adjunct professor at the Washington College of Law at American University in Washington, D.C.. Previously, he worked as coordinator of the Section of Monitoring of Human Rights and Rapporteurship on the Rights of Migrants of the Inter-American Commission on Human Rights.

Chloe Walker is a staff attorney within the ABA's Children's Immigration Law Academy. Chloe earned her J.D. and Masters in Social Work from the University Houston. Chloe is a New Leaders Council Fellow and was honored in 2019 as one of the 50 outstanding alumni of UH Graduate College of Social Work, where she also taught social policy analysis to first-year social work students. She previously served on the boards of directors of the Texas Chapter of the National Association of Social Workers as well as Equal Justice Works.

the technical and logistical support of ABA staff. Thank you to Paul Shapiro and Alli Kielsgard as always for your tireless efforts to make these programs a success.

We have fantastic lineup of speakers slated for this event. So, let's jump right in. First is Professor Ryan Vogel, whose article by the same name of this webinar published in *Just Security*, an online publication run out of NYU School of Law, inspired this particular event. Vogel is an assistant professor and founding director of the Center for National Security Studies at Utah Valley University. Previously, Professor Vogel served at the Pentagon as a senior policy advisor in the office of the Secretary of Defense. He began his career at the Pentagon through the Presidential Management Fellowship Program and was awarded the Medal for Exceptional Civilian Service in 2014. Professor Vogel has also served at the Public International Law and Policy Group both at the US Senate and the State Department. He's taught law and national security courses at American University in Washington DC, BYU Law School, as well as the Chicago-Kent College of Law. Professor Vogel holds an LL.M. in public international law with a certificate in national security law from Georgetown University Law Center. He earned his J.D. and an M.A. in international affairs from American University. Professor Vogel is an alum of Utah Valley University where he graduated with a B.S. in integrated studies. He regularly publishes papers and makes presentations on national security matters and was awarded Faculty of the Year Award. He's a member of the Maryland State Bar and he served as an honorary colonel with the Utah National Guard. Welcome, Ryan.

Ryan Vogel: Thank you. Thanks for inviting me to participate in this timely discussion. Last summer Ryan Goodman from *Just Security* discussed this topic with me and indicated that they were interested in publishing some kind of comparison of the way that we conduct our detention operations in wartime with some of the things that we were seeing on the news related to migrant detention. I happily agreed to do write it; I thought that was a worthy comparison and so that's kind of the genesis of some of this discussion today. Before I wrote this article, there were others that had started to make that comparison, including Ryan Goodman and Shep Smith, and I thought that they were right – that we were treating our wartime detainees better than the migrant children and others we were detaining on the southern border.

I assessed this situation through the lens of my background and experiences working on wartime detention issues at the Pentagon. I spent quite a bit of time working on detention issues at Guantanamo and across Afghanistan and Iraq in the Obama administration. And as some of the issues related to the detention of migrants on the southern border were coming out in the media, I noticed that some of them were very familiar. We learned a lot of lessons over the years conducting wartime detention operations. At the beginning of each conflict, there was a big influx of detainees and there was confusion as to what kinds of laws applied, how we should treat them, whether they merited prisoner-of-war protections and these kinds of questions. And so it took some time to develop a sustainable, transparent, and lawful detainee policy. But I think we got there in United States policy and practice—and

in a lot of ways we developed a model detention policy for wartime detainees. So as I'm looking at some of the stories that are coming out of these facilities on the southern border and across the United States it seems like there's some learning that must occur.

I should note at the outset that by comparing wartime detainees to migrant children who are detained on the border, in no way am I asserting that the standards from the law of war should apply to the conditions on the southern border. To the contrary in almost all instances detainees on the southern border be treated well above the standard that is required for wartime detainees.

But under the Law of War, parties to a conflict are required to treat individuals with dignity, humanity, respect. Of course we're not detaining people during wartime to punish them. Unless they're tried in a criminal setting, we're not punishing them by holding them. Rather, we're simply removing them from the battlefield so that they can't continue to fight us. Detention is an inherently unpleasant experience. An individual is being deprived of his or her freedom if they are detained, but it is a necessary thing and, as I've argued in other fora before, this is the humane alternative to killing those people on the battlefield. Even where there's an opportunity to conduct a lethal operation, responsible governments will try to capture people and usually those people are eventually transferred home and given the opportunity to continue on with their lives.

The law of armed conflict provides a whole range of protections and specific protections for detained minors if they come into the custody of a party to a conflict. Much of the United States' detainee policy is found in DOD Directive 2310.01E, last updated in 2017. In Section 3B of that policy, which incorporates the Geneva Conventions and the Additional Protocols and other parts of international law, there's a baseline standard that all detainees be treated humanely with respect for their dignity and without adverse distinction. The section then defines those things.

So what does it mean to be treated humanely and with respect for a person's dignity? Part of that is having adequate food, adequate drinking water, shelter, clothing – the basics that one would need for survival. This also includes reasonable access to the open air, educational intellectual activities, and contacts with the outside world in the form of letters home. The International Committee of the Red Cross will often facilitate those kinds of connections so that detained individuals are not disconnected from their loved ones and their loved ones are not uninformed about their whereabouts. Additionally, the policy requires safeguards to protect health and hygiene, protection against the rigors of the climate and the dangers of military activities, appropriate medical care and attention as required by the detainee's condition (which includes the detainee's age, whether it be the really young or the really old), free exercise of religion consistent with the requirements of detention, reasonable access to qualified interpreters or translators, and particularly if they speak a foreign language, having someone that can communicate with them effectively.

These are the fundamental elements of humane and dignified treatment under the law of armed conflict. In Section 3D of that same policy it requires that DOD register detainees, that their property be inventoried, that there be records of their detention, and that their property be maintained. The understanding is that if

one comes into U.S. custody, that person is not lost in the system. That person has a number assigned to them that is conveyed to an outside party, such as the ICRC, and they are not lost in the system.

In section 3I there's a requirement for periodic review. This is a little unique to wartime detention but the idea is that a detained person receives a regular review of whether they can be detained, whether there's lawful authority to detain, and whether they should be detained, whether they continued to present a threat such continued detention was necessary. There's a requirement in Section 3K that a detainee be segregated from other detainees for a wide range of reasons, including age. If a detainee is a minor they are separated from all non-family adults, and all female detainees are separated from the men in order to protect detainees.

In sections 3N and 3O, there are training requirements and reporting obligations. If a person is going to be involved in overseeing prisoners of war or detainees they must be trained beforehand and then required to report any abnormalities or any violations of the law of war or other policies and directives that would apply. Importantly, this applies to everybody – from hardened terrorists to a child that just happens to be in the same safehouse as the people that we're trying to detain. You treat all these people with that same level of dignity and respect.

My experience though is that in U.S. detention operations we've gone out of our way to surpass those requirements. So, for example, detainees at Guantanamo are provided with halal food, games and movies, reading materials, painting classes and educational sessions, religious material, recreational space, access to medical and mental health personnel, cultural advisors, and a wide range of other benefits and activities. Detainees are permitted to meet with their lawyers, ICRC personnel, their own government's representatives, and to correspond with their families.

Again, the reality is that detention is not going to be pleasant because of the deprivation of liberty. But sometimes it's necessary. Similarly, the temporary detention of migrants on the southern border might be necessary. In fact, it might even be the humane alternative to immediately returning them to their country where their safety is in question or to allowing people to cross without assessing their status or relationship to each other. But if we decide to detain people, and particularly minors, we have to do it the right way.

Based on public reporting, there's a serious lack of hygienic materials at these detention facilities, there's a lack of clean clothes, lack of access to open air, and lack of appropriate medical attention. In some cases, there appears to be inadequate food and water and unsafe conditions in the facilities, poor conditions for sleeping, and insufficient protection from the elements. It is extremely disturbing that too many migrant children have gone unaccounted for or been lost in the system. That is something that simply would not happen in wartime detention – we would inventory them from the minute they came into U.S. custody to the minute they left. If we can effectively register and account for detainees on a foreign battlefield in a place where security is not certain, where conditions are extremely difficult, surely we can do that during peacetime in our own territory where we have much more resources and a much safer environment to work in.

Part of the problem with what we've seen with the detention of migrant children, and this is something that should be familiar to those that have worked

on wartime detention issues, is that the United States tends to go into these situations thinking primarily of the short term. We tend not to think of long-term issues, so facilities are not designed to last or to hold as many individuals for as long as we hold them and this creates some problems. There are bigger immigration policy and politics questions here. But regardless of what your position is related to these bigger questions or regardless of what your position is with regard to the families that are coming across the border, the United States can and should do better than what we've been doing with regard to with migrant children.

Again, I'm not advocating that that a wartime standard should be applied to migrant children. I think it's actually the opposite; we should surpass what we do with wartime detainees. If we treat al-Qaeda terrorists better than we treat migrants on the border we're looking not at a legal issue but a moral issue. We knew going in that if we met the standards and even surpassed the standards that are required by the law they would not be reciprocated—al-Qaeda or the Taliban was not going to hold our people with the same level of respect for the law as we would. But we did it anyway.

We should go above and beyond the conventions, hold ourselves to a higher standard. We've done this with wartime detention, we've learned the hard lessons of not doing detention the right way, we've learned those lessons, and we've incorporated those lessons into our practice now. It's time we did that and more for our detention of migrant children on the southern border. I'll end there for now and look forward to questions after this.

Engy Abdelkader: Thank you so much, Ryan. Next is Lee Gelernt. Lee is a lawyer at the national office of American Civil Liberties Union in New York and currently holds the position of deputy director of the Immigrants' Rights Project. He's also the director of the project's Access to Courts Program. Significantly, he is an adjunct professor at Columbia Law School. During the past 18 months he's argued several groundbreaking challenges to Trump Administration policies. He's currently litigating *Ms. L versus ICE*, a case involving the administration's unprecedented practice of separating immigrant families at the border. In fact, in June 2018, a federal court in San Diego issued a nationwide injunction holding the practice unconstitutional and requiring the administration to reunite approximately 2,600 separated families. He's also successfully argued *Rodriguez versus Swartz* involving the fatal cross-border shooting of a Mexican teenager in Mexico by US Border Patrol officer firing from US soil through the border fence in Arizona. The Court of Appeals ruling in August of 2018 in favor of the boy's family was the first-ever federal court decision to hold the Fourth Amendment applies extraterritorially. Over his career, he's argued dozens of other notable civil rights cases at all levels of the federal court system, including the US Supreme Court where he was just recently engaged in oral arguments as well as the Court of Appeals for the 1st, 2nd, 3rd, 4th, 5th, 6th, 8th, 9th, and 11th Circuits. He's also testified as an expert before the United States Senate. He's received numerous honors for his work over the years. Last year, he was recognized by Lawdragon as one of the 500 leading lawyers in the country in any field. In addition, he's a frequent guest speaker around the country and regularly appears in the national

and international media. In July 2018, for example, his work was featured prominently in the *New York Times Magazine* cover story about the ACLU. Notably, he earned his JD from Columbia Law School in 1988 where he was a Notes and Comments Editor of the Columbia Law Review. Welcome, Lee.

Lee Gelernt: Thank you so much for having me. I want to just give people a sort of overview of the family separation policy and litigation. And, time permitting, then touch on a few other things we're seeing with respect to migrant children at the border.

So I think most people know that the Trump administration had a family separation practice. I'm not sure that everyone knows the extent of it. In fact, the report just released in the last 24 hours indicates that it may be even worse than we knew. I thought I would just give a sort of timeline and overview of what we saw and where things are now.

What I want to do is also, in telling the story, make it clear the point that we heard about keeping track of detainees and how wartime detainees are tracked and how that contrasts with what we saw with migrant children. But, I want to stress the more fundamental point I think about: even if we had kept track of them you just can't separate children from their parents in the immigration context or any context without a compelling interest.

So what we saw in the fall of 2017 leading up to the holidays is people on the ground said that children are being separated. No one really knew the extent of the administration's actions. The truth is they were separating families and we ultimately went to court and filed a national class action in March of 2018. And, what was revealed at the hearing and then later when the judge issued his ruling in June of 2018, was that there were twenty-eight hundred families who were separated, including children five months old, six months old, numerous toddlers, many under five years old. And the judge said, look you've got to reunite all these families. We proposed that the children under five be reunited within 14 days—a deadline the government missed—and that the rest of the children be reunited within thirty days—another deadline the government missed.

And what became clear is not that they had separated thousands of children based on what we now know was their view that, if we start this horrendous act of taking children away, it will deter families from coming. We know that it didn't deter families from coming because people were facing this choice where they could be killed in their own country or they come. And every family that I talked to said, 'What choice did I have? This is the worst thing that's ever happened to me, having a child taken away from me. But, if I had stayed, it could have been even worse.'

So, the reason the families were not reunited immediately because the government wasn't set up to reunite the families and in fact, had not actually tracked all the families and that became clear. The judge said, it seems that the government tracks property generally better than these minor children. Twenty-eight hundred children.

What we then learned is that approximately four hundred and seventy of them, the parents have been deported already without the children and were sitting

in places all over the world without their children. That took us almost a year to track all those families down and give them the opportunity to reunite with their children.

We had hoped that that was the end of it. But, at some point during the year, HHS came out with an interesting report that said many more children had been deported, have been separated, even before zero tolerance. The government refused to give us those names. We had to go back to court. The government said, well those kids were separated well before the injunction, we shouldn't have to give you the names. The judge said, 'Absolutely not. We are not in this country going to have a situation where potentially thousands of children were taken from their parents and we don't know about them, we don't know where they are.'

The government then said, we need two years to get the ACLU the names of the children. Not to actually find the children, but two years just to give us a list so that we could then go search for the children. The judge asked why they needed two years just to give us this list, and then the government sort of candidly admitted, the most candid they had been up till that point, that they simply hadn't tracked the kids and were going to have to recreate files of all the children that were separated. And, they wanted two years to do that.

But, at this point the children have already been separated eighteen months, two years. They were little children, so separated potentially half their life or three quarters of their life. Another 2 years would have meant that, for a one year old separated, they would have been separated four years out of their five years of existence. The judge said, 'No you're going to do it in six-month basis.'

We finally got that list and there was another 1,556 children. We're now searching all over the world for those parents because the contact information the government gave us is stale, needless to say. We have reached some people, but now the search is delayed and postponed because of the virus and people just can't go into various regions, which is essential for looking for the parents.

What we also learned though is that since injunction the government continued to separate families and they have talked about 1,200 they have separated. The rationale there was, "Well, your honor, we know we can't continue separating based on policy but we can continue separating if we think the parent presents a danger to the child." So, what we learned about those 1,200, based on the government's own data, was that they were separating even for minor crimes that had occurred decades ago. A parent had a non-violent theft - like five hundred dollars, a conviction for that—they would separate and they would say, "Well, we can't detain criminals with children."

And, so now, it's continuing and made far worse in according to the JAO report that was just issued. Small things, the government has continued too not track families they're separating since the injunction. So, this isn't really ideal and I think Ryan said this: whatever you may think about macro-immigration policy and various asylum policies, I think the one thing that brought the country together, it was maybe the only silver lining in all this, was that people from both sides of the aisle came out and said, "Look, whatever we do, we can't take little babies."

And, I think that's the challenge: to continue galvanizing people, understanding it's still going on and to keep that outrage, because there's just so much going on it's understandable. Now, in particular, with the virus, the children

are sort of out of sight, out of mind. It hit a peak and then it hasn't got much attention since. The other part of it is, of course, that when the children are detained they're often detained in horrific conditions and that, you know, that varies. I don't want to say this is uniform, that the children are always detained in poor conditions, but what we've seen is that being in such a condition simply adds to the trauma of what's going on.

Even beyond the family separation, the administration is now enacting policies that have traumatic effects on children's lives, forcing families to remain in Mexico—to wait for months and months and months for their hearing. They're living in squalid conditions. They're in extremely dangerous conditions. They can't leave because they know that a cartel will immediately rob them or worse. So, we have all these families. Originally, the administration said they weren't going to send families to Mexico to wait for their asylum. This is what's called the MPP policy. But, now, thousands of children and families are still in Mexico waiting for their asylum hearings. So, I think all across the board, the administration has really treated migrant children and families with terrible cruelty.

I'm going to be out of time soon. For a long time, the consequences—because what the medical experts have said in our case and continues to say, is that this kind of separation will do irreparable damage to children and that we need to get them medical help as soon as possible. Otherwise, it may very well be too late. So, people have brought damage suits to try and get the families some money. But, more importantly, they got a medical fund established so that you can have doctors come to you. It's not just going to just be the children but it's going to be the parents who have been affected by having their children ripped away and spending every night worrying about where their children are. And, even when the children ultimately come back, the dynamic between the parent and child is so damaged because the child understandably is too young to understand why the parent didn't protect them. This blaming the parent for letting them being taken away. Why didn't you love me enough to stop them from taking me? Why didn't you stop them? That's producing enormous guilt for the parent. So, I think we have a lot of work to do to fix the damage that we've already done but we have to going forward stop doing this to all the migrants but particularly to the children who are most vulnerable. So, I'll stop there.

Engy Abdelkader: Thank you, Lee. That was a very powerful presentation and we look forward to reengaging during the Q&A. Speaking of which, just a note for members of our audience, you'll notice that on the bottom of your screen there are various prompts below including a section titled Q&A. That section sort of on the bottom in the middle of your screen, that is where you would pose questions for any or all of the panelists. So, following the last presentation, which will be shared by Chloe Walker, you'll have an opportunity to engage in Q&A with the panelists. So, you are invited to input your questions at any time. They can be directed to a specific panelist or all of them. But, that's how you would do so. Just double click on that Q&A button on the bottom of your screen. If you don't see it, you just need to move your mouse for it to appear and we'll be monitoring your questions accordingly.

So, again, Lee provided us with a very powerful presentation regarding the status and recent history of separation of families under this administration. Our next speaker is Alvaro Botero. And, I should note that you may have noticed in the promotional materials that Felipe Gonzalez who is the UN Special Rapporteur on the Protection of Migrants was slated to join us. Unfortunately, he's been adversely impacted by the Coronavirus but was kind enough to arrange for Alvaro to join us instead. Alvaro also works with the United Nations and we're grateful to have him with us.

Alvaro is a member and rapporteur of the United Nations Committee on the Protection of the Rights of all Migrant Workers and Members of their Families as well as a coordinator of the OAS unit on refugees and forced displacement of the Secretariat for access to rights and equity of the Organization of American States. He's also a coordinator of the Technical Secretariat of the Comprehensive Regional Protection and Solutions Framework. Previously, he worked as coordinator of the Section of Monitoring of Human Rights and Rapporteurship on the Rights of Migrants of the Inter-American Commission on Human Rights. Significantly Alvaro is also an adjunct professor at the Washington College of Law at American University in DC where he teaches classes to law students on refugee law as well as international migration law. Thank you for joining us, Alvaro.

Alvaro Botero: Thank you, Engy, and it's a pleasure to be part of this webinar. Well, since you mentioned it, I'll address the issues at stake more from an international perspective and I'll try to give an overview of the work that human rights bodies and special procedures have done in relation to migrant children in the U.S. First, I should stress that for international and regional human rights mechanisms at the United Nations, Human Rights System among the Inter-American Human Rights system, the biggest challenge is that the U.S. has not ratified most of the U.N. and Inter-American Human Rights conventions, which kind of places the U.S. out of the scope in terms of the monitoring of these bodies, especially treaty bodies.

Nonetheless, there are other mechanisms like special procedures, such as working groups and special rapporteurs like the one that was mentioned by Engy—Mr. Felipe Gonzalez the Special Rapporteur on the Rights of Migrants at the U.N.—that can also monitor situations related to the rights of migrants in all the member states of the U.N. At the Inter-American level, the fact that the U.S. hasn't ratified the American Convention on Human Rights means that it is only the Inter-American Commission that has jurisdiction in order to address issues relating to human rights violations, under the American Declaration on the Rights of Man. But the counter-argument from the U.S. government is that this is not a binding instrument. Nonetheless, through the years the Commission, especially through its rapporteurship on the rights of migrants, has been able to monitor to some extent several situations related to the human rights of migrants, asylum seekers, and refugees in the U.S., and in that sense, for example, to conduct on-site monitoring on the Southern border and other places in the U.S. Like in 2009, 2014, and last year, the Commission conducted another visit to the Southern border to monitor the several situations that are having an impact on human rights obligations in the U.S.

So I will refer to some of the measures that have been taken by the U.S. government in relation to migrant children in recent years and of course I will also address the impact of the zero-tolerance policy.

In that regard, several human rights mechanisms at the U.N. Human Rights system and also at the Inter-American Human Rights system such as the UN Special Rapporteur on torture and other inhuman cruel and degrading treatment have stressed that the tension of children and the separation of families has no justification applicable in migration context. Taking into account that making these detentions suppress the best interest of the child, which is the most important consideration to take into account in any situation where you are dealing with children, and also the right to development. However, the position of the US is that they have not ratified the Convention on the Rights of the Child. But it has signed this treaty, therefore it must refrain from acts that defeat its object and purpose.

Further the U.N. Human Rights Committee has interpreted the International Covenant on Civil and Political Rights, which the United States has ratified, to require the states to take into account the principle of the best interest of the child. In this connection, I'm relating to this issue that also the Special Rapporteur on the Human Rights of Migrants expressed concern over the mass detentions of persons entering the U.S. territory and automatic separation of family.

Firstly, the violations to which entire families are subject when they are separated, the arbitrary detention of children, and other conditions to which they are subject were pointed out by Special Rapporteur also coincide with many of the issues that were pointed out by Ryan and Lee. The United Nations mechanisms such as the Special Rapporteurs that I just mentioned have called the on the U.S. for the release of migrant children from detention and to stop using detention in order to deter irregular migration. The U.N. mechanisms have also understood that the family separation and detentions were taking place without prior notice or the regular and legal conditions required by international instruments and conventions in order to warranty and protect human rights.

Likewise, the UN mechanisms have considered the trauma to which children are exposed from the moment of the separation to the amount of time they remain in detention center. The Special Rapporteur on migrants also noted that the children should be treated as children and not exposed to conditions of repeated violations, as is the case with implementation of the zero-tolerance policy. Another thing that I should mention from the international perspective is that irregular migration, for example the fact of the irregular entry of a person into the territory of a state or when the person enters to a territory and remains for more time than the person was authorized to in the first moment, just accounts as an administrative offense. So in that sense the standards that have been developed by the Special Rapporteur on migrants but also by other special procedures and by inter-American bodies like Inter-American Commission and the Inter-American Court, are that immigration detention should be an exceptional measure and should be applied as a last resort measure. And in the case of children authorities always has to take into account the best interest of the child – the standard is even higher. It is not just the exceptionality of the detention, but it's the known detention of children

because it can never be understood that the detention for an administrative offense might be in the best interest of the child, and also considering all the impacts that the detention might have in terms of the right to freedom but also in terms of personal integrity et cetera.

Also, in relation to the issues of family separation, one of the few mechanisms that international bodies have in order to address issues relating to migrants in the U.S. relates to precautionary measures that can be granted by the Inter-American Commission on Human Rights. In June 2018, a couple of months after the beginning of the implementation of the zero-tolerance policy, the Inter-American Commission received a couple of precautionary measures in view of the situation of thousands of families that were being separated in the United States because of the zero-tolerance policy. In that moment, well after a couple of months and exchanges with the government requesting information about how it was implementing this measure and the impact that this was having on families and children that were separated from their parents, the Inter-American Commission determined that the right to family unity and the right to integrity and identity of the children were at risk as a consequence of these policies. I requested the government take the necessary measures in order to warranty the above-mentioned rights.

Some of the measures that the Commission "recommended" to the U.S. government were the following: in line with these precautionary measures, the government should take all the necessary measures for the family reunification of children with their biological parents. The government should also take the necessary measures so that when the process of family reunification takes place, communication between parents and children is immediately warranted in order to safeguard the best interest of the child. Also, in order to determine the situation of the violation of the rights of the child to family unity, the government should provide medical, psychological, and consular services. And in the event that the parents are in another country as it was the case of many parents that were deported before the reunification, the government should seek international cooperation to ensure their reunification and suspend all migration procedures involving the separation of children and their families.

Unfortunately, in this regard the position of the U.S. government was basically to emphasize that it was, as a country, its duty to regulate the migration related issues and that it has the discretion to decide the policies relating to migration. And it also noted that it was making great efforts to mitigate the factors that trigger the migration from Central America.

Another of the bodies that have within the scope of their mandate to try to address to some extent the impacts of the zero-tolerance policy has been the U.N. working group on arbitrary detention and several other Special Rapporteurs within the U.N. And in that sense there have been many press statements, which are basically what these bodies can do unless they are allowed to visit the country, addressing the violations that policies like the zero-tolerance policies are causing to basic human rights, like the right to personal integrity, the best interest of the child, and even, as the Special Rapporteur on Torture has pointed out, that in

some cases the separation of children from their family might account to inhuman and degrading treatment.

Among the requests that have been done by a special procedures at the U.N.—the special procedure has requested the U.S. government to provide information concerning the conditions of detention of the children and exact figures of how many children have been separated from their families. But, well, as you might be aware, that's a figure that we might not be able to know considering the investigation that has been developed by internal mechanisms in the U.S.

Also something that is important to mention within the limits of the mechanisms available for international bodies and regional bodies is that after a year of negotiations with the U.S. government, the Inter-American Commission was able to conduct an on-site visit to the Southern border in August 2019, and during this visit, which was during a very limited time, the Commission was able to monitor conditions of detention, asylum procedures, and reception at the border. During the visit, some of the recommendations made by the by the Commission were that the government should prioritize the best interest of the child in all administrative and judicial decisions regarding the situation of children and adolescents and their families. The government should also prioritize the principle of family unity and disregard the zero-tolerance policy—policies and practices that criminalize migrants and their families under any circumstances—and continue to implement actions aimed at the reunification of families that have been separated. And to this end the state must promote this chain of information among governments and agencies that make it possible to locate children, adolescents, and their relatives.

But in conclusion, what we have been, from the international bodies perspective, able to see with the actions that has been taken by the U.S. government in relation to migrants and asylum seekers is that it is very clear that there is not a compliance in terms of national standards that have developed at the U.N. level and also at the Inter-American system. A major challenge in order to determine the extent of this violation is the lack of access to monitor these situations in the U.S. For example, in the case of the U.N. Special Rapporteur on Migrants I know that since a couple of years it has been requesting the authorization of the U.S. government to conduct an on-site visit to the U.S. in order to monitor all these situations but it hasn't had the authorization of the U.S. government. And this is also the situation of many other U.N. bodies and also some of the challenges that have been placed on the Inter-American Commission on Human Rights.

Something that—considering the challenges that international bodies have in order to have an impact with the U.S. government—that we have seen as a useful practice at the Inter-American Commission—which is the place where I worked before—is that even when the government might say that these are not binding mechanisms or that these are not binding obligations, when you see the interaction between the decisions of these international bodies and an effective strategy in terms of advocacy and media, these decisions might have an impact. And that has been proven in cases of precautionary measures granted to prevent the deportation of some Central Americans to their countries like El Salvador. But we are also very aware that not all the organizations have the capacities to have huge

advocacy campaigns in order to promote and to give visibility to their decisions or the work that is conducted by international and regional bodies. I think I'll leave it here for now and I'll be happy to address your questions and comments at the end.

Engy Abdelkader: Wonderful, thank you so much, Alvaro, for that engaging presentation. We look forward to speaking to you during the Q&A. Next is Chloe Walker, welcome Chloe. She is a staff attorney within the ABA's Children's Immigration Law Academy. She brings her training as a macro social worker and lawyer along with her prior practice in both family law at Gray Reed & McGraw and immigration law at the Tahirih Justice Center to her work at the ABA. Her career and child advocacy began as an AmeriCorps volunteer in Austin, Texas where she spent two years with Literacy First working with Spanish-speaking first graders who were behind in their reading. Chloe earned her JD and Masters in Social Work from the University Houston in 2012. At UH she served as an editor for the Houston Law Review and worked for the Center for Children, Law, and Policy. Internships with the Texas Legislature, the Department of Family Protective Services and Texas Civil Rights Project provide her with an intersectional lens through which to advocate for the rights of children and adolescents. Chloe is a New Leaders Council Fellow and was honored in 2019 as one of the 50 outstanding alumni of UH Graduate College of Social Work where she also taught Social Policy Analysis to first-year Social Work students. She previously served on the boards of directors of the Texas Chapter of the National Association of Social Workers as well as Equal Justice Works. Thank you for joining us, Chloe.

Chloe Walker: Thank you so much. I've got a PowerPoint. I'm a visual person and I'm going to walk through some stuff on our website as I do this presentation so let me pull that up.

Okay so hopefully you can see my slides up on the screen now and I just want to say thank you so much to Engy and thank you to all the other speakers for shining light on some of these issues which can feel quite devastating in regards to our reception of immigrant children on the border. And the real impact that it has on them personally, on their families and also on their legal cases.

So before I start my section of the presentation, I just wanted to create a little bit of space on the call to just kind of absorb the information that we're hearing. It's a lot. I'd like you to acknowledge any feelings that it evokes for us and I've included this quote "The expectation that we can be immersed in suffering and loss daily and not be touched by it is as unrealistic as expecting to be able to walk through water without getting wet." And I think because of these current times, we're you know reacting very quickly to lots of changes, we don't always have space to stop and think so I'm just going to create a little space for that right now if that's okay with everybody. And for me you know I have feelings of sadness. I have feelings of frustration about everything that's going on—the updates on the family separation lawsuit, hearing about our lack of ability to comply with international standards, and I also, you know I do feel hopeful about the direction that we could be going and I think what gives me hope is the work that we do at CILA and getting to work with a lot of the attorneys and pro bono attorneys that are on the ground doing the work.

So the purpose of me chiming in here is to really talk about opportunities to engage in support of children who are facing deportation around the United States, and I think the good news is that there are ways to support children in your community, not just along on the border. As children progress through the border facilities and potentially through ORR detention or family detention and are hopefully released into the community while their immigration court proceedings are happening—you can see on this map that there are immigration courts all over the United States. So that hopefully includes communities of those on the call. There are some big gaps out there that you'll see but that doesn't mean that there aren't children living in those communities. They will have to report to their closest immigration court so even if you don't see your city on this map there are likely organizations in your area and children who are looking for support.

So I did just want to highlight that unfortunately children in immigration proceedings are not entitled to free appointed legal counsel or best interest advocates like those of us who may have worked in the juvenile or child welfare systems and may be familiar with this kind of best interest standard that Alvaro was mentioning for children who are in court proceedings. In fact about thirty-five percent of children facing deportation in the United States in 2019 were doing so without an attorney, and that's despite a huge network of nonprofit attorneys that are both doing this work directly with children as well as working with pro bono attorneys to do the work and I put a bunch of logos on this slide to show who is doing the work; you might see one from your community this is not a comprehensive list but there are a lot of folks out there um doing this work and it's still not enough. And even in places like Houston, Dallas, and Charlotte which are big cities with you know lots of organizations and attorneys doing the work they still have the highest number of unrepresented juveniles in the court system. The numbers are huge. There are large numbers of children that are coming to settle in our communities.

And so that brings me to the Children's Immigration Law Academy which is where I work. We are a one of the three off-site projects of the ABA Commission on Immigration. The other two projects are ProBAR and IJP who both work directly with detained adults in San Diego and in Harlingen, Texas on the border and ProBAR works with detained children as well. But CILA we're an expert legal resource center. We were created by the ABA about four and a half years ago and our mission is to empower Texas UC Champions, who we see as advocates who guide children through complex legal procedures to do so with courage, competency, compassionate, and creativity and we build that capacity through trainings, through providing technical assistance, and facilitating collaboration. We have a few opportunities that are available to anyone across the United States: our webinar trainings, our in-person trainings in Houston, and our pro bono matters for children facing deportation platform which is what I'm going to talk specifically about here in just a second. And we also do support folks who are working in those emergency reception centers like Tornillo and Homestead and Ft. Bliss, none of which are currently housing kids at the moment but when that happens we support by training the legal service providers. And specifically in Texas we provide individualized technical assistance, we provide collaboration among the

folks that are doing the work and we have some Texas specific training and resources.

But we have a pretty diverse knowledge base and background in this work and what I really want to talk about is Pro Bono Matters for Children Facing Deportation and this is our platform funded by the Vera institute of Justice that is a vehicle for the nonprofits, the legal service providers who work with youth. They work with the youth who are detained in ORR or released into the communities as I mentioned before to identify ways in which pro bono attorneys can support the youth.

So then there is this one common space where interested lawyers and advocates can search and share the available pro bono case opportunities to you know make a match between the need and the will to help. And there are lots of different kinds of opportunities shared on the platform because the needs of the particular youth may vary depending you know where the country they're located and if they're already working with a nonprofit or if they're in one of those areas of the country where there's not a non-profit and I say that because you know there might be resources available through the nonprofit to support you through the work as you do it but in the event that there's not I'm also going to talk about some resources that CILA has available.

And this is the link¹ and you're welcome to go to it now or click on it but I'm going to walk through some screenshots of our website to give you a picture of how to do this. So here when you go to that hyperlink you'll see our portal which is here and then you can if you scroll down you'll see a catalog of pro bono opportunities. So you can imagine that the opportunities change daily as the needs of the children facing deportation and the nonprofits who work with them change but these are two examples I pulled off the portal yesterday—one is here Houston where I'm based Harris County and the other is in Miami from Broward County. I think at the moment we have opportunities in you know 10 or 11, 12 different states. The portal is designed by SavvySuit and it's designed to be really easy to navigate to easily connect with a non-profit or share an opportunity with a colleague. So for that reason there's no login required you can literally look at these opportunities right on our website and so you will also kind of just see a really brief description of the case.

If you click on interested right there on the card then you just need to fill in your name, email address, phone number, and bar number and that'll connect you directly to the nonprofit that's posted the case. And the bar number's optional here but it's really helpful to the nonprofits on the other end if you include your bar number as a baseline to indicate you're an attorney and there's also a comment section that's always really helpful to kind of get a little bit of information about where you're coming from or what your interest is or your background. And then if you don't have the capacity to work opportunity or if you don't see one in your area you can also share an opportunity with a colleague that might be in another field or in another geographic region. So you can just click on that share button in the middle

¹ *Children's Immigration Law Academy: Pro Bono*, AM. BAR ASS'N, www.cilacademy.org/pro-bono [<https://perma.cc/HPM6-QGAZ>] (last visited Apr. 19, 2020).

of the card and you'll get a link to share the opportunity and I've just put together a quick email you can send to your colleague with the link um sharing it as an example.

And whether or not you're working on a pro bono opportunity or you just want to learn more information about children facing deportation we have you covered. We have a lot of resources on our website that really focus on you know the legal substantive relief that many of the children are eligible for as well as kind of how immigration court works--it's a whole different ballgame than some of the other courts that you may practice in. We're really here to help make the process a little more tangible for folks who are willing to step up and give their time to meet this need so you'll see on that portal we've got some resources linked to the site there. One I just really want to highlight and it's a good place to start there is a series of 101 webinars. They cover several different basic topics like introduction to working with unaccompanied children, introduction to removal proceedings which is immigration court, what is asylum, what is special juvenile status things like that. And we're also working on a comprehensive written pro bono guide which will be kind of like the written complement to these webinars. And last if you just want to stay in the loop about opportunities or stay in the loop about resources as they come out you can click on this link which is also on our web portal it's also on the handout that you should be getting with the presentation and you'll just get an occasional email from us highlighting opportunities or different resources that we have available that might be helpful. So that's it and I just again thanks for your time and interest in this and letting us speak about it.

Engy Abdelkader: Thank you so much, Chloe. So often we're confronted with news that's so jarring or we attend events such as this where we feel a little bit overwhelmed with so much negative information that we're not quite sure what to do afterwards. So, the fact that you're actually providing each of us with an opportunity to serve migrant children in a pro bono capacity is really important. So, thank you for devoting your time and allowing us that chance. At this time we are going to remind our audience—all of you—that you do have an opportunity to post questions using the prompts on the bottom of your screen that's titled Q&A. Simply type your question and we'll be monitoring those questions and posing them to the panelists as appropriate. So, we're going to begin our Q&A session.

Ryan, I'd like to reengage with you. You provided us with this comparative analysis of certain requirements that need to be met by the US government with respect to wartime detainees in contrast to the treatment that many of these children have endured in immigration detention centers. And again it's a jarring reality that I think many of us are aware of but I think that comparative perspective is a valuable one. I was wondering in light of the information that has emerged since you initially wrote that particular article what specific recommendations do you have for the administration.

Ryan Vogel: I know that there have been some changes. We also heard from Lee that, according to the most recent information from the government watchdog,

separation continues to occur and the children are not being tracked as they should be.

So I think I might have three recommendations up front. One is to immediately start to inventory and categorize people that are coming in. There's no reason that we can't keep track of people that we are capturing and holding.

Two is to start to permanentize some of these facilities or at least address longer-term issues related to their operation. Even if the administration doesn't think they're going to be doing this for the foreseeable future we should have facilities that are designed for this purpose to hold a wide range of age groups and people with different needs. If we're going to be holding people we need the right facilities to do that.

And three, one of the great things about wartime detention is that you do have that neutral third party that's able to come in, assess conditions, give recommendations and that kind of thing and that's the International Committee of the Red Cross. If there is a neutral, objective third party that can be allowed into these facilities to do those same kinds of things—allow for communications, keep track of people or help the government to keep track of people, give recommendations on ways that they could improve the operation and ways that they could better comply with both domestic and international law—I think that kind of service would be extremely valuable and would improve the process tremendously.

Engy Abdelkader: Wonderful. Thank you so much. Lee, I'd like to turn to you and I know that we have a question from the audience and I have a few of my own. Specifically, the audience member thanks you for all your efforts, Lee. The question that's posed is what is the situation now? I know that you provided us with a timeline and sort of a recent historical perspective of what has occurred and what's transpired with respect to the litigation. The question from the audience member is, what is the situation now?

Lee Gelernt: Thank you. So far focusing on areas right now one is to find the families with our partners, who have been incredible. I mean there's lots of them. But, there's a sort of formal steering committee headed by the law firm, Paul Weiss. Justice in Motion operates on the ground in Central America and the Women's Refugee Commission. That is the first thing.

We are still looking for the families, the pre-zero tolerance families. So that is an absolute priority and we are spending an enormous amount of time trying to track them because as I said before, the information we have, the contact information is stale. So, there's been literally a lot of door-to-door in Central America looking for them. And, you know the judge has asked for a timeline and what we have said to him is look, we're just going to continue until we are absolutely certain we found everyone. I have no idea how long that's going to be.

The second thing we're focusing on is making sure the tracking by the government and then the sharing of information about separated family situation goes to people on the ground and nonprofits on the ground and legal service providers we can try and unite the parent and child. So that's a very big part of it

both for the future is that they're going to be separations which we hope you know that would - the way it was done under the Obama administration which is only if there was a genuine objective reason to think the parent was a danger to the child. I kind of tracking and reuniting parents in person who shouldn't have been separated.

The third part as I mentioned is this expert damages suits and other efforts to get trauma relief to the families. That is in the form of physicians, social workers, and also to get them some compensation and then we're looking at sort of that as a long-term thing, but it will depend a little bit potentially on the change in administrations. So those are the sort of three main things were focusing on they've done unfortunately the judge has allowed them to separate you for minor crimes and so we are continuing to think about ways to try and stop them from separating based on minor crimes. But in the meantime we need the information tracking so that we can find and reunite if the separation didn't even fit the government's own criteria. So that's sort of a rough overview of where we are now.

Engy Abdelkader: Thanks, Lee. Just a follow-up question. I know that you had discussed and the polling data shows that there is generally bipartisan opposition to zero tolerance as a policy, to this idea of separating children from their family members in order to deter parents from migrating to the United States. In light of that, I'm wondering what if any kind of legislative proposals or responses we've seen since this policy first emerged to prevent this from occurring in the future.

Lee Gelernt: Yeah that's a great question. There's been talk about it but it sort of died down and so I think it's kind of a complicated question about how legislators stand. But, I think you're asking the right question because we don't necessarily want to want to rely on court orders and going to court all the time and I think ultimately it would be nice to have some legislation.

I think you're absolutely right to bring that up as something we need to get back to figuring out how we can do it. I know it will be complicated to figure out where the bipartisan support is. I think there will be bipartisan support for no more systematic family separations but how much deference the Republicans are willing to give to DHS to say, well, look your judgment about whether a parent is being abusive for that wide range of discretion I mean we've seen cases where they're separated based on a guard saying well I don't think the father changed the diapers quick enough. So, we obviously don't want to have that but on the other hand they could always say there's genuine abuse. It's tricky state law codifies them as the best interest of the child and very high standard there that'll play out at the border. I don't know but I think you're asking the right question.

Engy Abdelkader: Thank you, Lee. I guess one more question. I know that you had spoken about some of these issues in terms of long-term goals but in the short term, what efforts have the government or other relevant stakeholders made to address the trauma that these children have suffered? I know that you know this is psychological trauma that has in fact been documented by government. This is not an issue or a matter that should wait several years as litigation plays out or as funds are

established. Is the government taking appropriate steps to address the trauma that these children have suffered because of this policy?

Lee Gelernt: Yeah, so that's another great question. I mean the short answer is no, the government is not doing anything about it. You know we have to litigate that it's possible that there will be one suit where the government decides they won't appeal and they will allow the people who brought that lawsuit public and others in California to allow the parents be contacted and get one doctor's visit. But, I think ultimately a sort of more systemic solution and so we are trying lawsuits you said that takes a long time.

The other thing they're trying to do is see about organizing pro bono doctors. Maybe we'll get reimbursement. That's a big effort we need to find the parents, get the doctors to them, people are spread out all over the world or even all over the US. But, I think you know you're right that that needs to happen as quickly as possible and there's been enormous efforts by the medical community, which has been great, but what we wanted to kind of do is systematize how to get to each family because the government is not doing it.

Engy Abdelkader: I can't help but wonder even on that score regarding the traumatized children in psychological services that they whether or not legislative responses may be appropriate, too. Particularly because so many Americans had a visceral response to zero tolerance.

Lee Gelernt: Right and I think that, yes, all right, sorry to interrupt you sorry.

Engy Abdelkader: No, no that's okay I was just saying that obviously this trauma is not a matter of speculation, but it has actually been documented by the government itself.

Lee Gelernt: And that's absolutely right. There has been some talk about legislation. I know, I think we're hoping that some of the lawsuits end up in settlements and maybe Congress steps in, because it's not going to take an enormous amount of money to get doctors to see the families, not relative to the harm that was done, and how just it was and other steps to go make it that's there's been no movement on that. The government, it's just not doing anything to provide real help.

Engy Abdelkader: Great, thank you, Lee. We're really grateful for your efforts.

Alvaro, I wanted to turn to you next. You spoke about this issue from an international perspective and from an international perspective we know that the United States enjoys status as a global hegemon. As such, when it implements and effectuates policies such as zero tolerance and family separation it not only has an impact within its own borders but there are ripple effects around the world. In fact, it sets the tone oftentimes in terms of policies that other countries may choose to pursue in this respect.

Do you have concerns that this may set a negative precedent not only in terms of future administrations within the United States but just in terms of the

global standard with respect to how migrant and migrant children should be treated, seeing other governments emulate similar policies within their borders?

Alvaro Botero: Thank you. That's a very hard, hard question to answer. Of course it's very...the U.S. tends to have a such a dominant position internationally that in many cases it sets an example for the policies that are implemented in other states and in some ways what we are seeing now in the US – it's also related with other policies that are being taken in order to deter migration in other regions of the world. Kind of like strengthening that trend of externalization of border control, which is something that has been promoted at the European level. But it also has expressions in recent history in the U.S. Of course policies like this might have a ripple effect in other countries.

And what we are seeing from the international bodies in relation to the development of the situation in the U.S. with neighboring countries in the region— it's trying to adopt those measures directed to externalize the border control. Not just securitizing the border with Mexico, but also using agreements with Mexico and Central American countries in order to prevent migrants and asylum seekers even from leaving their country.

So, in general, what we are seeing if we analyze the measures that have been taken by the U.S. in recent years, it's like a closure of legal avenues for migrants to reach the U.S. territory through legal avenues or even to remain in the U.S., for example, through the measures that have been taken in relation to DACA or to the TPS. But in relation to measures related to separation of families, I think the criticism from international bodies and the excellent work that has been done by civil society organizations and by advocates and litigants in the U.S. – I think in some ways has established a line that those kinds of actions are not allowed in a democratic society, like, to go to the extent of separating families that haven't even committed a crime. So at least I would hope that that is kind of like a protected area. But, yeah, it's very difficult to predict nowadays. What we are clearly seeing is, for example, many actions taken by the government trying to push the control of migration to other states in order to deter the possibilities of people to reach U.S. territory, even if they have international protection needs.

Engy Abdelkader: Thank you Alvaro. We're glad that you're here with us today. Lastly, Chloe, I wanted to talk to you. We know that in a criminal context that individuals have a right to counsel, but that's clearly not so in immigration proceedings in the in the United States. Yet it seems outrageous that children would in fact be placed in removal proceedings without the benefit of counsel and in response, we've seen in the last decade the emergence of certain legal aid organizations such as Kids in Need of Defense to help fill this void.

Again, similar question to you, are there any policy initiatives or legislative movements to address this void to ensure that immigrant children who are placed in removal proceedings do have the benefit of counsel given their lack of capacity and ability to actually represent themselves effectively before an immigration judge and in proceedings where an attorney from the Department of Homeland Security is actually prosecuting the case against them?

Chloe Walker: Yeah, so thank you for that and I think yeah it is kind of it's pretty outrageous for children to be defending themselves in court especially in such a complex system that can be difficult sometimes for an attorney to figure out because it's so unlike many of the other court systems that we see around the U.S.

With regards to policy—I'm not as in tune to the policy side of things. I do know that the American Bar Association as well as a number of other organizations are pushing for the immigration courts to become independent Article I courts to at least instill some level of due process for everybody, let alone children in the proceedings, and there is some litigation—I just pulled it up on my computer—about access to counsel. I put a link, I don't know if everybody can see the answers to the questions, but I put a link in the question that I got to it to the American Immigration Council.

There has been a case pending since about 2014 over the right to appointed counsel in immigration proceedings for unaccompanied children and it's still ongoing but the it went up to the Ninth Circuit and they have not found that there is that right to appointed counsel even for children. It looks like there's two cases before the Ninth Circuit for two individual children who were ordered removed by immigration judges while unrepresented by attorneys and so it looks like you know they're still open cases to see if that will go anywhere. But you are right is a challenge for children to find representation.

Engy Abdelkader: Great. Good to hear that that in fact there's some traction and potential hope for a change there. So we're nearing the hour and what I'd like to do before we close is actually give each of you an opportunity to share any closing observations or remarks. So Chloe, let's start with you. Any closing observations or remarks for our audience before we adjourn?

Chloe Walker: I just I'm really grateful to be on a webinar like this. I think the opportunity to really talk about the intersection of the different work that we're doing in different spheres you know even between class action litigators and folks who are on the ground it's really wonderful so I'm grateful and hope that attendees will look at our Pro Bono Matters for Children Facing Deportation portal² and see if there's something that might interest them or share one with a colleague. Thanks so much.

Engy Abdelkader: Wonderful, we're grateful to have you with us. Alvaro, you're next. Any concluding thoughts for our audience before we depart?

Alvaro Botero: Well no. Thanks for the invitation. It has been a wonderful opportunity to hear about the perspective of what others are doing. I think from an international perspective something that we think might be useful, considering experiences of other countries, is to try to use international norms and international standards developed by U.N. bodies or bodies of the Inter-

² *Children's Immigration Law Academy*, *supra* note 1.

American system in national litigation. Like in many countries in Latin America or in the European context, the use of the standards from the jurisprudence developed by these bodies has been very useful in order to inform national courts on how to deal with issues relating to migrants and refugees.

And of course, in the long term, but I know that's kind of very challenging in the current context to keep promoting the ratification of international instruments at the UN level and also the Inter-American level. That also depends on the opportunity for accountability of state officials when they violate human rights norms and obligations, which is a huge difference, for example, if we see in the way that regional bodies like the Inter-American Commission, the Inter-American Court, have to deal with the states of the Americans. Like, most of the states might end up being responsible for human rights violations before the Inter-American Court, while in the case of the U.S., as the U.S. hasn't ratified the American Convention, it is impossible to take the U.S. authorities before the Inter-American Court. So yeah, hopefully to keep that issue in the agenda because it's another avenue for accountability.

Engy Abdelkader: Wonderful. Thank you so much for sharing your expertise on international migration law. Lee, you're up next any concluding thoughts for our audience before we adjourn?

Lee Gelernt: Nothing for me. I just wanted to thank you guys for continuing just to shine a light on this. I think it's critical that we not lose sight of this. I really appreciate you hosting this webinar.

Engy Abdelkader: Thank you so much, Lee. We're happy you were able to make it and make it a success. Ryan, you have the last word.

Ryan Vogel: Alright well...

Engy Abdelkader: Because your article inspired this event so...

Ryan Vogel: Well, I'm glad I'm glad it did and I'm really glad to be a part of this and thank all the other panelists, too. I think it's been very interesting to hear all these different perspectives and I think they they're right. So I think I would like to leave on is this: we can do better and we should do better. We have to insist that changes are made. I think one of the lessons from wartime detention operations is that it was the pressure from civil society, from international organizations, from inside the government and military, that led to changes that I think were not only needed but helpful in the broader international context as well. So we have to do it. I think we can and this discussion is a helpful part in doing that.

Engy Abdelkader: Thank you so much, Ryan. Thank you to all of our panelists for joining us and sharing their time and expertise particularly during this difficult and challenging time for us as a country and a global community in light of coronavirus.

Thank you to all of our members of our audience for taking the time to join us. You will receive in the coming days a copy of the program recording as well as additional resources that our panelists have been kind enough to share. And, we look forward to having you join us next month for our sixth and final webinar in this series "The Muslim Ban Revisited: Trump v. Hawaii Two Years Later." We hope you'll be able to join us and until then we wish you well and that you stay in good health. Thank you, all.