

**Input for the United Nations Special Rapporteur on the Human Rights of Migrants,  
The Impact of COVID-19 on the Human Rights of Migrants,  
Submitted by the Young Center for Immigrant Children's Rights**

June 14, 2021

The Young Center for Immigrant Children's Rights (hereinafter "the Young Center") plays a unique role among the many government and non-governmental actors who make decisions about unaccompanied and separated immigrant children in the United States. Since 2004, the Young Center has been appointed as the independent Child Advocate for thousands of unaccompanied and separated children who are placed into U.S. government custody and legal proceedings that determine whether they may stay or must return to their home countries. Our interdisciplinary staff of lawyers and social workers, supported by bilingual volunteers, apply the "best interests of the child" principle enshrined in the Convention on the Rights of the Child (CRC) and United States child protection laws to advocate for each child's best interests. In making best interests determinations, we consider the child's expressed wishes, the child's safety and health, and the child's rights to liberty, family integrity, development, and to express their own identity. The Young Center also engages in policy initiatives and advocacy to develop and promote standards for protecting the best interests of children while they are subject to decision-making by government officials.

The Young Center submits this statement to address measures taken by the U.S. government in the context of the COVID-19 pandemic that have specifically targeted and endangered asylum-seeking migrants, particularly children and their families, in violation of international human rights standards and United States law. We recommend that the Special Rapporteur investigate these ongoing human rights violations and call upon the U.S. government to halt these policies immediately.

**I. The United States government has summarily expelled and detained migrant children during the COVID-19 pandemic under the pretense of public health.**

Beginning in March 2020, the U.S. government ordered the summary expulsion of all undocumented noncitizens arriving at the border, under the guise of preventing the spread of COVID-19.<sup>1</sup> This policy, known as "Title 42," fails to screen migrants, including children, for fear of persecution or safety concerns upon expulsion or return to country of origin.<sup>2</sup> The policy does not apply to other noncitizens arriving at the U.S. border. The policy has categorically denied migrants access to asylum proceedings as required by U.S. obligations under the Refugee Convention.<sup>3</sup> Over 800,000 migrants<sup>4</sup> have been summarily expelled under Title 42, including over 18,000 unaccompanied children and at least 34,000 children who were expelled with their parents.<sup>5</sup> At least 6,500 of these unaccompanied children were returned to Mexico, even though many of them were not Mexican citizens and likely did not have someone to care for them there.<sup>6</sup>

In addition, from April through September 2020, the U.S. government detained more than 577 unaccompanied children in hotels while waiting to "expel" them from the United States under Title 42.<sup>7</sup> These children spent days, even weeks, in commercial hotel rooms supervised by government

contractors who had no expertise in child care, development, trauma, or children's legal rights. 25% were held for more than 10 days, with a maximum stay of 28 days.<sup>8</sup> The Young Center worked with more than two dozen children held in these hotels; we only found out about them when frantic family members contacted us after not hearing from their children in days. In many cases, we successfully advocated for the children to be designated as unaccompanied and transferred to the custody of the federal Department of Health and Human Services' Office of Refugee Resettlement (ORR), as required by U.S. law. Children's advocates brought litigation in federal court to stop this dangerous practice, and a federal judge found that it violated the *Flores* Settlement Agreement, which sets minimum standards for the care of unaccompanied children in government custody.<sup>9</sup>

The U.S. government continued its practice of expulsions until a federal court enjoined Title 42 expulsions of unaccompanied children in November 2020 in *P.J.E.S. v. Wolf*, a class action lawsuit brought on behalf of unaccompanied children.<sup>10</sup> The government appealed the court's ruling and sought a stay pending appeal.<sup>11</sup> In late January 2021, an appellate court granted the government's request for a stay, allowing Title 42 to continue to be applied against unaccompanied children.<sup>12</sup>

Under the Biden Administration, the U.S. government has continued to suspend the practice of expelling unaccompanied children under Title 42.<sup>13</sup> In February 2021, the Centers for Disease Control and Prevention Services (CDC) issued a notice exempting unaccompanied children from expulsion under Title 42.<sup>14</sup> However, the U.S. government continues to expel adults and families.<sup>15</sup> The Biden Administration has also asked a federal court of appeals to proceed with deciding the U.S. government's appeal of the federal court's decision in *Flores* barring the detention of unaccompanied children in hotels, stating that "if successful on appeal, the government cannot state with certainty that it would not [use hotels for custody under Title 42] in the future, either during the current pandemic or a future public health emergency, if such expanded use were permitted."<sup>16</sup>

## **II. The expulsion of children, families, and adults under "Title 42" and the detention of unaccompanied children in hotels during their expulsion violate international human rights standards and U.S. law.**

Under U.S. refugee and immigration law<sup>17</sup> and the United Nations Convention Relating to the Status of Refugees,<sup>18</sup> to which the United States is party,<sup>19</sup> the United States must guarantee individuals the right to seek asylum at the border or after crossing into the United States.<sup>20</sup> The Convention and its 1967 Protocol are clear that states shall not "expel or return" an asylum seeker to any place where they could face serious harm amounting to persecution, otherwise known as the principle of *non-refoulement*.<sup>21</sup> Pursuant to the United Nations High Commissioner for Refugees (UNHCR), in order to give effect to the obligation of *non-refoulement*, countries must "grant individuals seeking international protection access to [their] territory."<sup>22</sup>

While the Refugee Convention lists exceptions to the principle of *non-refoulement*, UNHCR's own guidance declares that under the development of the law of international protection, the principle is "essential and non-derogable."<sup>23</sup> Further, under other human rights instruments, such as the Convention Against Torture<sup>24</sup> and the International Covenant on Civil and Political Rights (ICCPR)<sup>25</sup>, to which the United States is a party,<sup>26</sup> there is no exception to a state's obligation

not to return an asylum seeker to a territory where they may suffer harm that may rise to the level of persecution or torture,<sup>27</sup> or in the case of the ICCPR, exposure to torture or other inhumane treatment.<sup>28</sup>

On March 6, 2020, after COVID-19 was declared a pandemic, UNHCR issued guidance calling for border measures relating to COVID-19 to be non-discriminatory. It stated that while “States have the sovereign power to regulate the entry of nonnationals” under international law,<sup>29</sup> “international law also provides that measures to this effect *may not prevent [individuals] from seeking asylum* from persecution.”<sup>30</sup> It further noted that “imposing a blanket measure to preclude the admission of refugees or asylum seekers, or those of a particular nationality or nationalities, without evidence of a health risk and without measures to protect against refoulement, *would be discriminatory and would not meet international standards.*”<sup>31</sup> Sending asylum-seekers back to countries with limited public health infrastructure “may put them and others at risk when quarantine measures are not applied and health care is insufficient.”<sup>32</sup> UNHCR’s guidance on COVID-19 provided countries with examples of reasonable measures to manage the public health risks of COVID-19 while still providing access to protection, such as testing and/or quarantine.<sup>33</sup>

International law and federal law therefore prohibit the United States from instituting a blanket ban on asylum-seekers and unaccompanied children, even during a global health crisis. Yet the Title 42 policy, issued by the United States just two weeks after UNHCR’s call for non-discriminatory border policies, is just that: a blanket measure that effectively bans all asylum-seekers and unaccompanied children from protection under the guise of “public health.”

Title 42 is a particularly egregious violation, in light of the U.S. government’s failure to offer a legitimate public health rationale to support expulsions of asylum-seekers. The anti-immigrant motivation underlying the policy is apparent from the fact that Title 42 expels undocumented non-citizens arriving by land but exempts permanent residents and U.S. citizens, and does not apply to tourists arriving by plane or ship, even though the CDC explicitly lists these modes of transportation as congregate settings with higher risk of disease transmission than land travel.<sup>34</sup> The Associated Press has reported that before the CDC issued the Title 42 Order, top officials at the agency opposed it due to the lack of any evidence to support that such expulsions would slow the spread of COVID-19, and that after CDC officials refused to sign off on it, the CDC Director was politically pressured into issuing the order.<sup>35</sup> In the year following the announcement of the policy, numerous medical and public health experts have publicly criticized Title 42 expulsions as based on specious justifications and failing to protect public health.<sup>36</sup>

Title 42’s application to children also violates international human rights standards pertaining to children. The Convention on the Rights of the Child (CRC) protects the rights of children seeking asylum.<sup>37</sup> The United States is a signatory to the CRC<sup>38</sup> and therefore is obligated “to refrain from acts that would defeat the object and purpose of the Convention.”<sup>39</sup> The United States has further demonstrated its commitment to the CRC standards before the international community by ratifying two international treaties protective of the rights of children.<sup>40</sup> The U.N. Committee on the Rights of the Child has stated that “States parties should adopt all measures necessary in order to prevent collective expulsions of migrant children and families.” In

discussing the principle of *non-refoulement* with respect to unaccompanied children, the U.N. Committee on the Rights of the Child has stated that “[t]he assessment of the risk...should be conducted in an age and gender-sensitive manner and should, for example, take into account the particularly serious consequences for children of the insufficient provision of food or health services.”<sup>41</sup>

Title 42 also subverts the legal obligations and due process protections that are owed to unaccompanied children under U.S. law. Pursuant to the TVPRA, when border officials encounter an unaccompanied child from a non-contiguous country, the child must be transferred into the care of ORR within 72 hours; each child has a legal right to seek protection.<sup>42</sup> The U.S. government has used Title 42 to avoid its legal obligation to care for unaccompanied children. Rather than identifying unaccompanied children and ensuring their safe transfer to ORR and the ability to seek protection from immigration officials, the U.S. government failed to routinely transfer unaccompanied children to ORR custody and denied them access to immigration proceedings. Instead, the U.S. government summarily expelled them at the border, forcing children who had fled violence and danger to return to those same conditions, alone, and without an opportunity to be heard or to be reunified with a family member able to care for them.

The U.S. government’s practice of detaining unaccompanied children in hotels also violated international human rights standards. The CRC prohibits the unlawful and arbitrary deprivation of a child’s liberty, requiring that a child’s detention “shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.”<sup>43</sup> It further requires that “[e]very child deprived of liberty shall be treated...in a manner which takes into account the needs of persons of his or her age” and that they “shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances[.]” Under the implementation of Title 42, hundreds of children were held in unlicensed commercial hotels for more than 72 hours, in violation of the standards established under *Flores*.<sup>44</sup> Moreover, children were placed under guard by security contractors with no training or certification in child care, development, or welfare,<sup>45</sup> subjecting them to environments with a significant risk of predatory child abuse. Moreover, in violation of international human rights standards,<sup>46</sup> children were held in detention incommunicado, detained in locations unknown to them and without access to the outside world, including their families, for days or weeks at a time.<sup>47</sup> They were also denied access to independent Child Advocates and immigration attorneys and had no opportunity to challenge the legality of their detention in U.S. government custody.<sup>48</sup>

Finally, the U.S. government’s expulsions and detention of children violate the CRC’s mandate that the “the best interests of the child” be a “primary consideration” in “all actions concerning children.”<sup>49</sup> United States law recognizes the “best interests of the child” principle, with all 50 states requiring consideration of a child’s best interests in decisions about the child’s custody, placement, and other critical life issues.<sup>50</sup> While the “best interests of the child” principle has no single definition under U.S. law, it consistently encompasses the child’s health, safety, and protection as significant factors.<sup>51</sup> Title 42 expulsions and the detention of children in unlicensed hotels for long periods of time are contrary to children’s best interests, subjecting children to dangerous and unhealthy conditions and summarily denying asylum-seeking children access to

legal relief that is critical to ensuring their safety and health and preventing their return to harm and danger.

### III. Recommendations and Conclusion

Under the guise of protecting public health, the U.S. government has summarily expelled hundreds of thousands of asylum-seekers, including children and families, denying them an opportunity to be heard on their claims for protection, separating them from family members within the U.S., and returning them to dangerous and harmful conditions. In light of the intentional and egregious nature of the violations of the rights of migrants, including migrant children, by the U.S. government, we respectfully recommend that the Special Rapporteur fully investigate the U.S. government's application of Title 42 to asylum seekers including children. We also recommend that the Special Rapporteur call upon the U.S. government to immediately end all Title 42 expulsions, to terminate the policies and procedures underlying Title 42, to facilitate the safe return of anyone expelled from the U.S. pursuant to Title 42, and to take all necessary steps to ensure that the government does not engage in the future in exclusionary policies that fail to comport with the government's obligations under U.S. law and international human rights standards to asylum-seekers and children.

The Young Center appreciates the opportunity to submit comments regarding the impact of COVID-19 on the rights of migrant children. We hope that our insight and recommendations support the Special Rapporteur on the Human Rights of Migrants in drafting his report to the 76th Session of the U.N. General Assembly.

Respectfully submitted,



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<sup>1</sup> See Centers for Disease Control and Prevention, U.S. Dep't of Health and Human Serv., Order Suspending Introduction of Certain Persons From Countries Where a Communicable Disease Exists, 85 Fed. Reg. at 17061-17072 (Mar. 24, 2020) (effective date March 20, 2020).

<sup>2</sup> In many cases, non-Mexican migrants have been expelled or removed to Mexico with no explanation. See, e.g., Jose Luis Gonzalez and Lizbeth Diaz, *U.S. expels dozens of Haitian asylum seekers to Mexico*, REUTERS (Feb. 3, 2021), <https://www.reuters.com/article/us-usa-immigration-border-idUSKBN2A40FM>.

<sup>3</sup> *United Nations Protocol Relating to the Status of Refugees* art. I, 31 January 1967, *United Nations Treaty Series*, vol. 19, No. 6223; *Convention Relating to the Status of Refugees* art. 33(1), 28 July 1951, *United Nations Treaty Series*, vol. 189, No. 150, p. 152; see also Refugee Act of 1980 § 208, 8 U.S.C. § 1158, (c)(1)(A) (2018) (“In the case of an alien granted asylum... the Attorney General shall not remove or return the alien to the alien’s country of nationality or, in the case of a person having no nationality, the country of the alien’s last habitual residence”).

<sup>4</sup> See *Nationwide Enforcement Encounters: Title 8 Enforcement Actions and Title 42 Expulsions*, U.S. CUSTOMS AND BORDER PROTECTION (last modified June 9, 2021; last visited June 14, 2021),

<https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/title-8-and-title-42-statistics> and <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/title-8-and-title-42-statistics-fy2020>.

<sup>5</sup> Molly O'Toole, *Biden promised change at the border. He's kept Trump's Title 42 policy to close it and cut off asylum*, LOS ANGELES TIMES (Mar. 19, 2021), <https://www.latimes.com/politics/story/2021-03-19/a-year-of-title-42-both-trump-and-biden-have-kept-the-border-closed-and-cut-off-asylum-access>.

<sup>6</sup> Camilo Montoya Galvez, *Nearly 9,000 migrant children have been expelled under pandemic border policy, court documents say*, CBS NEWS (Sept. 11, 2020), <https://www.cbsnews.com/news/8800-migrant-children-have-been-expelled-under-pandemic-border-policy-per-court-documents/>.

<sup>7</sup> Order Re Plaintiffs' Motion to Enforcement Settlement as to "Title 42" Class Members, *Flores v. Barr*, No. 2:85-cv-04544-DMG-AGR, ECF No. 920 (C.D. Cal. Sept. 4, 2020) [hereafter *Flores* Court Order].

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *P.J.E.S. v. Wolf*, No. 20-cv-02245-EGS-GMH, 2020 WL 6770508 (D.D.C. Nov. 18, 2020).

<sup>11</sup> Motion to Stay Preliminary Injunction Pending Appeal, *P.J.E.S. v. Wolf*, No. 20-5357, ECF No. 1874324 (D.C. Cir. filed Dec. 3, 2020).

<sup>12</sup> *P.J.E.S. v. Wolf*, No. 20-5357 (D.C. Cir. Jan. 29, 2021) (per curiam).

<sup>13</sup> Jasmine Aguilera, *What to Know About What's Happening to Unaccompanied Minors at the Border*, TIME (April 2, 2021), <https://time.com/5950832/unaccompanied-minors-border/>.

<sup>14</sup> Centers for Disease Control and Prevention, U.S. Dep't of Health and Human Serv., Notice of Temporary Exception From Expulsion of Unaccompanied Noncitizen Children Pending Forthcoming Public Health Determination, 86 Fed. Reg. 9942 (Feb. 17, 2021).

<sup>15</sup> Zolan Kanno-Youngs, *Biden Under Pressure Over 'Public Health' Border Expulsions*, NEW YORK TIMES (updated May 31, 2021), <https://www.nytimes.com/2021/05/24/us/politics/biden-border-immigrants.html>.

<sup>16</sup> Status Report 2-3, *Flores v. Garland*, Case Nos. 20-55951, No. 20-56052, ECF No. 12047900 (9th Cir. filed Mar. 19, 2021).

<sup>17</sup> 8 U.S.C. § 1158(a)(1).

<sup>18</sup> Convention Relating to the Status of Refugees, art. 33(1), July 28, 1951, 189 U.N.T.S. 137, <https://www.ohchr.org/en/professionalinterest/pages/statusofrefugees.aspx> [hereinafter Refugee Convention].

<sup>19</sup> The United States acceded to the United Nations Convention Relating to the Status of Refugees via its 1967 United Nations Protocol Relating to the Status of Refugees. Its obligations are incorporated into domestic law in the Refugee Act of 1980. See *INS v. Cardoza-Fonseca*, 480 U.S. 421, 436-37 (1987).

<sup>20</sup> 8 U.S.C. § 1158(a)(1).

<sup>21</sup> Refugee Convention, *supra* note 18.

<sup>22</sup> U.N. High. Comm'r for Refugees, *Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol* ¶ 8. (Jan. 26, 2007), <https://www.unhcr.org/4d9486929.pdf> [hereinafter UNHCR Non-Refoulement Advisory Opinion].

<sup>23</sup> *Id.*, ¶ 12.

<sup>24</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 2(2), Dec. 10, 1984, 1465 U.N.T.S. 85, <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx> [hereinafter Convention Against Torture].

<sup>25</sup> International Covenant on Civil and Political Rights, arts. 4(2), 7, Dec. 16, 1966, 999 U.N.T.S. 171, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> [hereinafter ICCPR].

<sup>26</sup> Foreign Affairs Reform and Restructuring Act of 1998, Pub. L. No. 105-277; see 8 C.F.R. § 208.16(c).

<sup>27</sup> UNHCR Non-Refoulement Advisory Opinion, *supra* note 22, paras. 11, 17. See also Convention Against Torture, *supra* note 24, art. 3(1).

<sup>28</sup> ICCPR, *supra* note 25, art. 7.

<sup>29</sup> U.N. High. Comm'r for Refugees, *Key Legal Considerations on Access to Territory for Persons in Need of International Protection in the Context of the COVID-19 Response* para. 1 (Mar. 16, 2020), <https://www.refworld.org/docid/5e7132834.html> [hereinafter UNHCR COVID-19 Legal Considerations].

<sup>30</sup> *Id.*, paras. 1, 6 (emphasis added).

<sup>31</sup> *Id.*, paras. 1, 6 (emphasis added).

- <sup>32</sup> *Beware Long-Term Damage to Human Rights and Refugee Rights from the Coronavirus Pandemic: UNHCR*, U.N. HIGH. COMM'R FOR REFUGEES (Apr. 22, 2020), <https://www.unhcr.org/news/press/2020/4/5ea035ba4/beware-long-term-damage-human-rights-refugee-rights-coronavirus-pandemic.html>.
- <sup>33</sup> UNHCR COVID-19 Legal Considerations, *supra* note 29, para. 8. *See also The COVID-19 Crisis: Key Protection Messages*, U.N. HIGH. COMM'R FOR REFUGEES (Mar. 31, 2020), <https://www.icvanetwork.org/system/files/versions/UNHCR-COVID-19%20protection%20messaging%20final.pdf>.
- <sup>34</sup> Centers for Disease Control and Prevention, U.S. Dep't of Health and Human Serv., Control of Communicable Diseases; Foreign Quarantine; Suspension of Introduction of Persons into the United States from Designated Foreign Countries or Places for Public Health Purposes, 85 Fed. Reg. 16559, 16561 (Mar. 24, 2020).
- <sup>35</sup> Jason Dearen and Garance Burke, *Pence ordered borders closed after CDC experts refused*, AP NEWS (Oct. 3, 2020), <https://apnews.com/article/virus-outbreak-pandemics-public-health-new-york-health-4ef0c6c5263815a26f8aa17f6ea490ae>.
- <sup>36</sup> *Title 42 Border Expulsions: How Biden and the CDC's Misuse of Public Health Authority Expels Asylum Seekers to Danger*, PHYSICIANS FOR HUMAN RIGHTS (last visited Jun. 14, 2021), <https://phr.org/wp-content/uploads/2021/05/PHR-Title-42-Order-Fact-Sheet.pdf>; *Public Health Experts Urge U.S. Officials to Withdraw Order Enabling Mass Expulsion of Asylum Seekers*, COLUMBIA UNIVERSITY MAILMAN SCHOOL OF PUBLIC HEALTH (letter dated May 18, 2020) (last visited Jun. 14, 2021), <http://www.publichealth.columbia.edu/public-health-now/news/public-health-experts-urge-us-officials-withdraw-order-enabling-mass-expulsion-asylum-seekers>.
- <sup>37</sup> Convention on the Rights of the Child, art. 22, Nov. 20, 1989, 1577 U.N.T.S. 3, <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx> [*hereinafter* CRC].
- <sup>38</sup> *Id.*
- <sup>39</sup> U.S. Citizenship & Immigration Serv., U.S. Dep't of Homeland Security, *RAIO Combined Training Program: Children's Claims § 2.2* (2019), [https://www.uscis.gov/sites/default/files/document/foia/Childrens\\_Claims\\_LP\\_RAIO.pdf](https://www.uscis.gov/sites/default/files/document/foia/Childrens_Claims_LP_RAIO.pdf); Vienna Convention on the Law of Treaties, art. 18, May 23, 1969, 1155 U.N.T.S. 331.
- <sup>40</sup> G.A. Res. 54/263, Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography (May 25, 2000), <https://www.ohchr.org/en/professionalinterest/pages/opscrcr.aspx> and <https://www.ohchr.org/en/professionalinterest/pages/opaccrcr.aspx>.
- <sup>41</sup> U.N. Comm. on the Rts. of the Child, *General Comment No. 6: Treatment of Unaccompanied and Separated Children Outside Their Country of Origin*, ¶ 27, U.N. Doc. CRC/C/GC/14 (Sept. 1, 2005), <https://www2.ohchr.org/english/bodies/crc/docs/GC6.pdf>.
- <sup>42</sup> 8 U.S.C. § 1232(c)(6)(A).
- <sup>43</sup> CRC, *supra* note 37, art. 37.
- <sup>44</sup> *Flores* Court Order, *supra* note 8, pp. 12-13.
- <sup>45</sup> *Id.* at 14-15.
- <sup>46</sup> CRC, *supra* note 37, art. 37 (“Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation”).
- <sup>47</sup> *See Flores Independent Monitor Interim Report on the Use of Temporary Housing for Minors and Families Under Title 42 at 6-8, Flores v. Barr*, No. 2:85-cv-04544-DMG-AGR, ECF No. 938 (C.D. Cal. filed Aug. 26, 2020). *See also Declaration of Karla Marisol Vargas*, Texas Civil Rights Project at paras. 14, 20, *Flores v. Barr*, Case No. 2:85-cv-04544-DMG-AGR, ECF No. 920-2 (C.D. Cal. filed Aug. 14, 2020).
- <sup>48</sup> *Flores* Court Order, *supra* note 7, at 15-16. *See also Declaration of Jennifer Nagda*, Young Center for Immigrant Children's Rights at para. 29, *Flores v. Barr*, Case No. 2:85-cv-04544-DMG-AGR, ECF No. 920-4 (C.D. Cal. filed Aug. 14, 2020).
- <sup>49</sup> CRC, *supra* note 37, art. 3. Every nation in the world but the United States has ratified the Convention on the Rights of the Child. The United States is a signatory. *See Status As At: 14-06-2021 09:15:37 EDT - Convention on the Rights of the Child*, UNITED NATIONS TREATY COLLECTION (last visited Jun. 14, 2021), [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-11&chapter=4&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=en).
- <sup>50</sup> *See Child Welfare Information Gateway*, U.S. Dep't of Health and Human Serv., *Determining the Best Interests of the Child 2* (2016), [https://www.childwelfare.gov/pubPDFs/best\\_interest.pdf](https://www.childwelfare.gov/pubPDFs/best_interest.pdf).
- <sup>51</sup> *See id.* (identifying the “health, safety and/or protection of the child” as a “guiding principle of best interests determinations”).