

SEPTEMBER 3, 2019 5:15PM EDT

US: Suit Over Indefinite Detention of Children

Amicus Brief Supports Plaintiffs' Challenge to New Rules

(Washington, DC) – A Trump administration administrative rule could result in severe harm to migrant children detained in the United States, Human Rights Watch said today after filing with Amnesty International USA a friend-of-the-court brief on August 30, 2019 in the case. The brief, setting out relevant international human rights standards, supports lawyers for detained children who are challenging the new rule.

Under the new regulation, the government could indefinitely detain children together with their families. The new rule also lacks safeguards, which could further worsen conditions in detention.

“Children are particularly vulnerable to trauma and harm from detention,” said Clara Long, acting deputy Washington director at Human Rights Watch. “No amount of time in detention is safe for children, and indefinite detention significantly increases the risk they will suffer serious, long-lasting harm.”

Human Rights Watch and Amnesty International USA filed the amicus brief in the federal district court in California that oversees a 1997 settlement agreement governing the treatment of children in immigration detention. Lawyers for children covered by the case, now known as *Flores v. Barr*, are asking the court to rescind the new regulation as a breach of the 1997 settlement. The law firm Constantine Cannon served as counsel on the brief.

The core principle and requirement of the *Flores* Agreement is that migrant children taken into detention should be released as “expeditiously” as possible. The new rule provides instead for the indefinite detention of children with their parents in federal immigration facilities pending resolution of their immigration proceedings. In doing so, it seeks to reverse a 2015 court order under the *Flores* Agreement that children must not be held for more than 20 days in facilities not licensed to care for children.

International human rights standards recognize that immigration-related detention of a child is never in their best interests. The United Nations special rapporteur on torture has noted that immigration detention of children puts them at risk of cruel, inhuman, or degrading treatment or punishment prohibited under international law. The Inter-American Commission on Human Rights has expressed that even short-term immigration detention of children may be cruel, inhuman, or degrading treatment because child migrants are “at greater risk of torture and mistreatment owing to their vulnerability and unique needs.”



Migrants who crossed the U.S.-Mexico border in El Paso, Texas, in a photo dated May 29, 2019.

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The US government claims that family detention is needed to ensure that families show up for immigration court for hearings. However, in community-based case management programs, the vast majority of people released from immigration detention show up for their court hearings.

“The administration’s new rule institutionalizes abusive policies against children,” Long said. “Instead of looking for ways to inflict more harsh treatment on children, the government should expand alternatives that allow children and their families to live in communities while their immigration cases are pending.”

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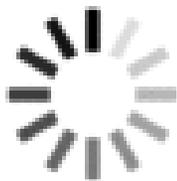
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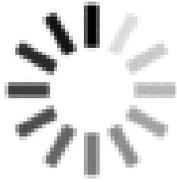
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