



# General Assembly

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## Human Rights Council

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Agenda item 4

### Human rights situations that require the Council's attention

## Written statement\* submitted by Physicians for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[01 June 2019]

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\* Issued as received, in the language(s) of submission only.

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# Physicians for Human Rights' Forensic evidence documents prior trauma exposure of children seeking asylum in the United States of America

## Summary

The number of children and adolescents arriving at the U.S. border has risen dramatically in the past 20 years, both numerically and as a percentage of the overall number of border crossers. At the same time, there has been a rise in applications for asylum in the United States of America, particularly from the “Northern Triangle” countries of Central America – El Salvador, Guatemala, and Honduras. In response, the U.S. administration has introduced a series of policy changes, including restricting access to the asylum process, separating migrant families, and detaining children and families for longer periods of time.<sup>1</sup>

Using their medical expertise, Physicians for Human Rights (PHR) and Weill Cornell Center for Human Rights (WCCHR) conducted a descriptive, retrospective case record review of forensic evaluations of more than 180 child asylum seekers in the United States of America conducted between 2014 and 2018. The study documents the physical and psychological consequences of the trauma that migrant children survived, primarily in their countries of origin. Policy implications of compound trauma exposure of children should be seriously considered by government authorities in countries of origin, transit, and asylum. Children have the right to be safe from harm, including through the provision of enhanced substantive and procedural protections which take into account their level of development and maturity.

## Methodology

### Forensic asylum evaluations

Members of PHR's Asylum Network conduct forensic evaluations for asylum seekers involved in U.S. immigration proceedings, in order to provide medical-legal affidavits to the Department of Homeland Security's United States Citizenship and Immigration Services and the Department of Justice's Executive Office of Immigration Review.<sup>2</sup> The evaluations are requested by attorneys who identify a need to document sequelae (aftereffects) that their clients exhibit as a result of physical and psychological trauma from torture or persecution.

*Istanbul Protocol Standards:* These evaluations are conducted in accordance with the principles of the Istanbul Protocol, the international standard endorsed by the United Nations to assess, investigate, and report alleged instances of torture and other cruel, inhuman, and degrading treatment.<sup>3</sup>

### Data set

This report communicates the findings from 183 physical and psychological evaluations of children seeking asylum in the United States of America. The evaluations were conducted by members of the PHR Asylum Network between January 2014 and April 2018 and were analyzed by WCCHR medical school faculty and students. The Cornell Institutional Review

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<sup>1</sup> A Timeline: How the Trump Administration is Rolling Back Protections for Children, KIND, October 9, 2018, accessed at: <https://supportkind.org/resources/a-timeline-how-the-trump-administration-is-rolling-back-protections-for-children/>

<sup>2</sup> PHR's Asylum Network accepts applications from physicians, psychologists and mid-level medical and mental health providers such as licensed clinical social workers and nurse practitioners. To join the PHR Asylum Network, licensed clinicians must complete a full-day training which covers asylum law, international standards for documenting physical and psychological evidence of torture and other human rights abuses, and effective medical-legal documentation.

<sup>3</sup> UN Office of the High Commissioner for Human Rights (OHCHR), Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Istanbul Protocol"), 2004, HR/P/PT/8/Rev.1

Board reviewed the research plan and approved compliance with Title 45 CRF part 46 provisions for protection of human subjects.

### **Quantitative and Qualitative Analysis**

WCCHR faculty and students coded the data using a standardized instrument capturing basic demographic information, trauma exposure history, vulnerability factors, and medical and mental health outcomes. Sources for the analytical coding categories included UN protection assessments and validated clinical assessment tools, such as the Hopkins Symptom Checklist (HSCL-25) and PTSD Civilian Checklist. The investigators also conducted a qualitative analysis of trauma narrative notes entered into the coding tool using a quasi-grounded theory approach to describe emergent themes within the data and to identify and refine representative quotes in an iterative process.

### **Key findings**

The 183 individuals in the study included 114 male and 69 female asylum applicants, with an average age of 15 years at the time of evaluation. The majority – 89 percent – were from the “Northern Triangle” countries of El Salvador (36 percent), Guatemala (19 percent), and Honduras (34 percent). Due to the evaluation focus on pre-migration trauma, the children’s experience in crossing the border is not mentioned in 50.5 percent of cases. However, out of the 49.5 percent of cases in this data set where the border crossing experience is mentioned, 67 percent of those children crossed the U.S. border as unaccompanied children, while the remaining children crossed the border with a parent or an adult who by law or custom has responsibility to care for them, such as a grandparent, aunt/uncle, or older sibling.

Children reported that they survived direct physical violence (78 percent) and sexual violence (18 percent), threats of violence or death (71 percent), and witnessing acts of violence (59 percent) in their home countries. The violence which the children experienced was most often gang-related (60 percent), but a significant portion of children (47 percent) faced violence perpetrated by family members.

All of these events constitute adverse childhood experiences (ACEs), which have been strongly linked to a wide range of lifelong negative physical and mental health outcomes.<sup>4</sup> PHR clinicians documented negative physical aftereffects of this abuse, from musculoskeletal, pelvic, and dermatologic trauma to severe head injuries. 76 percent of children were suspected or diagnosed to have at least one major mental health diagnosis, most commonly post-traumatic stress disorder (64 percent), major depressive disorder (40 percent), and anxiety disorder (19 percent).

Children in this study repeatedly described situations in which government authorities actively abused children, failed to effectively protect victims, did not investigate crimes, and did not prosecute or punish perpetrators. Some children reported experiencing or witnessing direct police brutality against children, while others reported that the police did not take any action, despite knowing about crimes committed against children. A common pattern related to the failure of state protection was gang intimidation of the police and gang infiltration into the police.

Despite the extreme trauma these children have experienced, and the subsequent developmental, psychological, and physical harm that resulted, many reported successfully rebuilding their lives in the United States of America, where they are safe and secure from physical harm.

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<sup>4</sup> Vincent J. Felitti et al., “Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study,” *American Journal of Preventive Medicine* 14, no. 4 (1998).

## Conclusion and recommendations

Children are uniquely vulnerable to child-specific forms of persecution, such as under-age recruitment, child trafficking, female genital mutilation, underage marriage, child labor, child prostitution, and child pornography. Children are likely to be more affected by harms to family members, especially parents, due to their dependency. However, states cannot expect children to participate in immigration systems and asylum proceedings in the same way that adults can. Children may need accommodations in order to tell the story of their persecution, which takes into account their trauma, level of development or education, submission to authority, and lack of understanding of events in their home country and of asylum procedures.

These findings demand an effective and humane policy response in countries of origin, to prevent child rights abuses, and in the United States of America, to fairly recognize persecution claims and end practices that further traumatize these young migrants.

PHR calls on countries of origin to urgently direct resources to end impunity for violence against children and to fulfill their duties to protect them. Governments must ensure adequate resources to investigate, prosecute, and punish violent acts against children, and establish or maintain independent investigatory bodies to address corruption and impunity. Governments must also ensure adequate resources for violence prevention and response, such as specialized police units, education initiatives, and specialized assistance for child survivors.

Given the extreme levels of violence experienced by children from the Northern Triangle evaluated by PHR, the U.S. administration must safeguard access to asylum in the United States of America as well as maintain vital aid to Northern Triangle countries for addressing violence and instability in the long term. The United States of America should end the practice of family separation and increase the use of alternatives to detention in order to prevent further trauma exposure.

PHR urges refugee and migration bodies, such as the UN High Commissioner for Refugees, the International Organization for Migration, and the Special Rapporteur on the Human Rights of Migrants, to continue to monitor immigration and border governance policies and advance gender- and age-sensitive understandings of persecution to ensure that refugee status determination is informed by evidence about forms of trauma and persecution commonly affecting children. International bodies with a child rights mandate, including the UN Committee on the Rights of the Child, UNICEF, and the Inter-American Commission on Human Rights Rapporteur on the Rights of the Child, should monitor the child rights situation in countries of origin in order to improve child protection and to inform country conditions information related to child asylum claims. They should also advance understanding of the application of a child-rights framework to migration and asylum processes, from standards setting to identification of best practices.

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