

Centering the Child's Best Interest: Promoting the Right to Representation and  
Participation for Unaccompanied Migrants in U.S. Immigration Courts

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## **Abstract**

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The protection of unaccompanied migrant children stands as a critical concern amidst U.S. immigration policy and practice. This research delves into the realization of the right to representation and participation for unaccompanied migrants during juvenile immigration proceedings. In doing so, it reimagines the way that the United States can uphold the best interests of unaccompanied migrants, as outlined by the Convention on the Rights of the Child. Observations of 35 unaccompanied children, family, and adult immigration hearings were conducted at the New York Federal Plaza Immigration Court to understand the availability and accessibility of counsel, the relationship between having counsel and the type of relief sought after, and the discrepancies in information provided during juvenile and adult proceedings.

The study found a lack of available and accessible legal counsel, with roughly 46 percent of hearings conducted without representation. It also noted a strong correlation between access to legal representation and the legal avenues pursued by migrant children, with those represented more likely to pursue remedies like the Special Immigrant Juveniles (SIJ) status. Lastly, the study found that unaccompanied migrant children are not informed about their legal rights and options during juvenile proceedings, unlike during adult hearings. These findings underscore the need for comprehensive reforms to ensure that the right to representation and participation are realized for unaccompanied migrant children in juvenile immigration proceedings.

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## Chapter 1: Introduction

Between the years 2012 to 2019, the number of unaccompanied children that were apprehended at the United States' southern border ranged from 25,000 to 76,000 children.<sup>1</sup> During this period, the U.S. immigration system was overburdened by the number of cases that needed to be processed, and the average wait time from case filing to hearing date was 1,071 days in 2015.<sup>2</sup> However, in recent years, the number of unaccompanied migrants has significantly increased. In the fiscal years 2021 and 2022, immigration authorities at the U.S.-Mexico border encountered over 122,000 and 152,000 unaccompanied migrant children respectively.<sup>3</sup> This influx raises serious issues for the U.S. immigration system as more children's rights are left vulnerable to human rights violations, particularly with regards to the fulfillment of the best interest of the child.

One specific issue pertains to access to legal counsel for unaccompanied migrants. Because immigration cases are categorized as civil proceedings, migrants are not guaranteed the right to an attorney. Rather, they must pay for a private lawyer or seek pro bono counsel to represent them free of charge.<sup>4</sup> If they are unable to afford or access a lawyer, child respondents

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<sup>1</sup> Statista Research Department, "U.S. Border Patrol: Unaccompanied Alien Children Apprehensions 2020," Statista, August 22, 2023, [https://www.statista.com/statistics/455849/unaccompanied-alien-children-apprehensions-registered-by-the-us-border-patrol/#:~:text=In%20the%20fiscal%20year%20of,\(COVID%2D19\)%20pandemic](https://www.statista.com/statistics/455849/unaccompanied-alien-children-apprehensions-registered-by-the-us-border-patrol/#:~:text=In%20the%20fiscal%20year%20of,(COVID%2D19)%20pandemic).

<sup>2</sup> TRAC Immigration, "Ballooning Wait Times for Hearing Dates in Overworked Immigration Courts," Transactional Records Access Clearinghouse (TRAC) Immigration, September 21, 2015, <http://trac.syr.edu/immigration/reports/405>.

<sup>3</sup> Amelia Cheatham and Diana Roy, "U.S. Detention of Child Migrants," Council on Foreign Relations, March 27, 2023, <https://www.cfr.org/backgrounder/us-detention-child-migrants#:~:text=Immigration%20authorities%20encountered%20more%20than,also%20detained%20infants%20and%20toddlers>.

Camilo Montoya-Galvez, "U.S. Shelters Received a Record 122,000 Unaccompanied Migrant Children in 2021," CBS News, December 23, 2021, <https://www.cbsnews.com/news/immigration-122000-unaccompanied-migrant-children-us-shelters-2021/#:~:text=The%20Department%20of%20Health%20and,figures%20obtained%20by%20CBS%20News>.

<sup>4</sup> American Immigration Council, "A Guide to Children Arriving at the Border: Laws, Policies and Responses," American Immigration Council, June 26, 2015, <https://www.americanimmigrationcouncil.org/research/guide-children-arriving-border-laws-policies-and-responses>.

are forced to represent themselves during their deportation proceedings. Immigration proceedings are extremely difficult to navigate for those without specialized education. As a result, having access to a lawyer is one of the most important factors in determining the outcome of immigration hearings, in addition to influencing the decision to pursue Special Juvenile Status and other legal avenues that could lead to status in the United States.<sup>5</sup>

My research aims to address the following question: In what ways does the United States uphold or fail to uphold the right to counsel and participation for unaccompanied migrants, per the Convention on the Rights of the Child and the best interest framework, during immigration court proceedings? To gather data, I will observe unaccompanied migrant, family, and adult migrant hearings to gain a holistic perspective of the mechanisms in place to support the best interest of the child. I will note how the presence of counsel, along with other factors, affects the outcomes of these hearings.

Seeking the answer to this research question is essential to understand specifically how the United States falls short of international standards that protect children's rights, particularly caused by the lack of guaranteed counsel and the implications it has on the child's future. Furthermore, this research can help others understand U.S. immigration processes and inform future immigration policies to ensure that all children can access a court system that centers on children's needs and best interests. Hopefully, this study will also contribute to the growing literature about how immigration proceedings can be handled in a way where children are not only protected from human rights violations but also ensured to thrive under the best interest framework.

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<sup>5</sup> Sarah Pierce, "Unaccompanied Child Migrants in U.S. Communities, Immigration Court, and Schools," Migration Policy Institute, October 2015, 8.

## Chapter 2: Literature Review

### *Legal History of the Right to Counsel in the United States*

The right-to-counsel doctrine emerged during the American colonial era in response to a new system of public prosecution. Prior to this doctrine, defendants accused of misdemeanors or treason were prosecuted by private parties, and as a result, legal representation was not deemed necessary. However, in this new system, which emerged in the late 1700s, public prosecutors took suspects to court for trial.<sup>6</sup> Since the prosecutor knew the law and the jury system far better than any defendant, colonial lawmakers deemed that it was common sense for defendants to have guaranteed access to legal counsel. Thus, legal representation for defendants became an important and normative quality for procedural fairness and to prevent government overreach.<sup>7</sup>

The first Supreme Court case to reaffirm the right to counsel was *Powell v. Alabama* in 1932.<sup>8</sup> The Court held that the nine young African American men were deprived of their right to due process when they could not access legal counsel until shortly before the trial. As a result, they were unable to seek legal advice, conduct their own investigation, or prepare a defense, which was a violation of their right to due process and a fair trial.<sup>9</sup> The Court echoed the right-to-counsel doctrine as it acknowledged the tremendous advantage a public prosecutor had over an unrepresented defendant, especially given that the legal system had grown in complexity since the American colonial period.<sup>10</sup>

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<sup>6</sup> Pamela R. Metzger, “Beyond the Bright Line: A Contemporary Right-to-Counsel Doctrine,” *Northwestern University Law Review* 97, no. 4 (2003): 1635–1700, <https://ssrn.com/abstract=3450611>, 1638.

<sup>7</sup> *Ibid.*, 1638.

<sup>8</sup> Benjamin Good, “A Child’s Right to Counsel in Removal Proceedings,” *Stanford Journal of Civil Rights and Civil Liberties* 109 (January 2014), 121.

<sup>9</sup> *Powell v. Alabama*, 287 U.S. 45 (1932).

<sup>10</sup> Pamela R. Metzger, “Beyond the Bright Line: A Contemporary Right-to-Counsel Doctrine,” *Northwestern University Law Review* 97, no. 4 (2003): 1635–1700, <https://ssrn.com/abstract=3450611>, 1642.

While *Powell v Alabama* solidified the right to counsel, it only applied to criminal proceedings until 1967. In *In re Gault*, the right to legal representation extended to civil cases for children after the Supreme Court recognized the special vulnerabilities and disadvantages that children have. Specifically, in *Gault*, the Court held that delinquency proceedings, which are civil juvenile proceedings, have a due process right to appointed counsel.<sup>11</sup> Supreme Court Justice Abraham Fortas wrote in his majority opinion:

The juvenile needs the assistance of counsel to cope with problems of law, to make skilled inquiry into the facts, to insist upon regularity of the proceedings, and to ascertain whether he has a defense and to prepare and submit it. The child requires the guiding hand of counsel at every step in the proceedings against him.<sup>12</sup>

Through this case, the Court broadened the constitutional right to counsel in civil proceedings for children.

#### *Immigration Cases as Civil Proceedings*

In other words, early colonial legal practices assume legal representation as common sense. The Supreme Court supported this reasoning via the landmark case *Powell v. Alabama*, and *In re Gault* extended the right to representation to children in civil proceedings. Under these legal precedents, migrant children should be entitled to the right to legal counsel in court. However, immigration cases are categorized under public benefit law, a complex area of civil law.<sup>13</sup> Under public benefit law, lawmakers and citizens of the United States allow immigrants to enter their country out of their goodwill. As a result, deportation proceedings are not a form of punishment but rather a remedy for entering the country without legal status or violating other American laws. Since deportation is not a punishment, the constitutional right to counsel is not

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<sup>11</sup> Benjamin Good, "A Child's Right to Counsel in Removal Proceedings," *Stanford Journal of Civil Rights and Civil Liberties* 109 (January 2014), 121.

<sup>12</sup> *In re Gault*, 387 U.S. 1 (1967).

<sup>13</sup> Leigh Ainsworth, "Immigration Law Isn't So 'Civil' Anymore: The Criminal Nature of the Immigration System," *American Criminal Law Review* 53 (2016): 30–36.



implicated in removal proceedings, and migrants are forced to find an attorney on their own or appear in court without counsel.<sup>14</sup>

However, scholar Leigh Ainsworth pushes against this claim with the assertion that the immigration system more closely reflects criminal proceedings over civil proceedings.<sup>15</sup> Specifically, the effects of deportation and detention, especially for migrant children, reflect the damaging nature of the criminal justice system and the punishments it imposes. Studies suggest a high prevalence of depression, anxiety, and post-traumatic stress disorder among children in immigration detention.<sup>16</sup> Furthermore, forced separation during deportation proceedings has been linked to health consequences such as mental illnesses, lower IQ, obesity, weakened immune systems, physical growth, and morbidity.<sup>17</sup> If the process and effects of detention and deportation reflect the effects of criminal punishments, one must be ensured the same set of legal protections in immigration proceedings as one does in criminal proceedings.

Ainsworth also points out that criminal law has developed to reflect a more modern view of the criminal justice system.<sup>18</sup> For example, reforms to the criminal justice system include the granting of pardons, the implementation of rehabilitation programs, and the consideration of the detrimental effects of long prison sentences on individuals, families, and communities.<sup>19</sup> On the other hand, such reforms that reflect the mental and physical health of individuals in immigration

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<sup>14</sup> Fong Yue Ting v. United States, 149 U.S. 698, 730 (1893).

<sup>15</sup> Leigh Ainsworth, “Immigration Law Isn’t So ‘Civil’ Anymore: The Criminal Nature of the Immigration System,” *American Criminal Law Review* 53 (2016): 31.

<sup>16</sup> Karen Zwi et al., “The Impact of Detention on the Social–Emotional Wellbeing of Children Seeking Asylum: A Comparison with Community-Based Children,” *European Child & Adolescent Psychiatry* 27, no. 4 (2017): 411–22, <https://doi.org/10.1007/s00787-017-1082-z>.

<sup>17</sup> Johayra Bouza, Daisy Camacho-Thompson, and Gustavo Carlo, “The Science Is Clear: Separating Families Has Long-Term Damaging Psychological and Health Consequences for Children, Families, and Communities,” *Society for Research in Child Development*, June 20, 2018, [https://www.srcd.org/sites/default/files/resources/FINAL\\_The%20Science%20is%20Clear\\_0.pdf](https://www.srcd.org/sites/default/files/resources/FINAL_The%20Science%20is%20Clear_0.pdf).

<sup>18</sup> Leigh Ainsworth, “Immigration Law Isn’t So ‘Civil’ Anymore: The Criminal Nature of the Immigration System,” *American Criminal Law Review* 53 (2016): 30.

<sup>19</sup> *Ibid*, 31.

law have not been made. At most, there have been updates to the system of processing immigration cases to speed up the trial dates for migrant children, but the laws themselves and the accepted deportation practices have remained largely unchanged.<sup>20</sup>

### *Relation to the Human Rights Framework*

The consideration of the special circumstances of children and their limited capability of representing themselves is affirmed by the Convention on the Rights of the Child (CRC). In the preamble of the CRC, it states:

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth.<sup>21</sup>

Like the Court ruling in *In re Gault*, the CRC acknowledges the need for additional measures to ensure that the rights of children are protected. The explicit inclusion of the phrase “appropriate legal protections” highlights the importance of carrying international standards of children’s rights down to domestic laws and policies.

Moreover, in the CRC, the child is shifted from being the object of the law to the active subject of it. The child is an individual with fundamental human rights, including the right to participate and be heard in their own hearing.<sup>22</sup> Specifically, Article 12 of the CRC asserts:

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through

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<sup>20</sup> Sarah Pierce, “Unaccompanied Child Migrants in U.S. Communities, Immigration Court, and Schools,” Migration Policy Institute, October 2015, 4.

<sup>21</sup> “Convention on the Rights of the Child,” United Nations Human Rights Office of the High Commissioner, November 20, 1989, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>, Preamble.

<sup>22</sup> Chantima Chokloikaew, “Section Three: Article 12 of the CRC and New York State Law,” *CUNY Law Review* 12, no. 2 (2009): 509–21, <https://doi.org/10.31641/clr120215>, 510.

a representative or an appropriate body, in a manner consistent with the procedural rules of national law.<sup>23</sup>

Article 12 emphasizes the child as having views of their own. In this framework, the child's rights do not derive from their parents, and their refugee status is not dependent on their parent's status. Rather, Article 12 acknowledges the child's own experiences and asserts that they may claim refugee status independently.<sup>24</sup>

To further elaborate on the interpretation of Article 12, the Committee on the Rights of the Child published *General Comment No. 12 The Right of the Child* in 2009. The Committee states that Article 12 places obligations on states to ensure that a child's right to participate is fully realized, and this right to participate does not stop at children merely expressing their views. Rather, it includes the protection and representation of children who express their views in court so that they are fully informed of the context in which their opinion is heard. This context includes the nature and potential outcome of the proceeding, so it is essential for a child to have a legal representative to fully understand the legal implications of their statements.<sup>25</sup>

In addition, the Committee provides a non-exhaustive list of judicial proceedings, in which they specify that "unaccompanied children, asylum-seeking and refugee children, and victims of armed conflict and other emergencies" possess the right to be heard at their own hearing.<sup>26</sup> In order to be heard, the child must have a legal representative to provide guidance, clarity, and authority. The child may elect to be heard indirectly through a representative, and in

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<sup>23</sup> Ibid, Article 12.

<sup>24</sup> Chantima Chokloikaew, "Section Three: Article 12 of the CRC and New York State Law," *CUNY Law Review* 12, no. 2 (2009): 509–21, <https://doi.org/10.31641/clr120215>, 510.

<sup>25</sup> "Article 12 of the Convention on the Rights of the Child and Children's Participatory Rights in Canada," Department of Justice Canada, February 2, 2023, <https://www.justice.gc.ca/eng/rp-pr/other-autre/article12/p2.html>.

<sup>26</sup> United Nations Committee on the Rights of the Child, *General Comment No. 12: The right of the child to be heard*, 2009. <https://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-GC-12.pdf>.

this case, the Committee emphasizes that there must be no conflict of interest between the child and their representative to ensure that the best interest of the child is realized.<sup>27</sup>

With 196 state parties to the CRC, it is the most widely ratified human rights treaty. Every country has ratified the treaty with the exception of the United States.<sup>28</sup> The United States signed the CRC in 1995 under the Bill Clinton Administration, but it faced opposition in Congress during the ratification process. Opponents of the CRC claimed that the CRC posed serious concerns about its impact on U.S. sovereignty and on state and federal laws.<sup>29</sup> As a result of the CRC's standing in the United States, the U.S. government can claim that they have no obligation to fulfill the rights enshrined in the CRC. However, others dispute this claim by asserting that the CRC is customary international law, meaning that it is binding on all states regardless of its ratification status.<sup>30</sup> The widespread acceptance of the CRC, along with how quickly states have embraced it, speaks to the universality of the rights enshrined in the CRC.<sup>31</sup>

In addition to the CRC, the absence of counsel in immigration proceedings is arguably a violation of the principle of *non-refoulement*, as articulated in the 1951 Refugee Convention. This principle stands as a crucial protection against the deportation of individuals to countries where their lives or freedoms are at risk due to their nationality, race, religion, and membership of a particular political or social group. The principle of *non-refoulement* also underscores the obligation of states to provide sanctuary to those in need, and the principle is so fundamental that

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<sup>27</sup> “Article 12 of the Convention on the Rights of the Child and Children’s Participatory Rights in Canada,” Department of Justice Canada, February 2, 2023, <https://www.justice.gc.ca/eng/rp-pr/other-autre/article12/p2.html>.

<sup>28</sup> Sarah Mehta, “There’s Only One Country That Hasn’t Ratified the Convention on Children’s Rights: US,” American Civil Liberties Union, November 20, 2015, <https://www.aclu.org/news/human-rights/theres-only-one-country-hasnt-ratified-convention-childrens>.

<sup>29</sup> “The United Nations Convention on the Rights of the Child,” Congressional Research Service, July 27, 2015, <https://crsreports.congress.gov/product/pdf/R/R40484/25>.

<sup>30</sup> Elizabeth M. Calciano, “United Nations Convention on the Rights of the Child: Will It Help Children in the United States,” *Hastings International and Comparative Law Review*, 5, 15, no. 3 (Spring 1992), [https://repository.uchastings.edu/hastings\\_international\\_comparative\\_law\\_review/vol15/iss3/5](https://repository.uchastings.edu/hastings_international_comparative_law_review/vol15/iss3/5), 525.

<sup>31</sup> *Ibid*, 522.

no reservations or derogations may be made to it.<sup>32</sup> However, violations of this principle emerge when the state argues that it does not “know” of a potential refugee’s situation before they are forcibly removed, and this lack of knowledge is caused by inadequate immigration proceedings where the refugee is unable to prove their refugeehood, whether it is due to lack of concrete evidence or the lack of legal representatives to guide them through the complex immigration process. As a result of a lack of procedural protections, the state is prone to wrongfully removing refugees who are in need of protection.<sup>33</sup>

Furthermore, the Convention on the Rights of the Child reinforces the principle of *non-refoulement* within the context of children's rights. Article 22 of the CRC explicitly prohibits the expulsion of children to countries where they may face threats to their life, survival, or development.<sup>34</sup> In *Monitoring State Compliance with the UN Convention on the Rights of the Child*, Christian Whalen elaborates on the implications and interpretations of Article 22, he begins by articulating that children who are claiming asylum or determined to be refugees are to be treated as children first and not as migrants in international and national policies.<sup>35</sup> In other words, immigration policies cannot trump children’s rights to education, health, and welfare. Furthermore, Article 22 declares that states, the United Nations, intergovernmental organizations, and non-governmental organizations have the duty to protect and assist refugee children. This duty includes providing children with the infrastructure to exercise their right to

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<sup>32</sup> “Convention and Protocol Relating to the Status of Refugees,” United Nations High Commissioner for Refugees, 1967, <https://www.unhcr.org/il/wp-content/uploads/sites/6/2020/12/1951-Refugee-Convention-and-Protocol.pdf>, 3.

<sup>33</sup> Brian Rowe, “The Child’s Right to Legal Assistance in Removal Proceedings under International Law,” *Chicago Journal of International Law* 10, no. 2 (January 1, 2010): 747–68, <https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1570&context=cjil>, 755.

<sup>34</sup> “Convention on the Rights of the Child,” United Nations Human Rights Office of the High Commissioner, November 20, 1989, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>, Article 22.

<sup>35</sup> Christian Whalen, “Article 22: The Right to Protection for Refugee and Asylum-Seeking Children,” *Monitoring State Compliance with the UN Convention on the Rights of the Child*, January 3, 2022, 357–67, [https://doi.org/10.1007/978-3-030-84647-3\\_36](https://doi.org/10.1007/978-3-030-84647-3_36).

due process during asylum proceedings, including the child’s right to be represented, heard, and participate in all the processes determining the child’s residence or immigration status.

Throughout the processing of child refugees and asylees, Article 22 asserts that the best interests of the child principle should guide each activity.<sup>36</sup>

### *Human Rights Theoretical Framework*

In the discussion on children’s rights, it is important to emphasize children as rights-holders, not as objects in need of charity and protection. While depicting children as vulnerable and in need of protection may initially draw attention, it impedes the rights-based approach because it relies on public sympathy over state obligations to the child.<sup>37</sup> Furthermore, given the intersection of age and status for immigrant children, they are more likely to be viewed through a paternalistic lens and experience discrimination due to their migrant status.<sup>38</sup> Jacqueline Bhabha, the director of the Human Rights Program at the University of Chicago, argues that migration must be “decontroversialized” to effectively apply a human-rights based approach.<sup>39</sup> Because migration is treated as a border security issue, migrants—especially migrant children who are under special legal protection—are hindered from the ability to claim rights.

In addition, the AAAQ framework, which stands for Accessibility, Availability, Acceptability, and Quality, is a tool that is used to assess the effectiveness of services and interventions related to human rights, and it is often used to identify potential barriers that prevent individuals from accessing services and resources. Availability pertains to the

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<sup>36</sup> Ibid.

<sup>37</sup> Laura Lundy, “A Lexicon for Research on International Children’s Rights in Troubled Times,” *The International Journal of Children’s Rights* 27, no. 4 (2019): 595–601, <https://doi.org/10.1163/15718182-02704013>.

<sup>38</sup> Olga Bryne, “Promoting a Child’s Rights-Based Approach to Immigration in the United States,” *Georgetown Immigration Law Journal* 32, no. 59 (2018), 73.

<sup>39</sup> Jacqueline Bhabha, “Lone Travelers: Rights, Criminalization, and the Transnational Migration of Unaccompanied Children,” *The University of Chicago Law School Roundtable* 7, no. 1 (2000), <http://chicagounbound.uchicago.edu/roundtable/vol7/iss1/11>, 7.

sufficiency of resources used to address a humanitarian emergency or human rights violation, paying particular attention to the scale and scope of the issue. Accessibility emphasizes the need to ensure unimpeded access to services and resources. Specifically, it brings potential issues such as financial costs, language barriers, ability to travel to and from, and dissemination of information about the given resource. Acceptability addresses the cultural congruence and contextual appropriateness of aid interventions and the provision of resources. Lastly, quality accentuates the need to adhere to high standards of efficacy, efficiency, and dignity in the provision of aid. The AAAQ framework was originally developed for the public health sector, particularly in addressing the adequacy of health services, but it can also be effectively applied to immigration proceedings to address potential barriers to resources, such as access to legal counsel.<sup>40</sup>

#### *The Best Interest of the Child Framework*

Furthermore, the best interest framework is essential to fully understand the United States' obligations to migrant children's rights. This framework asserts that the best interest of the child must be centered in every decision-making process for the child. To determine what is in the child's best interest, one must consider the child's expressed wishes, safety, and right to family integrity, liberty, development, and identity.<sup>41</sup> The best interest framework is backed by Article 3 of the CRC, where it states, "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative

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<sup>40</sup> "Availability, Accessibility, Acceptability, and Quality Framework," UNICEF, November 2019, <https://gbvguidelines.org/wp/wp-content/uploads/2019/11/AAAQ-framework-Nov-2019-WEB.pdf>.

<sup>41</sup> Jennifer Nagda and Maria Woltjen, "Framework for Considering the Best Interests of Unaccompanied Children," The Young Center, May 2016, <https://static1.squarespace.com/static/597ab5f3beba0a625aaf45/t/5c19cb386d2a738d43742361/1545194298896/Best-Interests-Framework.pdf>.

bodies, the best interests of the child shall be a primary consideration.”<sup>42</sup> In addition to the CRC, considering the best interest of the child is a well-established principle in child welfare laws of all 50 states of the United States.<sup>43</sup> For a child to receive a fair hearing that determines their best interest, the child must have an attorney present to help determine their interests in a legal context, advocate for these interests in the courtroom, and protect the child from any potential rights violations.

The Young Center for Immigrant Children’s Rights published a study in 2020 titled “Reimagining Children’s Immigration Proceedings: A Roadmap for an Entirely New System Centered Around Children.” The study envisions a new immigration system for migrant children where the best interest framework lies at the forefront of all aspects of immigration processes—beginning from the moment a child is apprehended, to the preparation for their immigration hearing, to their resettlement in their new home in the United States or their home country, depending on where the best environment for the child is. The study includes seven guiding principles that push for change in the practices embedded in the current immigration system for migrant children. The principles are listed in the following order: A Child’s Best Interests Is a Primary Consideration in Every Decision, Safety and Family First, A Fundamentally Fair Process, Specialization, No Repatriation to Unsafe Situations, Childhood Continues to Age 21, and All Children Share the Same Rights and Protections.<sup>44</sup>

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<sup>42</sup> Mary George and Noor Aziah Mohd Awal, “The Best Interest Principle Within Article 3(1) of the United Nations Convention on the Rights of the Child,” *International Journal of Business, Economics and Law* 19, no. 4 (August 2019): 30–36, [https://ijbel.com/wp-content/uploads/2019/09/LAW\\_69.pdf](https://ijbel.com/wp-content/uploads/2019/09/LAW_69.pdf).

<sup>43</sup> Jennifer Nagda and Maria Woltjen, “Framework for Considering the Best Interests of Unaccompanied Children,” The Young Center, May 2016, <https://static1.squarespace.com/static/597ab5f3beba0a625aaf45/t/5c19cb386d2a738d43742361/1545194298896/Best-Interests-Framework.pdf>.

<sup>44</sup> The Young Center for Immigrant Children’s Rights, “Reimagining Children’s Immigration Proceedings: A Roadmap for an Entirely New System Centered around Children,” The Young Center for Immigrant Children’s Rights, October 2020, <https://static1.squarespace.com/static/597ab5f3beba0a625aaf45/t/5f9acdc38fc5b520e882eb1/1603980749320/Re>



Although all principles are intertwined to support the best interest of child migrants, key principles pertaining to the scope of this research are principles one, three, and four. The first principle, A Child's Best Interests Is a Primary Consideration in Every Decision, emphasizes the importance of upholding the best interest of the child from the moment they are apprehended until the final court decision. The best interest framework includes the consideration of the child's stated interest, parental interests, the safety of others, and national security. Including the child's stated interest necessitates their participation in their immigration case, whether it be directly or indirectly through representatives. Thus, the best interest framework upholds the child's rights to participate and be heard in matters relating to them.<sup>45</sup> The third principle, A Fundamentally Fair Process, states that children in the United States seeking to remain should undergo a holistic, child-centered decision-making process. In these processes, children should not be repeatedly inquired about past traumas, the court's decisions should be timely but thorough, and children must be represented by counsel when they are subject to a process that determines whether they stay in the U.S. or return to their country of origin. Legal representation is necessary to identify the child's best interest and to prevent limitations on the liberty and rights of migrant children.<sup>46</sup> Principle four, Specialization, highlights the need for all involved parties in a child's case to receive additional training in child development, the effect of trauma on children, and cultural awareness strategies for helping children from different countries of origin.<sup>47</sup> These key principles serve as safeguards to ensure that every decision made within the immigration system reflects a commitment to the unaccompanied migrant's best interest.

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[imagining+Children%E2%80%99s+Immigration+Proceedings+Young+Center+for+Immigrant+Children%27s+Rights.pdf](#), 11-36.

<sup>45</sup> Ibid, 11-15.

<sup>46</sup> Ibid, 23-26.

<sup>47</sup> Ibid, 27-29.

## **Chapter 3: Methodology**

### *Data Collection*

To answer my research question, I conducted 35 court observations at the Federal Plaza Immigration Court in New York, NY. These observations included 24 juvenile hearings and 11 family/adult hearings. I sat in for 13 juvenile hearings and 8 family/adult hearings, and I joined virtually via the WebEx link provided on the Court's website (<https://www.justice.gov/eoir/find-immigration-court-and-access-internet-based-hearings>) for the remaining 11 juvenile hearings and 3 family/adult hearings. I observed Judge Jem Sponzo's courtroom for all the juvenile hearings because her dockets on Mondays, Tuesdays, and Thursdays were dedicated to unaccompanied migrant cases. For family and individual hearings, which were conducted in the same master calendar hearing, I observed Judge Tiesha Peal and Judge David Kim's courtroom. These judges were selected based on convenience sampling since I selected the hearings based on the types of cases the judges were overseeing, along with their master calendar schedule for the day.

During the hearings, I took notes on whether the respondents had counsel present, if the respondents were present, what language they spoke, their gender, their age, the date of the hearing (estimated by month and year for privacy reasons), and the outcome of their hearing. I also took general notes on other details pertaining to the hearings. I hand-wrote all my notes in a paper notebook, as electronic devices were not permitted in the courtroom. Afterward, I inputted my data into two separate spreadsheets in one file on Google Sheets. For the unaccompanied migrant spreadsheet (See Appendix A), I labeled each heading with the following titles: Judge, Counsel Present?, Respondent Present?, Language, Gender, Age, Outcome, Date, and Additional Details/Observations. For the family and individual migrant spreadsheet (See Appendix B), I

used the following titles: Judge, Counsel Present?, Respondent Present?, Language, Demographics (Gender, Age, etc.), Outcome, Date, and Additional Details/Observations. I combined the demographic details of the family hearings because it was difficult to organize the gender and age of each member of the family when I began inputting details. Furthermore, I merged the family and adult hearings together because children in family hearings are grouped with their parents. The proceedings for family hearings are similar to those for individual adult hearings. For the categories that I didn't have information on, I inputted "NA."

### *Analytical Activities*

To draw findings from my data, I used the filter tool to manipulate inputs within each heading (ex. "Counsel Present?" → "Yes" and "No") and compared the outcome of the hearings based on these categorical differences. In addition to the two spreadsheets, I also created a third spreadsheet that encompassed all my court observations from both types of hearings to analyze the difference between the proceedings for unaccompanied migrant and family/adult hearings.

As indicators of the fulfillment of the best interest framework, the first observation I analyzed was the percentage of cases where legal counsel was present and the percentage where it was absent. I also noted any indicators that raised concerns about a child's access to counsel. The presence of counsel does not solely guarantee the realization of a child's best interest in immigration proceedings, but it is a necessary component to seek and fulfill the best interest framework. Then, I sought to unpack the legal avenues pursued by unaccompanied migrants in immigration proceedings, considering the correlation between access to counsel and the pursuit of legal remedies such as the Special Immigrant Juveniles (SIJ) status. I also calculated the prevalence of each legal avenue taken by percentage. The third observation I noted was whether there were discrepancies in the information provided to respondents during juvenile and

family/adult hearings. These observations reveal potential limitations on the child's access to information regarding their immigration case, implying that they are unable to fully exercise their right to participate. As mentioned in Article 12 of the CRC, children have the right to have their voices heard and considered in matters affecting them, including legal proceedings. By considering these factors, I aimed to assess whether the rights and best interests of migrant children were being upheld and protected within the immigration court system.

### *Limitations*

One limitation of my study is that I observed the immigration proceedings of three judges. In the United States, the court system follows judicial discretion, meaning that within the constraints of the law, the judge has the power to determine the outcome of a hearing based on their individual evaluation. As a result, my results are also influenced by each judge's interpretation of the law and legal training.<sup>48</sup> Instead of drawing universal conclusions, the aim of my research is to contribute to the existing discourse on the protection of unaccompanied migrants during immigration proceedings. Specifically, my research offers data that brings to light human rights violations in at least some immigration proceedings and evaluates the United States's compliance with customary international standards of children's rights in the hearings I observed.

Another limitation of my study is that the findings, along with its implications, only extend to New York City, since all the data was collected at the Federal Plaza Immigration Court. Despite the narrow scope of my analysis, my study remains significant because New York City is currently experiencing a large influx of migrants. Now is the time to determine and

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<sup>48</sup> "Judicial Discretion," Legal Information Institute, accessed April 15, 2024, [https://www.law.cornell.edu/wex/judicial\\_discretion#:~:text=Primary%20tabs,when%20legislature%20allows%20for%20it.](https://www.law.cornell.edu/wex/judicial_discretion#:~:text=Primary%20tabs,when%20legislature%20allows%20for%20it.)

advocate for judicial processes that serve the best interest of the child in immigration court.

Furthermore, immigration proceedings vary differently based on the immigration policies of each state jurisdiction, so specifying my findings to New York City contributes to the clarity of my findings.

One final limitation is the size of my sample size and the convenience sampling method used to select the sample. I observed a total of 24 unaccompanied migrant hearings and 11 family and individual hearings—combining for a total of 35 hearings. I selected these hearings based on the dates of the unaccompanied migrant docket and my personal schedule. While my sample cannot speak to every experience in immigration court, they still are the experiences of those whom I observed. In other words, the legitimacy of my findings and conclusions will apply to at least some population of those involved in the U.S. immigration system.

## **Chapter 4: Findings and Interpretation**

### **1. There is a backlog in juvenile immigration cases caused by the lack of available and accessible counsel.**

In the court observations of juvenile hearings, 13 out of the 24 unaccompanied migrants, or roughly 54 percent, were accompanied by legal representation. The remaining 11 out of the 24 respondents, or roughly 46 percent, did not have access to counsel. During the hearings where unaccompanied migrants appeared without counsel, Judge Sponzo went through a packet of documents given to each respondent, which contained a list of pro bono services and an address change form. The Judge urged them to find representation as soon as possible and rescheduled their hearing to a later date. The Judge gave a strong warning that she may not be able to delay their hearing any further in the next hearing.

At the end of one hearing, the sponsor of a young boy told the Judge that she had been desperately looking for a pro bono lawyer, but because all the pro bono clinics were full, she didn't know what to do. The Judge told her to try her best to find counsel, but she can't guarantee that she will be able to delay the boy's case much longer. This interaction reveals the lack of available pro bono counsel for unaccompanied migrants and the inaccessibility of seeking private counsel.

Furthermore, during the proceedings of migrant children with counsel, there were several hearings that raised concerns about the process of accessing counsel in a timely manner. Two out of the eleven lawyers present during these hearings were unsure if their clients qualified as unaccompanied migrants.<sup>49</sup> One lawyer didn't have much information about her client, so the Judge checked her system and confirmed that the respondent was an unaccompanied migrant.

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<sup>49</sup> While there were 13 hearings where counsel was present, there were two lawyers who represented two children. Thus, 11 different lawyers were present in all the juvenile hearings observed.

Another lawyer said that her client was not an unaccompanied migrant because they crossed the southern border with their aunt, according to her files. The Judge clarified the birthdate of the respondent and determined that based on their age, the respondent was an unaccompanied migrant. In a third example, the lawyer stated that the respondent and her sponsor came into his office the day before her scheduled hearing. As a result, he didn't have time to request records and obtain the necessary facts and filings. Judge Sponzo was understanding toward all three cases and reset their client's hearing to a later date to give the lawyers more time to prepare a case. The amount of time ranged from two months to one year, depending on the nature of the case. These observations open questions about the accessibility of immigrant proceedings, particularly with regard to the last-minute assignments and efficiency of the hearings. Further analysis will be unpacked in the discussion section.

In my observations, I noted that the Judge was seeking to be as helpful as possible. When lawyers pursued a SIJ application, the Judge would respond, "Please engage with the department [Department of Homeland Security]. I would be delighted to assist..." She was very appreciative and respectful toward them and thanked them for taking the time to represent the respondents in her court. When she urged respondents to find counsel, she would strongly suggest, "Please use this time to find an attorney to assist you" before rescheduling their hearings. She also emphasized "No attorneys will be provided to you during the proceedings, and I may not be able to delay your proceedings any further" to add urgency to seeking counsel as soon as possible. At most, judges can implore respondents to find counsel before their next hearing because they do not have the power to assign lawyers due to the absence of guaranteed counsel in civil proceedings, including immigration proceedings for unaccompanied migrants.

**2. In juvenile hearings, there is a strong correlation between one’s access to counsel and whether one pursues Special Immigrant Juvenile status, the Waiver of Grounds of Inadmissibility, or other legal avenues that allow respondents to stay in the United States.**

Five out of thirteen, or 38 percent of, migrant children with legal counsel were in the process of applying or awaiting the outcome of their Special Immigrant Juvenile application, an immigration status available to undocumented immigrants under the age of 21 who have been abused, neglected, or abandoned by one or both parents.<sup>50</sup> To petition for SIJ, individuals must file SIJ Form I-360. Through this Form, those with SIJ status are granted deferred action, and deportation proceedings are postponed until the individual is 21 years old. While deferred action doesn’t grant status in the United States, individuals under SIJ are then eligible to apply for a Green Card by filing Form I-485, which then opens a pathway to gaining permanent resident status.<sup>51</sup>

Besides SIJ applicants, three out of thirteen, or 23 percent of, migrant children with counsel requested additional time to prepare a case for the Judge. The remaining five cases and the outcomes they sought were unique to the individual case. In one case, the counsel requested to move court jurisdiction for their client, as the respondent had moved to New Jersey. In another case, the counsel informed the Judge that their client aged out of the unaccompanied migrant status. The lawyer also told the Judge that they had filed an I-589, the application for asylum, and uploaded a detailed statement before the respondent turned 18 years old. The Judge decided to keep the respondent in her court, although they would be moved out of the unaccompanied

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<sup>50</sup> “Green Card Based on Special Immigrant Juvenile Classification,” USCIS, August 30, 2023, <https://www.uscis.gov/green-card/green-card-eligibility/green-card-based-on-special-immigrant-juvenile-classification>.

<sup>51</sup> “Special Immigrant Juveniles,” U.S. Citizenship and Immigration Services, April 1, 2024, <https://www.uscis.gov/working-in-US/eb4/SIJ>.



migrant docket, and told the lawyer to keep her updated about the asylum application. In the third case, the counsel informed the Judge that their client, who was between the ages of 18 and 21, got their Application for Waiver of Grounds of Inadmissibility (Form I-601) approved. This approval means that the respondent has permission to remain in the United States via an immigration visa despite factors that would otherwise render him inadmissible.<sup>52</sup> The immigration visa grants them temporary status in the United States and opens the option to apply for a Green Card. The counsel informed the Judge that the respondent has been fingerprinted and his biometric data is still being processed in the system. The purpose of this hearing was to check in with the Judge. In the fourth case, the counsel requested prosecutorial discretion for their client, who was on their missing father's immigration application.<sup>53</sup> The Judge asked the DHS officer in the courtroom if the client could claim dismissal without prejudice, and the DHS officer stated that they needed more information and agreed to stay in contact with the lawyer. In the final case, the counsel informed the Judge that they had reached an agreement with the DHS Department to pursue an 849 dismissal.

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<sup>52</sup> "Waiver of Inadmissibility," U.S. Citizenship and Immigration Services, January 24, 2017, [https://www.uscis.gov/sites/default/files/err/H5%20-%20Waiver%20of%20Inadmissibility%20-%20Misrepresentation%20-%202012%20\(i\)/Decisions\\_Issued\\_in\\_2017/JAN242017\\_01H5212.pdf](https://www.uscis.gov/sites/default/files/err/H5%20-%20Waiver%20of%20Inadmissibility%20-%20Misrepresentation%20-%202012%20(i)/Decisions_Issued_in_2017/JAN242017_01H5212.pdf).

<sup>53</sup> In this case, prosecutorial discretion gives the DHS the discretion to prioritize which noncitizens to deport and the authority to dismiss the immigration case. Prosecutorial discretion is an option if DHS does not consider the respondent a priority for removal. Discretion can be exercised if the respondent has not engaged in serious criminal conduct, is not a threat to public safety, is not a danger to national security, has not engaged in fraud and misrepresentation to obtain an immigration benefit, etc.

If the immigration case is dismissed, it does not mean that the respondent obtains legal status through the immigration court, but it also prevents the respondent from the risk of being forcibly removed. Through the dismissal, the respondent has the option to file a new asylum or SIJ application and demonstrate an extraordinary circumstance to support their application within a timely manner.

See more information here:

Lopez Law Firm, "What Is Prosecutorial Discretion? Understanding Your Options for Immigration Case Dismissal," Lopez Law Firm, November 1, 2023, <https://lopezcarolinas.com/what-is-prosecutorial-discretion-for-immigration-case-dismissal/#:~:text=Prosecutorial%20discretion%20is%20the%20option,want%20to%20try%20to%20deport.for>.

In contrast, among the eleven migrant children who lacked legal counsel, zero migrants pursued SIJ. The Judge reset the hearing date to April or May 2024 for ten out of the eleven, or 91 percent of, migrant children. Before the Judge stated their next hearing date, she confirmed that none of the respondents had an attorney and that they were all in the process of seeking counsel. The Judge also went through a packet of documents that contained a list of pro bono services and a change in address form. She also highly urged them to secure representation as soon as possible because there was no guarantee that she would be able to delay their hearing again. She also warned them that failure to appear in their next hearing would lead to an immediate deportation order. For one of the eleven children without representation, the child was reunited with his father, so his case was consolidated with his father's and moved to family immigration court.

**3. During their immigration hearing, unaccompanied migrants were not informed about the asylum application, unlike individuals who appeared in the family and individual hearings, which limits migrant children's right to participate and be heard in matters affecting them.**

In the court observations, all eleven of the family and individual hearings were either informed about the I-589 asylum application process or were in the process of filing it. The judges also informed the respondents about what documents could be used to support their application. For example, they listed medical records, police records, witness testimonies, and news articles as documents that could be used for their case. While the same expectation to submit an asylum or Special Immigrant Juveniles application cannot and should not be put on minors, migrant children should still be informed about their legal rights and options for status in

the United States. This information is crucial for the child to formulate their opinions about what they want and to understand the legal contexts and implications of their wishes. In doing so, the child can freely exercise their right to participate and be heard in their immigration proceedings.

In contrast, none of the migrant children in the juvenile docket were given any information about their legal options in court. Instead, they were handed a list of pro bono services in New York City. This lack of information about SIJ and asylum applications is likely due to the assumption that once children secure legal counsel, they will be heard in court and pursue a pathway to legal status or return to their country of origin, depending on their interest, through their assigned lawyer. However, the assumption that the lawyer will thoroughly represent the best interest of their client is dangerous, and in acknowledgment of the evolving capacity of the child, the child should be equipped with information pertaining to their immigration case and the options for their future. In addition, once the child is assigned a lawyer, they will be able to articulate their expressed wishes to their lawyer using the information and legal options they learned about. The lawyers can clarify any misunderstanding or confusion that the child has and prepare a case that pursues the best interest of the child, which factors in the child's expressed wishes.

## Chapter 5: Discussion of Findings

### *Lack of Guaranteed Counsel in Juvenile Immigration Hearings*

The backlog in juvenile immigration proceedings raises concerns about the lack of available and accessible legal counsel. According to the court observations, roughly 54 percent of juvenile hearings were accompanied by legal representation, leaving approximately 46 percent conducted without counsel. This statistic highlights the overwhelmed nature of pro bono legal services, leading to concerns about the availability of counsel in juvenile immigration proceedings. In addition, concerns around the accessibility of counsel emerge as the high financial burden of hiring a private lawyer deters respondents or the sponsors of migrant children from seeking private legal representation. Specifically, the cost of hiring an immigration attorney ranges between \$150 to \$350 an hour, and even the cost of a pre-hearing consultation with a lawyer is \$150 on average.<sup>54</sup> For an entire case, deportation defense services costs between \$4,000 and \$12,000, adjustment of status applications are between \$2,000 and \$5,000, and asylum applications are between \$1,000 and \$7,000. Depending on the complexity of each case, the cost of hiring an attorney can be higher than the range provided.<sup>55</sup> The lack of available pro bono counsel and the high financial burden of seeking private legal services not only deters migrants from seeking counsel but also excludes low-income populations from accessing counsel.

Furthermore, the quality of the process of being assigned representation is called into question. Quality refers to the standards of efficacy and efficiency in the provision of legal counsel. The confusion around the unaccompanied migrant status leads to concerns about the

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<sup>54</sup> Russ Leimer, “How Much Does an Immigration Lawyer Cost?,” CitizenPath: Immigration Forms Made Simple, March 7, 2024, <https://citizenpath.com/immigration-lawyer-cost/#lawyer-costs>.

<sup>55</sup> Ibid.

efficacy and the comprehensiveness of the immigration proceedings, both with regard to the protection of migrant children's rights and the fulfillment of their best interests. Moreover, the last-minute assignment of cases to pro bono lawyers also questions the efficiency of these proceedings. Judge Sponzo's efforts to accommodate these challenges by rescheduling hearings and urging respondents to find counsel underscore the necessity for improvements in the process of assigning legal representation to migrant children. Enhancing the efficiency of court proceedings could facilitate increased immigration processing and ensure the fulfillment of migrant children's rights and best interests.

Returning to the limited availability and accessibility of counsel, the Migration Policy Institute states that having an attorney present is the most important factor in whether unaccompanied children receive a deportation order or not.<sup>56</sup> When unrepresented migrant children appeared in court, more than 90 percent of them received a deportation order.<sup>57</sup> On the other hand, only 18 percent of migrant children who had legal representation were given a deportation order. Despite the impact of legal representation on the outcome of deportation hearings, roughly one-third of unaccompanied migrants did not have access to legal counsel between 2005 to 2017.<sup>58</sup> With the recent influx of migrant children apprehended at the southern border, the consequences of not having representation in immigration court will affect the lives of more children. The findings from the court observations conducted at the Federal Plaza Immigration Court in early 2024, particularly the 46 percent of unaccompanied migrants without

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<sup>56</sup> Sarah Pierce, "Unaccompanied Child Migrants in U.S. Communities, Immigration Court, and Schools," Migration Policy Institute, October 2015, 8.

<sup>57</sup> *Ibid.*, 8.

<sup>58</sup> Alyssa Snider and Rebecca DiBennardo, "Representation Matters: No Child Should Appear in Immigration Proceedings Alone," Vera Institute of Justice, December 2021, <https://www.vera.org/downloads/publications/representation-matters.pdf>.

counsel, draw concerns about the limited availability and accessibility of counsel for migrant children.

Additionally, the findings indicate that there exists a strong correlation between unaccompanied migrants' access to counsel and the legal avenues they pursue. Migrant children with legal representation are more likely to pursue legal remedies, such as the Special Immigrant Juveniles (SIJ) application, compared to those without counsel. Each legal avenue—whether it's seeking asylum, SIJ, or other statuses—requires meticulous preparation and evidence presentation, underscoring the critical role of legal counsel in navigating the immigration system. The discrepancy between the outcome for represented and unrepresented migrants is no coincidence. Federal courts have described immigration law as King Minos's labyrinth in ancient Crete.<sup>59</sup> Without expert legal guidance, it is extremely difficult for adults to navigate, much less children. To make a successful case in removal proceedings, the individual must determine what kinds of legal options they can pursue—with eligibility changing depending on time, state jurisdiction, and age. Furthermore, evidence must be collected and well presented, witnesses must testify, and legal arguments must be made against experienced government attorneys.<sup>60</sup> For children, it is nearly impossible to make a compelling case in immigration court without legal counsel.

Typically, migrant children can stay in the United States and avoid deportation through two main legal avenues: by claiming asylum or by applying for special immigrant juvenile status. To claim asylum, the child must demonstrate a well-founded fear of persecution based on

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<sup>59</sup> “Tim Lok, Petitioner, v. Immigration and Naturalization Service, Respondent, 548 F.2d 37 (2d Cir. 1977),” *Justia US Law*, January 4, 1977, <https://perma.cc/A89W-Y5C2>.

<sup>60</sup> Alyssa Snider and Rebecca DiBennardo, “Representation Matters: No Child Should Appear in Immigration Proceedings Alone,” *Vera Institute of Justice*, December 2021, <https://www.vera.org/downloads/publications/representation-matters.pdf>.

race, religion, nationality, political opinion, or membership in a particular social group. There is no age limit to seek asylum.<sup>61</sup> The special immigrant juvenile status is an option for noncitizen minors who are abused, neglected, or abandoned by one or both parents. Under this process, the child must be under the age of 21, unmarried, and the subject of dependency orders issued by the juvenile court.<sup>62</sup> In order to prove that the migrant child falls under these categories, they must have a valid juvenile court order issued by a state court in the United States that states that the applicant is dependent on the court or in the custody of a state agency or department or entity appointed by the court. Additionally, the applicant must have sought the juvenile court order to obtain relief from abuse, neglect, abandonment, or a similar basis under state law. Moreover, the applicant must have written consent from the Department of Health and Human Services (HHS) or the Office of Refugee Resettlement (ORR) to the court's jurisdiction if they are currently in the custody of HHS, and the juvenile court order must also change their custody status or placement.<sup>63</sup> Proving these requirements necessitates extensive experience in the immigration process and can definitely be described as "King Minos's labyrinth in ancient Crete," further highlighting the importance of legal counsel in presenting a compelling case.

In addition to the complexities in navigating the immigration process, immigration judges also face barriers that prevent them from helping migrant children navigate their hearings. Judges are encouraged to make certain modifications for child migrants, and these modifications include allowing the child to visit the courtroom before their scheduled hearing, arranging a separate docket for children's cases, explaining the proceedings at the beginning of the hearing, and

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<sup>61</sup> American Immigration Council, "A Guide to Children Arriving at the Border: Laws, Policies and Responses," American Immigration Council, June 26, 2015, <https://www.americanimmigrationcouncil.org/research/guide-children-arriving-border-laws-policies-and-responses>.

<sup>62</sup> Ibid.

<sup>63</sup> "Special Immigrant Juveniles," U.S. Citizenship and Immigration Services, April 1, 2024, <https://www.uscis.gov/working-in-US/eb4/SIJ>.

questioning children in age-appropriate language and tone.<sup>64</sup> However, immigration courts face long and growing backlogs, and this issue combined with insufficient funding makes it difficult for each case to receive such rounded support that serves the child’s best interest. Furthermore, immigration judges have no authority to appoint counsel to represent child respondents.<sup>65</sup>

Michele Garnett McKenzie, deputy director of The Advocates for Human Rights, sums this issue up by stating, “The U.S. fails to meet basic international standards when it comes to kids in immigration court, and that leaves immigration judges to adjudicate these cases with their hands tied behind their backs.”<sup>66</sup>

#### *Limited Right to Participation for Unaccompanied Migrants*

Access to information about legal avenues, such as the asylum and Special Immigrant Juveniles application process, remains limited for unaccompanied migrant children, further highlighting the need for comprehensive support and resources to ensure that their rights and interests are protected. While children should not be expected to navigate the immigration process with only the information provided by the judge during immigration proceedings, they should still be informed in the same way that adults are about their legal avenues for status along with information about the documents necessary for each application. This information ensures that the child will have basic information about their legal options and understand the implications of their wishes, which equips and empowers them to participate and express their opinions to their lawyers during their hearing if they choose to do so.

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<sup>64</sup> Alyssa Snider and Rebecca DiBennardo, “Representation Matters: No Child Should Appear in Immigration Proceedings Alone,” Vera Institute of Justice, December 2021, <https://www.vera.org/downloads/publications/representation-matters.pdf>.

<sup>65</sup> Michele Garnett McKenzie, “New Report Details Due Process Failures for Kids in Immigration Court,” The Advocates for Human Rights, October 4, 2023, <https://www.theadvocatesforhumanrights.org/News/kids-in-court#:~:text=Court%20rules%20permit%20judges%20to.children%20appearing%20in%20their%20courtrooms.>

<sup>66</sup> Ibid.



To reiterate the Convention on the Rights of the Child, Article 12 articulates the child’s “right to express those views freely in all matters affecting the child” and “the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body.”<sup>67</sup> Through this article, the child is shifted from being the object of the law to the active subject of it, putting them in the position to freely exercise their rights, including the right to voice their opinions and participate in their hearings. To express their opinions, children must be informed about their potential options for pursuing status in the United States. One way to systematize the flow of information to migrant children is to educate children during immigration proceedings, where all children are required to attend their hearings and listen to the judge during their hearings.

At the same time, the right to participate stresses the importance of understanding the implications of one’s opinions to make decisions that are fully informed. For children to make these informed decisions, they must have a supporting body to act as safeguards and help inform them of the legal implications of their words. In *General Comment No. 12 The Right of the Child*, the Committee on the Rights of the Child articulates that Article 12 places obligations on states to ensure that a child’s right to participate is fully realized, and this obligation includes the protection and representation of children who express their views in court so that they are fully informed of the context in which their opinion is heard. This context includes the nature and potential outcome of the proceeding, so it is essential for a child to have a legal representative to fully understand the legal implications of their statements.<sup>68</sup>

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<sup>67</sup> “Convention and Protocol Relating to the Status of Refugees.” United Nations High Commissioner for Refugees, 1967. <https://www.unhcr.org/il/wp-content/uploads/sites/6/2020/12/1951-Refugee-Convention-and-Protocol.pdf>, Article 12.

<sup>68</sup> “Article 12 of the Convention on the Rights of the Child and Children’s Participatory Rights in Canada,” Department of Justice Canada, February 2, 2023, <https://www.justice.gc.ca/eng/rp-pr/other-autre/article12/p2.html>.

This supporting body is essential to protect children from expressing opinions that may unintentionally harm them. In her article, “My Experience as an Unaccompanied Child in Government Custody,” Elvis Garcia Callejas shares a warning about the dangers that arise when children are unable to understand the implications of their words and actions. Callejas was an unaccompanied migrant when she first entered the United States from Honduras. When she first arrived in the United States, she found a homeless refugee shelter in Texas and stayed there for one year. During that year, she met an American family who was in the process of helping her obtain the Special Immigrant Juvenile status. While she was awaiting the SIJ process, she became depressed and homesick at the homeless shelter. In a state of hopelessness, she found a Border Patrol agent at a local park, told him that she was undocumented, and asked if he could send her back to Honduras. The moment the Border Patrol agent put her into his vehicle, Callejas instantly regretted her impulsive decision. She desperately asked herself, “What have I done? Why did I turn myself in?” before she was sent to a juvenile detention facility.<sup>69</sup>

Although Callejas’s testimony is situated outside of the courtroom, it warns of the impact that one misstep can have on a child’s life if they lack the support system to help them make a fully informed decision. Out of a state of despair, Callejas reached out to the Border Patrol agent for help, unaware that she would be put in an even more difficult situation at a juvenile detention facility. She was also not acting from a place of rationality, as she immediately regretted her decision. Fortunately, Callejas was able to leave the facility and ultimately join an American foster family, but it came at the cost of spending several weeks at the facility.<sup>70</sup> In other words,

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<sup>69</sup> The Young Center for Immigrant Children’s Rights, “Reimagining Children’s Immigration Proceedings: A Roadmap for an Entirely New System Centered around Children,” The Young Center for Immigrant Children’s Rights, October 2020, [https://static1.squarespace.com/static/597ab5f3beba0a625aaf45/t/5f9acdc38fc5b520e882eb1/1603980749320/Reimagining+Children%E2%80%99s+Immigration+Proceedings\\_Young+Center+for+Immigrant+Children%27s+Rights.pdf](https://static1.squarespace.com/static/597ab5f3beba0a625aaf45/t/5f9acdc38fc5b520e882eb1/1603980749320/Reimagining+Children%E2%80%99s+Immigration+Proceedings_Young+Center+for+Immigrant+Children%27s+Rights.pdf), 73-77.

<sup>70</sup> *Ibid*, 75.

the child must have a supporting body that accompanies their right to be heard in matters affecting them and their right to participate in the decision-making processes for their immigration case. In this supporting body, access to a legal representative is imperative for the child to fully understand the legal ramifications of their expressed desires and to pursue an outcome that aligns with their best interest.

### *Promoting the Child's Best Interest in Juvenile Immigration Hearings*

To reiterate, the findings of this study indicate that the child's rights to counsel and to participate in matters that affect them are limited during immigration hearings. In addition, the best interest of the child is also not fully realized, as these two rights are necessary for the fulfillment of the best interest framework. It is impossible to determine the child's best interest without the presence of legal counsel in immigration court to protect the well-being, safety, and development of unaccompanied minors. Furthermore, the child's right to participate and to express their opinions is limited when they are not provided comprehensive information about their legal rights and options and given access to counsel to protect their best interest. The failure to center and uphold the child's best interest in immigration court is a third rights violation, as the best interest framework is included in Article 3 of the CRC: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."<sup>71</sup>

Using The Young Center for Immigrant Children's Rights's principles on upholding the best interest framework for migrant children in immigration proceedings, the specific violations

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<sup>71</sup> Mary George and Noor Aziah Mohd Awal, "The Best Interest Principle Within Article 3(1) of the United Nations Convention on the Rights of the Child," *International Journal of Business, Economics and Law* 19, no. 4 (August 2019): 30–36, [https://ijbel.com/wp-content/uploads/2019/09/LAW\\_69.pdf](https://ijbel.com/wp-content/uploads/2019/09/LAW_69.pdf).

of the best interest of the child are made clear. The first principle, A Child’s Best Interests Is a Primary Consideration in Every Decision, and the third principle, A Fundamentally Fair Process, are violated when children are unable to be represented and guided by a legal expert or able to freely participate and have their opinions heard in court. This failure leads to a lack of consideration for the child’s stated interest, their safety, and their ability to undergo a holistic and thorough decision-making process. Furthermore, principle four, Specialization, is violated because there is a lack of support for migrant children, which implies the absence of experts and those with specialized training who understand the child’s developmental and cultural status, which are essential considerations for determining the child’s best interest.<sup>72</sup>

To address these key concerns, The Young Center for Immigrant Children’s Rights proposes a roadmap toward the fulfillment of the best interests of the child in immigration proceedings. One of its proposals outlines a shift towards creating a fair and just review process for children's immigration cases by drawing from expertise in child protection, juvenile justice, and child development. It emphasizes the need for an immigration system centered on children's needs instead of the current system, which adapts adult-oriented proceedings to process juvenile migrants. Considering the child's best interests in all legal claims, the proposal suggests a model where a presiding immigration judge oversees a child's case while allowing specialized decision-makers to handle specific claims. Additionally, it proposes eliminating the adversarial nature of children's proceedings and reframes them to prioritize the child's welfare and needs rather than viewing them solely as respondents in removal proceedings. This change in perspective aims to

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<sup>72</sup> The Young Center for Immigrant Children’s Rights, “Reimagining Children’s Immigration Proceedings: A Roadmap for an Entirely New System Centered around Children,” The Young Center for Immigrant Children’s Rights, October 2020, <https://static1.squarespace.com/static/597ab5f3beba0a625aaf45/t/5f9acdc38fc5b520e882eb1/1603980749320/Reimagining+Children%E2%80%99s+Immigration+Proceedings+Young+Center+for+Immigrant+Children%27s+Rights.pdf>, 11-36.

ensure that all government actors involved in juvenile immigration proceedings consistently consider the child's abilities and needs throughout the process.<sup>73</sup>

The proposal details several stages of juvenile proceedings that would ensure their best interest throughout the proceedings, including a preliminary conference that would serve as a platform to bring together participants in a child's immigration case. During this conference, government actors can ensure that the child understands the proceedings and their rights, including their right to be heard and participate in their immigration process, while setting a timeframe for the case. Specialized training for decision-makers is emphasized, with the possibility of appointing an independent child advocate under certain circumstances. Parents or caregivers are also welcomed into the process without facing immigration enforcement risks, and safety assessments are conducted to ensure the child's well-being. If the child wishes to return home, evidence of safe repatriation is assessed. The conference prioritizes the child's safety and participation in a supportive environment, aiming for fair and child-centered proceedings.<sup>74</sup> This proposal to transform the process of conducting juvenile immigration proceedings is a key pathway toward the fulfillment of the child's best interest. However, it requires radical change and restructuring of the immigration court's infrastructure to account for the mechanisms involved in the conference-based proceedings.

While this proposal is the goal of juvenile immigration reform, a smaller step that can be taken to progressively realize the holistic approach to juvenile immigration cases is to implement a systematic process to educate migrant children about their legal rights and options. Providing comprehensive education to unaccompanied migrant children during immigration hearings is crucial for empowering them to share informed opinions about their future with decision-makers.

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<sup>73</sup> Ibid, 39-47.

<sup>74</sup> Ibid, 39-47.

This access to comprehensive education must be accompanied by unimpeded access to counsel, who serve as legal experts to protect migrant children if the implications of their opinions bear outcomes that may oppose their best interest. This educational initiative can be integrated into juvenile immigration proceedings, where migrant children are legally required to attend and have the space to ask questions if necessary. Immigration judges can verbally inform migrant children about their legal options, court translators can interpret the information, and written and translated documents can be provided to further explain these options. This measure will progressively ensure that all children have access to information pertaining to their immigration case and their future. In addition, they will be equipped to articulate their opinions and exercise their right to participate. This access to information is essential for centering the child's best interest through promoting the right to representation and participation for unaccompanied migrants in U.S. immigration courts.

## **Chapter 6: Conclusion**

In conclusion, the findings of this study underscore the urgent need to address the violations of migrant children's rights in immigration proceedings, particularly regarding their right to legal representation and participation—which are fundamental rights for the promotion of the best interest of the child. The first finding highlights the backlog of juvenile immigration cases caused by the lack of available and accessible counsel. Roughly 46 percent of unaccompanied migrants appeared to their hearing without legal representation. The second finding brings to light the strong correlation between unaccompanied migrants' access to legal counsel and their pursuit of Special Immigrant Juvenile (SIJ) status and other forms of relief. 38 percent of migrant children with legal representation pursued SIJ status or other applications for status. In contrast, none of the unaccompanied migrants pursued these legal avenues. The third finding stresses how unaccompanied migrant children are not informed about the asylum application process during their immigration hearings, unlike individuals appearing in family and adult hearings. This lack of information limits children from participating and expressing their opinions about decisions that directly affect their future.

Overall, these findings underscore the urgent need to ensure access to legal representation for all migrant children. The right to counsel not only safeguards the fairness of judicial proceedings but also allows migrant children to pursue legal avenues such as SIJ and asylum applications to seek relief and status in the United States. Furthermore, the findings highlight the limitations on the right to participation for the child when their access to key information regarding their legal rights and options is not provided during their hearings. Even though the judge may attempt to delay a child's case until they are able to secure counsel, children must also receive comprehensive information about their legal avenues to empower them to articulate their

opinions to their representatives and decision-makers. One way to systematically ensure that migrant children are informed about their legal options is to educate them during their immigration hearings, which they are legally required to attend and have the space to ask questions if necessary. Providing access to qualified legal representation and comprehensive education during immigration hearings are key steps toward progressively realizing a judicial process that centers the rights and the best interest of all unaccompanied migrants navigating U.S. immigration courts.



**Appendix A: Juvenile Hearing Observations**

Judge	Counsel Present?	Respondent Present?	Language	Gender	Age	Outcome	Date	Additional Details/ Observations
Jem Sponzo	Yes	No	Punjabi	Male	NA	Hearing reset to Feb 2025	Feb 2024	Lawyer wasn't sure if respondent was unaccompanied migrant. Judge questioned respondent's age and then confirmed that they qualified as an unaccompanied migrant.
Jem Sponzo	Yes	No	Spanish	NA	NA	Case relocated to Newark Immigration Court	Feb 2024	Counsel stated that respondent moved to New Jersey. Counsel requested to move court jurisdiction, and Judge approved.
Jem Sponzo	Yes	Yes	Spanish	Female	8-12 years old	Hearing reset to April 2024	Feb 2024	Young female respondent was present with sponsor and lawyer. Respondent and sponsor came in the day before hearing. Lawyer requested for the hearing to be reset to have time to request records and obtain the necessary facts and filings. Judge granted the request.
Jem Sponzo	Yes	No	Punjabi	Male	18-21 years old	Hearing reset to April 2024	Feb 2024	Client was retained and aged out in January. Counsel filed I589 and uploaded it with a detailed statement right before he aged out just to be safe. Judge kept respondent in her court. Judge reminded counsel about biometric updates.  *Complex procedure: It would be difficult for those without legal immigration backgrounds to know that they need to file I589 before they age out of minor status. Counsel handled all of the required paperwork.

Jem Sponzo	Yes	No	Spanish	Male	18-20	Hearing reset to Feb 2025	Feb 2024	Respondent is in the process of changing family custody after he was abandoned by his father. Respondent is now with his uncle. Not accompanied minor due to his age, but counsel is seeking SIJ.
Jem Sponzo	Yes	No	Spanish	NA	18-20	Hearing reset to Feb 2025	Feb 2024	Counsel is pursuing SIJ. Case consolidated with the case above.
Jem Sponzo	Yes	No	Spanish	NA	NA	Pursuing 849 dismissal	Feb 2024	849 case: agreement to dismiss with the Department.
Jem Sponzo	Yes	No	Spanish	NA	NA	Filing SIJ within the next 30 days	Feb 2024	Pursuing SIJ. Counsel will file for SIJ within the next 30 days.
Jem Sponzo	Yes	Yes	Spanish	Female	12-15 years	Requesting prosecutorial discretion to the DHS	Feb 2024	Counsel is requesting prosecutorial discretion to the DHS and pursuing SIJ. Respondent's father is unable to be located. Counsel believes that it's a strong case. Judge says she is willing to help the case if needed and firmly asks for the lawyer to try to claim prosecutorial discretion and try to make the case outside of court hearing.
Jem Sponzo	Yes	Yes	Spanish	Female	15-18 years	Requested dismissal without prejudice	Feb 2024	Respondent is on father's application, but her father is not in court. Judge asks DHS officer if client could claim dismissal without prejudice. DHS officer said they need more information and would be happy to stay in contact with the lawyers. Judge said she would help if they needed anything from her.
Jem Sponzo	Yes	No	NA	NA	NA	In the process of obtaining New York State order for SIJ	Feb 2024	Counsel submitted written pleadings. They are in the process of obtaining New York State order for SIJ, but it hasn't been approved yet.

Jem Sponzo	No	Yes	Spanish	Male	15-18 years	Hearing reset to May 2024	Feb 2024	Judge explains to the unrepresented respondents that they are receiving a document with a list of pro bono resources. Judge reset their cases to May 2024 while emphasizing that she may be unable to continue to delay their hearings, even if they are unable to access an attorney.
Jem Sponzo	No	Yes	Spanish	Male	15-18 years	Hearing reset to May 2024	Feb 2024	Judge explains to the unrepresented respondents that they are receiving a document with a list of pro bono resources. Judge reset their cases to May 2024 while emphasizing that she may be unable to continue to delay their hearings, even if they are unable to access an attorney.
Jem Sponzo	No	Yes	Spanish	Female	15-18 years	Hearing reset to May 2024	Feb 2024	Judge explains to the unrepresented respondents that they are receiving a document with a list of pro bono resources. Judge reset their cases to May 2024 while emphasizing that she may be unable to continue to delay their hearings, even if they are unable to access an attorney.
Jem Sponzo	Yes	No	Spanish	NA	12-15 years	Hearing reset to Feb 2025	Feb 2024	Counsel stated that respondent was not an unaccompanied migrant because they crossed the border with their aunt. Judge clarified the birthdate of the respondent and determined that they qualified as an unaccompanied migrant. Council submitted pleading, and case was reset to next year.
Jem Sponzo	Yes	Yes	Spanish	Male	19-21 years	Check in, nothing further	Feb 2024	Approved I60, fingerprinted (biometric not in system yet).
Jem Sponzo	No	Yes	Russian	Male	8-12 years	Moved case to family court	Feb 2024	Boy (respondent) came with his father. His mother and sister were sitting in the back. Judge was considering dismissing without prejudice for the male child. The department is pursuing the

								charge of removability for the boy. When mother and sister's case is processed, the whole family's case will be processed together. The family has paid for an attorney. Judge tells them to please have an attorney present for the family hearing.
Jem Sponzo	No	Yes	Spanish	Male	15- 18 years	Hearing reset to April 2024	Feb 2024	Judge asked if they had an attorney. Respondent replied, "No." Judge asked if they were looking. Respondent replied, "Yes." Judge went through a package of documents that included a list of pro bono services, address change form, and other documents. Judge highly urged them to find representation as soon as possible because she might not be able to delay their hearing again. She also warned them that failure to appear in their next hearing would lead to a deportation order.
Jem Sponzo	No	Yes	Spanish	Male	15- 18 years	Hearing reset to April 2024	Feb 2024	Judge asked if they had an attorney. Respondent replied, "No." Judge asked if they were looking. Respondent replied, "Yes." Judge went through a package of documents that included a list of pro bono services, address change form, and other documents. Judge highly urged them to find representation as soon as possible because she might not be able to delay their hearing again. She also warned them that failure to appear in their next hearing would lead to a deportation order.
Jem Sponzo	No	Yes	Spanish	Female	15- 18 years	Hearing reset to April 2024	Feb 2024	Judge asked if they had an attorney. Respondent replied, "No." Judge asked if they were looking. Respondent replied, "Yes." Judge went through a package of documents that included a list of pro bono services, address change form, and other

								documents. Judge highly urged them to find representation as soon as possible because she might not be able to delay their hearing again. She also warned them that failure to appear in their next hearing would lead to a deportation order.
Jem Sponzo	No	Yes	Spanish	Male	8-12 years old	Hearing reset to April 2024	Feb 2024	Judge asked if they had an attorney. Respondent replied, "No." Judge asked if they were looking. Respondent replied, "Yes." Judge went through a package of documents that included a list of pro bono services, address change form, and other documents. Judge highly urged them to find representation as soon as possible because she might not be able to delay their hearing again. She also warned them that failure to appear in their next hearing would lead to a deportation order.
Jem Sponzo	No	Yes	Spanish	Female	8-12 years old	Hearing reset to April 2024	Feb 2024	Judge asked if they had an attorney. Respondent replied, "No." Judge asked if they were looking. Respondent replied, "Yes." Judge went through a package of documents that included a list of pro bono services, address change form, and other documents. Judge highly urged them to find representation as soon as possible because she might not be able to delay their hearing again. She also warned them that failure to appear in their next hearing would lead to a deportation order.
Jem Sponzo	No	Yes	Spanish	Male	3-8 years	Hearing reset to April 2024	Feb 2024	Judge asked if they had an attorney. Respondent replied, "No." Judge asked if they were looking. Respondent replied, "Yes." Judge went through a package of documents that included a list of pro

								<p>bono services, address change form, and other documents. Judge highly urged them to find representation as soon as possible because she might not be able to delay their hearing again. She also warned them that failure to appear in their next hearing would lead to a deportation order.</p> <p>Sponsor asked the Judge at the end of the hearing about what to do if she is unable to find counsel for the young boy. The Judge told her to do her best, but she can't guarantee that she will be able to reset the hearing again if he is still unable to access an attorney.</p>
Jem Sponzo	No	Yes	Spanish	Female	8-12 years old	Hearing reset to April 2024	Feb 2024	<p>Judge asked if they had an attorney. Respondent replied, "No." Judge asked if they were looking. Respondent replied, "Yes." Judge went through a package of documents that included a list of pro bono services, address change form, and other documents. Judge highly urged them to find representation as soon as possible because she might not be able to delay their hearing again. She also warned them that failure to appear in their next hearing would lead to a deportation order.</p>

**Appendix B: Family and Adult Hearing Observations**

<b>Judge</b>	<b>Counsel Present?</b>	<b>Respondent Present?</b>	<b>Language</b>	<b>Demographic: Gender, Age, etc.</b>	<b>Outcome</b>	<b>Date</b>	<b>Additional Details/Observations</b>
Tiesha Peal	No	Yes	Russian	Father / Mother / Son (5-6 years) / Daughter (1-3 years)	Hearing reset to May 2024	Feb 2024	Court finds removal on charge NTA (Notice to Appear), removal to Russia. Judge presented option to apply for I-589 asylum. Hearing reset to May to allow for more time to find an attorney to present asylum case.
Tiesha Peal	No	Yes	Mandarin	Male (middle aged)	Hearing reset to May 2024	Feb 2024	Court finds removal on charge NTA, removal to China. Respondent filed I-589 asylum application. Hearing reset to May to allow for more time to find attorney. A legal clinic representative from a legal clinic came (not an attorney). Judge told mother to file anything she had for her asylum application (medical document, police report, witness statement). Judge put case to trial proceeding because it had already been delayed for too long.
Tiesha Peal	No*	Yes	English	Mother / Son (3-4 years)	Case put to trial proceeding	Feb 2024	*Judge asked the representative about why there is no attorney present. The representative said there are no attorneys available for the next few weeks. Judge responded with sighed loudly in frustration.
Tiesha Peal	No	Yes	Spanish	Mother (from Ecuador) / Son (2-3 years)	Case put to trial proceeding	Feb 2024	Mother and son arrived to Texas on October 2022. They are facing removal order, and they filed the I-589 asylum application. Judge told her to provide any evidence she has (medical document, police report, witness statement).

							Respondent asked about fingerprinting for her son for forensics. Judge told her that there is no fingerprint for children younger than 14 years.
							Judge addressed case as a group and reset their hearing date. The exact date will be mailed. Judge went through packet of documents (address change notification, asylum application, etc.).
Tiesha Peal	No	Yes	Spanish	Male (middle aged)	Hearing reset (date will be mailed)	Feb 2024	Translators took turns after Judge since different languages were grouped together.
Tiesha Peal	No	Yes	Georgian	Male (60-70 years)	Hearing reset (date will be mailed)	Feb 2024	Judge addressed case as a group and reset their hearing date. The exact date will be mailed. Judge went through packet of documents (address change notification, asylum application, etc.).
Tiesha Peal	No	Yes	Arabic	Male (middle aged)	Hearing reset (date will be mailed)	Feb 2024	Translators took turns after Judge since different languages were grouped together.
Tiesha Peal	No	Yes	English	Male (middle aged, from Jamaica)	Hearing reset to June 2024	Feb 2024	Judge told respondent to file asylum case before May (before it passes one year mark of entering into the US) and told him to bring proof to build asylum case.



David Kim	No	Yes	Spanish	Father / Mother / Son (4-5 years)	Hearing reset (date mailed)	2024 Jan (address change notification, asylum application, etc.).	Judge addressed case as a group and reset their hearing date. The exact date will be mailed. Judge went through packet of documents
David Kim	No	Yes	Spanish	Mother / Son (19-20 years)	Hearing reset (date will be mailed)	2024 Jan (address change notification, asylum application, etc.).	Judge addressed case as a group and reset their hearing date. The exact date will be mailed. Judge went through packet of documents

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