

When Governments Take Children Hostage

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The U.N. High Commissioner of Human Rights, Zeid Ra'ad al-Hussein, has called for the Trump administration to immediately stop separating children from their parents and families on entering the U.S. when the legality of their entry is questioned.

"The thought that any state would seek to deter parents by inflicting such abuse on children is unconscionable. I call on the United States to immediately end the practice of forcible separation of these children."

He references the American Academy of Pediatrics which believes the practice causes "irreparable harm".

This new Trump policy of separating children from their parents is a policy familiar to North American Indigenous peoples, as well as the indentured servants and African and Indian slaves of America's history. It is legal only because the government says it is. If found illegal as a crime against U.S. domestic laws or human rights under international laws, cooperating with it could eventually result in charges against those who effect these actions which are to common sense, indecent. There are a number of international laws rising from signed treaties which help reveal how humanity traditionally feels about the Trump administration's lack of understanding and concern for children.

The U.S. remains the only country in the world which has not ratified the U.N. [Convention on the Rights of the Child](#). However the U.S. at least has signed it and *Article 9, 1* of the Convention begins:

"States Parties shall ensure that a child shall not be separated from his or her parents against their will," with the exception applying to the best interests of the child.

Article 11, 1 specifies

"States Parties shall take measures to combat the illicit transfer and non-return of children abroad," which might empower any of the world states to bring legal action against the Trump administration at International Criminal Court.

While the U.S. does not subscribe to the International Criminal Court, that doesn't necessarily limit the Court's jurisdiction.

The 1967 [*Protocol relating to the Status of Refugees*](#) was signed by the United States. Under the *Protocol* the U.S. is required to cooperate with the UN High Commissioner for Refugees and affirm and continue the articles of the 1951 [*Convention relating to the Status of Refugees*](#). Among these are:

Article 16. Access to courts

1. A refugee shall have free access to the courts of law on the territory of all Contracting States.

Article 31. Refugees unlawfully in the country of refuge
1. The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.

2. The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.

Article 33. Prohibition of expulsion or return ("refoulement")

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

In particular the taking away of children from their parents, placing them at the disposal of the State, may be a violation of the [*Convention on the Prevention and Punishment of the Crime of Genocide*](#) which the U.S. is a party to:

Article II In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious groups, as such: e. Forcibly transferring children of the group to another group.

Article III The following acts shall be punishable:

- a. Genocide;
- b. Conspiracy to commit genocide;
- c. Direct and public incitement to commit genocide;
- d. Attempt to commit genocide;
- e. Complicity in genocide.

The principles set forth in these treaties which are usually substantiated by laws in the legal systems of their signing countries, grew out of the horrors of Twentieth Century wars and history's fears for humanity's future. The treaties rise from intercultural consensus. These are principles and laws which can't be set aside without triggering the kinds of resistance which lead to retaliation, violence and war. They aren't laws to be broken by the poor, or even by the powerful, arrogant and rich.

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