**SEEKING ASYLUM ALONE: U.S. REPORT**

Summary of Recommendations – *Arranged by topic and chapter*

**Recommendations Regarding the Asylum Office Affirmative Asylum Process**

- **9.1** → The Asylum Office should adopt a policy of rescheduling unrepresented children’s asylum interviews so that they may obtain legal assistance.
- **9.2** → The Asylum Office should allow the assignment of children’s cases to particular asylum officers skilled in interviewing children.
- **9.3** → Regarding the required Asylum Office Headquarters review of unaccompanied children’s cases, the process should be faster, the purpose clarified, and the description of acceptable guardians specified.
- **9.4** → Asylum Offices should ensure that children have legal representation before proceeding with an asylum interview.
- **9.5** → In children’s cases, adjudicators should take more initiative in securing evidence, while also giving children more benefit of the doubt when evidence is unavailable.

- **10.1** → Child asylum applicants should have their claims heard initially in the more child-friendly affirmative procedures employed by the Asylum Office, rather than in the Immigration Court.

**Recommendations Relevant to Child Asylum Applicants Applying Affirmatively or Defensively**

- **8.1** → Regarding credibility:
  - Legal service providers should follow the good practice example of the Midwest Immigrant and Human Rights Center (MIHRC) in Chicago, IL, and the Florence Immigrant and Refugee Rights Project (FIRRP) in Florence, AZ, in getting evaluations and expert testimony by mental health professionals for all child asylum applicants.
  - Training for decision makers (such as Immigration Judges and Asylum Officers) on child development and the impact of trauma on children, particularly adolescents, should be provided and/or improved.
  - Decision makers should follow UNHCR guidance regarding child asylum seekers by allowing greater weight to be given to objective evidence than to subjective testimony.
- **8.3** → The notion of persecution in children’s claims should be broadened by decisions makers.
- **8.5** → Decision makers should consider child-specific forms of persecution, especially in the category of “Particular Social Group.”
- **8.6** → The “internal relocation” reason for denying asylum should rarely, if ever, be applied to children.
Recommendations Regarding the Immigration Court (EOIR) Defensive Asylum Process

- **7.1** → Federal agencies with an interest in fair and efficient court proceedings for children (such as EOIR, ORR, and ICE) should fund legal orientation and representation programs for children in immigration proceedings. Statutory bars to federally funded representation should be reexamined in light of children’s needs for legal representation in immigration proceedings.

- **7.2** → The American Bar Association’s *Standards for the Custody, Placement and Care; Legal Representation; and Adjudication of Unaccompanied Alien Children in the United States* should be used to train attorneys, judges, trial attorneys and others working with children involved in Immigration Court proceedings.
  - Child asylum applicants should be released to community-based programs rather than detention or institutional programs.

- **8.0** → The EOIR “Guidelines for Immigration Court Cases Involving Unaccompanied Alien Children” should be strengthened so that they are requirements, rather than merely suggestions, and include discussion of adjudicating children’s claims.

- **10.1** → Child asylum applicants should have their claims heard initially in the more child-friendly affirmative procedures employed by the Asylum Office.

- **10.2** → EOIR should compile existing good practices in Immigration Court “children’s docket’s” and require a more uniform approach to handling children’s cases.
  - EOIR and the Office of the Principal Legal Advisor should improve training for Immigration Judges and Trial Attorneys on working with children in the courtroom.

- **10.3** → Judges handling large numbers of children’s cases should be allowed to specialize, providing them with additional training and resources related to working with children in the courtroom.
  - Statistics on children should be maintained separate from the general population, in order to compile statistics on children’s cases and to allow Immigration Judges to focus on a child’s needs rather than on the speed of the case.

- **11.3** → ICE trial attorneys should adopt a policy of not appealing children’s asylum grants, in order to promote stability and permanence for child asylum applicants.
Recommendations Regarding Special Immigrant Juvenile Status (SIJS)

- **4.1 →** Regarding Special Immigrant Juvenile Status (SIJS):
  - "Freeze" the child's age to the age at the time of application, rather than age at the time of adjudication, to ensure that children are not made ineligible by bureaucratic delays.
  - Remove from USCIS the responsibility for determining "specific consent" for potential SIJS applicants in federal custody, and transfer to an office within the Department of Health and Human Services (DHHS), while also considering the elimination of this duplicative requirement altogether.
  - Waive filing fees for SIJS applicants, as with Amerasian and asylum applicants.
  - Allow consideration of humanitarian grounds in allowing parental reunion for certain SIJS recipients (such as children separated from parents due to civil conflict, or children who have been abused by a relative or guardian but who maintain a relationship with a parent.)
  - Promote consistent and sensitive handling of cases by transferring SIJS adjudication responsibilities from the USCIS district offices to the USCIS VAWA unit at the Vermont Service Center, and provide appropriate funding for this transfer of duties.
  - Encourage appropriate care of children regardless of immigration status and allow state or county foster care providers to collect Title IV-E federal reimbursement funds for children granted SIJS status while in foster care, with funding retroactive to the child’s date of entry into foster care.

- **6.6 →** The SIJS unit in Los Angeles County should be replicated for youth in delinquency proceedings in Los Angeles County. Furthermore, the SIJS unit in Los Angeles County should be replicated by child welfare agencies in other counties and states which have a significant number of foreign-born children in foster care or otherwise dependent upon the juvenile court.
Recommendations Regarding Care, Custody and Placement of Children

6.1 → ORR should evaluate and expand its pilot project on the use of guardians ad litem for children in federal custody for immigration violations, adopting an ultimate goal of providing guardians ad litem to all unaccompanied and separated children in federal custody for immigration violations.

6.3 → Regarding detention, federal agencies should:
   - Refrain from using secure detention, unless a child is at risk of harming him- or herself or others.
   - Adopt a stated policy of considering the best interests of the child and the least restrictive setting in placement decisions.
   - DHS agencies should cease from using restraints with children, unless a child is at risk of harming self or others.
   - Adopt policy of using institutional care for short-term placements only, with non-institutional alternatives used as the preferred option for longer-term placements.

6.4 → Allow children to be released to family for the completion of legal proceedings.

6.5 → Children without relatives to whom they can be released should be placed in homelike care arrangements as promptly as possible.

6.6 → Regarding State juvenile court proceedings:
   - Children without juvenile delinquency charges should not continue to be held in juvenile detention facilities while awaiting interviews with immigration officials. This situation requires either more timely coordination between federal immigration officials and local juvenile detention officials, or the immediate release of children who have been cleared of juvenile delinquency charges.

8.2 → Regarding age determinations:
   - Responsibility for making decisions in age dispute cases should be given to ORR.
   - ORR and ICE should develop a distinct program to care for youth during age determination procedures, as an alternative to secure adult detention.
   - Alternative procedures for determining age should be considered (such as the suggested evidence in the SIJS statute), assessing the totality of the evidence rather than relying on one single forensic source.
Recommendations Applicable to Federal Government Agencies and Lawmakers

- **3.1** → Federal agencies (both within the same agency and between different agencies) should adopt consistent, uniform terminology and definitions regarding unaccompanied and separated children.

- **3.2** → Lawmakers and advocates should incorporate the principle of the best interests of the child into existing and future immigration legislation and policy.

- **3.5** → Federal agencies should improve service coordination, data gathering, data management and tracking of unaccompanied and separated children served by the federal government. Lawmakers should require cooperation, collaboration and transparency among federal agencies in compiling and maintaining statistics on unaccompanied and separated children in immigration proceedings.
  - Within the agencies of the Department of Homeland Security, consolidate the various responsibilities for children’s issues in the more service oriented U.S. Citizenship and Immigration Services (USCIS), in order to promote a consistent, child-sensitive approach to matters involving minors.
  - Between the various federal agencies involved with unaccompanied and separated children, concentrate oversight and overall management of federal interactions in an agency able to approach the issues from a child welfare orientation rather than an enforcement mandate.

- **3.6** → Lawmakers should pass legislation that will make immigration policies and procedures more attuned to the needs and vulnerabilities of children, such as the Unaccompanied Alien Child Protection Act, the DREAM Act, and the Widow’s and Orphans Bill.


For a complete list of Seeking Asylum Alone reports, go to:
http://www.humanrights.harvard.edu/index.php?option=com_content&view=article&id=115&Itemid=71

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