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To: Chairman/Ranking Member, Senate Comm. on Homeland Security and Governmental Affairs  
Chairman/Ranking Member, Senate Committee on the Judiciary  
Chairman/Ranking Member, Senate Subcommittee on Border Security and Immigration  
Chairman/Ranking Member, House Judiciary Committee  
Chairman/Ranking Member, House Committee on Homeland Security  
Chairman/Ranking Member, House Subcommittee on Border and Maritime Security  
Chairman/Ranking Member, House Subcommittee on Immigration and Border Security

From: Peter Schey, President, Center for Human Rights and Constitutional Law

Re: President Trump's Request that Congress Terminate the *Flores* Settlement

We represent the tens of thousands of immigrant children detained each year protected by the *Flores* settlement which since 1997 has set the national standards for the care and release of detained immigrant children.

On January 4, 2019, President Trump sent Congress a letter regarding the Government shutdown in which he insists building a wall is “[a]bsolutely critical to border security,” and that Congress must close certain “legal gaps in America’s defenses ...” To close the “most pressing” “loopholes,” President Trump insists that Congress (1) “[t]erminate the *Flores* Settlement Agreement—which is preventing families from being held together through removal,” and (2) “[a]mend the Trafficking Victims Protection Reauthorization Act (TVPRA), to allow for the safe and humane return of illegally-smuggled minors back to their families in their home countries.”

As the lawyers who filed the *Flores* case in 1985 and negotiated the *Flores* settlement in 1997, we continuously monitor compliance with the national standards established in the settlement. We can state without reservation that the President’s assertions about *Flores* settlement’s requirements are untrue.

The *Flores* settlement does not prevent families from being held together. Thousands are held together every year. The *Flores* settlement extends certain rights to detained children, not their parents. Unless they are a danger or flight risk, *Flores* gives children the right to reasonably prompt release to parents or relatives living in the U.S. willing and able to care for them, or release to a licensed group home. It is this *right to release* that children have that President Trump wants Congress to legislatively terminate. The *Flores* settlement also recently required the Government to provide mats for children otherwise forced to sleep on cold concrete floors, to stop feeding children frozen and outdated food, and to provide them with potable water and cups. President Trump wants Congress to “terminate” these minimal rights to humane treatment detained children have under the *Flores* settlement.

Congress’s response to President Trump should be simple:

When an agreement is reached for funding for DHS, it should provide that no funds shall be used to forcibly separate children from their parents, or to terminate the *Flores* settlement.

We also urge Congress to consider holding hearings on the detention and treatment of immigrant children before it changes any laws at President Trump's request.

Our 2018 detention site inspections, and interviews with hundreds of detained children, disclosed several areas of concern for the health and safety of these children:

- separation of thousands of children from parents with no operational reunification plan,
- major increase in detention of children by discouraging parents and relatives living in the U.S. from applying for the release of children by informing them that they will be turned over to ICE,
- placement of thousands of children in unlicensed and illegal military-style camps,
- placement of children in cages,
- skyrocketing detention costs and unbelievable profits to certain contractors,
- reports of physical abuse, sexual abuse, illnesses, and, more recently, deaths.

President Trump's second request to Congress -- repeal the TVPRA -- would primarily result in unaccompanied minors coming to the U.S. fleeing violence, abuse, abandonment or neglect becoming subject to "expedited removal" and summary deportation *without* the existing rights to a deportation hearing and to apply for lawful status under existing laws, including Special Immigrant Juvenile (SIJ) status. These children would be summarily deported, as President Trump's letter states, "back to their families in their home countries," where many may face physical abuse and bodily harm. We strongly urge Congress to conduct hearings before assessing whether any changes to the TVPRA are warranted.

Overall, we recommend the formation of a *select commission on immigration and refugee policy* aimed at analyzing the new migratory forces and how comprehensive, humane, and achievable immigration reform may be structured and then addressed by Congress in or promptly after 2020.

ccs: Members of Congress

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