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ARTICLES

LESSONS FROM MEXICAN FOLKLORE: AN ESSAY ON U.S. IMMIGRATION POLICY, CHILD SEPARATION, AND LA LLORONA

Richard Delgado* and Jean Stefancic**

INTRODUCTION: HAS LA LLORONA TAKEN UP RESIDENCE NORTH OF THE BORDER?

United States immigration policy has taken an increasingly punitive turn. The current administration recently declared a national emergency in an effort to sidestep Congress and secure the funds to build a wall along the United States-Mexican border.¹ It also threatened to close that border entirely, including to trucks bearing such essential items as automobile parts and farm produce.² It has cut off funding to Northern Triangle countries in the hope of reducing the flow of immigrants from a

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¹ Toluse Olorunnipa, *Shutdowns, Emergencies, and Tariffs: Trump's Frenetic Immigration Approach Has Become Central to His 2020 Bid*, WASH. POST (June 2, 2019), https://www.washingtonpost.com/politics/shutdowns-emergencies-and-tariffs-trumps-frenetic-immigration-approach-has-become-central-to-his-2020-bid/2019/06/02/23384870-83d7-11e9-95a9-e2c830afe24f_story.html?utm_term=.1851dfdd2c0c (describing the origin and current status of Trump's program); Charlie Savage, *Trump's Face-Saving Way Out of Crisis Raises Fears Over Rule of Law*, N.Y. TIMES (Feb. 14, 2019), <https://www.nytimes.com/2019/02/14/us/politics/trump-national-emergency-law.html> (same).

² Olorunnipa, *supra* note 1; see also Jim Tankersley & Ana Swanson, *Trump Threatens to Close Border, Even If It Hurts The Economy*, N.Y. TIMES (Apr. 3, 2019), <https://www.nytimes.com/2019/04/02/us/politics/trump-mexico-border-economy.html> (noting the economic risks of border closure).

region that is already poor and troubled.³ It has ordered American troops to the border with Mexico in a show of force,⁴ fired top immigration officials,⁵ selected an immigration “czar,”⁶ and called for the release of detainees into so-called sanctuary cities.⁷

As this Article was in preparation, United States President Donald J. Trump threatened to increase pressure on Mexico by imposing a tariff on all goods imported from that country.⁸ He declared a popular opponent of his immigration policy, Meghan Markle, “nasty” for having once criticized that policy and said it made her consider moving to Canada.⁹ He also promised to do away with asylum claims at the border and send immigration agents into the field on raids, knocking on doors, with a goal of deporting “millions.”¹⁰

³ Olorunnipa, *supra* note 1; see also Rachel Frazin, *US Halting Aid to El Salvador, Guatemala, and Honduras*, THE HILL (Mar. 30, 2019), <https://thehill.com/latino/436579-us-halting-aid-to-el-salvador-guatemala-and-honduras> (noting how curtailing aid to these countries will increase poverty).

⁴ Olorunnipa, *supra* note 1; see also Brett Samuels, *Pentagon Announces Nearly 4,000 Additional Troops Heading to U.S.-Mexico Border*, THE HILL (Feb. 3, 2019), <https://thehill.com/policy/defense/428276-pentagon-announces-nearly-4000-additional-troops-heading-to-us-mexico-border>.

⁵ Olorunnipa, *supra* note 1; see also Peter Baker et al., *Trump Set to Fire More Top Homeland Security Officials*, N.Y. TIMES (Apr. 8, 2019), <https://www.nytimes.com/2019/04/08/us/politics/randolph-alles-secret-service.html> (noting how the latest round of firings is only one of many).

⁶ Olorunnipa, *supra* note 1; see also Michael D. Shear & Zolan Kanno-Youngs, *Trump Appoints a Loyalist As Border Czar in Latest Immigration Shuffle*, N.Y. TIMES (June 14, 2019), <https://www.nytimes.com/2019/06/14/us/politics/trump-homan-border.html>.

⁷ Olorunnipa, *supra* note 1; see also Jessica Taylor & Sasha Ingber, *Trump Threatens to Send Detained Immigrants to ‘Sanctuary Cities’ As Retaliation*, NPR (Apr. 12, 2019), <https://www.npr.org/2019/04/12/712760676/trump-threatens-to-send-detained-immigrants-to-sanctuary-cities>.

⁸ Olorunnipa, *supra* note 1; see also U.S. Might Delay Trump’s Threatened Tariffs on Mexico, BLOOMBERG NEWS (June 6, 2019), <https://www.bloomberg.com/news/videos/2019-06-06/u-s-might-delay-trump-s-threatened-tariffs-on-mexico-video>.

⁹ Maegan Vazquez & Luke McGee, *Trump on Meghan Markle: ‘I Didn’t Know That She Was Nasty,’* CNN (June 2, 2019), <https://www.cnn.com/2019/05/31/politics/donald-trump-meghan-markle-nasty-boris-johnson-good-prime-minister/index.html>. The Duchess of Sussex, Meghan Markle, is an American who, before marrying England’s Prince Harry, made the comment while residing in the United States. *Id.*

¹⁰ Catherine Rampel, *The 1930’s Were a Dark Period for Immigration Policies, There’s One Way Today’s Could Be Worse*, WASH. POST (July 22, 2019), https://www.washingtonpost.com/opinions/the-1930s-was-a-dark-period-for-immigration-policies-theres-one-way-todays-could-be-worse/2019/07/22/a8d5f82a-acbc-11e9-a0c9-6d2d7818f3da_story.html?utm_term=.a4fb35d03701; see also Jason Zengerle, *How America Got to ‘Zero Tolerance’ on Immigration: The Inside Story*, N.Y. TIMES (July 16, 2019), <https://www.nytimes.com/2019/07/16/magazine/immigration-department-of-homeland-security.html>; see also Molly Hennessy-Fiske et al., *Despite Weeks of Threats, ICE Raids Begin with a Whimper*

All these developments are so out of character for a nation that once welcomed immigrants¹¹ as to prompt more than one commentator to wonder whether the explanation could be some form of demonic possession.¹² Taking this observation to heart, we posit that the current occupant of the White House, or perhaps his senior advisor, Steven Miller, is La Llorona in disguise.¹³

This Article, in Part I, explains the powerful allegorical legend of La Llorona in Mexican folklore and shows how it may have found a home in United States immigration policy as a terrifying control device. Part II sets out why that policy is deleterious economically and inimical to our diplomatic objectives. Part III reviews examples of child-stealing in other societies with Anglo-American legal systems, and shows that these have almost always ended badly. It reviews scientific findings about the damage to young children forcibly separated from their parents and posits that these societies may be susceptible to the child-stealing impulse because their rate of reproduction is low.¹⁴

Yet Still Stoke Fears, L.A. TIMES (July 14, 2019), <https://www.latimes.com/local/lanow/la-me-ice-raids-immigration-trump-20190714-story.html>; Miriam Jordan, *In Court Without a Lawyer: The Consequences of Trump's 'Remain in Mexico' Plan*, N.Y. TIMES (Aug. 2, 2019), <https://www.nytimes.com/2019/08/03/us/migrants-court-remain-in-mexico.html?action=click&module=News&pgtype=Homepage>.

¹¹ The words on the Statue of Liberty, from a poem by Emma Lazarus, declare: "Give me your tired, your poor, your huddled masses yearning to breathe free." Walt Hunter, *The Story Behind the Poem on the Statue of Liberty*, THE ATLANTIC (Jan. 16, 2018), <https://www.theatlantic.com/entertainment/archive/2018/01/the-story-behind-the-poem-on-the-statue-of-liberty/550553/>; see also Mary Brown & Nikhita Mendis, *The Separation of Immigrant Families: Historical Anecdotes*, CTR. FOR MIGRATION STUD., <https://cmsny.org/from-the-cms-archive-separation-of-families/> (noting that the current policy is a radical departure from Ellis Island days, when the government worked cooperatively with protective Italian and other ethnic organizations to see to the welfare of recent immigrants).

¹² See Ron Dicker, *Jim Carrey's New Painting Depicts Demon's Influence on Donald Trump*, HUFFPOST (June 19, 2018), https://www.huffpost.com/entry/jim-carrey-white-house-devil_n_5b28d457e4b0a4dc99205c4a?guccounter=1; see also Ruben Navarrette, Jr., *Immigrants: If You Can't Beat Them, Get Rid of Them*, SF GATE (June 3, 2019), <https://www.sfgate.com/opinion/commentary/article/If-you-can-t-beat-them-get-rid-of-them-13925142.php> (noting that the administration's program appears suspiciously harsh).

¹³ See, e.g., Shaun King, *Separating Migrant Families Is Barbaric. It's Also What the U.S. Has Been Doing to People of Color for Hundreds of Years*, THE INTERCEPT (June 20, 2018), <https://theintercept.com/2018/06/20/family-separation-immigration-history-slavery-mass-incarceration> (discussing Miller's role in devising cruel immigration policies, and a wrenching video obtained by ProPublica of detained children sobbing and wailing while being mocked by guards; also, noting the profitability of the many privatized jails and detention centers catering to the immigration-control crowd and its instincts); see also Zengerle, *supra* note 10 (explaining Miller's role in making immigration policy).

¹⁴ See *infra* note 51 and accompanying text; see also Carla K. Johnson, *US Births Lowest in 3 Decades Despite Improving Economy*, ASSOC. PRESS (May 15, 2019), <https://www.apnews.com/>

Part IV borrows from native folklore to suggest how to dispel an evil spirit, and shows how many of the traditional practices that native people have developed might actually help the American public begin to address its current leadership problem.

It then discusses conventional remedies that readers of this Article could put in place, beginning with a discussion of the symptoms—including paralysis of the will, sleepwalking, and zombie behavior—which can afflict a major political party whose leader has come under demonic possession. It then suggests that the only lasting cure may be a dose of radical democracy and electoral intervention. Because this remedy is available only every two years, the Article concludes by proposing a number of interim and mixed measures, including solidarity, film-making, editorial and op-ed writing, mass demonstrations, and other forms of resistance with carefully targeted litigation as an adjunct.

I. LA LLORONA IN MEXICAN AND LATINO FOLKLORE

A. *The Legend*

In the legend of La Llorona (pronounced Yor-oh-nah), a mysterious woman with a checkered past desperately misses her two young children, whom she has killed to avenge a lover's betrayal.¹⁵ Late at night, dressed in a flowing white gown, she scouts out neighborhoods she knows contain sleeping children in hopes of finding ones she can snatch and steal away.¹⁶ Families know when she is coming, however, because she emits a characteristic low moan.¹⁷ On hearing this bone-chilling sound, children press close to the parent for protection.¹⁸

The apparition often walks along river banks or near water, perhaps because she killed her own children by drowning them.¹⁹ Part of the legend is that she will

0463abca6436472cb44176602078b24f; Ariana Eunjung Cha, *As U.S. Fertility Rates Collapse, Finger-Pointing and Blame Follow*, WASH. POST (Oct. 19, 2018), https://www.washingtonpost.com/health/2018/10/19/us-fertility-rates-collapse-finger-pointing-blame-follow/?utm_term=.275591ee29cc (noting the likely impact on the Social Security system).

¹⁵ See Kathy Weiser, *La Llorona—Weeping Woman of the Southwest*, LEGENDS OF AM. (last updated Mar. 2017), <https://www.legendsofamerica.com/gh-lallorona> (describing the origin and spread of the legend).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

raid the families of parents who are at loggerheads, looking especially for children who have misbehaved recently.²⁰

Many Latino children shun the dark for fear of the mysterious weeping lady who might spirit them away at an unguarded moment.²¹ Although the legend appears in various forms in different regions of Latin America and the Southwestern United States, the abovementioned elements are common to them all.²²

Child psychologists recognize the myth as a control device and a means of exercising authority over children who might otherwise be tempted to stray or misbehave.²³ Many societies have similar legends—Germany, the schwarze mann (dark man),²⁴ Portugal the bicho papao, a nighttime marauder with a keen eye for unaccompanied children,²⁵ and England the bogeyman who frightens children into compliant behaviors.²⁶ The lesson of all of them is: life is full of dangers; stay close to your parents, and do what they tell you.²⁷ Do not talk with strangers, especially ones who look at you with too much interest.²⁸

²⁰ *Id.*

²¹ *Id.*

²² Over the ages, La Llorona has embodied notions of both revenge and resistance. See Ana Maria Carbonell, *From Llorona to Gritona: Coatlicue in Feminist Tales by Viramontes and Cisneros*, 24 MELUS 53, 54–57, 54 n.2 (1999). Her origin lies in the pre-conquest fertility goddess Coatlicue, who represents a “cosmic process” of struggle between conflicting forces: destruction and resistance. *Id.* The warlike Aztecs focused on the vengeful, destructive aspect of the goddess. *Id.* The Spanish brought Catholicism and complicated the native mythology with the attribution of passivity and treachery to the nature of the female. *Id.* Both of these traits appear in the current figure of La Llorona, a sorrowing figure who is nevertheless a stalker bent on doing harm. We have chosen the latter to illustrate certain aspects of United States immigration policy—and in particular the role of Donald J. Trump—because the “behavior [of both] stems from a state of selfishness or insanity disconnected from a social setting, carrying little social value.” *Id.*

²³ See, e.g., Rebecca Bender, *La Llorona: Incorporating Latino Studies into Hispanic Literature* (May 23, 2014), <https://rebeccabender.wordpress.com/2014/05/23/llorona-latino-studies/>.

²⁴ See *European Monsters*, EUROPE’S NOT DEAD, <https://europeisnotdead.com/european-monsters> (last visited Oct. 27, 2019).

²⁵ *Id.*

²⁶ *Id.* The British spell the word with one “o”; the Americans with two. See *Bogeyman*, CAMBRIDGE ENGLISH DICTIONARY, <https://dictionary.cambridge.org/us/dictionary/english/bogeyman>.

²⁷ *Id.*

²⁸ *Id.*

B. Donald Trump as the Present-Day Personification of La Llorona

Donald J. Trump is the United States Llorona. His administration has made child cruelty a high art,²⁹ even makes a virtue of it, and declares it is doing so in order to send a lesson to others.³⁰ His administration makes little effort to keep track of children sent to detention camps and foster homes, making it difficult, if not impossible, to reunite them later.³¹ Trump deports parents to either Mexico or one of the Northern Triangle countries without their children.³² He deems anyone who crossed the border without permission a criminal, hence deportable no matter how exemplary a life they may have led.³³ His detention camp administrators forbid children from playing soccer—a healthy form of exercise and the most popular sport in their homeland—and from hugging or touching each other, even if they are siblings, despite expert testimony that this causes “significantly heightened distress.”³⁴

The largest number of immigrants detained at the border are asylum-seekers from Guatemala, Honduras, and El Salvador.³⁵ Many of these families are fleeing

²⁹ See *supra* notes 1–11 and accompanying text; see also Ishaan Tharoor, *On the Enduring Cruelty of Trump's Immigration Agenda*, WASH. POST (July 26, 2019), https://www.washingtonpost.com/world/2019/07/26/enduring-cruelty-trumps-immigration-agenda/?utm_term=.dc1a51fb09e9; Attorney General Delivers Remarks Discussing the Immigration Enforcement Actions of the Trump Administration, U.S. DEP'T OF JUSTICE (May 7, 2018), <https://www.justice.gov/opa/speech/attorney-general-sessions-delivers-remarks-discussing-immigration-enforcement-actions> (explaining the origins of the administration's immigration policy); Vanessa M. Holden, *Slavery and America's Policy of Child Separation*, BLACK PERSPS. (July 25, 2018), <https://www.aaihs.org/slavery-and-americas-legacy-of-family-separation/> (noting the high profit margin for the private operators of some of the detention facilities); see also *infra* note 45 and accompanying text (describing John Kelly's role).

³⁰ See Editorial Board, *Children Shouldn't Be Dying at the Border: Here's What to Do About It*, N.Y. TIMES (June 24, 2019), <https://www.nytimes.com/2019/06/24/opinion/border-kids-immigration-help.html> (noting that the policy is designed to deter others); Ishaan Tharoor, *Trump Sees a Border Threat, Others See a Crisis of Conscience*, WASH. POST (July 8, 2019), https://www.washingtonpost.com/world/2019/07/08/trump-sees-border-threat-others-see-crisis-conscience/?utm_term=.a7f84c849ef8&wpisrc=nl_politics&wpm=1; see Brown & Mendis, *supra* note 11 (noting that the current policy is a radical departure from Ellis Island days, when the government worked cooperatively with protective Italian and other ethnic organizations to see to the welfare of recent immigrants, and explaining how Attorney General Jeff Sessions originated the “zero tolerance” policy which, in turn, led to the current family separation policy). The government recently admitted that it could not locate over 1,475 of 7,365 unaccompanied children in its charge. Emanuella Grinberg et al., *1,500 Immigrant Kids Not Lost—Just Can't Be Reached, HHS Official Says*, CNN (May 29, 2019), <https://www.cnn.com/2018/05/29/politics/hhs-responds-to-reports-of-lost-immigrant-children/index.html>. On the Administration's contortions in an effort to evade the terms of the Flores settlement limiting its ability to separate children from their families, see Charlie Savage, *Explaining Trump's Executive Order on Family Separation*, N.Y. TIMES (June 20, 2018), <https://www.nytimes.com/2018/06/20/us/>

politics/family-separation-executive-order.html; see also *infra* note 31 (explaining how family-separation continues even in the absence of a formal policy); Zengerle, *supra* note 10 (explaining the Flores decree).

³¹ Michele Goldberg, *The Terrible Things Trump Is Doing in Our Name: One Year Ago Trump Outlawed Family Separation. It Hasn't Stopped*, N.Y. TIMES (June 22, 2019), <https://www.nytimes.com/2019/06/21/opinion/family-separation-trump-migrants.html?action=click&module=Opinion&pgtype=Homepage> (noting that the policy continues in effect); see also Zengerle, *supra* note 10; Exec. Order No. 13,841, Affording Congress an Opportunity To Address Family Separation, 83 Fed. Reg. 29,435 (June 20, 2018) (directing immigration officials to detain minor children with their families, unless it would pose a risk to the safety of the child). But see Michael D. Shear et al., *Trump Retreats on Separating Families, but Thousands May Remain Apart*, N.Y. TIMES, June 21, 2018, at A1 (noting that despite the executive order over reversing the formal family-separation policy, 2,300 already separated children remain to be reunited with their families). Separation also continues as a product of simple deportation of the parents. See Cedar Attanasio et al., *Attorneys: Texas Border Facility Is Neglecting Migrant Kids*, AP NEWS (June 21, 2019), <https://www.apnews.com/46da2dbe04f54adbb875cfbc06bbc615> (noting that government rules require that immigration authorities hold children no longer than 72 hours, before transferring them to Health and Human Services; but administrators widely disregard this rule and that most facilities are filled above capacity). For a discussion of the ACLU's continuing efforts to reverse the practice of family separation, see Aviva Stahl, *When Families are Torn Apart*, ACLU MAG., Summer 2019, at 8, https://www.aclu.org/sites/default/files/field_document/aclu006_summer19_single_pages_lo.pdf.

³² This is one of the many ways children are separated from their parents, nearly twelve months after the Administration withdrew the official child-separation policy. Many of the children left behind after their parents are deported are sent to foster care and lost to their biological parents, possibly forever. See Emma Jacobs, *When Immigration Detention Means Losing Your Kids*, NPR (Dec. 8, 2017), <https://www.npr.org/2017/12/08/565426335/when-immigration-detention-means-losing-your-kids> ("In the absence of a legally documented guardianship plan, children of detained parents can be handed over to the foster system. To get them back, parents must navigate a complex bureaucracy, often in a second language, while living in an immigration detention facility, or even another country."); see also Zengerle, *supra* note 10 (noting how child-separation is a logical outcome of the initial "zero tolerance" policy).

³³ See Natalie Escobar, *Family Separation Isn't New*, THE ATLANTIC (Aug. 14, 2018), <https://www.theatlantic.com/family/archive/2018/08/us-immigration-policy-has-traumatized-children-for-nearly-100-years/567479/> (noting the variety of ways by which the Administration achieves the goal of family separation).

³⁴ See Laura C. N. Wood, *Impact of Punitive Immigration Policies, Parent-Child Separation and Child Detention on the Mental Health and Development of Children*, BMJ PEDIATRICS OPEN, Sept. 2018, at 1, 2, <https://bmjpaedsopen.bmj.com/content/bmjpo/2/1/e000338.full.pdf> (noting the many psychological impacts). Trump's administration has also ruled that legal aid lawyers may not communicate with the children. See also Meredith Hoffman, *Trump Has Quietly Cut Legal Aid for Migrant Kids Separated from Their Parents*, VICE NEWS (May 31, 2018), https://www.vice.com/en_us/article/a3a798/trump-has-quietly-cut-legal-aid-for-immigrant-kids-separated-from-parents.

³⁵ Wood, *supra* note 34, at 2; see also Isaac Stanley-Becker, *Who's Behind the Law Making Undocumented Immigrants Criminals? 'An Unrepentant White Supremacist,'* WASH. POST (June 27, 2019), <https://www.washingtonpost.com/nation/2019/06/27/julian-castro-beto-orourke-section-immigration-illegal-coleman-livingstone-blease/?noredirect=on> (describing how 1929-era nativism prompted the shift from treating unauthorized entry as a civil to a criminal offense); Escobar, *supra* note 33.

poverty, violence, sexual exploitation, kidnapping, and forced recruitment by gangs in their homeland.³⁶

Trump makes no pretense of doing any of these things in the best interest of the children, earning our nomination as a modern-day Llorona, complete with the terrifying, repetitious sounds that the mythical figure emits.³⁷ His actions have caused a number of children to drown in the river.³⁸

Even his foreign policy is redolent of Lloronic flourishes. He often lectures our allies about the evils of immigration, explaining that the children of immigrants represent bad seeds that will perpetuate their own kind into the future.³⁹ If one closes his or her eyes, one can almost imagine Trump in a long white robe, pacing along the banks of the Seine, the Rhine, or the Thames at dusk, berating the local citizenry for allowing into their lands multitudes who will be unreconstructed aliens living in their midst or—at best—require re-education to fit into the French, German, or English citizenry.⁴⁰

II. COSTS OF THE CURRENT CHILD-SEPARATION POLICY

A policy of separating migrant children from their parents at the border exacts a heavy toll on all concerned: the children, their parents, those who witness it, and the United States in its domestic and foreign policy.

³⁶ Wood, *supra* note 34, at 2.

³⁷ See Patrick Healy & Maggie Haberman, *95,000 Words, Many of Them Ominous, from Donald Trump's Tongue*, N.Y. TIMES (Dec. 6, 2015), <https://www.nytimes.com/2015/12/06/us/politics/95000-words-many-of-them-ominous-from-donald-trumps-tongue.html> (discussing his typical speech patterns).

³⁸ Because of Trump's harsh immigration policy, an increasing number of migrants have been attempting river crossings, which are very dangerous. Michelle Goldberg, *supra* note 31 (noting that at least six children have died in the course of family separation, at least two of them in the river); see also Manny Fernandez et al., *Infant Dies, Three Migrants Feared Dead in Raft Tragedy on Rio Grande*, N.Y. TIMES (May 2, 2019), <https://www.nytimes.com/2019/05/02/us/migrants-missing-rio-grande.html>; Peter Orsi & Amy Guthrie, *DISTURBING: Photo of Drowned Father and Daughter Highlights Migrants' Tragic Struggles*, HUFFPOST (June 26, 2019), https://www.huffpost.com/entry/photo-drowned-father-daughter-migrants-struggles_n_5d129258e4b04f059e4b2222; Zolan Yanno-Youngs, *Death on the Rio Grande: A Look at a Perilous Migrant Route*, N.Y. TIMES (June 8, 2019), <https://www.nytimes.com/2019/06/08/us/politics/migrants-drown-rio-grande.html> (describing Border Patrol officers' efforts to rescue tired swimmers, pregnant teenagers, and others from treacherous waters, and finding decomposed bodies and dead children floating in the waters).

³⁹ Stephen Collinson, *Trump: Immigration Is 'Changing the Culture' of Europe*, CNN POLITICS (July 13, 2018), <https://www.cnn.com/2018/07/13/politics/trump-europe-immigration/index.html>.

⁴⁰ See *infra* notes 81–128 and accompanying text.

Psychologists and child-development specialists warn that the children will suffer the most grievous harms, with their parents running a close second. Indeed, a review of child-separation incidents in the United States, Australia, Canada, and a few other countries shows the negative impacts of child separation on all concerned.

In the United States, observers will not have to wait long to see how the current administration's efforts have jeopardized our domestic and foreign policy objectives. The sheer cruelty of the administration's actions have broadcasted to our allies and enemies how little this country cares for helpless children who have been brought here by their parents hoping to escape the dangerous streets of their home countries.⁴¹ As a number of our allies have been pointing out, child separation also violates international law.⁴² A country that does this as flagrantly as we do gives others little confidence that it will abide by any of its other treaty commitments. Even our friends will take pause, not wanting to identify too closely with a flagrant violator. No one loves a Llorona.

Unsurprisingly, immigration enforcement that targets natives of a particular country or region has historically damaged diplomatic relations between the United States and that country or region. Following the notorious national origins quotas of 1921 and 1924, for instance, Eastern and Southern European countries loudly protested to their American ambassadors.⁴³ The 1924 legislation—which included restrictions on Japanese immigrants—led to large-scale protests in Japan, fed boycotts of American-made goods, and contributed to the erosion of relations between the two countries, which eventually culminated in the bombing of Pearl Harbor.⁴⁴

At home, child separation injures the reputation of the government. Domestic minorities may fear that a government that treats brown-skinned children so poorly

⁴¹ Sofia Nazario, *Someone Is Always Trying to Kill You*, N.Y. TIMES (Apr. 5, 2019), <https://www.nytimes.com/interactive/2019/04/05/opinion/honduras-women-murders.html> (describing the dangerous situation in the Northern Triangle countries).

⁴² Nick Cummings-Bruce, *Taking Migrant Children from Their Parents Is Illegal, U.N. Tells U.S.*, N.Y. TIMES (June 5, 2018), <https://www.nytimes.com/2018/06/05/world/americas/us-un-migrant-children-families.html>; see also Zengerle, *supra* note 10; Benjamin G. Davis, *Confronting American Border Concentration Camps: Vindicating International Crimes Against Humanity Law in US Domestic Law*, JURIST (June 26, 2019), <https://www.jurist.org/commentary/2019/06/benjamin-davis-border-camps/>.

⁴³ David C. Atkinson, *What History Can Tell Us About the Fallout from Restricting Immigration*, TIME (Feb. 3, 2017), <https://time.com/4659392/history-fallout-restricting-immigration/> (describing this early wave of protests).

⁴⁴ *Id.*

cannot be trusted.⁴⁵ As a result, they may vote for the opposing party and withdraw any loyalty they might have felt for the current regime.⁴⁶

At the same time, immigration has long been known to be good for the economy and the labor supply.⁴⁷ Child-snatching, of course, aims to deter would-be immigrants and probably does to some extent.⁴⁸ But it is also likely to have unintended results. Businesses needing labor and retirees with shrinking retirement accounts will suffer.⁴⁹ The Social Security system, which relies on a pyramid of young workers and a renewable supply of them, will grow even less stable than it is now.⁵⁰ Like Canada and most European and Scandinavian countries, the United States has a low fertility rate that, unless reversed, will require immigration to maintain the population level and stave off economic stagnation.⁵¹

Immigration crackdowns also drain the United States of many of its most heralded citizens. Over a third of America's Nobel Prize winners in chemistry,

⁴⁵ See Kevin Johnson, *Race, the Immigration Laws, and Domestic Race Relations: A "Magic Mirror" into the Heart of Darkness*, 73 IND. L.J. 1112 (1998) (positing that the country's treatment of would-be immigrants of color provides a magic mirror, illustrating what it would like to do to domestic minorities, were they not covered by the Equal Protection Clause). Note that John Kelly, after resigning from his position as White House Chief of Staff, quickly joined the board of Caliburn International, owner of a company operating one of the largest detention centers, holding thousands of immigrant children. During his tenure in the White House, the company had received \$222 million. Molly Olmstead, *John Kelly Joins Board of Company that Detains Migrant Children*, SLATE (May 4, 2019), <https://slate.com/news-and-politics/2019/05/john-kelly-caliburn-facility-migrant-children.html>.

⁴⁶ See John Tobocman & John Austin, *How Democrats Can Turn Immigration into Trump's Kryptonite*, POLITICO (Oct. 20, 2019), <https://www.politico.com/magazine/story/2019/10/20/trump-democrats-immigration-2020-229863> (noting that liberals, Democrats, and minorities favor a more generous immigration policy than that of Trump).

⁴⁷ Eduardo Porter, *Can Immigration Hurt the Economy? An Old Prejudice Returns*, N.Y. TIMES (Feb. 14, 2018), <https://www.nytimes.com/2017/02/14/business/economy/immigration-productivity-economists.html> (noting that, contrary to popular belief, immigration benefits the economy).

⁴⁸ Tera Hunter, *The Long History of Child Snatching*, N.Y. TIMES (June 3, 2018), <https://www.nytimes.com/2018/06/03/opinion/children-border.html>.

⁴⁹ Stuart Anderson, *3 Reasons Why Immigrants Are Key to Economic Growth*, FORBES (Oct. 2, 2016), <https://www.forbes.com/sites/stuartanderson/2016/10/02/3-reasons-why-immigrants-key-to-economic-growth/#3aa4c9627dab> (asserting that immigration is important to economic growth).

⁵⁰ See Johnson, *supra* note 14 and accompanying text; Richard Delgado, *Rodrigo's Footnote: Multi-Group Oppression and a Theory of Judicial Review*, 51 U.C. DAVIS L. REV. 1, 17 (2017).

⁵¹ See Johnson, *supra* note 14 and accompanying text (noting the drop in fertility rate).

medicine, and physics have been immigrants.⁵² In 2011, nearly a fifth of all Fortune 500 companies had been founded by immigrants.⁵³ Historically, many of these highly accomplished people came to the United States seeking an education, but now as many as four-in-ten American colleges are seeing drops in applications from international students.⁵⁴ This means less innovation, less research, and less productivity coming out of the American higher education system, which was once the envy of the world.

But even restrictions on low-skilled immigrants can cost the United States economically. Compared to native-born American families, immigrant families tend to be much more willing to travel in order to find work.⁵⁵ This willingness benefits local economies—especially in rural areas—that struggle to attract a sufficient workforce.⁵⁶ It also helps “smooth out” economies facing an economic downturn by providing a labor force that maps onto where jobs move.⁵⁷

Moreover, when immigration authorities partner with local law enforcement agencies, victims of crime may decline to report it.⁵⁸ Racial profiling may increase,⁵⁹

⁵² Stuart Anderson, *Immigrants Keep Winning Nobel Prizes*, FORBES (Oct. 8, 2017, 11:32 AM), <https://www.forbes.com/sites/stuartanderson/2017/10/08/immigrants-keep-winning-nobel-prizes/#7ac4a554117b> (noting that immigrants and their children often are high achievers).

⁵³ Stuart Anderson, *40 Percent of Fortune 500 Companies Founded by Immigrants or Their Children*, FORBES (June 19, 2011), <https://www.forbes.com/sites/stuartanderson/2011/06/19/40-percent-of-fortune-500-companies-founded-by-immigrants-or-their-children> (noting that immigrants and their children often are high achievers).

⁵⁴ Elizabeth Redden, *Will International Students Stay Away?*, INSIDE HIGHER ED (Mar. 13, 2017), <https://www.insidehighered.com/news/2017/03/13/nearly-4-10-universities-report-drops-international-student-applications>; Stephanie Saul, *As Flow of Foreign Students Drops, U.S. Universities Feel the Sting*, N.Y. TIMES (Jan. 2, 2018), <https://www.nytimes.com/2018/01/02/us/international-enrollment-drop.html>.

⁵⁵ *Are Immigrants More Likely to Move Within the United States for a Job?*, NEW AM. ECON. RES. FUND (June 20, 2017), <https://research.newamericaneconomy.org/report/are-immigrants-more-likely-to-move-within-the-united-states-for-a-job/>.

⁵⁶ *Id.*

⁵⁷ Giovanni Peri, *The Economic Benefits of Immigration*, BERKELEY REV. OF LATIN AM. STUD. (Fall 2013), <https://clas.berkeley.edu/research/immigration-economic-benefits-immigration>.

⁵⁸ Nicole Prchal Svajlenka, *What's at Stake? Immigrant Impacts in 287(g) Jurisdictions*, AM. PROGRESS (Mar. 20, 2018, 9:03 AM), <https://www.americanprogress.org/issues/immigration/reports/2018/03/20/448172/whats-at-stake/>.

⁵⁹ ACLU ET AL., THE POLICIES & POLITICS OF LOCAL IMMIGRATION ENFORCEMENT LAWS 43 (Feb. 2009).

and community safety may suffer from a growing wedge between law enforcement officials and the individuals they seek to protect.⁶⁰

Researchers estimate that approximately seven percent of American children in K-12 education have at least one undocumented parent.⁶¹ Aggressive targeting of those parents forces families to move frequently to avoid detection, hampering the education of children in those families.⁶² Indeed, at least one study suggests that even Latino families without undocumented members suffer some of these consequences.⁶³ In other words, frequent displacement driven by heightened immigration enforcement prevents individuals—both documented and undocumented—from accessing consistent work and educational opportunities. These outcomes ultimately harm the entire economy, which loses out on productive labor.

III. WHAT SCIENCE AND HISTORY SHOW

A. Social Science

Developmental psychologists are unanimous in holding that child separation produces a host of ill effects on young children, particularly if the separation is unexpected or violent.⁶⁴ Organizations that have condemned this practice include the American Academy of Pediatrics, the Royal College of Pediatrics and Child Health, the Canadian Pediatric Society, the American Medical Association, the Canadian

⁶⁰ CRAIG E. FERRELL, JR. ET AL., M.C.C. IMMIGRATION COMMITTEE RECOMMENDATIONS 6 (2006).

⁶¹ Aaron Blake, *Illegal Immigrants Are 3.5 Percent of the Population. But They Are Parents to 7 Percent of K-12 students*, WASH. POST (Nov. 19, 2014), https://www.washingtonpost.com/news/the-fix/wp/2014/11/19/the-importance-of-the-immigration-debate-in-1-map/?noredirect=on&utm_term=.47d5b02ab56e.

⁶² See Priya Konings, *Protecting Immigrant Children's Right to Education*, AM. BAR ASS'N (Mar. 1, 2017), https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-36/mar-apr-2017/protecting-immigrant-childrens-right-to-education/ (discussing the many problems afflicting immigrant children).

⁶³ JOANNA DREBY, CTR. FOR AM. PROGRESS, HOW TODAY'S IMMIGRATION ENFORCEMENT POLICIES IMPACT CHILDREN, FAMILIES, AND COMMUNITIES 3 (2012).

⁶⁴ See, e.g., Wood, *supra* note 34, at 1 (noting that as of August 2018, over 2300 children had been separated from their parents for immigration purposes, many under the age of four); *The Negative Effects of Separating Families at the U.S.-Mexico Border*, NAT'L COUNCIL ON FAMILY RELATIONS (June 19, 2018), <https://www.ncfr.org/news/negative-effects-separating-families-us-mexico-border> [hereinafter *The Negative Effects*]; Zoya Gubernskaya & Joanna Dreby, *US Immigration Policy and the Case for Family Unity*, 5 J. MIGRATION & HUM. SECURITY 2, 417 (2017).

Medical Association, and the International Society for Social Pediatrics & Child Health.⁶⁵

None of these authorities found anything beneficial in child detention or separation.⁶⁶ Reports included data from a host of regions and countries, but flagged the Trump administration as the prime offender.⁶⁷

Child-health experts express concern over the conditions in United States detention centers, including inadequate bathing and toilet facilities, constant light exposure, and uncomfortable sleeping arrangements, such as concrete floors.⁶⁸ One was severely overcrowded, with an “overwhelming stench.”⁶⁹ No-touch rules compound a child’s sense of social isolation.⁷⁰ The conditions in some are so primitive that one member of Congress compared them to concentration camps.⁷¹

⁶⁵ Wood, *supra* note 34, at 1.

⁶⁶ *Id.* at 2.

⁶⁷ *Id.*

⁶⁸ *Id.*; see Attanasio, *supra* note 31 (describing young children, including a “clingy toddler,” locked up in a bleak facility with little adult caregiving, inadequate food, water, and sanitation, and little children as so exhausted that they were falling asleep in chairs). On conditions at Clint, Texas’s child-detention complex, see Simon Romero et al., *Hungry, Scared and Sick: Inside Clint’s Razor Wire*, N.Y. TIMES, July 7, 2019, at A1 (noting “outbreaks of scabies, shingles, and chicken pox,” which went untreated, cramped cells, an overpowering stench so strong that it clung to the guards’ clothing after they left the facility for the day, children who cried constantly or gave signs of wanting to kill themselves, older children recruited to watch over others as young as three; children refused permission to call their fathers; and guards who found their work “heartbreaking”).

⁶⁹ Caitlyn Dickerson, *There Is a Stench: Soiled Clothes and No Baths for Migrant Children at a Texas Center*, N.Y. TIMES (June 21, 2019), <https://www.nytimes.com/2019/06/21/us/migrant-children-border-soap.html?action=click&module=News&pgtype=Homepage> (“Children as young as 7 and 8, many of them wearing clothes caked with snot and tears, are caring for infants they’ve just met Toddlers without diapers are relieving themselves in their pants. Teenage mothers are wearing clothes stained with breast milk.”); see also Romero et al., *supra* note 68.

⁷⁰ Ashley Fetters, *The Exceptional Cruelty of a No-Hugging Policy*, THE ATLANTIC (June 20, 2018), <https://www.theatlantic.com/family/archive/2018/06/family-separation-no-hugging-policy/563294/>.

⁷¹ John Wagner, *Ocasio-Cortez Presses Case That U.S. Is Running ‘Concentration Camps’ at Border Amid Republican Outcry*, WASH. POST (June 18, 2019), https://www.washingtonpost.com/powerpost/ocasio-cortez-presses-case-that-us-is-running-concentration-camps-at-border-amid-republican-outcry/2019/06/18/09ee7eb6-91d8-11e9-aadb-74e6b2b46f6a_story.html; see also Ben Fenwick, *‘Stop Repeating History’: Plan to Keep Migrant Children at Former Internment Camp Draws Outrage*, N.Y. TIMES (June 22, 2019), <https://www.nytimes.com/2019/06/22/us/fort-sill-protests-japanese-internment.html>.

A principal source of stress is separation from parents, especially the mother, which threatens the “attachment bond.”⁷² For a young child, the parent is the source of protection, comfort, and security.⁷³ Children deprived of this presence often grow up lacking in confidence and fearful of new calamities that might arise at any time, particularly if the separation happens at an early age and lasts a long time.⁷⁴ They tend to be withdrawn, introverted, and morose, as well as perform poorly in school.⁷⁵ They may suffer from nightmares or have daydreams about the day when they will reunite with their parents.⁷⁶ Many children exhibit extreme despair the longer they are separated.⁷⁷ Even if a parent reappears after a prolonged absence, the child may shrink from contact and respond with anger.⁷⁸ Some children may remember the parent but accuse him or her of abandonment.⁷⁹

Even when the separation is not violent or forcible, studies show that immigration policies that merely facilitate family separation—as when a Filipino mother takes a job in another country leaving the child behind with a friend or relative—have adverse consequences.⁸⁰ Whether the separation is voluntary or involuntary, the child experiences stress; “the chronic pounding of stress hormones”

⁷² Wood, *supra* note 34, at 3.

⁷³ *Id.*; see also *The Negative Effects*, *supra* note 64 (noting that parents are the source of security for a young child).

⁷⁴ See *The Negative Effects*, *supra* note 64 (noting that children separated from their families often grow up lacking confidence).

⁷⁵ *Id.* (noting that they tend to grow up withdrawn).

⁷⁶ *Id.* (noting that they tend to suffer nightmares or daydream about Mom).

⁷⁷ Wood, *supra* note 34, at 3.

⁷⁸ *Id.*

⁷⁹ *Id.*; see also Jacobs, *supra* note 32.

⁸⁰ See Rina Cohen, “Mom Is a Stranger”: *The Negative Impact of Immigration Policies on the Family Life of Filipina Domestic Workers*, 32 CAN. ETHNIC STUD. J. 36, 76, 84–86 (2000), http://s3.amazonaws.com/migrants_heroku_production/datas/192/Cohen_2000_original.pdf?1312337930 (noting that the separation can create tension and conflict and that reunification, years later, can be difficult and unsuccessful); Zhengkui Liu et al., *Left Too Early: The Effects of Age at Separation from Parents on Chinese Rural Children’s Symptoms of Anxiety and Depression*, 99 AM. J. PUB. HEALTH 2049, 2049–50, 2053 (2009), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2759782/> (explaining how family separation has severe impacts); Sven R. Silburn et al., *The Intergenerational Effects of Forced Separation on the Social and Emotional Wellbeing of Aboriginal Children and Young People*, 75 FAM. MATTERS 10 (2006), <https://aifs.gov.au/sites/default/files/ss%282%29.pdf> (noting that the effects can be intergenerational).

risks becoming toxic, producing organ damage, poor general health, a greatly elevated rate of ischemic heart disease, cancer, and early death.⁸¹

When the surrounding society includes hostile rhetoric and stigmatic media representations, the risk of damage increases.⁸² Such an adverse climate creates social isolation, especially if the child lacks a strong parent to mediate and counter this exposure.⁸³

B. Historical Examples

Several common-law countries have pursued formal child-separation policies, often with native or indigenous children. Frequently, these programs aimed at teaching the children Western ways. None was successful; indeed many of the countries that pursued such policies, even with the best of intentions, have ended up admitting that they were a grievous harm, apologized, and took measures to make amends.

1. Australia. Australia, for example, followed the practice of removing mixed-race children from their families and sending them to remote residential schools which taught them new ways and required them to eschew their old ones and language.⁸⁴ This practice created “Stolen Generations” that were not at home in their

⁸¹ Wood, *supra* note 34, at 3–4.; Gubernskaya, *supra* note 64, at 422–23. Even American-born children of mixed-status families—who are themselves United States citizens—suffer from crying, fear, and depression when one parent is deported. See William Wan, *Racism Has Devastating Effects on Children’s Health, Pediatricians Warn*, WASH. POST (Aug. 2, 2019), https://www.washingtonpost.com/health/racism-has-devastating-effects-on-childrens-health-pediatricians-warn/2019/08/02/ce5fc96a-b313-11e9-8f6c-7828e68cb15f_story.html?utm_term=.f66c26edb463.

⁸² Wood, *supra* note 34, at 4; Gubernskaya, *supra* note 64, at 421–23 (describing generalized anti-immigrant and anti-Hispanic sentiment); Richard Delgado & Jean Stefancic, *Images of the Outsider in American Law and Culture: Can Free Expression Remedy Systemic Social Ills?*, 77 CORNELL L. REV. 1258, 1263 (1992).

⁸³ See Dan Gordon, *Discrimination Can Be Harmful to Your Mental Health*, UCLA NEWSROOM (Jan. 13, 2016), <http://newsroom.ucla.edu/stories/discrimination-can-be-harmful-to-your-mental-health>; Richard Delgado, *Words That Wound: A Tort Action for Racial Insults, Epithets, and Name-Calling*, 17 HARV. C.L.-C.R. L. REV. 133 (1982) (discussing the harms, including loneliness and isolation, of being victimized by discrimination and hate speech); see also Wood, *supra* note 34, at 3–4; see also Gubernskaya, *supra* note 64, at 421–23.

⁸⁴ See AUSTRALIAN ATT’Y GEN., BRINGING THEM HOME: REPORT OF THE NATIONAL INQUIRY INTO THE SEPARATION OF ABORIGINAL AND TORRES STRAIT ISLANDER (1995), https://www.humanrights.gov.au/sites/default/files/content/pdf/social_justice/bringing_them_home_report.pdf [hereinafter BRINGING THEM HOME].

culture and suffered a high rate of depression, alcoholism, and social anomie.⁸⁵ Aboriginal girls were especially targeted, with many government officials believing that successful assimilation hinged on curbing indigenous reproduction.⁸⁶

This policy had been in effect from the early days of European colonization but became increasingly common in response to the increase in mixed-race Australians in the late nineteenth century.⁸⁷ Without intervention, the government feared, these children would identify more with their Aboriginal roots than their European ones.⁸⁸ This, in turn, would prevent their effective assimilation into white society, hampering workforce development and ballooning government welfare rolls.⁸⁹

To address this concern, both the federal and many local governments began turning to forcible child removal. The removed children would be placed far away from their communities of origin, minimizing the chances that they might escape back to their families or re-discover their heritage later in life.⁹⁰ Most experts believed the ideal age for separation was between birth and two years.⁹¹

Although this separation policy—which spanned many generations—was pursued under the guise of humanitarian concern for Aboriginal children born into impoverished families, its effects were traumatic. Most children bounced from one institution or family to another, often under wretched conditions.⁹² Many received little schooling, and many, especially the girls, suffered sexual abuse.⁹³ Instead of assimilating into white Australian society as the government intended, most children

⁸⁵ *Id.* at 178, 191.

⁸⁶ *Id.* at 40.

⁸⁷ *Id.* at 79.

⁸⁸ *Id.* at 24–25.

⁸⁹ *Id.*

⁹⁰ RABBIT PROOF FENCE (Phillip Noyce 2002) (recounting the story of two young sisters and a cousin who escaped on foot from the settlement camp to which governmental authorities had sent them for retraining).

⁹¹ BRINGING THEM HOME, *supra* note 84 (noting that “‘experts’ disagreed whether children should be removed at birth or at about two.”).

⁹² *Id.*

⁹³ *See id.*

grew up developing dueling identities and struggling to reconcile their dark skin with the ways they had been taught to hate it.⁹⁴

The families of these children, too, suffered. Some parents, after losing their children, turned to drugs and alcohol, lost work, and were incarcerated.⁹⁵ Many were unable to pass along land under the Aboriginal Land Rights Act or Native Title Act.⁹⁶ As a result, the government frequently asserted title over this land.⁹⁷

Today, indigenous Australians fare worse than their white counterparts in nearly every dimension of social well-being.⁹⁸ According to one study, children living in households with members of the Stolen Generation are more likely than even other indigenous children to live in poverty, attend school irregularly, and have problems sleeping.⁹⁹ Many indigenous advocates and their allies continue to pursue reparations measures to partially address the material disadvantages that those Australians continue to face, largely as a result of the child separation policy.¹⁰⁰ As the Australian government itself now acknowledges, the policy was an act of oppression whose consequences stretch to the present day and include effects that are intergenerational.¹⁰¹ The New Zealand government has recently been arriving at the same conclusion about its own practices.¹⁰²

2. Canada. Canada's experience with child removal and separation was just as unpromising. For nearly a hundred years, the country followed a policy of removing

⁹⁴ See *supra* notes 71–74 and accompanying text (describing the consequences as severe and citing multiple surveys).

⁹⁵ See *Mabo v Queensland [No. 2]* (1992) 175 CLR 1 (Austl.) (rejecting doctrine of *terra nullius* under which courts approved the taking of indigenous lands).

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ See AUSTRALIA INSTITUTE OF HEALTH AND WELFARE, NO. 214, CHILDREN LIVING IN HOUSEHOLDS WITH MEMBERS OF THE STOLEN GENERATIONS 9 (2019), <https://www.aihw.gov.au/getmedia/a364d8f1-eeee-43c3-b91e-0fb31ebecf30/AIHW214-Children-and-Stolen-Generation.pdf.aspx?inline=true>.

⁹⁹ *Id.*

¹⁰⁰ Ali MC, 'It Never Ends': Trauma of Australia's 'Stolen' Children, AL JAZEERA (Feb. 12, 2019), <https://www.aljazeera.com/news/2019/02/ends-trauma-australia-stolen-children-190212225935207.html>.

¹⁰¹ See Silburn, *supra* note 80, at 14 (finding emotional damage and increased risk of alcoholism, gambling, and criminal arrests).

¹⁰² See Ian Hyslop, *Racial Uplift Practice Cause for Alarm*, U. OF AUCKLAND (May 10, 2019), <https://www.auckland.ac.nz/en/news/2019/05/10/racist-uplift-practice-cause-alarm.html> (noting the same practice in New Zealand's history).

children from their families and placing them in institutions known as residential schools, run by churches through government partnerships, with a view to assimilating indigenous children into white Canadian society.¹⁰³ Unlike the Australian model, however, these kidnappings were not limited to Canadians of mixed race, but rather targeted all indigenous people, mixed or not.¹⁰⁴

The schools were intentionally situated far from the indigenous communities from which the children had been taken.¹⁰⁵ As in Australia, the government wanted to minimize the risk of children escaping or finding their family members later in life.¹⁰⁶ Conditions in the schools were primitive.¹⁰⁷ The residential schools taught indigenous children to abandon their culture, and most of them punished children caught using their native language.¹⁰⁸

Between the 1890s and 1970s, over 100,000 indigenous children were removed from their homes and placed in residential schools. Many doubled as labor camps, with children spending half the day performing chores such as milking cows. In many cases, children who had spent a decade in the schools were still unable to read or write.¹⁰⁹

One scholar who has researched the experiences of these stolen children estimates that most were physically or sexually abused.¹¹⁰ Other experts have posited that many of the socioeconomic ills that plague the Canadian indigenous community

¹⁰³ See Julie Cassidy, *The Stolen Generations—Canada and Australia: The Legacy of Assimilation*, 11 DEAKIN L. REV. 131, 140–42 (2006) (discussing the effects of child relocation and cooperation between churches and government).

¹⁰⁴ *Id.* at 134–35; see also Gordon Lynch, *Children Have Been Separated from Their Families for Generations—Why Trump’s Policy Was Different*, CONVERSATION (June 21, 2018, 6:04 AM), <https://theconversation.com/children-have-been-separated-from-their-families-for-generations-why-trumps-policy-was-different-98587> (describing the “Bryce Report” which showed that Canada’s program led to a mortality rate of indigenous children from tuberculosis alone of twenty-four percent. The schools nevertheless received wide support for their “missionary” objective and, despite the damning report, were expanded and did not undergo serious modification until the 1960s).

¹⁰⁵ See Cassidy, *supra* note 103, at 141.

¹⁰⁶ *Id.* (noting that the location made escape and return to origin difficult).

¹⁰⁷ *Id.* at 142–43.

¹⁰⁸ *Id.* at 143.

¹⁰⁹ *Id.*

¹¹⁰ *Id.* at 140–43.

can be traced to this policy.¹¹¹ The complete lack of parenting these children received created a psychosocial crisis severing not only cultural ties but also knowledge of parenting skills and traditions.¹¹²

The Canadian government eventually recognized the residential school policy as a form of “cultural genocide,” issued a formal apology,¹¹³ and established a settlement fund.¹¹⁴

3. The United States. Lest one think that the latest chapter of official child-snatching was this country’s only episode; the United States in fact has a history of abducting American Indian children from their families and placing them in distant boarding schools.¹¹⁵ In 1819, Congress passed the Civilization Fund Act, whose stated goal was to infuse “good moral character” and vocational skills into the nation’s Indian population.¹¹⁶ Ostensibly, the boarding schools were intended only for families who voluntarily allowed their children to enroll. In practice, through police seizures and other coercive measures, government officials often forced Indian parents into handing over their children.¹¹⁷

As with their Australian and Canadian counterparts, conditions in these boarding schools were inferior. The quality of education was low, malnourishment

¹¹¹ See *The Justice System and Aboriginal People*, ABORIGINAL JUST. IMPLEMENTATION COMM’N, <http://www.ajic.mb.ca/volume1/chapter13.html> (last visited Nov. 9, 2019).

¹¹² *Id.*

¹¹³ Sean Fine, *Chief Justice Says Canada Attempted Cultural Genocide on Aboriginals*, GLOBE & MAIL, <https://www.theglobeandmail.com/news/national/chief-justice-says-canada-attempted-cultural-genocide-on-aboriginals/article24688854/> (last updated May 15, 2018); Justin Ling, *Canada Reckons With Genocide: A Damning New Report on the Deaths of Indigenous Women Highlights Post-Colonial Nations’ Failures*, FOREIGN POL’Y (June 24, 2019), https://foreignpolicy.com/2019/06/24/canada-reckons-with-genocide-inquiry-missing-murdered-indigenous-women-girls/?wpisrc=nl_todayworld&wpmm=1.

¹¹⁴ See *Canada Will Pay Compensation to Thousands of Stolen Indigenous Children*, THE GUARDIAN (Oct. 6, 2017), <https://www.theguardian.com/world/2017/oct/06/decades-after-government-seizure-of-children-indigenous-canadians-will-receive-compensation>.

¹¹⁵ Charla Bear, *American Indian Boarding Schools Haunt Many*, NPR (May 12, 2008), <https://www.npr.org/templates/story/story.php?storyId=16516865> (describing a century-long policy of official child removals).

¹¹⁶ Civilization Fund Act, ch. 85, 3 Stat. 516 (1819).

¹¹⁷ See Bear, *supra* note 115 (describing child-removal through force and coercion).

high, and abuse rampant.¹¹⁸ Indian children were punished for using their given names, native languages, or practicing their religion or culture.¹¹⁹

After a generation of experience, the “Meriam Report” published in 1928 found that children who attended the boarding schools were “malnourished, overworked, harshly punished, and poorly educated.”¹²⁰ A later report condemned the experiment altogether and lambasted Indian boarding schools for failing to meet the educational needs of Indian children.¹²¹

The Indian debacle did not mark the first or only time when the United States separated children from their parents. Before Congress passed the Indian Child Welfare Act (ICWA), child welfare authorities had allowed many white families to adopt Indian children, many of whom experienced stress and alienation as a result.¹²² And before Emancipation, the South frequently sold child slaves separately from their parents; it was more profitable that way¹²³ and almost impossible to reverse once separation occurred.¹²⁴ During the early years of the twentieth century, poor

¹¹⁸ INST. FOR GOV'T RES., MERIAM REPORT: THE PROBLEM OF INDIAN ADMINISTRATION 11–14 (1928) [hereinafter MERIAM REPORT].

¹¹⁹ Mary Annette Pember, *Death by Civilization*, ATLANTIC (Mar. 8, 2019), <https://www.theatlantic.com/education/archive/2019/03/traumatic-legacy-indian-boarding-schools/584293/> (discussing the missionary zeal of the teachers and administrators). Their given names would, of course, have been Indian ones such as EchoHawk or WindRider. On schools' practice of punishing cultural practices such as wearing long hair or other measures “created to destroy and vilify Native culture, language, family, and spirituality,” see *id.*

¹²⁰ Bear, *supra* note 115; see also MERIAM REPORT, *supra* note 118, at 11–13.

¹²¹ See Bear, *supra* note 115.

¹²² Indian Child Welfare Act of 1978, 25 U.S.C. §§ 1901–1963 (2018) (erecting barriers to adoption of Indian children by non-Indian families). For memoirs of adoptees, see generally TRACE A. DEMEYER-HENTZ & PATRICIA COTTER-BUSBEE, LOST CHILDREN OF THE INDIAN ADOPTION PROJECTS BOOK SERIES (Trace A. Demeyer-Hentz et al. eds., 2012–17) (including a number of stories or first-person accounts of the experiences of children adopted by white families).

¹²³ Russell Contreras, *Other Times in History When the U.S. Separated Families*, CHI. TRIB. (June 20, 2018), <http://www.chicagotribune.com/nation-world/ct-family-separation-history-20180620-story.html> (discussing breakup of black families by slave traders and owners); see also TONI MORRISON, BELOVED (1987) (describing an African American woman who killed her daughter rather than send her to slavery). On the economics of selling slaves separately versus in intact family units, see Mark Thornton et al., *Selling Slave Families Down the River*, 14 INDEP. REV. 71 (2009), https://www.jstor.org/stable/24562212?seq=1#metadata_info_tab_contents.

¹²⁴ See Barrett Holmes Pitner, *We've Had Family Separation Before—It Was Called Slavery and Jim Crow*, DAILY BEAST (June 29, 2018), <https://www.thedailybeast.com/weve-had-family-separation-before-it-was-called-slavery-and-jim-crow?ref=scroll>.

states often removed children from their parents and placed them in orphanages, using poverty as the reason for their removal.¹²⁵ Malcolm X recalled how social workers took him and his siblings from their indigent, struggling mother after their father was mysteriously murdered.¹²⁶ Deprived of her children, their mother suffered a nervous breakdown.¹²⁷

4. The Arizona Orphan Train. Readers who have come this far or who have read Linda Gordon's prizewinning work will not be surprised to learn about the "Arizona orphan train."¹²⁸ In 1904, New York nuns brought forty Irish orphans to a remote Arizona mining town, where they placed them with families of Mexican Americans, who were Catholic.¹²⁹ When the town's Anglo citizens learned about the new arrivals, they were furious and detached a vigilante squad to kidnap the children and place them in white homes, where they believed the children belonged.¹³⁰ Townspeople vilified the nuns as white slavers bent on selling innocent children to low-life savages.¹³¹

No criminal charges were ever brought, but a civil court judge approved the removals and awarded the orphans to the Anglo families.¹³² No Mexicans were allowed to testify.¹³³ An appeals court affirmed, agreeing with the lower court's placement of the orphans with "the good women of the place."¹³⁴

¹²⁵ Contreras, *supra* note 123.

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ See LINDA GORDON, *THE GREAT ARIZONA ORPHAN ABDUCTION* (1999) (discussing the episode and setting in which it occurred); see also Lynch, *supra* note 104 (noting that the trains were part of a larger United States policy of removing children from minority communities with little consideration for their welfare).

¹²⁹ Lynch, *supra* note 104 (describing the story); see also *Miracle on an Orphan Train to Arizona*, S. ARIZ. GUIDE, <https://southernarizonaguide.com/miracle-on-an-orphan-train-to-arizona-2/> (last visited Oct. 27, 2019).

¹³⁰ *Miracle on an Orphan Train to Arizona*, *supra* note 129.

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Id.*

IV. ADDRESSING THE PROBLEM

Remedies for modern atrocities like those carried out by the Trump administration fall into two groups: conventional and indigenous. Conventional remedies are likely to appeal to most readers of this Article, if only because they are more familiar. The indigenous approaches, which are open to natives and non-natives alike, are apt to be more effective, however, given the times.

A. *Conventional Remedies—How to Combat Paralysis of the Will, Sleepwalking, and Zombie Behavior in One Political Party*

The basic problem is that the Republican Party seems to have gone to sleep.¹³⁵ It ignores clear-cut constitutional violations by the President and his staff and blithely tolerates child cruelty, lying, and conspiring with our enemies to damage our democratic system.¹³⁶

What should be done? Those of a spiritual bent should join with indigenous people, countercultural folks, and children in ceremonial, ritualistic, and other forms of energizing group action like those described below.¹³⁷

Those of a more traditional bent should apply a large dose of radical democracy, including political organizing and voting.¹³⁸ Ample models exist now, particularly in the field of prison reform and abolition, including the Black Lives Matter movement and Pittsburgh's Abolitionist Law Center,¹³⁹ which carries out a broad program of action "for the purpose of abolishing class-and race-based mass incarceration in the United States."¹⁴⁰

¹³⁵ E.g., Paul Krugman, *The Zombie Style in American Politics*, N.Y. TIMES (Apr. 29, 2019), <https://www.nytimes.com/2019/04/29/opinion/republican-party-ideas.html>; Stuart Stevens, *Stopping the GOP Apocalypse*, DAILY BEAST (Mar. 8, 2016, 12:01 AM), <https://www.thedailybeast.com/stopping-the-gop-apocalypse> (positing that the Republican Party is sleepwalking at a period when it needs all its senses on alert).

¹³⁶ Krugman, *supra* note 135. Some of the following remedies might be deemed examples of Exorcism 101 for the J.D. set. (viz., lawyers, holders of the Juris Doctor degree, often abbreviated as "J.D.").

¹³⁷ See *infra* notes 146–66 and accompanying text.

¹³⁸ See Dylan Rodriguez, *Developments in the Law: Prison Abolition: Abolition as Praxis of Human Being: A Foreword*, 132 HARV. L. REV. 1575, 1605–12 (2019) (likening effective resistance to an art form creating a new way of being).

¹³⁹ ABOLITIONIST LAW CTR., <https://abolitionistlawcenter.org> (last visited Sept. 4, 2019).

¹⁴⁰ *Id.* (discussing the Center's many programs).

One may also tactfully remind lawyers and physicians who play roles in justifying child cruelty that they are subject to sanction by bar and medical licensing committees for violating international and civil law.¹⁴¹

The two types of action—conventional and folk—should end up supporting each other.¹⁴² A recent report from the Southern Poverty Law Center shows how lawsuits, organizing, and TV coverage, along with documentary films and investigative and op-ed columns, can create a public climate conducive to reform.¹⁴³ Reading, writing, and teaching about all these issues can also create a similar climate.¹⁴⁴ Readers who are unable to travel to detention centers or other sites of protest can contribute to the expenses of others who are prepared to do so.¹⁴⁵

¹⁴¹ See Kate Cronin-Furman, *The Treatment of Migrants Likely 'Meets the Definition of a Mass Atrocity'*, N.Y. TIMES (June 29, 2019), <https://www.nytimes.com/2019/06/29/opinion/immigration-children-detention.html> (“The midlevel functionaries who make the system run are not as visibly involved in the ‘dirty work,’ but . . . potential reputational consequences . . . could change their incentives. The lawyer who stood up in court to try to parse the meaning of ‘safe and sanitary’ conditions—suggesting that this requirement might not include toothbrushes and soap for the children in border patrol custody if they were there for a ‘shorter term’ stay—passed an ethics exam to be admitted to the bar. Similar to the way the American Medical Association has made it clear that its members must not participate in torture, the American Bar Association should signal that anyone who defends the border patrol’s mistreatment of children will not be considered a member in good standing of the legal profession. This will deter the participation of some, if only out of concern over their future career prospects.”).

¹⁴² For example, in Tucson, Arizona, an embattled Mexican American Studies program struggled to survive in the face of opposition in the state legislature. When expert witnesses testified that the students’ performance and grades in other classes improved markedly and a film company produced a film that aired on national public TV showing the students enthusiastically reciting Mayan poems celebrating peace and brotherhood, the tide turned, even in the courts. PRECIOUS KNOWLEDGE (2011); Maggie Astor, *Tucson’s Mexican Studies Program Was a Victim of ‘Racial Animus,’ Judge Says*, N.Y. TIMES (Aug. 23, 2017), <https://www.nytimes.com/2017/08/23/us/arizona-mexican-american-ruling.html>.

¹⁴³ S. POVERTY LAW CTR., COMBATING NATIVISM: PROTECTING THE RIGHTS OF IMMIGRANTS 12, 20, 24, 28, 32–33 (2019); see also DANIEL BLUE TYX, ANGRY TIAS: CRUELTY AND COMPASSION ON THE U.S.-MEXICAN BORDER (2019) (discussing how activists in a border community mobilized to resist inhumane border enforcement practices that included locking immigrant children up in cages); Masha Gessen, *The Unimaginable Reality of American Concentration Camps*, NEW YORKER (June 21, 2019), <https://www.newyorker.com/news/our-columnists/the-unimaginable-reality-of-american-concentration-camps>; Isaac Chotiner, *Inside a Texas Building Where the Government is Holding Immigrant Children*, NEW YORKER (June 22, 2019), <https://www.newyorker.com/news/q-and-a/inside-a-texas-building-where-the-government-is-holding-immigrant-children>.

¹⁴⁴ See, e.g., DEMEYER-HENTZ COTTER-BUSBEE, *supra* note 122 (describing a series of books on Indian child removal and adoption).

¹⁴⁵ See Editorial Board, *supra* note 30 (considering combating the government’s cruel policy by calling members of Congress, reporting raids to local hotlines, and donating to humanitarian organizations). To those, we would add: contribute to any law school clinic doing work at the border or detention centers,

B. Indigenous Remedies

Many societies have devised means to rid themselves of evil spirits. Salem developed methods to identify and cast off witches.¹⁴⁶ The early settlers believed in exorcism and the casting out of devils.¹⁴⁷ Early Western medicine taught physicians how to combat evil humors.¹⁴⁸

But some of the most elaborate measures to counter demonic possession are found in the arsenal of Native American tribes.¹⁴⁹ These measures include prayer, exhortation, singing, and dancing.¹⁵⁰ Some tribes developed elaborate ceremonies designed to return those under evil spells to their senses. For example, the Tlingit—a people native to the Pacific Northwest coast—relied on a ceremony led by a tribal shaman to repel evil spirits and protect people against witchcraft.¹⁵¹ Many Algonquin-speaking peoples would describe “windigos”: cannibalistic humanoid-spirits that possessed a desire to kill and eat their victims (and were often treated as a warning against the perils of greed and selfishness).¹⁵² Windigos could only be defeated through a Shaking Tent ceremony, in which a shaman would lead the

file writs and injunctions enforcing the terms of the *Flores* decree, and teach courses in ethnic and legal history.

¹⁴⁶ See Alexandra Alter, *Stacy Schiff's 'The Witches' Shines a Torch on Salem Witch Trials*, N.Y. TIMES (Oct. 25, 2015), <https://www.nytimes.com/2015/10/26/books/stacy-schiffs-the-witches-shines-a-torch-on-salem-trials.html>; see also Jess Blumberg, *A Brief History of the Salem Witch Trials*, SMITHSONIAN (Oct. 3, 2007), <https://www.smithsonianmag.com/history/a-brief-history-of-the-salem-witch-trials-175162489/> (describing some of the painful and coercive means used).

¹⁴⁷ Laurie Goldstein, *For Catholics, Interest in Exorcism is Revived*, N.Y. TIMES (Nov. 13, 2010), <https://www.nytimes.com/2010/11/13/us/13exorcism.html> (dating the practice to 1614).

¹⁴⁸ *Humours*, SCI. MUSEUM, <http://broughttolife.sciencemuseum.org.uk/broughttolife/techniques/humours> (discussing early medical practice); see also *Exorcisms Have Been Part of Christianity for Centuries*, THE CONVERSATION (Dec. 17, 2018), <https://theconversation.com/exorcisms-have-been-part-of-christianity-for-centuries-107932> (Demons and Protestants).

¹⁴⁹ See generally ROBERT L. HALL, AN ARCHAEOLOGY OF THE SOUL: NORTH AMERICAN INDIA BELIEF AND RITUAL (1997); U.S. OFFICE OF GOV'T PRINTING, HANDBOOK OF AMERICAN INDIANS NORTH OF MEXICO (Frederick Webb Hodge ed., 1907) (discussing indigenous attitudes and practices vis-à-vis the spirit world).

¹⁵⁰ E.g., HANDBOOK OF AMERICAN INDIANS NORTH OF MEXICO, *supra* note 149, at 192.

¹⁵¹ BARRY M. PRITZKER, A NATIVE AMERICAN ENCYCLOPEDIA 209–10 (2000).

¹⁵² Steve Pitt, *Windigo*, CAN. ENCYCLOPEDIA (Sept. 9, 2012), <https://www.thecanadianencyclopedia.ca/en/article/windigo>.

community in a series of chants, singing, and drum beating to summon the shaman's spiritual helpers and dispel the evil spirit.¹⁵³

Since polite approaches such as remonstration, op-ed commentary, and congressional resolutions have produced little change—indeed causing the Administration to dig in¹⁵⁴—large crowds should gather in front of the White House, Mar-a-Lago, Buckingham Palace, and other places where evildoers congregate, and pray loudly for their redemption.¹⁵⁵ They should dance, chant, and burn incense and sage.¹⁵⁶ Children, like those who have demonstrated en masse to combat global warming and persuade CEOs of fossil fuel and extractive industries to change their ways,¹⁵⁷ should join crowds and chant and sing for immigrant children's rights.

Even if many in the Trump administration are unlikely to be moved, lower-level workers and guards in the detention centers and line workers in Immigration and Customs Enforcement (ICE) may be sensitive people who do their jobs with a heavy heart, wishing that their work were not so cruel.¹⁵⁸ Multitudes of protesters

¹⁵³ René R. Gadacz, *Shaking Tent*, CAN. ENCYCLOPEDIA (Feb. 7, 2006), <https://www.thecanadianencyclopedia.ca/en/article/shaking-tent>.

¹⁵⁴ Indeed, both former White House Press Secretary Sarah Huckabee Sanders and former Attorney General Jeff Sessions cited the Bible in defense of the child separation policy. Sessions quoted Romans 13, urging Christians “to obey the laws of the government because God has ordained them for the purpose of order.” See Contreras, *supra* note 123.

¹⁵⁵ E.g., E.J. Dionne, *For Migrants, a Light in the Darkness*, SALT LAKE TRIB. (July 22, 2019), <https://www.sltrib.com/opinion/commentary/2019/07/22/ej-dionne-migrants-light/> (citing the example of a group of nuns and another of Jewish activists who gathered at the Capitol or immigration headquarters, the former lying down and forming a human cross); see also *supra* notes 153–54 and accompanying text (discussing the rationale for this approach).

¹⁵⁶ See *How Do You Get Rid of Evil Spirits in Native American Traditions?*, REFERENCE, <https://www.reference.com/history/rid-evil-spirits-native-american-traditions-9b953fa68904a526>; see also Gadacz, *supra* note 153.

¹⁵⁷ See Richard Delgado & Jean Stefancic, *Children's Claims for a Livable Future*, 71 ALA. L. REV. 261 (2019); see also PRECIOUS KNOWLEDGE, *supra* note 142 (illustrating how students in a Mexican American Studies class in Tucson, Arizona began classes by chanting “En Lak’ Ech,” a Mayan poem that emphasizes the unity of all beings in a world of caring and mutual dependence).

¹⁵⁸ See CANTU, *THE LINE BECOMES A RIVER: DISPATCHES FROM THE BORDER* (2019); see also Sapna Maheshwari & Emily Flitter, *As Wayfair Workers Protest Migrant Detention, the Specter of a Consumer Boycott Rises*, N.Y. TIMES (June 26, 2019), <https://www.nytimes.com/2019/06/26/business/wayfair-walkout.html>; Esteven Hernandez, *Shut Down Etowah! Alabama Fathers' Day Rally for Detained Immigrants*, LIBERATION (June 17, 2019), <https://www.liberationnews.org/shut-down-etowah-alabama-fathers-day-rally-for-detained-immigrants/> (noting that “[cries such as] ‘Thank you for everything you’re doing!’ and ‘Freedom for all!’ were heard from the inside of Etowah County Detention Center in Alabama as dozens of activists gathered outside on Father’s Day and ‘We cannot call our family. . . . They shut the phones down for two days. We need your help! . . . The food is all trash.’ Some detainees held up messages

who chant and pray for their lost souls outside the walls may reach them. Those who fear divine retribution may reconsider their line of work. Voodoo practitioners warning of what can happen may give some of them pause.

These appeals need not be spiritual, or even frontal. For example, in Chicago, a movement called “We Charge Genocide”¹⁵⁹ and a predecessor entitled #LetUsBreathe Collective occupied vacant land adjacent to a police facility where abuse had occurred and offered workshops, provided meals, and created play spaces for children.¹⁶⁰ In Los Angeles, activists occupied a similar site and issued calls to “decolonize City Hall.”¹⁶¹

In Oklahoma, a group of protesters that included many Nisei and descendants of Indians whose ancestors had been confined by the United States Army gathered outside a fence surrounding Fort Sill.¹⁶² The government plans to house 1,400 undocumented children on the base, which is the site of one of the World War II internment camps for the Japanese.¹⁶³ The protesters called the plan, which was

written on fabric and banged on the windows. The protesters chanted back in solidarity, ‘We hear you, we see you!’ and ‘Shut down Etowah!’”); see also *The Treatment of Migrants Likely Meets the Definition of Mass Atrocity*, *supra* note 141 (“[We] need to think about all the different individuals playing a role in the systematic mistreatment of migrant children and how we can get them to stop participating. We should focus most on those who have less of a personal commitment to the abusive policies that are being carried out. Testimony . . . has revealed many atrocity perpetrators think of what they’re doing as they would think of any other day job. While the leaders who order atrocities may be acting out of strongly held ideological beliefs or political survival concerns, the so-called ‘foot soldiers’ and the middle men and women are often just there for the paycheck. This lack of personal investment means that these participants in atrocities can be much more susceptible to pressure than national leaders. Specifically, they are sensitive to social pressure, which has been shown to have played a huge role in atrocity commission and resistance in the Holocaust, Rwanda and elsewhere. The campaign to stop the abuses at the border should exploit this sensitivity and put social pressure on those involved in enforcing the Trump administration’s immigration policies.”); see also Neena Satja, “I Hate This Mission,” Says Operator of New Emergency Shelter for Children, WASH. POST (July 10, 2019), https://www.washingtonpost.com/investigations/i-hate-this-mission-says-operator-of-new-emergency-shelter-for-migrant-children/2019/07/10/5728d888-a340-11e9-b732-41a79c2551bf_story.ht ml?utm_term=.baa4995c439d.

¹⁵⁹ Rodríguez, *supra* note 138, at 1602, 1605–12 (likening effective resistance to an art form creating a new way of being).

¹⁶⁰ Allegra M. McLeod, *Envisioning Abolition Democracy*, 132 HARV. L. REV. 1613, 1613–15 (2019) (discussing a community-based program in Chicago).

¹⁶¹ Yezmin Villarreal, *Day 50, and BLM’s Los Angeles Protest Is Still Going Strong*, ADVOCATE (Aug. 31, 2016, 1:24 PM), <https://www.advocate.com/politics/2016/8/31/day-50-black-lives-matter-los-angeles> (discussing a similar program in Los Angeles).

¹⁶² See Fenwick, *supra* note 71.

¹⁶³ *Id.*

announced recently, a return to “one of the nation’s great shames” and held up signs depicting children holding hands and reproductions of World War II photos of internees.¹⁶⁴ Standing just outside a wire fence that they had festooned with bright Japanese-style cloths, they read speeches and implored the government to stop repeating history.¹⁶⁵ By carrying out their actions as close as possible to the very sites where state violence was occurring or planned, these organizations may well have succeeded in placing small daggers in the hearts of those who operated those facilities.¹⁶⁶

Meanwhile, adults and knowledge workers, like the readers of this Article, who are probably agnostic (but should not be) toward remedies like those mentioned here, should put in place conventional measures like those sketched in Section A, above, and Section C, immediately following.

C. *A Mixed Remedy*

Finally, one can draw on middle-class Mexican culture—that is, not the indigenous kind—to initiate a solution that appeals to multicultural values of broad inclusion. Bearing in mind that many believers in Mexican and Central American societies use items like rosary beads and pictures and medals of saints to ward off evil spirits,¹⁶⁷ so too might American society ward off La Llorona’s manifestation by actively embracing immigrant imagery and culture.

Rejecting the wisdom and identity that immigrants from Mexico and the Northern Triangle countries bring to the United States merely allows spirits like La Llorona (in the form of President Trump) to enter our national house and wreak havoc (i.e., steal children). Instead, we should encourage and cloak ourselves in television shows celebrating and broadcasting immigrants, in books telling their stories, and in policies to encourage the equitable exchange of cultural ideas. These protective items will help keep La Llorona at bay.

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ See generally CANTU, *supra* note 158 (noting a border patrol officer’s ambivalence toward his job).

¹⁶⁷ See, e.g., Laura Kazlas, *The Best Protection Against Demons and Evil Spirits*, CATHOLIC MOMENT (Feb. 1, 2015), <http://www.acatholic.org/the-best-protection-against-demons-and-evil-spirits-2/>; Lisa Fortuna, *Working with Latino/a and Hispanic Patients*, AM. PSYCHIATRIC ASS’N, <https://www.psychiatry.org/psychiatrists/cultural-competency/education/best-practice-highlights/working-with-latino-patients> (last visited Oct. 4, 2019).

CONCLUSION

The practice of family separation is cruel and senseless. As we have seen, societies that conduct it always come to regret it. Folklore, developmental psychology, and history explain why this is so. When, as now, the practice is being conducted in front of our eyes, ordinary people and lawyers alike should take heed and action.

When our own elected Executive has, in effect, become a present-day Llorona, it is our obligation to let him know, in no uncertain terms, that it is time for his behavior to stop. If it does not, citizens must rise up and apply remedies of both a conventional and a folkloric sort. Detention center guards, ICE and border control agents and others who are carrying out abominable acts must immediately cease doing them and, if possible, find other work making amends to those, especially children, whom they have been treating in an inexcusable fashion.