

Statement of the Tahirih Justice Center

Submitted to the
Committee on the Judiciary of the United States House of Representatives
Hearing on
“The Protection of Children Act of 2017” (H.R. 495)
June 14, 2017

The Tahirih Justice Center (“Tahirih”) respectfully submits this statement to the United States House of Representatives, Committee on the Judiciary (the “Committee”), as it considers H.R. 495: “The Protection of Children Act of 2017” (“the Act”).

Tahirih is a national, nonpartisan organization that has assisted over 20,000 immigrant survivors of gender-based violence over the past 20 years. Our clients include young girls who have endured horrific abuses such as rape and human trafficking and are in dire need of humanitarian relief. Despite its title, “The Protection of Children Act,” seeks to amend the Trafficking Victims Protection Reauthorization Act of 2008 (the “TVPRA”) to do the opposite. The bipartisan TVPRA provides critical protections for these children, in keeping with our nation’s proud, longstanding history of providing safe haven for the most vulnerable and voiceless among us. Yet, the Act undermines both substantive and procedural measures within the TVPRA that were specifically designed to protect traumatized children. We therefore urge the Committee to reject H.R. 495.

Children fleeing violence must be fully and fairly screened for eligibility for legal relief.

H.R. 495 allows Customs and Border Protection (“CBP”) officers to screen all unaccompanied children for possible legal claims within only 48 hours of arrival. Following a perilous flight from danger, a young trafficked child will likely be disoriented, exhausted, malnourished, terrified, and in shock. Yet, to pursue protection, a child in this condition must coherently articulate her fear of return on demand to a potentially armed CBP officer. In addition to wrongful repatriation of children with legitimate claims, expedited screening in an adversarial setting also heightens the risk of re-traumatization. Screening should instead be conducted by a plain-clothes asylum officer within an appropriate timeframe, and with specialized training in relevant legal remedies and in interviewing children and trauma survivors.

Children whose lives and safety hang in the balance must have meaningful access to counsel and due process.

For our asylum and anti-trafficking laws to protect children as they were meant to, it is critical that they have legal representation. Yet, the Act will lead to many more children fending for themselves as they navigate our complex and daunting legal system. The TVPRA also recognized that specially trained asylum officers are best positioned to adjudicate children’s initial requests for asylum. The Act, however, inappropriately transfers jurisdiction over these claims to the Immigration Court. The Act further allows a mere 14 days for a child to prepare her case or secure *pro bono* counsel. A child proceeding *pro se* will likely be denied relief even if she has a very strong claim. All of these measures as proposed in the Act will impose even more inefficiencies on an

already overwhelmed Immigration Court docket, while imperiling the lives of children that our laws are intended to protect.

Prolonging Department of Homeland Security (“DHS”) custody of unaccompanied minors is unnecessary and inhumane. International guidelines unequivocally indicate that prolonged immigration detention is inappropriate for all children, especially those who have endured sexual violence or human trafficking. In contrast to the TVPRA, H.R. 495 permits DHS to detain a child for 30 days prior to transferring her to the Office of Refugee Resettlement. Tahirih is deeply concerned about the re-traumatization that children will likely suffer during their time in such a restrictive setting. Detention will effectively eliminate a child’s access to acutely needed mental health and other services, as well as community support. An unaccompanied child in detention will have minimal access to due process, raising the likelihood of expedited repatriation.

Guardians of unaccompanied minors should not be forced into removal proceedings. As described above, unaccompanied child survivors of horrific violence require intensive support as they pursue humanitarian protection. Reunification with a trusted guardian is often a child’s only means of accessing social and legal services while her case is pending. The Act, however, puts a family member or guardian who wishes to come forward to support a child in an impossible position – either care for the child, or risk deportation for doing so. Punishing guardians undermines family unity and is detrimental to a child’s well-being. Deterring family reunification in this manner also causes the government to expend additional resources for a child unnecessarily.

Children who are abused by one parent should remain eligible for Special Immigrant Juvenile Status (“SIJS”). A child who is abused by *one or both* parents currently may petition for SIJS when a U.S. state court finds that it is not in the child’s best interest to return to her home country. By contrast, H.R. 495 bars protection for a child who suffers abuse at the hands of *only one* parent. This puts a child whose non-abusive parent resides in the U.S., and whose abusive parent resides in her home country, at significant risk of return to the abusive home from which she fled. The child’s only other option may be life on the street. SIJS is already a narrowly defined remedy that prohibits any parent from securing immigration status through a child beneficiary of SIJS. This provision is unconscionable and current SIJS protections that prioritize children’s well-being and best interests should remain in effect.

H.R. 495 purports to improve efficiency in processing arriving children who are *not* in need of safe haven. However, the procedural hurdles it imposes will dramatically dilute the substance of our asylum and anti-trafficking laws. Rather than “protecting” children, and it will prevent those with legitimate claims from pursuing them. Efficiency should not – and *need* not - come at the expense of human rights. Our longstanding humanitarian laws directly reflect our nation’s core values, and we must remain a proud champion of the most vulnerable instead of sending them back into harm’s way.

We appreciate the opportunity to offer this statement in opposition to the Act.



Archi Pyati
Director of Policy and Programs
archip@tahirih.org