

STUDENT WRITING

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— HARVARD —

CIVIL RIGHTS - CIVIL LIBERTIES



LAW REVIEW

EST. — 1966

Introductions

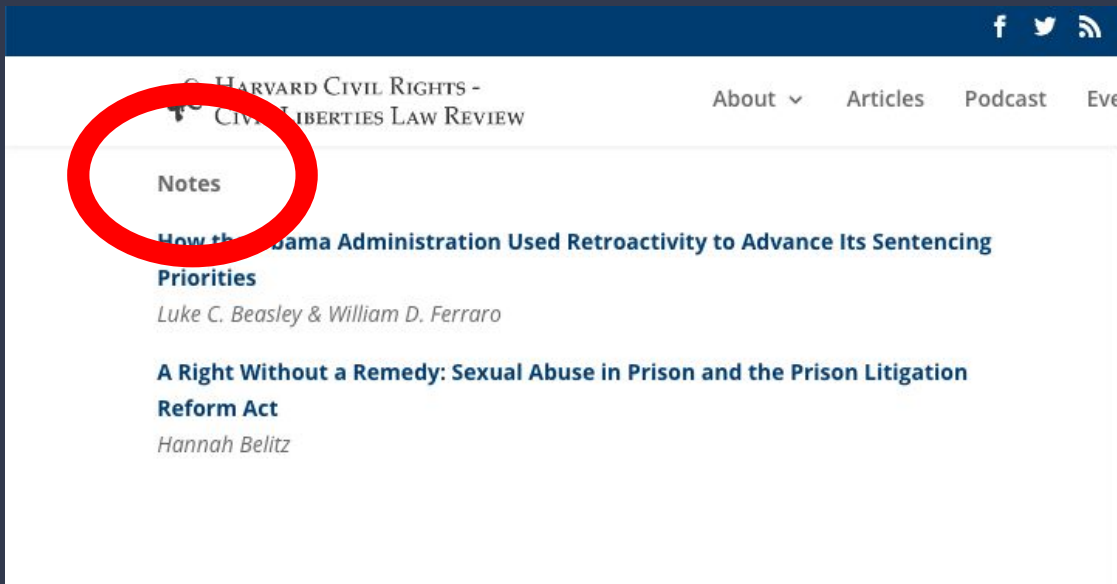
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WHY SHOULD I SUBMIT?

- Share your ideas with the world!
- Improve your writing
- Develop a writing sample
- Build your resume
- Why not?

WHAT SHOULD I WRITE ABOUT?



- We are looking for novel contributions to progressive scholarship
- Consider our journal's national readership
- Check out past student writing on our website:

harvardcrcl.org/articles

Past topics include sentencing reform, prisoners' rights, disability rights, debt, sex discrimination, etc.

WHAT DO I SUBMIT?

- Your paper (need not be finished)
- Cover letter (~2-4 pages)
 - A half-page abstract with a thesis and counterarguments
 - Names of professors you are working with
 - If applicable, comments from those professors
 - List of the main sources you will rely on
 - A preemption check
 - List of pre-existing articles on Lexis and Westlaw
 - What does your paper add to the existing literature?
 - If your paper is not yet finished, an expected due date of a final draft

EXAMPLE COVER LETTER

|| COMMENT |

A CONSTITUTIONAL RIGHT TO APPOINTED COUNSEL FOR IMMIGRANT CHILDREN FACING DEPORTATION

COVER LETTER | HARVARD CIVIL RIGHTS-CIVIL LIBERTIES LAW REVIEW

Dear Harvard CRCL,

This piece was authored in response to CRCL's call for student submissions. It argues that immigrant children facing removal hearings have a constitutional right, under the Fifth Amendment's Due Process Clause, to court-appointed counsel. It develops this argument through the prism of the very recent Ninth Circuit case of *C.J.L.G. v. Sessions*, in which the unanimous panel decided that there was no such right.

This piece is a first, rough draft (with no feedback incorporated yet) and can be developed or shortened based on your needs. It can potentially be expanded into a Note or Article or shortened into a briefer Comment. If this piece is accepted, I would be willing to put immediate effort into this so that it can be published as soon as is feasible, given that discussion about the case is still fresh.

See below for: I) faculty members assisting with this piece; II) a bibliography; and III) a preemption check. Thanks for the opportunity to have this piece considered!

I. FACULTY MEMBERS ASSISTING WITH THIS PIECE

I only recently completed the first draft of this piece, so I have not yet been able to incorporate any faculty or practitioner feedback. That said, however, I have been communicating with each of the following individuals and look forward to working with them as I revise and develop this piece. I have experience working as a Research Assistant for three of the individuals listed here, and each of them but one has provided edits on a piece I worked on earlier this year:

A. Professors

- Professor Andrew Crespo
- Professor Alex Whiting
- Dean Martha Minow

B. Practitioners

- Judge Nancy Gertner (Ret.)
- Professor Sabi Ardalan

In addition, I eventually hope to reach out to Abhijan Arulanatham, legal director at the ACLU of Southern California and the individual who argued *C.J.L.G. v. Sessions*, for his feedback and firsthand insight.

EXAMPLE COVER LETTER

II. BIBLIOGRAPHY

A. Articles

- Adriana Beltrán, *Children and Families Fleeing Violence in Central America*, WOLA (Feb. 21, 2017), <https://www.wola.org/analysis/people-leaving-central-americas-northern-triangle/>.
- Nicole Eubanks, *How the Trump Administration is Rewriting the Rules for Unaccompanied Minors*, PBS (Feb. 13, 2018), <https://www.pbs.org/wgbh/frontline/article/how-the-trump-administration-is-rewriting-the-rules-for-unaccompanied-minors/>.
- Elizabeth Glazer, *The Right to Appointed Counsel in Asylum Proceedings*, 85 COLUM. L. REV. 1157, 1157 (1985).
- Benjamin Good, *A Child's Right to Counsel in Removal Proceedings*, 10 STAN. J.C.R. & C.L. 109, 129–32 (2014).
- Tim Henderson, *After Post-Trump Decline, More Central American Children Arriving at U.S. Border*, PEW CHARITABLE TRUSTS (Jan. 30, 2018), <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2018/01/30/after-posttrump-decline-more-central-american-children-arriving-at-us-border>.
- Kate M. Manuel, *Aliens' Right to Counsel in Removal Hearings: In Brief*, CONGRESSIONAL RESEARCH SERV. 9 (2016).
- *MS-13 Gang: The Story Behind One of the World's Most Brutal Street Gangs*, BBC NEWS (Apr. 19, 2017), <http://www.bbc.com/news/world-us-canada-39645640>.
- David Nakamura, *Number of Women, Children from Central America Illegally Crossing into U.S. Climbs in 2016*, WASH. POST (Oct. 17, 2016), https://www.washingtonpost.com/news/post-politics/wp/2016/10/17/number-of-women-children-from-central-america-illegally-crossing-into-u-s-climbs-in-2016/?utm_term=.16142e093857.
- *New Data on Unaccompanied Children in Immigration Court*, SYRACUSE UNIV. (July 15, 2014), <http://trac.syr.edu/immigration/reports/359/>.
- Note, *A Second Chance: The Right to Effective Assistance of Counsel in Immigration Removal Proceedings*, 120 HARV. L. REV. 1544, 1549 (2007).
- Ashley Ham Pong, *Humanitarian Protections and the Need for Appointed Counsel for Unaccompanied Immigrant Children Facing Deportation*, 21 WASH. & LEE J.C.R. & SOC. J. 68, 75 (2014).
- Rachel Rouben, *Here's How Hard It Is for Unaccompanied Minors to Get Asylum*, THE ATLANTIC (July 15, 2014), <https://www.theatlantic.com/politics/archive/2014/07/heres-how-hard-it-is-for-unaccompanied-minors-to-get-asylum/456267/>.
- Lewis Tandy, Note, *Reevaluating the Path to a Constitutional Right to Appointed Counsel for Unaccompanied Alien Children*, 96 TEX. L. REV. 653, (2018).
- Beth J. Werlin, *Renewing the Call: Immigrants' Right to Appointed Counsel in Deportation Hearings*, 20 B.C. THIRD WORLD L.J. 393, 405 (2000).
- Keren Zwick, *Rethink Immigration: Right to a Lawyer? The Fiction of Legal Counsel in Immigration Proceedings*, NAT'L IMMIGRANT JUST. CENT. (Mar. 22, 2013), <https://www.immigrantjustice.org/staff/blog/rethink-immigration-right-lawyer-fiction-legal-counsel-immigration-proceedings>.

B. Cases

- *C.J.L.G. v. Sessions*, 880 F.3d 1122 (9th Cir. 2018).
- *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1041 (2016).
- *Wade v. Mayo*, 334 U.S. 672, 684–84 (1984).
- *Lassiter v. Department of Social Services of Durham, North Carolina*, 452 U.S. 18 (1981).
- *Mathews v. Eldridge*, 424 U.S. 319 (1976).
- *In re Gault*, 387 U.S. 1 (1967).

EXAMPLE COVER LETTER

- *Jie Lin v. Ashcroft*, 377 F.3d 1014 (9th Cir. 2004).
- *Castro-O'Regan v. U.S. Dep't. of Immigration and Naturalization*, 847 F.2d 1307 (9th Cir. 1987)
- *In re Coaracan*, 24 I. & N. Dec. 710 (Att'y. Gen. 2009), *vacated on other grounds*, 25 I. & N. Dec. 1 (Att'y. Gen. 2009)

C. Other Sources

- Letter from Jonathan D. Ryan, Exec. Dir., Refugee Immigrant Ctr. for Educ. & Legal Servs., to President Barack Obama (July 18, 2014), <http://immigrationimpact.com/wp-content/uploads/2014/07/Letter-to-President-Obama-from-RAI-CES.pdf>

III. PREEMPTION CHECK

This piece offers two major contributions, both with distinctive elements within immigration law. First, this would be the first piece to provide an in-depth analysis of *C.J.L.G. v. Sessions*, which is a significant case in immigration law and in the lives of immigrant children facing deportation (and the Supreme Court could be granting cert on this case in the coming months). Second, this piece would be the first, to my knowledge, to provide a step-by-step Fifth Amendment argument that immigrant children as a class have the right to appointed counsel – and the component arguments themselves, within each of the three steps of the Supreme Court's due process analysis, take unique angles that will hopefully advance the case for a constitutional right (e.g., makes use of data in a different way; reconsiders the way costs are evaluated in the "government interest" analysis; uses *C.J.L.G.* as an instructive example of the importance of additional "safeguards").

Reporting of C.J.L.G. v. Sessions: This case was decided by the Ninth Circuit on January 29, 2018, so there has not been much written on it. The only pieces out there currently are brief blog posts or short discussions in national news articles. The two main contributions of this piece – detailed reporting of the case and a Fifth Amendment argument in favor of a right to appointed counsel – are not present in these brief pieces. See, e.g.:

- Madison Park, *Immigrant Children Don't Have the Right to Free Lawyers, Court Rules*, CNN (Jan. 30, 2018), <https://www.cnn.com/2018/01/30/us/minors-government-lawyers/index.html>
- Rafael Bernal, *Court Rules Children Facing Deportation Have No Right to Court-Appointed Lawyer*, THE HILL (Jan. 29, 2018), <http://thehill.com/latino/371253-court-rules-children-facing-deportation-have-no-right-to-court-appointed-lawyer>
- Debra Cassens Weiss, *9th Circuit Finds Juvenile Facing Deportation Has No Right to Free Lawyer*, ABA LEG. J. (Jan. 29, 2018), http://www.abajournal.com/news/article/9th_circuit_finds_no_right_to_free_lawyer_for_juvenile_facing_deportation/

Constitutional Argument: There has been minimal general scholarly work on the Fifth Amendment argument that children facing deportation have a constitutional right to appointed counsel. Even compared to these few pieces, however, this piece contains three main differences: 1) none of the works provide any information about *C.J.L.G. v. Sessions*, which is the key theme of this piece; 2) correspondingly, none of the pieces account for the legal developments in *C.J.L.G.* or recent circuit court opinions within its line of cases; 3) none of the pieces focus specifically on the Fifth Amendment right to counsel for immigrant children facing removal (e.g., one is broader and related to removal hearings generally; one is only focused on unaccompanied minors); and 4) more specifically, this piece makes unique procedural due process arguments within the three prongs of

HOW LONG/COMPLETE ARE STUDENT SUBMISSIONS?

- It depends!
- Everything from 10-page outline to an 80-page, fully cited paper
- Send us what you have
- A [small] warning about outlines

HOW ARE ARTICLES CHOSEN?

- You submit your submission to the Google form on the CR-CL [website](#).
- Take your name and any identifying information off your submission
- The Student Writing Team (8 of your peers) reviews submissions, chooses ~5-8 to forward to the board
- Article Selection Board reads those 5-8, votes on ~2 to publish

WHEN DO I SUBMIT?

- Submit by March 8, 2023
- Must submit completed draft by April 5
- Spend summer break editing

FAQ

- Can I submit my paper for consideration to you and another journal?
 - YES
- Should I submit?
 - YES
- Is there a website with this information?
 - YES! Go to <https://journals.law.harvard.edu/crcl/submit/>
- Other questions?

WHO CAN I CONTACT WITH QUESTIONS?

- Please email crcl.submissions@mail.law.harvard.edu with any questions that arise.