

Pomona College

From the Selected Works of Lanna Sanchez

Spring April 26, 2019

The Stability Paradox of Special Immigrant Juvenile Status Backlogs: Unstable Policy Implementation for a Stability-Aimed Visa

Lanna S. Sanchez, *Pomona College*



Available at: <https://works.bepress.com/lanna-sanchez/2/>

**The Stability Paradox of
Special Immigrant Juvenile Status Backlogs:
Unstable Policy Implementation for a Stability-Aimed Visa**

Lanna Seline Sanchez

Pomona College
Claremont, California
April 26, 2019



Presented to:

Gilda Ochoa
Professor of Chicana/o-Latina/o Studies at Pomona College

Arely Zimmerman
Assistant Professor of Intercollegiate Chicana/o-Latina/o Studies

Submitted in partial fulfillment of the requirements for a Bachelor of Arts degree
with a major in Sociology/Public Policy Analysis

Acknowledgments

This thesis would not have been possible without the care and support given to me by my friends and loved ones. Thank you all for believing in me and for listening to me speak endlessly about my topic for the past year.

Thank you, my wonderful research participants, for generously sharing your time with me and for speaking so candidly about your experiences navigating state courts, immigration courts, and USCIS policies. You and your clients are the driving force behind my research and this thesis would be incomplete without you all. You have all inspired me to pursue a career in which I hope to represent SIJS applicants in the future.

Thank you, Professor Gilda Ochoa, for your true commitment to supporting students of marginalized backgrounds and for teaching me how to conduct qualitative research from a feminist perspective. I appreciate every single moment you dedicated towards my education, both inside and outside of the classroom, for the past three years. Thank you also for creating a supportive community amongst your thesis advisees so that I did not feel alone throughout this process.

Thank you, Professor Arely Zimmerman, for advising my research and for pointing me towards incredible sources pertaining to my research topic. I appreciate your support for my own personal success and for the overall care that you kindly grant to students at the Claremont Colleges.

Thank you, Alejandra Davila, for being my peer-reviewer for this thesis. You inspired me to dig deeper into my analysis of the unjust U.S. immigration system and to incorporate long-term strategies of liberation into my work.

Finally, thank you to the countless mentors and supervisors that continually form my ever-growing interest in supporting low-income people of color through the realm of non-profit law. You truly inspire me to pursue a career in this field, uncover the shortcomings of the nation's court systems, and find viable solutions to help marginalized individuals.

CHAPTER 1. INTRODUCTION	4
MY RESEARCH INSPIRATION	7
RESEARCH AREAS	11
CHAPTER 2. LITERATURE REVIEW	14
U.S.-BACKED CIVIL WARS AND THE DIASPORA OF CENTROAMERICANOS	14
SPECIAL IMMIGRANT JUVENILE STATUS POLICY	17
UNSTABLE IMPLEMENTATION FOR A STABILITY-AIMED VISA	19
CHAPTER 3. RESEARCH METHODS	23
INTERVIEWS	23
COURT OBSERVATIONS	32
CHAPTER 4. JUDGES' DEMEANORS AND INTERACTIONS WITH SIJS PETITIONERS	41
BELIEVING SURVIVORS OF TRAUMA	41
JUDGES' INTERACTIONS WITH YOUNG SIJS APPLICANTS	44
ENCOUNTERING NON-SIJS-FRIENDLY JUDGES	46
FILING IN CALIFORNIA VERSUS OTHER STATES	52
CHAPTER 5. SIJS BACKLOGS AND THE VISA RETROGRESSION	55
THE BACKLOG'S EFFECTS ON THE LIVES OF YOUTH	56
THE BACKLOG'S EFFECTS ON THE WORK OF ATTORNEYS	61
THE ROOTS OF THE BACKLOG AND THE OBAMA ADMINISTRATION	67
CHAPTER 6. FUTURE DIRECTIONS	71
TO REFORM OR TRANSFORM THE IMMIGRATION SYSTEM?	72
UNTIL THE SYSTEM'S TRANSFORMATION: HARM REDUCTION	74
WHAT CAN BE DONE WITHIN THE STATE COURT SYSTEM?	77
CONCLUDING REMARKS	80
WORKS CITED	83
APPENDICES	88

Chapter 1. Introduction

Meet Romain, a 23-year-old undergraduate student from the Democratic Republic of Congo living in New York City. In April of 2018, Liz Robbins wrote a *New York Times* article describing Romain’s lengthy battle with U.S. federal immigration policy while petitioning for a green card via Special Immigrant Juvenile Status (SIJS). In “A Rule is Changed for Young Immigrants, and Green Card Hopes Fade,” Robbins illustrates how Romain lived under the custody of his uncle in Burkina Faso from the age of 4 until 18 after his parents were both murdered in his home country of Congo.¹ At the young age of 18, Romain’s uncle sent him to the United States to study— where Romain was able to obtain a student visa— and abandoned him. Romain found himself living in a homeless shelter and lacked any funds to support himself, fund his tuition, or even pay for housing. In 2015, Romain filed for SIJS in a Brooklyn court and was granted the necessary predicate order stating that he met the qualifications to be considered a Special Immigrant Juvenile. Romain’s SIJS petition to the federal government got denied due to complications resulting from his uncle’s incorrect filing of his student visa, so Romain appealed the denial and eventually was able to have his paperwork re-adjudicated.

Last winter, however, Romain’s application with the United States Citizenship and Immigration Services (USCIS) was denied again due to the fact that he filed over the age of 18— although current immigration policy states that any unmarried migrant under the age of 21 may apply for SIJS. Romain’s pro-bono attorney filed an appeal on his behalf, and they are still awaiting final approval by USCIS. The confusion between whether or not Romain could truly apply for SIJS after the age of 18 may stem from a recent change in interpretation of policy regarding the age at which a family, juvenile, or dependency court no longer can claim

¹ Robbins, Liz. “A Rule Is Changed for Young Immigrants, and Green Card Hopes Fade.” *The New York Times*, April 26, 2018, sec. New York.

jurisdiction over a litigant. Presently, USCIS argues that state courts “lack the authority to make decisions about the care and custody of individuals over age 18”² and thus cannot “declare parental reunification unviable”³ for the purposes of granting Romain’s SIJS eligibility. Yet, how could reunification with Romain’s uncle be viable when the testimony provided in court clearly demonstrated that he abandoned Romain? USCIS policy dictates that state court orders determine what is in the best interest of the child, but what happens in the lives of youth when SIJS policy is not followed the way that policymakers intended?

Romain’s story illustrates the frustration that SIJS applicants currently experience while navigating between the state court system and filing for SIJS with USCIS. By publishing Romain’s experience in the New York Times, author Liz Robbins allowed for the public to see inside a flawed process that is typically only known to professionals working in the realm of immigration law and their clients affected by the failures of policy implementation. Unlike the Deferred Action for Childhood Arrivals (DACA) program that is not a viable pathway to permanent residency within the United States, youth who have experienced familial trauma can petition for Special Immigrant Juvenile Status and eventually obtain U.S. citizenship—yet, many immigrant advocates within my collegiate community are not as knowledgeable of Special Immigrant Juvenile Status as they are of DACA. In this thesis, I strive to educate readers about the process of receiving permanent residency through SIJS and the complications that petitioners may experience while applying.

Although I included Romain’s struggles as a national of Congo to illustrate some current complications of filing a SIJS petition, I will focus my research on the difficulties that Central American youth migrants have faced after USCIS placed a backlog on all green cards from El

² Rose, Austin. “For Vulnerable Immigrant Children, A Longstanding Path to Protection Narrows.” July 24, 2018.

³ Rose, Austin. *ibid.*

Salvador, Honduras, and Guatemala. Applicants from these three nations must await an additional two to three years to receive permanent residency—on top of the delays already experienced by applicants from non-backlogged countries, like Romain. His experience clearly describes how difficult it can be for SIJS applicants to obtain clear predicate orders from a state court that allow them to be eligible for a visa by receiving Special Immigrant Juvenile Status. This process becomes even more challenging for Honduran, Guatemalan, and Salvadoran youth, who often are forced to revisit insufficient predicate orders *years after* they are granted by state courts if USCIS requests their attorney for more evidence regarding the applicant’s stated circumstances— which ultimately can delay the process of receiving a green card that should be obtained in 180 days to a total waiting time of five to six years.

I aim to research whether the increasingly difficult path to obtaining permanent residency through a Special Immigrant Juvenile Status petition is a result of a change in federal administrations— between former President Obama’s covert mechanisms of marginalization and deportation of Central Americans⁴ to the overtly anti-immigrant rhetoric stemming from Trump— or if SIJS backlogs are an inevitable phenomenon resulting from U.S. imperialism in Central America throughout the 20th century. I ground my research on pre-existing literature that explains the legal processes of obtaining permanent residency through a SIJS petition and include scholars’ criticisms of the interpretation of the policy by state and federal courts. To exemplify the complications that youth face while petitioning for SIJ status, I also incorporate the perceptions and experiences of several attorneys who have represented SIJS applicants and my own interpretations of how judges treat SIJS applicants courtrooms throughout Los Angeles County.

⁴ Irwin, Richard. “President Obama Ramps Up Family Separations.” *National Immigration Law Center* (blog), May 12, 2016.

My Research Inspiration

The weekend following Donald Trump's election as president in November 2016, I viewed many individuals on my college campus, in my hometown of Chicago, and within Los Angeles County march in protest of the election. As a part of his presidential campaign, one of Trump's signature issues that he sought to tackle was immigration and specifically stated that he would build a wall between the United States and Mexico to reduce the number of undocumented migrants entering the country. Trump specifically target immigrants from Central America by claiming that those who arrive from this region are supposedly all members of the MS-13 gang in disguise who aim to wreak havoc within the United States upon their arrival.⁵ This discriminatory rhetoric was announced publically in Trump's many political speeches within his election campaign, which caused an influx of anti-immigrant sentiments amongst many of his supporters. A dramatic increase in hate crimes inflicted by white nationalists who were inspired by Trump occurred throughout the United States as a result of Trump's blatant prejudice. The two weeks following the 2016 election, hate crimes affecting Black, Jewish, LGBTQ+, Muslim, and Latinx communities spiked— with anti-Latinx hate crimes being the most frequently occurring out of all marginalized groups.⁶

Many protestors of Trump that I saw denounced this damaging, racially charged rhetoric by holding signs promoting the need to support immigrant communities with thoughtful messages such as “immigrants are welcome here” and “no human being is illegal.” While such statements alluded to the need to protect immigrant communities throughout the upcoming four years, I could not help but wonder: were these protestors also opposed to the fact that Obama

⁵ Watkins, Ali, and Meridith Kohut. “MS-13, Trump and America's Stake in El Salvador's Gang War.” *The New York Times*, December 10, 2018, sec. U.S.

⁶ Madani, Doha. “U.S. Hate Crimes Spiked around the 2018 Midterms, Report Says.” NBC News. Accessed April 20, 2019.

deported 1.5 million immigrants during his first term alone,⁷ or were Trump's openly anti-immigrant speeches the very first circumstance of anti-Central American rhetoric that these protestors witnessed? Throughout this thesis, I aim to analyze how the disparagement of Central American immigrants did not simply begin with Trump's election—contrasting the opinions of liberal-minded individuals who may believe that the Obama administration was the most immigrant-friendly to exist because of their introduction of DACA (a policy that allows undocumented youth to obtain work permits and defer removal proceedings for two years) and the Deferred Action for Parents of Americans (DAPA) program (a policy created to protect parents of U.S. citizens and permanent residents from deportation that did Congress did not pass.)

My interest in researching the way that Central American SIJS petitioners and their attorneys are affected by visa backlogs and changing policy also stems from my prior experience working with SIJS applicants. Throughout Summer 2017, I worked as a social work intern at a non-profit law firm that defends children in crisis in New York Superior Court and New York Supreme Court. The organization where I interned represents children in a range of cases—including abuse, neglect, high crisis parental divorces, parental domestic violence, foster care, and immigration cases. Rather than having an adult decide what the best interest for a child would be in a crisis situation, New York state law⁸ dictates that children have the right to decide *on their own* what would be the best decision for their own life—including in SIJS proceedings. Thus, this organization uses a hybrid model of defending their clients by assigning one lawyer and one social worker per client to guarantee that a child's desires are voiced at their

⁷ Gonzales, Alfonso. *Reform Without Justice: Latino Migrant Politics and the Homeland Security State*. Oxford University Press, 2014.

⁸ Appellate Division - Second Judicial Department. "Attorneys for Children Program." Accessed April 19, 2019. <http://www.courts.state.ny.us/courts/ad2/AttorneyforChildHome.shtml>.

trial. This team ensures that youth who have endured trauma have someone to listen to their lived experiences, develop a plan towards their ultimate legal goal, and advocate for them inside and outside of the courtroom.

As a social work intern, I worked under the wing of a senior staff social worker whose main role was to listen to clients' lived experiences and voice their desires to the attorney that represents them in the courtroom. Since my supervisor was a Spanish speaker, a majority of the clients she aided were Spanish speaking, unaccompanied minors from Central America facing immigration battles while living in a foster home. Most of these youth migrated to the United States unaccompanied with hopes to reunite with distant relatives but were detained at the border and struggled to obtain court orders to reunite with them. As a result, many of our clients applied for Special Immigrant Juvenile Status simultaneously with their guardianship cases.

My supervisor and I interviewed these clients regarding the circumstances driving them to immigrate to the United States and investigated if they ever suffered from abuse, neglect, or abandonment from their parents in their home countries. Our goal of the interview was always to relay whatever information was shared to us with their attorney so that they could address the child's circumstances in the New York Superior Court and advocate for their desires. If it was determined in a court order that the child was either abused, neglected, or abandoned by a parent and that it was not in the best interest for them to return to their home country, the client could then petition for SIJ status with USCIS. At that point, our organization could no longer represent the client because the organization does not represent children in federal immigration proceedings. We would refer our clients to another non-profit law firm that represents children in New York City throughout their immigration cases. Even though these clients were no longer represented by the organization, our social workers would still maintain a supportive role in their

life in terms of advocating for their needs in foster care or with their guardian and would follow up on their immigration cases with the clients after their hearings.

My experience interviewing clients for their trials at New York Superior Court introduced me to the difficult court procedures of filing for a SIJS petition. I was able to attend my clients' court trials (which mainly occurred in judges' private chambers) in which I learned the terminology and typical questions asked by family court and guardianship court judges. I witnessed the overpowering emotions of fear, nervousness, and stress felt by our young clients in our interviews and noticed how these feelings especially intensified in front of judges. I began to develop a stronger understanding of how frustrating applying for SIJ status truly can be for youth—even for those who are represented by an attorney. Many of our clients struggled to understand why their court procedures spanned years when they were asking for immediate protection through a visa aimed towards providing them a sense of stability.

Before explaining the details of my study, I find it necessary to explain my own positionality as it influences the way that I interpret the language of SIJS policy, observe court cases, interact with interview participants, and view their clients' situations. Throughout the research process, I attempted to be mindful of my positionality as a lighter-skinned, cisgender, Latinx woman of color as possible. However, I am consistently navigating my position within the insider/outsider binary when performing qualitative research and living my daily life. I am the daughter of a Mexican immigrant father and a fourth generation Eastern European/Jewish mother. I hold U.S. citizenship that I obtained by simply being born in this country. Although almost the entirety of my father's side of my family lives in Mexico, I was not raised in a Spanish-speaking household. The bulk of my Spanish education came from high school and college Spanish courses, which culminated with my studies abroad in La Habana, Cuba during

my junior year of college. I phenotypically fit in within my father's family; however, my upbringing aligned closer with my mother's family than my father's. I have never been a party of a case in any court, nor have I ever retained an attorney. I was raised in a lower-income household, but I attend an elite liberal arts college on an almost-full financial aid package. My positionality provides an abundance of privileges that SIJS applicants will never be afforded—whether their cases are successful or not.

Research Areas

Since my internship occurred during the beginning months of the Trump presidency, I could not help but wonder whether it would become more difficult for youth to obtain a green card via Special Immigrant Juvenile Status throughout the upcoming years of the Trump administration. I often wondered if the duration of this process was as long during the Obama administration, or if proceedings then spanned the same amount of time in prior years. Seeing the immediate need of SIJS applicants to establish a secure living environment, my experience inspired me to critically analyze the underlying issues causing the visa backlogs and understand how attorneys believe the delay affects their clients.

The experiences at my summer internship led me to question the following: Has the interpretation of SIJS policy changed throughout the past couple of years by the state and federal court systems? Has receiving legal permanent residency via a Special Immigrant Juvenile Status visa become more challenging for Central American immigrant youth seeking solace during the era of Trump than it has been in the past 27 years since the development of SIJS policy? Are the court proceedings of Central American SIJS applicants in particular affected at all by the anti-immigrant rhetoric and tendencies of the Trump administration?

To date, there are no published academic studies that I know of that specifically seek to address the above issues in terms of Special Immigrant Juvenile Status petitions. In this study, I aspire to begin a scholarly analysis of these topics. My thesis initiates with an investigation of the current literature regarding Central American migration to the United States, the creation of SIJS policy, and the wavering interpretation of the language of SIJS in both federal and state courts. Based on the information that I discovered in scholarly articles and news sources, I conducted eight in-depth interviews with non-profit, pro-bono, and private practice attorneys who have represented Central American SIJS applicants in both state courts, federal immigration proceedings, and while filing USCIS petitions. The aggregation of these interviews provides insight into my overarching research questions and informs the suggestions I provide in my conclusion. Such information is helpful for those who work to support SIJS applicants to understand because several strategies for advocating for youth are uncovered.

As my research contains an evaluation of the current SIJS policy, I also include a section suggesting policy changes. This section is of the utmost importance for policymakers and judges to read since they are essentially the only group who would be able to adapt the enforcement and interpretation of current policy to support immigrant youth. These findings suggest both long-term ultimate goals for the liberation of all immigrants and short-term solutions that would make the SIJS petition process and the court systems run more smoothly for young applicants. By implementing the changes that my research suggests, youth would hopefully experience a more efficient, less frustrating experience navigating court systems and USCIS procedures. My suggestions may also lead towards potential scholarly and legal research in the future regarding SIJS implementation and could inspire other policy analysts who carry more political clout to create additional suggestions for change that may be seen by policymakers.

In the current era in which the disparagement of Central American immigrants, who flee violence implemented by U.S. imperialism, has become blatant and frequent, it is critical that the court systems and USCIS work to provide the safety that their policies claim to bring to youth. It is important for SIJS youth who have experienced familial trauma to receive court custody or guardianship orders in a timely manner so that they can quickly gain a sense of stability within their living situation. It is also imperative that SIJS petitions are adjudicated speedily so that vulnerable youth are able to receive permanent residency faster and do not have to live in a state of limbo in a time period in which blatant discrimination branching from the Trump administration incites violence towards immigrant communities.

Chapter 2. Literature Review

As of May 2016, the U.S. State Department officially declared a priority date for all green cards for applicants from El Salvador, Guatemala, and Honduras that capped the number of visas granted to individuals from these three countries to just 10,000 per year.⁹ This inherently created a two to three-year backlog for SIJS applicants from these countries as well, meaning that SIJS petitioners will remain undocumented for periods of up to six years until their petition is adjudicated by USCIS and their priority date arrives. In order to understand the necessity of protecting Central American immigrant youth via granting legal permanent residency, I will first analyze the driving forces and motives behind migration from this region. In doing so, I will uncover the imperialist historical legacy of the United States in Central America and determine that the impact such neoliberal international policy of the United States still remains one of the root causes of migration from Central America. Next, I will explore the development of SIJS policies as a strategy to protect immigrant youth who experienced abuse, neglect, abandonment, or endangerment and the impact that this visa has on the lives of recipients. Existing literature illustrates the court system and USCIS's failure to interpret and implement SIJS policy in such a way that the stability aimed through the SIJS visa is unattainable during the time allotted for adjudication.

U.S.-Backed Civil Wars and the Diaspora of Centroamericanos

It is impossible to understand the depth of this particular backlog without analyzing how U.S. imperialism has continually disparaged Central American immigrants in their home countries and then caused U.S. immigration policy to further marginalize members of the diaspora who resort to migrating to the U.S. for survival. The current state of limbo resulting

⁹ Catholic Legal Immigration Network. "Surge in SIJS Approvals Creates Backlog at Adjustment Stage | CLINIC," April 12, 2018.

from the uncertainty of legal permanent residency is not an anomaly for Central American migrants. For the past forty years, “the U.S. state has alternatively tried to deport, protect, and ignore them”¹⁰ via discriminatory visa policies that aim to protect the image of the United States through the façade of being an immigrant-friendly nation, but in truth incorporates cherry-picking immigration policies that favor immigrants whose reasons to migrate align with neoliberal U.S. foreign policy.

For the past century, the U.S. militarily intervened in the civil wars of El Salvador, Honduras, and Guatemala by supporting right-wing regimes and training counterinsurgency death squads—who recruited children as young as 12 years old—to fight those who resist U.S. imperialism. As explained by Robert Courtney Smith in *Latino Incorporation in the United States*, the migration patterns of Central Americans through the last forty years do not just reflect the necessity of seeking refuge from a war-torn area; instead, “it was a flight from systematic terror”¹¹ that is a result of counterinsurgency programs that “aimed at definitively breaking up the logistic base, social support, and the possible sympathy of the civilian population.”¹² The societal and psychological remnants of civil wars that took taken hundreds of thousands of lives, caused dramatic income inequality throughout the region, and incited violence through the legacies of U.S. imperialism all led to the diaspora of 6.2 million centroamericanos living in the U.S. in the year 2015.¹³

Even after finding refuge in the U.S. by escaping a nation devastated by war, many centroamericanos still endure the enhanced trauma of being undocumented in a country whose

¹⁰ Smith, Robert Courtney. “Latino Incorporation in the United States in Local and Transnational Contexts.” *Latinas/os in the United States: Changing the Face of América*, 2008.

¹¹ Smith, Robert Courtney. *Ibid.*

¹² Torres-Rivas, Eldelberto. “Report on the Condition of Central American Refugees and Migrants Hemispheric Migration Project.” Center for Immigration Policy and Refugee Assistance, Georgetown University. 1985.

¹³ Batalova, Jeanne, and Jie Zong. “Central American Immigrants in the United States.” migrationpolicy.org, April 4, 2017.

contemporary politics aim to purge all individuals not born in the U.S. from its society. Current scholarship on the largest group of centroamericanos living in the United States, Salvadoreños, does a thorough job at explaining that since the Salvadoran Civil War of the 1980s, millions of Salvadoreños have fled their homeland without proper documentation status as the only foreseeable method of literal survival. Smith explains that although the unlivable conditions of El Salvador in the 1980s should have been enough to qualify the Salvadoreño population as a class of refugees, doing so would be contradictory to the U.S.'s Cold War platform to “liberate” countries from communism— as it was the United States, a capitalist nation, that caused the absolute terror against Salvadoreños.¹⁴ As explained by a Salvadoran migrant in a case study conducted by Maria Cristina Garcia, migrants were not given any opportunities to apply for asylum or refugee status in the U.S. because “to accept [them] as refugees... would be admitting that the military aid it sends to El Salvador does not help, rather destroys and creates refugees.”¹⁵

It would not be until 1992, when direct U.S. military intervention in El Salvador concluded, that the U.S. created a Temporary Protected Status (TPS) visa for Salvadoreños to relocate to the U.S. until their country could recover. USCIS also granted TPS to Hondureños in the year 1999 as an asylum program for individuals affected by the devastating Hurricane Mitch¹⁶; yet, no asylum was granted to those affected by U.S. intervention and neoliberal agendas of the Reagan Era. However, the TPS program does not provide a viable path to citizenship and is constantly facing potential shut-downs since the program’s recipients are viewed as temporary members of United States society who can pick up their entire lives and leave the country immediately. Despite the selective program, Central American refugees—

¹⁴ Smith, Robert Courtney. *Ibid.*

¹⁵ Garcia, Maria Cristina. “Seeking Refuge: Central American Migration to Mexico, the United States, and Canada.” *Berkeley: University of California Press.* 2006.

¹⁶ Catholic Legal Immigration Network. “Temporary Protected Status for Honduras | CLINIC,” 2018.

many of whom are under the age of 18— continue to migrate to the U.S. on a daily basis to escape the traumatic legacy of the civil wars that destroyed the social structures, stability, and economic opportunity of their nations.

Upon arriving in the United States, Central American youth may file for asylum or Special Immigrant Juvenile Status with the hope of obtaining permanent residency within the United States. However, applying for asylum can be difficult for Central Americans because the process requires individuals to prove that they *personally* live in violence (or fear violence) based on previous individual experiences— which leaves very little room for applicants to explain that their country’s general conditions have been damaged because of violence incited by the United States. Only 23% of Salvadoran asylum applicants, 21% of Honduran applicants, and 18% of Guatemalan applicants were granted asylum within the year 2018.¹⁷ With so few immigrants actually receiving asylum status within the past year, youth who may be SIJS eligible may choose to pursue that route to obtain a green card. Unfortunately, the process of filing for SIJS is heavily delayed by both an inefficient speed of adjudication of SIJS petitions by USCIS and the two to three-year backlog that delays SIJS petitioners from receiving their green card. In the following sections, I will discuss the development of SIJS policy and explain some limitations of filing for permanent residency via SIJS.

Special Immigrant Juvenile Status Policy

In order to determine whether the current federal administration is shifting the interpretation of SIJS policy to avoid granting immigrant youth green cards, I must first illustrate the initial formation of the policy. To allow vulnerable undocumented youth who live in foster care and have experienced childhood trauma to live without fear of deportation in the United

¹⁷ Transactional Records Access Clearinghouse (Syracuse University). “Asylum Decisions and Denials Jump in 2018,” November 29, 2018.

States, USCIS created the Special Immigrant Juvenile Status category in the year 1990. Scholar Angie Junck provides background information about the creation of the SIJS petition in the article *Special Immigrant Juvenile Status: Relief for Neglected, Abused, and Abandoned Undocumented Children*. She argues that this pathway to residency was designed “in response to the inability of unaccompanied children to petition for immigration legal status without their parents under the family-sponsored immigration framework.”¹⁸ Prior to the creation of this visa, minors could not apply for legal permanent residency without parental approval or familial ties to a U.S. citizen. To apply, a litigant must be under the age of 21 and remain unmarried throughout the duration of their proceedings. They must obtain an order from a juvenile court judge stating that the court:

declared the child a dependent of the court, placed the child under the custody of a state agency or department, or granted custody of the child to an individual or entity because the child cannot be reunified with one or both parents; found that reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis found under state law; and determined that return to the child’s or parent’s country of nationality or country of last habitual residence is not in the child’s best interest.¹⁹

If all of the prerequisites above are listed by a state court judge in a predicate order, the litigant is eligible to file an I-360 petition (Petition for Amerasian, Widow(er), or Special Immigrant) with USCIS²⁰. Once the I-360 is approved, a litigant will apply for permanent legal residency when they are eligible to do so based on their visa priority date.²¹

Immigration Law professor Veronica T. Thronson illustrates some limitations of obtaining SIJ status in her article “The Impact of Special Immigrant Juvenile Status.” She explains that youth who are granted a green card through SIJS can never petition for a visa for

¹⁸ Junck, Angie. “Special Immigrant Juvenile Status: Relief for Neglected, Abused, and Abandoned Undocumented Children” *Juvenile and Family Court Journal* 63. (2012): 48-62.

¹⁹ Junck, Angie. *Ibid.*

²⁰ See Appendix 1 for an image of the I-360 petition’s specific questions for SIJS applicants.

²¹ See Appendix 2 for a helpful diagram explaining the SIJS application process.

their parents or siblings if they one day become a U.S. citizen.²² Even if the youth only testifies to the abuse they endured from just one parent, the other non-abusive parent can never qualify for a familial visa from the SIJS recipient. For youth who know that they may one day want to sponsor their parents for a green card in the U.S., Thronson suggests that they apply for a T-Visa (for victims of human trafficking) or a U-Visa (for victims of a serious crime who assist law enforcement to penalize the perpetrator).²³ Obtaining a green card from SIJS instead of a T-Visa or U-Visa may also prohibit individuals from receiving public assistance, such as Medicaid. Although it is a lengthy process, these other two visa types do allow individuals to apply for familial-based visas for immediate family members. Understanding the limitations of the SIJS policy is important for SIJS applicants to know prior to applying for their visa so that they can plan for the future and prepare plans to aid family members who may have experienced similar traumas.

Unstable Implementation for a Stability-Aimed Visa

A small but growing body of literature illustrates the logistical failures of SIJS implementation on both the state and federal level. In *Most in Need But Least Served*, scholars Baum, Kamhi, and Russell illustrate how the immigrant youth detention center complex obstructs undocumented minors from the ability to petition for Special Immigrant Juvenile Status. Every year since 2005, roughly 7,000-9,000 unaccompanied undocumented migrants enter the United States and are referred to the Office of Refugee Resettlement (ORR) to be released to an approved sponsor, returned to their home country (via deportation), or transferred to an adult federal detention center once they reach 18 years of age.²⁴ Until one of those three

²² Thronson, Veronica T. "The Impact of Special Immigrant Juvenile Status on Access to Protection of Unaccompanied Child Migrants in the United States." *Research Handbook on Child Migration*, August 31, 2018.

²³ Thronson, Veronica T. *Ibid.*

²⁴ Vera Institute of Justice. "Unaccompanied Children in the United States: A Literature Review 9," 2008.

situations occurs, such youth are held in federal or private detention centers that serve to essentially incarcerate minors and separate them from mainstream U.S. society.²⁵ Not only are these youth kept in dismal, prison-like conditions— in which young migrants are locked into cages and barely receive a foam mattress to sleep on, a foil-looking blanket for warmth, or potato chips for sustenance²⁶— but they are also withheld from any sources of justice available to non-incarcerated undocumented youth.

Although many of these migrants may have experienced trauma that could make them SIJS eligible, lacking access to the state court system prohibits youth from obtaining a court order that can “certify that a particular child is in fact at risk of abuse, neglect, or abandonment from repatriation.”²⁷ Baum, Kahmi, and Russell explain how youth cannot even exit a detention center on their own without an adult sponsor who can claim guardianship over the child. Undocumented, SIJS-qualifying youth with no sponsor essentially have two options: either to age out of the minors detention center at age 18, transfer to an adult detention center, and hope that their state will allow them to file for SIJS as a non-minor; or to self-deport, meaning that the child willingly decides to return to their country of origin (and their initial trauma sources) instead of remaining detained in the U.S.²⁸ These bleak options could potentially retraumatize the child both physically and psychologically. Both of these two options demonstrate the failure of SIJS policy in the sense that neither serves to protect a minor who is facing abuse, neglect, or abandonment in their home country.

²⁵ Baum, Jennifer, Kamhi, Alison, and Russell, C. Mario. “Most in Need But Least Served: Legal and Practical Barriers to Special Immigrant Juvenile Status for Federally Detained Minors.” *Family Court Review* 50, no. 4 (October 2012): 621–28.

²⁶ Arnold, Amanda. “What to Know About the Detention Centers for Immigrant Children.” *The Cut*, June 21, 2018.

²⁷ Baum, Jennifer, Kamhi, Alison, and Russell, C. Mario. *Ibid.*

²⁸ Baum, Jennifer, Kamhi, Alison, and Russell, C. Mario. *Ibid.*

While the intent behind establishing the SIJS visa category was to provide a sense of stability to undocumented youth who cannot be reunified with their parents, the wavering interpretation of federal immigration policy by state courts has resulted in the unpredictable implementation of SIJS protocol. Many litigants whose lived experiences seem to qualify for SIJS have their petitions initially rejected by juvenile court judges. In *Disparate Outcomes*, Mandelbaum and Steglich illustrate how a “lack of clear and precise statement as to the role of state court judges in the SIJS process”²⁹ within USCIS policy places young SIJS-eligible litigants in jeopardy. State judges are unaware of the extent of the jurisdiction they have over SIJS proceedings, since on a surface level they appear to belong within the realm of an immigration court, although a state judge must first declare that a child has been abused, neglected, and/or abandoned before the case is brought to USCIS.

They also explain how the outcome of immigrant youths’ cases varies based on where, when, and how the state discovers the child’s status. For example, if it is brought to the attention of a child welfare agency that a young migrant unaccompanied, a state court proceeding will be triggered immediately since the child will be considered a ward of the state.³⁰ Meanwhile, an undocumented migrant who arrived in the country alone but lives comfortably with a relative in the U.S. may never trigger the state court system’s involvement. Although this child’s experiences may be SIJS-eligible, they still cannot apply for a SIJS visa without any court involvement regarding guardianship.³¹ The scholars argue that a more clear, uniform path must be made for youth to obtain access to the visa’s prerequisite court proceedings.

²⁹ Mandelbaum, Randi and Steglich, Elissa. “Disparate Outcomes: The Quest For Uniform Treatment Of Immigrant Children.” *Family Court Review* 50, no. 4 (October 2012): 606–20.

³⁰ Mandelbaum, Randi and Steglich, Elissa. *Ibid.*

³¹ Mandelbaum, Randi and Steglich, Elissa. *Ibid.*

The scholars also provide potential solutions to implement on the state legislative level to bridge the gaps within the policy's vague language. They argue that altering family law codes to clarify the role of state courts in SIJS petitions, permitting youth to file their own SIJS petitions without the involvement of child welfare agencies, and expanding definitions of the term "a child in need" as used by state policy could create a more predictable implementation of SIJS policy.³² This will then give youth better access to obtain a SIJS-eligible status by a state court to file for legal permanent residency with USCIS.

A comprehensive understanding of why youth from the Global South are migrating to the United States that does not solely place the blame on parental abuse, neglect, or abandonment as the sole cause of immigration must be incorporated into future revisions of SIJS policy. Further research must be done on how Central American SIJS petitioners specifically are driven to migrate to the United States because of U.S. imperialism's destruction of their communities and familial structures. It is not enough for USCIS to say that such youth are escaping parental abuse, neglect, or abandonment when they migrate to the U.S.; SIJS policy must incorporate the fact that U.S. involvement in the Global South has created such poor conditions and outcomes for youth that migration, often unaccompanied and undocumented, is the only way to escape these disparities. In this thesis, I hope to address such issues and inspire policymakers to listen to difficulties that attorneys have encountered when dealing with the shortcomings of SIJS policy. The next chapter will discuss the research methodology that I incorporated within this study to announce some of the contemporary issues relating to SIJS policy with hopes of inspiring policy change.

³² Mandelbaum, Randi and Steglich, Elissa. *Ibid.*

Chapter 3. Research Methods

My ultimate goal of performing my thesis research is to investigate how SIJS applicants and their attorneys are affected by three year long backlogs, how SIJS applicants are treated within the L.A. County court system, and uncover the underlying causes of USCIS's delayed adjudication. Along with reading current literature regarding Central American migration, the process to file for SIJS, and some difficulties experienced by SIJS applicants, I use methods of qualitative research to discover more about the process of applying for SIJS within Los Angeles County. Throughout the course of my research, I conducted eight interviews with attorneys who have represented SIJS applicants in Los Angeles County— seven of which were done over the phone and one of which was done in person. In addition to interviewing attorneys who have represented SIJS petitioners, I observed five public trials in which attorneys represented immigrant youth throughout several courts in L.A. County. I observed two trials at Immigration Court in Downtown L.A., two Probate Court trials at the Stanley Mosk Superior Courthouse in Downtown L.A., and one trial at the L.A. County Superior Court located in Pomona, CA. Using a process of triangulation, I grounded my court observations and my conversations with attorneys with the literature I investigated. I aimed to understand the causes and effects of SIJS backlogs and how SIJS applicants are treated in court holistically by learning from several different sources.

Interviews

Initially, I hoped to speak with every interview participant in person and conduct my interviews face-to-face. This plan was based on feminist interview strategies that I learned in a Qualitative Research Methods course (taught by Professor Gilda Ochoa) that aims to create a more conversation-like feel when conducting an interview, rather than setting a formal tone in which participants may feel less comfortable sharing difficult topics in a research-based setting.

However, some participants informed me that their busy work schedules left little time to conduct interviews in person and that they would prefer speaking to me over a phone call. Knowing that many of my participants work in the busy non-profit realm of law, I did not want to increase the volume of their labor by speaking to them in their workplace setting or during their lunch breaks. In addition, attorneys' work schedules change on a daily basis which makes scheduling an in-person interview a bit complicated. Some days they have trials in courthouses ranging all throughout Los Angeles County, other days they speak to clients in their offices, and other days consist of a combination of the latter two. With these factors in mind, I decided early on in my research that I would give attorneys the option to either participate in interviews over the phone or meet in person at a time that is most convenient for all participants.

I interviewed eight attorneys who have recently defended young litigants in SIJS hearings to research whether or not there have been any changes in the interpretation of SIJS policy in the court system or with USCIS that make it more difficult for Central American youth to obtain the preliminary steps towards legal permanent residency through this visa. The majority of the attorneys that I interviewed began practicing immigration or family law in the state of California throughout the past ten years. A couple of my participants noted that they were inspired to work in their field because of the blatant injustices affecting immigrant populations within the past decade. Each interview, on average, lasted around 30-45 minutes, with the exception of my interview with one participant, Xochitl, that lasted almost one hour and a half.

Our conversations were friendly but mostly professional, in the sense that my participants and I primarily discussed their experiences in court trials and with SIJS policy.³³ Knowing how busy my participants are, we spent more of our time discussing the work that they do to defend immigrant youth than getting to know one another. I did not learn much about most of my

³³ See Appendix 3 to view the full interview guide I used while speaking with my participants.

participants' personal or educational backgrounds or their journeys to becoming a lawyer. Given the research questions that I asked, we mostly discussed how their clients are affected by SIJS backlogs, what attorneys can do to help their vulnerable clients as they await permanent residency, and why they believe the backlogs are occurring. I did not ask my participants whether or not they had a personal connection with Special Immigrant Juvenile Status or any information regarding their own personal or familial experiences with the immigration system.

Speaking to attorneys who represent youth in both state court and in immigration proceedings was pertinent to my research because the critical first step to obtaining SIJ status is to have a state court judge declare that the litigant is a minor who is no longer able to reside with (at least) one parent due to abuse, neglect, or abandonment. After doing so, such youth may petition for a SIJS visa through USCIS. Throughout this entire process, youth may also have pending removal hearings in immigration court. Attorneys are knowledgeable of some significant details of their clients lives that pertain to their case and are trained to portray such information to a judge in a way that can best support their cases. My goal of talking to such professionals was to discover how my participants perceive the courtroom atmosphere in the counties that they practice in and learn more about the overall outcomes of their cases.

I believe that interviewing attorneys who represent SIJS applicants was more appropriate for my study than interviewing the actual SIJS visa recipients for several reasons. First, interviewing SIJS visa recipients may force youth to recall and discuss traumatic experiences that they may no longer want to remember. As SIJS visas are only granted to youth who have endured abuse, neglect, and abandonment, I do not believe that I have the sensitivity training nor the therapeutic capacity to discuss such sensitive topics with this highly vulnerable population. I truly could not contribute anything beneficial in terms of reciprocity to SIJS visa recipients by

interviewing them, as I cannot provide them with the therapy, social work assistance, or legal resources that retraumatizing them may require.

Second, attorneys who have represented SIJS petitioners are already well-versed in what they have heard about the lived experiences of their clients. To represent their clients in court, the attorneys that I interviewed have been made knowledgeable of some of the life trauma and courtroom frustrations that immigrant youth may have endured. Yet, their understanding of youth trauma is indeed limited to what their clients have discussed with them; they still may not be aware of the full picture of what their clients have endured throughout their entire lives. While an attorney cannot discuss any matters with me that are held confidential by attorney-client privilege, they can surely discuss the information that was shared in their clients' public trials in our interviews.

Third, lawyers can provide more insight into the potential changes in the interpretation of formal SIJS policy than their clients can. While a SIJS recipient may have directly or personally experienced the obstacles of the potentially changing interpretation of immigration policies throughout their application experience, attorneys have a formal education on law and policy as a part of their professional training. In other words, attorneys who represent SIJS petitioners are experts on this specific field of law, have most-likely defended several clients in similar situations in the past, and may be able to analyze any breaches of courtroom protocol on a grand scale. They can account for any changes in the interpretation that they have seen throughout their careers, which can certainly provide crucial information for my thesis research.

My past coursework has provided me with a methodology of how to collect stories and experiences from lawyers who have represented youth in SIJS proceedings. My coursework in Qualitative Research Methods proved especially useful to my research because the course

informed me of how to conduct ethical interviews with research participants that focus on granting them reciprocity for the knowledge they share within our interview. In this course, Professor Gilda Ochoa addressed the damaging colonial legacy of racially biased sociological and anthropological studies on people of color and strived to incorporate intersectional feminist research methods into our course so that students can use research to foster justice for marginalized communities. My professor emphasized that culturally competent qualitative research studies must highlight the voices and stories of the research participants—*not* the authoritative voice of the researcher who claims to know more about the community that they research than the members of the community themselves. We were trained on how to conduct interviews as activist-scholars with open-ended questions so that our research did not perpetuate any biases we may have believed prior to conducting research. In doing so, our research findings would serve as a way to give voice to communities who are typically ignored. Researchers then can use their political and academic clout to announce any issues faced by their participants to the stakeholders and decision-makers who can potentially resolve such problems. Thus, my role as a researcher shifts from the idealistic expert who *determines* what issues are faced by a marginalized community to a spokesperson who vocalizes issues for the hegemonically voiceless. My research aims to incorporate the experiences that attorneys have encountered while advocating for their clients so that I can vocalize the issues faced by SIJS petitioners at large and, hopefully, better imagine possibilities for change both inside a courtroom setting and within their communities.

The one in-person interview that I conducted was with Jennifer.³⁴ I met Jennifer at a discussion panel held near my college campus on the topic of women in law. We initially met at a networking event before the panel in which Jennifer informed me that she is a non-profit

³⁴ All participants' true names have been changed to a pseudonym to maintain confidentiality

immigration attorney and that she represents youth in SIJS hearings. She gave me her contact information and I emailed her a few days after the panel, asking her if she would like to be involved in my study as a research participant, mentioning that we could either meet in person or have a phone conversation. She informed me that she would be near my area a few times within the month and offered to meet with me then to participate in my interview. We met at a café for the interview soon after.

The second interview that I conducted was with Sam. I met Sam through Xena, one of my supervisors at a non-profit where I intern. Upon mentioning my thesis topic to Xena, she mentioned that I should speak with Sam since he represented a client in SIJS proceedings. Unlike the majority of my other research participants, Sam does not typically work on SIJS case; he works for a corporation that connected him to do pro-bono immigration work with a local organization. With this in mind, Xena put me in contact with Sam via email and we set up an interview for shortly after. Sam mentioned to me that he is fairly busy, so a phone interview would be the best way to communicate.

Elizabeth is an immigration attorney in private practice who represents many Central American throughout their court proceedings. I met Elizabeth at the same discussion panel where I met Jennifer, in which Elizabeth spoke about how her activism to support the rights of the Central American community inspired her to become a lawyer. After the panel, I spoke to Elizabeth briefly about being a participant in my study. She gave me a business card and I contacted her soon after our encounter via email. Sending the same email that I sent to Jennifer, Elizabeth and I set up a phone interview for the following week.

After our interview, Elizabeth provided me with contact information for a family law attorney in private practice, Katana, who often does the SIJS predicate orders for Elizabeth's

cases in state courts. Katana and I communicated via email to schedule our interview. She kindly offered to conduct our interview at her office; however, the office is located in an area that would have required me to drive about an hour and a half each way. I chose to speak with Katana over the phone out of personal convenience and an understanding that my previous phone interviews were successful despite the lack of face-to-face conversation.

My first research participant, Jennifer, referred me to a friend of hers, Michelle, and predicted that she would have an interesting perspective on the topic of Special Immigrant Juvenile Status. Michelle is an attorney at a non-profit immigration law firm. Her work focuses on advocating for youth in immigration proceedings. She has worked with SIJS applicants for over 4 years in both state court proceedings and immigration law. Like Katana, Michelle offered to speak with me either in person or over the phone. The only times that Michelle was available were close to the times that my classes finished, so I would not have been able to arrive at her office at the available times. Michelle and I spoke over the phone.

I received the contact information for Xochitl from a peer of mine that is a member of a student organization that I belong to at Pomona College. This peer indicated that Xochitl attended a panel that they viewed in which she discussed her role as an immigration attorney. Stating that Xochitl mentioned the opportunity to shadow her at work or attend one of her hearings, I decided to contact her via email to see if she would be interested in participating in my research. Giving her the option to speak either over the phone or in person, we held our interview over the phone. Much like with Michelle, I would not have been able to arrive at Xochitl's organization at the time that she was available to speak with me due to my class schedule.

The same colleague that introduced me to Sam, Xena, invited me to a training for attorneys on the topic of Special Immigrant Youth Status and Youth Asylum cases. This training was led by Jackie, who works at an organization that both represents youth in immigration cases and mentors pro-bono attorneys who volunteer to take on cases of their own. After listening to Jackie's insight on the topic during the training, I approached her and asked if she would like to participate in my research. We exchanged contact information and arranged our interview via email, deciding to speak over the phone. I chose to speak on the phone with Jackie for our interview because I would not have been able to arrive back on time for a class had I driven to her office.

The final interview I conducted as a part of my research was with Angelica. I met Angelica at the same training where I had met Jackie. Just like Jackie, Angelica also works for a non-profit organization that represents unaccompanied minors throughout removal proceedings. After hearing her speak at the training, I spoke to her about participating in my research and exchanged contact information with her. I reached out to her through email and we spoke over the phone for our interview because I was not in the Los Angeles area in the time in which she was available.

I conducted all of my phone interviews alone in a locked, private room that no one else could access for the duration of the phone call. I spoke to all of my participants on speakerphone and assured them that no one else could hear them speak. After introducing myself and explaining my research topic more in-depth, I asked my participants if they would be comfortable with me recording our conversation so that I could easily transcribe the interview. Every participant stated that they were comfortable being recorded. To record, I turned my phone

on speakerphone mode, placed it on my desk for the duration of the phone call, and recorded the conversation using an application on my laptop.³⁵

From there, I saved each interview file into one particular folder on my computer specifically reserved for materials for this project. I used two different transcription services, Temi and Trint, to transcribe most of the files. After running the software, I re-listened to each interview and edited the words when necessary to ensure that our conversation was transcribed correctly. After doing so, I downloaded each file to a Word document and saved it in my project folder. The final transcriptions are not included in the printed copy of this paper or the digital file that I will send to my research participants and interested individuals because I told my participants that the only people who will see our transcribed interview will be the professors who will read my thesis.

I chose to use qualitative research methods over quantitative or survey methods because qualitative research allows for participants to discuss their experiences through open-ended questions. As the work that attorneys do for their clients varies on a case-by-case basis, I believe that it is impossible to truly depict their efforts, setbacks, and victories by using a multiple-choice questionnaire with limited space to respond. In addition, qualitative research does not presume an independent and dependent variable within research—meaning that qualitative researchers understand that there is more than just one societal element affecting the outcomes of their participants. I strived to eliminate any positivism³⁶ within my research by asking my participants open-ended questions and understanding that each participant's experiences vary based on the way that they are situated within interlocking systems of domination within

³⁵ I am the only individual with access to this laptop.

³⁶ I define positivism as a research framework that argues that there is only one absolute truth that can be proven and validated by researching via the scientific method. Qualitative research methods incorporate the idea that there is not one absolute truth, but rather, there are an infinite amount experiences held by participants that (when pieced together) can help researchers gain a more comprehensive understanding of the topic.

society.³⁷ In doing so, I incorporate the idea that applying for SIJS is not a homogenous process in which every petitioner is treated the same exact way as the next by government systems and that each petitioner experiences the same difficulties as others throughout the years-long process. Rather, I argue that the experiences that I discuss within this thesis are just some of the opinions of attorneys who have helped SIJS youth and that other attorneys may have entirely different opinions regarding the topics. The attorneys that I interview are experts in the field of law, but their words and opinions do not constitute an ultimate uniform truth that could be agreed upon by all participants, clients, and policymakers who have experience with SIJS.

Court Observations

As another aspect of my research, I observed several court cases throughout Los Angeles County on Fridays throughout the months of February and March. Knowing that court trials are open to the public, I decided to observe court cases as a way to discover more about how SIJS applicants are treated by judges and opposing counsel. As an observer of high-stakes trials, I feared that my presence in the courtroom could have the potential to change a litigant's future outcomes either negatively or positively. I did not want judges to know that I was a researcher of my specific topic because I wanted to see how they authentically act when trying SIJS cases without a researcher's gaze potentially changing their actions. In addition, I attempted to draw as little of attention to my presence as possible in the courtroom so that I would not make litigants feel any less comfortable than they already were before their trials. Since courtrooms are a public space, I did not announce my presence as a researcher in the courtroom to attorneys, courtroom staff, or litigants upon entering the room. I did not write any field notes inside the courtroom;

³⁷ I draw this idea from Kimberlé Crenshaw's framework of intersectionality: each person's experience differs based on the interlocking systems of domination of racism, heterosexism, gender discrimination, ageism, immigration status, etc.

(Crenshaw, Kimberle. "Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color." *Stanford Law Review* 43, no. 6 (July 1991): 1241.)

instead, I waited for all trials to finish and wrote down my observations in a small journal either in a private space or on the train commute back to my residence. I typed my field notes from my journal into a Word document, which I saved in the same folder as my interview transcriptions. I held my fieldnotes to the same standard of anonymity as my interviews and did not include any names of individuals that appeared in the courtroom.

Most courtrooms located within L.A. County, including state and federal, have a strikingly similar arrangement and appearance. The walls of the courtroom are lined with wood paneling that matches the color of the various benches, tables, and wooden fencing inside the room. Every courtroom has its own American flag and the Superior Court also flies the flag of California. Every courtroom has two aisles of benches or chairs for litigants awaiting trial, their supporters, attorneys, and observers to all take a seat. These benches face the judge, who sits on a bench raised about two feet from the ground and is equipped with a computer monitor or two to reference court documents when needed during the trial. When called to the stand, litigants pass through a wooden gate and sit on a bench facing the judge and with their backs facing everyone seated within the aisles of benches. In the Superior Court, the petitioner will sit on the left side of the aisle and the respondent will sit on the right side. In Immigration Court, the petitioner sits on the left side of the aisle and the attorney for the Department of Homeland Security (DHS) will sit on the right side of the aisle. Litigants or attorneys are not allowed to approach the judge's bench without prior permission from the judge and the court bailiff brings any paperwork that must be distributed between litigants and the judge.

The first two courtrooms that I observed as a part of my research were located in Federal Immigration Court in Downtown Los Angeles. Each time that I attended this courtroom, I sat in the very last row of benches so that my presence would not be noted as highly by litigants who

would attend trial that day. My identity as a researcher was not discovered either time until several trials occurred and the judge questioned the individuals in the room of their identity. The first time that I observed this court, I observed about five trials within a three hour period: one of which was an asylum hearing and four of which were initial removal proceedings in which litigants were advised of their rights and duties to notify the court if they move to a different location. Between the trials, one judge told the court interpreter to ask me who I was and if I had a case that day in Spanish. After the court interpreter asked me the question, I replied in English saying that I am a student at Pomona College observing court. The judge did not ask me to leave the court, but eventually he asked a litigant at his asylum hearing if he would like me to leave the courtroom. This litigant said that he was comfortable with me being there and the judge waived the litigant's right to a private trial.

When this occurred, I began to question whether or not my research was ethical. I wondered, would the litigant, the attorneys for DHS, or the judge act differently in court if there was not a known observer in the courtroom? Would this litigant's right to a private trial be waived for *all* of his future hearings pertaining to this case? What sort of effect could my presence have that day in the overall outcome of his case? After contemplating these issues on the train ride back to Claremont, I decided that I would go back to immigration court just one more time to see if the actions I observed in court would be similar to other trial dates.

I returned to immigration court one last time to observe immigration hearings the following week for about three hours. My identity as a student was again brought forth by the judge's inquiry of my identity upon doing a roll call of the courtroom. I felt generally uncomfortable this second time in court watching five self-represented litigants begin their removal proceedings. In this situation, I felt conflicted—speaking to several non-profit

attorneys gave me insight into the various organizations throughout Los Angeles County that could help these litigants, but in no way could I express this to them since communication is prohibited in the courtroom. I promised to keep my participants' identities anonymous and to not state the names of their organizations throughout their research, so telling litigants outside of the courtroom of these details would be a conflict of interest. My role in this courtroom felt highly unethical, knowing of resources and not being able to help, and extremely voyeuristic, observing litigants in a moment of despair for my research's sake. Since I never even observed a SIJS case in immigration court, I decided not to return and sought out other courtrooms to view SIJS hearings.

In my conversation with Jennifer, we discussed the various courts that I would be able to observe that handle SIJS cases. Jennifer invited me to observe an Establishment of Paternity case in Los Angeles Family Court in which a minor petitioned for their mother, the respondent to obtain legal and physical custody over them and petitioned the state for the SIJS predicate orders. Ironically, Jennifer's case was tried in a court that I have observed countless times throughout the prior nine months along with an internship with a non-profit organization. I gladly accepted Jennifer's invitation, knowing that court hearings in the Superior Court are often so filled with individuals that my presence as a researcher would not be identified to the general public nor distracting towards cases of any sort.

My presence in this particular court was not noted any differently than the previous times that I observed court through my internship; neither litigants, individuals accompanying them, court staff, or the judge questioned my identity or my presence in the room. Before entering the courtroom, Jennifer introduced me to her client and other parties to her case in Spanish, mentioning that I am a student at Pomona College studying "la visa juvenil." I was grateful for

Jennifer's introduction with her client. Since I primarily went to Family Court that day to view her case in particular and already knew some of the main factors of her case, I appreciated the fact that Jennifer allowed me to unveil my identity to the individuals whose case I would be viewing. I did not speak to Jennifer's clients about any specifics of my research, however, because I did not want them to feel pressured to act any differently in court than they may have without knowledge of my presence. After the trial, I thanked all parties of the case for allowing me to observe and wished them the best of luck in the future.

Although I wished that I could have viewed more cases similar to this one in family court, it is impossible to find out when they will occur unless I am informed of them by an attorney. All Establishment of Paternity cases are kept as private records that one cannot access unless they are a party or attorney of the case. Although there are many other cases handled in family court—including divorces, civil harassments, and domestic violence restraining orders—it is rare to find a SIJS case occurring in the courthouse nearest to me. I searched through the online case calendar for all three departments of family court in the Pomona courthouse for the month of March and not a single SIJS case appeared on the docket. Perhaps like Establishment of Paternity cases, SIJS cases are not listed on the docket as a way to protect the privacy of minors and they would actually be held throughout the entire month of March unadvertised. On the other hand, one could observe an entire month of family court cases at the Pomona courthouse without viewing a single SIJS trial. Since I could not find the answer to this dilemma, I decided to look elsewhere and observe SIJS trials in a court where they were guaranteed to occur.

When I interviewed Michelle, I asked her for any suggestions of court locations where I may observe SIJS hearings. Michelle recommended that I attend probate court, located in the

Superior Court in Downtown Los Angeles, to view non-private guardianship hearings. I followed Michelle's suggestions by looking on the website for probate court and searching for SIJS hearings through the case calendar. Since this calendar is kept public and is easily accessible online, I was able to filter through the dates that I could observe court and find out when SIJS hearings would occur. In addition, the case number for each particular case is listed online—meaning that I could easily look up the case summary and see a list of the court paperwork filed by any parties within the case and discover whether parties were represented by counsel or not. For the majority of such cases that I found online, the guardianship trials of youth were immediately followed by their SIJS trials. By observing their SIJS trial, I would essentially be viewing their guardianship trial as well.

I observed probate court twice as a part of my research for about two hours each time. To find courtrooms where SIJS cases would occur, I used the online case calendar to filter by date and browsed through the various courtrooms' dockets. It was not at all difficult to find a trial to observe online; on March 8th, for example, six probate courtrooms tried SIJS case. Since this project primarily focuses on Central American SIJS applicants, I created a list in my small observations journal of courtrooms in which a minor child with a Latinx-sounding last name would have a trial. I did not write the names of the children in the journal, however, to protect their identities in the instance that someone may look through the journal. Instead, I made a list of the departments in which such trials would occur.

When browsing for a case online to observe on March 15th, I found four different SIJS trials that would occur in probate courts in Downtown Los Angeles during the morning session. To learn the background of the cases that I could observe this day, I entered the case number for each litigant's case into the case summary search bar found on the L.A. County Superior Court

system's website. In doing so, I discovered that Jackie was the attorney on one of the cases that I planned on observing. Since I originally planned on noting my observations within my fieldnotes for this case, I asked Jackie for her consent via email to observe her case as a part of my research. She informed me that she would not be present in court that day and that another attorney would be covering her trial for her and that I could observe the courtroom since it is a public space. I attended the trial, sitting in the back row of the courtroom, but I did not disclose my status as a researcher to Jackie's colleague or client.

Approaching the courtrooms that I would observe, I tried not to remove my journal from my bag when near litigants unless I forgot the department number (which did occur once). The hallways were always filled with litigants of various ages, with the majority of individuals being people of color. Even though I was looked at by many litigants in an inquisitive manner, I did not disclose my identity as a researcher to anyone either inside or outside of the courtroom. Since probate court is a public space, I did not deem it necessary nor appropriate to mention that I would be observing several trials with the hopes of watching a SIJS case. I did not want litigants to fear my presence or change their courtroom behavior by disclosing my identity. My presence was not questioned by courtroom staff or judges. Before observing the trials, I was even sworn into testimony in a group oath with all other individuals in the room by the court clerk.

If courtrooms are typically public spaces, why do so few individuals observe court?³⁸ Why don't more individuals who claim to be advocates for immigrant communities attend trials to fully see what litigants experience when encountering systems of power? I believe that in order for allies of immigrant communities to holistically comprehend what occurs in court, they must view judges and attorneys in action. Perhaps if more allies attended court and their presence was noted, judges would be more inclined to speak with litigants in affirming, respectful tones.

³⁸ I thank my thesis reader, Gilda Ochoa, for bringing forth this question.

As SIJS trials and removal proceedings in immigration courts occurred even during the Obama administration, I wonder how many allies have observed court throughout the past decade and whether their presence was noted or affected trials in any way. Although I cannot find any existing scholarship on this specific topic, I invite my readers to investigate the topic of court observations by immigrant allies within future research.

The final component of my research methods consisted of attending a training led by Jackie and a colleague from her organization. As previously mentioned, I was invited to the meeting by my colleague at my internship who was aware of my research on Special Immigrant Juvenile Status. Those who attended the training were primarily attorneys, with the exception of a few paralegals and myself. Upon entering the room, another attorney greeted me, and I explained my role as both an intern at the non-profit and my interest in SIJS. She then introduced me to Jackie and the other speaker before the presentation. My presence as a researcher in this space was made aware to both the presenters and the individuals who planned the training, but not necessarily to everyone in the room. During the presentation, it was obvious that I took notes on the informational packet provided by the speakers much like how many other people in the room did.

In order to discover whether or not it is more difficult for Central American youth to obtain SIJ status throughout the past two years, I will use a process of triangulation to integrate my three data sources: interviews, court watching, and existing literature. I will contextualize what I witnessed during court trials by referencing the experiences of attorneys who have been active representatives of their clients in such courts. From there, I compare and contrast these experiences in court with the academic studies that I have included in my literature review. As there is a gap in academic research regarding the SIJS application process since Trump has been

elected, my own research findings may suggest potential differences or similarities between obtaining SIJ status prior to the Trump administration and in the present.

Chapter 4. Judges' Demeanors and Interactions with SIJS Petitioners

As a part of my research, I wanted to investigate how Central American SIJS applicants are treated by judges in both immigration court and state courts. In a society in which Central American immigrants are currently criminalized, disparaged, and ridiculed by political leaders, it is important to analyze whether or not this insulting rhetoric is integrated into the court systems that have the power to change the life situations of immigrant youth. I entered my research with the assumption that this rhetoric would occur within the court system, but not in an overt form. My biases prior entering into my research were that both immigration and state court judges, being representatives of the state who harness the power to further marginalize immigrant youth, would delay the process of obtaining SIJS orders by requesting more evidence pointing towards the youth's lived experiences of abuse, abandonment, or neglect. I also believed that judges would rule with prejudice against Central American youth based on the untrue stereotypes of their communities and would not be kind to them in the courtroom.

Believing Survivors of Trauma

My preconceived notions as an outsider to the court systems were essentially the polar opposite from what my interview participants experienced as attorneys representing SIJS applicants in the state and federal court system. As my research participants are attorneys— not SIJS applicants— I focus this chapter on solely attorneys' perspectives that the courtroom is generally friendly when hearing SIJS cases. Perhaps SIJS petitioners would have a different opinion of their level of comfortability within the courtroom. The majority of my research participants indicated that most judges in California, in both state and immigration courts, tend to

treat immigrant youth in a “pleasant”³⁹ manner that usually does not force young applicants to provide courtroom testimony to verify the trauma they have endured.

To explain how judges make a decision on whether or not to grant an applicant their predicate SIJS orders, Jennifer explains, “[testimony] all comes through the declarations that we’ve previously submitted, so [youth] don’t actually have to talk about it in open court.”⁴⁰ In doing so, such judges do not question the validity of the statements provided in the declaration; instead, they understand that the applicant has written their declaration under a penalty of perjury and that their word should be taken as the honest truth. SIJS applicants who appear in front of such judges are not forced to recall traumatic experiences that could potentially trigger an emotional or psychological response. Believing survivors of trauma without questioning the minute details of their experiences is one crucial step towards making the courtroom a source of solace for immigrant youth.

When I observed Jennifer’s trial in Los Angeles County Family Court, I witnessed her words come to fruition. Jennifer’s client is a Central American teenage girl who entered the family court system via her own petition that asked for her biological mother, the respondent, to gain legal and physical custody over her. Since her case was filed within the California Superior Court system, Jennifer’s client was able to petition for Special Immigrant Juvenile Status predicate orders in the same exact court, in front of the same judge, and on the same day as her custody trial. The declarations that were attached to her filed documents attested to the abandonment and neglect she experienced from her non-custodial parent. The judge said that she previously read both the petitioner’s and respondent’s declarations before entering the trial and found that reunification with the petitioner’s non-custodial parent is not viable because of neglect

³⁹ Jackie. Interview Between Jackie and Lanna Sanchez, March 5, 2019.

⁴⁰ Jennifer. Interview Between Jennifer and Lanna Sanchez, February 7, 2019.

and abandonment. From there on, the judge stated the remaining facts of the case: that it is not in the best interest of the child to return to her home country since the only parent living there would be the non-custodial parent who neglected and abandoned her and that the minor child is in jurisdiction of the court because she has lived in Los Angeles County for at least six months. The judge never required Jennifer's client to testify towards what specific forms of abandonment and neglect that she had experienced on behalf of her non-custodial parent. Instead, the judge avoided having the minor explain and validate her trauma to a very full courtroom by simply reviewing all of her paperwork beforehand in her chambers.

In family court, the participation of minors is typically considered under a case-by-case basis. To determine whether a child should be given permission to testify in court, judges must decide whether providing testimony is in the child's best interest under the following conditions:

- (A) Whether the child is of sufficient age and capacity to reason to form an intelligent preference as to custody or visitation (parenting time);
- (B) Whether the child is of sufficient age and capacity to understand the nature of testimony;
- (C) Whether information has been presented indicating that the child may be at risk emotionally if he or she is permitted or denied the opportunity to address the court or that the child may benefit from addressing the court;
- (D) Whether the subject areas about which the child is anticipated to address the court are relevant to the court's decision making process; and
- (E) Whether any other factors weigh in favor of or against having the child address the court, taking into consideration the child's desire to do so.⁴¹

Typically, youth under the age of fourteen are not required to attend trials pertaining to custody, visitation, child support, parental divorce, or restraining orders. While some SIJS petitioners are old enough to appear in court, like Jennifer's client, many of my research participants indicated that they represented clients that fall within an age group whose presence is typically excused from family courtrooms in non-SIJS proceedings. Judges technically have the discretion to ask

⁴¹ Title 5, Family and Juvenile Rules-Division 1, Family Rules-Chapter 9, Child, Spousal, and Domestic Partner Support; adopted January 1, 2013.

these young SIJS petitioners to testify towards the matters indicated in their petitions, but they also have the power to prevent youth from recalling emotionally intense situations that may not be in their best interest to restate and relive. In an ideal court system, no survivor of physical or sexual abuse, abandonment, or neglect— regardless of their age— should be called to a witness stand and *prove* to people in power that their trauma truly occurred. However, the court system in the United States operates in such a way that requires judges to believe convincing evidence that abuse truly occurred to grant protective orders. Judges who make the decision to not require youth to testify in court demonstrate progress in the court system’s ability to provide solace for SIJS applicants by simply believing in their stories and providing tangible solutions to creating safer living conditions for them.

Judges’ Interactions With Young SIJS Applicants

Some of my participants who represented elementary-school aged SIJS applicants, like Sam, encouraged their clients to attend their court proceedings in case the judge called them to the stand— although non-SIJS youth of this age group who will receive custody orders through Parentage cases are typically discouraged from attending court. Sam represented a five-year-old child from El Salvador who entered the country with her older siblings with hopes to reunite with their mother who had moved to the United States prior to them. Upon entering the country, Sam’s client was placed in a detention center for one month until she was released to her mother and entered into deportation proceedings.⁴² His client was then interviewed by a non-profit organization who determined that she may be eligible for SIJS and matched Sam as her pro-bono attorney. Sam petitioned for SIJS along with other orders in family court. Since his client was five years old at the time, she was not allowed to physically enter the courtroom until she was

⁴² Sam. Interview Between Sam and Lanna Sanchez, February 7, 2019.

called in by a judge. Sam noted that “when they called her case and then as soon as our client walked in (she was five or six years old at the time) the judge just lit up a big ol’ smile.”⁴³ He explained that the judge seemed very sympathetic towards his client since her young age heightened her level of vulnerability.

I saw similar reactions from judges when I observed trials in immigration court in Los Angeles. In one courtroom, I witnessed a Latinx mother and her seven-year-old son begin their trial for asylum. The young boy, with his straight, black hair carefully gelled and slicked to the left side, sat at the trial bench next to his mother while they both responded to the judge’s questions in English. The judge waived the son’s appearance for all future trials, said that he should attend school instead on his hearing dates, and proceeded to kindly ask the son how school was going. The son excitedly replied “good”, to which the judge responded by asking the son if he liked basketball, and the son replied “yes.” While it was encouraging to see a kind conversation occur between an immigration judge and a young asylum seeker, this situation raises the question of whether the judge’s kindness is contingent upon the child’s proper presentability.⁴⁴ Would the judge have treated the child with the same kindness if he only spoke Spanish and required a translator? Or what if the child came dressed in a sports jersey and muddy soccer cleats? While my research does not heavily address the issue of assimilationist behavior in the courtroom, it is important to note that nearly all individuals I observed in immigration court wore some form of clothing that was more formal than casual— including button-down shirts, slacks or khakis, ballet flats, cardigans, sweaters, and even dresses. These observations warrant further studies on how the assimilationist presentation of immigrants in the courtroom may affect their case outcomes.

⁴³ Sam. Interview Between Sam and Lanna Sanchez, February 7, 2019.

⁴⁴ I give full credit to my peer review, Alejandra Davila, for bringing forth this issue while reviewing my thesis.

Still, friendly, considerate conversations between judges and youth facing immigration proceedings are an absolute necessity for children to feel comfortable in a courtroom setting. What I witnessed is not uncommon; Jennifer explains that several immigration judges “try as much as they can to make the child feel welcomed and feel like it’s not a scary place to be.”⁴⁵ Another participant, Jackie also commented on how her clients have “had judges that... congratulate the kids at the end [of trials] and say keep doing well in school.”⁴⁶ Even though immigration court has the power to remove children from the country, this does not mean that the court system should inherently instill fear in the minds of children because the system can also bring forth protection. In our current society in which Central American immigrants are deemed criminal by Trump and his supporters, it is important that the demeanor of immigration judges does not mirror this anti-immigrant rhetoric so that individuals may access a fair, unbiased trial. Treating SIJS applicants with an affirming, age-appropriate disposition should not be viewed as just an option for a judge—— it is a necessity. After all, SIJS applicants are not at all responsible for the trauma that they have endured. They should be treated with respect in the courtroom regardless of their documentation status. Their stories of trauma and lived experiences alluded to within their petitions should be believed as truth. Judges must treat youth in their courtrooms with dignity so that SIJS applicants feel as if they can truly trust in the court to provide them with the orders they desire.

Encountering Non-SIJS-Friendly Judges

Unfortunately, not all judges throughout Southern California are courteous and cordial towards young SIJS applicants. Even though many of my research participants indicated that California tends to be a more liberal state when it comes to SIJS applications, there are still a few

⁴⁵ Jennifer. Interview Between Jennifer and Lanna Sanchez, February 7, 2019.

⁴⁶ Jackie. Interview Between Jackie and Lanna Sanchez, March 5, 2019.

state court judges in the area who are not as SIJS-friendly during trials. Immediately after an attorney files their client’s paperwork, they will find out which judge will be trying their case. As both Sam and Jennifer explained to me, many attorneys who work in non-profit organizations often share their experiences with particular judges amongst their colleagues. Instead of pondering the difficult question of “is this judge... more likely to grant [SIJS] or not?”⁴⁷, this network of sharing information within the non-profit world allows attorneys to begin the litigation phase of their case with an understanding of how their assigned judge tends to treat youth who petition for SIJS.

In the instance that an attorney discovers that the Superior Court judge they “drew... was somebody who they had deemed not particularly sympathetic to SIJS cases,”⁴⁸ attorneys will always have the opportunity to request the court to change their judge. Both Jennifer and Xochitl, two attorneys who work at a non-profit organization that represents immigrant youth within the Los Angeles area, informed me that attorneys may file for a peremptory challenge⁴⁹ in the beginning of the case with the hopes that the replacement judge will be a better, more SIJS-friendly judge.⁵⁰ To file for a peremptory challenge in Superior Courts of Los Angeles County, an attorney (or a self-represented party) must file a form with the court indicating the assigned judge and declare under penalty of perjury that:

The judicial officer named above, before whom the trial of, or a hearing in, this case is pending, or to whom it has been assigned, is prejudiced against the party (or his or her attorney) or the interest of the party (or his or her attorney), so that declarant cannot, or believes that he or she cannot, have a fair and impartial trial or hearing before the judicial officer.⁵¹

⁴⁷ Jennifer. Interview Between Jennifer and Lanna Sanchez, February 7, 2019.

⁴⁸ Sam. Interview Between Sam and Lanna Sanchez, February 7, 2019.

⁴⁹ Jennifer. Interview Between Jennifer and Lanna Sanchez, February 7, 2019.

⁵⁰ Xochitl. Interview Between Xochitl and Lanna Sanchez, February 26, 2019.

⁵¹ Superior Court Of California, County Of Los Angeles. “Peremptory Challenge To Judicial Officer (Code Civ. Proc., § 170.6).” *Code Civ. Proc.*, § 170.6, April 2004.

Filing for a peremptory challenge does not require an attorney to provide specific past examples of a judge's prejudice; attorneys are only required to simply take an oath swearing that some prejudice does exist and could affect their client's ability to have a fair trial. Networks of attorneys who share their past experiences in the courtroom alleviate clients from the stressful situation of having their case tried by a non-SIJS-friendly judge. Since attorneys only have the right to file for one peremptory challenge at the beginning stage of their case, it is important for them to take time to truly analyze both the pros and cons of filing for a change of judge. Attorneys may not want to file for a peremptory challenge if their assigned judge is only moderately immigrant-friendly.⁵² Doing so could actually cause their client to receive a non-immigrant friendly judge as their reassignment and harm their case outcome in the long run.

While it is important to note that attorneys may find certain judges to be SIJS friendly, this does not necessarily mean that their clients interpret the judge trying their case in a similar way. Attorneys who represent SIJS applicants are trained on how to interact with judges in court and proper court etiquette. Although attorneys may explain to their clients how to act, speak, and interact with judges in court, clients may still feel nervous when sitting on their trial bench. Judges, as professionals who make long-lasting decisions affecting the livelihoods of litigants, hold a position in power that litigants may still fear— regardless of if they are deemed to be SIJS-friendly or not by non-profit organizations.

A study conducted by the Judicial Council of California in the year 2016 found that just 14.2% of trial judges in L.A. County identified as Hispanic or Latino, while 56.9% of judges in L.A. County identified as white.⁵³ Based on this statistic, it is impossible to know if the judges

⁵² ⁵² Xochitl. Interview Between Xochitl and Lanna Sanchez, February 26, 2019.

⁵³ Judicial Council of California. "Demographic Data Provided by Justices and Judges Relative to Gender, Race/Ethnicity, and Gender Identity/Sexual Orientation," 2017.

identifying as Latino have any personal connection or education regarding Central American-specific issues that may contextualize the trauma experienced by immigrant youth. With a lack of representation of Latinx judges within L.A. County, SIJS applicants from El Salvador, Honduras, and Guatemala may still nervous or uncomfortable presenting their life story and history of trauma in a court setting to white judges. Attorneys who were raised and educated within the context of the United States may feel more comfortable representing their cases in front of white judges due to already navigating whiteness in undergraduate institutions, within a law school setting, and within daily systemic power dynamics. Meanwhile, their SIJS-petitioning clients may have just recently arrived to the United States and are beginning to learn how to navigate a society that is politically dominated by individuals whose racial identities may appear to be the same as U.S. leaders who caused irreparable damage within Central America. Because of this, the first-hand experiences of clients should also be considered on the lists of judges deemed SIJS friendly and non-SIJS friendly.

For some applicants, attending their SIJS trial may also be their first experience interacting with judges within the United States. In California, SIJS applicants are not required to already have been tried for a case in probate, family, or dependency court prior to filing for SIJS within the state court system; they are able to file their SIJS petition and, for example, a paternity case simultaneously. This is helpful for young immigrants in the sense that the state court can provide a sense of stability for the child in terms of establishing custody orders while opening the door for them to petition for preliminary steps towards permanent residency all at the same time. For all youth—especially for those who have experienced familial trauma—a sense of stability within the home can provide feelings of safety and trust towards the adults in their life. It is pertinent for youth to obtain court orders to provide such solace in the quickest, most

efficient way possible so that they may live without fear for their living conditions or their documentation status.

However, some judges who are deemed not so SIJS-friendly do not understand why it is so important for a child to obtain both orders at the same time. Another research participant who works at a non-profit organization that represents immigrant populations, Michelle, explains that one main goal for filing a SIJS case is obviously for the child to eventually obtain permanent residency, but the dire importance for a parent to obtain legal and physical custody of their child can often be overlooked in the courtroom. She explains:

A lot of the judges think that, oh that kid is just pursuing this for a legal benefit. And they might want to deny the case. But that's not their job. So obviously we use the law to argue against that and say no, this is not your job. You're just making findings "the kid has been either abused, abandoned or neglected based on the facts of the case" and that's it.⁵⁴

Federal law dictates that it is the state court's responsibility to determine whether a child who is applying for SIJS has been abused, neglected, or abandoned and to determine custody for the child. However, Michelle believes that some judges view a SIJS applicant's entrance into the court system as a mere pathway towards receiving permanent residency. Regardless of the motives behind a SIJS applicant's case, it is the judge's legal duty to provide orders that reflect the best interest of the child. They are obligated to review the case, establish orders pertaining to the child's well-being, ensure that the child will be placed into a living situation with the best possible outcomes for the child, and "make certain that the parties appearing before the court receive the legal and constitutional rights to which they are entitled."⁵⁵ As all individuals who appear for trial in the United States are granted the same constitutional rights in court regardless of their documentation status, SIJS applicants, their family members, and guardians involved in

⁵⁴ Michelle. Interview Between Michelle and Lanna Sanchez, February 20, 2019.

⁵⁵ Judge Leonard P. Edwards. "The Role of the Juvenile Court Judge." *Juvenile & Family Court Journal*, 1992, 25-45.

their case deserve the same right to a fair trial. Judges cannot deny a case based on a premonition that the child is seeking orders to alter their documentation status because that would entirely undermine their constitutional rights. Just as any judge would determine circumstances of abuse, neglect, or abandonment for a child with U.S. citizenship (although the question of a party's documentation is rarely ever addressed within the California state civil court system), SIJS applicants deserve to receive potentially life-saving orders from a state judge too.

When I observed Jennifer's client's paternity trial in family court, this issue came to light momentarily. After granting legal and physical custody orders, the judge shifted to the topic of her client's SIJS petition by stating that she understood that both parties were "not here for paternity, really."⁵⁶ These words were rather uncomfortable to hear from a family court judge whose role is to establish custody orders for families. Perhaps Jennifer's client's priority was truly for her mother to obtain legal and physical custody over her so that she could live in a stable environment with her and ensure that she would never be forced to reunite with her father who had neglected her in the past. Perhaps she really truly came to Jennifer for assistance with state court custody orders and then eventually found out that she could obtain permanent residency as a source of solace for the trauma she endured. Yet, her rationale behind obtaining orders should not determine how the judge speaks to her during her trial and should absolutely not be addressed in a condescending way. It should not be assumed that her client only came to court to resolve her immigration status. Luckily, the judge granted her client's SIJS predicate order and did not further challenge her motives behind requesting the order. However, as Michelle explained, judges who do unreasonably question litigants' reasoning for starting a SIJS case must be educated on why they should still try the case with the same respect as they would for anyone else.

⁵⁶ Sanchez, Lanna. "Field Notes: Los Angeles County Superior Court, Family Court," February 22, 2019.

Filing in California Versus Other States

Despite the difficulties that attorneys face while representing their clients in front of less SIJS-friendly judges in Los Angeles County, some of my participants still believe that filing for SIJS in California is a “pretty friendly place”⁵⁷ in comparison to filing in other states. With a large population of Latinx immigrants historically residing in Southern California, it is expected that undocumented youth will also be members of this community. This vulnerable population requires needed attention within both the state and federal court systems that California has found a way to address. In 2014, Governor Brown approved legislation that granted \$3 million to non-profit organizations representing undocumented minors from Central America throughout legal proceedings.⁵⁸ While \$3 million may seem to be a minuscule amount in comparison to the damage done to Central American communities on behalf of federal powers, this allocation can be viewed as a pathway to establish California as a SIJS-friendly state that supports unaccompanied minors and understands the need to protect this vulnerable community. Such grants allow for non-profit organizations to thrive because they can create more hiring opportunities for attorneys committed to immigrant justice, increase community outreach so that potential clients can be informed of low-cost legal services, and even ensure that all staff are being compensated fairly for the emotionally intense work they commit to doing. With increased funds, non-profits can maximize the number of clients they can assist and hopefully work to support more unaccompanied SIJS applicants and asylum seekers throughout the state.

Los Angeles County has even standardized the process to file for SIJS orders within the Superior Court system. There are specific forms for SIJS that an attorney must file within L.A. County that might not necessarily exist in other areas, such as the L.A. County Family Law Case

⁵⁷ Jackie. Interview Between Jackie and Lanna Sanchez, March 5, 2019.

⁵⁸ McGreevy, Patrick. “Gov. Brown Approves Legal Help for Minors in the Country Illegally - Los Angeles Times.” latimes.com. Accessed October 14, 2018.

Cover Sheet that includes Special Immigrant Juvenile Status as a specific, unique type of case that can be tried throughout the Superior Court.⁵⁹ Although attorneys might have their case tried by a judge who is a “stickler for procedural matters”⁶⁰ in Los Angeles County, such pickiness of judges can be viewed as a representation of the volume of SIJS cases occurring within the county. The more experience that judges have with SIJS cases, the more understanding they will have of the rules and regulations that they must follow in order to grant SIJ status.

Prior to representing youth in the state of California, Jennifer practiced as an attorney in the Midwest in a state in which SIJS was not as commonly seen within the state court system. She explains, “it feels better practicing in California just because... the state government at least is trying to do whatever they can to protect immigrant rights and children's rights.”⁶¹ She recalls that judges were more “informal”⁶² in the state where she practiced prior to California and that there was only one judge who tried SIJS cases in her previous county. Even though this judge was familiar with the SIJS process, they were still more hesitant to grant SIJS predicate orders out of the fear that the child was only pursuing custody orders for the immigration benefit associated with entering the state court system.

This difference of immigrant friendliness is also reflected in the immigration courts of California, in which Jennifer has seen much more cases won than in the Midwestern state where she practiced previously. Even though the procedures remain the same for filing for cases within immigration court throughout the country, the judge creates the final decision of whether or not a minor is deportable. State court judges’ familiarity with SIJS may have an effect on the ability for a minor to obtain their predicate order in the sense that more familiar judges may be able to

⁵⁹ See Appendix 4 for Page 2 of the L.A. County Family Law Case Cover Sheet.

⁶⁰ Sam. Interview Between Sam and Lanna Sanchez, February 7, 2019.

⁶¹ Jennifer. Interview Between Jennifer and Lanna Sanchez, February 7, 2019.

⁶² Jennifer. Interview Between Jennifer and Lanna Sanchez, February 7, 2019.

uncover procedural discrepancies that prevent them from granting orders. However, my research does not provide convincing evidence on whether there is a close relationship between the familiarity of judges with SIJS cases and their willingness to grant predicate orders. This is a topic that warrants further investigation on a nation-wide basis.

In recent years, an increase in media attention has brought forth the images and stories of youth of all ages who are essentially forced to attend their removal proceedings in immigration court without having legal representation.⁶³ With these stories being brought to the public eye, it is important to investigate how undocumented youth are treated within the court systems that have the power to transform their lives for better or worse. Luckily, the attorneys that I interviewed believe that SIJS petitioners are treated pleasantly and respectfully by the majority of judges ruling in the Superior Court system and immigration judges within Los Angeles County. While the process of applying for Special Immigrant Juvenile status may be delayed and backlogged by USCIS, having a positive experience that allows applicants to receive their state predicate order quickly can ensure that they begin their process with USCIS as soon as possible. Other states within the U.S. should follow in California's footsteps by establishing a specific court process for SIJS applicants within their superior courts and not doubting the trauma experienced by applicants. Perhaps establishing more efficient, SIJS-aware courts throughout the country could even ensure that SIJS applicants in the future can trust in state courts to protect them from the damages created by the faulty USCIS system—which I will discuss in the following chapter.

⁶³ Lee, Vivan and Jordan, Miriam. "Migrant Children in Search of Justice: A 2-Year-Old's Day in Immigration Court - The New York Times," October 8, 2018.

Chapter 5. SIJS Backlogs and the Visa Retrogression

For the past few years, a visa backlog has delayed Central American individuals who are petitioning for permanent legal residency from obtaining their status in a timely manner. It is not only SIJS applicants from Central American countries who are affected by this process; any national of El Salvador, Honduras, and Guatemala residing within the United States who is petitioning for permanent legal residency will encounter a delay of at least two years while awaiting their visa. Meanwhile, those who already have citizenship of other Central American countries, such as Costa Rica, Nicaragua, or Panama, will have their visa adjudicated efficiently.

To serve as a form of immediate relief, SIJS proceedings are supposed to be adjudicated by USCIS no longer than 180 days from the date when the petition is filed. After receiving SIJS predicate order within a state court, these youth are eligible to apply for their green card. However, the federal government has created a backlog affecting all nationals of Guatemala, Honduras, El Salvador. As of August 2018, there was a delay of over two years to review SIJS petitions for youth from these four countries. This backlog prevents immigrant youth from entering the pathway to legal permanent residency in a timely matter. Throughout the year 2017, only 58.5% of SIJS petitions submitted to USCIS were reviewed, while the remaining 41.5% were left pending review.⁶⁴ Meanwhile, 80% of SIJS petitions submitted were reviewed by USCIS in the year 2016—the final year of the Obama administration—and only 20% were left pending review at the end of that year. Vulnerable SIJS petitioners in the year 2019 who await review are currently being held in a state of frustrating uncertainty of living in the United States without permanent residency and must live their daily lives knowing that they will not obtain their status until their priority date approaches. The current backlog raises an interesting

⁶⁴ Department of Homeland Security: U.S. Citizenship and Immigration Services. “Number of I-360 Petitions for Special Immigrant with a Classification of Special Immigrant Juvenile (SIJ) by Fiscal Year, Quarter and Case Status January 1 - March 31, 2018,” 2018.

question: is the delayed adjudication of SIJS visas a result of the Trump administration's blatant disparagement of immigrants, or is it inevitable that the backlog would have occurred under any president? My research hones in on this idea as I investigate the additional work attorneys must endure as a result of the backlog, how SIJS petitioners are personally affected by the delay, and attorneys' opinions of the backlog's origins.

The Backlog's Effects on the Lives of Youth

Before I explain the technical aspects of federal and state policy affecting attorneys throughout their journey of representing SIJS applicants, I will explain how the backlogs affect the daily lives of immigrant youth. It is important to mention that many attorneys representing youth in SIJS proceedings are simultaneously applying for asylum for their clients. For SIJS petitioners who may fit the criteria of both an asylum-seeker and a SIJS applicant, several of my participants tend to all file for asylum and SIJS at the same time. In recent years, immigration judges have emphasized filing simultaneously for their clients as a way to ensure that an attorney is actively pursuing all forms of relief.⁶⁵ Doing so produces a double-edged sword for clients in the sense that if they are bound to obtain permanent residency, they will obtain their status sooner—but if they are bound to have their petition denied, they will face deportation proceedings sooner as well. Whether their petition ends victoriously or not, both immigrant youth and the federal government will obtain orders sooner that dictate the child's fate within the system.

However, youth who file for both asylum and SIJS will receive certain rights that are not granted to those who file for SIJS alone. For example, all asylum seekers of working age are

⁶⁵ Michelle. Interview Between Michelle and Lanna Sanchez, February 20, 2019.

eligible to receive a work permit within 150 days of the review of their asylum application.⁶⁶ Meanwhile, youth of working age who only apply for SIJS are ineligible for a work permit until they receive permanent legal residency. This can result in issues for older SIJS applicants who want to work but have no authorization to do so. As an intern at a non-profit organization in New York, I witnessed this issue firsthand. One of the clients that my team represented was a young man from Guatemala who came to the United States unaccompanied and eventually sought a job as he got older to support himself financially so that he was not so dependent upon his guardian. As he awaited his SIJS predicate order from New York Superior Court, he had no valid work authorization. He found a job as a dishwasher in which he was paid cash under the table. Although this job did help him pay for his living expenses, having valid eligibility to work could have allowed him to receive fairer wages for his labor. As a vulnerable youth, he should not have to seek risky jobs until his SIJS petition is adjudicated by USCIS simply because of his documentation status and country of origin. Unfortunately, this is the reality he must face until he is granted permanent legal residency and can apply for a work permit.

Often times, unaccompanied young adults who move to the United States migrate with the hopes of economic prosperity and the ability to assist their families financially. The lack of a work permit can prohibit youth from not just sustaining their own economic freedom—but also prevents youth from sending *remensas*⁶⁷ to family back home. Remensas are vital to the survival of Central American economies, such as the economy of El Salvador. According to the Katherine Parks at The Borgen Project, Salvadorans residing outside of their home country sent a total of \$4.6 billion to individuals in El Salvador in the year 2016, which aggregated a total of 17% of

⁶⁶ Jennifer. Interview Between Jennifer and Lanna Sanchez, February 7, 2019.

⁶⁷ Remensas, or remittances, are money transfers sent by immigrants to people (typically family members or close friends) residing in their home nation.

the nation's GDP for the year.⁶⁸ The organization explains that such remittances are often sent to the most impoverished populations residing in El Salvador as a form of economic support that constitutes about 50% of the monthly household income for those who receive remensas. Remensas are not just a supplemental income source for recipients; they often constitute the *majority* of funds used for survival purposes for those who receive them, even if recipients are employed within their home countries.

Without a work permit, SIJS applicants who await permanent residency may still be sending remensas to family members back home who rely on them for economic stability. Political Advisor Rubén Aguilar explains, “de los salvadoreños que envía remesas, 50.8% es indocumentado.”⁶⁹ (*of the Salvadorans that sent remensas [in 2018], 50.8% are undocumented.*) Yet, it is possible that the hours of labor they contribute to their under-the-table work is not being compensated at a rate high enough to support multiple households. Older SIJS applicants, as Angelica notes, may even have children of their own to support who live with them in the United States.⁷⁰ Having a work permit in a timelier manner would allow SIJS applicants to properly support their own household and also those who rely on their remensas for survival.

The stress of not having a sense of economic stability can even lead desperate SIJS applicants to seek riskier routes to obtain a work permit. For immigrants who are not accustomed to operating within the court systems formed by the U.S. government, understanding why their work permit is so delayed can be a difficult process. With hopes of speeding up the process of receiving their visas, some SIJS clients have been known to seek the spiritual help of

⁶⁸ Katherine Parks. “Remittances to El Salvador Keep Families Out of Poverty.” The Borgen Project. February 12, 2018.

⁶⁹ Aguilar, Rubén. “La Migración y Las Remesas En El Salvador.” El Economista. Accessed March 24, 2019.

⁷⁰ Angelica. Interview Between Angelica and Lanna Sanchez, March 22, 2019.

*curanderos*⁷¹— as explained by Angelica.⁷² Such healers have even been known to charge clients up to \$1000 for their services. Whether the work of *curanderos* can cause a quicker adjudication of SIJS visas or not, it is important to note the underlying reason why one may visit a *curandero* in this situation: to speed up a years-long government process whose policy dictates that adjudication must span no more 180 days. Since the government is not providing necessary, timely support to SIJS applicants, such individuals may seek the help of *curanderos* to feel a sense of hope from healers that they trust and know that solace may come sooner.

The additional stress of having to wait a longer period of time to obtain a green card also may force SIJS applicants to become paradoxically more emotionally mature than their peers, but their independence is held back financially by their immigration status and state court orders. SIJS applicants are not given the same immunity that most youth of their age have in the sense that they have a lot less room for error within their daily lives. Undocumented youth are not given the benefit of the doubt if they make mistakes since their presence in the United States is inherently criminalized by the federal government. Upon asking Katana what attorneys could do to support SIJS youth throughout their court processes, she explained, “I’ve had to tell the kids (or the kids that are not necessarily kids) to not get themselves in trouble... don’t get arrested... keep living with the guardian. Otherwise if you’re not, again, it’s going to affect the SIJS case.”⁷³ Katana says that these pieces of advice all come from past experiences with clients with the hopes that giving such advice will ensure a successful case.

⁷¹ Within many Latinx countries, individuals visit *curanderos* (healers whose methods derive from indigenous practices) to resolve physical illnesses, mental health issues, and problems that one encounters throughout daily life. As explained by Brett Hendrickson, “*curanderismo* treats the sick person with a variety of healing modalities including herbal remedies, intercessory prayer, body massage, and energy manipulation. *Curanderos*, “healers,” embrace a holistic understanding of the patient, including body, soul, and community.” Hendrickson, Brett. “Border Medicine.” *NYU Press* (blog), December 2014.

⁷² Angelica. Interview Between Angelica and Lanna Sanchez, March 22, 2019.

⁷³ Katana. Interview Between Katana and Lanna Sanchez, February 20, 2019.

SIJS applicants are essentially not allowed to enjoy the same freedoms of adolescence that are typically granted to white, upper-class youth by U.S. society. In the book *Lives in Limbo*, author Roberto Gonzales investigated this phenomenon by speaking to several undocumented young adults throughout the Los Angeles area about how they believe their immigration status affects their daily lives. One of Gonzales's participants, Cory, indicated, "I feel as though I've experienced this weird psychological and legal stunted growth. I'm stuck at sixteen, like a clock that has stopped ticking. My life has not changed at all since then. Although I'm twenty-two, I feel like I'm a kid. I can't do anything that adults do."⁷⁴ What Cory alludes to is a similar phenomenon experienced by SIJS applicants; undocumented youth are not given the same opportunities as youth who are U.S. citizens or permanent residents to attend college, obtain well-paying jobs, have a driver's license, and achieve other cultural benchmarks that indicate an adolescent's transition into young adulthood. Whereas adolescence and college years are commonly seen a period of trial and error for privileged youth, SIJS applicants are advised to spend their adolescence in a hyper-cautious state that will not trigger any red flags once their petition is finally reviewed by USCIS. They cannot move out of the home of their guardian if they turn 21, which typically would be viewed as an important mark of independence in the life of an adolescent in the U.S. Since the visa priority date for Central American applicants is currently roughly two and a half years behind, Central American SIJS applicants will be walking on eggshells for the entire duration of the delay.

In the meantime, Elizabeth emphasizes the importance of pursuing an education throughout their proceedings. Even though immigrant youth cannot work without authorization, all minors are entitled to an education within the public school system regardless of their

⁷⁴ Gonzales, Roberto. "Lives in Limbo : Undocumented and Coming of Age in America," 2016.

documentation status. In the year 1982, the Supreme Court ruled in the *Plyler v. Doe* case that it is unconstitutional, discriminatory, and in violation of the Equal Protection Clause of the Fourteenth Amendment for undocumented youth to be denied the right to attend public schools.⁷⁵ Receiving a high school diploma or a GED can open doors for undocumented clients to obtain a better paying job once they do finally receive their work authorization. Elizabeth also acknowledges her clients' volunteer work as a way to "document what wonderful things they're doing in the community even as young adults."⁷⁶ SIJS applicants are multi-faceted individuals with varying interests in a multitude of subjects, just like all other individuals within society, and should be viewed as such both by their peers and by the court systems. Their documentation status should not be seen as their sole identifying factor; rather, their court proceedings are an experience within their life that will allow them to obtain permanent residency and solace in the future.

The Backlog's Effects on the Work of Attorneys

As previously noted, an individual may apply for a SIJS visa after obtaining a state predicate order by filing an I-360 form with USCIS: the Petition for Amerasian, Widow(er), or Special Immigrant. The visa backlog affecting Central American youth presently occurs after the filing of this form. SIJS applicants can receive their status by filing a petition with USCIS and do not have to testify towards the matters in their application in immigration court. However, some SIJS applicants may have active removal proceedings in immigration court while their petition is being adjudicated. The visa backlog only increases the amount of time that children may face removal proceedings in immigration court.

⁷⁵ "Administrative Office of the U.S. Courts. "Access to Education - Rule of Law: Plyer v. Doe." United States Courts. Accessed April 16, 2019.

⁷⁶ Elizabeth. Interview Between Elizabeth and Lanna Sanchez, February 12, 2019.

However, there are several strategies that attorneys can implement in immigration court to ensure the safety of their client while these proceedings occur. Jennifer explains that one way that attorneys extend the period of time between their client’s immigration trials is by filing for a motion of continuance. As described by the American Immigration Council, a continuance is “a docket-management tool that an Immigration Judge (IJ) may utilize to move an upcoming hearing from one scheduled date to another or to pause an ongoing hearing and move it to a future date.”⁷⁷ Such motions are typically filed when there is enough explanation provided by an attorney to explain why it would be important to delay such proceedings, one example being “requests to continue proceedings to await adjudication by U.S. Citizenship and Immigration Services (USCIS) of a relevant petition.”⁷⁸ Continuances are helpful, according to Jennifer, because immigration trials can “interfere with clients’ lives”⁷⁹ and a continuance can help restore some sense of normalcy by delaying the time between trials. That being said, immigrant youth who are granted continuances can proceed with their regular lives while their SIJS petitions are being adjudicated by USCIS instead of worrying about the risk of deportation. Youth can attend school, jobs, and participate in activities as they typically would without having the stress of a pending immigration trial.

In the past, it was possible for immigration judges to administratively close the pending immigration trials for a SIJS applicant while their petition was being adjudicated by USCIS. Before the backlog occurred, it was possible for a SIJS applicant to receive their approval from USCIS within the standard period of six months. While their I-360 form was pending, Michelle explains, judges would essentially close their removal proceedings. She explains that

⁷⁷ American Immigration Council. “Motions For A Continuance,” September 7, 2018.

⁷⁸ Keller, Marybeth: Chief Immigration Judge. “Operating Policies and Procedures Memorandum 17-01: Continuances.” Executive Office for Immigration Review, July 31, 2017.

⁷⁹ Jennifer. Interview Between Jennifer and Lanna Sanchez, February 7, 2019.

“terminating the case was the most proper thing to do because by the time they would come to their next immigration hearing, they would probably have an approval ready.”⁸⁰ Rather than having the child come to court several times while their petition was pending, judges would close such proceedings with an understanding that future hearings would not be necessary; a child could potentially obtain their permanent residency within the allotted time. Now, however, immigration judges are not able to administratively close cases because the new federal policy will not allow them to do so. Michelle explains that Attorney General Jeff Sessions disallowed judges to administratively close cases or grant continuances without good cause. Youth are now required to attend many more immigration trials than in the past— interfering with their daily lives for years until their petition is approved.

To make matters more frustrating, the Executive Office for Immigration Review released a memo in January 2017 declaring that the cases that will be viewed as a priority by the administration are now:

all detained individuals; unaccompanied children in the care and custody the Department of Health and Human Services, Office of Refugee Resettlement who do not have a sponsor identified; and people who are released from custody on a *Rodriguez v. Robbins*, 804 F.3d 1060 (9th Cir. 2015), *cert granted* 136 S. Ct. 2489 (2016), bond.”⁸¹

This means that all other unaccompanied children, including SIJS petitioners, are not considered a priority for the courts to try as soon as possible anymore. As explained by Catholic Legal Immigration Network, “this means their hearings will be likely be scheduled far into the future depending on the particular immigration court’s docket.”⁸² As a response to this change in policy, immigration courts in some areas of the country have implemented the system of status

⁸⁰ Michelle. Interview Between Michelle and Lanna Sanchez, February 20, 2019.

⁸¹ Keller, Marybeth: Chief Immigration Judge. *ibid.*

⁸² Catholic Legal Immigration Network. “New Priority Groups for Immigration Court Docketing,” 2017. <https://cliniclegal.org/resources/new-priority-groups-immigration-court-docketing>.

dockets. The busy immigration court within L.A. County utilizes this system that inherently allows non-priority cases can obtain more time between court hearings— meaning that SIJS petitioners cases are “put to the side”⁸³ temporarily while attorneys continue to update the court on the status of the application.

Michelle explains that the time between hearings typically ranges from ten months to one year and that during the next trial, the court is informed of what has happened during that time. Attorneys representing their client will state if an I-360 petition is still pending, but immigration judges still possess the power to remove a child from the United States while the petition is pending. This creates an ever-frustrating situation for youth who have to wait the lengthy process of “two years to get approved, and then we're talking about three more years for it to be a visa available. So now instead of being a six-month wait, it's a five-year, six-year wait.”⁸⁴ For an alarming total of five to six years of their lives, undocumented youth battle to obtain permanent legal residency. Current USCIS policy states that SIJ petitions are adjudicated within 180 days and advises that green card petitions will take an additional, unspecified amount of time. Central American nationals applying for SIJ status face such a long wait time to receive permanent residency because of the several federally-implemented systems that add up and create such a strenuous delay that people from other nations do not have to face. This unfair, specifically targeted setback further marginalizes youth who have already endured hardships throughout their lives and desire nothing but relief.

The status docket system ensures that proceedings do not interfere with the lives of minors; yet, the system does not create any pathway to speed up the process of granting permanent residency to those who are most vulnerable. As a non-profit attorney, Michelle

⁸³ Michelle. Interview Between Michelle and Lanna Sanchez, February 20, 2019.

⁸⁴ Michelle. Interview Between Michelle and Lanna Sanchez, February 20, 2019.

currently represents about 70 cases— about 5 of which are from Mexico and the remainder are from Central American countries. Many of her cases have been ongoing for several years and she has experienced first-hand how the added wait time caused by the backlog and the lack of progress in their cases can make clients very upset. She comments, “I do have kids who have told me like, look, I’ve been waiting for three, four years and nothing has happened. I’m just going to get a private attorney.”⁸⁵ However, retaining a private attorney will do very little to create progress within their case and will come at an expensive cost for working-class litigants. It is not Michelle’s fault that her clients’ cases are extending past the allotted duration of a SIJS case; shifts within the implementation of federal policy are the root cause of the issue. To prevent this problem, USCIS should adjudicate SIJS petitions within a timely manner so that young immigrants can work, attend school, and live without any fear of deportation. Attorneys must certainly continue to petition with immigration court to place their client’s open case on the status docket, but they should also continue to properly explain to their client that the backlog is a result of the federal immigration system— not the attorney’s work.

Even within the realm of state court, the backlog can potentially affect the work of attorneys whose SIJS predicate orders were granted years ago. Katana, a private-practice family law attorney, notes that USCIS has even requested more evidence to prove why a client received their predicate orders from the state court. She notes:

Because of the backlog, they're just looking at... orders that I may have obtained a year or two ago. And a year or two ago I wasn't including certain... language that they want now. I have to go back to my prior orders in the prior reports, and ask that they accommodate immigration's requests to include whatever they want.⁸⁶

⁸⁵ Michelle. Interview Between Michelle and Lanna Sanchez, February 20, 2019.

⁸⁶ Katana. Interview Between Katana and Lanna Sanchez, February 20, 2019.

Even though her client already obtained their predicate order from state court that deems that her client has either been abused, neglected, or abandoned; that the child cannot reunite with one or both parents; and that returning to their home country is not in the best interest of the child, USCIS demands further information to prove such concepts. While USCIS needed to see specific terminology and code addressing Katana's client's eligibility for SIJS, family court orders are given based on the best interest of the child and are typically assigned "without defining a code."⁸⁷ While the court already stated all of the evidence pertaining to the case on the orders, USCIS wanted to see the specific laws that allowed the judge to create the orders. To assist her client, Katana then had to "file a motion with the court [and] ask the judge to confirm that it was based on a specific family law code"⁸⁸ two years prior to her client's hearing date.

Katana explains that this is a hassle that can stress clients out. Even though the client received their predicate order two years ago, USCIS required Katana to do additional work within the state court to verify their order. While this particular client may have thought that their case in state court was finished years ago, the backlog created a delay that lengthened the amount of time to address the insufficient evidence. If the backlog did not exist, this issue could have been addressed in a timely manner without requiring Katana to reopen a case—avoiding any additional stress in her client's life. Since the SIJS policies mandated by USCIS may change over time, it is likely that such discrepancies may occur once SIJS petitions are finally adjudicated. An attorney cannot predict what USCIS may require in petitions two years in advance, so it is best for all petitions, court orders, and evidence to be as detailed as possible. Doing so will ensure that SIJS petitions will include any additional evidence that may uphold future standards from USCIS that are created by the time their petition is adjudicated.

⁸⁷ Katana. Interview Between Katana and Lanna Sanchez, February 20, 2019.

⁸⁸ Katana. Interview Between Katana and Lanna Sanchez, February 20, 2019.

The Roots of the Backlog and the Obama Administration

Upon understanding the additional labor that attorneys that represent SIJS youth have been recently tasked with through policy changes, one may question whether the Trump administration is the prime cause of the visa backlog. While the anti-immigrant rhetoric voiced by the current federal administration creates a more blatant form of marginalization, immigrant rights activists must understand that Central Americans have been disparaged in their both home countries via U.S. imperialism and through restrictive immigration policies throughout the past century. While anti-Central American rhetoric spews from the Trump administration in a more overt form, I argue that Obama equally disparaged Central American migrants at an equal rate as Trump in a less obvious form. Due to an unequal amount of visas available to match the Guatemalan, Honduran, and Salvadoran populations immigrating to the United States throughout previous presidential administrations, the visa backlog happened to manifest itself during the Trump administration. I argue, based on the opinions of my research participants, that this backlog is not a direct result of Trump and would most-likely have occurred under any administration— democratic or republican.

Former President Obama obtained the nickname of “Deporter in Chief” by critics fighting for immigrant rights⁸⁹ as he deported over 2.7 million individuals throughout his administration; yet, the only immigration policy often noted in the mainstream created by Obama is the Deferred Action for Childhood Arrivals (DACA) program which provides undocumented youth who immigrated to the United States work permits and protection from deportation for two-year periods. Meanwhile, the Obama administration was responsible for establishing ICE raids in 2014 that targeted Central American mothers and children fleeing violence in their home

⁸⁹Chishti, Muzaffar, Pierce, Sarah, Bolter, Jessica. “The Obama Record on Deportations: Deporter in Chief or Not?” migrationpolicy.org, January 25, 2017.

communities who, if given proper legal representation, would mostly have valid claims for asylum.⁹⁰

During the Obama administration, the Central American population in the United States increased as more individuals sought refuge in the country. The Migration Policy Institute estimates that “in the 2010-14 period, approximately 1.7 million Central American unauthorized immigrants resided in the United States.”⁹¹ Throughout this time, DHS also began to file deportation proceedings in immigration court involving unaccompanied minors at a much higher rate. In the year 2010, just 11% of DHS filings involved unaccompanied children from Central America—which soared to an alarming rate of 40% of filings involving such youth in the year 2014.⁹² While these statistics are not broken down by the type of relief that such individuals sought while their deportation proceedings occurred, it is likely that many could have been eligible for SIJS or asylum. Such rates are alarming considering that unaccompanied minors are a vulnerable population who often flee from traumatic experiences in their home countries.

Even though the amount of Salvadoran, Guatemalan, and Honduran unaccompanied minors migrating to the United States has heightened throughout the past few years, the number of visas available to them remains the same. SIJS applicants who have an approved I-360 who wait for their permanent residency in the year 2019 still feel the effects of the Obama administration’s tight immigration policy. The backlog may not necessarily be caused by the Trump administration; Jackie explains,

the retrogression in terms of the visa numbers definitely started around the last year that Obama was in office. With this new presidency, we got word that there was going to be a change in how the applications we're going to be processed. So,

⁹⁰ Jorden, Danica. “Women and Children First: Homeland Security Targets ‘Family Units’ for Deportation in May and June.” openDemocracy. Accessed March 26, 2019.

⁹¹ Batalova, Jeanne Batalova Gabriel Lesser and Jeanne. “Central American Immigrants in the United States.” April 4, 2017.

⁹² Transactional Records Access Clearinghouse (Syracuse University). “Central American Deportation Cases Dominate U.S. Immigration Courts,” August 14, 2015.

it might not have been this administration, it just might've—just been an overhaul of the system. And then realizing that there were more applicants than there were visas available. This retrogression may have happened anyway.⁹³

She argues that whether or not Trump was elected in 2016, SIJS applicants still would have likely experienced the visa backlog that prevents them from obtaining permanent residency in a timely manner. The Obama administration did not increase the numbers of visas available for Central American youth, and in fact, increased the power that Immigration and Customs Enforcement (ICE) held in the process of deporting Central American individuals who overstayed their visas. During this administration, democrats “expanded the capacity of homeland security by stepping up what is euphemistically called interior enforcement and border enforcement... through two programs that represent a new generation of technology-based social control policies.”⁹⁴ Latino Studies Scholar Alfonso Gonzales indicates that E-verify (which allows employers to inquire and report employees’ immigration statuses) and Secure Communities (which allow for local police to work alongside ICE and report the presence of undocumented folks) were created to systemically deport undocumented immigrants through the interaction of state, local, and federal powers. Rather than attempting to provide pathways to permanent residence for the undocumented Central American community, the Obama administration formed a consolidation of power that expedited deportation.

Yet, strong critics of Trump who are not aware of Obama’s immigration policy that disparaged Central American migrants may view the visa backlog as something that the Trump administration created as a part of their overtly anti-immigrant platform. Jackie explains, “I think because it was kind of this perfect storm of... now these cases are not being processed as quickly and this new president coming in, it kind of felt like it was something dealing with this new

⁹³ Jackie. Interview Between Jackie and Lanna Sanchez, March 5, 2019.

⁹⁴ Alfonso Gonzales. *Reform Without Justice: Latino Migrant Politics and the Homeland Security State*. Oxford University Press, 2014.

administration.”⁹⁵ While the Trump administration is clearly not working to eliminate the backlog, the delayed process cannot be only attributed to the Trump himself— people must realize that the system created to disparage unaccompanied Central American youth is rooted in years of imperialism and even occurred during Obama’s administration. Immigrant advocates should understand that the marginalization of Central American immigrants did not begin with Trump; Central Americans have been a prime target of deportation for decades.

For this reason, it is important for those who work to support immigrant communities to understand the historical roots of migration as contextualized by U.S. imperialism. While SIJS court procedures and USCIS protocol may have become overtly more difficult to manage within recent years, anti-Central American sentiments are not unique to the Trump administration. Advocates, attorneys, and allies should be aware of the fact that delays in the Special Immigrant Juvenile Status application process are manifesting themselves within the years of the Trump administration, but these delays are rooted in a century of disparagement against Central Americans. In the following chapter, I will discuss how this understanding can be helpful for policymakers and attorneys in terms of creating long-term goals to advocate for Central American immigrants and also to help individuals who are currently caught within the backlogged system.

⁹⁵ Jackie. Interview Between Jackie and Lanna Sanchez, March 5, 2019.

Chapter 6. Future Directions

Advocating for undocumented Central American youth has only become more difficult throughout recent years, but recent difficulties cannot be entirely blamed on the Trump administration's immigration policy. Evaluating the implementation of SIJS policy in recent years from a more nuanced perspective informs that immigrants from El Salvador, Guatemala, and Honduras in the United States have been continually marginalized for decades by both republican and democratic federal administrations. While Special Immigrant Juvenile Status policy may have followed stricter time-limits under Obama's presidency, the speed of adjudication does not necessarily indicate that Obama created liberatory immigration policy for *all* undocumented individuals that creates reparations for Central American individuals whose countries have been disparaged by U.S. imperialism.

As best explained by scholar Alfonso Gonzalez, immigrants rights activists who strive to liberate all immigrants must actively be, "challenging white supremacy and transforming the social and economic structures rooted in geopolitical asymmetries between the United States and Latin America that cause people to migrate and that allow society to consent to the production of state violence against brown bodies and racial others."⁹⁶ The liberal platform that argues that conservative administrations are more dangerous for immigrants than democratic administrations must be critically analyzed and deconstructed by professionals who work to support undocumented communities. Thus, the shortcomings of SIJS policy cannot be attributed to one political party in general because the visa backlogs affecting Central Americans have transpired across different presidential administrations. Immigrants rights activists and allies must simultaneously work to transform the unjust immigration system to one that admits the United

⁹⁶ Gonzales, Alfonso. *Reform Without Justice: Latino Migrant Politics and the Homeland Security State*. Oxford University Press, 2014.

States' fault in damaging communities of the Global South and also work to support the individuals who are currently stuck within the backlogged systems of USCIS.

To Reform or Transform the Immigration System?

The dichotomy used by both liberal constituents and stakeholders in the United States that deems that republicans are detrimental and democrats are favorable candidates must be removed from the public viewpoint of classifying candidates. Yes, the Obama administration created the Deferred Action for Childhood Arrivals program and attempted to pass the Deferred Action for Parents of Americans program⁹⁷, but the formulation of these policies cannot provide the label of an immigrant-friendly administration when hundreds of thousands of Central Americans who escaped trauma and sought better lives for their families were deported from the United States solely based on their country of origin. Many of the youth deported may have even qualified for SIJS if given the chance to file within the state court system. Supporters of the Democratic Party believe that liberal candidates will help immigrants more than republicans; yet, they must understand that the solution for aiding undocumented youth does not lie within the two-party system.

Immigrants *need* radical immigration attorneys who understand both the personal and historical contexts of their struggle to migrate to portray their stories and fight for justice within the current framework until a true abolition of the carceral immigration system can occur. With respect to Central American SIJS petitioners, I argue that attorneys should continue their work of fighting for justice for immigrant communities while policymakers simultaneously listen to the discrepancies addressed by attorneys and abolish the current restrictive immigration system. Policymakers can begin this process by reading this thesis and similar scholarly works to

⁹⁷ See Chapter 1 for further explanation.

uncover the frustrating process that Central American youth encounter in the state court system and with USCIS.

Latino Studies scholar Alfonso Gonzales illustrates the necessity to entirely transform the U.S. immigration system far beyond the framework of comprehensive immigration reform, a strategy that he argues does not provide justice for immigrant communities due to its emphasis on immigration enforcement and its creation of a binary between “good” and “bad” immigrants. In his book *Reform Without Justice*, Alfonso Gonzales explains the necessity of working towards an immigration system that does more than just reform DHS policy; instead, he argues:

State violence against Latino communities and migrants from the global south will not go away with immigration reform. While the challenges facing the migrant movement require it to be capable of winning short-term meaningful victories that improve people’s lives, to be sure, it also requires that Latino migrant activists and their allies develop a long-term vision and strategy.⁹⁸

Until an immigration system is built by the United States that acknowledges how the nation’s imperialist role causes marginalization, trauma, and the need to migrate for survival purposes, attorneys and immigration advocates must continue to find solutions within the current framework given by federal and state governments. The current immigration system is clearly built to disparage immigrants from the Global South by limiting the number of visas granted to individuals on a yearly basis, which must change immediately. However, it is unlikely that a radical change in immigration policy that would abolish the Department of Homeland Security could occur within the next decade due to the anti-immigrant rhetoric spewing from policymakers in the executive and legislative branches of the government, across party lines. In the meantime, until the abolition of the current system can occur, attorneys practicing in the

⁹⁸ Alfonso Gonzales. *Reform Without Justice: Latino Migrant Politics and the Homeland Security State*. Oxford University Press, 2014. 172.

contemporary immigration system should utilize their status and training to support immigrant communities by providing free or low-cost legal services, speak out when unjust situations occur both inside and outside the courtroom, and continue to create networks of information amongst one another that can be used to call out stakeholders who abuse their power. Such work is already occurring within the Los Angeles area, in which there are several non-profit organizations working towards providing immigration services, suggesting policy reforms, and educating Central American individuals residing in the United States of their constitutional rights. Advocacy networks striving for these goals must absolutely be created throughout the entire country. After all, Los Angeles may have a larger Central American population than other metropolitan areas, but that does not mean that people from Honduras, El Salvador, and Guatemala are not immigrating to other regions of the country. Such individuals cannot be forgotten; thus, coalitions should be formed in every state that seek to assist centroamericanos through a comprehensive understanding of how U.S. imperialism has caused migration.

Until the System's Transformation: Harm Reduction

One harm-reduction strategy that could be implemented as a temporary solution to SIJS backlogs until a radical change can happen would be to increase the number of visas available to nationals of El Salvador, Honduras, and Guatemala. As my participants note, the process to obtaining permanent residency would become much more efficient and less frustrating if SIJS youth did not have to wait half a decade to receive their visas solely based on their country of origin. As of now, only 10,000 visas are granted per year to Hondurans, Guatemalans, and Salvadorans respectively.⁹⁹ This small amount of visas does not respond appropriately to a large number of individuals migrating to the United States from Central America. Visa numbers

⁹⁹ Catholic Legal Immigration Network. "Surge in SIJS Approvals Creates Backlog at Adjustment Stage | CLINIC," April 12, 2018.

should be proportional to the number people migrating to the United States— not vice versa. As the Migration Policy Institute explains, “From 1980 to 2013, the size of the Central American immigrant population grew nine-fold from 354,000 to 3.2 million.”¹⁰⁰ Therefore, the number of visas available to centroamericanos should mirror the growing number of individuals moving to the country so that pathways to establish legal permanent residency can be created and migrants do not live in fear of deportation back to the same countries they fled for survival.

Along with the proposed increase in visas available to centroamericanos, USCIS should employ workers who are competent in immigration law to adjudicate the additional petitions. Angelica argues, “USCIS needs to hire more people that actually know immigration law because I think a lot of people who do this aren’t trained in the area.”¹⁰¹ Many times, the requests for evidence that she receives as a response to her petitions are filled with typos, misstated predicate orders, and a lack of understanding of the state court system’s functions. These requests for evidence increase the total time through which a client’s case spans because they delay the approval of their I-360, which ultimately pushes the date they can receive their green card even further. Such careless mistakes could easily be avoided if the individuals who review USCIS petitions are thoroughly trained and knowledgeable about both state court laws and immigration regulations. The multiplicity of a delayed petition and a visa backlog could be avoided if qualified individuals, like attorneys, could review petitions with an understanding of the standard procedure.

Until the immigration system is transformed, the California State Assembly should continue to enact bills that financially support non-profit organizations who advocate for undocumented youth. As previously explained, former Governor Jerry Brown allocated \$3

¹⁰⁰ Batalova, Jeanne, and Jie Zong. *Ibid.*

¹⁰¹ Angelica. Interview Between Angelica and Lanna Sanchez, March 22, 2019.

million (via California SB 873) towards providing non-profit legal representation “to unaccompanied, undocumented minors who are in the physical custody of the federal Office of Refugee Resettlement or who are residing with a family member or other sponsor.”¹⁰² The attorneys or paralegals assisting SIJS youth who receive funding through SB 873 must have at least three years with asylum or SIJS cases and have represented no less than 25 clients through these matters. Imposing these strict guidelines towards the professionals who may assist SIJS petitioners will ensure that all state funding towards the program is allotted towards experienced attorneys whose advocacy hopefully will result victoriously.

As this bill granted funds towards unaccompanied minors in the year 2014— the same year in which a surge in Central American families migrated to the United States and Obama overwhelmingly viewed deportation as the solution to their presence— the bill demonstrates California’s willingness to support undocumented youth throughout both their immigration proceedings and to establish a stable home environment free from violence. By reiterating the jurisdiction of the Superior Courts of California to try SIJS cases, the legislature clearly informed judges of their legal obligation to provide state court orders to SIJS applicants. Similar funds absolutely must be appropriated by California’s state budget on a yearly basis to ensure that all unaccompanied minors seeking solace via SIJS are given the same legal representation afforded to previous applicants. Since SIJS cases typically span years for Central American applicants, allocating funds regularly will also ensure that youth can receive legal assistance throughout every step of their immigration proceedings.

Other states with high immigrant populations, such as Illinois, New York, and Texas, should be inspired by this allocation of funds and demonstrate a similar commitment to

¹⁰² California Senate. “Senate Bill 873- Human Services,,” 2014.

supporting SIJS youth. In doing so, SIJS petitioners nation-wide could receive the same amount of support despite living in different regions of the country. The process of applying for Special Immigrant Juvenile Status is lengthy even with an attorney, but it would be nearly impossible for unaccompanied minors who recently arrived in the United States to navigate the state court system and the federal immigration process without an attorney. States should display their commitment to creating safe, supportive custody situations for unaccompanied minors by funding non-profits to support them in the same way that California demonstrated.

What Can Be Done Within the State Court System?

Working within the current framework of the immigration system, a more scrutinizing eye falls onto attorneys who advocate for undocumented youth that inherently results in the additional labor of educating judges, rewriting declarations, and communicating efficiently with clients to explain why their permanent residency is delayed. Many of such attorneys work within the non-profit realm in which professionals are typically not paid on a case-by-case basis—unlike private attorneys who may charge a going rate for the number of hours they contribute to a case. Although the additional work now required may not be compensated in the non-profit realm, the labor contributed by attorneys who advocate for SIJS applicants enduring the visa backlog is absolutely vital in terms of providing true support for marginalized youth.

One strategy that attorneys can implement in the courtroom to support immigrant youth is to continually educate state court judges of their power to grant SIJS orders. Such attorneys, as professionals knowledgeable about both the legal system and the context of Central American migration, can act as cultural brokers¹⁰³ within the courtroom. State court judges who practice

¹⁰³ I use the term “cultural broker” as described by the late Latinx Psychologist Ray Buriel to signify an individual who links between their Latinx cultures and Euro American society.

within the area of family law, probate law, or juvenile dependency may not be familiar with the societal context causing thousands of Central American minors to flee their home countries in search of solace. Michelle argues that if attorneys encounter a judge who questions if a child has opened a SIJS case within state court for the sole purpose of immigration benefits, attorneys must vocalize to the court that a judge cannot deny a SIJS case for such speculation.¹⁰⁴ Attorneys who act as a cultural broker can explain to the judge that migration was in the best interest of the child due to adverse societal factors created of U.S. imperialism, which falls directly within the jurisdiction of state courts.

In addition, Michelle also argues that attorneys have the power to reinforce the idea that judges absolutely must follow California state laws when analyzing the trauma experienced by SIJS petitioners. Two of my participants, Michelle and Xochitl, explain that although a client may have endured trauma in their home country, a judge within California's Superior Court system is still required to determine whether such instances qualify as abuse, neglect, or abandonment under California's laws—not within the laws and culture of the client's home country.¹⁰⁵ State court judges must analyze SIJS petitioners' lived experiences under the same legal framework that they would use to create orders for a non-SIJS litigant. Michelle also explain that attorneys can reinforce the need to evaluate SIJS cases under the same lens by referencing case law that reiterates the court's definition of abuse, neglect, and abandonment.¹⁰⁶ This strategy can help attorneys to represent their clients in front of judges who are not as familiar with SIJS procedures and are wary to grant SIJS orders.

Buriel, Raymond. "Historical, Socio-Cultural, and Conceptual Issues to Consider When Researching Mexican American Children and Families, and Other Latino Subgroups*." *Psychosocial Intervention* 21, no. 3 (December 2012): 291–303.

¹⁰⁴ Michelle. Interview Between Michelle and Lanna Sanchez, February 20, 2019.

¹⁰⁵ Michelle. Interview Between Michelle and Lanna Sanchez, February 20, 2019.
Xochitl. Interview Between Xochitl and Lanna Sanchez, February 26, 2019.

¹⁰⁶ Michelle. Interview Between Michelle and Lanna Sanchez, February 20, 2019.

To avoid the initial issue of having cases tried by judges who are unfamiliar with the SIJS process, Katana suggests that each particular division within Los Angeles Superior Court system should have one judge who handles SIJS cases.¹⁰⁷ Katana experienced such a streamlined system in the Ventura County Superior Court system, where a sole judge assigned to SIJS cases tried her client's case. She explains that this would help to quicken the process of receiving SIJS orders from state courts because assigning one judge to SIJS cases will ensure that they are familiar with SIJS procedure. This could avoid any possible delays that may result from a judge not being as knowledgeable of the SIJS process, from the minute details of different service instructions for non-custodial parents who are not parties of the case to the general definitions of abuse as pertaining to SIJS orders. Creating a faster system would let a client receive a state court's predicate order faster, allow them to file for their I-360 sooner, and essentially diminish the state court's effects on delays in receiving permanent residency. This quicker process would be especially useful for Guatemalan, Honduran, and Salvadoran applicants who are already delayed years based on their country of origin.

Whether or not Los Angeles County ever implements this streamlined system, it will still be important for both non-profit organizations and private attorneys to hold judges accountable for the powers granted to them and document instances in which judges use their power to disparage SIJS applicants. As Jennifer and Sam both noted, non-profit organizations within L.A. County created a network through which attorneys can discover whether or not the judge assigned to their case tends to be SIJS friendly.¹⁰⁸ Such networks are absolutely vital towards holding the justice system accountable because they provide an informal way for attorneys to keep track of judges who demonstrate patterns of denying SIJS cases for petty reasons and

¹⁰⁷ Katana. Interview Between Katana and Lanna Sanchez, February 20, 2019.

¹⁰⁸ Jennifer. Interview Between Jennifer and Lanna Sanchez, February 7, 2019.

Sam. Interview Between Sam and Lanna Sanchez. February 7, 2019.

ultimately prove to not be doing the job allotted to them through state law. Since state court judges are the first stakeholders that SIJS petitioners encounter on their journey to receiving permanent residency, receiving a denial from them essentially bans a litigant from applying for a visa through the SIJS route. Attorneys should continue to share their experiences— positive, negative, and even neutral— with their colleagues in order to ensure that non-SIJS-friendly judges can be avoided by filing a peremptory challenge with the court.

By sharing experiences in which attorneys have received denials of their client’s SIJS petitions with their colleagues, such narratives can eventually prevent attorneys from receiving denials in the future. For instance, if a typically SIJS-friendly judge denies a client’s SIJS petition based on insufficient details provided about instances of abuse, that attorney can explain to their colleagues why the judge stated they denied the petition. Their colleagues can then avoid making the same mistakes and will then know to provide as many details as possible in the petition. Jackie notes that a lack of details within state court petitions has recently caused delays of the adjudication of SIJS visas once they are reviewed by USCIS.¹⁰⁹ Such issues, if shared between non-profit networks, can be avoided in the future since attorneys can learn about them prior to filing documents with the state court. Communication between colleagues is absolutely essential in terms of providing the best support possible for SIJS youth.

Concluding Remarks

Through the help of my research participants, this thesis investigates contemporary issues affecting young immigrants applying for permanent legal residency through the Special Immigrant Juvenile Status pathway. Since the majority of my participants’ clients are citizens of El Salvador, Guatemala, and Honduras, this thesis hones in on how the current visa backlog

¹⁰⁹ Jackie. Interview Between Jackie and Lanna Sanchez, March 5, 2019.

affects youth from these countries and the work of their attorneys. To contextualize the delays in the adjudication of SIJS petitions, I also investigated the historical roots of Central American migration as caused by U.S. imperialism throughout the 20th century. Central American youth are not the only applicants of SIJS affected by the United States' imperialist foreign policy; many undocumented individuals migrating from countries within the global south also come from countries that have faced civil wars, neoliberal regime changes, economic stagnation, and other forms of state-imposed violence that result from U.S. interventions.

Future studies should analyze how SIJS petitioners from such other nations are affected by both U.S. imperialism within their countries of origin and immigration policy that essentially places heavy restrictions on such individuals from migrating and finding refuge in the United States. Due to the United States' long legacy of interventionism in Haiti and USCIS's tendency to deny asylum petitions from nationals of Haiti¹¹⁰, I argue that future studies should investigate how state courts, immigration courts, and USCIS policies view and treat Haitian SIJS applicants through a similar methodology that I incorporate within this thesis. Such research could uncover whether Haitian youth experience similar delays as Central American youth that could allow for coalition building between immigrant communities, creating stronger advocacy networks for youth.

The Special Immigrant Juvenile Status visa provides a pathway for undocumented youth who have endured trauma to secure a stable living environment via custody orders and obtain permanent legal residency. Despite the currently flawed implementation of the policy, this particular route should absolutely still be utilized by eligible Central American youth. Attorneys should also continue to file simultaneous asylum petitions for youth whose lived experiences

¹¹⁰ I give full credit to my close friend and classmate, Neyissa Desir, for educating me on this topic and for inspiring me to question how Haitian SIJS petitioners may be viewed and treated throughout their court processes.

may align with the requirements for receiving asylum. The fact that SIJS is a viable route for youth to obtain permanent residency demonstrates the U.S. immigration system's ability to protect vulnerable youth from experiencing further trauma, but its current failures exemplify the need for the immigration system provide reparations for the damage that U.S. imperialism caused to the social structures of numerous communities of the Global South. Until the immigration system can be transformed to an entity that truly fights for justice for *all* immigrant communities, policymakers should seek inspiration from Special Immigrant Juvenile Status policy and create similar routes to permanent residency for adults who experienced familial trauma as well— as childhood trauma does not stop affecting one's life a person turns 21 years old.

Works Cited

Angelica. Interview Between Angelica and Lanna Sanchez, March 22, 2019.

Administrative Office of the U.S. Courts. "Access to Education - Rule of Law: Plyler v. Doe." United States Courts. Accessed April 16, 2019.

Aguilar, Rubén. "La Migración y Las Remesas En El Salvador." *El Economista*. Accessed March 23, 2019.

Arnold, Amanda. "What to Know About the Detention Centers for Immigrant Children." *The Cut*, June 21, 2018.

American Immigration Council. "PRACTICE ADVISORY- MOTIONS FOR A CONTINUANCE," September 7, 2018.

Appellate Division - Second Judicial Department. "Attorneys for Children Program." Accessed April 19, 2019.

Batalova, Jeanne, and Jie Zong. "Central American Immigrants in the United States." *migrationpolicy.org*, April 4, 2017.

Baum, Jennifer, Kamhi, Alison, and Russell, C. Mario. "Most in Need But Least Served: Legal and Practical Barriers to Special Immigrant Juvenile Status for Federally Detained Minors." *Family Court Review* 50, no. 4 (October 2012): 621–28.

"Bill Text - SB-873 Human Services." Accessed April 3, 2019.

Borger, Julian. "Fleeing a Hell the US Helped Create: Why Central Americans Journey North." *The Guardian*, December 19, 2018, sec. US news.

Buriel, Raymond. "Historical, Socio-Cultural, and Conceptual Issues to Consider When Researching Mexican American Children and Families, and Other Latino Subgroups*." *Psychosocial Intervention* 21, no. 3 (December 2012): 291–303.

California Senate. "Senate Bill 873 Human Services.," 2014.

Carlson, Elizabeth. "Humanitarian Protection for Children Fleeing Gang-Based Violence in the Americas - CIAO." *Journal on Migration and Human Security*, Center for Migration Studies of New York, 3, no. 2. Accessed November 3, 2018.

Catholic Legal Immigration Network. “New Priority Groups for Immigration Court Docketing,” 2017

Catholic Legal Immigration Network. “Surge in SIJS Approvals Creates Backlog at Adjustment Stage,” April 12, 2018.

Catholic Legal Immigration Network. “Temporary Protected Status for El Salvador,” 2016.

Catholic Legal Immigration Network. “Temporary Protected Status for Honduras,” 2018.

Chishti, Muzaffar; Pierce, Sarah; Bolter, Jessica. “The Obama Record on Deportations: Deporter in Chief or Not?” migrationpolicy.org, January 25, 2017.

County of Los Angeles. “What Is Probate Court? - Probate Division.” The Superior Court of California, 2014.

Crenshaw, Kimberlé. “Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color.” *Stanford Law Review* 43, no. 6 (July 1991): 1241.

Department of Homeland Security- U.S. Citizenship and Immigration Services. “Form I-360: Petition for Amerasian, Widow(er), or Special Immigrant,” April 12, 2018.

Department of Homeland Security. “United States Citizenship and Immigration Services: Budget Overview,” 2018.

Department of Homeland Security: U.S. Citizenship and Immigration Services. “Number of I-360 Petitions for Special Immigrant with a Classification of Special Immigrant Juvenile (SIJ) by Fiscal Year, Quarter and Case Status January 1 - March 31, 2018,” March 2018.

Donahue, Mary. “Applying for Special Immigrant Juvenile Status (SIJS) in Affirmative Cases | SEPT 2018,” 2018, 8.

Elizabeth. Interview Between Elizabeth and Lanna Sanchez, February 12, 2019.

Fox, Danielle, Hisashi Yamagata, Esq Lili Khozeimeh, Esq Marianne Hendricks, Esq Madeleine Jones, and Rick Dabbs. “When Special Immigrant Juveniles and Trial Courts Intersect: The Value of Data-Informed Case Management.” *International Journal for Court Administration* 8, no. 3 (July 4, 2017): 1–12.

Gonzales, Alfonso. *Reform Without Justice: Latino Migrant Politics and the Homeland Security State*. Oxford University Press, 2014.

Gonzales, Roberto. "Lives in Limbo : Undocumented and Coming of Age in America," 2016.

Heidbrink, Lauren. "Unintended Consequences: Reverberations of Special Immigrant Juvenile Status." *Journal of Applied Research on Children: Informing Policy for Children at Risk* 5, no. 2 (2014).

Hendrickson, Brett. "Border Medicine." *NYU Press* (blog), December 2014.

Immigrant Legal Resource Center. "Update on Special Immigrant Juvenile Status," February 2017.

Irwin, Richard. "President Obama Ramps Up Family Separations." *National Immigration Law Center* (blog), May 12, 2016.

Jackie. Interview Between Jackie and Lanna Sanchez, March 5, 2019.

Jennifer. Interview Between Jennifer and Lanna Sanchez, February 7, 2019.

Jorden, Danica. "Women and Children First: Homeland Security Targets 'Family Units' for Deportation in May and June." openDemocracy. Accessed March 26, 2019.

Judge Leonard P. Edwards. "The Role of the Juvenile Court Judge." *Juvenile & Family Court Journal*, 1992, 25–45.

Judicial Council of California. "Demographic Data Provided by Justices and Judges Relative to Gender, Race/Ethnicity, and Gender Identity/Sexual Orientation," 2017.

Judicial Council of California. "Special Immigrant Juvenile Status," 2018.

Katana. Interview Between Katana and Lanna Sanchez, February 20, 2019.

Keller, Marybeth: Chief Immigration Judge. "Operating Policies and Procedures Memorandum 17-01: Continuances." Executive Office for Immigration Review, July 31, 2017.

Lee, Vivian and Jordan, Miriam. "Migrant Children in Search of Justice: A 2-Year-Old's Day in Immigration Court - The New York Times," October 8, 2018.

Legal Services for Children. "Special Immigrant Juvenile Status (SIJS)." Accessed October 11, 2018.

Madani, Doha. "U.S. Hate Crimes Spiked around the 2018 Midterms, Report Says." NBC News. Accessed April 20, 2019.

Mandelbaum, Rand and Steglich, Elissa. "Disparate Outcomes: The Quest For Uniform Treatment Of Immigrant Children." *Family Court Review* 50, no. 4 (October 2012): 606–20.

McGreevy, Patrick. "Gov. Brown Approves Legal Help for Minors in the Country Illegally - Los Angeles Times." latimes.com. Accessed October 14, 2018.

Michelle. Interview Between Michelle and Lanna Sanchez, February 20, 2019.

Katherine Parks. "Remittances to El Salvador Keep Families Out of Poverty." The Borgen Project, February 12, 2018.

Ramey, Corinne. "Lawsuit Claims Some Young Immigrants Treated Unfairly Under New Policy." *Wall Street Journal*, June 7, 2018, sec. US.

Robbins, Liz. "A Rule Is Changed for Young Immigrants, and Green Card Hopes Fade." *The New York Times*, April 26, 2018, sec. New York.

Rose, Austin. "For Vulnerable Immigrant Children, A Longstanding Path to Protection Narrows." migrationpolicy.org, July 24, 2018.

Rosenblum, Marc R. "Unaccompanied Child Migration to the United States: The Tension Between Protection and Prevention." Migration Policy Institute, April 2015.

Sam. Interview Between Sam and Lanna Sanchez, February 7, 2019.

Sanchez, Lanna. "Field Notes: Los Angeles County Superior Court, Family Court," February 22, 2019.

Smith, Robert Courtney. "Latino Incorporation in the United States in Local and Transnational Contexts." *Latinas/os in the United States: Changing the Face of América*, 2008.

Stinchcomb, Dennis, and Hershberg, Eric. "Unaccompanied Migrant Children from Central America." *Center for Latin American & Latino Studies, American University*, no. 7 (November 2014).

Superior Court of California, County of Los Angeles. "Family Law Case Cover Sheet And Certificate Of Grounds For Assignment To District," October 2018.

Superior Court Of California, County Of Los Angeles. “Peremptory Challenge To Judicial Officer (Code Civ. Proc., § 170.6).” *Code Civ. Proc.*, § 170.6, April 2004, 1.

The Legal Aid Society. “Immigrant Children Sue Over Denial Of Youth Humanitarian Status.” The Legal Aid Society. Accessed December 17, 2018.

Title 5, Family and Juvenile Rules-Division 1, Family Rules-Chapter 9, Child, Spousal, and Domestic Partner Support; adopted January 1, 2013.

Thronson, Veronica T. “The Impact of Special Immigrant Juvenile Status on Access to Protection of Unaccompanied Child Migrants in the United States.” *Research Handbook on Child Migration*, August 31, 2018.

Transactional Records Access Clearinghouse (Syracuse University). “Asylum Decisions and Denials Jump in 2018,” November 29, 2018.

Transactional Records Access Clearinghouse (Syracuse University). “Central American Deportation Cases Dominate U.S. Immigration Courts,” August 14, 2015.

U.S. Citizenship and Immigration Services (USCIS). “Special Immigrant Juveniles.” April 10, 2018.

U.S. Citizenship and Immigration Services (USCIS). “Number of I-360 Petitions for Special Immigrant with a Classification of Special Immigrant Juvenile (SIJ) by Fiscal Year and Case Status, October 1-December 31, 2017,” updated May 1, 2018.

Vera Institute of Justice. “Unaccompanied Children in the United States: A Literature Review 9,” 2008.

Watkins, Ali, and Meridith Kohut. “MS-13, Trump and America’s Stake in El Salvador’s Gang War.” *The New York Times*, December 10, 2018, sec. U.S.

Xochitl. Interview Between Xochitl and Lanna Sanchez, February 20, 2019.

Appendices

Appendix 1. Pages 8 and 9 of the I-360 Petition Specific to SIJS Applicants.

Part 8. Complete Only If Filing for a Special Immigrant Juvenile

Information About the Juvenile

1. List any other names used:

A. Family Name (Last Name)	Given Name (First Name)	Middle Name
<input type="text"/>	<input type="text"/>	<input type="text"/>
B. Family Name (Last Name)	Given Name (First Name)	Middle Name
<input type="text"/>	<input type="text"/>	<input type="text"/>

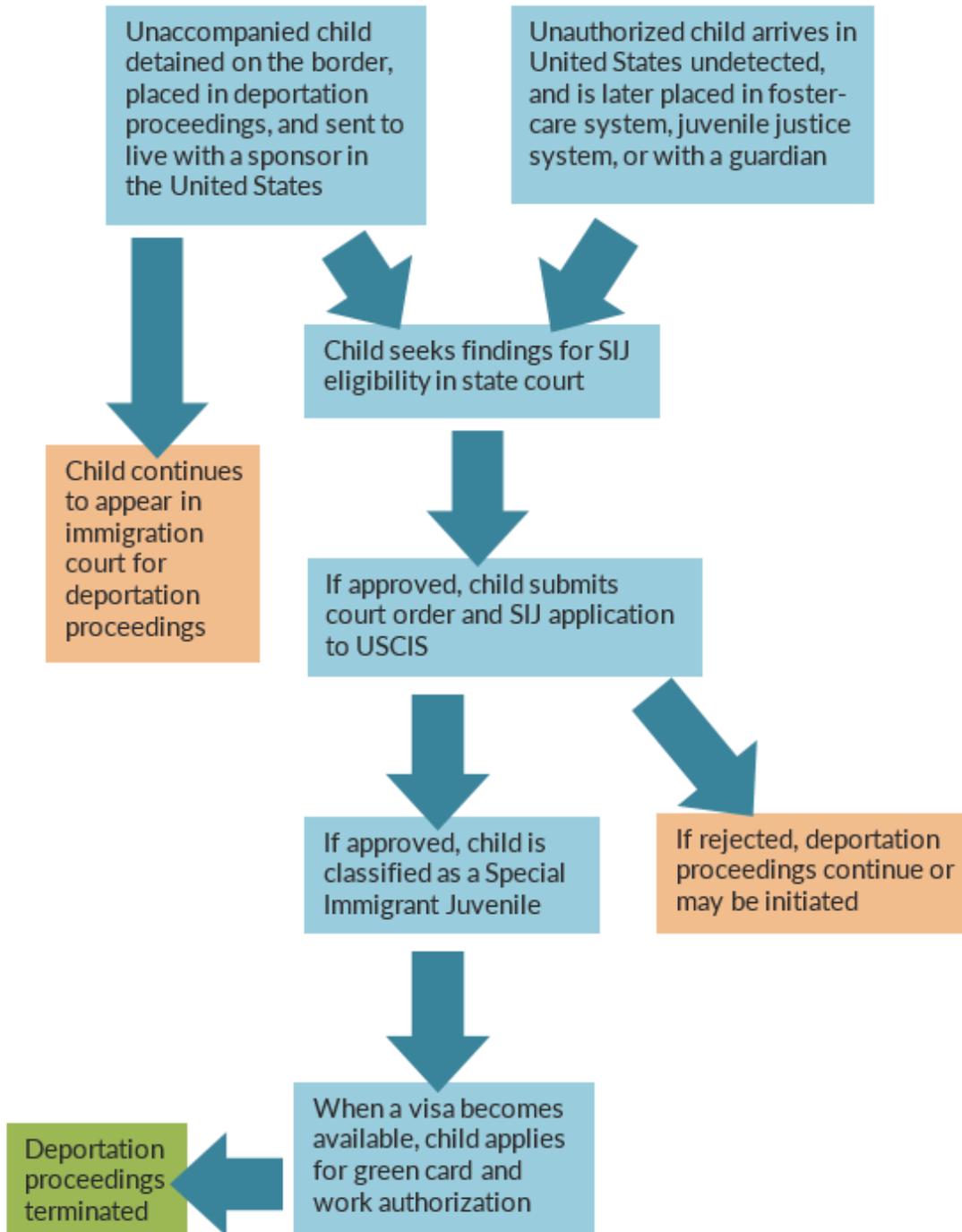
Answer the following questions regarding the person for whom the petition is being filed. If you answer "No" to **Item A. in Item Number 2.**, provide an explanation in the space provided in **Part 15. Additional Information.**

2. A. Have you been declared dependent on a juvenile court in the United States OR has a juvenile court legally committed you to, or placed you under the custody of, an agency, department of a state, or an individual or entity? Yes No
- B. Provide the name of the state agency, department, or court-appointed organization or individual with which you are placed below.
- C. Are you currently under the jurisdiction of the juvenile court that made your placement or custody determination identified in **Item B. in Item Number 2.** above? Yes No

Part 8. Complete Only If Filing for a Special Immigrant Juvenile (continued)

3. A. If you answered "Yes" to **Item C. in Item Number 2.** above, are you currently residing in your court-ordered placement? Yes No
- B. If you answered "No" to **Item C. in Item Number 2.** above, select your reason below.
- You were adopted or placed in a permanent guardianship or another permanent living arrangement (other than reunification with the abusive parents).
- You aged-out of the juvenile court's jurisdiction and the order was terminated based on age.
- Other. (If you selected "Other," provide an explanation in the space provided in **Part 15. Additional Information.**)
4. A. A juvenile court has determined that reunification with one or both of my parents is not viable due to:
- Abuse Neglect Abandonment
- Similar basis under state law (specify):
- B. If you selected "one" in **Item A. in Item Number 4.**, provide the name of that parent below.
5. Has it been determined in judicial or administrative proceedings that it would not be in your best interest to be returned to your or your parent's country of citizenship or nationality or last habitual residence? Yes No
6. A. Are you currently or were you previously in the custody of the U.S. Department of Health and Human Services (HHS)? Yes No
- B. If you answered "Yes" to **Item A. in Item Number 6.**, and you are in HHS custody, did the juvenile court order determine or alter your custody status or placement? Yes No

Appendix 2. Simplified Flowchart Explaining the SIJS Application Process



U.S. Citizenship and Immigration Services (USCIS). "Special Immigrant Juveniles." April 10, 2018.

Appendix 3. *Interview Guide Used for All Research Participants*

Preface

- Initial thank yous for sharing their time and story
- Remind them I'm a senior at Pomona, PPA major with Sociology concentration, Chicana/Latina Studies minor
- Remind that interview is both confidential and anonymous
 - I'll be the only person to know your name and who you are.
 - I won't put your name, where you work, or any identifying qualities in the paper
- You may back out of this interview at any point if you no longer want to participate, even after we're done or the phone call ends
 - Email me if you no longer want to participate
- My goal is to investigate SIJS backlogs and how they are affecting SIJS youth
 - And how the C.A. court systems and USCIS treats SIJS applicants
- The reason I'm interested in this topic:
 - I interned in NYC at a non-profit law firm that advocates for kids in trauma throughout the city. Many of my clients were unaccompanied minors from Guatemala and Honduras who were placed into foster care.
 - Our organization was referred to them by their foster care social workers, and then we would help them with the initial step of SIJS— getting a judge to declare that they were abused, neglected, or abandoned by a parent in their home country.
 - I sat in on their interviews with attorneys & went to their court hearings.
 - After this step we would refer to immigration attorneys
 - I am less familiar with immigration side

- I understand that you maintain attorney-client privilege.
 - *If I ask you any questions that could break this privilege by answering them, please feel free to tell me that you cannot answer the question!*
- May I record this? If not, may I take notes during our interview?

Interview Questions

- Did you represent your client in the family law side or the immigration side of proceedings?
- Family law: how did that go?
 - What type of case? Guardianship, adoption, foster care?
- Immigration side: how did that go? In court....
- What was your experience like advocating for a SIJS applicant?
 - What was the process like for your client?
- How long did it take for your client to either get approved or denied for their SIJ status?
- Was your client affected by any USCIS backlogs?
 - If yes/no, how did the case go?
- How would you describe the way that judges and court employees treated your client?
- Can you describe to me how *you think* SIJS applicants are viewed by the current federal immigration system?
- Do you think that SIJS policy is being followed by the court system in the way that the law mandates?
- Has advocating for immigrant youth changed throughout your career?
- Describe how it has been to represent immigrant youth during different presidential administrations.

- Obama administration?
- What about the current administration?
- What do you think attorneys *can* do to protect SIJS youth?
- What can the court system, either state or federal, do to better protect SIJS youth?

Closing questions

- Is there anywhere you would recommend going court watching?
- Is there anyone that you know that would be interested in participating in my interviews?
 - May I have their contact info? Can I share that you were the person who suggested interviewing them?

Sanchez, Lanna. Thesis Interview Guide. Updated March 23, 2019.

Appendix 4. Page 2 of the L.A. County Family Law Case Cover Sheet.

Note: This sheet indicates that a litigant may petition for SIJS along with an Establishment of a Parental Relationship case.

V. Interpreter Request

The Los Angeles Superior Court provides **free** interpreter services to participants in all family law cases. You may also request an interpreter online via the **Interpreter Request Portal** available at <http://www.lacourt.org>. Click the "Online Services" tab to access the **Interpreter Request Portal**.

Do you need an interpreter? Yes No If yes, indicate the language requested: _____

VI. District Assignment

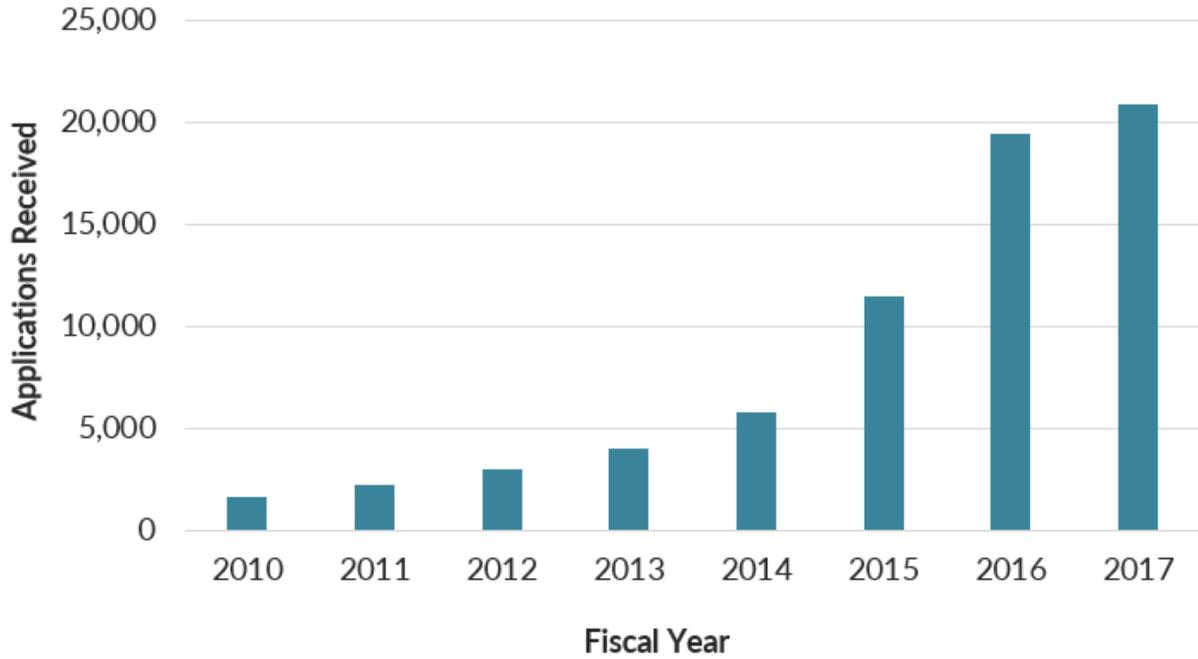
Step 1. In the "Type of Action" column below, select **one** type of action which best describes the nature of this case. For dissolution, nullity, and legal separation cases select one option each in sections A, B, and C.

Step 2. Across from the "Type of Action" you selected, place an "X" in the column that corresponds to the reason for your choice of district. Note that you may only select from the boxes that are not shaded.

TYPE OF ACTION (check one)			May be filed in Central District	District where one or more of the parties resides	Child resides within the county	District where the Petitioner resides	Any court location
Dissolution, Nullity, and Legal Separation (required: select one option each in sections A, B, and C below)							
Section A (check one)	<input type="checkbox"/> Dissolution <input type="checkbox"/> Nullity <input type="checkbox"/> Legal Separation	Section B (check one)	<input type="checkbox"/> With Minor Children <input type="checkbox"/> Without Minor Children	Section C (check one)	<input type="checkbox"/> Domestic Partnership <input type="checkbox"/> Marriage		
Dept. of Child Support Services (DCSS)							
<input type="checkbox"/> DSU – Summons and Complaint [4814]							
<input type="checkbox"/> DSU – Statement – Registration of California Support Order [4811]							
<input type="checkbox"/> DSU – Petition – Uniform Support [4810]							
<input type="checkbox"/> DSU – Statement – Registration Out-of-State Support Order [4812]							
Establish Parental Relationship							
<input type="checkbox"/> Petition – Establish Parental Relationship [4040]							
<input type="checkbox"/> Petition – Special Immigrant Juvenile Status [4068]							
<input type="checkbox"/> Petition – Request – Set Aside Voluntary Dec. of Paternity [4054]							
Joint Petition for Summary Dissolution							
<input type="checkbox"/> Marriage [4041]			<input type="checkbox"/> Domestic Partnership [4042]				
Surrogacy (if selected, also complete Section VIII, "Surrogacy Case Jurisdiction", on page 3 of this form)							
<input type="checkbox"/> Surrogacy – Stipulation and Order [4324]							
Other Family Law							
<input type="checkbox"/> Petition – Custody and Support of Minor Child [4032]							
<input type="checkbox"/> Registration of Out-of-State Custody Order [4052]							
<input type="checkbox"/> Statement – Registration of California Support Order [4190]							
<input type="checkbox"/> Petition – Grandparent/Third Party Visitation [4327]							
<input type="checkbox"/> Request – Release Confidential Marriage License/Certificate [4407]							
<input type="checkbox"/> Petition – Minor's Contract (FC § 6751) [4047]							
<input type="checkbox"/> Petition – Habeas Corpus – Family Law [4011]							
<input type="checkbox"/> Custody Order – Juvenile Final Judgment – Closing Order [174]							
<input type="checkbox"/> Petition – Elder/Dependent Adult Abuse [226]							
<input type="checkbox"/> Order – Register Out-of-State/Tribal Court Restraining Order [4325]							
<input type="checkbox"/> Petition – Family Law Other [4329]							
Consent for Minor to Marry/Establish Domestic Partnership							
<input type="checkbox"/> Marriage [4031]			<input type="checkbox"/> Domestic Partnership [4030]				
Restraining Orders/Domestic Violence (DV) Prevention Note: Use Civil Case Cover Sheet (LA CIV109) for all Civil Restraining Orders							
<input type="checkbox"/> DV Prevention with Minor Children [4038]							
<input type="checkbox"/> DV Prevention without Minor Children [4039]							

Superior Court of California, County of Los Angeles. "Family Law Case Cover Sheet And Certificate Of Grounds For Assignment To District," October 2018.

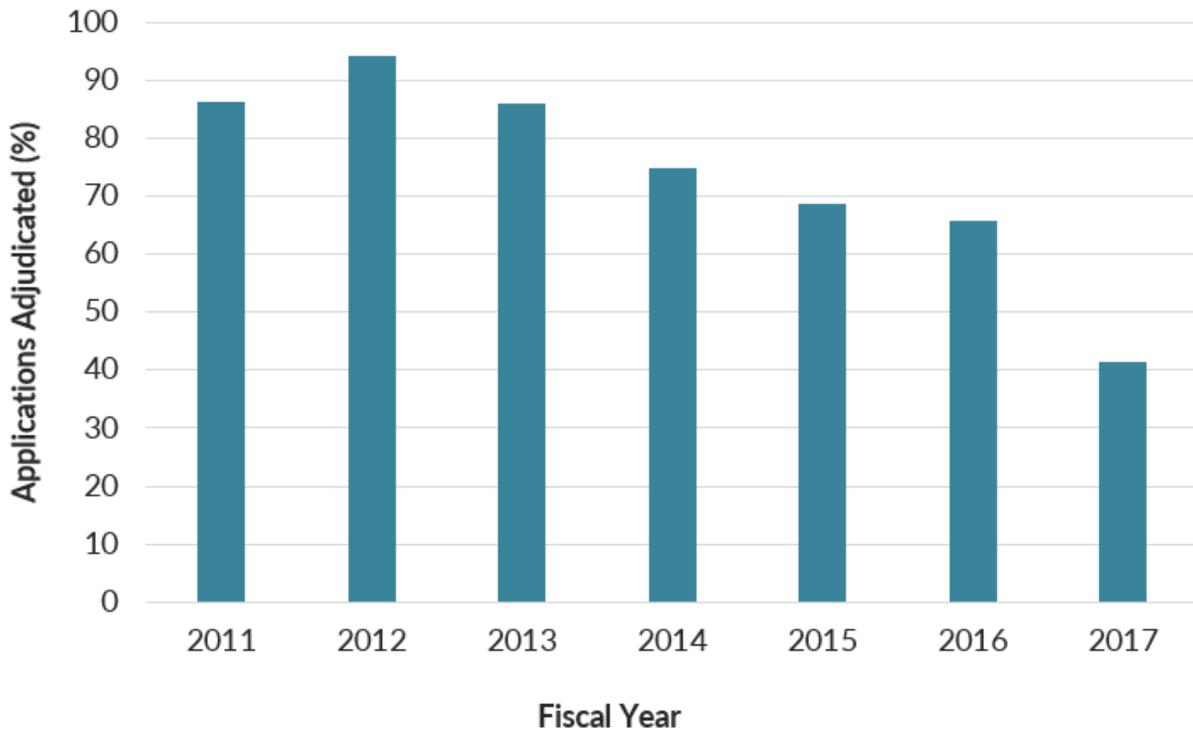
Appendix 5. *Special Immigrant Juvenile Applications by Fiscal Year (2010-2017)*



USCIS, “Number of I-360 Petitions for Special Immigrant with a Classification of Special Immigrant Juvenile (SIJ) by Fiscal Year and Case Status, October 1-December 31, 2017,” updated May 1, 2018.

Appendix 6. *Adjudication Rate for Special Immigrant Juvenile Applications, (%), Fiscal Year 2011-2017.*

Note: Adjudication rate was calculated by dividing the total number of applications for which a final decision was made (accepted or denied) in a given fiscal year by the sum of the number of applications filed that year and the number of applications pending from the previous year.



Migration Policy Institute (MPI) analysis of data from USCIS. “Number of I-360 Petitions for Special Immigrant with a Classification of Special Immigrant Juvenile (SIJ) by Fiscal Year and Case Status, October 1-December 31, 2017,” updated May 1, 2018.