

November 20, 2014

President Barack Obama
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Mr. President:

We write to ask you to restore American leadership in protecting the persecuted by ending the detention policies aimed at women and children seeking asylum from Honduras, El Salvador, and Guatemala as well as other measures that limit access to asylum for these populations. Our groups include non-profit, faith-based, human rights, legal service, immigration bar association, refugee assistance, and domestic violence organizations that provide legal representation or other assistance to refugees and asylum seekers, as well as law professors who teach asylum and refugee law in this country.

This country has a long history of providing refuge to the persecuted, a tradition that reflects core American values and U.S. global leadership. The United States led efforts to draft the 1951 Refugee Convention in the wake of World War II, and agreed to abide by its central tenets when it ceded to the Refugee Protocol in 1968. As you noted on World Refugee Day this June, “[t]he ordeals refugees survive and the aspirations they hold resonate with us as Americans.”

Yet on that same day, the administration announced a new policy of detaining and quickly deporting women and children seeking asylum from El Salvador, Guatemala, and Honduras. The June announcement was quickly followed by the launch of two facilities for detaining women and children from Central America and just this week by the announcement that a new facility to detain families in Dilley, Texas will open in December and hold up to 2400 individuals. U.S. immigration authorities are also opposing the release requests of mothers and their children seeking asylum from these Central American countries, even if the families would normally be eligible for release on bond, adopting the flawed deterrence arguments of former Attorney General John Ashcroft to justify nationality-based immigration detention policies.

Those who are held in these detention facilities face another significant impediment to asylum: lack of legal representation. Multiple studies have documented that the overwhelming majority of those held in U.S. immigration detention facilities are not able to secure legal representation, and that asylum seekers are much more likely to succeed in their asylum requests when they are represented by counsel. In addition, access to asylum has also been limited by new guidance on the credible fear screening process—which has led the United States to deny some asylum seekers, including some expressing fear of persecution due to domestic violence or sexual identity—the chance to even file applications for asylum, and these interviews are conducted so quickly that asylum seekers cannot secure counsel to represent them in these interviews. The rushed immigration court “rocket dockets” that have faced women and children whose cases

originate at the border also impede their ability to secure counsel and gather the evidence necessary to prove their cases. Studies confirm that counsel also facilitates appearance for hearings.

These policies of detention and attempts at deterrence violate U.S. human rights and refugee protection commitments. They also undermine the international system for protecting refugees, and the ability of the United States to champion protection for refugees globally. The number of women and children seeking U.S. protection from Central America pales in comparison to the numbers that have fled from Syria, Iraq, or Somalia in search of protection. U.S. border policies should respect basic human rights standards and set an example for other countries faced with much greater challenges.

We urge your administration to take steps to adopt policies consistent with protecting the persecuted and the rule of law. Specifically, we urge you to:

- Roll back the use of expedited removal in border areas, address documented failures in asylum-related safeguards in expedited removal during Customs and Border Protection processing, and strengthen credible fear training and guidance so that individuals who have a significant possibility of establishing asylum eligibility are not prevented from filing requests for asylum;
- End the detention of families—including the detention of mothers from Central America and their children—which results in egregious human rights violations, traumatizes children and families, undermines the family structure, and impedes due process;
- End the policies of opposing release on bond for Central American families and requesting extremely high bonds that families cannot pay;
- Champion adequate staffing and funding for the immigration courts and asylum office so all asylum cases, not just those that originate at the border, move ahead in a timely but not rushed manner instead of being delayed for years, as well as additional funding for legal counsel and legal orientation presentations, while taking further steps to address the “rocket docket” approach; and
- Support the use of case management and other appearance support measures, rather than detention, in cases where it is determined based on an individualized assessment that the individual or family needs additional support to assure appearance for immigration court hearings. Alternatives to detention have demonstrated very high appearance rates, have been endorsed by a range of groups including the Council on Foreign Relations Independent Task Force on Immigration Policy, and are also for example increasingly employed by criminal justice systems across the country, prompted by reformers like the Texas Public Policy Foundation, home to Right on Crime.

The United States can and should treat those who seek its protection fairly and in ways that set an example to the rest of the world. With the escalation of turmoil, conflict, and human rights abuses in recent years, there are, as you noted on World Refugee Day in June, more refugees now in the world than at any time since World War II. These global challenges make the international refugee protection system—and U.S. leadership in this area—more important than ever.

We urge you to review and revise these policies. We look forward to scheduling a meeting to discuss these recommendations with administration officials; we can be contacted through Eleanor Acer at acere@humanrightsfirst.org.

Respectfully,

The Advocates for Human Rights
Minneapolis, MN

African Services Committee
New York, NY

American Immigration Lawyers Association
Washington, D.C.

Asian Americans Advancing Justice-AAJC
Washington, D.C.

Asylum Access
Oakland, CA

Bellevue/ NYU Program for Survivors of Torture
New York, NY

Catholic Legal Immigration Network, Inc. (CLINIC)
Silver Spring, MD

Center for Gender and Refugee Studies
San Francisco, CA

The Center for Victims of Torture
Washington, D.C.

Church World Service
Washington, D.C.

Diocesan Migrant & Refugee Services, Inc.
El Paso, Texas

The Episcopal Church
Washington, D.C.

Esperanza Immigrant Rights Project
Los Angeles, CA

Florida Center for Survivors of Torture/Gulf Coast Jewish Family & Community Services
Clearwater, FL

Her Justice
New York, NY

HIAS
New York, NY

Human Rights First
Washington, D.C./New York, NY/Houston, TX

Human Rights Watch
New York, NY

Human Rights Initiative of North Texas
Dallas, TX

Immigrant Legal Advocacy Project
Portland, ME

Immigration Center for Women and Children
San Francisco, CA

International Rescue Committee
Washington D.C.

Iraqi Refugee Assistance Project
New York, NY

Kids in Need of Defense (KIND)
Washington, DC

Lawyers' Committee for Civil Rights of the San Francisco Bay Area
San Francisco, CA

Lutheran Immigration and Refugee Service
Washington, D.C.

National Immigrant Justice Center
Chicago, IL

Pangea Legal Services
San Francisco, CA

Physicians for Human Rights
New York, NY

Program for Torture Victims
Los Angeles, CA

Public Counsel
Los Angeles, CA

Refugee and Immigrant Center for Education and Legal Services (RAICES)
San Antonio, TX

Survivors of Torture, International
San Diego, CA

Tahirih Justice Center
Falls Church, VA/Houston, TX

U.S. Committee for Refugees and Immigrants
Arlington, VA

Women's Refugee Commission
Washington, D.C.

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cc: The Honorable Jeh Johnson, Secretary, Department of Homeland Security
The Honorable Alejandro Mayorkas, Deputy Secretary, Department of Homeland
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Ms. Cecilia Muñoz, Assistant to the President and Director of the Domestic Policy
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Ms. Sarah Lynn Rosenthal, Senior White House Advisor on Violence Against Women
The Honorable Anne Richard, Assistant Secretary, Bureau of Population, Refugees and
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The Honorable R. Gil Kerlikowske, Commissioner, U.S. Customs and Border Protection
The Honorable Leon Rodriguez, Director, U.S. Citizenship and Immigration Services
The Honorable Thomas Winkowski, Acting Director, United States Immigration and
Customs Enforcement
Ms. Elizabeth Cassidy, United States Commission on International Religious Freedom
Mr. Shelly Pitterman, Regional Representative, Office of the UN High Commissioner for
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