

## **Advocates for survivors of domestic violence and sexual assault call for an end to the use of detention centers for immigrant women & children fleeing violence**

Many of the women and their children arriving at the border, primarily from three Central America countries, have come to the United States fleeing horrific domestic and sexual violence at the hands of intimate partners and criminal gangs, as well as increased risks of human trafficking. These individuals undertake perilous journeys because their abusers are able to commit atrocities without accountability and government institutions fail to provide protections.

It is imperative that the Obama Administration respond to this humanitarian crisis appropriately by denouncing these human rights violations and pursuing strategies to address the root causes, while at the same time offering protection to qualified individuals under asylum law, the Violence Against Women Act (VAWA), and the Trafficking Victims Protection Act (TVPPA).

Since June 2014, the Department of Homeland Security (DHS) has exponentially increased the number of family detention beds and is opening more centers to detain women and their children in jail-like facilities. DHS recently announced that it will open a third such facility in Dilley, Texas with 2,400 beds at a cost of over \$280 million annually. More than 125 organizations that work to end domestic violence, sexual assault and trafficking [signed a letter](#) urging DHS to close existing family detention facilities and invest instead in effective, humane, and far less costly alternatives to detention.<sup>1</sup>

### **Family detention centers are the wrong approach to dealing with this humanitarian crisis because:**

- (1) It is harmful and re-traumatizing for survivors of violence to be locked in jail-like facilities and to be denied bond or access to alternative to detention programs;
- (2) Families in remote detention facilities do not have adequate access to legal assistance and mental health services;
- (3) Without these services, families in detention are vulnerable to re-traumatization and are more likely to be unlawfully deported back to face further persecution or death;
- (4) Massive detention and rapid deportation are denying these survivors of violence meaningful access to asylum and other protection under U.S. and international law; and
- (5) There are reports of women in these detention centers experiencing ongoing sexual abuse at the hands of male guards, in violation of the Prison Rape Elimination Act (PREA).<sup>2</sup>

### **Crisis of Violence in Central America Against Women and Girls**

The detainees housed in the family detention centers are children and young mothers primarily fleeing three countries in Central America that have among the highest levels of violence in the world:<sup>3</sup> in 2011, El Salvador had the highest rate of gender-motivated killing of women in the world, followed by Guatemala (third highest) and Honduras (sixth highest).<sup>4</sup>

The vast majority of these women and children are fleeing domestic and/or gang violence and abuse, and present facts that may give rise to a claim for asylum or other forms of protection, including U and T visas for victims of domestic violence, sexual assault, and trafficking, or Special Immigrant Juvenile Status. (See attached case examples).

In July 2014 the UN Special Rapporteur on violence against women, Rashida Manjoo, released a statement following an eight-day mission to Honduras. She noted that incidents of violence against women are “widespread and

<sup>1</sup> [http://www.immigrantjustice.org/sites/immigrantjustice.org/files/DV%20Family%20Detention%20Letter%20FINAL%202014\\_09\\_18.pdf](http://www.immigrantjustice.org/sites/immigrantjustice.org/files/DV%20Family%20Detention%20Letter%20FINAL%202014_09_18.pdf)

<sup>2</sup> [http://www.maldef.org/news/releases/maldef\\_other\\_groups\\_file\\_complaint\\_ice\\_family\\_detention\\_center\\_karnes\\_city/](http://www.maldef.org/news/releases/maldef_other_groups_file_complaint_ice_family_detention_center_karnes_city/)

<sup>3</sup> Chavez, S. & Avalos, J., “The Northern Triangle: The Countries That Don’t Cry for Their Dead,” InSight Crime – Organized Crime in the Americas, 24 Apr. 2014, <http://www.insightcrime.org/news-analysis/the-northern-triangle-the-countries-that-dont-cry-for-their-dead>.

<sup>4</sup> Geneva Declaration on Armed Violence and Development, *Global Burden of Armed Violence 2011*, Oct. 2011, [http://www.genevadeclaration.org/fileadmin/docs/GBAV2/GBAV2011\\_CH4\\_rev.pdf](http://www.genevadeclaration.org/fileadmin/docs/GBAV2/GBAV2011_CH4_rev.pdf).

systemic” and appear to be on the rise, with an increase of 263.4% in the number of violent deaths of women between 2005 and 2013. She also cited reports of a 95% impunity rate for sexual violence and femicide crimes in Honduras.<sup>5</sup>

The Board of Immigration Appeals (BIA) recently published a decision in, *Matter of A-R-C-G-et al.*, recognizing **that survivors of domestic violence may merit refugee protection**, just like others who face persecution because of characteristics they cannot change, if the government is unwilling or unable to control the “private” actor.<sup>6</sup> This decision underlines the need for due process protections as well as credible fear interviews for asylum that do not, by their very setting and circumstances, undermine a survivor’s potential eligibility for relief.

#### **Recommendations:**

- 1) **End the use of family detention centers.** The U.S. government essentially eliminated family detention except in rare circumstances in 2009 after a lawsuit challenged conditions.<sup>7</sup> A return to warehousing vulnerable mothers and children in remote facilities is inhumane and wastes taxpayer dollars.
- 2) **Reverse current policies of no bond/high bond for families in detention.** ICE has not been recommending release on bond for families in detention and has been appealing bonds granted by immigration judges for mothers and children who have been found to have a credible fear of persecution, pose no public safety threat and have substantial ties to the United States. This is a reversal of prior policies and further compounds the trauma and undermines access to critical services for those found to have a credible fear of persecution.<sup>8</sup>
- 3) **Expand the use of release and other alternatives to detention (ATDs).** Families can be released on their own recognizance, on orders of supervision and through other community-based alternatives to detention programs that have proven to be effective, more humane, and less costly than institutional detention.<sup>9</sup>
- 4) **Ensure that asylum officers apply the appropriate legal standards in assessing credible fear during the credible fear interview, and that interviews are conducted appropriately with the vulnerabilities of survivors of violence in mind.** Screening for potential relief must consider recent gender-based asylum legal developments recognizing that survivors of domestic violence may qualify for asylum, VAWA self-petitions, U or T visas, or Special Immigrant Juvenile Status. DHS must ensure that adults and children are screened individually, and that credible fear interviews of children are conducted appropriately given their particular vulnerabilities as child survivors of physical or sexual violence.
- 5) **Ensure access to appropriate mental health and social services.** Survivors of violence need counseling to help them overcome the trauma they have experienced. This is important not only for their own well-being, but also to help them proceed with the legal process.
- 6) **End expedited deportations of families.** Many parents and children in family detention are survivors of violence who need time to recover from the trauma they have experienced in order to express themselves to adjudicators and representatives. Expedited processing denies them basic due process.
- 7) **Ensure access to counsel.** Individuals in detention particularly struggle to find counsel and navigate the complex immigration system. Access to legal counsel generates efficiencies for immigration courts by making sure that individuals understand the process and their rights. This ensures that each individual’s protection concerns receive adequate consideration.

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<sup>5</sup> <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14833&>

<sup>6</sup> *Matter of A-R-C-G et al.*, 26 I&N Dec. 388 (BIA 2014)

<sup>7</sup> ACLU, “DHS Plans to Improve Immigration Detention and Close Hutto Facility a Good First Step,” 6 Aug. 2009, <https://www.aclu.org/immigrants-rights/dhs-plan-improve-immigration-detention-and-close-hutto-facility-good-first-step>.

<sup>8</sup> AILA, “Stop the Obama Administration from Denying Bond to All Mothers and Children from Central America”, Sept. 22, 2014, <http://www.aila.org/content/default.aspx?docid=50168>

<sup>9</sup> National Immigration Forum, *Math of Immigration Detention*, Aug. 2013, [www.immigrationforum.org/images/uploads/mathofimmigrationdetention.pdf](http://www.immigrationforum.org/images/uploads/mathofimmigrationdetention.pdf)

## Case Examples of Survivors of Violence in Family Detention Facilities

The American Immigration Lawyers Association (AILA) has compiled an extensive list of [Case Examples of Families in Detention and Subject to Rapid Deportation](#) that illustrate the atrocities and violence that families currently held in family detention centers faced in their home country and the conditions in which they are currently being held. The following stories are excerpted from AILA's case examples and show that many in family detention centers have suffered horrific domestic and sexual violence in their home country or en route to the United States.

- **Heidi** is a 23-year-old from Honduras. For 6 years, she endured mental and physical abuse from her husband, a drug trafficker from a powerful family. She was a prisoner in her own home, unable to leave without her husband's permission. Even when her husband was in prison for taking part in a murder, she couldn't escape as his friends and family were watching her. She tried to leave him and she and her two children's lives were threatened at gunpoint. She fled to the United States on the advice of a Honduran police officer who told her they couldn't protect her. Represented by pro bono counsel, she was recently granted asylum in what the judge called a "textbook case."
- **Amy**, her 7-year old daughter, and her teenage brother fled El Salvador to seek protection from sexual assault, kidnapping and repeated violence by M18 gang members. Six years ago, she refused the advances of a gang member, which resulted in months of beating and gang-rapes. She fled to the United States and after attending several hearings over 4 years, she voluntarily returned to El Salvador, thinking she was safer. Within two weeks of returning, she was gang raped. The next month her daughter was kidnapped for ransom, and she sold everything to get her daughter back. A few months later, her teenage brother was targeted and ended up in the emergency room. In the Artesia detention center, an asylum officer determined that Amy did not have a credible fear of returning to El Salvador. An Immigration Judge disagreed and found she did have credible fear. She remains in detention waiting to request bond from a judge.
- **Anita** and her 4-year-old son fled devastating violence. Anita has been beaten multiple times, threatened with rape, and suffered trauma during her pregnancy as gang members tried to cut her baby out of her stomach. She has a sponsor, a church community and a pastor who are willing to support her and her son financially in the U.S., yet DHS opposed bond. After nearly a 4-hour bond hearing before an immigration judge, Anita was given a \$15,000 bond.
- **G.L.V.A.** fled El Salvador with her teenage and three-year old daughters. G.L.V.A. suffered repeated violence at the hands of her ex-husband, who beat her when she was pregnant, assaulted her on repeated occasions, and threatened to kill her if she left him or tried to seek help from the police. She also was a target of gang members who controlled the area where she lived. Gang members demanded money from her and threatened her two daughters, then sexually assaulted the teenage daughter. Fearing for her daughters' lives, G.L.V.A. decided to flee.