

March 17, 2015

President Barack Obama
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear Mr. President,

We, the undersigned organizations, thank you for your leadership in protecting undocumented migrants from the fear of imminent deportation through your Executive Actions. You are building a robust immigration legacy with your November 20, 2014 executive actions on immigration. We fully support those actions, both as lawful exercises of your authority and as long overdue reforms that will keep families together, businesses robust, and our economy thriving. Your administration's massive expansion of family detention and its treatment of vulnerable refugee children and mothers from Central America, however, threatens to severely blemish that legacy. Federal courts, Members of Congress, and the national media are united in calling for you to adjust this policy and align it with our national values and reputation as a protector of basic human rights.

As more and more of these families are given the opportunity to tell the story of what drove them to the United States, it has become clear that mothers and children who have fled extreme violence, death threats, rape, and persecution in Central America, seeking only safety, are instead being held in detention. According to data from the Department of Homeland Security (DHS), approximately 70 percent of the women and children in family detention are able to demonstrate a credible fear of returning to their country of origin. The vast majority of families represented by the American Immigration Lawyers Association – American Immigration Council Artesia Pro Bono Project who have had final hearings have been granted asylum or related humanitarian relief by an immigration judge.

These detainees include:

- Sofia, who fled from her home after a gang murdered her brother, shot her husband and then kidnapped and raped her 14-year-old stepdaughter.
- Kira, who fled when a gang targeted her family over their involvement in a nonviolence movement at their church. When Kira's husband went into hiding, the gang subjected her to repeated sexual assaults and threatened to cut her unborn baby from her womb.
- Marisol who crossed the United States border in June 2014 after a gang in Honduras murdered the father of her 3-year-old twins and then turned its attention to her.

Not only are these stories appalling, heartbreaking, and too common in the Northern Triangle, they have also drawn the attention of the federal courts. As you know, a D.C. District Court recently granted a preliminary injunction putting an immediate halt to the administration's policy

of locking up asylum-seeking mothers and children as a way to deter others from coming to the United States.¹ The American Civil Liberties Union filed the case on behalf of mothers and children who have fled extreme violence, death threats, rape, and persecution in Central America and come to the U.S. for safety and demonstrated a credible fear of return to their home countries. In rejecting the U.S. government's argument that detention of these women and children was necessary to prevent a mass influx that would threaten national security, the court held that it was illegal to detain families based on deterrence. It made clear that the government cannot continue to lock up families without an individualized determination that they pose a danger or flight risk that requires their detention. This ruling is consistent with the United States' obligations under international refugee law and its long-standing global leadership in protecting the persecuted.

In addition to the recent injunction, in a separate case, the Center for Human Rights and Constitutional Law, the University of Texas Civil Rights Clinic and others, filed a motion to enforce the Flores Settlement Agreement, which establishes a general policy of release and minimum standards of treatment for all children in immigration custody.² The Plaintiffs argued that DHS is violating the Agreement by implementing a no-release policy in family detention, by holding these children in secure lock-down facilities that are not licensed to take care of dependent children, and by subjecting these children to unduly harsh conditions in Customs and Border Protection (CBP) short term detention facilities near the border. We are extremely disappointed that in the *Flores* litigation, DHS continues to rely on discredited deterrence arguments to support the incarceration of children and their mothers at family detention camps in this case. On February 27, a week after the D.C. district court's injunction, DHS sought to water down the Flores Agreement by arguing that family detention is necessary to deter: "Thus, DHS strongly believes that the appropriate use of family detention is a key element of the U.S. Government's efforts to deter aliens from Central America from making the dangerous journey across Mexico and into the United States."³

This issue of family detention has not escaped the notice of the United States Congress. On February 25, 2015, Senator Blumenthal published an Op Ed in *The Hill* calling on the administration to end family detention and begin processing these families in a manner consistent with American values. He promised to introduce legislation to limit the detention of families with children who are seeking asylum in the United States. On that same day, Senator Patrick Leahy spoke on the Senate floor opposing the new funding for family detention: "Incarcerating women and children fleeing violence runs contrary to our long history as a nation that offers refuge to those most in need." In the House, Reps. Deutch and Foster also circulated a Dear Colleague letter on February 13th, stating that "Detaining women and young children fleeing extreme violence is not only inhumane, but the financial costs are staggering."

These new developments come amidst greater public scrutiny of the abuses faced by migrant children and their mothers in detention. On February 4, 2015, the cover of the Sunday *New York Times Magazine* – "The Shame of America's Family Detention Camps" – chronicled the suffering of children and mothers in the now-closed Artesia, New Mexico detention facility. The

¹ R.I.L.R., et al. v. Johnson, et al., Case No. 15-0011, Opinion, ECF No. 33 (D.D.C. Feb. 20, 2015)

² Pl.'s Notice of Mot. And Mot. To Enforce, *Flores v. Holder*, Case No. CV 85-4544 (February 2, 2015)

³ *Ibid.*

detainees reported sleeping eight to a room and having little exercise or stimulation for the children. Many of the detainees were under the age of 6, and many refused to eat. Attorneys witnessed one 7-year-old who just lay in his mother's arms while she bottle-fed him. Another was threatened with possible force-feeding of her child if she could not get her to eat. Visitors also witnessed children with fevers, coughs, chickenpox and children lying limp and listless.

We also note the allegations of sexual abuse at the family detention facilities. In January 2015, a man employed at the family detention facility in Berks County, Pennsylvania was criminally charged with seven counts of institutional sexual assault, involving a 19-year-old Central American woman detained there.

The Department of Homeland Security has tacitly recognized that the detention of families is unwise policy, yet it continues to enforce it. In his November 20, 2014 memorandum, "Policies for the Apprehension, Detention and Removal of Undocumented Immigrants," DHS Secretary Jeh Johnson explains that "field office directors should not expend detention resources on aliens who are known to be suffering from serious physical or mental illness, who are disabled, elderly, pregnant, or nursing, who demonstrate that they are primary caretakers of children or an infirm person, or whose detention is otherwise not in the public interest." Many of the mothers and children in detention have physical or mental illnesses, many are survivors of torture and trauma, many are nursing, and some children have evidence of disabilities. Despite these facts, DHS has continued to detain these mothers and children and has not considered these exigent circumstances when making a detention bed allocation. The memo does not contain an exception for family detention and there is no reason why the overall DHS detention policies should not apply to children and families in custody.

We ask that you instruct DHS that these families are not exceptions to the policy that the detention of asylum seekers, children, nursing mothers and other vulnerable populations is not in the public interest. Specifically, we ask that DHS comply with the Flores Settlement Agreement with respect to all children in its custody including children in family units. Furthermore, we ask that you reconsider subjecting these families to special non-judicial forms of removal (such as "expedited removal" and "reinstatement of removal") that shortcut due process. We ask that you give every family the chance to tell their story to a judge before being deported back to danger, perhaps back to the very abusers and traffickers they fled. Lastly, we urge DHS to use funds appropriated by Congress for alternatives to detention wisely, including creating a robust alternative to detention for families through the recently released Request for Proposals for family case management services. Alternatives to detention must be generously utilized, reduce the overall use of family detention and be responsive to the holistic needs of these traumatized and vulnerable mothers and children.

With all of the new information we have about the reality of the dangers these families face and the nature of our nation's legal obligations to them as asylum seekers, the district court injunction offers your administration an opportunity to reverse course on family detention.⁴ We

⁴ See also Center for Gender & Refugee Studies & National University of Lanús, eds., *Childhood and Migration in Central and North America: Causes, Policies, Practices and Challenges* (2015), available at <http://cgrs.uchastings.edu/Childhood-Migration-HumanRights> (analyzing violence-based drivers of migration and international protection needs of Central American children and families, and exploring harms of family detention).

ask that you decline to challenge the injunction and immediately instruct DHS to stop implementing its “no-bond” policy. DHS must make truly individualized custody determinations, always ensuring that detention is used only as a last resort when no other conditions can reasonably ensure compliance with hearing notices or public safety.

Mr. President, these mothers and children in detention are fleeing unspeakable violence. Detention profoundly impacts the emotional and physical well-being of children. It inflicts indescribable pain on mothers to watch their children suffer in detention. Most of these mothers have valid asylum claims and relatives or sponsors in the United States willing to take them in and support them during the pendency of their removal proceedings. They do not have to be – and should not be – in detention. For all the reasons above, international norms disfavor the use of immigration detention for children, particularly when they are asylum-seekers. The international community has called on all states - including the U.S. - to end the immigration detention of children. Until recently, the United States was a global model in its exceptional use of detention for families, and it can be again if you act to end this practice. We look forward to the administration’s implementation of new policies favoring individualized determinations, release, the use of alternatives to detention and an end to family detention. Please contact Katharina Obser at the Women’s Refugee Commission at 202.750.8597 or katharinao@wrcommission.org if you would like additional information. Thank you for your consideration.

Signed:

National Organizations

America's Voice Education Fund (AVEF)
American Civil Liberties Union (ACLU)
American Friends Service Committee (AFSC)
American Immigration Council (AIC)
American Immigration Lawyers Association (AILA)
Americans for Immigrant Justice (AI Justice)
Asian Americans Advancing Justice (AAJC)
Asian Pacific American Labor Alliance, AFL-CIO (APALA)
ASISTA Immigration Assistance (ASISTA)
Catholic Legal Immigration Network (CLINIC)
Center for Community Change (CCC)
Center for Gender & Refugee Studies (CGRS)
Columban Center for Advocacy & Outreach (CCAO)
Council on American-Islamic Relations (CAIR)
Detention Watch Network (DWN)
The Episcopal Church
Farmworker Justice
First Focus
Franciscan Action Network (FAN)
Global Campaign to End Immigration Detention of Children

Grassroots Leadership

Hebrew Immigrant Aid Society (HIAS)
Immigrant Legal Resource Center (ILRC)
Jewish Council for Public Affairs (JCPA)
Kids in Need of Defense (KIND)
Korean Resource Center (KRC)
Latin America Working Group (LAWG)
League of United Latin American Citizens (LULAC)
Lutheran Immigration and Refugee Service (LIRS)
National Council of Jewish Women (NCJW)
National Council of La Raza (NCLR)
National Employment Law Project (NELP)
National Immigrant Justice Center (NIJC)
National Immigrant Project – NLG (NIP-NLG)
National Immigration Law Center (NILC)
National Korean American Service & Education Consortium (NAKASEC)
National Latin@ Network
National Queer Asian Pacific Islander Alliance (NQAPIA)
NETWORK, A National Catholic Social Justice Lobby (NETWORK)
Physicians for Human Rights (PHR)
Presbyterian Church (U.S.A.) (PC-USA)
Refugee & Immigration Ministries, Christian Church (Disciples of Christ)
Save the Children
Service Employees International Union (SEIU)
Sisters of Mercy of the Americas (Sisters of Mercy)
South Asian Americans Leading Together (SAALT)
Southeast Asia Resource Action Center (SEARAC)
Southern Border Communities Coalition (SBCC)
Tahirih Justice Center (Tahirih)
The Advocates for Human Rights
United Methodist Church, Gen. Board of Church & Society (UMC-GBCS)
United We Dream (UWD)
We Belong Together
Women’s Refugee Commission (WRC)

Regional and Local Organizations

African Services Committee (ASC)
Asian Law Alliance (ALA)
CARECEN LA
Casa San Jose, Pittsburgh, PA (CSJ)
Church Women United – New York State (CWU-NYS)
Community to Community Development (C2C)
Equality New Mexico (EQNM)
Families for Freedom (FFF)
Florence Immigrant & Refugee Rights Project
Florida Coastal Immigrant & Human Rights Clinic

Florida Immigrant Coalition (FLIC)
Genessee Valley Citizens for Peace (GVCP)
Greater Rochester Coalition for Immigration Justice (GRCIJ)
Immigrant Law Clinic, University of Massachusetts School of Law
Jesuit Social Research Institute (JSRI)
Justice Ministry Team, Downtown United Presbyterian Church (DUPC Justice Ministry)
Korean American Resource & Cultural Center (KRCC)
Korean Resource Center (KRC)
Lawyer's Committee for Civil Rights of SF Bay Area
Movimiento de Accion Inspirando Servicio San Jose (MAIZ)
New Jersey Advocates for Immigrant Detainees (NJAID)
Northgate Free Methodist Church (Northgate FMC)
Northwest Immigrant Rights Project (NWIRP)
OneAmerica of Washington State
Pangea Legal Services
Pax Christi Florida
Peace & Justice Committee Sisters of St. Joseph of West Hartford, CT (SSJ-West Hartford)
Political Asylum/Immigration Representation Project (PAIR)
Reformed Church of Highland Park (NJ) (RCHP)
Refugee & Immigrant Center for Education & Legal Services (RAICES)
Refugio Del Rio Grande (REFUGIO)
Rochester Committee on Latin America (ROCLA)
Services, Immigrant Rights, & Education Network (SIREN)
Sin Huellas, Houston
Sisters of St. Joseph (Baden, PA)
Sisters of St. Joseph (Rochester)
Sisters of St. Joseph (Springfield)
Sisters of St. Joseph (St. Augustine)
Sojourners
South Texas Civil Rights Project (STCRP)
Stop the Checkpoints
Tennessee Immigrant & Refugee Rights Coalition (TIRRC)
Wayne Action for Racial Equality (WARE)

cc: Secretary Jeh Johnson, Department of Homeland Security
Deputy Secretary Alejandro Mayorkas, Department of Homeland Security
Sarah Saldaña, Director, Immigration and Customs Enforcement
Mr. António Guterres, U.N. High Commissioner for Refugees
Mr. Juan Mendez, U.N. Special Rapporteur for Torture and Cruel and Degrading
Punishment
Mr. Francois Crepeau the Special Rapporteur on the Human Rights of Migrants