

November 17, 2020

The Honorable Donald J. Trump
President of the United States
The White House
1600 Pennsylvania Ave., NW
Washington D.C., 20500

The Honorable Joe Biden
President-Elect of the United States

Members of Congress
United States Capitol
First Street SE
Washington, DC 20004

Re: 28 Children Erroneously Denied Asylum

Dear Mr. President, Mr. President-Elect and Members of Congress,

Twenty-eight children, ages two to eighteen, cannot wait until January 20, 2021 for the United States government to protect them. On November 22, 2020, after being detained by Immigration and Customs Enforcement (ICE) for up to 15 months at the South Texas Family Residential Center and Berks County Residential Center, these children will face deportation, without ever having had the chance to seek asylum, in direct violation of federal and international law. The children now urgently call upon President Donald J. Trump, President-elect Joe Biden, and Members of Congress to intervene to protect them and their families from persecution and torture.

Each child faces removal after being subjected to rules and policies that have since been found unlawful by federal courts. Specifically, the children were:

- (1) Required to proceed with a credible fear interview within 24 hours of arrival to the Family Residential Centers without orientation by the asylum office or the ability to consult with counsel, even though credible fear applicants have the right to consult with counsel and to be oriented by the asylum office prior to interview (*L.M.-M. v. Cuccinelli*, 442 F. Supp. 3d 1, 37 (D.D.C. 2020));
- (2) Interviewed by Customs and Border Protection agents who were unqualified to conduct their credible fear interviews, even though they have the right to be interviewed by an asylum officer and this practice was declared unlawful (*A.B.-B. v. Morgan*, No. 20-cv-846, 2020);

(3) Denied asylum based upon the now-invalidated safe third country transit bar, a rule that categorically stripped them of their right to seek asylum because they crossed through a third country in route to the United States and did not seek asylum in that third country (*Capital Area Immigrants' Rights Coalition v. Trump*, Civ. A. Nos. 19-2117, 19-2530, 2020 WL3542481 (D.D.C. June 30, 2020), and *East Bay Sanctuary Covenant v. Barr*, 950 F.3d 1242(2020)); and/or

(4) Interviewed under a heightened credible fear standard that directly conflicts with the expedited removal statute and its implementing regulations (*Maria Kiakombua v. Wolf*, 1:19-cv-01872 (D.D.C.)).

It would be fundamentally unfair to deport these children based upon rules and policies that have since been declared unlawful. For many of these children, deportation is a death sentence. For example, this brave group of 28 children includes a 15-year-old girl who fled Honduras after gang members tried to torture, rape, and kill her; a 14-year-old boy who fled ongoing physical beatings and human trafficking at the hands of family members in Guatemala; a three-year-old boy who was ripped from his mother's arms and held captive by gang members who threatened to kill him in El Salvador; a 16-year-old girl who was stripped naked, sliced with a knife, and almost raped by gang members in El Salvador; a seven- year-old boy who was threatened with death in Guatemala because of his indigenous ethnicity; and a four-year-old girl whose father was violently murdered in Honduras immediately prior to her journey to the United States. Two teenage girls who have been detained for 13 and 14 months in Dilley, Texas say it best: "We ask for the chance to have our right to seek asylum honored and the opportunity to be safe with our mothers." See attached letter below of two teenage girls, dated November 16, 2020.

Congress and the Executive Branch have the power to act and should do so to save these children's lives. The children, together with their families, legal services providers, and allies call upon Congress to: (1) demand ICE halt the removal of the 28 children and their families and issue them Notices to Appear; (2) draft and pass legislation preventing the removal of these 28 children and their families should ICE refuse to act, and (3) hold a public hearing to investigate the policies and rules enacted over the last four years to eliminate access to asylum, the litigation filed to challenge those policies, and the policies implemented (or not implemented) by the Department of Homeland Security subsequent to federal court decisions that deem said policies unlawful. In particular, we urge Congress to assess whether the government has rescinded removal orders for asylum seekers that are based upon now-vacated unlawful rules and policies, including the Safe Third Country Transit Bar, and if not, why not.

We also call on the Office of the President and the leadership of the Department of Homeland Security to immediately rescind the orders of expedited removal erroneously issued to each of these children and their families. In the alternative, we ask the Executive Branch to stay the removal of each child temporarily to (1) afford Congress time to draft and consider legislation on

their behalf, (2) allow their pending claims before numerous federal courts^[1] to be fully adjudicated, and/or (3) provide each child and their family their legally entitled opportunity to seek asylum absent the application of unlawful policies.

Respectfully submitted,
ADL (the Anti-Defamation League)
Advocating Opportunity
Aldea - The People's Justice Center
Alianza Americas
Alianza Nacional de Campesinas
America's Voice
Amnesty International USA
AsylumWorks
Berks Stands Up
Black Immigrant Collective (BIC)
Black Immigrants Bail Fund
Bridges Faith Initiative
Capital Area Immigrants' Rights (CAIR) Coalition
Center for Gender & Refugee Studies
Center for Law and Social Policy (CLASP)
Center for Victims of Torture
Church World Service
Coalition for Humane Immigrant Rights (CHIRLA)
Coalition on Human Needs
Columbia Law School Immigrants' Rights Clinic
Cumberland Valley Rising
Detention Watch Network
Disciples Refugee & Immigration Ministries
Doctors for America, Immigrant Health Justice Working Group
Evangelical Lutheran Church in America
Esperanza Immigrant Rights Project
Farmworker Association of Florida
First Focus on Children
Free Migration Project
Freedom Network USA
Haitian Bridge Alliance
Haitian Women for Haitian Refugees
HIAS
Human Rights First
Human Rights Initiative of North Texas

Immigrant Legal Resource Center (ILRC)
Immigration Working Group - Southwestern Pennsylvania Synod, ELCA
Institute for Justice & Democracy in Haiti (IJDH)
Japanese American Citizens League
Justice At Last
Kids in Need of Defense
Lansing Area Peace Education Center
Metro Lansing Poor People's Campaign
MomsRising
Multicultural Efforts to end Sexual Assault (MESA)
National Asian Pacific American Women's Forum (NAPAWF)
National Association of Pediatric Nurse Practitioners
National Immigrant Justice Center
National Network for Immigrant & Refugee Rights
National Partnership for New Americans (NPNA)
NETWORK Lobby for Catholic Social Justice
No Detention Centers in Michigan
Oxfam America
Physicians for Human Rights
Proyecto Dilley
Refugees International
Safe Horizon
Save the Children Action Network
Shut Down Berks Coalition
Southeast Asia Resource Action Center (SEARAC)
Tahirih Justice Center
The Leadership Conference on Civil and Human Rights
TLC Nursing Service Inc
Tsuru for Solidarity
University of the District of Columbia Immigration & Human Rights Clinic
Washington Office on Latin America
Wind of the Spirit Immigrant Resource Center
Witness at the Border
Young Center for Immigrant Children's Rights

CC: Acting Secretary Chad F. Wolf, Department of Homeland Security
Tony H. Pham, Senior Official Performing the Duties of the Director, ICE
Deputy Director for Policy Joseph Edlow, USCIS

[1] *East Bay Sanctuary Covenant et al v. Barr et al*, (Case 4:19-cv-04073-JST, N.D. Cal); *D.A.M. v. Barr*, No. 20-CV-1321 (CRC), 2020 WL 5525056 (D.D.C. Sept. 15, 2020); *M.M.V. v. Barr*, 456 F. Supp. 3d 193 (D.D.C. 2020).

Dear President Trump, President-Elect Biden, and the United States Congress,

We are two children, 15 and 14 years old, respectively. We have been detained in the South Texas Family Residential Center for 14 and 13 months. We are writing this letter for ourselves and on behalf of the 26 other children who have been detained by ICE for 8 to 15 months in family detention centers in Texas and Pennsylvania.

We come from Honduras, Guatemala, El Salvador, Nicaragua, Ecuador, Chile, and Haiti with the same goal. We seek protection and an opportunity to have a life full of peace and safety, free from the death threats and persecution we suffered in our countries.

It is sad, painful, and humiliating to be treated like criminals when we are only seeking an opportunity at protection, safety, peace, and a better life. During the year that we have been in detention, we have been deprived of not only our freedom, but also the warmth and love of family that all children need to grow up healthy. We are once again seeing the detention center decorated with Christmas ornaments, while we cannot share these holidays nor our birthdays with our families. We have seen how our health keeps deteriorating day after day, how the food here hurts our stomachs; all we want is to have something different to eat. We pray that soon the day will come when we don't have to live in a jail for children, under the constant risk of getting infected with COVID-19, watching the situation get worse every day.

We are still recovering from the moment when our mothers were called by ICE officers and pressured to say if they wanted to be separated from us. Although we are young, we don't understand how a mother can be separated from her children. How can they steal from us the right and blessing of being with our mothers?

This experience has been very difficult for all of us, ever since our families were detained by border patrol. They took us in at the border with disdain and words of humiliation, calling our belongings "garbage." We had to sleep away from our mothers in cages. They told us that the only right that we had was to go back to Mexico or to our countries.

In addition to this treatment, we were subjected to an unfair interview scheduled and carried out in less than 24 hours from our arrival at this center. We didn't understand the process, we hadn't recovered, and they didn't allow us to talk to the lawyers. Even though we said in our

interviews that we would be killed if we returned to our countries, all that seemed to matter was that we had traveled through Mexico en route to the United States. That was enough for them to want to deport us.

Our countries are places of corruption without laws. We thought that the United States had a history of respecting the law and the wellbeing of children. In our experience, the government has not only subjected us to unfair and illegal processes, but it has also tortured us by keeping us detained for so long.

We only ask for our rights to ask for asylum to be respected and for the opportunity to be safe with our mothers. As children, we have nothing but the hope of realizing our dreams and goals, driven by the moral and spiritual values that our mothers have taught us. Our mothers are the driving force that motivates us to do things right; they are our examples: women who have survived adversity, who have stood up to risk, who have endured detention. Women who have braved whatever was necessary to save our lives and to give us back the dreams that had been snatched from us.

Know that you are in our prayers. We hope you and your families are well and healthy. Thank you for the attention that you have afforded our letter.

Signed,

15-year-old girl, detained 436 days

14-year-old girl, detained 410 days

Original

Querido Presidente Trump, Presidente-Electo Biden, y Congreso de los Estados Unidos,

Somos dos menores de 15 y 14 años, respectivamente. Hemos estado detenidas en el South Texas Family Residential Center durante 14 y 13 meses. Escribimos esta carta en nuestro nombre, y en nombre de los 26 otros niños que han sido detenidos por ICE por un tiempo que va entre los 8 y 15 meses en los centros de detención familiar en Texas y en Pennsylvania.

Venimos de Honduras, Guatemala, El Salvador, Nicaragua, Ecuador, Chile, y Haití con la misma meta. Buscamos protección y una oportunidad de tener una vida llena de paz y seguridad libres de las amenazas de muerte y la persecución que sufrimos en nuestros países.

Es triste, doloroso y humillante ser tratadas como delincuentes cuando solamente estamos buscando la oportunidad de protección, seguridad, paz y una vida mejor. Durante el año que hemos estado en detención, hemos sido privadas no solamente de nuestra libertad, sino también del calor y amor familiar que las niñas y niños necesitamos para crecer saludablemente. Vemos una vez más cómo el centro de detención decora con adornos navideños, mientras que no

podemos compartir estas fechas ni los cumpleaños con nuestras familias. Hemos visto como nuestra salud se va deteriorando día con día, la manera en que la comida aquí le hace daño a nuestros estómagos, solo deseando llevar a nuestros estómagos algo diferente. Rezamos para que pronto llegue el día en que el que no tengamos que vivir en una cárcel de niños, bajo el riesgo constante de contagiarnos de COVID-19 y viendo cómo se agrava la situación todos los días.

Todavía estamos sanando de ese momento en que nuestras madres fueron citadas por los oficiales de ICE y fueron presionadas para decir que querían separarse de nosotros/as. Aunque seamos pequeñas, no entendemos ¿cómo puede una madre separarse de sus hijos? ¿cómo pueden arrebatararnos el derecho y bendición de estar con nuestras madres?

Esta experiencia ha sido muy difícil para todos desde que nuestras familias fueron detenidas por la patrulla fronteriza. Ellos nos recibieron con desprecio y palabras humillantes en la frontera, le llamaron “porquería” a nuestras pertenencias. Tuvimos que dormir separadas de nuestras madres en jaulas. Nos decían que el único derecho que teníamos era irnos a México o a nuestros países.

Además de este trato, nos sometieron a una entrevista injusta programada y realizada en menos de 24 horas desde que llegamos a este centro. No entendíamos el proceso, no pudimos recuperarnos, no nos permitieron hablar con las abogadas. A pesar de que en nuestras entrevistas les contamos que nos matarían si regresamos a nuestros países, solamente parecía importarles el hecho de que habíamos transitado a través de México en camino a los Estados Unidos. Con eso les bastaba para querernos deportar.

Nuestros países son lugares de corrupción sin ley. Nosotros pensábamos que los Estados Unidos tenía una historia de respetar la ley, y el bienestar de los niños. En nuestra experiencia, el gobierno no solamente nos ha sometido a procesos injustos e ilegales, sino que nos han torturado al tenernos en detención por tanto tiempo.

Lo único que pedimos es que se respeten nuestros derechos de pedir asilo, y la oportunidad de estar seguras con nuestras madres. Como niñas y niños, no tenemos nada más que la ilusión de cumplir nuestros sueños y metas, impulsadas por los valores morales y espirituales que nuestras madres nos han enseñado. Nuestras madres son el motor que nos motiva para hacer las cosas bien, pues las tenemos como ejemplo, mujeres que han sobrevivido a la adversidad, que se han enfrentado al riesgo, que han aguantado a la detención. Mujeres que han enfrentado lo que sea, con tal de salvar nuestras vidas y devolver los sueños que nos han sido arrebatados.

Sepan que están en nuestras oraciones, que deseamos que estén bien y en salud con sus familias. Gracias por la atención brindada a nuestra carta.

