



June 7, 2017

Dear Ms. Trump,

On behalf of Amnesty International, a Nobel Peace Prize-winning organization with more than 7 million supporters around the world, I write to urge you to intervene and address the desperate situation of mothers and children held in Berks County Residential Center, an Immigration and Customs Enforcement detention center in Pennsylvania.

The only “crime” committed by the women and children jailed at Berks is this: They fled violence – including near certain death – in their home countries, and came here counting on our compassion. They presented themselves to immigration officials and sought asylum under U.S. law. Instead, they were put in detention and denied the opportunity to fully state their asylum claims.

Infants, toddlers, children, mothers, fathers: At least 60 languish within Berks, some for more than 600 days. Children have grown up there, learning to walk and celebrating multiple birthdays behind bars. Yet this is no place for children.

Your concern for the situation of working mothers and children across this country gives us hope that you will intervene. As an initial step, we urge you to visit Berks and see for yourself the senseless imprisonment of children as young as two weeks old.<sup>1,2</sup>

### **What is Happening to the Mothers and Children at Berks?**

At Berks, women and children are in some ways treated like criminals. They are woken every 15 minutes with flashlights, for “bed checks,” causing sleep deprivation and inspiring anxiety and fear in children. Moreover, mothers and children are not permitted to sleep in the same bed, even to comfort a scared or sick child.

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<sup>1</sup> Franco Ordoñez, “U.S. looks to detain more mother, child migrants, sometimes for months,” *McClatchy Washington Bureau*, February 10, 2015, <http://bit.ly/2rtHYLv>.

<sup>2</sup> Pennsylvania Immigration and Citizen Coalition, “Campaign to Shut Down Berks,” <http://bit.ly/2sJWzRO>.

Many of the mothers and children there have been diagnosed with depression and post-traumatic stress disorder. Indeed, as the American Academy of Pediatrics stated, “the act of detention or incarceration itself is associated with...higher rates of psychological distress, and suicidality making the situation for already vulnerable women and children worse.”<sup>3</sup>

As Human Rights First has reported, mothers and children have described poor medical and psychological care. In one case, a child reportedly collapsed and stopped breathing, but received no help from staff who witnessed the incident.<sup>4</sup>

### **Who Are the Women and Children at Berks?**

They are mothers and children who fled their homes in Central America, many who ran from horrific violence including near-certain death. Their home countries—El Salvador, Honduras and Guatemala—are three countries with some of the most dangerous levels of crime on earth, with homicide rates several times higher than the global average.

Vicious criminal gangs control large areas of these countries—forcing young boys to join them, girls to become sexual slaves, shop owners and bus drivers to pay hefty taxes, and killing anyone who dares to say no. With their home governments failing them, the people who flee Central America for the U.S. are in desperate situations. They have no choice but to run.

They include people like 8-year-old Tomás and his mother Natalia (not their real names; we are withholding their true identities to avoid putting them at risk). Tomás and his mother spent 17 months behind bars before recently being deported from Berks. Tomás grew emaciated while there. He weighed about 40 pounds, just one to

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<sup>3</sup> Letter from American Academy of Pediatrics to Secretary Jeh Johnson, U.S. Dep’t of Homeland Security, July 24, 2015, <http://bit.ly/1XXcHXD>.

<sup>4</sup> Human Rights First, “Long-term Detention of Mothers and Children in Pennsylvania,” <http://bit.ly/2qwUDi3>.

three percent of the normal weight of a child his age. He had been diagnosed with post-traumatic stress disorder.

Tomás' family fled their home country because his father Luis had cooperated with local law enforcement, providing them information that led to the arrest of gang members. Fearing he would be exposed and retaliated against for his cooperation, Luis fled to the U.S. U.S. immigration authorities gave him a positive "credible fear" determination and allowed him into the U.S. while he pursued his claim for asylum. However, Tomás and his mother were denied that same opportunity. They received a negative "credible fear" determination and remained detained as they fought it, first in Texas and then at Berks. Though they sought asylum for the exact same reasons as Luis, they were never given the opportunity to join his case and were recently deported.

### **Why Are These Mothers and Children Being Held at Berks? Is There Any Alternative?**

In 2014, the Obama administration expanded the practice of putting women and children seeking asylum in detention. Perversely, the motive was to deter more from escaping violence in Central America by entering the U.S. The policy was cruelly indifferent to the realities facing these mothers and children: Stay and face extreme danger; flee to the U.S. and have your kids grow up behind bars.

There are several alternatives that are more humane. The Department of Homeland Security should make individualized assessments for each family seeking asylum and determine whether they can be enrolled in "Alternatives To Detention" (ATD) such as parole and bond.<sup>5</sup> Many mothers and children at Berks have family members in the

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<sup>5</sup> U.S. law provides that individuals may be released on parole on a case-by-case basis for "urgent humanitarian reasons" or for "significant public benefit" where the individual presents neither a security risk nor a risk of absconding. This provides Immigration and Customs Enforcement officials with the decision-making authority on whom to detain or to release on bond, supervision, personal recognizance or other condition. The parole policy remains in place following the recent guidance provided by the Department of Homeland Security's memorandum on Implementing the President's Border Security and Immigration Enforcement Improvements Policies, issued on February 21, 2017.

U.S. that would take custody of them if released and ensure their appearance at any hearings.

### **Is This Legal?**

No, it violates international legal instruments to which the U.S. is a party and by which it is legally bound.<sup>6</sup> There are several legal problems with the way mothers and children are being held at Berks:

- Detention should be a last resort; not a default. It must be justified in each individual case, and courts must be able to review it.
- If alternatives are available (such as reporting requirements, bail or financial deposits), asylum-seekers should not be detained.
- Children should only be detained in exceptional circumstances and for the shortest possible time.

In addition, regarding deportations, the U.S. is under an obligation not to return individuals to a situation in which they would be at risk of torture or other serious human rights abuses: the principle of *non-refoulement*. Safeguards are imperative so that the U.S. does not return people to the risk of violence and persecution.

Amnesty International is fighting to ensure that people with asylum claims are given a fair hearing and humane treatment. We must do everything we can to ensure protection for people who are fleeing violence. We invite you to join us in this fight, and thank you for your time and attention.

Sincerely,



Margaret Huang

Executive Director, Amnesty International USA

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<sup>6</sup> These include the International Covenant on Civil and Political Rights. For a detailed explanation, see Amnesty International, USA: Jailed Without Justice, <https://www.amnestyusa.org/pdfs/JailedWithoutJustice.pdf> (2009).