

# RIGHTING THE WRONG:

WHY DETENTION OF ASYLUM-SEEKING MOTHERS  
AND CHILDREN IN AMERICA MUST END NOW

A POSITION PAPER FROM TAHIRIH JUSTICE CENTER  
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# — EXECUTIVE SUMMARY —

***The world is facing the largest refugee crisis since World War II, and its impact is not isolated to faraway shores.***

Since 2011, the United States has seen a steady increase in the number of mothers with children crossing the U.S. southern border seeking protection from persecution.<sup>1</sup> The majority of these families fled Guatemala, El Salvador, and Honduras, some of the most dangerous countries in the world for women and children.<sup>2</sup> Many have survived or been threatened with rape, domestic abuse, femicide, and sexual assault. This type of violence has become shockingly commonplace for women and children in these countries, where there is little to no government protection from gender-based violence.<sup>3</sup> Well over 90% of the mothers and children arriving at the southern border are seeking asylum protection in the United States.<sup>4</sup>

The U.S. response has been to resurrect a previously abandoned practice of incarcerating refugee mothers with children in immigration detention centers.<sup>5</sup> Since July 2014, the Obama Administration has held thousands of asylum-seeking mothers with their children, sometimes for months on end, in remote, prison-like facilities with minimal access to health and legal services and far from community-based support systems. This misguided policy has led to the unnecessary, arbitrary, lengthy, and inhumane detention of traumatized refugees.



90%

of mothers and children arriving at the border are seeking asylum

***In August 2015, a federal court judge ordered the Administration to stop detaining children with their mothers, yet the government has not complied.***<sup>6</sup>

Instead of shuttering the facilities, officials have reduced the length of time of detention from several months to several weeks while sharply increasing the number of women and children being held in immigration jails.<sup>7</sup>

***Considering extensive research pointing to the detrimental health impacts of even short stays in detention centers on children and survivors of violence, as well as international standards for the treatment of refugees, it is time for the U.S. government to reconsider its response to women and children fleeing violence, and put an end to the shameful practice of family detention — for good.***<sup>8</sup>

*"Help us please. Our situation is dire. They treat us like criminals, but we are not criminals. We fled violence ... Imagine being here hour after hour, day after day, month after month. Help our children. They should not be punished. They should have a normal life, one of laughter, play, safety."*

**Name:** Marcela

**Age:** 30

**Country of Origin:** Honduras

**Survived:** Domestic violence  
and death threats

**Treatment in America:**

Detained with her teenage  
son in Karnes, Texas



# — RECOMMENDATIONS FOR U.S. GOVERNMENT —

## *Recommendation No. 1: End Family Detention Now*

The detention of refugee mothers and their children in prison-like facilities, for even short periods of time, prevents access to adequate medical and legal services, as well as community support, and causes severe and long-lasting harm. Detaining mothers with their children goes against our moral and legal obligations to protect those fleeing their homes to stay safe from persecution, and it must end immediately.<sup>9</sup>

**Family detention is expensive.** At nearly \$300 per day, per individual, the cost of family detention to the American taxpayer is immense.<sup>10</sup> The largest facilities are run by two of the most profitable private prison companies in the country: GEO Group and Corrections Corporation of America (CCA). When the U.S. began detaining mothers with children in 2014, it paid over \$350 million to GEO Group and CCA to run family detention centers.<sup>11</sup> In the same time period, both companies' stocks increased at more than five times the S&P rate.<sup>12</sup>

**Family detention is harmful to children.** Detained children experience higher rates of nightmares, depression, anxiety, difficulties falling asleep, weight loss, stomach pains, and insecurity as to their future.<sup>13</sup> Detention also has profound effects on physical health, including diminished breast feeding abilities among infants and detrimental effects on nutrition of young children.<sup>14</sup> The majority of refugee children entering the United States have experienced or witnessed trauma.

Detention exacerbates symptoms of trauma and can cause severe mental and physical health issues. A study of detained children in a now-closed New Mexico family detention center found that several children engaged in self-harm and displayed erratic and disturbing behaviors.<sup>15</sup>

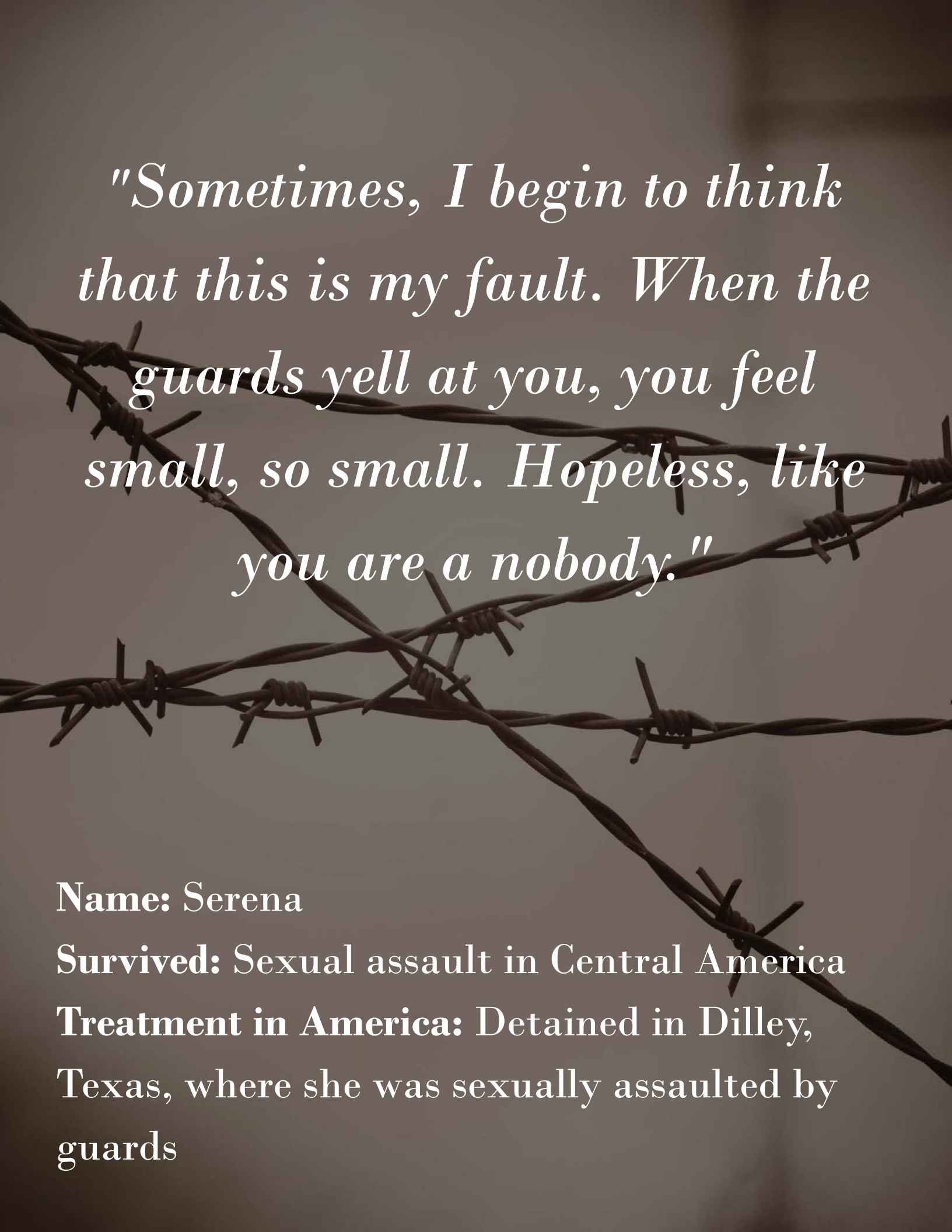
Mental health professionals attributed this behavior to the aggravation of past violent trauma by the trauma induced within the detention setting.<sup>16</sup> Regardless of the period of stay, immigration detention has been found to cause significant detriment to the psychological and physical health of children, especially those children who have experienced or witnessed traumatic events in the past.<sup>17</sup> As the American Academy of Pediatrics stated in July 2015, the act of detention is itself harmful to children and simply shortening the length of time children spend in prison-like detention facilities does not solve the problem.<sup>18</sup>

**Family detention is harmful to survivors of sexual and domestic violence.** The conditions of detention replicate some of the dynamics of power and control that victims experience in the course of domestic violence: This may include vulnerability to arbitrary rules, sudden and disproportionate punishments, and destruction of independent agency and autonomy. Private prison guards and government officers alike have used their power to threaten detained women with return to their home countries, where they fear persecution, or separation from their children, which has a profoundly detrimental effect upon the mother-child relationship.<sup>19</sup> Furthermore, as for-profit companies are charged with caring for traumatized refugees, there is an emphasis on cost cutting that has a detrimental impact on the care offered.<sup>20</sup> When increasing profits is the bottom line, rather than the well-being of traumatized women and children, the effects are devastating. Finally, detained women have made multiple reports of sexual abuse by male guards. According to one complaint, "women were kissed, fondled, or groped in front of other detainees or children. They also said staffers requested sexual favors from female detainees in exchange for money and promised assistance with their pending immigration cases and shelter when and if the women were released."<sup>21</sup>



**\$300**

cost per day to detain a mother or a child



*"Sometimes, I begin to think that this is my fault. When the guards yell at you, you feel small, so small. Hopeless, like you are a nobody."*

**Name:** Serena

**Survived:** Sexual assault in Central America

**Treatment in America:** Detained in Dilley, Texas, where she was sexually assaulted by guards

## *Recommendation No. 2: Discontinue Expedited Removal for Arriving Mothers with Children*

Immigration officials have the option of sending mothers with children straight to an immigration judge to determine their eligibility for asylum. This would save time and resources for both refugees and the government and bring the U.S. closer to compliance with international protection standards.



**Sending mothers with children straight to a judge to determine asylum eligibility would prevent suffering and save time and resources**

Right now, refugee mothers with children must interact with multiple immigration agents from separate divisions of the Department of Homeland Security, part of a resource-intensive, inefficient process called expedited removal. **As a result, traumatized mothers are forced to exhaustively retell and relive their histories of violence in front of border agents and asylum officers long before they even see an immigration judge, the only person who can actually grant asylum status to a mother with her children after crossing the border.** This process of repeated traumatization could be completely eliminated if families apprehended at the border were simply sent directly to court.

## *Recommendation No. 3: Allow NGOs to Offer Comprehensive Orientation and Community-Based Support to All Mothers and Children*

Refugee mothers and children need medical and legal services as well as community support in order to navigate the complex immigration system in the U.S. and make their claim for asylum. Non-governmental organizations must be funded to provide comprehensive legal and social service orientations and to run community-based support programs.

As stated above, living in prison-like settings can exacerbate existing symptoms of trauma and cause mental and physical health consequences for refugee children and their mothers. Experts have advocated for another approach: the community-based support model. Offering holistic case management services to a refugee family would not only improve the chances of attendance at court hearings and other official meetings, but would also assist all mothers with children to seek the psychological counseling and support they need to cope with past trauma and become more able to discuss their histories of violence. **This would greatly increase the chances that these refugee survivors would begin to heal from their experiences and establish their lives in dignity and safety.**



*"I think it would have been  
better if I was killed like  
my uncle."*

**Name:** Yolanda

**Age:** 5

**Country of Origin:** El Salvador

**Survived:** Witnessing her aunt and uncle's murder

**Treatment in America:** Detained with her mom in Dilley, Texas

**Another crucial factor in survivor's rehabilitation and ultimate success is access to legal counsel.** However, access to counsel is extremely limited inside family detention centers, which are in remote, rural locations. While attorneys from across the country have made significant efforts to travel to the detention centers and offer counsel and representation to detained mothers with children on a pro bono basis, because of the constraints of detention, they have been unable to meet the demand of the thousands of detained families. Furthermore, enormous hurdles in representing their clients, such as difficulty communicating regularly, prohibitions on meeting with and accompanying clients to appointments with immigration officials, restrictions on the use of office equipment in client meetings, and other difficulties would not exist if refugees were free to attend meetings in attorneys' offices.

**In the asylum context, access to counsel is tantamount to access to justice.**

Those who obtain representation are more than five times as likely to avoid deportation.<sup>22</sup> Furthermore, 98% of families with secured legal representation have been compliant with the immigration court's requests, such as attending requested hearings, after being released from detention.<sup>23</sup> Avoiding detention and instead assisting refugee families to secure support and legal counsel will be more effective than detention at ensuring due process for refugee families.



**98%** of families with legal representation abide by court requirements

Recently, the Department of Homeland Security announced that it would award a new, multi-million dollar contract for a community support-based program for asylum-seeking mothers with children to a subsidiary of the GEO Group, the same for-profit company that runs one of the large family detention centers. Non-government organization-run programs should be favored as they are better connected to the professionals that serve refugees and the communities in which they live.



**Left:** Mothers and children in detention in Texas gather to tell members of a congressional delegation about their experiences.

**Right:** A mother in detention with her young son shows elected officials his untreated rash.

These photos were taken during a congressional visit to detention centers in Karnes and Dilley, Texas, on June 22-23, 2015.



*“I waited so long so you could take a decision on my case but you have treated us worse than an animal.”*

**Name: Lilian**

**Age: 19**

**Country of Origin: Honduras**

**Survived: Rape, domestic violence, and her brother's murder**

**Treatment in America: Detained with her 4-year-old son in Karnes, Texas, where she was held for months and attempted to commit suicide**

## — CONCLUSION —

*The world is facing a refugee crisis of unprecedented scale, leaving families, individuals, and even unaccompanied children with no option but to flee their homes and loved ones.*

*Survivors of intense trauma sometimes experience further harm while making the treacherous journey to a country of refuge, where they hope to find the opportunity to live in safety and dignity. Right now, mothers who have survived intense violence are approaching the U.S. border with their children in tow, asking for a chance to seek asylum.*

*The U.S. government has the power to treat these families humanely and afford them the legal process to seek asylum which is their right under the law and international standards for refugee protection.*

*It is critical that the U.S. do just that, by establishing community-based support programs run by NGOs, referring asylum seekers to judges right away, and eliminating family detention once and for all.*

**VISIT [WWW.TAHIRIH.ORG](http://WWW.TAHIRIH.ORG) FOR MORE INFORMATION ON HOW YOU CAN HELP RIGHT THIS WRONG.**

# — REFERENCES —

Please note: Quotes from the women and children featured in this report were compiled by Tahirih Justice Center during consultations with detainees in Karnes and Dilley, Texas. Their names have been changed, and images in this report do not depict actual detainees to protect their safety and privacy (unless otherwise noted). The quotes from Lilian and Serena were obtained through media reports, not Tahirih interviews.

1. United Nations High Commissioner for Refugees, “Women on the Run,” October 28, 2015.
2. Suchit Chavez and Jessica Avalos, “The Northern Triangle: The Countries That Don’t Cry for Their Dead,” April 23, 2014, available at: <http://www.insightcrime.org/news-analysis/the-northern-triangle-the-countries-that-dont-cry-for-their-dead>.
3. Chavez and Avalos, “The Northern Triangle: The Countries That Don’t Cry for Their Dead.” In addition, it is worth noting that there are numerous reported incidents of government institutions, such as the police, facilitate or are responsible for the violence, as reported in: United Nations High Commissioner for Refugees, “Women on the Run.”
4. Lutheran Immigrant and Refugee Services and Women’s Refugee Commission, Locking Up Family Values, Again: The Continued Failure of Immigration Family Detention,” 2014, [http://lirs.org/wpcontent/uploads/2014/11/LIRSWRC\\_LockingUpFamilyValuesAgain\\_Report\\_141114.pdf](http://lirs.org/wpcontent/uploads/2014/11/LIRSWRC_LockingUpFamilyValuesAgain_Report_141114.pdf).
5. After the closing of the controversial T. Don Hutto family detention facility in 2009, detention of mothers with children had all but ceased. However, DHS expanded family detention by 4000% in 2014, creating more than 3,000 beds in a matter of months. The three facilities currently holding mothers with children are the Karnes County Detention Center in Karnes City, Texas, the South Texas Family Residential Center in Dilley, Texas, and Berks County Residential Center in Berks County, Pennsylvania.
6. In August 2015, U.S. District Court judge Dolly Gee ordered the Department of Homeland Security to release children from detention without unnecessary delay, stating that the federal government’s policy of family detention was a breach of a 1997 court-ordered settlement in the *Flores* case, narrowly limiting the circumstances under which children can be detained. Under *Flores*, government officials must make every effort to release children to a parent, close relative, or guardian. Order available at <https://www.documentcloud.org/documents/2298479-federal-ruling-on-detention-of-immigrants.html>.
7. While DHS detained approximately 6,000 mothers with children in 2014, estimates indicate that it may detain 45,000 mothers with children by the end of 2015. Human Rights First, “Family Detention: Still Happening, Still Damaging,” October 20, 2015.
8. See Human Rights First, “Family Detention: Still Happening, Still Damaging.”
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10. Press release, “Chairman Mikulski Releases Summary of Emergency Supplemental Funding Bill,” July 23, 2014, available at <http://www.appropriations.senate.gov/news/chairwoman-mikulski-releases-summary-emergencysupplemental-funding-bill>.
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12. Matt Egan, “Wall Street Bets on Prison Growth from Border Crisis,” *CNN Money*, August 29, 2014, available at <http://money.cnn.com/2014/08/29/investing/border-crisis-prison-stocks/>.
13. Ann Loreka et al, “The Mental and Physical Health Difficulties of Children Held within a British Immigration Detention Centre: A Pilot Study,” *Child Abuse and Neglect*: 33, 2009, p. 578.
14. Loreka et al, “The Mental and Physical Health Difficulties of Children Held within a British Immigration Detention Centre: A Pilot Study,” p. 580.
15. Stephen Manning, “Ending Artesia,” available at [innovationlawlab.org/the-artesia-report](http://innovationlawlab.org/the-artesia-report).
16. Manning, “Ending Artesia.”
17. Human Rights First, “Family Detention: Still Happening, Still Damaging,” note 12, citing: Sarah Mares, Louise Newman, Michael Dudley, and Fran Gale, Seeking refuge, losing hope: parents and children in immigration detention, 10 *Australasian Psychiatry* 2, June 2002; Z. Steel and S. Momartin, et al., Psychiatric status of asylum seeker families held for a protracted period in a remote detention centre in Australia, 28 *Australian and New Zealand Journal of Public Health* 527 (2004); Australian Human Rights Commission, *The Forgotten Children: National Inquiry into Children in Immigration Detention* (2014); Intercollegiate Briefing Paper, citing Lorek et al, *The mental and physical health difficulties of children held within a British immigration detention centre: A pilot study*. *Child Abuse and Neglect*: 33: 573-585 (2009); Physicians for Human Rights and the Bellevue/NYU Program for Survivors of Torture, *From Persecution to Prison: The Health Consequences of Detention for Asylum Seekers* (June 2003); see also A. S. Keller, et al, *The Mental Health of Detained Asylum Seekers*, 362 *The Lancet* 1721 (2003); United States Commission on International Religious Freedom, *Report on Asylum Seekers in Expedited Removal: Volume I: Findings and Recommendations* (February 2005), p. 197-198.
18. American Academy of Pediatrics, Letter to Secretary Jeh Johnson, July 24, 2015, available at <https://www.aap.org/en-us/advocacy-and-policy/federal-advocacy/Documents/AAP%20Letter%20to%20Secretary%20Johnson%20Family%20Detention%20Final.pdf>, stating: “The act of detention or incarceration itself is associated with poorer health outcomes, higher rates of psychological distress, and suicidality making the situation for already vulnerable women and children even worse.”
19. Tahirih Justice Center interview with Jonathan Ryan, Executive Director of RAICES, conducted in June 2015; Lutheran Immigration and Refugee Service and Women’s Refugee Commission, “Locking Up Family Values Again,” page 11.
20. Nuri Vallbona, “Living Like Prisoners: Women Talk about U.S. Detention Centers,” April 23, 2015, available at <http://globalsistersreport.org/migration/living-prisoners-women-talk-about-us-detention-centers-23901>.
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