URGENT ACTION

RELEASE ASYLUM-SEEKERS FROM DETENTION

Celia Ismalej and her 18-month-old son fled Guatemala and sought protection in the US. They have been held in immigration detention for more than eight months despite being eligible for release. They are suffering physically and emotionally as a result of their continued detention, which is in violation of international law and standards.

Celia Primero Ismalej and her son, Jhordan Lajuj Primero arrived at the U.S.-Mexico border around 7 July 2014. On 9 July 2014 they were detained at the Federal Law Enforcement Training Center in Artesia, New Mexico, until they were transferred in December to the Karnes County Residential Center, a detention facility for families in Texas. Celia Ismalej is breastfeeding her young son and in August 2014 an Asylum Officer determined that she had a reasonable fear of persecution in Guatemala. A U.S. citizen relative has offered to guarantee Celia Ismalej’s attendance at future Immigration Court hearings. Despite meeting the criteria providing U.S. Immigration and Customs Enforcement (ICE) Field Office Directors with discretion for release from detention, ICE have refused parole to Celia Ismalej and her son pending the final determination of their claim.

In order not to be arbitrary, detention of asylum-seekers and migrants must be prescribed by law, necessary in the specific circumstances and proportionate to the legitimate aim pursued. Amnesty International believes that, in this case, detention is both unnecessary and disproportionate. In particular, the detention of children solely for immigration purposes can never be justified because it cannot ever be said to be in their best interests.

Celia Ismalej has been determined to be suffering trauma and showing symptoms of Post-Traumatic Stress Disorder. She is suffering from a painful chronic intestinal condition and an infected tooth but has received no treatment or medication. Her son’s physical well-being and emotional development are being negatively impacted, he has become irritable, aggressive and is suffering from a chronic ear infection, congestion and diarrhoea.

Please write immediately in English or your own language:

- Calling for Celia Ismalej and her 18-month-old son Jhordan Primero to be released from detention immediately;
- Noting that their detention violates international law, that the U.S. government has an obligation to ensure that the human rights of asylum-seekers and migrants are respected, protected and fulfilled;
- Noting that the UN Special Rapporteur on Torture has declared that detention of children based on immigration status “is never in the best interests of the child, exceeds the requirement of necessity, becomes grossly disproportionate and may constitute cruel, inhuman or degrading treatment”;
- Requesting that Celia Ismalej and her son be provided with adequate medical treatment as a matter of urgency.

PLEASE SEND APPEALS BEFORE 29 APRIL 2015 TO:

Field Office Director
Mr. Enrique M. Lucero
Karnes County Residential Center,
San Antonio Field Office, 409 FM 1144,
Karnes City, TX, 78118, USA
Email: SanAntonio.Outreach@ice.dhs.gov
Salutation: Dear Director

And copies to:
The Honorable Allan Daniel Pérez Hernández
Consul of Guatemala in McAllen, Texas
709 S. Broadway St.
McAllen, TX, 78501, USA
Email: consmcallen@minex.gob.gt

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation

Please check with your section office if sending appeals after the above date.
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ADDITIONAL INFORMATION

U.S. federal law provides that individuals detained in immigration detention 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. U.S. Immigration and Customs Enforcement (ICE) policies also allow for release according to the same criteria as well as providing Field Office Directors with further discretion to release on parole on a case by case basis individuals who, inter alia, have established a “reasonable fear” of persecution upon return to their country of origin. ICE policies also provide Field Office Directors with discretion to the end detention of juveniles and nursing mothers.

Celia Ismalej was interviewed by an Asylum Officer on 11 August 2014 to determine whether she had a “reasonable fear” of persecution upon return to Guatemala. The Asylum Officer determined that Celia Ismalej had a reasonable fear of persecution in Guatemala on account of her membership in a particular social group - based on her maintaining the traditions of her Indigenous group, which is a minority in her community. This decision was not communicated to Celia Ismalej for nearly one month after it was made, further delaying her case and extending her detention.

In response to the influx of migrants at the border in 2014, President Obama requested more than US $2 billion in funding for increased enforcement and detention at the border and implementation of a process to expedite deportations. Immigration authorities subsequently expanded the practice of detaining women and children, like Celia Ismalej and Jhordan Primero, in prison-like detention camps in New Mexico and Texas.

Under international law, the U.S. government has an obligation to ensure that the human rights of migrants and asylum-seekers are respected, protected and fulfilled. International law and standards, including instruments to which the United States is party, contain a strong presumption against detention for migration control purposes. The right to be free from arbitrary detention is set out, for example, in the International Covenant on Civil and Political Rights (ICCPR). Detention is only lawful when authorities can demonstrate in each individual case that it is necessary and proportionate to the objective being achieved and on grounds prescribed by law. Any custodial or non-custodial measure restricting the right to liberty of migrants and asylum seekers must be exceptional and based on a case-by-case assessment of the personal situation of the individual concerned. Any decision restricting the right to liberty must always be based on a detailed and individualized assessment, including the personal history of the individual concerned, and, as relevant, the risk of absconding, if any. Such assessment should consider the necessity and appropriateness of any restriction of liberty, including whether it is proportionate to the objective to be achieved. The person concerned should be provided with a reasoned decision, preferably in a language that they understand.

Regardless of whether they are unaccompanied, separated or held together with their family members, children should never be detained solely for immigration purposes. On 5 March 2015 Juan Mendez, the UN Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment stated that detention of children based on immigration status is never in the best interests of the child, is grossly disproportionate and may constitute ill-treatment (UN Doc A/HRC/28/68, para80).

Name: Celia Primero Ismalej (f) and Jhordan Lajuj Primero (m)
Gender m/f: both

UA: 58/15 Index: AMR 51/1188/2015 Issue Date: 18 March 2015