

“God Does Not Exist Here”: Torture on the US-Mexico Border

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The Border Network for Human Rights (BNHR) is a 20-year-old community organization that works to educate, organize, and mobilize marginalized communities in the West Texas/Southern New Mexico Borderlands. Our membership of more than 7000 individuals lay out our priorities, and taking these cues from membership, our staff helps implement an agenda that improves quality of life and advances the dignity and rights of all persons. While rooted in the Borderland we work at all scales: state, federal, and local, to bring about positive community change.

The University of Dayton Human Rights Center (HRC) advances the University of Dayton’s mission to promote respect for the inherent dignity of all persons through dialogue, research and education. Working with diverse partners, our programs and projects deepen our vital commitment to advancing the theory and practice of human rights advocacy.

BNHR conducted the documentation of individual testimonies that provides the basis for the report, while HRC supported the BNHR in the drafting of the text. The report was authored by the BNHR staff and Joel R. Pruce with research support from Foster Mugenzi.

Executive Summary

“God Does Not Exist Here” was a threat made by a guard to a detained migrant in a facility on the US-Mexico border in order to warn that nobody was coming to save him. The abuses detailed in this report constitute torture by the definition articulated in the Convention Against Torture, evidence

serious violations of the International Covenant on Civil and Political Rights, and contravene the provisions of the Universal Declaration of Human Rights and Convention on the Rights of the Child, many provisions of which are considered customary international law.

This report is based on first-person accounts of the treatment immigrants receive while in the custody of US law enforcement agencies, including Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP). At the time of their detention, none of these individuals had been charged with or convicted of a crime, yet they were held for days or weeks at a time and subjected to degrading and dehumanizing conditions that impacted their bodily integrity and emotional states. Victims of these abuses include children, women, and elderly individuals, many of whom suffer from health ailments, which degraded significantly during their time in detention.

There were three major, distinct patterns of abuse demonstrated in the testimonies collected:

1. Inhumane conditions in detention: Exposure to extreme temperatures (hot and cold); lack of adequate access to food; lack of adequate access to water; lack of access to bathing or hygiene, including feminine hygiene products; lack of access to adequate medical care; severe overcrowding; juveniles detained with adults; frequent wake-up and inspection during sleeping hours; and separation of family units.
2. Physical and psychological abuse: Excessive use of force by law enforcement during arrest and in detention; sexually abusive conduct during interrogation at ports-of-entry, including strip searches of minors and groping of breasts and genitals during searches while in detention; dehumanizing verbal and mental abuse in detention, including being spat on, cursed at, laughed at, called names, shouting, and other threatening and aggressive language.
3. Denial of due process: Immigrants are kept in detention for lengthy periods of time without access to counsel prior to processing. Detainees were threatened, deceived, and coerced into signing their own temporary deportation orders on forms written in a foreign language.

In addition, there were reports of repeated collaboration between CBP personnel and armed vigilante militias illegally detaining, kidnapping, and shooting migrants in the desert.

By and large, the United States government has failed to implement the recommendations it accepted during the 2015 UPR cycle and, in the area of immigrant rights, the circumstances have worsened dramatically. We urge the Working Group request that the United States government immediately improve conditions for immigrants in detention by increasing medical staff, providing adequate access to clean water and nutritious food, and reducing overcrowding. Attention must also be paid to explore and implement alternatives to replace detention as a policy option. Finally, and crucially, there must be an open and expeditious investigation into the allegations contained in this report and any individuals found responsible must be prosecuted.

Overview

1. Since the early 2000s the Border Network for Human Rights (BNHR) has documented abuses committed by law enforcement agencies working in the borderland communities through an annual Abuse Documentation Campaign (ADC). This allows tracking the wellbeing of area communities and identifying problematic patterns of behavior that cause

material and psychological harm to residents. BNHR is represented throughout the border region and collects testimonies from individuals.

2. The first abuse documentation report in 2001 recorded dozens of cases of abuse, with most of those cases perpetrated by the US Border Patrol. Since then, by applying an approach of dialogue, pressure, and action to highlight trends of abuses documented by annual campaigns, the number and severity of instances of abuse were greatly reduced for several years. Policies such as revised Border Patrol use-of-force guidelines which deemphasize use of lethal force in favor of less-lethal force, de-escalation, and tactical withdrawal were implemented. The results of these efforts produced, for many years, a reduction of abuses, improved quality of life, greater respect for dignity and rights, and safer communities.
3. In 2016, with the election of the Trump administration, this changed. Previously decreasing patterns of abuse started to increase. Agencies which had altered practices started to aggressively intrude on people’s dignity and rights. The number and severity of abuses reflected in this report is unprecedented in the twenty years of BNHR’s existence. The state of human rights in the US-Mexico borderlands is grave, and is getting worse. The evidence in this report represents a major change in the incidence of abuse in the region, connected to harsh and inhumane border enforcement strategies implemented by the Trump administration, in violation of US obligations under international human rights law.

Methodology

4. Canvassing for BNHR’s 2019 Abuse Documentation Campaign started in May with more than thirty trained documenters heading out into the community. Over the months of May and June, these volunteers canvassed more than twenty-four locations across the Paso del Norte region, including at ports-of-entry, immigrant shelters, churches, and shopping centers, as well as taking phone calls and drop-in visits to BNHR offices.
5. Volunteer documenters are trained to answer five basic questions: Who did What to Whom, When, and Where? Documentations are conducted through live, in-person interviews that typically run thirty minutes or longer. Community canvasses ran through the months of May and June, though several abuses reported and documented by staff following this period are also included in this report. Cases that are missing key information, or that contain misinformation, are excluded and the remaining reports are translated and analyzed for the types of abuses committed. These reports are compared to each other to identify patterns of problematic behavior, targeting of specific populations, or concentrations of abuses in specific geographic locations.
6. The report is based on first-hand accounts by fifty individuals who have either been held in detention or have had interactions with law enforcement at ports-of-entry or in areas in between crossings. Testimonies are based on personal experience of abuse or having

witnessed abuses of others. Figures in the reports represent abuse against at least twenty-eight adult men, twenty-two adult women, and thirty-eight children. Individuals also report being held among large numbers of other people with figures claiming 100, 200, 400, and 600 total detainees across various sites. Those who identified their place of national origin name Guatemala, Honduras, El Salvador, and Cuba, and the testimony of citizens and residents of the United States is also included.

Normative Framework

International Legal Obligations

7. The United States was integral in the drafting process of the Universal Declaration of Human Rights (UDHR), signing it on December 10, 1948. Marking the 70th anniversary of the adoption of the UDHR, the US delegation to the UN Human Rights Council issued a statement: “the United States celebrates the importance of [this declaration and]...reaffirms our commitment to the principles enshrined in [it].”¹
8. The United States is party to the International Covenant on Civil and Political Rights (ICCPR; 1992), the Convention on the Elimination of all forms of Racial Discrimination (CERD; 1994), and the Convention Against Torture (CAT; 1994). In 1995, the United States signed the Convention on the Rights of the Child (CRC), though it has yet to ratify the treaty. Many provisions of the UDHR and CRC are widely considered customary international law.

General Comments

9. In October 2018, the Human Rights Committee issued General Comment 36 on “the right to life” provision of Article 6 of the ICCPR. The comment presents a sophisticated interpretation of the meaning of “the prohibition against arbitrary deprivation of life” and an expansive notion of “the duty to protect life” (CCPR/C/GC/36). The document argues that, “the right to life is a right which should not be interpreted narrowly. It concerns the entitlement of individuals to be free from acts and omissions that are intended or may be expected to cause their unnatural or premature death, as well as to enjoy a life with dignity. Article 6 guarantees this right for all human beings, without distinction of any kind, including for persons suspected or convicted of even the most serious crimes.”
10. It is clear this articulation applies to the treatment of immigrants by law enforcement at the border, both in and out of detention. To date, at least forty people have died as a result of the treatment they received while in government custody since the beginning of the Trump administration: twenty-nine adults,² seven children,³ and four additional cases of death following release from detention;⁴ these figures include death by suicide (an additional twelve adult deaths can be counted in the final two years of the Obama administration). A fuller appreciation of what it means to protect the right to life, as argued in General Comment

36, includes steps that must be taken for vulnerable populations and those deprived of their liberty, in order to adhere to a “duty of care.” The language of the comment spells out state obligations, which include:

“The duty to protect the right to life requires States parties to take special measures of protection towards persons in situation of vulnerability...These include...[81] displaced persons, asylum seekers, refugees...” (§23)

“States parties also have a heightened duty of care to take any necessary measures [86] to protect the lives of individuals deprived of their liberty by the State, since by arresting, detaining, imprisoning or otherwise depriving individuals of their liberty, States parties assume the responsibility to care for their life [87] and bodily integrity... The same heightened duty of care attaches to individuals held in private incarceration facilities operating pursuant to an authorization by the State. The duty to protect the life of all detained individuals includes providing them with the necessary medical care and appropriately regular monitoring of their health... A heightened duty to protect the right to life also applies to individuals quartered in liberty-restricting State-run facilities, such as mental health facilities, [92] military camps, [93] refugee camps and camps for internally displaced persons” (§25)

“Torture and ill-treatment, which may seriously affect the physical and mental health of the mistreated individual could also generate the risk of deprivation of life.” (§54)

11. In significant ways, the right to life, by this understanding, overlaps with and reinforces the Committee’s General Comment 35 (2014) on “liberty and security of person” found in Article 9 of ICCPR: “The right to security of person protects individuals against intentional infliction of bodily or mental injury, regardless of whether the victim is detained or non-detained” (§9; CCPR/C/GC/35).

Past UPR Recommendations Supported in Whole or in Part by the United States (2015 cycle)

12. This section captures recommendations germane to the circumstances on the US-Mexico border, which have previously been accepted by the United States (US) government following the 2015 UPR cycle as articulated in the State’s response to the Working Group’s report.⁵ Based on the testimonies collected from individuals who have experienced detention first-hand, and deep familiarity with the borderland context, this report contends that the US government has failed to implement the recommendations it accepted during the last UPR.
 - a. Acceptance of International Norms

- Consider ratifying Convention on the Rights of the Child [§176.1 (Peru); §176.21 (Kazakhstan); §176.23 (Bulgaria); §176.24 (India); §176.25 (Indonesia); §176.27 (Romania); §176.31 (Botswana); §176.32 (Iceland); §176.34 (Democratic Republic of the Congo); §176.35 (New Zealand); §176.38 ((the former Yugoslav Republic of Macedonia); §176.46 (Austria); §176.47 (Mali); §176.48 (Sweden, Timor-Leste, Algeria, Maldives, France, Portugal, Slovenia, China, Japan, Canada); §176.49 (Estonia); §176.50 (Libya); §176.55 (Burkina Faso); §176.56 (Islamic Republic of Iran)
- b. Racial Discrimination
 - End discrimination in law and practice against all minorities and migrants, particularly against women and children from poor families [§176.125 (Islamic Republic of Iran)]
 - Adopt measures at the federal level to prevent and punish excessive use of force by law enforcement officials against members of ethnic and racial minorities, including unarmed persons, which disproportionately affect African-American and undocumented migrants [§176.154 (Mexico)]
- c. Right to an Effective Remedy
 - Further ensure that all victims of torture and ill-treatment — whether still in United States custody or not — obtain redress and have an enforceable right to fair and adequate compensation and as full rehabilitation as possible, including medical and psychological assistance [§176.286 (Denmark)]
- d. Prohibition of Torture, and Cruel, Inhuman, and Degrading Treatment
 - Strengthen safeguards against torture in all detention facilities in any territory under its jurisdiction, ensure proper and transparent investigation and prosecution of individuals responsible for all allegations of torture and ill-treatment [§176.210 (Czech Republic)]
 - Respect the absolute prohibition on torture and take measures to guarantee punishment of all perpetrators [§176.217 (Costa Rica)]
 - Ensure a sustained human rights training for law enforcement officers [§176.224 (Democratic Republic of the Congo)]
 - Investigate cases of deaths of migrants by customs and border patrols, particularly those where there have been indications of an excessive use of force, and ensure accountability and adequate reparation to the families of the victims [§176.229 (Mexico)]
- e. Arbitrary Arrest and Detention
 - [S]eek alternatives to detention and end use of detention for reason of deterrence [against immigrant families and children] [§176.252 (Mexico)]

- f. Migrants
 - Continue efforts to implement the human right to safe water and sanitation, ensuring this human right without discrimination for the poorest sectors of the population, including indigenous peoples and migrants [§176.311 (Spain)]
 - Guarantee the enjoyment of human rights of the minorities and vulnerable groups in the country, including the indigenous peoples and migrants [§176.321 (Nicaragua)]
 - Guarantee the right to family reunification of migrants held in detention and continue with the efforts to protect the human rights of migrant persons, particularly their economic, social and cultural rights [§176.338 (Paraguay)]
 - Ensure due process for all immigrants in immigration proceedings, using the principle of the best interest, especially in the case of families and unaccompanied children [§176.339 (Honduras)]
- g. Cooperation with Special Procedures
 - Consider extending a standing invitation to all special procedures mandate holders of the Human Rights Council [§176.110 (Latvia)]
- h. Human Rights Education, Trainings, and Awareness Raising
 - Strengthen human rights education programs and training for all civil servants, particularly for law enforcement and immigration officers, and combat impunity concerning abuses against defenseless persons [§176.74 (Costa Rica)]

Violations of International Human Rights Law

13. This section identifies the articles of human rights law from multiple treaties that correspond with listed violations.
 - a. Inhumane Conditions in Detention (ICCPR, Art. 2, 10, 17, 23; CAT, Art. 1, 6, 11, 16; UDHR, Art. 2, 3, 5, 12, 16, 25; CRC, Art. 2, 3, 5, 6, 9, 19, 20, 24, 27, 37)
 - Exposure to extreme temperatures (hot and cold);
 - Lack of adequate access to food, including the distribution of frozen or spoiled food;
 - Lack of adequate access to water, including denial of requests for drinking water;
 - Lack of access to adequate medical care—multiple reports involved migrants being told they could not see a doctor unless they fainted or were dying;
 - Lack of access to bathing or hygiene—multiple women reported that they were denied access to feminine hygiene products while in custody;
 - Severe overcrowding;
 - Frequent wake-up and inspection during sleeping hours;
 - Juveniles detained with adults;
 - Separation of family units.

- b. Physical and Psychological Abuse (ICCPR, Art. 2, 6, 9, 10; CAT, Art. 1; UDHR, Art. 2, 3, 5; CRC, Art. 24)
- Use of excessive force by law enforcement, including during encounters that result in arrest and detention, where individuals report being kicked in order to arouse from sleep and being beaten on the feet;
 - Sexually abusive conduct during interrogation of migrants at ports-of-entry, including unnecessary strip searches of a minor female, as well as groping of breasts and genitals during searches while in detention;
 - Verbal abuse and other dehumanizing treatment in detention, including being spat on, cursed at, laughed at, ridiculed, called names, use of profanity, shouting, and threatening and aggressive language.
- c. Denial of Due Process (ICCPR, Art. 2, 9, 14; UDHR, Art. 2, 6, 10)
- Immigrants are kept in detention for lengthy periods of time before processing, without access to counsel; reports include stays of 7, 10, 12, 28, and 52 days.
 - Detainees were threatened, deceived, and coerced into signing their own temporary deportation orders on forms not written in a language familiar to them.

14. In addition, there were reports of repeated collaboration between CBP personnel and armed paramilitary vigilante militias illegally detaining and kidnapping migrants in the desert. Residents report hearing repeated gun shots at night, including machine gun fire, and loud cries they attribute to undocumented migrants. These men also cross into residents’ private property at night, provoking fear among locals.⁶

Testimonies

The text in this section contains excerpts from individual testimony given to the Border Network for Human Rights during the Abuse Documentation Campaign in May-June 2019. Names have been represented with initials to protect the identities of these individuals. Emphasis below in bold is intended to highlight evidence of human rights abuse listed above. A more complete text of these testimonies is available as an annex to this report.

15. M.T.V.V.: **“they put us in a very cold room, that was killing me, I got sick and it damaged me a lot, there is no day or night in that place.”**
16. M.V.S.: **“when he put us on the floor, I did not want to because the floor was very hot and he kicked me in the back and said, “Fucking motherfuckers, what are you doing here? Why don’t you stay in your land eating shit?” That same officer put the women in line to go to the bathroom. One of them moved a little from the line and he pushed her against the fence while she was holding her baby in her arms. He told her, ‘Lousy dogs,**

what are you doing in a country that is not yours? You should have stayed in your country eating shit.”

17. M.A.C.: **“I saw them pushing a three-year-old baby. He was standing there. They passed by and they threw him on the floor. ‘Get out of the way,’ they shouted at him. We slept on the floor. There are no beds. I also witnessed an immigration agent pushing a man that had just been handcuffed and shouting at him...they continued abusing him verbally.”**
18. R.E.C.R.: **“The next day they took us to another place and we were left a whole day and a half in the sun and there were so many people that we could not even turn around.”**
19. S.P.R.: **“I spent twenty-eight days without the right to our personal cleaning...In those twenty-eight days they only took me to take a bath twice, I slept on the floor, and when my head and throat hurt, I asked them for help, and they told me that they were not doctors.”**
20. C.M.P.P.: **“An hour later, they took us out to sign some papers and we did not know what we were signing, but they put pressure on us to sign and we never knew that we were signing our removal to Juarez. I asked them why they sent us to Juarez if I was a protected witness in Honduras and my life and that of my family was in danger, still they returned us to Juarez. What they did with people who did not want to sign the removal to Juarez was that they put them in a room called the ICEBOX or The Cold Room as a way of pressuring them to sign, and there they lasted more days detained...**

“Then the next day they sent us under the Santa Fe Bridge, it was the bridge of the border where cars and people passed, people passed by and took pictures of us, we stayed there for seven days, putting up with the cold and hunger, there we were among rocks and trash. This is wrong. There was the flu, and that’s where I ended up with a fungus on my hands. I do not know if by the dust or by the metal blankets they gave us that my hands got black. I still have not been able to remove it. I still have the aftermath of that. I asked for medical attention but they didn’t treat me, they only looked after children, my children had cough and flu but they did not give them any medicine, my husband got pimples in his mouth from the cold, the air, the dust; the cold burned his lips. People asked for Pampers (diapers), and they did not give them any, or sanitary napkins, I started menstruating and they did not give me sanitary napkins, I stained my clothes, they said there was a lot of people. The food was given to us at dawn, they woke us up give us a sandwich, and at 12:00p.m. they gave us food and they took us out in the sun, they did not allow us to take a bath, we stayed 10-12 days without bathing, and the portable toilets were full of dirty toilet and poop...We were outdoors for seven days under the bridge in El Paso Texas, even pigeon droppings would fall on us. The agents treated us badly, with racism, spoke with derogatory words towards us, we did not understand English and as they laughed at us, there was one of Mexican origin, who sometimes spoke Spanish and told us,

‘Pinches, why did you come here? Here you are going to suffer,’ and all that, he used to say very ugly words to us, and sometimes he spoke in English and laughed...”

21. J.L.: “...**they would wake us up often and would not let us sleep, they would beat us on our feet... They mistreat the children more** and the way they got angry, they shouted at us very ugly and told us that we were in their country. And they told us that if we went back, we were going to be in jail for six months and they were going to take the children away from us and we were never going to see them and Lieutenant Sanchez spoke to us very ugly.”
22. L.S.G.R.: “Nineteen days I suffered mistreatment by the border patrol agent in green. **Agent E. Moises physically and mentally mistreated me with screams, threats and did not respect my disability, giving me rude treatment, with squeezes when receiving me and treating me in a despotic manner.** They gave us water, but not medicine. **They shouted to us ‘eat those oranges, bitches,** with everything including the peel’ We spent three hours punished in the sun stuck to a mesh, without eating and without water. **Seventeen days in the tent and two days in the ice box very cold and many people piled with physical abuse.** People were stacked in a 4x6 room with very high temperature and very cold.”
23. Y.L.G.R.: “They came and shouted at us telling us that, ‘Where the fuck are you going?’ and they also **made fun of us because they saw us that we were all dirty** then they put some bracelets with numbers on them and then they put us in the vans as if we were animals... **When they saw us sleeping they kicked us and told us that we were ‘some damned liars’...they treated us for the worst as if we were animals and slept there were about two-hundred people and we were all huddled up in the cold and rain.** it was something very horrible what happened there and when they called a person who was there in the same group, they would raise us all by shouting, ‘Get up shit.’... **They told us that we were ‘pigs.’ They brought us some papers for us to sign, we were told that it was not deportation that if we signed those papers they would send us to a better place where they would give us clothes, shoes, etc. that we would not suffer, and they lied to us because they left us adrift without knowing where to go.**”
24. V.Z.A.: “I had to sit on the ground without water, without food, it rained, and even had to take showers outside, and the border officials like ICE just watched and laughed, then some Cubans introduced a cell phone and when they realized they shouted at us in English, they only used words like, ‘fuck you.’ **They checked us, but they squeezed my breasts, my back and my legs.**”
25. K.M.V.: “Then I went to bed to rest and **they kicked me every time they saw me sleeping.** Then every time I wanted to go to the bathroom they would not let me and would offend me and **every time they saw me outside they would say, ‘Get in bitch or do not make me mad’** and so on...”
26. X.G.T.I.: “**they touched us all over our bodies to search us.**”

27. M.G.L.: **“I was separated from my two sons who are ten and eighteen years of age. Until this day I do not know anything about them, and I do not have one relative here.”**
28. Y.V.R.V.: **“Part of their process consisted in checking every part of my body, including rubbing my breasts and vaginal area...I saw that many women were developing skin and urine infections because of the unsanitary conditions we were in...I was made fun of by one of the agents in green when I asked him if I could have a sanitary napkin and they would make fun of any woman asking for such thing...While we were going to the outside restrooms, officers in blue would yell, ‘By my mother’s grave, I swear if you try to run and escape I will put a bullet in you, so you all better not try anything.’ There was a point where I was terribly afraid of even asking for permission to go to the restroom...‘Nobody asked you to come to my country, you should have stayed in your country because we do not want you here’...”**
29. P.A.B.L.: **“They would punish us. The first day I arrived, they forced my hands to the back of my head and between two officials, they spread my legs and they told me that I was a criminal and was told that even dead I wouldn’t come out of there.** When they would leave us thrown on the ground, in a small cell, they’d put in about two-hundred to sleep on top of another. A female officer, who was called Ursula by others, I am not sure if that was her real name, would tell us, **‘Get up pigs. You’re dirty. Why don’t you shower?’** I was there for seventeen days without being able to shower, **they would mistreat us, when we would do something, they would punish us all and put us next to the wall...**The first moments we were there, I felt like dying because I had never been through punishment like this...**There were individuals who had fifty-two days being held there, caged there.** Fifty-two days without being able to contact a family member. **A man told me that they told him, ‘Who is going to take you out of here?’ And he said, ‘God.’ And they told him, ‘God doesn’t exist here. If I put a gun here [pointing towards temple] will God come save you?’** and we would say, ‘Yes,’ because in our culture we have a faith in that God exists. Then they would say, ‘what would cost me to use one of the bullets I have here in my gun so that you stay here so that they won’t know of you? **You are already dead here. You can’t get out.**’...I also slept another three days in the bathroom, that’s where we do everything, we eat, we sleep there, we drink water there, that’s where we do everything and one would get sick, in the case of one man, one of their officials smashed his fingers with the door and he spent fifteen days trembling from the pain and the official gave him some cookies so he wouldn’t tell. This is a place of great suffering that has no explanation...”
30. B.G.: **“I, a fourteen-year-old American citizen...was sent to secondary revision because according to [the officer], I had not been able to verify my identity...They put me in a room where the dog sniffed my private parts and obviously found nothing. They took away the dog, then they told me, ‘we’re going to undress you.’ They auscultated me with my pants**

on and they found nothing. Then they told me to take my pants down, I did, and they saw me and told me to pull my pants up.”

31. M.P. and M.M.: “...**Immigration agent hitting a child of approximately seven- to ten-years-old and told him ‘Fuck you, motherfucker.’ The same agent also hit a woman and verbally abused her telling her the same thing he told the little boy, ‘Fuck you, bitch.’ This same agent pushed a man who was carrying his child in his arms, the man fell and fell on top of his girl. The next thing I witnessed is the case of a young man who was handcuffed by several officers and they used the taser gun on his ribs, they were giving him electric shocks**, and this was because he did not know how to speak Spanish well. He spoke a dialect. These are some of the offenses used on several occasions by the agents against these detained people, **verbal aggressions such as, ‘Fuck your motherfucker, stinky, useless pigs**, and that they should not come to this country if they did not know how to at least speak Spanish...”
32. R.R.: “**For six days all of us we were treated worse than criminals; children, men, women and seniors. I did not stay quiet and I told them, ‘It is not necessary to shout and treat us like animals’ and I said ‘it is not fair, it is our right to ask for political asylum’ and that cost me to be taken to a punishment cell for eight hours which were the worst of my life, fearing that I would be separated from my son.**”

Recommendations

This section outlines recommendations that stem primarily from the “Humanitarian Standards for Individuals in Customs and Border Protection Custody Act” (HR 3239) sponsored by Representative Raul Ruiz of California and passed by the US House of Representatives of the 116th Congress on July 24, 2019⁷ and the “Homeland Security Improvement Act” (HR 2203) sponsored by Rep. Veronica Escobar of El Paso, Texas and passed by the US House of Representatives of the 116th Congress on September 25, 2019⁸—both of which must be passed, enacted, and enforced immediately. A more robust list of recommendations is available as an annex to this report.

33. General Recommendations for Detention Oversight and Accountability

- a. The US Government must recognize and strictly enforce all applicable custody standards based on domestic and international law and policy; in particular those for ICE (adopted February 24, 2012)⁹ and CBP (adopted October 2015).¹⁰ External private or public entities contracted and/or sub-contracted to work with persons held in Federal custody should be required to meet the same standard as would apply to the contracting agency working with that population.
- b. Create an independent Office of the Ombudsman for Immigration Custody and Detention with the authority and mandate to provide for the humane and dignified treatment of all

persons in Federal custody, including inspections, reporting, and oversight of a transparent complaint procedure.

34. Recommendations for Improving Medical Conditions and Care for Persons in Federal Immigration Custody/Detention

- a. Agencies must improve access to medical care for persons in their custody, including through proper screenings of mental and physical health upon arrival, adequate staffing of doctors and specialists, access to all necessary health and hygiene products, delivery of all appropriate medical care according to the needs of each detainee, and open access to all facilities to non-governmental organizations, including the International Committee for the Red Cross.

35. Recommendations for Improving Conditions and Care of Vulnerable Populations in Federal Immigration Custody/Detention

- a. Agencies need to make better accommodations for the needs of women, children, transgendered persons, indigenous persons, and other vulnerable populations.
- b. Unless there is a clear, present, and documented threat of violence against a child, or an immediate/ongoing act of violence against a child, children should not be separated from their parents without either a court order from a Family Court Judge, or a signed affidavit from a child welfare expert, such as a social worker, pediatrician, or psychiatrist.
- c. Families presenting with an entire nuclear family unit (parents, adult and juvenile children, grandparents [if present]) should not be separated, and they should house and accommodate these persons together.

36. Recommendations for Improving the Treatment of All Persons in Federal Immigration Custody/Detention

- a. Minimize the extent to which persons are transferred between facilities;
- b. Reduce overcrowding;
- c. Permit detainees full nights of sleep in environments conducive to such;
- d. Discontinue and prohibit the use of “hieleras” [iceboxes] and exposure to extremely hot temperatures;
- e. Provide unrestricted access to clean drinking water and nutritious food;
- f. Provide unrestricted access to facilities for laundry, private bathing, toilets, handwashing, and waste disposal—and the supplies necessary for executing all basic needs.

37. Recommendations for Alternatives to Federal Immigration Custody/Detention

- a. The CBP and the US Congress should urgently establish “Welcoming Centers” to replace existing holding/processing/detention facilities.
 - i. These “Welcoming Centers” should be open to NGOs and attorneys to work alongside Federal agencies in processing arriving migrants, asylum seekers, and

refugees, providing access to basic legal information and orientation to life in the United States—including an introduction to private transportation systems such as interurban bus lines and airports, and basic English.

- ii. Congress should fund a pilot “Welcoming Center” in El Paso in the FY 2020 Federal budget.

¹ US Mission Geneva. “U.S. Statement on the 70th Anniversary of the UDHR and the 25th Anniversary of the VDPA.” February 28, 2018. <https://geneva.usmission.gov/2018/02/28/u-s-statement-on-the-70th-anniversary-of-the-udhr-and-the-25th-anniversary-of-the-udpva/>.

² American Immigration Lawyers Association. “Deaths at Adult Detention Centers.” September 12, 2019. <https://www.aila.org/infonet/deaths-at-adult-detention-centers>.

³ Nicole Acevedo. “Why are Migrant Children Dying in US Custody?” *NBC News*. May 29, 2019. <https://www.nbcnews.com/news/latino/why-are-migrant-children-dying-u-s-custody-n1010316>.

⁴ Hannah Rappleye and Lisa Riordan Seville. “24 Immigrants Have Died in ICE Custody during the Trump Administration.” *NBC News*. June 9, 2019. <https://www.nbcnews.com/politics/immigration/24-immigrants-have-died-ice-custody-during-trump-administration-n1015291>.

⁵ A/HRC/30/12; A/HRC/30/12/Add.1.

⁶ These reports were corroborated by local and national news coverage: Robert Holguin. “KFOX14 Speaks to New Mexico Militia Group about Migrant Apprehensions.” *KFOX14*. April 19, 2019. <https://kfoxtv.com/news/local/kfox14-speaks-to-new-mexico-militia-group-about-migrant-apprehensions>; Simon Romero. “Militia in New Mexico Detains Asylum Seekers at Gunpoint.” *The New York Times*. April 18, 2019. <https://www.nytimes.com/2019/04/18/us/new-mexico-militia.html>

⁷ US Congress. House. “Humanitarian Standards for Individuals in Customs and Border Protection Custody Act.” HR 3239. 116th Congress. Introduced June 12, 2019. <https://www.congress.gov/bill/116th-congress/house-bill/3239>.

⁸ US Congress. House. “Homeland Security Improvement Act.” HR 2203. 116th Congress. Introduced April, 10, 2019. <https://www.congress.gov/bill/116th-congress/house-bill/2203>.

⁹ US Immigration and Customs Enforcement. “ICE Detention Standards.” February 24, 2012. <https://www.ice.gov/factsheets/facilities-pbnds>.

¹⁰ US Customs and Border Protection. “National Standards for Transport, Escort, Detention, and Search.” Oct 2015. <https://www.cbp.gov/sites/default/files/assets/documents/2017-Sep/CBP%20TEDS%20Policy%20Oct2015.pdf>