

Testimony of Michelle Brané

Inter-American Commission Human Rights

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Good Morning and thank you for the opportunity to testify before you today. My name is Michelle Brané with the Women's Commission for Refugee Women and Children. I will be focusing on the use of family detention by the United States Immigration and Customs Enforcement (ICE).

There are currently two major family detention facilities in the U.S.. The Berks county facility in Pennsylvania and the unlicensed T. Don Hutto facility in Texas, that opened in 2006 and was supposed to serve as a model for future facilities. The Women's Commission visited both facilities and wrote a report on our findings, which was submitted to the commission. The practice of detaining families, most of whom are asylum seekers, and the prison like conditions of this detention violate several provisions of U.S. standards as well as international treaty obligations, including the American Declaration of the Rights and Duties of Man.

While there are many procedural and structural differences between these two facilities, both are overly restrictive settings in which children and families are subject to inhumane and inappropriate treatment. The facilities are based on a criminal prison model. At Hutto, families, including young children and babies in cribs, sleep in concrete prison cells. Hutto is particularly problematic because it is a former prison, complete with

prison cells, gates, barbed wire and control rooms and because it is run by a private prison corporation. This was reflected in many of the practices at the facility such as children and babies wearing prison uniforms, no freedom of movement within the facility and no contact visits. Dominica a pregnant asylum seeker slept with her two children in the same single prison bed rather than have her child sleep alone in another cell. She was lucky, in most cases children over 6 years old have no choice but to be separated at night.

At the time of our visit detainees including children received only one hour of education and one hour of recreation a day. Both facilities are equipped with cameras that monitor detainees' movements 24 hours a day.

Families are subject to harsh and disproportionate disciplinary practices, including threats of separation. When I asked how the discipline worked, one 9 year old girl said that if you do not behave – “they send you away from your mom.” Families are frequently threatened with separation if they complain or if the children do not keep quiet and behave. Children were punished for crying, asking for more food and for being too loud or active. In one case a child who was crying because he was not allowed by a guard to take a picture he had colored into his room was separated from his father for several days after his father complained to the guard for yelling at the child.

We heard repeatedly from mothers that their children were losing weight. Even a guard expressed their concern when they approached me during our tour and asked me “off the record” to look into the food situation because “These children are hungry”. Families in

Hutto received no more than twenty minutes to go through the cafeteria line and feed their children and themselves. For those at the end of the line, this could mean less than 5 minutes to eat.

Medical care is also a concern. Children and pregnant women were receiving grossly inadequate care. One pregnant woman we spoke to arrived at Hutto with a 5 month old child. She is a victim of trafficking who is applying for asylum. She was given no prenatal care for several months after her pregnancy was confirmed. After being at the facility for a few months – she fainted and was taken to the hospital. She was told that she had a kidney infection and was told to drink lots of water – she was not given any antibiotics. She finally received a pre-natal exam when she was about 7 months pregnant. The situation of her young daughter is perhaps even more disturbing. Lily arrived at Hutto at 5 months. In the time that she was at Hutto she actually lost several pounds. While losing a few pounds is not such a big deal for an adult – for a child – especially a child under one year old – it is dangerous. This should not be happening to children who are in US. physical custody.

Some families with young children have been detained in these facilities for as long as two years, and the majority of children we observed appear to be under the age of 12.

Access to Counsel is extremely limited due to the remote location. None of the family facilities have formal know your rights presentations. The submission by the University of Texas outlines some issues related to the obstruction of access to counsel. I would add

that the facility in Pennsylvania has no arrangements for presentation or access to pro-bono counsel and the vast majority of the families there have inadequate or no legal representation.

No alternatives to detention are in place for families. My Colleague will speak more of alternative programs. However, I want to stress that alternatives would be particularly appropriate for families.

At the Berks facility we met a woman who had been detained with her 15 year old son. She had left behind her U.S. citizen infant son with a neighbor, thinking that she would only be away for one day. When we last spoke with her she had not seen her baby in over one year. The child was still with the neighbor. This situation of U.S. citizen children being separated from their parents and left in precarious situations is unnecessary and can be avoided with *programs that already exist*.

This approach of using a penal model and deterring by detaining has resulted in a situation in which the US government is violating its own standards for care and custody, as well as its obligations under international law including the *American Declaration of the Rights and Duties of Man*, which is binding on the U.S. by virtue of its membership in the O.A.S.

The University of Texas submission to the Commission outlines specifically several of the articles that are violated by the current system. These include Articles VI, VII, XI, XV, and XXVII

- **Family Detention model strips parents of their role as arbiter and architect of the family unit.**

Article VI: Right to a family and to protection thereof.

Article VII: Right to protection for mothers and children

Article XI: Right to the preservation of health and to well-being

- **It places families in settings modeled on the criminal justice system**

Article VI: Right to a family and to protection thereof.

Article VII: Right to protection for mothers and children

Article XI: Right to the preservation of health and to well-being

Article XV: Right to leisure time and to the use thereof.

- **There are no licensing requirements and no standards for family detention, but both facilities violated the Flores settlement agreement outlining standards for children and Immigration and Customs Enforcement Detention Standards.¹**

Article VI: Right to a family and to protection thereof

Article VII: Right to protection for mothers and children

Article XI: Right to the preservation of health and to well-being

Article XV: Right to leisure time and to the use thereof.

Article XXVII: Right of asylum

- **The current approach fails to take into consideration both Congress's directive to explore alternatives and the reality that alternatives exist. We**

¹ Stipulated Settlement Agreement, *Flores v Reno*, Case No CV85-4554-RJK (C.D. Cal. 1996) and U.S. Immigration and Customs Enforcement, *Detention Operations Manual*. <http://www.ice.gov/partners/dro/opsmanual/index.htm>.

understand that the government has to secure its borders, but detention is not necessary in all cases. Alternatives exist that can take into account public safety and appearance at hearings. Such alternatives are less costly to the taxpayer while complying with American and International human rights standards.

Article XI: Right to the preservation of health and to well-being

Article XV: Right to leisure time and to the use thereof.

Article XXVII: Right of asylum

In conclusion, through the course of our research, we became deeply concerned about the physical and emotional well being of families in detention. The families we spoke with – the large majority of them women asylum seekers with young children all expressed signs of depression, particularly the children. Children who have been released from Hutto have suffered from continued weight loss, nightmares and bedwetting. Almost every women we spoke with cried when describing the conditions of detention. These facilities are not the least restrictive setting appropriate for the children’s age, and policies and procedures fundamentally compromise normal parent-child interaction. There has been a disturbing lack of transparency on the part of the U.S. government with respect to detention facilities in general and particularly with the Hutto facility. In June of 2007, the UN Special Rapporteur on the Rights of Migrants was denied entry. These concerns are outlined in the submission by the University of Texas. However, detainees tried to communicate the gravity of the situation to us as best they could. As we were touring this facility, a little girl ran up to us and pressed a note into the hand of my colleague, that read, “Help us and ask us questions.”