



# DETENTION AND ASYLUM



WOMEN'S  
REFUGEE  
COMMISSION

# DETENTION AND ASYLUM

## AT A GLANCE

### ||| The Issue

- More than 360,000 people a year are held in immigration detention, some for a few days, some for months or even years.
- Many of those detained are women, children and families seeking safety from persecution or human rights abuses.
- They are held in prisons or detention facilities, often in dire conditions.

### ||| Our Response

- Advocated successfully for unaccompanied children to be transferred from detention facilities run by the Department of Homeland Security to the care of the Department of Health and Human Services, a social services agency.
- Reported on conditions of families in immigration detention after gaining unprecedented access to family detention facilities, which led to significant improvements.
- Pushing for standards to address women's issues, including care for pregnant women, nursing mothers, and care for children left behind when parents are detained.

### ||| Next Steps

- Press Department of Homeland Security to comply with the law that states that no child remain in its custody for more than 72 hours.
- Urge Congress and the administration to eliminate use of family detention.
- Push for implementation of detention reform and for development of alternatives to detention and due process rights for families and women seeking asylum.
- Seek to end inhumane detention practices that result in the separation of families during immigration proceedings.



# Fighting for fair treatment of women and children seeking asylum



## Background

Every year, tens of thousands of asylum seekers, including women, children and families seeking safety, are detained by the U.S. government in prisons or detention facilities. They may remain in detention for months or even years. The conditions in which they are held are often dire, with people sleeping on the floor, receiving inadequate food, limited medical care and little or no access to telephones, education, recreational facilities or legal counsel.

The Women's Refugee Commission's Detention and Asylum Program has been at the forefront of efforts to ensure that U.S. law protects unaccompanied children, families and women who are seeking asylum and allows them to make their asylum claims. We advocate that asylum-seekers not be held in detention and that those who are detained be held in humane conditions that comply with human rights standards.

## Helping Unaccompanied Children in Detention

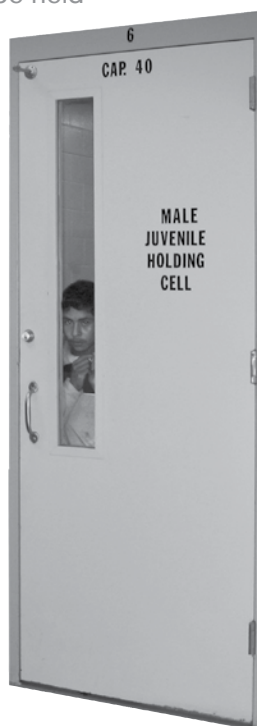
More than 6,500 unaccompanied immigrant children were held in U.S. government custody in 2009.

Many of these children have escaped gang violence, sexual abuse or abandonment in their home country. They are highly susceptible to rape and assault during their journeys to the United States.

In 2003, our advocacy led to an important victory when the custody of unaccom-

panied children was transferred from the Immigration and Naturalization Service (now the Department of Homeland Security (DHS)) to the Division of Unaccompanied Children's Services in the Department of Health and Human Services (HHS). This was intended to place children in more appropriate settings than detention facilities, such as foster care and group homes, where they would be cared for by social workers rather than law enforcement agents.

Most children have to navigate the asylum process and represent themselves in court without a lawyer or adult guardian to help them. In 2006, the Women's Refugee Commission developed "What Happens When I Go to Immigration Court?" a first-of-its-kind educational video to help children understand and prepare for immigration court. The video, available in several languages, is now widely used and available at [hklaw.com/content/CST/ImmigrationCourt/English/](http://hklaw.com/content/CST/ImmigrationCourt/English/).



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In February 2009, we released *Halfway Home: Unaccompanied Children in Immigration Custody*, a landmark study evaluating the effectiveness of this transfer. The study reported that although the treatment of most unaccompanied children has greatly improved, the transfer of custody to HHS is not yet complete and challenges remain.

We worked to ensure passage of the Trafficking Victims Protection Act (TVPA), a critical law to protect children at risk of trafficking and abuse. We continue to work to ensure that the law is implemented and



for the passage of legislation that would address many of our remaining concerns and would codify standards of treatment for children during the critical hours and days after they are apprehended by Border Patrol but before they are transferred to the Division of Unaccompanied Children's Services. Conditions at border patrol stations are among the worst we have witnessed, and no child should be held there for more than a few hours.

### **Improving Conditions for Immigrant Families Held in Prison-like Facilities**

In 2006, the Women's Refugee Commission was given unprecedented access to facilities in Texas and Pennsylvania where immigrant families, including asylum-seekers, are detained. These families were held in prison-like settings for months or even years (the facility in Texas is a former medium-security prison) and deprived of the right to live as a family unit, denied adequate recreation and faced overly harsh disciplinary tactics.

Our 2007 groundbreaking report on the two facilities, *Locking Up Family Values: The Detention of Immigrant Families*, garnered significant national and international media interest, as well as Congressional attention. The report led to significant improvements. The American Civil Liberties Union (ACLU) and the University of Texas filed a lawsuit based on evidence laid out in our report, which resulted in a settlement

that required certain standards be implemented at the facility in Texas. In August 2009, the immigration agency announced it would no longer detain families at the Texas facility and withdrew plans to open a new facility. This has translated into a 75 percent decrease in the use of family detention. The Pennsylvania facility continues to be an inappropriate place to hold families.

We continue to monitor family detention and are working closely with DHS to improve detention standards. We are also encouraging the administration and Congress to expand the use of alternatives to detention, which would release people awaiting immigration hearings into the community or less restrictive environments. We advocate that family detention not be used except for short periods when necessary to verify identity or for national security reasons.

### **Fighting to Prevent Further Abuse of Women in U.S. Detention**

The Women's Refugee Commission has been pushing for changes in U.S. asylum law to recognize claims based on gender-related abuses, such as rape, forced early marriage, trafficking and female genital mutilation. Many women who are seeking asylum in the U.S. have suffered violence and abuse. Upon their arrival in the U.S., they are often detained pending the outcome of their cases, with little access to medical care, legal resources or adequate nutrition and are subject to verbal and, at times, physical abuse, causing further trauma.

Immigration detention standards are not legally enforceable and are based on punitive criminal standards. We are working with various partners to develop a more appropriate administrative or civil model of custody and improve conditions of detention for women, including advocating for standards that address women's issues, including pregnancy, nursing mothers, availability of menstrual pads and other health needs. In order to ensure the implementation of these standards, we advocate for improved monitoring, transparency and accountability.





In addition, we push for the development of alternatives to detention and due process rights for women seeking asylum.

### **Defending Rights of Parents Separated from Their Children in Immigration Proceedings**

Due to the drastic increase in immigration enforcement and detention, an alarming number of parents are separated from their children during their immigration proceedings. The lack of coordination between federal and state laws and immigration, family and child welfare services complicates the issue. Women are detained for weeks or months without knowing what has become of their children. In some cases, they lose permanent custody of their children because they are unaware of or unable to attend family court proceedings as they are in detention or have been deported. In other cases, women are deported without seeing their children or being able to arrange their care.

No procedures are in place to ensure that parents or caretakers of minor children are released or that the safety or basic rights of children of detained parents are protected. Therefore, we are working with the administration, Congress, family law associations, children's rights advocates and others to identify the complex legal and social problems that have contributed to the separation of families without due process and to develop solutions and recommendations to end these inhumane detention practices.

Learn more about our detention and asylum program and download reports at:

[womensrefugeecommission.org/programs/detention](https://womensrefugeecommission.org/programs/detention)

“ I am frustrated from being locked up for almost a year. I really can't stand being locked up anymore. I don't need therapy. I need to go home. I haven't spoken to my mother in months.”

Young person at center used to detain children seeking asylum. San Antonio, Texas



**OUR MISSION:** Since 1989, the Women's Refugee Commission has advocated vigorously for laws, policies and programs to improve the lives and protect the rights of refugee and displaced women, children and young people, including those seeking asylum—bringing about lasting, measurable change.

**OUR VISION:** We envision a world in which refugee, internally displaced, returnee and asylum-seeking women, children and young people are safe, healthy and self-reliant, and participating in the decisions that affect their lives.

**HOW WE WORK:** Through research and fact-finding field missions, we assess and identify best practices and find solutions on critical issues that include lifesaving reproductive health care, dignified livelihoods for refugees and, in the U.S., fair treatment of women, children and families seeking asylum. On Capitol Hill, at the United Nations and with humanitarian organizations and governments, we push for improvements in refugee policy and practice until measurable, long-term change is realized.

**GET INVOLVED:** Learn about the ways you can help ensure that our far-reaching, life-saving advocacy for women, children and young people continues. To sign up for our action alerts and to make a tax-deductible donation, please go to:

[womensrefugeecommission.org](http://womensrefugeecommission.org)



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