

The Mental and Economic Impact of Migrant Detention Centers: *Examining Berks County Residential Center*

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“Give me your tired, your poor, Your huddled masses yearning to breathe free, The wretched refuse of your teeming shore. Send these, the homeless, tempest-tossed, to me: I lift my lamp beside the golden door.”

Engrained on the Statue of Liberty, these words are meant assign of welcoming and hope. Unfortunately, the United States’ immigration laws are amongst the most complex, creating a barrier to refuge affecting most vulnerable; asylum-seeking individuals, or refugees, who are often women and children, fleeing prosecution and violence of their home country.¹

The first and most formidable barrier greeting refugees are detention centers. Despite the United Nation’s express condoning of refugee detention, the United States sees it as the first step in determining refugee asylum cases.² Instead of providing security, the United States is home to one of the fastest growing detention center populations with over 300,000 detainees.³ Within these centers, 60% of which are privately run. refugees are subjected to substandard medical care, sexual abuse, prison-like living conditions, and being treated like criminals, despite committing no crime.⁴ These detainees are kept, sometimes for years, not knowing whether they will be granted asylum or be deported back to the violence, and possible death, they were fleeing from. This detention leads to substantial, long-term health and economic effects of those detained. Many who have fled poverty-stricken countries then become trapped in a detention center simply because they are unable to afford bail where detention centers may set abnormally high bail even if there was no criminal act.⁵ Further, the detrimental psychological effects are extreme, with a correlation between length of detention and worsening of effects.

Refugees seeking asylum in the United States may spend extended periods in detention centers with poor resources and are subject to discrimination and even violence. This may lead to mental health problems to be created or aggravated by a sense of powerlessness.⁶ The optimism asylum-seekers once had may lead to depression and other mental health issues when their expectations do not come to fruition after facing structural barriers such as exclusionary policies, racism and discrimination.⁷ For example, a refugee in a detention center encountering difficulties in having their credentials recognized compromises their ability to find work.⁸ Additional risk factors for mental health problems can differ, but often has a greater influence on employment and subsequent mental health.⁹

Amongst these detention centers, Berks County Residential Center in Leesport, Pennsylvania, stands alone as the only detention center to indefinitely detain women and children. Among these, one family drew media attention after the mother and her five-year old son were deported May 3, 2017. They were amongst fourteen “long-term” families detained at Berks County Residential Center. These fourteen families united together in *Castro v. United States Dept. of Homeland security*, 835 F.3d 422 (2016), Previously up for appeal, the Supreme Court denied to hear the petition just one month prior to deportation of the mother and child. The families claimed they had been subjected to unfair “credible fear” interviews, a process to subjectively determine whether a refugee has enough “credible fear” to seek asylum in the United States.

Where asylum-seeking refugees should have protected, the judicial system, alongside the political process, has failed them. Thus, international intervention is vital. As a party to multiple treaties, the United States must adhere to the articles set forth. Under Article 26 of the 1951 Convention on Refugees, detention centers are in violation:

¹ United Nations General Assembly, Convention Relating to the Status of Refugees, 189 U.N.T.S. 137 (1951)

² United Nations Refugee Agency, The Detention of Refugees and Asylum-Seekers by Reason of Their Unauthorised Entry or Presence.

³ Gretchen Gavett, Map: The U.S. Immigration Detention Boom PBS: Frontline, PBS (Oct. 18, 2011), <http://www.pbs.org/wgbh/frontline/article/map-the-u-s-immigration-detentionboom/> (last visited Mar 31, 2016).

⁴ American Civil Liberties Union, Prolonged Detention Fact Sheet (2015), https://www.aclu.org/sites/default/files/assets/prolonged_detention_fact_sheet.pdf (last visited March 31, 2016).

⁵ Katie Egan & Joanna Lin, Poverty is Not a Crime, so Why are People Being Trapped in Immigration Detention for Being Poor?ACLU(2016), <https://www.aclu.org/blog/immigrants-rights/immigrants-rights-and-detention/poverty-not-crime-so-why-are-people-being> (last visited Sep 24, 2017).

⁶ Silove D, Austin P, Steel Z. No refuge from terror: the impact of detention on the mental health of trauma-affected refugees seeking asylum in Australia. *Transcult Psychiatry* 2007;44:359–93.

⁷ Robjant K, Hassan R, Katona C. Mental health implications of detaining asylum seekers: systematic review. *Br J Psychiatry* 2009;194:306–12

⁸ Beiser M. *Strangers at the gate: the ‘Boat People’s’ first ten years in Canada.* Toronto (ON): University of Toronto Press; 1999

⁹ Takeuchi DT, Zane N, Hong S, et al. Immigration-related factors and mental disorders among Asian Americans. *Am J Public Health* 2007;97:84–90

*“[e]ach Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances.”*¹⁰

Despite Article 26, stating that while awaiting status, immigrants are availed to mobility, they remain detained. Additionally, international human rights law condones detention centers. Under Article 9 of the Universal Declaration of Human Rights, “no one shall be subjected to arbitrary arrest or detention.”¹¹ Yet, refugees are detained indefinitely and often without notice of steps they should be taking or do not understand due to a language barrier. This violates the Convention on Refugees which requires refugees are not detained while their case is being decided. Specifically, Article 26, requires, “each contracting state shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances.”

Not only does the indefinite detention result in psychological trauma for those already fleeing a traumatic situation, the time exceeds tortuous. Specifically, the Berks County Residential Center detained the *Castro* families for 140 days in one case and up to two years in another. Further, this violates Article 10 of the ICCPR, which requires, “[a]ll persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person.”¹² These law not only prohibit cruel and degrading conduct, but requires the United States ensures and takes steps to prevent such treatment. The multiple human rights violations resulting from detention centers like Berks County Residential Center highlight inauspicious immigration policies in need of reform.

The Rapporteur should request to visit the detention center. During this visit, the Rapporteur should request full access to the facility and the occupants therein. Living conditions, medical care, and overall well-being of the individuals should be assessed. The Rapporteur should make findings on how long each individual has been there, their status, and where other members of their family are. Additionally, findings should be made on the individual legal status of each, how many have representation, how many do not feel they have access to representation, and how many are being detained with no violation on their record. The medical status, living quarters, and safety should be reported.

The Rapporteur should make the following recommendations:

- The current ICE recommendations should be converted to enforceable standards. Specifically, improving accountability and allowing detainees recourse, if and when they suffer human rights abuses. Until effective monitoring may be seen by ICE's internal reports begin to show, detention centers must remain transparent with reporting and compliance. Further, officers or workers who are not compliant or correct substandard behavioral patterns shall be removed from office. Also, non-ICE groups should have access to detention facilities to monitor the wellbeing of individuals and enforcement. Training must also be provided to officers.
- The detention center must also provide adequate medical care, including mental health care, to individuals. If substandard care is being given, there must be access for individuals to report. While being detained, children must be kept with their respective parents and their safety and well-being must be ensured. Additionally, detention centers must provide educational resource for those within to enable them to obtain employment in a skilled trade upon release.
- Those within the detention improved access to legal representation. Those who feel they have not been adequately provided legal representation must be able to report such deficiencies, and must be provided with representation. Those without legal cause to be detained as a threat must not be detained. Further, individuals must not be detained due to subjective tests which allow for bias. Those detained must not be detained for extended periods of time, and must remain knowledgeable as to the status of their case.

¹⁰ United Nations, *Supra* note 1

¹¹ *Id.*

¹² American Convention, art. 5(2); *accord* ICCPR, art. 10(1) (“All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”).