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## **DENIAL OF DUE PROCESS TO INCARCERATED IMMIGRANT FAMILIES WORSENS IN SPITE OF COURT RULING**

**WASHINGTON, DC** – Today, attorneys and advocates are calling the government to account for rushing detained Central American children and mothers seeking protection in the United States through the legal processes designed to protect them from danger. The glaring due process violations highlighted in [the letter to high-level DHS officials](#) have led to the deportation of many families with valid claims for asylum or other protection under U.S. law.

U.S. District Court Judge Dolly Gee set an October 23 deadline for the federal government to comply with her [order regarding the 1997 Flores Settlement Agreement](#), which sets forth binding standards for the detention and treatment of children in government custody. Since that deadline passed, practitioners and advocates working with detainees in Texas and Pennsylvania have witnessed the implementation of a rapid deportation strategy. The United States has abrogated its legal and moral obligation to give these families a meaningful opportunity to establish their claims for protection before deporting them to face further violence and harm in Central America.

Both U.S. Citizenship and Immigration Services (USCIS) and Immigration and Customs Enforcement (ICE) have changed their practices to make it harder for vulnerable and traumatized children and their parents to seek protections for which they are eligible under U.S. law. The risk of wrongfully returning someone — especially a child — to the very danger that prompted his or her family’s flight, is real. *The Guardian* recently reported more than 80 confirmed cases since January 2014 in which Central Americans deported from the U.S. were killed upon return.

Specifically, since October 23, the government has introduced practices that offend fundamental principles of due process and violate the statutory rights of asylum seekers. Among them:

- USCIS’ negative fear determinations are often flawed, with numerous substantive problems evident in the transcripts of initial fear interviews. Further, families with viable claims for protection have been deported due to a more stringent USCIS standard for reconsidering cases after an initial negative fear determination.
- USCIS and ICE have deprived parents and children of their statutory right to review by an immigration judge of a second negative decision on their fear-based claims for protection.
- USCIS is effectively depriving certain children of the opportunity to assert their claims for asylum by refusing to fully consider children’s claims independently of their mothers’ claims.
- ICE has deported represented parents and children while their cases are still in progress. CARA has remained in contact with many of these families, who report living in hiding and receiving further threats upon deportation.
- The Department of Homeland Security has transferred represented mothers and children away from counsel, sometimes without any notice and more recently, without meaningful notice.

The letter details example after example of parents and children who have been caught up in DHS’s rushed and compassionless processing system. The government must immediately review these cases and ensure that its treatment of parents and children comports with U.S. law and our international treaty obligations. Families

seeking asylum and other protection cannot have their due process rights stripped away when the stakes are life and death.

Among the alarming examples in the letter are two that highlight the dire situations to which families are being returned without due process:

- Juliza\* fled El Salvador with her three children after her family was threatened by violent gang members. During her first interview to determine whether she met the standard for having a credible fear of return to her home country, she had difficulty understanding the asylum officer. Because she couldn't properly answer the questions, it was determined that she didn't meet the standard. Although her request for reconsideration was granted, her re-interview was interrupted when her child became sick and ultimately resulted in a negative determination. USCIS and ICE refused to allow this decision to be reviewed by an immigration judge, and the family has since been deported. Since returning to El Salvador, Juliza and her family have been threatened by the very same gang that prompted them to seek asylum in the first place.
- Yatzil\* is an indigenous K'iche speaking woman who fled Guatemala with her daughter after being repeatedly threatened and targeted by non-indigenous men from a neighboring community. Yatzil's first interview was conducted in Spanish even though she is a K'iche speaker, and resulted in a negative determination. Yatzil's attorneys submitted a request for reconsideration to USCIS and advised ICE that the request was pending. However, she and her daughter were deported before she received a decision on her request. Yatzil and her daughter are now back in El Salvador and in hiding, still fearful for their lives.

Five organizations submitted the letter jointly: the American Immigration Council (Council), the American Immigration Lawyers Association (AILA), Catholic Legal Immigration Network (CLINIC), the Refugee and Immigrant Center for Education and Legal Services (RAICES), and Human Rights First. These organizations provide legal assistance to parents and children held in federal family detention centers and advocate on their behalf.

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\*Names have been changed to protect clients' privacy and safety.