
Mandatory Detention is Cruel, Unnecessary, and Wasteful

Among other harmful and extreme changes that would dismantle the asylum system and terrorize immigrant communities being considered by Congress, [reports](#) indicate Senators and the White House are discussing mandatory detention of asylum seekers pending the adjudication of their claims, including families with children. Entertaining mandatory detention is a [particularly egregious](#) step by President Biden, considering that ending family and prolonged detention were a [central premise](#) of his campaign—as [398 rights groups recalled](#) in a March 2023 [letter](#) – as was ending the use of for-profit immigration detention centers.

Jailing children and adults seeking life-saving protection is [inhumane, unnecessary, and wasteful](#). Detention of asylum seekers [violates international human rights law](#) the United States is bound to uphold, that [prohibits detention](#) that is unreasonable, unnecessary, disproportionate, or otherwise arbitrary. The mass detention of asylum seekers violates U.S. legal obligations under the Refugee Convention and Protocol which [prohibit](#) the unnecessary detention of asylum seekers and bar governments from imposing penalties based on asylum seekers' manner of entry or unlawful presence in a country.

Mass detention does nothing to contribute to the orderly adjudication of claims and instead inflicts enormous physical and [psychological harm](#) and elevates the risk that bona fide asylum seekers will be wrongfully returned to persecution. [Among those detained](#) by Immigration and Customs Enforcement are torture survivors, political dissidents, student organizers, human rights activists, LGBTQ+ individuals, and survivors of gender-based violence.

Immigration detention is [rife with sexual, physical, and verbal abuse, punitive use of solitary confinement, denials of basic necessities, and medical neglect](#) even resulting in [death](#). Immigration detention also [separates families](#), by detaining family members in different parts of the country or arbitrarily detaining some family members while allowing others to pursue asylum claims in the community. These practices result in separating children from parent and non-parent caregivers, adult children from parents, and spouses and partners, including LGBTQ couples, who sought protection together. Exacerbating and causing trauma to vulnerable individuals, such that [the American Academy of Pediatrics concluded](#) detention can have a lasting adverse impact on the mental and developmental health of children.

Immigration detention produces less fair outcomes, undermining the due process rights of people seeking asylum and their ability to fully pursue their claims. Individuals who are not detained and are represented are [significantly more likely](#) to be granted asylum. Securing legal representation while in detention is [incredibly difficult](#), which leads the overwhelming majority of detained asylum seekers to undergo their asylum proceedings without the benefit of counsel, and is exacerbated by accelerated deportation procedures like expedited removal. The [locations of, facilities for, and practices within](#) ICE detention centers sometimes render legal representation nearly impossible, as in cases where detention centers are geographically isolated, individuals lack access to telephones or other means of communication, and delays in delivery of legal mail.

Proponents of mandatory detention promote it as a solution to the [non-existent problem](#) of individuals failing to appear for their Immigration Court hearings, [a pernicious lie](#) promoted by President Trump. In Fiscal Year 2023, [99.5%](#) of all people whose asylum cases were decided by immigration judges appeared for their hearings, with only [.5%](#) of people seeking asylum in removal proceedings failing to appear for their hearings. Detention costs taxpayers billions, which goes straight into the coffers of [private prison companies](#). Instead, proven [case support programs](#) run by community-based organizations ensure the wellbeing of those fleeing persecution and harm by allowing individuals and families to safely live with family and friends while they attend court proceedings and best prepare their asylum cases.

Mandatory detention of asylum seekers is unnecessary, cruel, and dehumanizing. Congress must reject these harmful proposals and [protect asylum-seeking individuals and families](#).

To learn more about the injustices of mandatory immigration detention, please visit Human Rights First's [website](#).

Mission Statement

Human Rights First works to create a just world in which every person's intrinsic human rights are respected and protected, to build societies that value and invest in all their people. To reach that goal demands assisting victims of injustice, bringing perpetrators of abuse to justice, and building institutions that ensure universal rights. Human Rights First is a nonprofit, nonpartisan international human rights organization based in Los Angeles, New York, and Washington D.C.