

June 1, 2017

Mr. Paulo Abrão
Executive Secretary
Inter-American Commission on Human Rights
1889 F St., N.W.
Washington, D.C. 20006

Submitted through IACHR online portal to request a hearing

**Re: Request for a thematic hearing on measures criminalizing asylum seekers and
impeding the process of requesting asylum in the United States**

Secretary Abrão:

We, the undersigned, in accordance with Articles 61 and 62 of the Rules of Procedure of the Inter-American Commission on Human Rights (IACHR or “the Commission”), respectfully request a thematic hearing during the IACHR’s 164 Extraordinary Period of Sessions on measures effectively criminalizing asylum seekers and the process of requesting asylum in the United States. As this Commission is aware, the United States government has adopted a number of policies and actions that severely impede access to asylum for migrants arriving at the United States/Mexico border, increasing the possibility that these individuals will be deported back to the very dangers they fled in violation of U.S. *non-refoulement* obligations under human rights law. We thank this Commission for granting hearings on these and related issues during its 161 Period of Sessions and in previous sessions. Despite some recent progress in pushing back against some policies harmful to asylum seekers and refugees (as seen in the litigation against the refugee ban) over the past several months, the Trump Administration has accelerated other policies detrimental to the human rights of migrants and asylum seekers. We believe that continued attention and engagement from this Commission will be instrumental in spotlighting areas of concern and reducing the erosion of rights for vulnerable populations seeking protection in the United States.

Over the past several years, the United States has adopted and expanded several measures and initiatives, both within the United States and beyond its borders, that directly impede the ability of asylum seekers to access legal protections. Moreover, some of these policies effectively criminalize and punish individuals who come to the United States seeking asylum. These measures include: (1) the externalization of U.S. immigration enforcement to Mexico and Central America to prevent migrants from reaching the U.S. border through, for example, interceptions and interdictions; (2) turnarounds, summary removals, and criminal prosecutions of asylum seekers who do reach the United States to seek protection; and (3) the expanded and prolonged detention of asylum seekers, including families with young children during the asylum process.

These policies may not be entirely new but President Trump’s January 2017 executive orders on immigration enforcement and the related implementing memoranda propose to expand criminal prosecution for unauthorized entry to the United States, the use of summary removals, and

immigration detention. At the same time, protections and funding for refugee programming in the United States are under attack. In light of this rapidly deteriorating political environment for asylum seekers arriving in the U.S., the undersigned organizations request a hearing before this Commission regarding U.S. policies and practices that impede the asylum process and effectively criminalize asylum seekers.

I. Background

A. Externalization of U.S. Immigration Enforcement Undermining Access to International Protection

As part of its strategy of deterring asylum seekers from seeking protection in the United States, in recent years, the U.S. government has expanded its collaboration with Mexican agencies and Central American governments to stop migrants from reaching the U.S. southern border. Starting in 2014, and at the urging of the United States, Mexico, instituted a “Southern Border Program”¹ that purports to regulate migration from Central America, improve border infrastructure as a way to increase development and security, increase coordination within Mexican agencies and with Central American governments, and protect migrants and guarantee respect for their human rights. In 2014 and 2015, U.S. officials announced \$90 million to help Mexico decrease flows through its southern border.²

As part of this program, the U.S. government has provided technical assistance, checkpoint equipment, and training to Mexican police as well as support and assistance to Mexican immigration (*Instituto Nacional de Migración*, INM) personnel. But the increased pressure and Mexico’s focus on migrant interdiction, supported and pressed for by the United States, does not appear to have been accompanied by accountability improvements, leading to an increase in human rights abuses and crimes, including kidnapping and assaults against migrants. For example, INM agents, with the support of state and local police, have reportedly been involved in operations to hunt down Central American migrants in southern Mexico.³ INM agents have also been implicated in cases of extortion, kidnapping and theft against migrants.⁴ Even before this infusion of resources and political pressure from the United States, this Commission found in 2014 that migrants and asylum seekers in Mexico face alarming dangers, compounded by the complicity of police forces: “The fragile institutional infrastructure, corruption by public officials, and the impunity that attends crimes committed against migrants in an irregular

¹ Animal Politico, “Peña Nieto pone en marcha el Programa Frontera Sur,” July 8, 2014, *available at* <http://www.animalpolitico.com/2014/07/en-esto-consiste-el-programa-que-protegera-a-migrantes-que-ingresan-a-mexico/>.

² U.S. Congress House Foreign Affairs Subcommittee Hearing, “Migration Crisis: Oversight of the Administration’s Proposed \$1 Billion Request for Central America,” April 30, 2015, *available at* <http://foreignaffairs.house.gov/hearing/subcommittee-hearing-migration-crisis-oversight-administration-s-proposed-1-billion-request>.

³ See Animal Politico, “Programa Frontera Sur: el discurso de derechos humanos con el que México 'caza' a miles de migrantes,” *available at* <http://www.animalpolitico.com/caceriademigrantes/reportaje01.html>.

⁴ Jose Knippen, Clay Boggs, Maureen Meyer, “An Uncertain Path, Justice for Crimes and Human Rights Violations Against Migrants and Refugees in Mexico.” November 2015, *available at* https://www.wola.org/sites/default/files/An%20Uncertain%20Path_Nov2015.pdf

situation have nurtured the growth of the criminal activity and human rights violations committed against these persons.”⁵

Aside from the direct human rights violations stemming from the manner in which immigration enforcement is conducted by Mexican and Central American immigration officers and security forces, the U.S. is acting to deny asylum seekers their right to seek asylum. And by supporting immigration and police officers in Mexico and Central America who are detaining asylum seekers en route to the United States and in certain circumstances impeding them from leaving their home country,⁶ the U.S. government is aiding and abetting abuses against migrants in those countries.

B. At the U.S. Border: Turnbacks, Removals, and Referrals for Criminal Prosecution of Asylum Seekers

Article 14 of the Universal Declaration of Human Rights (UDHR) provides that “[e]veryone has the right to seek and to enjoy in other countries asylum from persecution.”⁷ Similarly, the American Convention on Human Rights explicitly provides for the right of an individual “to seek and be granted asylum in a foreign territory, in accordance with the legislation of the state and international conventions, in the event he is being pursued for political offenses or related common crimes,”⁸ and the American Declaration on the Rights and Duties of Man establishes that “every person has the right, in case of pursuit not resulting from ordinary crimes, to seek and receive asylum in foreign territory, in accordance with the laws of each country and with international agreements.”⁹ The United States ratified both the Convention against Torture and the 1967 Protocol to the Convention relating to the Status of Refugees (“the Refugee Convention”) and adopted them into domestic law, so that both federal and international human rights law prohibit the expulsion of asylum-seekers to places where they face persecution.¹⁰ Thus, U.S. law also recognizes that asylum seekers arriving at a U.S. border should be provided with the chance to speak with an asylum officer and to make their claims.¹¹ However, many individuals arriving at the U.S. border to seek asylum are never given the opportunity to seek protection. Instead, many asylum seekers are rapidly turned away from the border, removed with

⁵ IACHR, *Human Rights Situation of Migrants and Other Persons in the Context of Human Mobility in Mexico*, para. 104.

⁶ Public Radio International (PRI), “This special security unit went from targeting drug smugglers to spotting unaccompanied kids,” July 11, 2014, *available at* <https://www.pri.org/stories/2014-07-11/special-security-unit-went-targeting-drug-smugglers-spotting-unaccompanied-kids>.

⁷ Universal Declaration of Human Rights (UDHR), *supra* n.564, art. 14.

⁸ American Convention on Human Rights, art. 22(8); *see also* Inter-American Court of Human Rights, Advisory Opinion OC-21/14, *Rights and Guarantees of Children in the Context of Migration And/Or In Need of International Protection*, Official Summary, Aug. 19, 2014.

⁹ American Declaration on the Rights and Duties of Man, art. XXVII.

¹⁰ Convention relating to the Status of Refugees, 189 U.N.T.S. 150, *entered into force* April 22, 1954 (“the Refugee Convention”) (implemented in US law through INA Section 208); Protocol Relating to the Status of Refugees, Jan. 31, 1967, 606 U.N.T.S. 267; 19 U.S.T. 6223; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), adopted December 10, 1984, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), *entered into force* June 26, 1987, ratified by the United States on October 21, 1994.

¹¹ *See* Sarah Mehta, Human Rights Program, AMERICAN CIVIL LIBERTIES UNION, AMERICAN EXILE, RAPID DEPORTATIONS THAT BYPASS THE COURTROOM (2014), *available at* https://www.aclu.org/files/assets/120214-expeditedremoval_0.pdf.

a deportation order, or criminally prosecuted for arriving without prior authorization and without the chance to first seek asylum.

1. Turnbacks at the U.S. Border

Since at least March 2016, as documented by several human rights organizations and news outlets, many asylum seekers presenting themselves at certain U.S. Ports of Entry were no longer being accepted for processing.¹² Instead, these persons were refused entry and forced to wait in Mexico. The existence of the practice in Texas has been confirmed by CBP officials speaking with the press.¹³ As some of the undersigned organizations presented to this Commission in March 2017, at ports of entry across the southern border, asylum seekers have been turned away on multiple occasions, at times with clear collaboration from Mexican immigration officials and police who have detained individuals seeking to access U.S. ports of entry.¹⁴ In turning these individuals away, the U.S. is violating its obligations under domestic and international law to provide asylum seekers the opportunity to seek protection, and is potentially sending them back to danger in violation of its *non-refoulement* obligations.

2. Summary Removals

Those individuals not turned away at the border but who arrive in the United States without prior authorization are frequently subjected to a summary deportation order, where they are removed from the United States often without the opportunity to express their fear and request protection. While U.S. law does include protections for asylum seekers arriving to seek protection, in reality, in order for individuals fleeing danger to claim protection in the United States, immigration enforcement officers must identify them as asylum seekers. However, in many instances, border officers do not ask the questions necessary (and required¹⁵) to identify an asylum seeker before ordering her deported.

Instead, these individuals may be subject to “expedited removal,” which permits a border patrol officer to rapidly deport them without seeing a judge and with very little review.¹⁶ This process

¹² HUMAN RIGHTS FIRST. CROSSING THE LINE: U.S. BORDER AGENTS ILLEGALLY REJECT ASYLUM SEEKERS (2017), available at <http://www.humanrightsfirst.org/resource/crossing-line-us-border-agents-illegally-reject-asylum-seekers>; Complaint to Office of Civil Rights and Civil Liberties, Department of Homeland Security and Inspector General, Department of Homeland Security, Re: U.S. Customs and Border Protection’s Systemic Denial of Entry to Asylum Seekers at Ports of Entry on U.S.-Mexico Border, available at <http://www.aila.org/infonet/crcl-complaint-cbps-systemic-denial-asylum-seekers>; Suzanne Gamboa, NBC News “Border Agents Turning Away, Blocking People Seeking Asylum: Report,” May 3, 2017, available at <http://www.nbcnews.com/news/latino/border-agents-turning-away-blocking-people-seeking-asylum-report-n754416>; Grace Wyler, Orange County Register, “Here’s how Trump has already affected the U.S.-Mexico border and immigration,” Feb. 16, 2017, available at <http://www.ocregister.com/2017/02/16/heres-how-trump-has-already-affected-the-us-mexico-border-and-immigration/>; Mitra Ebadolahi, Medium, “A Woman With a Disability and PTSD Stood In Line for an Asylum Interview,” March 24, 2016, available at <https://medium.com/@SDACLU/a-woman-with-a-disability-and-ptsd-stood-in-line-for-an-asylum-interview-975ec8d6a1ac>.

¹³ Aaron Nelson, “Asylum-seeking immigrants flood international bridges, many sent back to Mexico,” San Antonio Express-News, Dec. 29, 2016 (last accessed Jan. 8, 2017).

¹⁴ HUMAN RIGHTS FIRST. CROSSING THE LINE: U.S. BORDER AGENTS ILLEGALLY REJECT ASYLUM SEEKERS (2017).

¹⁵ The regulations governing expedited removal require that DHS officers use a form that includes a paragraph explaining asylum to individual processed for expedited removal. 8 C.F.R. 235.3(b)(2)(i).

¹⁶ See 8 U.S.C. § 1225(b)(1)(A)(i), 1252(e)(2)(B); 8 C.F.R. § 235.3 (b)(2)(ii).

has been applied to adults, as well as children arriving with their parents, and its application to asylum seekers can and has led to violations of U.S. *non-refoulement* obligations, as documented by multiple civil society organizations.¹⁷ Numerous asylum seekers have reported that they were never asked whether they feared return to their country of origin; that if they did, their claims were dismissed or they were told they had no right to seek asylum; and that they were otherwise pressured to give up claims by U.S. immigration agents.¹⁸

3. Criminal Prosecution of Asylum Seekers

Many individuals arriving in the United States without authorization—including asylum seekers—are also federally prosecuted for illegal entry or illegal reentry. Entering the United States without inspection is a federal misdemeanor punishable by up to six months in prison. Under 8 U.S.C. §1326, re-entering the country after being deported is a felony, and while federal public defenders representing individuals in these proceedings have more time for consultation and investigation, the consequences of a conviction are stark: conviction for illegal reentry can lead to two years of imprisonment for people with no prior criminal histories, and up to 20 years for people with more significant criminal records (including individuals who have been prosecuted more than once for returning to the United States).¹⁹ According to a U.S. government report, there remains no guidance for when and if immigration agents should refer for prosecution an individual who expresses fear of persecution or harm if removed from the United States.²⁰ These prosecutions, which the new U.S. Attorney General Jeff Sessions has ordered federal prosecutors to prioritize,²¹ unjustly and unlawfully punish a person for pursuing her right to seek asylum.²²

The Refugee Convention, recognizing that asylum seekers often must arrive without prior authorization or valid travel documents, provides that asylum seekers shall not be penalized for their illegal entry or presence.²³ The United Nations High Commissioner for Refugees' (UNHCR) Detention Guidelines also require that detention not be “used as a punitive or

¹⁷ U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM, BARRIERS TO PROTECTION THE TREATMENT OF ASYLUM SEEKERS IN EXPEDITED REMOVAL (2016), *available at* <https://www.uscirtf.gov/sites/default/files/Barriers%20To%20Protection.pdf>; AMERICAN IMMIGRATION COUNCIL, THE PERILS OF EXPEDITED REMOVAL: HOW FAST-TRACK DEPORTATIONS JEOPARDIZE ASYLUM SEEKERS (2017), *available at* <https://www.americanimmigrationcouncil.org/research/expedited-removal-asylum-seekers>; Human Rights Watch, "You Don't Have Rights Here": US Border Screening and Returns of Central Americans to Risk of Serious Harm (2014, *available at* <https://www.hrw.org/report/2014/10/16/you-dont-have-rights-here/us-border-screening-and-returns-central-americans-risk>; Sarah Mehta, Human Rights Program, AMERICAN CIVIL LIBERTIES UNION, AMERICAN EXILE, RAPID DEPORTATIONS THAT BYPASS THE COURTROOM (2014), *available at* https://www.aclu.org/files/assets/120214-expeditedremoval_0.pdf.

¹⁸ *Id.*

¹⁹ 8 U.S.C. §§ 1325-1326 (2011); 18 U.S.C. § 3559 (2011).

²⁰ DEPARTMENT OF HOMELAND SECURITY, OFFICE OF INSPECTOR GENERAL, STREAMLINE: MEASURING ITS EFFECT ON ILLEGAL BORDER CROSSING (2015) *available at* https://www.oig.dhs.gov/assets/Mgmt/2015/OIG_15-95_May15.pdf.

²¹ Matt Zapotosky and Sari Horwitz, *The Washington Post*, “Sessions tells prosecutors to bring more cases against those entering U.S. illegally,” April 11, 2017, *available at* https://www.washingtonpost.com/world/national-security/sessions-tells-prosecutors-to-bring-more-cases-against-those-entering-us-illegally/2017/04/11/9fc6e964-1eb7-11e7-ad74-3a742a6e93a7_story.html?utm_term=.5195fde3d4ef.

²² Convention relating to the Status of Refugees, 189 U.N.T.S. 150, entered into force April 22, 1954 (implemented in US law through INA Section 208) (“Refugee Convention”), art. 31(1).

²³ *Id.*

disciplinary measure for illegal entry or presence in the country,”²⁴ and yet that is exactly what prosecutions for illegal entry and reentry do. They also signify what, in effect, is a troubling criminalization of the asylum process that undermines the critical human rights protections to which migrants seeking protection are entitled.

C. Detention of Asylum Seekers

In recent years, the United States has continued to expand the detention of migrants during their removal proceedings. During much of 2016, the number of individuals in detention each day well exceeded the 34,000 required by the controversial detention bed mandate from the U.S. Congress.²⁵ An increasing proportion of those detained are asylum seekers, and asylum seekers are increasingly likely to remain detained for lengthy periods or throughout their asylum cases.²⁶ Prior to 2014, the United States had largely moved away from family detention, which persisted as one facility in Pennsylvania. But following the arrival of thousands of asylum seeking families in the summer of 2014, the U.S. government reversed this trend, expanding the detention beds dedicated to families from 100 to over 3,000 beds by 2015. The majority of the families detained in these facilities are Central American women and children who have fled extreme violence in their countries and are seeking political asylum.

Despite numerous reports and decisions condemning family detention,²⁷ the family detention centers have not closed, and the Trump administration has embraced and promised to expand the use of detention on asylum seeking families. In his January 25, 2017 executive order on border security and immigration enforcement, President Trump ordered that additional immigration detention facilities be built and that all migrants arriving without authorization be continuously detained pending a final determination in their removal case.²⁸ The recent White House budget proposal requested an additional \$1.2 billion in funding to expand immigration detention to 51,000 beds by FY 2018.²⁹ The Trump Administration has signaled its intent to significantly expand detention facilities for immigrant families seeking asylum. According to news reports, Asylum Division Chief John Lafferty announced to Department of Homeland Security (DHS) staff that the department had already identified an additional 20,000 beds for individuals seeking

²⁴ UNHCR, Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum seekers and Alternatives to Detention, Guideline 1, (2012), available at <http://www.unhcr.org/505b10ee9.html>.

²⁵ Devlin Barrett, “Record Immigrant Numbers Force Homeland Security to Reach for New Jail Space,” Wall Street Journal Oct. 21, 2016.

²⁶ Human Rights First, [Lifeline on Lockdown: Increased U.S. Detention of Asylum Seekers](#), July 2016.

²⁷ See, e.g., [Report of the DHS Advisory Committee on Family Residential Centers](#), Sept. 30, 2016.

²⁸ The White House, Executive Order: Border Security and Immigration Enforcement Improvements,” January 25, 2017, available at <https://www.whitehouse.gov/the-press-office/2017/01/25/executive-order-border-security-and-immigration-enforcement-improvements>.

²⁹ Department of Homeland Security, Congressional Budget Justification FY 2018, available at <https://www.dhs.gov/sites/default/files/publications/DHS%20FY18%20CJ%20VOL%20II.PDF>; Julie Hirschfeld & Ron Nixon, *New York Times*, “Trump Budget Takes Broad Aim at Undocumented Immigrants,” May 25, 2017, available at <https://www.nytimes.com/2017/05/25/us/politics/undocumented-immigrants-trump-budget-wall.html>; David Nakamura, “Trump Administration moving quickly to build up nationwide deportation force,” *Washington Post*, Apr. 12, 2017; Ian Kullgren, *Politico*, “Carrier is axing jobs,” May 25, 2017, available at <http://www.politico.com/tipsheets/morning-shift/2017/05/25/carrier-is-axing-jobs-220509>.

asylum,³⁰ and a private prison corporation, the Geo Group, will be building a new 1,000 bed detention facility to open by the end of 2017.³¹ At the same time, DHS is reportedly seeking to curtail the few, baseline detention standards that govern these facilities,³² despite recent deaths and documented medical negligence.³³

International human rights law strongly disfavors the use of immigration detention for asylum seekers,³⁴ and particularly for children. Indeed, both human rights and domestic law specifically recognize that, for children, detention is an extraordinary measure and, if necessary, should only be permitted “as a measure of last resort and for the shortest appropriate period of time, taking into account their best interests as a primary consideration with regard to the duration and conditions of detention.”³⁵

It has been well-documented that detention may exacerbate psychological problems for individuals who have fled trauma and deny them the opportunity to recover. Given the increasing dangers faced by migrants traveling to the United States (including sexual assault and kidnapping), many migrants may be particularly vulnerable and in need of services and support—not detention—when they arrive in the United States. Being held in a prison-like setting, even for a short period of time, can cause psychological trauma for children and asylum

³⁰ Chris Hayes & Brian Montopoli, MSNBC, “Exclusive: Trump admin. plans expanded immigrant detention,” March 3, 2017, available at <http://www.msnbc.com/all-in/exclusive-trump-admin-plans-expanded-immigrant-detention>.

³¹ Associated Press, “Immigrant Center to Be Built in Texas for \$110M,” April 13, 2017.

³² Caitlin Dickerson, “Trump Plan Would Curtail Protections for Detained Immigrants,” *New York Times*, Apr. 13, 2017; Women’s Refugee Commission Coalition Letter to Secretary John Kelly, Department of Homeland Security, May 8, 2017, available at <https://www.womensrefugeecommission.org/rights/gbv/resources/document/download/1478>.

³³ See HUMAN RIGHTS WATCH, SYSTEMIC INDIFFERENCE: DANGEROUS & SUBSTANDARD MEDICAL CARE IN US IMMIGRATION DETENTION (2017), available at <https://www.hrw.org/report/2017/05/08/systemic-indifference/dangerous-substandard-medical-care-us-immigration-detention>; AMERICAN CIVIL LIBERTIES UNION, DETENTION WATCH NETWORK & NATINAL IMMIGRANT JUSTICE CENTER, FATAL NEGLECT: HOW ICE IGNORES DEATHS IN DETENTION (2016), available at <https://www.aclu.org/report/fatal-neglect-how-ice-ignores-death-detention>; HUMAN RIGHTS FIRST, JAILS AND JUMPSUITS: TRANSFORMING THE U.S. IMMIGRATION DETENTION SYSTEM – A TWO-YEAR REVIEW (2011); Dora Schriro, “Don’t make immigration custody part of the criminal justice system,” *The Hill*, Apr. 27, 2017;

³⁴ ICCPR, adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, ratified by the United States on June 8, 1992, art. 9, available at <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

³⁵ Human Rights Commission, General Comment No. 35 on ICCPR Article 9: Liberty and Security of person. See also UN Committee on the Rights of the Child (CRC), Committee on the Rights of the Child, The Rights of All Children in the Context of International Migration ¶ 78 (2012), available at <http://www.refworld.org/docid/51efb6fa4.html> (“States should . . . completely cease the detention of children on the basis of their immigration status.”); The United States has signed but not ratified the Convention on the Rights of the Child. Although not directly bound by the terms of the treaty absent ratification, as a signatory the United States may not engage in action that defeats the objectives of the CRC. See Vienna Convention on the Law of Treaties, art. 18, May 23, 1969, 1155 U.N.T.S. 331; 8 I.L.M. 679 (“A State is obligated to refrain from acts that would defeat the object or purpose of the treaty when . . . it has signed the treaty”); see also Stipulated Settlement Agreement, *Flores v. Reno*, No. CV 85-4544-RJK (Px) (C.D. Cal. Jan. 17, 1997) (“the Flores Settlement”), available at http://www.aclu.org/files/pdfs/immigrants/flores_v_meese_agreement.pdf.

seekers and increase their risk factor for future mental disorders.³⁶ Indeed, this Commission has previously recognized the “terrible psychological impact that detention can have” for children.³⁷

The expansion of immigration detention is made worse by the fact that families with children are facing prolonged detention, waiting many months for their cases to be reviewed and finalized. Lengthy detention compounds the trauma that many asylum seekers carry with them when they flee and makes it difficult for them to make out their asylum cases or obtain legal counsel.³⁸

II. Proposed Hearing Format

Should this hearing request be granted, the undersigned organizations propose the following format for the hearing:

- Expert testimony from representatives of our organizations providing an overview of the situation, with as up-to-date information as possible;
- If possible, testimony from at least one person seeking protection at a U.S. POE (port of entry) who was turned back from the border or who was summarily removed from a POE and did not have the opportunity to present his/her claim before an asylum officer; and
- If possible, testimony from at least one formerly detained asylum seeker or asylee to provide testimony on his or her experience in immigration detention and/or family separation.

The undersigned organizations respectfully request that, should this hearing request be granted, the Commission invite the Government of the United States to attend the hearing and to address the Commission. In addition, we respectfully request the inclusion of the appropriate official(s) from the Department of Justice (DOJ) and DHS Office of Policy as well as the inclusion of other

³⁶ See United Nations Human Rights Council, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, Juan E. Mendez, GA28 A/HRC/28/68 March 5, 2015, available at <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Pages/ListReports.aspx>; UNITARIAN UNIVERSALIST SERVICE COMMITTEE, NO SAFE HAVEN HERE: MENTAL HEALTH ASSESSMENT OF WOMEN AND CHILDREN HELD IN U.S. IMMIGRATION DETENTION (2015), available at http://www.uusc.org/sites/default/files/mental_health_assessment_of_women_and_children_u.s._immigration_detention.pdf; High Commissioner for Refugees, UNHCR’s Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers, Guideline 2, (1999), available at <http://www.refworld.org/pdfid/3c2b3f844.pdf>; David Murphey, Child Trends, MOVING BEYOND TRAUMA: CHILD MIGRANTS AND REFUGEES IN THE UNITED STATES (2016), available at <https://www.childtrends.org/wp-content/uploads/2016/09/Moving-Beyond-Trauma-Report-FINAL.pdf>; Ranjana Srivastava, *The Guardian*, “Children are not little adults. The trauma of living in detention could last forever,” Feb. 7, 2016 (on Australia and detention of asylum seekers), available at <https://www.theguardian.com/commentisfree/2016/feb/08/children-are-not-little-adults-the-trauma-of-living-in-detention-could-last-forever>; Candice Bernd, Truthout, “‘Trauma on Trauma on Trauma’: For Refugee Children, the Journey Is Only the Beginning,” March 29, 2017, available at <http://www.truth-out.org/news/item/40006-trauma-on-trauma-on-trauma-for-refugee-children-the-journey-is-only-the-beginning>.

³⁷ INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, REPORT ON IMMIGRATION IN THE UNITED STATES: DETENTION AND DUE PROCESS, para. 368 (2010), available at <https://www.oas.org/en/iachr/migrants/docs/pdf/Migrants2011.pdf>.

³⁸ E.g., the case of Samira, an Afghani woman and mother of two young children who has spent six months in the Karnes family detention center in Texas, despite having passed her credible fear interview. She tried to commit suicide on May 12, 2017 so that her children could be released from the center. After being hospitalized briefly, she was returned to Karnes, where at the time of submission of the present request, she and her children currently remain. See Roque Planas, “[Mother Locked in Family Detention Attempts Suicide to Free Her Kids](#),” Huffington Post, May 26, 2017.

relevant authorities within DHS and its agencies, including CBP, ICE, and USCIS at the regional and headquarters levels. We further suggest that officials from the U.S. Department of State and its agencies, including the Bureau of International Narcotics and Law Enforcement and the Bureau of Western Hemisphere Affairs, be included in the hearing.

We anticipate that we will require approximately one hour for the hearing. We propose to supplement the above with written submissions at the time of the hearing, which will address these issues in greater detail including suggested issues and actions where the Commission's participation and leadership would be produced. Should the Commission desire additional information on points raised throughout the hearing, the undersigned would gladly provide that information at a later date, following the hearing.

We appreciate your consideration of our request for a thematic hearing and look forward to hearing from you.

Sincerely,

Al Otro Lado



American Civil Liberties Union



Amnesty International



Clínica Jurídica Alaíde Foppa, Universidad IBERO



Holding Community Center



Human Rights First



Human Rights Watch



Immigration & Deportation Defense Clinic, University of San Francisco School of Law



Immigration Clinic, University of Texas School of Law



Innovation Law Lab

Instituto para las Mujeres en la Migración A.C. (IMUMI)



International Detention Coalition (IDC)



Jesuit Conference of Canada and the United States



Kino Border Initiative



Latin America Working Group Education Fund (LAWGEF)



Lutheran Immigration and Refugee Service



Red Jesuita con Migrantes México



Sin Fronteras I.A.P.



Southern Border Communities Coalition



Transnational Legal Clinic, University of Pennsylvania Law School



Washington Office on Latin America (WOLA)



Women's Refugee Commission

