

Family Detention at Berks Is a Violation of Human Rights

The United States engages in abusive and discriminatory family detention at the Berks County Residential Center (Berks) in Pennsylvania. At Berks, immigrant families—often fleeing violence at home—are being detained, despite having alternatives. These families could just as easily be released to U.S. family members or community-based programs, yet the U.S. government continues to insist on their detention.

With family detention, the U.S. is engaged in unfair and arbitrary practices that restrict liberty and endanger the health and dignity of families. These practices violate international human rights law that the U.S. is obligated to uphold. Respecting human rights and ensuring that U.S. policies match American values of fairness and equality are not just moral obligations; they are vital national interests.

Arbitrary Detention Violates the Right to Liberty

International human rights law recognizes that “everyone has the **right to liberty** and security of person.”¹ Family detention deprives people of their fundamental right to liberty and is “only ever meant to be used as a **last resort** and where it is **necessary, reasonable, and proportionate to a legitimate government objective.**”² Not only is family detention unnecessary but the U.S. also has no legitimate objective for detaining families. Punishing migrant families is never a sufficient reason.

Using detention to deter migration serves as punishment.

The U.S. is detaining Central American families, claiming that this type of practice “disincentivizes future surges of families crossing the Southwest border.” International human rights law states deterrence is never a legitimate or sufficient government objective in detention.³

Detention is arbitrary and punitive.

The U.S. has no uniform and fairly administered system for detaining families. It arbitrarily detains some families and releases other families even though they have identical case statuses. This undercuts any reasonable or uniform approach and instead showcases a family detention policy that is arbitrary and punitive.

Detention is not necessary.

Labeling immigrants as “flight risks” and detaining on that basis is not supported by the statistical reality that 98% of individuals with representation appear for court proceedings. Instead, Central American families may be detained simply because they are believed to be part of the “surge” of migrants—regardless of any individualized “flight risk” analysis. Additionally, it takes the government no more than a few days to process a case. There is no administrative justification for the prolonged detention of families at Berks for weeks and months.

There are alternatives to detention that do not restrict liberty.

Many of the detained families have relatives in the U.S. with whom they can live. Otherwise, community-based programs that provide social services and case management have proven successful in ensuring immigrants’ compliance with the immigration process.

¹ Universal Declaration of Human Rights (UDHR), Art. 7 (Dec. 1948).

² UNHCR, “Guidelines on the Applicable Criteria and Standards Relating to the Detention of Asylum- Seekers and Alternatives to Detention” Guideline 2 (Sept. 2012).

³ *Id.* at Guideline 4.1.4.

Conditions at Berks Endanger Families

International human rights law requires conditions of detention to be “humane and dignified” and prohibits families from being treated like prisoners.⁴

Families are kept in a **walled, guarded facility** where attempting to escape is considered as severe an offense as rape or arson.

The guards wake the detained families every 15 minutes per night, interrupting their sleep and causing **insomnia, fear, and anxiety** in children and parents held within the facility.

Families held at Berks go without medical care for chronic illnesses. One **young girl was hospitalized** with a treatable condition that Berks continued to ignore. One child **collapsed and stopped breathing** with no assistance from staff.

After a child witnessed a mother being **sexually assaulted** by a guard, Berks’ first response was to issue a new dress code for detainees.

Parents and children at Berks are **mocked, threatened, and abused**, including when they express hope that they will be allowed to leave.

Family Detention Is Not in the Best Interest of Children

Because of the vulnerability of children, international human rights law provides special protection for their best interests. Governments are required to act in the best interests of children “regardless of migration status or that of their parents.” They are entitled “to the fullest extent, the enjoyment of all human rights granted to children in the territory or subject to the jurisdiction of the State, including those rights which require a lawful stay in the territory.”

Detention is correlated with psychological distress and has negative long-term consequences. Some examples include: post-traumatic stress disorder, anxiety, self-harm, developmental regression, and suicidal ideations.⁵

Children, along with their guardians, are detained automatically even when other options are available. When a child’s best interest means staying with family, the child’s right to liberty extends to the entire family.⁶

The Pennsylvania Department of Human Services, has revoked Berks’ license because it is out of compliance with state law ensuring the safety, health, and well-being of children. Yet the federal government continues to detain families at Berks while Berks County, which financially benefits from the facility, is fighting a legal battle to challenge the licensing decision.

⁴ UNHCR, “Guidelines... Detention” Guideline 8.

⁵ Human Rights First, *Family Detention in Berks County, Pennsylvania*, 11, (August 2015).

⁶ UNHRHC, “Convention on the Rights of the Child” Art. 3. (Nov. 1989).