

URGENT ACTION

FREE TRANS ASYLUM SEEKER FROM DETENTION

Alejandra fled attacks and extortion based on her transgender identity in El Salvador and requested asylum in the US in November 2017. She has been detained since December at the Cibola detention centre in New Mexico, where she and other trans women complained of inadequate and unresponsive health care. US immigration authorities should immediately free Alejandra while she awaits the decision on her asylum claim.

Alejandra (US immigration case file no. A# 216-269-450) is a 43-year-old trans woman from El Salvador. She was a human rights defender and beautician there, until she fled following an attack and sexual assault by members of a transnational gang and the military due to her transgender identity. She was attacked and beaten by gang members repeatedly from 2013 to 2016, leaving scars on her scalp, face and leg. In April 2018, Alejandra appeared before a US immigration court to present the merits of her asylum case at the Cibola detention facility where she is being held. She also requested for parole, which was denied by the US Immigration and Customs Enforcement (ICE), without providing a detailed justification to her lawyer as to why. This rejection was despite the fact that she presents no risk of fleeing while she awaits an immigration judge's decision on her asylum claim, since her trans niece with whom she would stay has already won asylum and settled in the US.

On 8 May, when Amnesty International interviewed Alejandra, she voiced concerns about the inadequate and unresponsive medical care that she and other trans women receive at the Cibola facility, including delays in the provision of medical examinations and palliative care following their formal requests. On 8 June, Alejandra informed her lawyer that she had been experiencing extreme headaches, vomiting and nosebleeds for the preceding 11 days. Despite requesting medical care six times during that period, she had not received a medical examination in the infirmary. On 25 May, a trans asylum seeker named **Roxana Hernandez** died in a nearby hospital, one week after her arrival at Cibola, with symptoms of pneumonia and dehydration that reportedly arose during her detention by US border and immigration authorities. Alejandra has become depressed and worried she could face a similar fate in ICE detention.

Detention should only be used by immigration officials as a last resort and justified on a case-by-case basis. Parole should be granted for humanitarian reasons where the person does not pose a threat to public safety and presents no flight risk.

Please write immediately in English or your own language:

- Calling on the authorities to immediately grant Alejandra humanitarian parole while she awaits the decision on her asylum claim, including during any appeal;
- Urging them to improve the medical care provided at ICE's privately operated Cibola detention facility, especially for those with acute medical needs;
- Calling on them to ensure asylum seekers are only detained as a last resort and when necessary and proportionate in the individual case, and to grant humanitarian parole to all asylum seekers whenever possible, especially when they are LGBTI or have acute medical needs.

PLEASE SEND APPEALS BEFORE 20 JULY 2018 TO:

ICE Acting Deputy Field Office Director

Mr. Joe Renteria

ICE-ERO

El Paso Field Office

11541 Montana Ave Suite E

El Paso, TX, 79936, USA

Email: Jose.A.Renteria@ice.dhs.gov

Salutation: **Dear Mr. Renteria**

Also send copies to diplomatic representatives accredited to your country. HIS EXCELLENCY WOODY JOHNSON, U.S. Embassy London, 33 Nine Elms Lane, SW11 7US, Phone: (0)20 7499-9000

Please check with your section office if sending appeals after the above date.

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ADDITIONAL INFORMATION

Of the 12 trans women interviewed by Amnesty International in May 2018 who were currently (3) or previously (9) detained at Cibola, half (6) of them complained of inadequate medical care provided at the facility. The most serious problem they identified were delays in the provision of HIV medication to new detainees upon arrival at the facility; and the timing of when hormones, ARV drugs and other medications were provided. Those interviewed also commonly reported the unresponsiveness of nurses to requests for examinations or treatment – with some requests being answered by medical personnel three days or two weeks later, and other times not at all. Despite those concerns, almost no asylum seekers are granted parole from Cibola while awaiting the adjudication of their asylum claims, including those who are trans women living with acute medical conditions.

Detention of asylum-seekers should only be a measure of last resort, after other non-custodial alternatives have proven or been deemed insufficient in relation to the individual. The detention of asylum seekers or other migrants solely on the basis of their migration status constitutes arbitrary detention under international law. According to the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, this type of arbitrary detention of asylum seekers can “very quickly, if not immediately” constitute ill-treatment against individuals in situations of increased vulnerability, specifically including women, older people, persons with medical conditions, or social minorities including LGBTI persons.

Under international law, the US government has an obligation to ensure that the human rights of migrants and asylum seekers are respected, protected and fulfilled. The International Covenant on Civil and Political Rights (ICCPR) clearly sets out the right to be free from arbitrary detention. Detention should only be used as a measure of last resort; it must be justified in each individual case and be subject to judicial review. Detention is only appropriate when authorities can demonstrate in each individual case that it is necessary and proportionate to the objective being achieved and on grounds prescribed by law, and that alternatives (such as reporting requirements, bail or financial deposits) would not be effective. In its July 2017 report on a country visit to the US, the UN Working Group on Arbitrary Detention said that: “the mandatory detention of immigrants, especially asylum seekers, is contrary to international human rights and refugee rights standards.[...] The Working Group has observed that the current system of detaining immigrants and asylum seekers is, in many cases, punitive, unreasonably long, unnecessary, costly when there are alternative community-based solutions, [...] not based on an individualized assessment of the necessity and proportionality of detention, carried out in degrading conditions, and a deterrent to legitimate asylum claims.”

Under the ICCPR, the Convention against Torture, and customary international law, the United States government is under an obligation not to return individuals to a situation in which they would be at risk of torture or other serious human rights abuses: the principle of *non-refoulement*. Such safeguards are imperative for protecting refugees fleeing violence and persecution. Under US law, all individuals apprehended at the border “shall be detained” pending deportation proceedings. US law provides that these individuals may be released on parole on a case-by-case basis for “urgent humanitarian reasons” or for “significant public benefit” where the individual presents neither a security risk nor a risk of absconding. ICE policies provide Field Office Directors with discretion to parole individuals who have established a credible fear on a case by case basis for these same reasons – which includes persons whose continued detention is not in the public interest – as well as discretion when it comes to the continued detention of individuals suffering from medical emergencies. Both policies relate to the decision on whom to detain or to release on bond, supervision, personal recognizance or other condition.

Name: Alejandra (US immigration case file no. A# 216-269-450)

Gender m/f: trans woman

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