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A lethal limbo for migrants

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In May 2007, Victoria Arellano, a 23-year-old transgender immigrant from Mexico, was sent to a detention center in San Pedro after being arrested on a traffic charge.

Arellano, who was born a male and had come to the United States illegally as a child, had AIDS at the time of her arrest but exhibited no symptoms of the disease because of the medication she took daily. But once detained, her health began to deteriorate. She lost weight and became sick. She repeatedly pleaded with staff members at the detention center to see a doctor to get the antibiotics she needed to stay alive, according to immigrant detainees with whom Arellano shared a dormitory-style cell. But her requests were routinely ignored.

The task of caring for Arellano fell to her fellow detainees. They dampened their own towels and used them to cool her fever; they turned cardboard boxes into makeshift trash cans to collect her vomit. As her condition worsened, the detainees, outraged that Arellano was not being treated, staged a strike: They refused to get in line for the nightly head count until she was taken to the detention center's infirmary.

Officials relented, and Arellano was sent to the infirmary, then to a hospital nearby. But after two days there -- and after having spent two months at the federally operated facility -- she died of an AIDS-related infection. Her family has taken steps to file a wrongful-death claim against the federal government.

The treatment Arellano received in San Pedro, unfortunately, is typical of what passes for healthcare at about 400 immigrant detention centers across the U.S. More than 70 immigrant detainees have died in custody since 2004, at least 13 of them in California, more than in any other state, according to U.S. Immigration and Customs Enforcement.

The reason may shock you. Unlike federal and state prisons, immigrant detention centers, many of which are run by private contractors, are not legally mandated to abide by any healthcare standards when it comes to treating sick immigrants. Civil and immigrant rights groups have filed suit in New York to force federal officials to issue such rules, but the Department of Homeland Security, which has jurisdiction in the matter, has yet to produce them. In the absence of legally binding standards, detained immigrants, such as Arellano, have no legal way to complain about the lax healthcare they receive at the facilities where they are held. They cannot appeal the denial of care or sue in federal court to obtain it.

What medical care is available is often delayed, or denied, while doctors and nurses at the facilities await approval from officials in Washington, who can deny crucial care without explanation.

Most of the 30,000 immigrants detained at these centers do not face criminal charges. Many are there for civil violations. Some have overstayed a visa. Others seek asylum. Still others are legal residents who suddenly could be deported because they have committed crimes that were formerly misdemeanors -- such as shoplifting -- but have been upgraded to felonies by a 1996 law that sought to deter illegal immigration by making it easier to deport those who are in the country illegally.

Detention at these centers is the fastest-growing form of incarceration in the U.S. in terms of the sheer number of detainees -- more than 300,000 in 2007 -- passing through the system. Because they face civil charges, most of the immigrant detainees are not entitled to a public defender. As a result, they must wage their civil rights battles, including the fight to obtain healthcare, from facilities that are often in remote rural areas where there are few pro bono groups or pro-immigrant advocates.

Immigration and Customs Enforcement has repeatedly told Congress that it spends millions of dollars on medical care for detained immigrants facing deportation. But many of the immigrants are already sick when detained, and the public health nurses and doctors at the detention centers are too overwhelmed to treat them adequately.

Daniel Javier Solando, a Honduran immigrant turned over to ICE after serving time in a California state prison for bankruptcy fraud, witnessed Arellano's final days. He is appealing a deportation order and faces months, even years, in detention while his case makes its way through a court system burdened by a backlog of similar cases. As a result, Solando fears that he too might die because he won't get the medicine he needs to control his high blood pressure. Currently held at a detention center in Florence, Ariz., he has twice been rushed to an emergency room in the city. His medical records, provided to me by his pro bono attorney, indicate at least one of those visits might have been because he had a seizure.

Last month, Rep. Zoe Lofgren (D-San Jose) introduced a bill, the Detainee Basic Medical Care Act, that would require the Department of Homeland Security to adopt mandatory standards for care, allow detainees to appeal denial of care and require all deaths at detention centers to be reported to the department's inspector general and to the Department of Justice within 48 hours.

Hopefully the bill will not get lost in today's polarized debate about immigration. If it does, and more people are allowed to die because of a lack of care, the detention centers will become one of the most shameful chapters in this nation's troubled immigration history.

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