

**Mandates of the Working Group on Arbitrary Detention; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the human rights of migrants**

REFERENCE:  
UA USA 2/2018

8 February 2018

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention, Working Group on the issue of human rights and transnational corporations and other business enterprises, Special Rapporteur on the situation of human rights defenders, and Special Rapporteur on the human rights of migrants, pursuant to Human Rights Council resolutions 33/30, 35/7, 34/5 and 34/21.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the initiation of deportation proceedings against Ms. Maru Mora Villalpando, allegedly in retaliation for her domestic and international activism as a human rights defender. We would also like to bring your attention to the alleged human rights abuses by the GEO group, a business enterprise which privately owns and runs the Northwest Detention Centre located in Tacoma, WA.

According to the information received:

Ms. Villalpando is a Mexican national who fled the country and went to the United States in 1996 for political and security reasons. Ms. Villalpando became an immigrants' rights defender in the United States. She has a daughter who is a U.S. citizen and has not yet reached the age of 21 years old.

Ms. Villalpando is the co-founder and public voice of the Northwest Detention Centre Resistance, a grassroots organization which represents the plight of undocumented migrants campaigning to end immigrant detention, stop deportations, and promote the right to return for deportees and their families.

In that capacity, Ms. Villalpando has issued multiple publications, organized community actions in front of detention centres, conducted legislative advocacy as well as engaged, both internationally and domestically, in actions to defend the rights of migrants facing deportation. In particular, Ms. Villalpando has taken the situation of the Northwest Detention Centre in Tacoma to the international level by addressing the human rights concerns regarding this detention centre before the Inter-American Commission for Human Rights (IACHR) and the Working Group on Arbitrary Detention. During these occasions, she denounced human rights violations that had occurred in that centre and the corporate involvement in these

violations as well as deportation of migrants and hunger strikes. Concerning her actions before the IACHR, Ms. Villalpando addressed the Commission during a public hearing on the impact of US executive orders at the 161<sup>st</sup> Period of Sessions in Washington, DC in March 2017. There, she presented cases of detention of immigrants and hunger strikes, and raised her concerns about the risks of retaliation for doing so. After this hearing, the IACHR issued a press release in August 2017 in which it stated that it expressed “its deep concern about the information received concerning hunger strikes which have occurred [...] in the migrant detention centres of [...] the Northwest Detention Centre, [...] operated by the private corporation GEO Group”.

On 20 December 2017, Ms. Villalpando received a notice to appear in deportation proceedings. The notice is perceived to be a threat for her activism. There is a possibility of her being detained if she appears at the hearing.

On 3 January 2018, her immigration lawyer requested to access her Immigration and Customs Enforcement (ICE) record and the written decision with justification of these proceedings. The request was denied on the basis that she needed to submit a Freedom of Information Act (FOIA) request, which was subsequently done. This new request has remained unanswered.

In addition, several local and state officials (such as the Seattle City Council, the Seattle Human Rights Commission, the Seattle Mayor and congressmen) have recently recognized the pattern of retaliation against immigrant’s rights defenders and are denouncing the campaign to silence and suppress voices opposing the anti-immigration actions of the current administration. As an example of this pattern, MM. Javi Ragbir and Jean Montrevil, two leaders of a coalition helping immigrants facing deportation and detention, have also been targeted by the U.S. Department of Homeland Security for deportation. In this context, the Federal Court has noted on 29 January 2018 in its decision ordering the release for detention that there is a “grave concern” that Mr. Ragbi “has been targeted because of his speech and political advocacy on behalf of immigrants’ rights and social justice” (*Ragbir v. Session*, No. 18-cv-236 (KBF), Opinion and Order, n.1, S.D.N.Y., 29 January 2018)

The information submitted also gives rise to concerns over the way in which the GEO Group operates the Northwest Detention Centre which it also owns. It is alleged that migrants in this facility are held in substandard conditions, undertake work in the facility to ensure its basic services such as laundry, kitchen and janitorial services, receiving a remuneration of \$1 per day for the work performed irrespective of the type of work or hours worked. It appears that there are plans to expand this facility and there is no independent oversight carried out over the running of this centre. Moreover, the detention of immigrants appears to be

influenced by economic incentives. In this sense, the contracts concluded between the U.S. Immigration and Customs Enforcement (ICE) agency and GEO appear to be an incentive for the detention of migrants as the GEO receives payments from the ICE on the basis of the number of immigrants detained in the facility.

While we do not wish to prejudge the accuracy of these allegations, we would like to appeal to your Excellency's Government to protect and ensure the rights of Ms. Villalpando as a human rights defender. We wish to highlight that this sudden notice to appear at deportation proceedings seems to be related to her advocacy work on behalf of the rights of migrant detainees. We thus wish to appeal to your Excellency's Government to take all necessary measures to guarantee that no action, including detention and deportation, as means of retaliation, will be taken against Ms. Villalpando for reporting cases of detention of immigrants and alleged violations of their human rights, especially in view of the conditions in these centres of detention.

In this context, we wish to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. In addition, we wish to remind to your Excellency's Government that, according to Article 12.2 of this Declaration, "[t]he State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, [...] as a consequence of his or her legitimate exercise of the rights".

We further wish to appeal your Excellency's Government to ensure the right to family life of Ms. Villalpando as enshrined in article 16 of the Universal Declaration of Human Rights and 23 of the International Covenant on Civil and Political Rights, in view of the fact that she has been living in the U.S. for the past 22 years, and as a result, the U.S. has become her home, she has a U.S. citizen daughter who is less than 21 years old, and her work in the US as a human rights defender has contributed to the protection of human rights in the country.

The enjoyment of the rights guaranteed in the ICCPR ratified by your Excellency's Government are not limited to citizens of States parties but "must also be available to all individuals, regardless of their nationality or statelessness, such as asylum seekers, refugees, migrant workers and other persons, who may find themselves in the

territory or subject to the jurisdiction of the State Party” (ICCPR/C/21/Rev.1/Add. 13 (2004), Para. 10).

We would also like to appeal to your Excellency’s Government to ensure that the operation of the Northwest Detention Centre meets international human rights standards. In this light, we also wish to remind to your Excellency’s Government its obligations under international law providing that “all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person” (Article 10 (1) of the International Covenant on Civil and Political Rights respectively). We wish to emphasize that when contracting-out the running of the detention facilities, the State remains responsible under international law that this running of the detention facilities meets the standards established in international law. In accordance with "Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework", endorsed by the Human Rights Council in its resolution 17/4 of 16 June 2011, States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate and redress such abuse through effective policies, legislation, regulations and adjudication. In addition, States should exercise adequate oversight in order to meet their international human rights obligations when they contract with business enterprises to provide services that may impact upon the enjoyment of human rights.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide information on the factual and legal grounds for the deportation proceedings initiated against Ms. Villalpando;
3. Please indicate what measures have been taken to ensure that human rights defenders in the U.S are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation or

retaliation directed against them or their family members and harassment of any sort.

4. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries which may have been carried out in relation to allegations of human rights abuses committed at the Northwest Detention Centre. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please provide information on the safeguards to monitor, prevent and punish any potential human rights violation that may result from acts or omissions by public and private entities responsible for the administration of immigration detention centres;
6. Please indicate the adequate legal actions accessible for migrants being held in immigration detention centres regarding intimidation, harassment or ill-treatment, and the measures taken to ensure these actions are effective and victims have access to remedy.
7. Please indicate measures taken by the Government to ensure the adequate oversight of the activities of GEO Group, in line with the United Nations Guiding Principles on Business and Human Rights, such as clarifying the State's expectations that this enterprise, as a government contractor, respects human rights and has adequate independent monitoring and accountability mechanisms.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

We would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may eventually transmit the case through its regular procedure in order to render an opinion on whether a deprivation of liberty is arbitrary or not. Such appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

We intend to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release

will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Elina Steinerte  
Vice-Chair of the Working Group on Arbitrary Detention

Dante Pesce  
Vice-Chair of the Working Group on the issue of human rights and transnational corporations and other business enterprises

Michel Forst  
Special Rapporteur on the situation of human rights defenders

Felipe González Morales  
Special Rapporteur on the human rights of migrants