

**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 rights of persons with disabilities; the Special Rapporteur on the right to food; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination; the Special Rapporteur on the human rights of migrants; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on contemporary forms of slavery, including its causes and consequences; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE:  
AL USA 18/2018

12 October 2018

Excellency,

We have the honour to address you in our capacities 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 rights of persons with disabilities; Special Rapporteur on the right to food; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination; Special Rapporteur on the human rights of migrants; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; Special Rapporteur on freedom of religion or belief; Special Rapporteur on contemporary forms of slavery, including its causes and consequences; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 33/30, 35/7, 35/6, 32/8, 33/9, 33/4, 34/21, 34/35, 31/16, 33/1 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the increased use of immigration detention and the alleged human rights violations committed at the Stewart Immigration Detention Center and the Irwin County Immigration Detention Center, which are privately run by for-profit prison companies "CoreCivic Inc." and "LaSalle Southwest Corrections", respectively. Human rights violations reported include lack of adequate food and water, lack of adequate health care, racial and religious discrimination, forced labor, solitary confinement as a form of punishment, which may amount to cruel, inhumane or degrading treatment, violations of the right to life, of due process guarantees and of the right to family life.**

Concerns regarding the Executive Order 13769 on "Protecting the Nation from Foreign Terrorist Entry into the United States" were sent in a communication addressed to your Government on 31 January 2017 (US 2/2017). These concerns were expressed in a press release issued on 1 February 2017. We received a reply on 20 April 2017 from

your Excellency's Government to our communication, stating that the Executive Order 13769 had been revoked and that the new Executive Order (13780) was subject to litigation before the courts. Your Excellency's Government offered to provide additional information in response to our inquiries after the resolution of the pending litigation.

On 19 October 2017 an allegation letter was sent to Your Excellency's Government (USA 23/2017) concerning the impact on the human rights of migrants of Executive Orders on "Border Security and Immigration Enforcement Improvements", with number 13767, and "Enhancing Public Safety in the Interior of the United States", with number 13768. The letter addressed concerns over, inter alia, the increased use of immigration detention and the reopening of former private prisons that had been shut down due to inadequate standards of detention, implying grave human rights impacts on migrant persons. On 7 March 2017, Your Excellency's Government replied that the U.S. Government was involved in ongoing litigation regarding the implementation of these Executive Orders. On 19 June 2018, an allegation letter was sent to Your Excellency's Government (USA 12/2018) concerning the implementation of the memorandum for federal prosecutors along the Southwestern border on Zero-Tolerance for Offenses Under 8 U.S.C. § 1325(a), in which concern was expressed on the increased criminalisation of migrants, including through immigration detention. We have not received any reply so far from Your Excellency's Government. We wish to take this opportunity to call upon Your Excellency's Government to provide a reply on the contents of our communications dated 31 January 2017, 19 October 2017 and 19 June 2018.

We further wish to draw your attention to the urgent appeal (USA 2/2018) sent on 8 February 2018, concerning allegations of human rights abuses in an immigration detention center committed by a private security company, the GEO group. In said communication Special procedure mandate holders called on Your Excellency's Government to ensure that operations of the Northwest Detention Centre meet international human rights standards. Your Excellency's Government replied to the allegations on 7 May 2018, specifying that regular visits are conducted at the Northwest Detention Centre, in order to ensure U.S. Immigration and Customs Enforcement (ICE) detention standards are met.

According to the information received:

In 2009 and 2015 the U.S. Congress authorized appropriation bills that require the Department of Homeland Security (DHS) to maintain 34,000 detention beds for immigrants on a daily basis ("bed quota"). For Fiscal Year 2018, the bed quota has risen to 40,520. It has been alleged that the "bed quota" prevents United States Immigration and Customs Enforcement (ICE) from exercising discretion and expanding more efficient alternatives to detention for irregular migrants.

It has further been reported that since the Executive Order of 25 January 2017 on "Enhancing Public Safety in the Interior of the United States", the regional ICE

office in Atlanta made nearly 80% more arrests in the first half of 2017 than it did in the same period the previous year, representing the largest increase of any field office in the country. At the same time, Georgia's immigration courts grant immigration relief at some of the lowest rates throughout the country, representing around a 3% grant rate on cases in which judges decide on the merits. The aforementioned measures led to an increase in immigration detention in Georgia, where some of its immigration detention centers are privately run by for-profit organizations. The Stewart Detention Centre and the Irwin County Detention Centre are privately run by for-profit organizations CoreCivic Inc. and LaSalle Southwest Corrections, respectively, allegedly with very little government oversight.

In terms of the conditions at Stewart and Irwin, it has been reported that migrants detained at these locations are deprived of adequate and sufficient food, and the food they receive seems to be prepared in unhygienic conditions. Irregular meal schedules increase detained migrants' need to purchase supplements at exorbitant fees at the commissary.

Meals in Irwin and Stewart are non-nutritious, with only very little variation, consisting of potatoes, white rice and bread. Fresh produce is neither available in the general meals or the commissaries. Fruits are reserved for those migrant detainees who qualify for special medical diets. With respect to the hygienic and sanitary requirements of food preparation, the food is allegedly often undercooked and worms, hair, plastic, nails, rocks, teeth, maggots and mice have been found in the food. If migrant detainees complain about the quality and hygiene of the food, they allegedly are not granted additional time to finish their meals. In addition, the drinking water at Stewart is reported to be non-potable, with a green color and bad odor.

It has further been reported that detained migrants' religious dietary requirements were often ignored by Stewart officials. For instance, vegan, vegetarian or halal meal requests have been ignored on repeated occasions. In other instances, Muslim detainees were told that their meals were halal, only to find out later that the food they were given was not halal. In addition, Muslim detainees are not provided any supplementary meals after fasting for religious reasons. It has further been alleged that Muslim migrants are often interrupted during prayer time and are required to purchase rugs at high costs from the commissary. Moreover, several detained migrants, including Catholics, Hindus, and Muslims, face difficulties in accessing religious texts.

Migrants held in Stewart and Irwin Detention Centre reportedly lack access to adequate mental and physical health care. The medical units at Irwin are understaffed. As a consequence, the average waiting time for migrants held at Irwin to visit the medical staff is between two days and two weeks. Medical units in Irwin and Stewart fail to provide adequate medical care, and health conditions are often loosely diagnosed, complaints ignored and painkillers easily prescribed

for all sorts of symptoms. Detention facility doctors list people under their care as healthy, regardless of any pain reported by detained migrants, and prescribe rest as treatment. Detained migrants who have insisted on receiving additional medical care have been placed in solitary confinement on repeated occasions and segregated from fellow detained migrants. Pregnant women at Irwin do not benefit from prenatal care and do receive the same health treatment as the general population within the detention facility.

It is further alleged, that guards at Irwin and Stewart display disrespectful and prejudicial treatment towards migrant detainees. They take advantage of migrants' lack of English proficiency and ignore requests for clarifications. It was reported that those who speak English are better treated than others. Immigration officers allegedly violate due process guarantees as they fail to inform migrant detainees of their full legal rights in a language they understand, and take advantage of language deficiencies to coerce detained migrants into waiving their legal rights.

It has further been reported that migrants held at Stewart are subject to forced labor, while being paid the nominal wage. One migrant detainee was only paid 50 cents an hour. By providing migrants with inadequate food and only basic living supplies, they need to purchase additional items at the commissary. In order to pay for the high costs of food and living supply items, they may have to carry out work while in detention. Migrants refusing to work are often penalized, including through solitary confinement.

Solitary confinement is imposed in both detention centers without proper hearings being conducted, nor abiding by due process standards. It is alleged that solitary confinement may be used to prevent detained migrants from filing complaints. No distinction is made between administrative and disciplinary confinement and solitary confinement has allegedly been used for minor reasons, such as not tucking in a t-shirt, for talking too much, for arguing during soccer matches or for participating in hunger strikes. Some migrants at Irwin have been placed in administrative confinement upon arrival because the facility lacks enough housing units for all new detainees. Solitary confinement may last well over a month, with some solitary confinements lasting up to six months. It has been reported that migrants in solitary confinement at Stewart were unable to tell day from night, were denied access to showers and the commissary, prohibited from the use of phones, from obtaining medical attention and from engaging in recreational activities. Solitary confinement units at Irwin are allegedly dusty, infested with bugs and flies, unsanitary and lacking cold water.

It is further alleged that solitary confinement is disproportionately used for migrants who manifest mental health conditions and seek counselling. Rights-compliant health care and essential psychosocial support that persons with psychosocial disabilities may need and seek are not available to them. Instead, the staff at the detention centers resort to solitary confinement. This practice has no therapeutic objective and is consequently creating more harm.

It has been alleged, that in the course of the last 18 months two migrant detainees have committed suicide at Stewart. On 10 July 2018, Efrain De La Rosa committed suicide, after being held in solitary confinement for 21 days. Mr. Efrain De La Rosa had been diagnosed with schizophrenia and bipolar disorder, prior to being sent to solitary confinement. On 15 May 2017, 27-year old Jeancarlo Alfonso Jimenez Joseph committed suicide at Stewart, after being held in solitary confinement for 19 days. He was also diagnosed with mental health condition prior to being sent to solitary confinement.

On 30 January 2018, 33-year old Yulio Castro-Garrido died from pneumonia while in custody of immigration officials at Stewart Detention Centre. His death is currently subject to a Freedom of Information request. ICE released a statement indicating that Mr. Castro-Garrido had refused treatment. Following a statement by his brother and some immigration lawyers informing that Mr. Castro-Garrido was healthy before dying of pneumonia, ICE allegedly revised the statement, claiming that Mr. Castro-Garrido was resistant to some forms of medical intervention.

Finally, we have been informed that migrants' effective access to legal assistance, counsel and representation is hampered by the isolated location of the Stewart and Irwin facilities, as well as by arbitrary visitation procedures. Detained migrants' access to legal counsel is obstructed and lawyers find it difficult to travel to the isolated detention centers. Attorney-client privilege is infringed by meetings conducted through glass partitions with phones that often malfunction. Migrants detained at Irwin are charged for making calls to legal counsel in order to arrange meetings prior to court hearings. In addition, the remote location of the Stewart and Irwin facilities makes visits for family members more complicated. Exorbitant costs of making a phone call from the facilities further hampers communication with family members. Costs for international calls range from \$5 to \$15 for just fifteen minutes of phone time, which further isolate those who are originating from other regions of the world.

While we do not wish to prejudge the accuracy of these allegations, concern is expressed over the criminalization of migration, including irregular entry and stay (which at most should be an administrative offence), and the increased use of detention in the context of migration, which leads to multiple violations of international human rights law. Any form of administrative detention or custody in the context of migration must be used as an exceptional measure of last resort, for the shortest period of time and only if justified by a legitimate purpose. Alternatives to detention in the context of migration are to be sought whenever possible. Detention only increases the suffering of migrants and has a long-term detrimental impact on their mental health. Evidence has also revealed the high costs and low effectiveness of lengthy detention when used as a tool for migration management.

We also wish to recall that persons detained in the course of migration proceedings enjoy as a minimum the same rights as those detained in the criminal justice or other administrative context, and migrant persons have the right to bring proceedings before a court to challenge the legality of their detention and to obtain appropriate remedies if their challenge is successful. We also wish to recall that detention of children based on their migration or refugee status is never in their best interests and is contrary to international law.

Furthermore, while the outsourcing of detention centers by nature is highly problematic, to do so through companies such as CoreCivic Inc. and LaSalle Southwest Corrections raises additional concerns, as private prison contractors, which reap sizeable annual profits from detaining migrants, often compromise the protection of human rights of detainees, lack adequate monitoring and accountability mechanisms. The outsourcing does not preclude States or any other private actors acting on the territory of that State to comply with their international and national human rights obligations. The companies themselves are also responsible to respect national law and relevant international law. In this context, we wish to express our grave concern over the lack of government oversight, including a proper monitoring and accountability mechanism for human rights violations committed in such immigration detention facilities and by private corporations. This is underscored by the obligations under the international human rights framework for your Excellency's Government to protect against human rights abuse within its territory by business enterprises. Moreover, your Excellency's Government should exercise adequate oversight when they contract business enterprises providing services that may impact upon the enjoyment of human rights.

Particular concern is raised that adequate safeguards to protect the right to life have not been taken and the lack of adequate medical treatment resulted in the death of at least three migrant detainees. We are deeply concerned of the heightened risks to the right to life of persons with psychosocial disabilities due to the lack of essential and adequate support and mental health care. Denying access to the necessary psychosocial support and mental health care to those who seek it and imposing solitary confinement, of any duration, when the adequate interventions are not available is incompatible with the right to health and may constitute torture and ill-treatment. It is essential, therefore, that an absolute ban on all coercive measures, including solitary confinement of people with psychological disabilities, should apply in all places of deprivation of liberty, including the detention centers targeted by this letter. In this context, we are also alarmed over the use of solitary confinement, without due process standards, which may amount to cruel, inhuman or degrading treatment or punishment, exacerbating risks to the physical and mental integrity of the migrant persons detained. Solitary confinement is a harsh measure which, in and of itself, may cause serious psychological and physiological adverse effects on individuals regardless of their specific health conditions. Moreover, we are concerned that the use of solitary confinement increases the risk that acts of torture and other cruel, inhuman or degrading treatment or punishment will go undetected and unchallenged. According to internationally recognized standards, solitary confinement may only be used under exceptional circumstances, as a measure of last resort, and for the shortest time possible. When solitary confinement is used in exceptional circumstances, minimum

procedural safeguards must be followed. These safeguards reduce the risk that the use of solitary confinement will be arbitrary or excessive, as in the case of prolonged or indefinite confinement.

Finally, it is alarming that prejudice seems to be pervasive among the detention facility staff and influences their attitude, lack of responsiveness and dismissal of the detained migrants ethnic, cultural, religious and linguistic diversity and associated needs. It is also of extreme concern that detained migrants are discriminated against on the basis of their gender, religion, or national origin with regard to access to health, living condition, employment and due process of law.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 therefore 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 detailed information on the legal basis and procedural safeguards for the deprivation of liberty of migrants in the United States of America.
3. Please provide detailed information on the steps your Excellency's Government has undertaken to ensure the physical and mental integrity of migrants detained in centers, such as Stewart and Irwin?
4. Please provide detailed information on the measures taken by your Excellency's Government to ensure that detained migrants receive adequate food and water in immigration detention centers, such as Stewart and Irwin, and that dietary and religious dietary requirements are respected?
5. Please provide detailed information on the steps your Excellency's Government has undertaken to provide due process guarantees as well as access to justice and remedies for migrants held in immigration detention centers, such as Stewart and Irwin, while guarantying non-discrimination.
6. Please explain the procedural safeguards in place to protect migrant detainees from solitary confinement as a punishment.
7. Please explain what measures are taken to identify and prevent the situations of risk of death, including the suicide risk among persons with psychosocial disabilities. Kindly include detailed information about the

provision of mental health care and psychosocial support based on free and informed consent of the person.

8. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to the deaths of Mr. Efrain De La Rosa, Mr. Jeancarlo Alfonso Jimenez Joseph and Mr. Yulio Castro-Garrido. If no inquiries have taken place, or if they have been inconclusive, please explain why.
9. Please indicate any remedial action taken for the benefit of the families of the migrants who died while in custody.
10. Please explain how Your Excellency's Government intends addressing the Committee Against Torture's 2014 concluding observations regarding mandatory detention of asylum seekers and migrants, including its concern of substandard conditions of detention in immigration facilities and the use of solitary confinement.
11. Please explain how and whether alternatives to detention for migrants in compliance with international law and standards have been developed.
12. 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.
13. Please provide detailed information on mandatory training on human rights law and standards for ICE and private corporations' staff involved in the management of immigration detention facilities?
14. Please provide information on measures taken to ensure that detained migrants are protected from any forms of discrimination based on their race, ethnicity, national origin, and other intersecting grounds of discrimination including gender, religious beliefs, sexual orientation and disability status.
15. Please indicate measures taken by the Government to ensure effective oversight of for-profit companies that run immigration detention facilities such as Stewart and Irwin, in line with the United Nations Guiding Principles on Business and Human Rights, such as clarifying the State's expectations that those enterprises with which it enters into a contractual agreement will respect human rights and will establish adequate independent monitoring and accountability mechanisms.
16. What steps has Your Excellency's Government undertaken to ensure promotion and respect of the International Code of Conduct Association



for Private Security Providers Service Providers' Association, including when contracting private corporations for immigration detention?

17. Please indicate other additional measures taken by the Government to ensure that public sector undertakings and private companies implement the UN Guiding Principles on Business and Human Rights, including conducting human rights due diligence and remedying adverse impacts.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their recurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

We would like to inform your Excellency's Government that, after having transmitted this letter of allegations to the Government, the Working Group on Arbitrary Detention may transmit any related case through its regular procedure, in order to render an opinion on whether a deprivation of liberty was arbitrary or not. A letter of allegations in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to this letter of allegations and the Working Group's regular procedure.

We would also like to inform your Excellency's Government that a letter addressing similar allegations and concerns as mentioned above has also been sent to CoreCivic Inc. and LaSalle Southwest Corporations.

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

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

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

Catalina Devandas-Aguilar  
Special Rapporteur on the rights of persons with disabilities

Hilal Elver  
Special Rapporteur on the right to food

Dainius Puras

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Saeed Mokbil

Chair-Rapporteur of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

Felipe González Morales

Special Rapporteur on the human rights of migrants

E. Tendayi Achiume

Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Ahmed Shaheed

Special Rapporteur on freedom of religion or belief

Urmila Bhoola

Special Rapporteur on contemporary forms of slavery, including its causes and consequences

Nils Melzer

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

**Annex**  
**Reference to international human rights law**

In connection with above alleged facts and concerns, we wish to draw your attention to Human Rights Council Resolution 33/4. The Resolution requested the United Nations Working Group on the use of mercenaries to continue to, inter alia, monitor the activities of private military and security companies in different parts of the world. We note that the United States of America has contracted CoreCivic Inc. and LaSalle Southwest Corrections. In this context, we would further like to refer to the United Nations Guiding Principles on Business and Human Rights, unanimously endorsed by the Human Rights Council, including your Excellency's Government. The Guiding Principles are grounded in recognition of:

- a. "States' existing obligations to respect, protect and fulfil human rights and fundamental freedoms;
- b. The role of business enterprises as specialized organs or society performing specialized functions, required to comply with all applicable laws and to respect human rights;
- c. The need for rights and obligations to be matched to appropriate and effective remedies when breached."

It is a recognized principle that States must protect against human rights abuse by business enterprises within their territory. As part of their duty to protect against business-related human rights abuse, States are required to take appropriate steps to "prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication" (Guiding Principle 1). The Guiding Principles underscore that States should exercise adequate oversight in order to meet human rights obligations when they contract with, or legislate for, business enterprises to provide services that may impact upon the enjoyment of human rights (Guiding Principle 5). States do not relinquish their international human rights law obligations when they privatize the delivery of services that may impact upon the enjoyment of human rights. In addition, States should "enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights..." (Guiding Principle 3). The Guiding Principles also require States to ensure that victims have access to effective remedy in instances where adverse human rights impacts linked to business activities occur.

The Guiding Principles also clarify that business enterprises have an independent responsibility to respect human rights. However, States may be considered to have breached their international human rights law obligations where they fail to take appropriate steps to prevent, investigate and redress human rights violations committed by private actors.

With regard to the systematic detention of migrants, we would like to draw Your Excellency's Government's attention to Article 9.1 of the International Covenant on Civil

and Political Rights (ICCPR), ratified by the United States of America on 8 June 1992, which provides that everyone has the right to liberty and security of person. The enjoyment of the rights guaranteed in the ICCPR is not limited to citizens of States parties but “must also be available to all individuals, regardless of 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” (CCPR/C/21/Rev.1/Add. 13 (2004), para. 10). The detention of migrants and asylum seekers should thus be a measure of last resort. We further wish to draw Your Excellency’s Government attention to the United Nations’ Working Group on Arbitrary Detention Revised Deliberation No. 5 on deprivation of liberty of migrants. Similarly, we would like to draw the Government’s attention to the country visit report presented by the Working Group before the Human Rights Council ([A/HRC/36/37/Add.2](#)), in relation to its visit to the United States of America in 2016, where many of the issues related to the deprivation of liberty in the context of immigration were addressed, with particular conclusions and recommendations formulated.

Furthermore, the Special Rapporteur on Torture stresses in his 2017 Report to the Human Rights Council A/HRC/37/50 that “any detention regime which, as a matter of deliberate policy or as a consequence of negligence, complacency or impunity, subjects or exposes migrants to treatment or conditions of detention grossly inconsistent with universally recognized standards, most notably the "Nelson Mandela Rules", is incompatible with the prohibition of torture and ill-treatment, regardless of economic or budgetary considerations.” He further adds that inadequate detention conditions can even amount to torture if they are intentionally imposed, encouraged or tolerated by States for reasons based on discrimination of any kind including based on immigration status, or for the purpose of deterring, intimidating, or punishing or coercing migrants or their families”.

Concerning the conditions of detention, we wish to draw your attention to the updated United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules, 2015), which lay out generally accepted principles and practice in the treatment of prisoners and prison management, adopted unanimously by the General Assembly, including your Excellency’s Government on 17 December 2015 (A/RES/70/175). We further wish to draw your attention to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by General Assembly resolution 43/173 of 9 December 1988.

Concerning access to adequate health care, food and safe drinking water, we would like to draw your attention to Articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), signed by your Excellency’s Government on 5 October 1977. These Articles enshrine the rights of everyone to an adequate standard of living, including adequate food, clothing and housing, and to the enjoyment of the highest attainable standard of physical and mental health, respectively. Article 7 of the ICESCR enshrines the right of everyone to the enjoyment of just and favourable conditions of work. While the United States of America has not ratified the ICESCR, your Excellency’s Government agreed to bind itself in good faith to ensure that

nothing is done that would defeat the object and purpose of the international instrument, pending a decision on ratification. This includes the obligation on the part of the State to ensure that health facilities, goods and services are accessible to everyone, especially the most vulnerable or marginalized sections of the population, without discrimination (General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, para 12). This also includes States' obligation to respect the right to health by, inter alia, refraining from interfering directly or indirectly with the enjoyment of the right to health, from denying or limiting equal access for all persons, including minorities, asylum seekers and illegal migrants, to preventative, curative and palliative health services, and from enforcing discriminatory practices as a State policy (General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, para.34).

We also wish to draw your attention to the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), which the United States of America ratified on 21 October 1994 in its Article 5 states that all persons, without distinction as to race, color, or national or ethnic origin possess the right to public health, medical care, social security, and social services. Furthermore, the United Nations General Assembly in its resolution 70/169 of 2015 recognized that "the human right to safe drinking water entitles everyone, without discrimination, to have access to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use."

With regards to the use of solitary confinement as a form of punishment, we wish to draw your attention to Article 1 of the Convention against torture (CAT), ratified by the United States of America on 21 October 1994, which states that "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as {...} punishing {him or her}". We further wish to draw your attention to Article 16, which states that "each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in Article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity." States should refer to the Istanbul Statement on the Use and Effects of Solitary Confinement as a useful tool in efforts to promote the respect and protection of the rights of detainees.

In his 2018 report to the Human Rights Council (A/HRC/38/36), the Special Rapporteur on the right to physical and mental health, stressed that solitary confinement negatively influence mental health and well-being. He underlined that the inappropriate use or overprescription of psychotropic medications and the use of solitary confinement, isolation and forced medical treatment in detention centres, including in immigration detention centres, are issues of quality of care that do not promote and protect the right to health.

Referring specifically to the rights of persons with disabilities, we would like to draw your Excellency's Government attention to the provisions of the United Nations Convention on the Rights of Persons with Disabilities (CRPD). We would like to

highlight in this context States' responsibilities under Articles 10 (Right to life), 14 (Liberty and security of the person) and 15 (Freedom from torture or cruel, inhuman or degrading treatment or punishment). According to Article 10 of the CRPD, States undertake to ensure the inherent right to life and its effective enjoyment by all persons with disabilities on an equal basis with others. In their concluding observations to States, the Committee on the Rights of Persons with Disabilities has clarified that this includes the measures to identify situations of risk of suicide in persons with disabilities, including persons with psychosocial disabilities, and the provision of preventive health care and psychosocial support based on the free and informed consent of the individual concerned. In view of their obligations under the Article 14(2) of the CRPD, States shall ensure that when persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law. In their Guidelines on article 14 of the CRPD, the Committee has explicitly stated that this is a non-discrimination provision aimed at ensuring that persons with disabilities have, among other things, access to the various services, such as mental health care and psychosocial support measures. Consistent with the aim of this communication, States must ensure that persons with disabilities are not confined to solitary isolation based on need of health care or psychosocial support or other reasons tied to impairment or health diagnosis.

Seclusion has no therapeutic objective and is frequently a consequence of the lack of support for people experiencing an emotional crisis and severe distress (see the report of the Special Rapporteur on the right to the highest attainable mental and physical health (A/HRC/37/56)). Furthermore, the Special Rapporteur on torture has addressed the issue of solitary confinement and stated that its imposition, of any duration, on persons with mental impairments is cruel, inhuman or degrading treatment (A/HRC/22/53 para.63). The lack of adequate and necessary services is an unacceptable justification. It is essential that an absolute ban on all coercive and non-consensual measures, including restraint and solitary confinement of people with psychological or intellectual disabilities, should apply in all places of deprivation of liberty.

We would also like to draw Your Excellency's Government's attention to Article 10 of the ICCPR, which provides that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

Further, we would like to bring Your Excellency's Government's attention to Article 2 of the CERD, which instructs all State Parties to "condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms." Further, we would like to bring Your Excellency's Government's attention to Article 2 of the CERD which instructs all State Parties to "condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms." Further, Article 5 of the Convention refers to "the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution".

We would like to also direct Your Government to General Recommendation 30 relating to Discrimination against non-citizens, in which the Committee on the Elimination of Racial Discrimination recommends that States “ensure that legislative guarantees against racial discrimination apply to non-citizens regardless of their immigration status, and that the implementation of legislation does not have a discriminatory effect on non-citizens”. Furthermore, the Committee states that Governments should “take steps to address xenophobic attitudes and behaviour towards non-citizens, in particular hate speech and racial violence, and [...] promote a better understanding of the principle of non-discrimination in respect of the situation of non-citizens”; and “take resolute action to counter any tendency to target, stigmatize, stereotype or profile, on the basis of race, colour, descent, and national or ethnic origin, members of “non-citizen” population groups, especially by politicians, officials, educators and the media, on the internet and other electronic communications networks and in society at large”.

Additionally, we wish to draw attention to the Human Rights Council Resolution 15/16 and General Assembly Resolution 68/179, which call upon States “to respect the human rights and the inherent dignity of migrants” and to “strongly condemn the manifestations and acts of racism, racial discrimination, xenophobia and related intolerance against migrants and the stereotypes often applied to them including on the basis of religion or belief, and urges States to apply and, where needed, reinforce the existing laws when hate crimes, xenophobic or intolerant acts, manifestations or expressions against migrants occur in order to eradicate impunity for those who commit those acts”.

Furthermore we would like to recall paragraph 30 of the Durban Programme of Action which urges States (a) “[t]o develop and implement policies and action plans and to [...] implement preventive measures in order to foster greater harmony and tolerance between migrants and host societies, with the aim of eliminating manifestations of racism, racial discrimination, xenophobia and related intolerance, including acts of violence, perpetrated [...] by individuals or groups”; (c) “[t]o implement specific measures involving the host community and migrants in order to encourage respect for cultural diversity, to promote the fair treatment of migrants and to develop programmes, where appropriate, that facilitate their integration into social, cultural, political and economic life”.

Concerning allegations of forced labour, we further wish to draw your attention to Article 8 of the ICCPR, which states that “no one should be held in slavery” and that “no one shall be required to perform forced or compulsory labour”.

We further would like to draw your attention to Article 9 and 14 of the ICCPR, asserting that any person who is deprived of his or her liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his or her detention and order his or her release if the detention is not lawful. Detainees are expected to be informed promptly and in detail in a language which they understand of the nature and cause of the charge against them and to have the

free assistance of an interpreter if they cannot understand the language. In that regard, we would also like to refer Your Excellency's Government to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and its' principle 14 states that a person who does not adequately understand or speak the language used by the authorities responsible for his arrest, detention or imprisonment is entitled to receive promptly in a language which he understands, information concerning the reason for the arrest, as well as information on and an explanation of his rights and how to avail himself of such rights, and to have the assistance, free of charge, if necessary, of an interpreter in connection with legal proceedings subsequent to his arrest. Principle 15 expands that "communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days."

We would also like to bring to the attention of your Government the *United Nations Basic Principles and Guidelines on remedies and procedures on the right of anyone deprived of their liberty to bring proceedings before a court*. Principle 17 states that the obligations to guarantee access to the right to bring proceedings before a court encompasses the adoption of specific measures required under international law to ensure such rights, including for minorities as based on national or ethnic, cultural or linguistic identity, non-nationals, including migrants regardless of their migration status, asylum seekers and refugees.

Furthermore, Principle 21 enforces the above mentioned provision by stating that non-nationals, including migrants regardless of their status, asylum seekers, refugees and stateless persons, in any situation of deprivation of liberty, shall be informed of the reasons for their detention and their rights. These include the right to effective legal assistance, in a language that they use and in a means, mode or format they understand. Proceedings to challenge decisions of immigration detention shall be suspensive, to avoid expulsion prior to the case-by-case examination. In addition, the deprivation of liberty as a penalty or punitive sanction in the area of immigration control is prohibited. We would like to further refer your Government to Guideline 21 for the implementation of such specific measures.

Lastly, we wish to refer to Article 23 of the ICCPR which provides that "the family is the natural and fundamental group unit of society and is entitled to protection by society and the State."