

Mandates of the Special Rapporteur on the human rights of migrants; 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 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 torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on violence against women, its causes and consequences; the Special Rapporteur on the human rights to safe drinking water and sanitation; and the Working Group on discrimination against women and girls

REFERENCE:
UA USA 34/2020

15 January 2021

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the human rights of migrants; Working Group on Arbitrary Detention; Working Group on the issue of human rights and transnational corporations and other business enterprises; 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 torture and other cruel, inhuman or degrading treatment or punishment; Special Rapporteur on violence against women, its causes and consequences; Special Rapporteur on the human rights to safe drinking water and sanitation; and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 43/6, 42/22, 44/15, 42/16, 42/9, 43/20, 41/17, 42/5 and 41/6.

In this connection, we would like to bring the attention of your Excellency's Government to information we have received concerning **the lack of appropriate protection measures in light of the COVID-19 pandemic, denial of access to appropriate health care, ill-treatment, and medical abuses by government-contracted doctors, including medically unnecessary gynecological procedures performed on migrant women without their full informed consent in the Irwin County Detention Center, and the use of solitary confinement to punish those who have attempted to speak out against such abuses. The Irwin County Detention Center (ICDC) is operated by LaSalle Southwest Corrections (subsidiary of La Salle Corrections), a private company.**

We have repeatedly highlighted various concerns regarding the human rights of migrants in the United States of America, most recently in connection with the lack of necessary protection measures in light of the COVID-19 pandemic for migrants in detention at the Northwest Processing Centre and other immigration detention facilities (UA USA 7/2020), the increased use of immigration detention (USA 12/2018, USA 23/2017), alleged human rights abuses in privately-run immigration detention facilities, including the ICDC, in Irwin County (USA 18/2018), and lack of access to health care

in the U.S. Immigration and Customs Enforcement (ICE) custody (USA 7/2019 and USA 25/2018).

We thank your Excellency's Government for the reply dated 21 September 2020 to the Urgent Appeal (USA 7/2020) highlighting concerns about the lack of necessary protection measures in light of the COVID-19 pandemic for migrants in detention, including at the Northwest Processing Center (NWPC) in Tacoma, Washington. In your response, Your Excellency's Government referred to annual onsite inspections conducted under ICE's inspection program to ensure that facilities comply with ICE detention standards and that any deficiencies noted are quickly and efficiently addressed. It was also mentioned in your response that onsite investigations were conducted by the Department of Homeland Security's Office for Civil Rights and Civil Liberties at ICE and ICE-contracted detention facilities to examine alleged violations of civil rights and civil liberties related to the care and custody of individuals in detention. In light of the current health pandemic and the new information received, we would appreciate an update on the situation and procedures in place at the ICE and ICE-contracted detention facilities, including in relation to the result of the mentioned investigations and inspections that were conducted at NWPC.

We would like to reiterate our concerns expressed in the letter dated 12 October 2018 (with reference AL USA 18/2018), regarding the increased use of immigration detention and the alleged human rights abuses including lack of adequate access to water and health care, racial discrimination, and violation of due process guarantees in the ICDC, in Irwin, Georgia, an immigration detention facility run by a private company, "LaSalle Southwest Corrections," a subsidiary of LaSalle Corrections, that contracts with ICE.

According to the new information received:

The ICDC operated by LaSalle Southwest Corrections (subsidiary of La Salle Corrections), is one of more than 100 ICE detention centers run by private corporations. In the United States in late 2016, 73 percent of the approximately 40,000 migrants detained by the authorities were held in facilities operated by private companies. As of January 2020, 81 percent of people detained in ICE custody were held in facilities owned or managed by private prison corporations. Reportedly, in 2019, LaSalle Corrections alone held more than 7,000 migrants in detention.

Since 2017, migrants detained in the ICDC have reported human rights abuses, including due process violations, unsanitary detention conditions, inadequate health care access, and most recently, lack of prevention measures in light of the COVID-19 pandemic. The facility houses some 800 migrants, both men, and women. The hygienic conditions at ICDC were already of concern before the global pandemic. A review conducted by ICE in 2017 found that floors and patient examination tables were dirty. In 2020, we received reports that the facility is filthy, and in each unit, detained migrants have access only to one bathroom and one shower for more than fifty people. Food is reportedly not

adequately protected from insects and pest infestation. In September 2020, it was reported that several detained migrants complained to staff that bathroom facilities were dirty and that toilets and sinks at the facility often malfunction.

According to ICE, as of 4 January 2021, more than 8,500 migrants detained and ICE staff have contracted coronavirus at more than 95 detention facilities, including those run by private prison companies.¹ Reportedly, at least eight detained migrants have died after contracting COVID-19 in ICE custody.

Allegations concerning unsanitary detention conditions and lack of necessary protection measures in light of the COVID-19 pandemic for migrants in detention in the ICDC

In August 2020, ICE reported that 41 migrants detained in the ICDC tested positive for COVID-19. The real number of infections is believed to be higher as the ICDC had allegedly not been actively testing detained migrants. Since the outbreak of the COVID-19 pandemic, over a dozen persons with symptoms indicative of the virus have been reported in the ICDC. According to the information received, between March and 18 August 2020, migrants detained in the ICDC did not have access to test for COVID-19.

Reportedly, medical staff of ICDC often downplayed the need for COVID-19 testing. Despite that a rapid-testing COVID-19 machine was purchased and available at the facility since June 2020, it was seldom used. Allegedly, as of August 2020, no medical staff had been trained to use it. In unit C of ICDC, which accommodates approximately 100 women, many people reported health problems, including coughing, fever, and other discomforts, but were never tested for COVID-19. Similarly, during July and August 2020, two migrant women detained at unit G-2 complained that despite having symptoms such as fatigue, headaches, loss of smell and taste, and although three women in their unit were tested positive for COVID-19, they did not get tested nor received medical attention until 18 August. When they were taken to the medical unit, they had their temperatures checked and were brought back to the general unit without being tested for COVID-19. Only when the two women became very sick, they were transferred to the quarantine unit and were subsequently tested for COVID-19. Despite multiple requests from several women to be tested, including reported exposure to COVID-19, and the fact that several migrant women had pre-existing conditions such as diabetes and hypertension, ICDC refused to test them for COVID-19. Similarly, we received reports that detained men with COVID-19 symptoms were also refused COVID-19 testing for months despite multiple requests.

In addition, after migrants inside the facility were finally tested for COVID-19 on 18 August 2020, several new arrivals were transferred into the cells of migrants who were still waiting for their results of the test. This was done

¹ US Immigration and Customs Enforcement, ICE Guidance on COVID-19, Confirmed Cases.

despite the fact that ICE Guidance on its response to the Covid-19 pandemic, as of 12 August 2020, required that all new arrivals were tested for COVID-19 and housed separately from the rest of the detained migrants. Concerns are raised that the lack of preventive measures, such as medical quarantine for new arrivals, physical distancing, and separation between individuals that had been tested for COVID-19, expose more individuals to the virus. Nonetheless, the few migrants that were put in quarantine were allegedly subjected to unsanitary conditions in the quarantine unit. Reportedly, during the quarantine period, the quarantine cells were not regularly cleaned, and disinfected, and detained migrants were not provided with adequate cleaning supplies to disinfect them. Furthermore, some of the migrants detained reportedly experienced humiliating treatment by guards in the quarantine cells for not speaking English.

We have also received reports that employees of ICDC and detained migrants only received one mask per person since the beginning of the pandemic. Some migrants complained that they were not provided masks at any point. Reportedly, neither detained migrants nor ICDC staff could follow physical distancing protocols due to overcrowding. Staff also reported not having proper personal protective equipment nor sanitization material. ICDC employees were allegedly instructed to continue working even when they had COVID-19 symptoms, were awaiting a COVID-19 test result, or had a positive COVID-19 test result. Concerns are raised over ICDC's COVID-19 policies that impact both working and living conditions at the facility.

Inadequate health care, ill treatment and discrimination against migrants in the ICDC

According to the information received, several requests for medical attention in the ICDC have been ignored and left unattended. Migrants with serious medical conditions and grave illnesses reportedly have been facing unreasonable delays in receiving appropriate treatment. We have also received reports that ICDC medical staff shredded medical request forms from detained migrants without checking on the requestors. Medical staff allegedly fabricated the medical records of some migrants, including by falsifying their vital signs, which were not taken, but made-up results were documented. Several detained migrants had not been examined but inaccurately reported as they were in the patient's records. In addition, there have been reports concerning the poor treatment of detained migrants as well as discrimination against migrants from Latin American countries, particularly those who do not speak English, by certain medical staff of ICDC. Reportedly, despite having a phone language line available in the ICDC, for language interpretation services, this line was rarely used.

Some migrants went on hunger strikes on several occasions to demand better conditions, including better health care and protection against COVID-19. Reportedly, it has been a common practice to shut off the water for those on

hunger strike as a means of deterrence. Consequently, one of them had to allegedly drink out of the toilet as it was the only source of water available.

Allegations concerning medical abuses, including gynecological surgeries, performed without migrant women's full informed consent

We have also received reports of gynecological or other medical procedures performed on migrant women detained at the center without their fully informed consent, partly due to lack of language interpretation. According to the information received, a number of migrant women from Latin American countries or of African descent reported medical abuses by the government-contracted primary gynecologist of the facility. Some of them were allegedly pressured to undergo surgeries without their fully informed consent. These include procedures that were believed medically unnecessary; some are believed to have affected their ability to bear children. In this connection, we also received reports of retaliatory actions against victims and witnesses of medical abuse in order to silence them, including by placing some of them in solitary confinement and allegations of retaliatory deportations of the victims to prevent them from testifying on ongoing medical abuse investigations and access justice.

Allegations concerning Ms. Yuridia Rocha Jaramillo's non-consensual gynecological surgery

In this context, we also received information concerning the case of Ms. Yuridia Rocha Jaramillo, 36-year-old, who was allegedly subjected to an unwarranted gynecological surgery when detained in the ICDC. The surgery was reportedly performed without her full informed consent, partially due to lack of language interpretation.

On 16 May 2020, Ms. Rocha, a Mexican national, was allegedly arrested by the police after calling 911 reporting domestic violence by her male partner. Despite having a valid work permit and a protection visa under the Violence Against Women Act,² Ms. Rocha was detained at Clayton prison facility. She was not informed of the legal basis of her detention. Neither by the police officers that arrested her nor other authorities.

On 22 May 2020, Ms. Rocha was transferred from Clayton prison to ICDC, where she recounted the facility's unsanitary detention conditions, lack of personal protective equipment for COVID-19, and denial of consular access and legal assistance.

² VAWA allows an abused spouse or child of a U.S. Citizen or Lawful Permanent Resident or an abused parent of a U.S. Citizen to self-petition for lawful status in the United States, receive employment authorization, and access public benefits. <https://www.uscis.gov/green-card/green-card-eligibility/green-card-for-vawa-self-petitioner>.

At ICDC, Ms. Rocha requested a medical consultation due to pain in the ribs related to physical attacks reportedly suffered in the context of domestic violence. The nurse who received Ms. Rocha showed discomfort towards her for not speaking English and did not offer her interpretation or translation services. As a result of the language barrier and despite not having stomach pain, Ms. Rocha received gastritis medicine. Since Ms. Rocha was still having pain in her ribs, she contacted the ICDC medical unit again. Later, she was transferred handcuffed to a doctor's office, who turned to be a gynecologist. Ms. Rocha was surprised to learn at that moment that he was a gynecologist, as she thought the doctor would examine her pain in the ribs. The doctor asked for the handcuffs to be removed so she could undress and sit in the gynecological chair. After a hysteroscopy and based on the nurse's attempts to interpret roughly, Ms. Rocha learned that she had a cyst and an infection but at no time she was shown the screen to see it nor did she receive any diagnostic report or prescription. In fact, Ms. Rocha never requested to see a gynecologist and said that she had no gynecological discomfort or pain during the consultation.

Two weeks after, Ms. Rocha was told by the same gynecologist that she still had an infection. He ordered a surgery to remove the cyst. Reportedly, Ms. Rocha was not given appropriate information about the medical procedure planned, and her consent was not sought.

On 28 August 2020, Ms. Rocha was transferred handcuffed from her cell to a hospital. She had difficulties to walk due to the handcuffs in her ankles. She tripped, fell on her knees, and busted into tears. She was then taken to a room where she has given anesthesia and then transferred to the surgery room. When Ms. Rocha woke up after the surgery, she was still not aware of what had happened and was simply told to get dressed. She felt pain in the abdominal area and her knees. She was made to sign a document on a tablet screen, whose content she could not read, as it was in English and the only visible part of the text was the line for her to sign in. Guards took her back to the ICDC facility. Once back at the facility, she was given a pill for the pain. This was the only pill she received as post-surgical treatment. The first night after the surgery, Ms. Rocha was made to sleep on the floor.

On 30 August 2020, at approximately 3 am, Ms. Rocha was taken by guards from ICDC and transferred to the airport. A border officer made her sign a document in English that she could not understand. She did not want to sign because she did not know its content, but the officer took her finger and put her fingerprint on it. Other women in the same situation also refused to sign and were treated in the same way. The deportation of Ms. Rocha took place only three days after the surgery while she was in severe pain. The handcuffs, which were pressing on the area that had been operated on, increased the pain. She was bruised, and her clothes were stuck to her skin because of the dry blood. Ms. Rocha was deported to Mexico on 31 August 2020.

In Mexico, Ms. Rocha consulted a gynecologist to find out what had been done to her. The medical certificate established by the doctor on 21 September 2020 indicates that she had had a laparoscopy for an unspecified cyst and presented scars from laparoscopy with good healing.

While we do not wish to prejudge the accuracy of the information made available to us, we would like to express our utmost concern about the physical and mental integrity of migrants detained in the ICDC and other similar facilities, notably in light of the existing risk of further COVID-19 spread in such facilities. We are particularly concerned about the unhygienic conditions, coupled with the overcrowding that does not allow detained migrants to observe physical distancing, the lack of protective items allocated to both staff and detained migrants, and the lack of access to adequate health care and water. We are also concerned about allegations that ICDC employees have been instructed to work if they exhibit COVID-19 symptoms, are awaiting a COVID-19 test result, or have had a positive COVID-19 test result, which expose other detained migrants and staff at the facility to the virus, risking COVID-19 spread in the larger community. Maintaining health in detention centers is in the interest of not only the persons deprived of liberty but also of the staff of the facility and the general public. Persons deprived of liberty face higher vulnerabilities as the spread of the virus can expand rapidly in confined spaces, given the restricted access to hygiene and health care in some contexts. International standards highlight that States should ensure that persons in detention have access to the same standard of health available in the community, which applies to all persons regardless of citizenship, nationality, or migration status (see WGAD Deliberation No. 11, paras. 23-24).

We also express our serious concern regarding the allegations of unwarranted gynecological surgeries performed without migrant women's full informed consent, including the case of Ms. Yuridia Rocha, highlighted in this letter. Informed consent for any medical treatment, including those related to reproductive health services and childbirth is a fundamental human right. Women have the right to receive full information about recommended treatments so that they can make informed and well-considered decisions. Withholding information or misleading women into consenting, including by the failure to provide interpretation or translation services where necessary, may amount to a gross disregard to the autonomy and choice of a patient. The World Health Organization (WHO) has repeatedly condemned coercive or unconsented medical procedures (including sterilization) and failure to get fully informed consent, recognizing that such treatment not only violates the rights of women to respectful care but can also threaten their rights to life, health, bodily integrity and freedom from discrimination.³ We would also like to draw the attention of your Excellency's Government to report of the Special Rapporteur on violence against women, a human rights-based approach to mistreatment and violence against women in reproductive health services with a focus on childbirth and obstetric violence (A/74/137). In her report, the Expert noted that "women are frequently denied their right to make informed decisions about the health care they receive during childbirth and other reproductive health services; this lack of informed consent constitutes a

³ World Health Organization (WHO) statement, "The prevention and elimination of disrespect and abuse during facility-based childbirth," WHO/RHR/14.23 (2015).

human rights violation that could be attributed to States and national health systems.” Similarly, the Committee on the Elimination of Discrimination against Women, in its General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, para. 18, stated that: “Violations of women’s sexual and reproductive health and rights, such as forced sterilization, forced abortion, forced pregnancy, criminalization of abortion, denial or delay of safe abortion and/or post abortion care, forced continuation of pregnancy, and abuse and mistreatment of women and girls seeking sexual and reproductive health information, goods and services, are forms of gender based violence that, depending on the circumstances, may amount to torture or cruel, inhuman or degrading treatment.” The Working Group on Discrimination against Women and Girls, in its country visit report to the United States (A/HRC/32/44/Add.2) affirmed that “Migrant women are often victims of trafficking and violence, including sexual violence, during their journey to the United States. The experts received complaints that appropriate health care services were not systematically provided to these women in a timely manner, despite the horrifying physical and emotional ordeals they endured and in violation of detention standards.”

We are also concerned about the allegations concerning Ms. Yuridia Rocha’s arbitrary detention as well as lack of access to legal and consular assistance, notably as it is reported that Ms. Rocha reached out to the police after a domestic violence attack and she already had a protection visa under the Violence Against Women Act as a victim of previously reported domestic violence. The Special Rapporteur on the Human Rights of Migrants has affirmed on numerous occasions that States should ensure that there is a strict separation (“firewall” protections) between public services and immigration authorities, allowing migrants to exercise and enjoy their rights without fear of being reported to the immigration authorities (see A/73/178/Rev.1). In his report, he recommended States to establish firewalls to allow access to justice for migrant women and girls who may become victims of any form of violence or abuse, including gender-based violence and sexual abuse. Thus, allowing them to report the crimes, obtain legal assistance, and gain access to the courts to defend their rights.

In connection with the above allegations, we wish to recall that any form of administrative detention or custody of adults 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. 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 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 where addressed, with particular conclusions and recommendations formulated.

We also express our grave concern regarding retaliatory actions against migrant women victims and witnesses of medical abuse, including allegations of retaliatory deportations of victims. All migrants, irrespective of their legal status, should enjoy access to justice, protection, redress, and compensation. In this regard, States should repeal or amend laws and practices that prevent undocumented migrant women from accessing courts or other systems of redress in order to ensure effective access to justice, giving due consideration to the unique barriers and obstacles faced by undocumented migrant women (CEDAW/C/2009/WP.1/R). Including by including robust protections from retaliation and suspending deportation orders and/or issuing temporary residence permits for migrant victims as a means of protection and allowing them to access justice, compensation or participating in additional criminal investigations against perpetrators if they so wish to do so (A/74/191). We would also like to raise concerns on ICE's reversal policy that ended, in 2018, its general presumption of release for pregnant immigrant women.

In light of the above, we also express our grave concern regarding the apparent lack of effective government oversight, including a proper monitoring and accountability mechanism for human rights violations committed in such immigration detention facilities run by private corporations, including by physicians against medical ethics. While the outsourcing of detention centers by nature is highly problematic, to do so through companies such as LaSalle 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. 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. The companies themselves are also responsible for respecting national law and relevant international law.

Regarding the allegations of unsanitary detention conditions, insufficient and malfunctioning washing facilities, and lack of necessary protection measures in light of the COVID-19 pandemic for migrants in detention, we would like to refer your Excellency's Government to Rules 15 and 20 of the Nelson Mandela Rules⁴ requiring that persons in detention be provided with water and with such toilet articles as are necessary for health and cleanliness; as well as with drinking water. We would also wish to refer to the joint statement by UN Special Procedures mandate-holders on the "Covid-19 pandemic and the human rights to water and sanitation"⁵, which deplored the lack of hygiene facilities resulting from inadequate and insufficient water and sanitation services in prisons and detention centers. We would also like to refer to the Joint Guidance Note on the Impacts of the COVID-19 Pandemic on the Human Rights of

⁴ United Nations Standard Minimum Rules for the Treatment of Prisoners

⁵ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26510&LangID=E>

Migrants, of the UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families and UN Special Rapporteur on the human rights of migrants.⁶ The Experts called on States to establish protocols and create adequate conditions in shelters and other structures designed for the reception or stay of migrants, considering the health requirements for protection against the spread of COVID-19 and particular vulnerabilities of people affected by humanitarian crises, such as those displaced and/or living in camps, in readiness and response operations. They also called States to integrate migrants into national COVID-19 prevention and response plans and policies, including by ensuring that the provision of tests, essential medicines, prevention measures, and treatment are provided in a non-discriminatory manner.

Concerning the allegations of deprivation of drinking water to punish migrants that went on hunger strike to protest detention conditions, we would like to refer to Rule 43 of the Nelson Mandela Rules⁷, which specifically prohibits the reduction of a prisoner's drinking water as a form of punishment amounting to torture or other cruel, inhuman or degrading treatment or punishment. In addition, we wish to reiterate the explicit recognition of the human rights to safe drinking water by the UN General Assembly (resolution 64/292) and the Human Rights Council (resolution 15/9), which derives from the right to an adequate standard of living, protected under, inter alia, article 25 of the Universal Declaration of Human Rights. In addition, the UN General Assembly (resolution 70/169) and the Human Rights Council (resolution 33/10) recognized that water and sanitation are two distinct but interrelated human rights. In particular, we recall explicit recognition that "the human right to sanitation entitles everyone, without discrimination, to have physical and affordable access to sanitation, in all spheres of life, that is safe, hygienic, secure, socially and culturally acceptable and that provides privacy and ensures dignity, while reaffirming that both rights are components of the right to an adequate standard of living."

Concerning reports that there continue to be new arrivals to ICDC during the pandemic, we would like to underline that alternatives to detention should be used to relieve the overcrowding situation and allow for the necessary physical distancing for detained migrants awaiting an administrative decision on their immigration status. We urge your Excellency's Government to implement mechanisms to review the use of immigration detention with a view to reducing their populations to the lowest possible level and expand the use of non-custodial community-based alternatives to immigration detention with full access to rights and services, including health care. As research shows, such measures are more cost-effective and address many concerns related to overcrowding of places of detention, which is especially crucial in light of the current pandemic.

In relation to the ICDC, several human rights experts have regularly expressed concerns regarding the outsourcing of inherent State functions, including prisons and immigration detention facilities, to private security companies. In this respect, we would like to note that the heightened duty of care of States to take necessary measures to protect the lives and bodily integrity of individuals deprived of their liberty by the

⁶ [Joint Guidance Note on the Impacts of the COVID-19 Pandemic on the Human Rights of Migrants](#).

⁷ United Nations Standard Minimum Rules for the Treatment of Prisoners.

State also extends to individuals held in private incarceration facilities operating pursuant to an authorization by the State, such as the ICDC and other immigration-related detention facilities run by private companies. The Working Group on the use of mercenaries has repeatedly raised concerns on the use of private security companies in places of deprivation of liberty, including immigration-related detention facilities and called States to terminate this practice (see A/72/286 and A/HRC/45/9, paras. 46-50). Furthermore, the State is required to monitor privatized immigration-related detention facilities and to intervene whenever necessary to protect the human rights of those deprived of their liberty, irrespective of the private operator's obligations. Business entities running such centers have a responsibility to comply with and respect human rights standards in carrying out their operations.

The United Nations Guiding Principles on Business and Human Rights clarify the respective obligations and responsibilities of states and business enterprises in relation to business-related human rights abuses. 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 abuses committed by private actors. 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 for business-related adverse human rights impacts. Moreover, business enterprises have an independent responsibility to respect internationally recognized human rights (Guiding Principles 11 and 12). To discharge this responsibility, they are expected to conduct human rights due diligence in meaningful consultation with affected stakeholders (Guiding Principles 17-21) and remediate adverse impacts which they caused or contributed to (Guiding Principle 22).

We recognize the positive measures taken by your Excellency's Government, including the updated ICE Guidance on COVID-19 to minimize the spread of the virus, as well as the efforts to reduce the detained population.⁸ The Guidance specifically mentions alternatives to detention in order to reduce the number of detainees and allow for the necessary physical distancing. Based on the information received, the implementation of this guidance has already led to the release of some migrants from ICE detention, notably older persons and pregnant women. Nonetheless, we are concerned that the response of ICE and the LaSalle Corrections to COVID-19 may not

⁸ <https://www.ice.gov/coronavirus#wcm-survey-target-id>.

be sufficient to contain the spread of COVID-19 in the ICDC and beyond. There is a serious risk that without immediate actions to protect all migrant and staff in the facility, providing them with adequate COVID-19 related measures including prevention, testing and treatment; more migrants, staff and the wider community will face an increased risk of COVID-19 infections.

We would like to appeal to your Excellency's Government to establish protocols and create adequate conditions in shelters and other structures designed for the reception or stay of migrants, including immigration detention centers and the ICDC, considering the health requirements for protection against the spread of COVID-19. We also call your Excellency's Government to take all necessary measures to include migrants in the national response to counter the COVID-19 pandemic in line with the World Health Organization's advice to Governments to control the spread of the virus and avert a catastrophe, by ensuring migrants' equal access to COVID-19 related measures including prevention, testing and treatment in order to protect the rights of refugees and migrants and the public health and stem the global spread of COVID-19.⁹

We also call your Excellency's Government to exercise adequate oversight over business enterprises such as private prison contractors and other companies providing services that may impact upon the enjoyment of human rights and to put in place adequate monitoring and accountability mechanisms. It has long been recognized that impartial, independent scrutiny of the treatment of those in detention plays a vital role in the prevention of torture and other human rights abuses. In this regard, we appeal to your Excellency's Government to allow the conduction of unannounced inspection and visits by independent international and national bodies, such as NHRIs and civil society organizations, on a regular basis, to places where people are deprived of their liberty, in order to prevent ill treatment and human rights abuses.

We also urge your Excellency's Government to conduct prompt, thorough, independent and impartial investigations into allegations of unwarranted gynaecological surgeries performed on migrant women detained in the ICDC facility without their full informed consent, partially due to lack of interpretation, including the case of Ms. Yuridia Rocha, highlighted in this letter. As well as ensure access to the mechanisms of justice for victims of these violations regardless of their migratory status and, as provided for by national legislation, to just and effective remedies for the harm they have suffered. Including by suspending deportation orders and/or issuing temporary residence permits for migrant victims as a means of protection and to allow them to access justice, helping them to access compensation or to participate in additional criminal investigations against perpetrators, if they so wish to do so.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

⁹ <https://www.who.int/news/item/31-03-2020-ohchr-iom-unhcr-and-who-joint-press-release-the-rights-and-health-of-refugees-migrants-and-stateless-must-be-protected-in-covid-19-response>.

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, particularly concerning the conditions of detention in the ICDC.
2. Please provide information on the measures taken at the facility to contain the spread of COVID-19 and protect the physical and mental integrity of the detained migrants, staff and wider community.
3. Kindly indicate any specific measures taken to ensure adequate access to safe drinking water, facilities for handwashing, sanitation and other hygiene needs in the ICDC.
4. Please provide an update on the result of any independent inspections or investigations carried out in the ICDC or provide an explanation of the absence of such investigations.
5. Please highlight the steps that your Excellency's Government has taken, or is considering to take, including policies, legislation, and regulations, to uphold its obligations to protect against human rights abuse by business enterprises under its territory and/or jurisdiction, and ensuring that business enterprises conduct effective human rights due diligence to identify, prevent, mitigate and account for how they address their impacts on human rights throughout their operation, as set forth by the UN Guiding Principles on Business and Human Rights.
6. Please indicate specific initiatives taken to ensure that those affected by business-related human rights abuse within your territory and/or jurisdiction have access to effective remedy.
7. Please indicate any measures taken by your Excellency's Government to ensure the effective oversight of private companies such as LaSalle Corrections, in line with the United Nations Guiding Principles on Business and Human Rights, such as clarifying the State's expectations that this enterprise, with which it has entered into a contractual agreement, respects human rights and will establish adequate independent monitoring and accountability mechanisms. Further, please inform of any steps to hold LaSalle Corrections personnel accountable for alleged human rights abuses, including those previously raised in AL USA 18/2018, and afford victims access to effective remedies.

8. Please indicate what steps has your Excellency's Government taken to ensure the 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.
9. Please provide information on the number of detainees released to non-custodial alternatives to detention since March 2019 when COVID-19 was declared a pandemic. Further, please inform any steps taken to implement mechanisms to review the use of immigration detention with a view to reducing their populations to the lowest possible level and expand the use of non-custodial community-based alternatives to immigration detention.
10. Please highlight the steps that your Excellency's Government has taken or is considering taking to protect migrant women against violations of women's sexual and reproductive health rights, particularly concerning the above-mentioned allegations of non-consensual gynaecological procedures. Please provide information on any protocols or safeguards to guarantee the adequate provision of interpretation services in the delivery of health care services and ensure migrants' right to make informed decisions about the health care they receive.
11. Please provide information on actions taken by your Excellency's Government to ensure effective access to justice for migrant women, including Ms. Yuridia Rocha Jaramillo, in relation to the allegations of non-consensual gynecological procedures at ICDC. Please provide the details, where available the results, of any investigation, medical examinations, and judicial or other inquiries that may have been carried out. Please indicate any steps taken to sanction those responsible and to ensure victims' effective access to justice, remedy and reparation for the harm suffered.
12. Please provide detailed information on the legal basis and procedural safeguards for the deprivation of liberty of Ms. Yuridia Rocha. Please provide detailed information on the steps your Excellency's Government has undertaken to provide effective access to justice for migrant women and girls who may become victims of any form of violence or abuse, including gender-based violence and sexual abuse, without fear of being reported to the immigration authorities. In this regard, please provide information on the use of "firewalls" protections between public services and immigration authorities.

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.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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 transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was 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 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 LaSalle Corrections.

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

Felipe González Morales
Special Rapporteur on the human rights of migrants

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

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

Jelena Aparac
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

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

Dubravka Šimonovic
Special Rapporteur on violence against women, its causes and consequences

Pedro Arrojo-Agudo
Special Rapporteur on the human rights to safe drinking water and sanitation

Elizabeth Broderick
Chair-Rapporteur of the Working Group on discrimination against women and girls