



United States of America

**Stakeholder Report for the United Nations Universal Periodic Review
Relating to Asylum, Immigration Enforcement, and Detention**

Submitted by The Advocates for Human Rights

a non-governmental organization in special consultative status

and

Illinois Coalition for Immigrant and Refugee Rights

Immigrant Law Center of Minnesota

ISALAH (MN)

Massachusetts Immigrant and Refugee Advocacy Coalition

Professor Stephen Meilli

Northwest Immigrant Rights Project

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Founded in 1983, **The Advocates for Human Rights** (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. The Advocates promotes human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. Since 2007, The Advocates has worked to document human trafficking in the state of Minnesota and develop statewide protocols to provide protection and services for victims. The Advocates is committed to ensuring protection for refugees around the world and provides legal services to more than 800 asylum seekers and youth survivors of labor trafficking in the Upper Midwest region of the United States. Through the National Asylum Help Line, The Advocates has also provided referrals for legal services throughout the United States to more than 1500 Central American women and children upon their release from family detention.

Information about additional joint stakeholders can be found in Annex I to this report.

I. BACKGROUND AND FRAMEWORK

1. The United States'(U.S.) immigration system is riddled with systemic failures to protect human rights and meet its international human rights obligations. Since its last Universal Periodic Review (UPR), the U.S. government has expanded efforts to arrest and deport migrants and to limit access to asylum. The UPR Working Group's examination of the U.S. occurs at a time when the Trump administration has unilaterally implemented major policy changes with the express purpose of separating families to deter asylum seekers, excluding non-citizens on the basis of religion and national origin, and limiting the right to access asylum protection.

A. 2015 Universal Periodic Review of United States of America

1. Immigration Policy

Status of Implementation: Partially Accepted, Not Implemented

2. The U.S. government supported recommendations to review its immigration policy and improve the rights of immigrants.¹ Despite its support of these recommendations, the U.S. government has failed to implement them. The U.S. ignores its *non-refoulement* obligations and routinely bars, turns away, or returns individuals who are at risk of persecution or torture in their home countries.

2. Due process in immigration proceedings

Status of Implementation: Partially Accepted, Not Implemented

3. The U.S. government partially accepted a recommendation from Honduras that it ensure due process in all immigration proceedings, especially for families and unaccompanied children.² The U.S. stated that "Non-citizens...facing removal receive significant protocol protections" and that "the best interest of the child is one factor in determinations made by immigration judges."³ In spite of this, access to due process has significantly deteriorated since the last review.

3. Detention on non-U.S. citizens

Status of Implementation: Partially Accepted, Not Implemented

4. The U.S. government partially supported four recommendations regarding detention of immigrants and cruel, inhuman, and degrading detention conditions.⁴ The U.S. also accepted in part recommendations concerning forced labor,⁵ stating that "U.S. federal labor and employment laws generally apply to all workers, regardless of immigration status."⁶

5. Conditions of detention for all non-U.S. citizens continue to be poor, in some cases amounting to cruel, inhuman, and degrading treatment or punishment. Increased detention by Customs and Border Patrol along the U.S.-Mexico border in overcrowded and unsanitary conditions has resulted in the deaths of at least 3 detained children. "Voluntary" forced labor in immigration detention centers remains a serious problem.

II. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

Rights of refugees and asylum seekers

2. **The United States' continued and growing reliance on expedited administrative removal procedures and streamlined criminal prosecution programs put individuals at risk of being returned to countries where they reasonably believe they will be in danger of torture or persecution.** Summary procedures bypass a hearing in front of an immigration judge, afford little opportunity to consult with legal counsel, and risk depriving individuals of notice of potential refugee protection. Summary removal procedures include expedited removal of "arriving aliens" including asylum seekers,⁷ reinstatement of prior removal orders,⁸ expedited removal of persons convicted of aggravated felonies,⁹ and stipulated removal, which typically is negotiated between a detained person and an Immigration Customs Enforcement (ICE) Enforcement and Removal Officer without affording access to counsel.¹⁰ Of particular concern is the United States' continued use of expedited removal and fast-track removal dockets for unaccompanied children and families with children from Central America who are seeking asylum.
3. In addition, the Streamline initiative (created in 2005 as Operation Streamline to criminally prosecute people who illegally enter the United States in certain geographic regions along the U.S.-Mexico border) allows for criminal prosecution, conviction, and sentencing prior to being afforded an opportunity to seek protection in violation of international obligations. Under Streamline, asylum seekers may be criminally charged, convicted, and sentenced for illegal entry or illegal re-entry prior to being afforded the right to seek asylum or protection from torture, even though the illegal entry or re-entry is a direct result of their flight. In May 2016, the U.S. Department of Homeland Security (DHS), Office of Inspector General, reported concerns that inconsistent protection of Refugee Convention rights under the Streamline initiative violated U.S. international obligations.¹¹
4. **"Zero Tolerance" Policy and Directives to Deter Asylum Seekers at the Mexico-U.S. Border.** Former Attorney General Jeff Sessions announced in May 2018 a "Zero Tolerance" policy for illegal entry along the Southwest border of the United States. In an effort to deter asylum seekers, everyone caught, including those traveling with children, would be prosecuted by the Department of Justice (DOJ), and children would be separated "as required by law."¹² Following domestic and international backlash, President Trump signed Executive Order 13841 on June 20, 2018, ending the separation of immigrant children from their parents.¹³ This policy separated 2,654 children for a median length of 154 days.¹⁴ However, the order did not address family detention and failed to reunite all children with their parents. In addition, the Streamline/Zero Tolerance policy of criminally prosecuting asylum seekers remain intact. Children continue to be separated from family members at the border.
5. The United States has implemented new directives specifically designed to prevent asylum seekers from entering the U.S. to apply for asylum. Human rights groups documented cases of asylum seekers being turned away from the San Ysidro (between San Diego and Tijuana) port of entry in 2016 and 2017, but turn-backs became common along the entire U.S.-Mexico border in May and June 2018 when Customs and Border Protection (CBP) officers began

telling asylum seekers that the ports were “at capacity” and they would have to wait.¹⁵ Asylum seekers fleeing violence in Central America, including a large number of families with young children, were forced to camp outside for days and weeks without adequate food, water, and toilet facilities in temperatures that sometimes reached 100 degrees.¹⁶ CBP officers used pepper spray and tear gas to disperse Central American migrants, including children, in incidents on November 24 and December 31, 2018.¹⁷

6. **New Border Policies to Deter Asylum Seekers.** In January 2019, the U.S. implemented its “Migrant Protection Protocols” or “Remain in Mexico” program. This program requires asylum seekers to return to Mexico during the pendency of their asylum claims, forcing asylum applicants to wait for their cases to be adjudicated while in acute danger from human rights abuses, gang violence and kidnappings in Mexico.¹⁸ The Remain in Mexico policy diminishes the due process rights of asylum seekers and obstructs their access to counsel. For their day in court, applicants forced to remain in Mexico must come to a remote location at the border, usually a tent or a shipping container, where a remote judge hears their case via video link. If an applicant has an attorney at all¹⁹, that attorney is often not permitted to bring an interpreter or legal assistant and then they are only briefly permitted to meet with their client. When the “hearing” is over the applicant is then sent back over the border. Attorneys who have worked in these makeshift courts describe these hearings as a “faux process,” and one that is designed “to turn people away, noting that “[u]nder the current system, individuals are not able to get full legal information” and it makes it more difficult for asylum seekers to keep up with court dates and get hold of a lawyer in the U.S.”²⁰ The policy and process is “clearly an effort to foreclose asylum.”²¹
7. In July 2019, the United States implemented a new regulation requiring any refugee seeking asylum at the southern U.S. border who has passed through another country to have first asked for and been denied asylum in that country before seeking asylum in the U.S.²² This policy, in effect, removes asylum as an option for individuals from Honduras, El Salvador, Guatemala and others who are fleeing violence and persecution in their home countries and seeking safety in the U.S. The United States Supreme Court ruled in September 2019 that the proposed DHS rule may stand while being litigated in U.S. courts.
8. **Discriminatory Immigration Policies Undermine Refugee Protection.** The Trump Administration has issued a series of discriminatory executive orders and proclamations, including the “Muslim bans”.²³ The U.S. Supreme Court upheld the “Muslim ban 3.0”, now in effect indefinitely for most or all nationals from Iran, Libya, North Korea, Somalia, Syria, and Yemen, as well as government officials from Venezuela and their families. “Muslim ban 4.0”, issued on October 24, 2017 and now expired, halted refugee processing for nationals of Egypt, Iran, Iraq, Libya, Mali, North Korea, Somalia, Sudan, South Sudan, Syria, Yemen, and certain stateless individuals and placed a 90-day ban for all nationals from the targeted countries. It also allows for “extreme vetting” (enhanced screening) for all refugees.
9. The Trump administration has drastically lowered the annual refugee admissions cap from 110,000 to 45,000 in FY18, 30,000 in FY19 and 18,000 in FY20. In practice, refugees are being interviewed and admitted at such a slow rate that the U.S. refugee resettlement program is currently on track to resettle far less than 50% of the annual refugee cap.

10. The administration has attempted to limit Central American asylum claims by overturning longstanding definitions of “particular social group”, disproportionately impacting women asylum seekers. In *Matter of A-B-*, the attorney general overturned a ruling recognizing the particular social group of “Guatemalan married women unable to leave their relationship.” In *Matter of L-E-A-*, the attorney general ruled that a “family” is not a particular social group. Substantial dicta in the *A-B-* decision suggests that domestic violence and gang violence survivors should “generally not be eligible for asylum” and purports to heighten the burden of proof on asylum seekers to establish governmental failure to control non-state actors.²⁴ *Matter of L-E-A-* contains substantial dicta that provide a questionable legal basis for applying this standard across the board and applicants, faced with the risk that courts will read the case too broadly, are forced to argue against the government’s now modified particular social group test.
11. President Trump used executive powers to end Temporary Protected Status (TPS) for nationals of El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan.²⁵
12. **Expansion of Bars to Asylum.** In 2018, the Board of Immigration Appeals issued two decisions which present challenges for asylum seekers who provided even minimal assistance to terrorist organizations, even under extreme duress. The BIA’s decision in *Matter of A-C-M-*²⁶ affirmed that no duress exception is available to the bar to asylum for individuals who are considered to have afforded material support to a terrorist organization, and held for the first time that even extremely minimal support provided under duress will bar asylum seekers from eligibility. In so holding, the BIA denied asylum to a woman who was kidnaped by guerrillas in her native El Salvador, who forced her to undergo weapons training, and made her do the group’s cooking, cleaning, and laundry while remaining its captive. This decision has been criticized by many observers as “turning Congressional intent on its head by punishing the victims of terrorism, and adds insult to injury by labeling these victims as terrorists themselves.”²⁷ Given the extremely broad definitions under U.S. law of terrorist activity and terrorist organizations, this decision is likely to bar numerous asylum seekers with legitimate claims from protection.
13. In *Matter of Negusie*²⁸, the BIA narrowed the duress exception for those who are forced to persecute others under duress. They found that the duress exception was too limited to be afforded to an applicant who was forcibly conscripted into the Ethiopian military, who, “as a result of his refusal to fight against fellow Ethiopians, he was incarcerated for 2 years, subjected to forced labor, beaten, and exposed to the hot sun,” and forced to work as a guard.²⁹ On at least two occasions, he disobeyed orders and helped prisoners despite the torture he suffered.³⁰ More recently, the Acting Attorney General certified the decision to himself and stayed application of the BIA’s prior decision pending his review. Given the pattern of decisions he has certified and statements regarding immigration, a positive outcome of his certification for individuals coerced by persecutors is not expected.
14. **Human rights violations during *refoulement*.** On December 7, 2017, ICE attempted to deport 92 men and women to Somalia. The plane departed Louisiana for Somalia, but was grounded in Senegal where it remained on the runway for 23 hours before returning to Miami. For almost two days, the men and women sat bound and shackled in an ICE-chartered airplane. People aboard the flight reported horrifying conditions, including being beaten, deprived of medications, and forced to urinate in bottles and on themselves. Even

more alarming, ICE made false statements to the U.S. news media about the treatment of the people aboard the flight and attempted to deport them before any investigation into the mistreatment could be made. Following a federal court order preventing immediate deportation so that people on board the flight could seek reopening of their cases,³¹ The Advocates, with other non-governmental organizations and law school clinics, have provided pro bono representation for all of the men and women who wanted to pursue reopening their immigration cases. Many of the cases have been reopened and the men and women provided with an opportunity to present their defenses to deportation. Three of the individuals are not in fact nationals of Somalia and were erroneously included in the group that ICE attempted to return to Somalia.

15. **While federal regulations allow individuals to raise claims for protection from *refoulement* when they fear torture, the U.S. has failed to create an adequate legal mechanism implementing international obligations fully.** Not only are the U.S. evidentiary standards higher than those of the Convention Against Torture (CAT), the United States has implemented CAT *non-refoulement* protection as an extraordinary protection against deportation for individuals who are not eligible for asylum or other discretionary forms of relief because of criminal or other bars. It is a limited form of protection that does not allow for permanent residence or family reunification and permits removal to a third country without adequate guarantees of protection from return to the country where they fear torture.

Rights in the administration of justice for migrants

16. As of December 31, 2018, Immigration and Customs Enforcement (ICE) had 47,486 individuals in its custody, up 22 percent from the 38,810 persons ICE held at the end of September 2016.³² The most striking change over this 27-month period was a dramatic drop in the number of individuals held who had committed serious crimes. Despite the increasing number of individuals ICE detained, fewer and fewer immigrants convicted of serious felonies were arrested and held in custody by the agency. Immigrants who had never been convicted of even a minor violation shot up 39 percent.³³
17. **Since the 2015 UPR, the U.S. government has continued to require mandatory detention of certain categories of immigrants without adequate due process or legal representation.** The U.S. has continued to impose mandatory detention without discretion to release or to place on bond or other supervised release conditions and without access to an individualized custody determination by a court in an overly broad array of cases, including for arriving asylum seekers,³⁴ non-citizens convicted of certain crimes,³⁵ and certain refugees awaiting adjudication of their applications for permanent residence.³⁶ These categorical detention determinations violate international norms of proportionality and non-discrimination.³⁷
18. **Excessive bond amounts lead to prolonged and arbitrary detention for those not subject to mandatory detention laws.** ICE officials and immigration judges deny bond requests and set bonds well above the \$1,500 required minimum.³⁸ The Advocates' court observers at the Immigration Court in Bloomington, MN report that bonds are routinely set much higher, with the minimum bond amount usually set at \$5000.³⁹ National data for the first part of FY 2018

shows median bond amounts across the country ranging from \$5000 to \$15,000.⁴⁰ This practice leads not only to lengthy detention, but also to prolonged separation of families.

19. **Detention of asylum seekers undermines the right to see asylum.** Detention can deter an individual from continuing with their asylum case and creates the risk of re-traumatizing bona fide refugees.⁴¹ Moreover, non-citizens who are detained have a more difficult time establishing their eligibility for asylum because they face hurdles to gathering evidence and seeking legal counsel.⁴² Asylum seekers detained in ICE custody “are significantly less likely to find a lawyer compared with those who aren't detained”; by creating barriers to accessing legal counsel, detention decreases the chances for immigrants to gain asylum.⁴³
20. Arriving asylum seekers in expedited removal proceedings are subject to mandatory detention and may not be released while awaiting their initial “credible fear” review to determine whether they may apply for asylum before an immigration judge.⁴⁴ Individuals subject to mandatory detention are not entitled to a bond hearing before an immigration judge or to independent review of their custody determination by a court while awaiting a credible fear review.⁴⁵
21. Following a determination of credible fear, asylum seekers who are “arriving aliens” – such as those attempting to come into the United States at a port-of-entry – may be released on parole pending their asylum hearings before an immigration judge or while on appeal, but if the detaining authority (ICE) denies parole, the asylum seeker is prevented by regulation from having an immigration judge assess the need for continued custody.⁴⁶
22. In 2019 *Matter of M-S*⁴⁷, the Trump administration attempted to do away with *all* rights to a bond hearing before an immigration judge for those found to have passed the credible fear test, even for those applicants already in the United States.
23. **Limitations on Judicial Independence.** Mandatory deportation laws, automatic prosecutorial programs and streamlined immigration procedures have stripped judges of discretion to consider family ties or length of time in the U.S. in cases involving convictions for aggravated felonies,⁴⁸ false claims to United States citizenship,⁴⁹ illegal reentry following unlawful presence in the United States,⁵⁰ reinstatement of prior orders of removal,⁵¹ findings by an immigration judge of a frivolous asylum claim,⁵² and other reasons. In 2018, the Trump administration further limited judicial independence by imposing quotas on immigration judges which require 700 case completions per year to receive a satisfactory performance review. The president of the National Association of Immigration Judges has stated that the quota system, favoring case completion over careful consideration of evidence and claims for protection, “compromises the integrity of the court”.⁵³ Former Attorney General Sessions also took several steps to limit immigration judges’ ability to exercise discretion in managing their dockets, including eliminating the use of administrative closure in cases where not specifically proscribed by statute and the use of termination of removal proceedings to permit other agencies to process claims for relief.⁵⁴
24. **The United States deports individuals with pending claims before federal courts,** depriving individuals of the opportunity to exhaust all of their remedies and violating *non-refoulement* obligations. In November 2018, DHS deported one of The Advocates’ clients, even though he had a motion to reopen his case that had been pending at the BIA for at least

four months. It is unknown whether the BIA will decide the motion on the merits or administratively close the proceedings as a result of the client's deportation.

25. **The United States fails to ensure that migrants in removal proceedings have access to counsel, a fair trial and fully understand their rights.** Migrants in detention, including children and families, lack access to counsel. U.S. law provides that migrants in removal proceedings have “the privilege of being represented,” but representation must be “at no expense to the Government.”⁵⁵ Representation of detained migrants in removal proceedings, insofar as it is available, is provided by NGOs. Only an estimated 14% of detained migrants receive legal representation.⁵⁶
26. Asylum seekers subject to the “Remain in Mexico” policy face extreme barriers to access to counsel. A very small number of attorneys is able to enter Mexico to provide information and brief advice to some of the tens of thousands of people awaiting hearings. In some cases attorneys must meet with small groups of asylum seekers on the street near the border crossing due to lack of security.
27. The United States fails to provide consistent access to free legal services to people in detention. For example, according to attorneys who have visited the Dilley family detention center, information about how to access pro bono legal services is spread through word of mouth.⁵⁷ Migrants often are unable to understand what they are told about their right to legal counsel as a result of communication problems: many of these women and children are native speakers of an indigenous language, and the information can only be provided to them in English or Spanish.⁵⁸ The legal jargon used provides further challenges to comprehension.⁵⁹ Additionally, while the facilities offer law libraries to the detainees, the resources in these libraries are primarily in English.⁶⁰
28. “Evidence indicates federal employees are interfering with an attorney’s ability to represent clients.”⁶¹ Attorneys who have volunteered at the Dilley facility report that they are held to a set of seemingly arbitrary policies of the private company that owns the facility and that are enforced sporadically, changing from officer to officer and from day to day: hand lotion and hotel soap have been confiscated, and open-toed shoes are sometimes banned.⁶² When attorneys have tried to obtain the list of policies, Dilley officials have refused to provide it.⁶³ Similar practices have been reported at the Karnes facility, where attorneys were not allowed to bring office supplies into the facility.⁶⁴ County jails detaining migrants also impose a variety of rules that can undermine access to counsel. For example, Sherburne County in Minnesota unpredictably changes rules regarding interpreter access and has denied access to a Muslim student attorney because she wore a *hijab*.
29. The rural location of immigration detention centers also impedes detainees’ access to legal counsel. Any progress that has been made in ensuring access to legal representation has been the result of a concerted effort of pro bono attorneys around the country who travel to these facilities, often at personal expense to provide representation to families in detention.
30. **The current administration has undermined programs intended to provide access to counsel and legal information to vulnerable individuals.** For instance, the Trafficking

Victims Protection and Reauthorization Act requires that unaccompanied children be provided access to counsel in removal proceedings to the extent practicable.⁶⁵ However, this administration has ended programs to which the DOJ previously contributed to fund legal fellowships for a limited number of attorneys nationwide to represent unaccompanied children in removal proceedings. The administration has also rolled back and challenged numerous other legal protections for unaccompanied children seeking asylum.⁶⁶

31. **Provision of information about legal rights is limited and inadequate.** The U.S. Department of Justice Executive Office for Immigration Review (EOIR) funds a formal Legal Orientation Programs (LOP) at 38 U.S. detention centers to provide basic legal information and limited referrals to those detained migrants who appear before the immigration courts.⁶⁷ While EOIR should be commended for developing the LOP program and continuing to include the program in its budget, the program does not ensure that all detained migrants in the United States receive information about their legal rights. Detained migrants subject to summary expulsion proceedings and all migrants detained by CBP fall outside the scope of this effective but limited program. In addition, the Trump administration recently attempted to suspend the LOP but resumed the program after Congressional pushback with the statement that the program “would be studied”. Phase 1 of the study appears to undermine previous studies of the LOP.⁶⁸

Immigration detention and conditions of detention

32. **The U.S. government subjects many immigrants to cruel, inhuman, and degrading conditions of detention and subjects some immigrants to prolonged solitary confinement.**
33. On February 27, 2018, the United States Supreme Court delivered its opinion in *Jennings v. Rodriguez*, 583 U.S. ____ (2018), holding that immigration officials are authorized to detain certain aliens in the course of immigration proceedings while they determine whether those aliens may be lawfully present in the country. The Court’s decision effectively renders hundreds of thousands of people subject to mandatory detention without an independent judicial review of custody status.
34. **The United States uses prolonged, indefinite detention to coerce immigrants, refugees, and asylum seekers into giving up claims to remain in the United States and agreeing to be deported.** As Warren Hilarion Joseph, a detained person cited in the amicus brief submitted in the Jennings case, stated: “The conditions were extremely uncomfortable. It was a form of intimidation so we could be forced to ‘sign out’ and be deported. We had to make a decision between that or to stay and suffer. And we were told to do this – to give up – by the corrections officers.”⁶⁹ The Department of Homeland Security’s own Inspector General detailed “egregious violations” found at two detention centers it inspected, including nooses in detainee cells, inadequate medical care, rotten food and other conditions that endangered detainee health.⁷⁰
35. **The United States also uses prolonged, indefinite detention to deter people from seeking asylum.** The United States routinely denies parole requests and holds asylum seekers in detention throughout the pendency of their asylum proceedings.⁷¹ This concern has escalated under the current administration. The January 25, 2017, executive order “Border Security and

Immigration Enforcement Improvements,” directs the Secretary of Homeland Security to “take all appropriate action and allocate all legally available resources to immediately construct, operate, control, or establish contracts to construct, operate, or control facilities to detain aliens at or near the land border with Mexico” and further directs the Secretary of Homeland Security to “immediately take all appropriate actions to ensure the detention of aliens apprehended for violations of immigration law pending the outcome of their removal proceedings or their removal from the country to the extent permitted by law.”⁷² The executive order further directs the Secretary of Homeland Security to take “appropriate action to ensure that parole authority ... is exercised ... only when an individual demonstrates urgent humanitarian reasons or a significant public benefit derived from such parole.”⁷³ In a final blow, the Trump administration announced in August 2019 plans to end the Flores settlement, a decades-old settlement agreement that had set a 20-day limit for detaining children.⁷⁴ The administration issued new regulations that will allow authorities to hold undocumented children and families indefinitely.

36. **Prolonged, indefinite detention results in harms to the people in detention and to their families and communities.** The experiences of several detained persons were detailed in an amicus curiae brief with the U.S. Supreme Court in the *Jennings* case. One detained person Arnold Giammarco, stated: “It was a complete nightmare. The hardest part was being away from my wife and daughter, who was two years old at the time. Watching my daughter behind a pane of glass, I still remember her crying that she wanted me to hold her, she wanted me to play with her like I used to. But I couldn’t.”⁷⁵
37. The U.S. administrative immigrant detention system follows a penal model. The government incarcerates people in locked cells where they wear prison jumpsuits, are shackled during court appearances, and are subject to surveillance and strip searches.⁷⁶
38. **The United States engages in medical neglect of immigrants in its custody.** Delayed or denied medical care is pervasive. Examples include “Mr. Joseph, a decorated combat veteran whose wartime injury to his foot flared up during his detention at Hudson County Correctional Facility in New Jersey. Mr. Joseph ultimately required surgery after years of requests for proper care went unheeded.”⁷⁷ CBP announced in August 2019 that it would not provide flu vaccines to migrant families held in the border detention camps. This, despite the fact that at least three detained children have died, in part from the flu.⁷⁸ In total, 24 immigrants have died in ICE custody during the Trump administration.⁷⁹
39. **Sexual assault and abuse of migrants in detention is a problem of serious concern.**⁸⁰ Over 200 reported complaints of sexual abuse have been filed by immigrant detainees in the past five years,⁸¹ which advocates believe reflect a fraction of the problem.⁸² Lack of governmental transparency⁸³ and barriers to victim reporting make it difficult to accurately assess the magnitude of this problem, but human rights organizations have documented incidents of sexual assault, abuse, and harassment from across the ICE detention system.⁸⁴
40. **The penal model of U.S. immigrant detention includes the use of solitary confinement.** An estimated 300 immigrants are held in solitary confinement at the 50 largest detention centers.⁸⁵ Half of those in solitary confinement were isolated for over two weeks and 1 in 9 was isolated for over two months.⁸⁶
41. Solitary confinement is often used as the first response to infractions of prison rules. For example, 96% of all rules infractions at the Essex County Correctional Facility in Newark,

New Jersey, were punished with solitary confinement during a 2-year time period, resulting in solitary confinement being used against immigrant detainees 428 times during 2013-2015.⁸⁷ One person was placed in solitary confinement for 12 days for damaging an identification wristband; another was placed in solitary confinement for 15 days for refusing to close his food port after he found worms in his meal.⁸⁸

42. Another detained person, Astrid Morataya, stated: “For the entirety of the two-and-a-half years it took to resolve her removal case...Ms. Morataya was detained at the McHenry County Jail in Woodstock, Illinois and the Kenosha County Correctional Center in Kenosha, Wisconsin. Guards treated her as an inmate, and punished her as one. She was twice placed in solitary confinement, once for having a sugar packet in her uniform that she forgot to dispose of at mealtime, and once for not being ready to leave her cell because she had begun menstruating and lagged behind her cellmates while trying to secure menstrual pads.”⁸⁹
43. **Forced labor in immigration detention centers.** The Voluntary Work Program at ICE and private corporation detention centers constitutes forced or compulsory labor for thousands of detained migrants in the U.S. ICE states that the program will reduce the “negative impact of confinement” by decreasing idleness, improving morale, and ensuring “fewer disciplinary incidents.”⁹⁰ Individuals in the Voluntary Work Program do the work necessary for the upkeep of detention centers, including cooking and cleaning, for about \$1 per day.⁹¹ This is work that would otherwise be sourced from individuals outside the detention centers, who would necessarily receive state or federal minimum wage,⁹² from \$7.25 to \$12 an hour.⁹³ Private immigration detention centers operate with contracts issued by the DHS⁹⁴ and make millions by implementing the “Dollar-a-Day” system with detainees.⁹⁵
44. In practice, detained individuals’ work is not voluntary. To extract compliance and labor, they are threatened with solitary confinement.⁹⁶ Detainees are regularly charged for basic goods like food, water, and hygiene products. Without wages from the Voluntary Work Program, most detainees would not have access to these necessities. Many detainees are also forced to work in order to contact their families, as they are charged for phone cards. If they want to stop working, detainees are likely to be threatened with disciplinary action.⁹⁷ For some, refusal to work results in deprivation of privacy. Should a detained individual refuse to work, they can be moved from a two-person room to an open dorm with “round-the-clock lighting and frequent fights.”⁹⁸

RECOMMENDATIONS

45. This stakeholder report suggests the following recommendations for the Government of the United States of America:
46. **Recommendations relating to *non-refoulement*:**
 - Provide specific information about Refugee Convention Article 33 and Convention Against Torture Article 3 protection from *refoulement* to all persons detained by U.S. immigration authorities, including persons detained by Customs and Border Protection in short-term detention facilities and by Immigration and Customs Enforcement in any ICE-operated, ISGA, or contract facility.

- Ensure that all unaccompanied minors are provided age-appropriate information to ensure they understand how they can seek protection in the U.S., as well as access to legal counsel.
- Take measures to ensure that detained asylum seekers have access to legal counsel and the opportunity to pursue their claims for asylum and other forms of relief.
- Provide training to all Border Patrol, Customs and Border Protection, and Immigration and Customs Enforcement officers regarding obligations prohibiting *refoulement* of asylum seekers.
- Take precautions and implement safeguards to prevent deportation of individuals with pending legal claims or potential refugee or other protection claims in the U.S.

47. Recommendations relating to detention and deportation of non-citizens:

- Take measures to address the drastic growth in the number of non-citizens in the federal prison system who have been convicted of criminal charges for immigration offenses.
- End the use of privately owned prison facilities to detain non-citizens.
- Provide medical, rehabilitation, and education services in prisons holding non-citizens equal to the services in facilities holding U.S. citizens.
- Provide access to counsel to all persons detained on civil immigration charges, including persons detained by CBP in short-term detention facilities and by ICE.
- Make public information on the number of persons held in solitary confinement while detained in immigration custody, including the average number of days people were held in solitary confinement. Please include information about persons held under “administrative segregation,” “disciplinary segregation,” or other similar status.
- Make public information about the number of reports of sexual violence which have been received from persons held in immigration custody.
- Develop standards for the Voluntary Work Program within ICE detention facilities to ensure that the work is truly voluntary.
- Ensure that all detention facilities abide by state and federal wage and hour laws.

¹ *Report of the Working Group on the Universal Periodic Review: United States of America.* (20 Jul 2015). U.N. Doc A/HRC/30/12, ¶176.329 Review in depth its migration policy (Congo) ¶176.330 Further improve the rights of immigrants (Senegal) ¶176.340 Re-evaluate mechanisms at the federal, state, and tribal levels, to address disproportionate impact on immigrant women (Maldives). The U.S. also rejected one recommendation to “avoid criminalization of migrants,” stating that “certain immigration offenses are subject to criminal sanction.” *Report of the Working Group on the Universal Periodic Review: United States of America.* (20 Jul 2015). U.N. Doc A/HRC/30/12, ¶176.334 Avoid criminalization of migrants (Uruguay). *Addendum: United States of America.* (14 Sep 2015). U.N. Doc A/HRC/30/12/Add.1, ¶ 19.334.

² *Report of the Working Group on the Universal Periodic Review: United States of America.* (20 Jul 2015). U.N. Doc A/HRC/30/12, ¶176.339 Ensure due process for all immigrants in the immigration proceedings, using the principle of best interest, especially in the case of families and unaccompanied children (Honduras)

³ *Addendum 1: United States of America.* (14 Sep 2015). U.N. Doc A/HRC/30/12/Add.1, ¶18.339

⁴ *Report of the Working Group on the Universal Periodic Review: United States of America.* (20 Jul 2015). U.N. Doc A/HRC/30/12, ¶176.252 Halt the detention of immigrant families and children, seek alternatives to detention and end use of detention for reason of deterrence (Sweden) ¶176.253 Consider alternatives to detention of migrants, particularly children (Brazil) ¶176.254 Treat migrant children in detention with due respect to human rights and work with neighboring countries to address migrant smuggling challenges in order to end human trafficking (Thailand)

⁵ *Report of the Working Group on the Universal Periodic Review: United States of America.* (20 Jul 2015). U.N. Doc A/HRC/30/12, ¶176.262 Repeal the Amendment of slavery against agricultural workers, especially women and children (Bolivarian Republic of Venezuela) ¶176.263 Ensure protection against exploitation and forced labour for all categories of workers, including farm and domestic workers, through such measures as a review of appropriate labour regulations (Canada) ¶176.264 Adopt its normative framework to ensure that all categories of workers enjoy protection from exploitation and forced labour (Algeria) ¶176.331 Effectively respect for the rights of all migrant workers and their family members (Benin) ¶176.333 Ensure the rights of migrant workers, especially in the sector of agriculture where the use of child labourers is a common practice (Uruguay)

⁶ *Addendum 1: United States of America.* (14 Sep 2015). U.N. Doc A/HRC/30/12/Add.1, ¶17

⁷ Immigration and Nationality Act (INA) § 235(b) (1952). In FY 2013, ICE deported about 101,000 people through the expedited removal process, according to the American Immigration Council at <http://immigrationpolicy.org/just-facts/removal-without-recourse-growth-summary-deportations-united-states>.

⁸ Immigration and Nationality Act (INA) § 241(a)(5). (In FY 2013, ICE deported 159,634 individuals based on a reinstated removal order, according to the American Immigration Council, which describes reinstatement as applying to noncitizens who return illegally to the United States after having previously been deported).

⁹ Immigration and Nationality Act (INA) § 238(b) (permitting noncitizens who have not been admitted as lawful permanent residence to the United States and who have been convicted of any of a wide array of crimes defined by Immigration and Nationality Act (INA) §101(a)(42) as “aggravated felonies” to be removed without a hearing).

¹⁰ Immigration and Nationality Act (INA) § 240(d). (Persons who are formally charged and placed in removal proceedings before an immigration judge can give up their right to a hearing and agree to being deported by stipulating to the removal charges against them. These agreements are reviewed on paper by an immigration judge, but no hearing is held to determine eligibility for protection under the Refugee Convention or the Convention Against Torture. According to analysis by the American Immigration Council, the vast majority of stipulated removal orders are entered against noncitizens in detention who have little access to legal counsel or information about their Convention rights and who are subject to inherently coercive conditions when agreeing to be deported without a hearing).

¹¹ The Advocates for Human Rights notes with approval the decision of the DHS Office of Inspector General to address Streamline’s failure to meet Convention obligations.

¹² The United States Department of Justice, “Attorney General Sessions Delivers Remarks Discussing the Immigration Enforcement Actions of the Trump Administration,” accessed Dec. 31, 2018, <https://www.justice.gov/opa/speech/attorney-general-sessions-delivers-remarks-discussing-immigration-enforcement-actions>

¹³ Executive Office of the President, Executive Order 13841 of Jun 22, 2018, 83 FR 29435, 29435-29436. <https://www.federalregister.gov/documents/2018/06/25/2018-13696/affording-congress-an-opportunity-to-address-family-separation>

¹⁴ ACLU, “Family Separation by the Numbers”, available at <https://www.aclu.org/issues/immigrants-rights/immigrants-rights-and-detention/family-separation>

¹⁵ Project on Government Oversight, “Asylum Seekers Being Turned Away No Matter Where They Cross the Border”, <https://www.pogo.org/investigation/2018/11/asylum-seekers-being-turned-away-no-matter-where-they-cross-the-border/>

¹⁶ Project on Government Oversight, “Asylum Seekers Being Turned Away No Matter Where They Cross the Border”, <https://www.pogo.org/investigation/2018/11/asylum-seekers-being-turned-away-no-matter-where-they-cross-the-border/>

¹⁷ Anna Giaritelli, *CBP Investigating Agents’ Use of Tear Gas, Pepper Spray Against Migrants on New Years Eve*, Washington Examiner. Available at <https://www.washingtonexaminer.com/news/cbp-investigating-agents-use-of-tear-gas-pepper-spray-against-migrants-on-new-years-eve>; American Civil Liberties Union, “ACLU Responds to Reports CBP is Using Tear Gas Against Migrants at the Border,” available at <https://www.aclu.org/news/aclu-responds-reports-cbp-using-tear-gas-against-migrants-border>.

¹⁸ State Department Travel Advisories, “Mexico Travel Advisory” Accessed October 1st 2019,

<https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/mexico-travel-advisory.html>

¹⁹ Latin American Working Group: “Remain in Mexico Impacts,” August 8th 2019, Accessed October 1st, 2019

<https://www.lawg.org/infographic-remain-in-mexico-impacts/>. Rates of representation for individuals forced to remain in Mexico under the Migrant Protection Protocols are only 1.2%, according to a LAWG report.

²⁰ Nicole Acevedo, *New border tent courts create a 'faux process' for asylum-seekers, attorneys say*, NBC News, available at https://www.nbcnews.com/news/latino/new-border-tent-courts-create-faux-process-asylum-seekers-attorneys-n1053196?fbclid=IwAR0bM6xf-XNTOC1TfyOrn8mpae_SIT25B-lq-RHfS6Xr4yMYWBydBAS6jxw

²¹ *Tent Courts For Migrant Asylum-Seekers Described As Disorganized*, NPR, available at https://www.npr.org/2019/09/18/761831619/tent-courts-for-migrant-asylum-seekers-described-as-disorganized?fbclid=IwAR0LUlnmwOrPbkyRg3yR2Q0IN_BmQoJJWccmOk5i2fZr7MQTfvcq1YEcca4

²² Asylum Eligibility and Procedural Modifications, Federal Register, 84, 33829, (July 16, 2019).

²³ By executive order in January 2017, “Muslim Ban 1.0” targeted nationals from Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen and halted all refugee processing. After the Ninth Circuit Court of Appeals held that the ban should be blocked, “Muslim Ban 2.0” was issued in March 2017. Legal challenges against this version were dismissed when “Muslim Ban 3.0” was issued on September 24, 2017.

²⁴ The Former Attorney General Jeff Sessions, in a procedurally questionable decision, certified to himself the Board of Immigration Appeals’ decision in *Matter of A-B-* and overturned the particular social group of “Guatemalan married women unable to leave their relationship” that the Board of Immigration Appeals (BIA) had previously recognized in *Matter of A-R-C-G-*. While the holding of *Matter of A-B-* was limited to overturning that particular social group, the decision contained substantial dicta which some adjudicators have subsequently applied to heighten the standard for asylum. For instance, the decision opined that domestic violence survivors and gang violence survivors should “generally not be eligible for asylum”, contrary to decades of precedent from the BIA and federal circuit courts requiring a case by case adjudication of asylum claims and recognizing legitimate claims for protection for survivors of persecution based on a protected ground in the context of domestic and gang violence. The decision also purports to heighten the burden of proof on asylum seekers related to the government’s inability or unwillingness to control persecutors who are non-state actors, in reasoning inconsistent with statutes that distinguish between the legal standards applied to asylum seekers and applicants for protection under the Convention Against Torture (CAT). Numerous circuit courts that have reviewed the *Matter of A-B-* decision have continued to recognize that survivors of domestic violence have legitimate claims for protection. The DOJ was recently permanently enjoined from applying the decision in credible fear interviews for potential asylum applicants. Federal District Court Judge Sullivan held that “there is no legal basis for an effective categorical ban on domestic violence and gang-related claims.” *Grace v. Whitaker*, -F Supp. 3d-, WL 6628081 (D.C. District Court, December 19, 2018).

²⁵ U.S. courts have enjoined the termination orders. See *Ramos, et al. v. Nielsen, et al.*, No. 18-cv-01554 (N.D. Cal. Oct. 3, 2018) (ordering the continued Temporary Protected Status of enrolled nationals of El Salvador, Haiti, Nicaragua, and Sudan); *Saget v. Trump*, No. 18-cv-01599 (E.D.N.Y.) (regarding Haitian TPS holders); *Bhattarai v. Nielsen*, No. 19-cv-731 (N.D. Cal) (ordering the continued Temporary Protected Status of enrolled nationals of Nepal and Honduras).

²⁶ *Matter of Negusie*, 27, Dec. 347 (2018).

²⁷ See e.g. Former Immigration Judge Jeffrey Chase, “*Punishing the Victims: Matter of A-C-M-*,” Jun. 9, 2018, available at <https://www.jeffreyschase.com/blog/2018/6/9/punishing-the-victims-matter-of-a-c-m->

²⁸ *Matter of Negusie*, 27, Dec. 347 (2018).

²⁹ *Matter of Negusie*, 27, Dec. 347 (2018), 348.

³⁰ *Matter of Negusie*, 27, Dec. 347 (2018).

³¹ The Advocates and partner organizations filed a complaint in U.S. District Court in Miami asking the court to stop the deportation, provide medical care, and provide an opportunity to reopen the underlying deportation cases. The court granted a TRO in *Ibrahim et al. v. Acosta et al.*, Case No. 17-24574-CIV-GAYLES in the Southern District of Florida.

³² Transactional Records Access Clearinghouse, “ICE Focus Shifts Away from Detaining Serious Criminals”, 25th June 2019, Accessed October 1, 2019, <https://trac.syr.edu/whatsnew/email.190625.html>

³³ Transactional Records Access Clearinghouse, “ICE Focus Shifts Away from Detaining Serious Criminals”, 25th June 2019, Accessed October 1, 2019, <https://trac.syr.edu/whatsnew/email.190625.html> (Their numbers had dropped by over twelve hundred (-1,253), while total ICE detainees ballooned by over eighty-six hundred (8,676) during the same period).

³⁴ Immigration and Nationality Act (INA) § 235(b)(1)(B)(iii)(IV).

³⁵ Section 236(c) of the INA mandates detention of any alien who is inadmissible by reason of having committed any offense covered in § 212(a)(2); is deportable by reason of having committed any offense covered in INA § 273(a)(2)(A)(ii), (A)(iii), (B), (C), or (D); is deportable under Immigration and Nationality Act (INA) § 237(a)(2)(A)(i) on the basis of an offense for which the alien has been sentenced to a term of imprisonment of at least 1 year; or is inadmissible under Immigration and Nationality Act (INA) § 212(a)(3)(B) or deportable under Immigration and Nationality Act (INA) § 237(a)(4)(B) when the alien is released, without regard to whether the alien is released on parole, supervised release, or probation, and without regard to whether the alien may be arrested or imprisoned again for the same offense.

³⁶ Human Rights Watch, *Costly and Unfair: Flaws in the US Immigration Detention Policy* (May 2010), 8-9. Also available at: <https://www.hrw.org/report/2010/05/06/costly-and-unfair/flaws-us-immigration-detention-policy>

³⁷ Frey & Zhao, *supra* note ix, 310-11.

³⁸ Daniel Bush, *Under Trump, higher immigration bonds mean longer family separations*, PBS NewsHour, accessed Jun. 28, 2018, Available online at:

<https://www.pbs.org/newshour/politics/under-trump-higher-immigration-bonds-mean-longer-family-separations>

³⁹ Information on file with The Advocates for Human Rights, Sept. 26, 2019.

⁴⁰ Transactional Records Access Clearinghouse, “ICE Focus Shifts Away from Detaining Serious Criminals,” 2nd July 2019, Accessed October 1st, 2019, <https://trac.syr.edu/immigration/reports/519/>

⁴¹ Human Rights First, *supra* note iii, at 14-16.

⁴² Immigration and Nationality Act (INA) § 235(b) (1952). In FY 2013, ICE deported about 101,000 people through the expedited removal process, according to the American Immigration Council at <http://immigrationpolicy.org/just-facts/removal-without-recourse-growth-summary-deportations-united-states>; Frey & Zhao, *supra* note ix, at 303.

⁴³ Kylie Kim, *Immigrants held in remote ICE facilities struggle to find legal aid before they’re deported*, Los Angeles Times, accessed Sept. 28, 2017, <https://www.latimes.com/projects/la-na-access-to-counsel-deportation/>.

⁴⁴ Immigration and Nationality Act (INA) § 235(b)(1)(B)(iii)(IV).

⁴⁵ Immigration and Nationality Act (INA) § 236(c).

⁴⁶ See Human Rights First, *Renewing U.S. Commitment to Refugee Protection: Recommendations for Reform on the 30th Anniversary of the Refugee Act 10* (Mar. 2010). (Noting that while Immigration Judges can review ICE’s custody decisions for other immigrant detainees, they are precluded under regulatory language from reviewing the detention of “arriving aliens,” a group that includes asylum seekers who arrive at airports and other U.S. entry points under regulations located primarily at 8 C.F.R. § 1003.19 and § 212.5, as well as § 208.30 and § 235.3); *see also* U.S. Comm’n on Int’l Religious Freedom, *ICE Parole Guideline is an Important First Step to Fix Flawed Treatment of Asylum Seekers in the United States* (Dec. 23, 2009), *available at* http://www.uscirf.gov/index.php?option=com_content&task=view&id=2891&Itemid=126. (Noting low rates of release on parole and citing that New Orleans released only 0.5 percent of asylum seekers, New Jersey less than four percent, and New York eight percent following a finding of credible fear).

⁴⁷ *Matter of MS*, 27, Dec. 509, (2019)

⁴⁸ Deportable Aliens, 8, United States Code, § 1227(a)(2)(A)(iii) states that any alien who has been convicted of an “aggravated felony” as defined by Deportable Aliens, 8, United States Code, § 1101(a)(43) is deportable. Aliens who are unlawfully present in the United States and are convicted of an aggravated felony are deportable subject to expedited proceedings, without a hearing before an immigration judge, pursuant to Deportable Aliens, 8, United States Code, § 1228. A person convicted of an aggravated felony is barred from seeking cancellation of removal pursuant to 8 U.S.C. § 1229b(a)(3).

⁴⁹ Deportable Aliens, 8, United States Code, § 1227(a)(3)(D) states that any alien who falsely claimed U.S. citizenship is deportable. No waiver of inadmissibility is available for false claims to United States citizenship, effectively rendering individuals unable to qualify for cancellation of removal.

⁵⁰ Deportable Aliens, 8, United States Code, § 1182(a)(9)(C)(i)(I) renders permanently inadmissible an individual who is present in the United States for more than 1 year, subsequently departs the United States, and attempts to or does reenter the United States without being admitted.

⁵¹ Deportable Aliens, 8, United States Code, § 1231(a)(5) provides that if the attorney general finds that an alien has illegally reentered the United States after having been removed or departed voluntarily under an order of removal, the original order shall be reinstated and is not subject to reopening.

⁵² Deportable Aliens, 8, United States Code, 1158(d)(5) states that if the attorney general finds that an applicant for asylum has made a frivolous asylum application, the alien shall be permanently ineligible for any immigration benefits in the United States.

⁵³ Yeganeh Torbati, *Head of US immigration judges' union denounces Trump quota plan*, Reuters, Sept. 21, 2018, available at <https://www.reuters.com/article/us-usa-immigration-judges/head-of-u-s-immigration-judges-union-denounces-trump-quota-plan-idUSKCN1M12LZ>

⁵⁴ *Matter of Castro-Tum*, 27, Dec. 271, (2018). Available online at:

<https://www.justice.gov/eoir/page/file/1064086/download>

⁵⁵ INA § 292. See also, American Bar Association, *Reforming the Immigration System: Proposals to Promote Independence, Fairness, Efficiency, and Professionalism in the Adjudication of Removal Cases*, Feb. 2010, at 40, (Noting that while courts may apply a case-by-case approach to determining whether the assistance of counsel would be necessary to provide fundamental fairness, under the United States Constitution's Fifth Amendment due process guarantee, appointment of counsel has been denied in every published case).

⁵⁶ Helen Eisner, *Disabled, Defenseless, and Still Deportable: Why Deportation Without Representation Undermines Due Process Rights of Mentally Disabled Immigrants*, 14:2 *Journal of Constitutional Law* 511, 511-536 (Dec. 2011) <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1044&context=jcl>.

⁵⁷ Interview 1, Oct. 20, 2015.

⁵⁸ Interview 1, Oct. 20, 2015. at 83-84, 109-110.

⁵⁹ Interview 1, Oct. 20, 2015. at 110.

⁶⁰ U.S. Commission on Civil Rights, *With Liberty And Justice For All*, Sept. 2015, http://www.usccr.gov/pubs/Statutory_Enforcement_Report2015.pdf, 102, accessed Sept. 30, 2015.; Inter-American Commission on Human Rights, *Refugees and Migrants in the United States: Families and Unaccompanied Children*, July 24, 2015, Organization of American States, ¶ 148. Also available at: <http://www.oas.org/en/iachr/reports/pdfs/Refugees-Migrants-US.pdf>, Accessed Nov. 3, 2015.

⁶¹ U.S. Commission on Civil Rights.

⁶² Interview 1, Oct. 20, 2015.

⁶³ Interview 1, Oct. 20, 2015.

⁶⁴ U.S. Commission on Civil Rights, *supra* note lxxxi, at 114.

⁶⁵ Deportable Aliens, 8, United States Code, § 1232(a)(5)(D) & (c)(5).

⁶⁶ Kids In Need of Defense, "Timeline Shows How Trump Administration is Rolling Back Protections for Immigrant Children," July 2018, available at <https://supportkind.org/media/timeline-shows-how-trump-administration-is-rolling-back-protections-for-immigrant-children/>; Miranda Spivack, *Before family separations, Trump quietly removed protections for migrant kids*, Salon, July 6, 2018, available at https://www.salon.com/2018/07/06/before-family-separations-trump-quietly-removed-protections-for-migrant-kids_partner/

⁶⁷ Vera Institute of Justice, *Legal Orientation Program*, April 30, 2008. Also available online at:

<http://www.vera.org/project/legal-orientation-program>

⁶⁸ American Immigration Council, *Legal Orientation Program Overview*, (September 6, 2018). Also available at <https://www.americanimmigrationcouncil.org/research/legal-orientation-program-overview>

⁶⁹ 2017 Brief for Americans for Immigrant Justice, et al. as Amicus Curiae, 11, *Jennings v. Rodriguez*, 583 U.S. ___ (2018) (citing Democracy Now!, "Can the U.S. Detain Immigrants Indefinitely? Supreme Court Hears Case as Trump Prepares for Office," *Youtube*, Dec. 2, 2016. Also available at: <https://www.youtube.com/watch?v=pSz2GX6QaWs&t=356s>).

⁷⁰ Department of Homeland Security: Office of Inspector General, *Concerns about ICE Detainee Treatment and Care at Four Detention Facilities*, John V. Kelly, Acting Inspector General, (Washington, D.C.: June 3, 2019), 1-4. Available online at: <https://www.oig.dhs.gov/sites/default/files/assets/2019-06/OIG-19-47-Jun19.pdf>

⁷¹ 2017 Brief for Americans for Immigrant Justice, et al. as Amicus Curiae, 11, *Jennings v. Rodriguez*, 583 U.S. ___ (2018) (citing Democracy Now!, "Can the U.S. Detain Immigrants Indefinitely? Supreme Court Hears Case as Trump Prepares for Office," *Youtube* YouTube, Dec. 2, 2016. Also available at: <https://www.youtube.com/watch?v=pSz2GX6QaWs&t=356s>).

⁷² Exec. Order No. 13767, 82 F.R. 8793 (Jan. 30, 2017).

⁷³ Exec. Order No. 13767, 82 F.R. 8793 (Jan. 30, 2017).

⁷⁴ <https://www.dhs.gov/news/2019/08/21/dhs-and-hhs-announce-new-rule-implement-flores-settlement-agreement>

⁷⁵ 2017 Brief for Americans for Immigrant Justice, et al. as Amicus Curiae, 11, *Jennings v. Rodriguez*, 583 U.S. ___ (2018) (citing Arnold Giammarco, *After 50 Years as a Legal Immigrant, I Spent 18 Months in Immigration Detention Without a Bail Hearing*, Pub. Radio Int'l Radio World, (Nov. 30, 2016), <https://www.pri.org/stories/2016-11-30/after-50-years-legal-immigrant-i-spent-18-months-immigration-detention-without>).

⁷⁶ 2017 Brief for Americans for Immigrant Justice, et al. as Amicus Curiae, 16, *Jennings v. Rodriguez*, 583 U.S. ___ (2018).

⁷⁷ 2017 Brief for Americans for Immigrant Justice, et al. as Amicus Curiae, 17, *Jennings v. Rodriguez*, 583 U.S. ___ (2018).

⁷⁸ Jessica Bursztynsky, *The US won't provide flu vaccines to migrant families at border detention camps*, CNBC, available at <https://www.cnn.com/2019/08/20/the-us-wont-vaccinate-migrant-children-against-the-flu-at-border-camps.html>; Clark Mindock, *Three migrant children die of flu in detention with US authorities refusing to give vaccines, as reports of child molesting emerge*, Independent, available at <https://www.independent.co.uk/news/world/americas/migrant-children-us-flu-vaccine-molest-custody-a9072331.html>

⁷⁹ Hannah Rappleye and Lisa Riordan Seville, *24 immigrants have died in ICE custody during the Trump administration*, NBC News, available at <https://www.nbcnews.com/politics/immigration/24-immigrants-have-died-ice-custody-during-trump-administration-n1015291>

⁸⁰ American Civil Liberties Union, *Sexual Abuse in Immigration Detention Facilities*, <http://www.aclu.org/maps/sexual-abuse-immigration-detention-facilities> (last visited Aug. 28, 2013) (Detailing findings of a Freedom of Information Act request relating to complaints of sexual abuse); Carrie Johnson, “All Things Considered: Immigration Detainees Seek Prison-Rape Protection,” Nat’l Public Radio broadcast, (Dec. 13, 2011), available at <http://www.npr.org/2011/12/13/143638236/immigration-detainees-seek-prison-rape-protection>.

⁸¹ American Civil Liberties Union website <http://www.aclu.org/maps/sexual-abuse-immigration-detention-facilities> (Detailing findings of a Freedom of Information Act request relating to complaints of sexual abuse); Carrie Johnson, “Immigration Detainees Seek Prison-Rape Protection,” Nat’l Public Radio broadcast, (Dec. 13, 2011), Available at <http://www.npr.org/2011/12/13/143638236/immigration-detainees-seek-prison-rape-protection>.

⁸² Carrie Johnson, “Immigration Detainees Seek Prison-Rape Protection,” Nat’l Public Radio broadcast, (Dec. 13, 2011), Available at <http://www.npr.org/2011/12/13/143638236/immigration-detainees-seek-prison-rape-protection>.

⁸³ The Department of Homeland Security is not mandated under law to publish data on sexual violence and has not done so. Human Rights Watch, *Detained and at Risk: Sexual Abuse and Harassment in United States Immigration Detention*, August 2010, at 4. Available at <http://www.hrw.org/node/92630>.

⁸⁴ Human Rights Watch, *Detained and at Risk: Sexual Abuse and Harassment in United States Immigration Detention*, August 2010, at 3. Available at <http://www.hrw.org/node/92630>.

⁸⁵ Ian Urbina & Catherine Rentz, *Immigrants Held in Solitary Cells, Often for Weeks*, N.Y. TIMES (Mar. 23, 2013), <http://www.nytimes.com/2013/03/24/us/immigrants-held-in-solitary-cells-often-for-weeks.html>

⁸⁶ Ian Urbina & Catherine Rentz, *Immigrants Held in Solitary Cells, Often for Weeks*, N.Y. TIMES (Mar. 23, 2013), <http://www.nytimes.com/2013/03/24/us/immigrants-held-in-solitary-cells-often-for-weeks.html>

⁸⁷ 2017 Brief for Americans for Immigrant Justice, et al. as Amicus Curiae, 16, *Jennings v. Rodriguez*, 583 U.S. ___ (2018) (citing N.J. ADVOCATES FOR IMMIGRANT DETAINEES, ET AL., ISOLATED IN ESSEX: PUNISHING IMMIGRANTS THROUGH SOLITARY CONFINEMENT 5-6 (2016), https://www.afsc.org/sites/afsc.civicaactions.net/files/documents/Isolated%20in%20Essex%20Full%20Report%202016_1.Pdf).

⁸⁸ 2017 Brief for Americans for Immigrant Justice, et al. as Amicus Curiae, 16, *Jennings v. Rodriguez*, 583 U.S. ___ (2018) (citing N.J. ADVOCATES FOR IMMIGRANT DETAINEES, ET AL., ISOLATED IN ESSEX: PUNISHING IMMIGRANTS THROUGH SOLITARY CONFINEMENT 5-6 (2016), https://www.afsc.org/sites/afsc.civicaactions.net/files/documents/Isolated%20in%20Essex%20Full%20Report%202016_1.Pdf).

⁸⁹ 2016 Brief for Americans for Immigrant Justice, et al. as Amicus Curiae, 8, *Jennings v. Rodriguez*, 583 U.S. ___ (2018).

⁹⁰ U.S. Immigration and Customs Enforcement, *2011 Operations Manual ICE Performance-Based National Detention Standards*; 2011, Revised 2016. <https://www.ice.gov/doclib/detention-standards/2011/pbnds2011r2016.pdf>

⁹¹ Alexandra Levy, “Fact Sheet: Human Trafficking & Forced Labor in For-Profit Detention Facilities,” The Human Trafficking Legal Center; 2018.

⁹² Southern Poverty Law Center, “SPLC Sues Private Prison Company That Uses Forced Labor of Detained Immigrants in Georgia to Boost Profits,” accessed Apr. 17, 2018, www.splcenter.org/news/2018/04/17/splc-sues-private-prison-company-uses-forced-labor-detained-immigrants-georgia-boost.

⁹³ Wage and Hour Division, “Consolidated Minimum Wage Table,” United States Department of Labor; 2019

⁹⁴ Alexandra Levy, “Fact Sheet: Human Trafficking & Forced Labor in For-Profit Detention Facilities,” The Human Trafficking Legal Center, 2018

⁹⁵ Alexandra Levy, “Fact Sheet: Human Trafficking & Forced Labor in For-Profit Detention Facilities,” The Human Trafficking Legal Center, 2018

⁹⁶ Alexandra Levy, “Fact Sheet: Human Trafficking & Forced Labor in For-Profit Detention Facilities,” The Human Trafficking Legal Center, 2018

⁹⁷ Alexandra Cole, “Prisoners of Profit Immigrants and Detention in Georgia, American Civil Liberties Union of Georgia, 2012

⁹⁸ Alexandra Levy, “Fact Sheet: Human Trafficking & Forced Labor in For-Profit Detention Facilities,” The Human Trafficking Legal Center, 2018

Annex I: Reporting Organizations

The Advocates for Human Rights

330 Second Avenue South, Suite 800, Minneapolis, MN 55401-2211 USA

www.TheAdvocatesForHumanRights.org

Contact Person: Jennifer Prestholdt

612 341 3302 jprestholdt@advrights.org

Founded in 1983, The Advocates for Human Rights is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. The Advocates promotes human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. Since 2007, The Advocates has worked to document human trafficking in the state of Minnesota and develop statewide protocols to provide protection and services for victims. The Advocates is committed to ensuring protection for refugees around the world and provides legal services to more than 800 asylum seekers and youth survivors of labor trafficking in the Upper Midwest region of the United States. Through the National Asylum Help Line, The Advocates has also provided referrals for legal services throughout the United States to more than 1500 Central American women and children upon their release from family detention.

Illinois Coalition for Immigrant and Refugee Rights (ICIRR)

228 S. Wabash, suite 800

Chicago IL 60604 · icirr.org

Contact Person: Fred Tsao

312-332-7360 x213 · ftsao@icirr.org

Founded in 1986, ICIRR is the largest multi-ethnic immigrant rights advocacy organization in Illinois. ICIRR works to empower immigrant communities through organizing, legislative and policy advocacy, outreach and education, coordination of direct service programs regarding citizenship and language access, training and technical support for immigrant-serving organizations, and civic engagement.

Immigrant Law Center of Minnesota (ILCM)

450 North Syndicate Street, Suite 200 · www.ilcm.org

Contact Person: Sylvie Bisangwa

651-641-1011 · sylvie.bisangwa@ilcm.org

Immigrant Law Center of Minnesota (ILCM) is a nonprofit agency that provides immigration legal assistance to low-income immigrants and refugees in Minnesota. ILCM also works to educate Minnesota communities and professionals about immigration matters, and advocates for state and federal policies which respect the universal human rights of immigrants.

ISAIAH (MN)

2356 University Ave W, Suite 405

St. Paul, MN 55114 · 651-376-1047 · www.isaiahmn.org

Contact Person:

Lars Negstad · LNegstad@isaiahmn.org

Established in 2000, ISAIAH is a multi-racial, state-wide, nonpartisan coalition of faith communities and other institutions working for racial and economic justice in Minnesota.

Massachusetts Immigrant and Refugee Advocacy Coalition

105 Chauncy Street, Ste. 901 · miracoalition.org

Contact Person: Eva A. Millona

617-350-5480 x211 · emillona@miracoalition.org

Massachusetts Immigrant and Refugee Advocacy Coalition is a regional advocacy organization to expand immigrant and refugee integration and rights, with offices in Boston and Manchester.

Northwest Immigrant Rights Project (NWIRP)

615 2nd Ave., Ste 400, Seattle, WA 98104 · www.nwirp.org

Contact Person: Jorge L. Baron

206-587-4009 · jorge@nwirp.org

Northwest Immigrant Rights Project (NWIRP) is a nationally-recognized legal services organization founded in 1984. Each year, NWIRP provides direct legal assistance in immigration matters to over 20,000 low-income people from over 160 countries, speaking over 70 different languages and dialects. NWIRP also strives to protect the rights of immigrants through impact litigation, public policy work, and community education. NWIRP serves the community from four offices in Washington State in Seattle, Granger, Tacoma, and Wenatchee.

Stephen E. Meili (Individual)

University of Minnesota Law School; Mondale Hall; 229 -19th Ave. South,
Minneapolis MN 55455

612-625-5515 · smeili@umn.edu (for identification purposes only)