**Targeting Immigrant Rights Defenders**

**in the United States**

ICCPR List of Issues Submission

for the Human Rights Committee

**Reporting Organizations**

 This submission is a collaborative effort coordinated by the International Human Rights Clinic at the University of Washington School of Law, the University of Washington Center for Human Rights, the NWDC Resistance ‘Profit Over Dignity’ project, the University of Notre Dame Law School International Human Rights Advocacy Seminar, the National Immigration Project of the National Lawyers Guild, and the New York University Immigration Clinic.

**Issue Summary**

 The abovementioned organizations submit this report with concern over information indicating that immigrant human rights defenders and community leaders are being surveilled, targeted, and pressed under deportation proceedings by the United States Homeland Security for their public advocacy work to defend immigrant rights and pursue social justice. The defenders have been at the forefront of denouncing inhumane practices of the immigration authorities under which the IACHR and the United Nations have expressly categorized as unlawful and arbitrary practices.[[1]](#footnote-1) As a result, the defenders have been forced to divert scarce resources into fighting ICE’s retaliation against them rather than their effective and non-violent advocacy, thereby impairing their mission to draw attention to immigration detention conditions.

 The United States’ attack on immigrant rights defenders through surveillance, targeting, and deportation has resulted in a chilling effect on the democratic right of freedom of speech within undocumented communities because the threat of deportation has been issued against human rights defenders for their work. Therefore, this report identifies the following issues in need of review by the Human Rights Committee, including: (1) the use of domestic law to arbitrary restrict human rights defenders right to freedom of speech, which severely impacts their lives, their families, and their communities; (2) a lack of judicial protection for immigrant rights defenders in domestic courts; and (3) a lack of transparency impacting access to vital information from immigration enforcement offices.

**iccpr legal framework & concluding Observations**

The United States has ratified the International Covenant on Civil and Political Rights (ICCPR). Article 19 requires that the US ensure the right to freedom of expression and right to hold opinions without interference. Article 2 ensures non-discrimination under the law for all individuals in the United States. Article 3 requires equality under the law. And, Article 25 protects political rights.

In 2014, the Committee recommended that the United States review its policies of mandatory detention and deportation of certain categories of immigrants in order to allow for individualized decisions; take measures to ensure that affected persons have access to legal representation; and to identify ways to facilitate access to adequate health care by undocumented immigrants and immigrants and their families who have been residing lawfully in the United States for less than five years.

The HRC did not include violations against immigrant rights defenders in the List of Issues in 2014 and only made reference to surveillance in the context of national security and terrorism. There have been no follow-up responses to concluding observations regarding immigration or targeting of human rights defenders by The Permanent Mission of the United States in either the April 2015 or October 2015 report.

**Current u.s. government policy and practices**

It is well recognized now that the United States government is deliberately implementing inhumane and discriminatory immigration policies and practices[[2]](#footnote-2). These practices include the use of torture, cruel, inhuman and degrading treatment in detention centers, criminalizing immigration, creating an industry of immigration incarceration profiting over human dignity[[3]](#footnote-3), exploiting workers detained[[4]](#footnote-4), separating families and attacking children and placing the lives of persons in need of protection at greater risk. These policies have been declared arbitrary and unlawful[[5]](#footnote-5).

There are at least 17 identified cases of undocumented activists in the United States who have been targeted for their advocacy against these policies. The Human Rights Committee may have access to 6 of those cases in the testimonies attached to this submission (See Annex, pages 6-17). Among these practices, the United States and immigration authorities have compiled information on human rights defenders by surveillance and civilian infiltrating informants (such as the case of Migrant Justice activist Enrique ‘Kike’ Balcazar), has pursued deportation action against activists that have revealed to the press and national and international bodies inhumane conditions at the Northwest Detention Center in Tacoma, WA (such as the case of Maru Mora Villalpado and Saja Tunkara and his wife ShaCorrie Tunkara), has abruptly deported a leader from the Sanctuary Coalition (such as the case of Jean Montrevile), and detained lawful protestors (such as the case of Alejandra Pablos who arried to the US when she was a baby).

The United States also denies or delays access to defender rights’ records that are required in order to properly advocate for themselves.

**human Rights Committee general comments**

 The Human Rights Committee expressed concern over the mandatory nature of deporting foreigners without regard to elements such as the seriousness of the crimes and misdemeanors committed. But, it did not include the topic of immigrant rights defenders.

**Other un and Regional bodies’ concerns and recommendations**

 The United Nations Working Group on Arbitrary Detention expressed concern over the immigrant defenders’ situation in the United States. [[6]](#footnote-6) The UN High Commissioner of Human Rights also urged the US to protect defenders especially in light of Maru’s deportation case.[[7]](#footnote-7)

 Furthermore, the Inter-American Commission on Human Rights has previously expressed deep concern regarding the United States’ targeting of immigrant human rights defenders and community leaders with detention and deportation.[[8]](#footnote-8) Recently, on December 5th, 2018, prominent immigrants’ defenders throughout the United States testified before the IACHR in a public hearing. In response, Commissioner Margarette May Macaulay alleged that the State’s deliberate practices against human rights defenders “falls within the categories of crimes against humanity”. In addition to concerns regarding ICE’s impunity, Commissioner stated that such violations against the defenders themselves are also violations against their family members and destroys families.

**suggested recommendations**

1. We urge that the Human Rights Committee address the alarming concerns above by including the surveillance, targeting, and deportation of immigrant rights’ defenders on its List of Issues Prior to Review for the United States of America.
2. Urge the United States to immediately cease the discriminatory practice of targeting human rights defenders under the misuse of immigration law enforcement, based on any grounds, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, and birth or other status. The United States must desist, in this context, from any discriminatory measures against them, including intimidation, profiling, confiscation of assets, suspension of activities and exclusion from national consultative processes.
3. Urge the United States to disclose operations, policies, or practices that authorized the surveillance and targeting of immigrants for enforcement actions based on their media appearances, writings, or organizing, on their association with or advocacy for “sanctuary”, amnesty, workers’ rights, or other immigration reforms, on their criticism or protesting of ICE, CBP, DHS, President Trump, detention centers, or immigration policies generally.
4. Urge the United States to conduct an independent investigation of the sudden and unfair deportation of Jean Montrevil, Saja Tunkara and the death of hunger striker Amar Merganzana at the Tacoma Northwest Detention Center.
5. Urge the United States to establish a mechanism to reunite them with their families and communities in the United States.

**Recommended questions for the united states**

1. Has the U.S. government, since 2016, had any operations, policy, or practice that authorized the targeting of immigrants for enforcement actions based on their media appearances, writings, or organizing?
	1. If yes, how has the information about immigrant human rights activists was collected? What tools are usually utilized for these purposes?
2. Has the U.S. government, since 2016, had any operations, policy, or practice that authorized the targeting of immigrants for enforcement actions based on their association with or advocacy for “sanctuary”, amnesty, workers’ rights, or other immigration reforms?
	1. Or, based on their criticism or protesting of ICE, CBP, DHS, President Trump, detention centers, or immigration policies in general?
3. Does the U.S. government believe that it is lawful to target immigrants for deportation because they speak out against deportation or detention policies?
4. Has the U.S. government launched any internal investigations of allegations that human rights defenders have raised about violations of their freedom of speech by various field offices or specific immigration officials.
1. IACHR, Human Rights Situation of Detained and Deported Migrants along the Southern Border of the U.S., March 27, 2012 at<https://www.youtube.com/watch?v=sSWFb3_MKLM> (minute 15:50); IACHR, *Refugees and Migrants in the United States: families and unaccompanied children*, 24 July 2015, OAS/Ser.L/V/II. 155. Human Rights Council, *Report of the Working Group on Arbitrary Detention on its visit to the United States of America,* Un. Doc. A/HRC/36/37/Add.2, 17 July 2017, Human Rights Committee noted in its concluding observations on the fourth periodic report of the United States that “mandatory detention of immigrants for prolonged periods of time without regard to the individual case may raise issues under article 9 of the Covenant.” *Concluding observations on the fourth periodic report of the United States of America,* CCPR/C/USA/CO/4, 23 April 2014, par. 15. Among the recommendations issued by the UPR to the United States Government in the second cycle, the following are worth mentioning: “Put an end to unlawful practices which violate human rights, including… arbitrary detention, and close any arbitrary detention centers… Prevent torture and ill-treatment in places of detention… seek alternatives to detention and end use of detention for reason of deterrence… Consider alternatives to the detention of migrants.” *Report of the Working Group on the Universal Periodic Review*, United States of America, A/HRC/30/12, 20 July 2015, par. 176.203, 176.213, 176.252, 176.253. UN Working Group on Arbitrary Detention, Opinion No. 18/2004, Communication addressed to the United States of America on 07 May 2004; Opinion No. 32/1999, Communication addressed to the United States of America on 04 May 1998; Opinion No. 72/2018 concerning Marcos Antonio Aguilar-Rodriguez (United States of America), A/HRC/WGAD/2017/72, 28 December 2017.

. [↑](#footnote-ref-1)
2. #  IACHR Expresses Concern over Recent Migration and Asylum Policies and Measures in the United States, June 18, 2018; UN High Commissioner for Human Rights, June 18, 2018.

 [↑](#footnote-ref-2)
3. Detention Watch Network (DWN). ICE Lies. Public Deception, Private Profit. Available at <https://www.detentionwatchnetwork.org/sites/default/files/reports/IceLies_NIJC_DWN.pdf> [↑](#footnote-ref-3)
4. Washington State Attorney General lawsuit against GEO. Available at <https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/News/Press_Releases/State%20v%20GEO%20Complaint.pdf> [↑](#footnote-ref-4)
5. UN High Commissioner for Human Rights, June 18, 2018. [↑](#footnote-ref-5)
6. UNWGAD, Preliminary Findings from its visit to the United States of America (11-24 October 2016). Available at<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20746&LangID=E>; [↑](#footnote-ref-6)
7. See, OHCHR, US urged to protect rights defenders as activist Maru Mora Villalpando faces deportation case, February 14, 2018. Available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22657&LangID=E> [↑](#footnote-ref-7)
8. Press Release by IACHR Expresses Concern over Situation of Immigrant Defenders in the United States issued February 16, 2018. Available at<http://www.oas.org/en/iachr/media_center/PReleases/2018/029.asp>; *see also* OAS, IACHR Expresses Concern over Executive Orders on Immigration and Refugees in the United States (February 1, 2017). Available at<http://www.oas.org/en/iachr/media_center/PReleases/2017/008.asp>. [↑](#footnote-ref-8)