

Immigrant Detention in the United States Violations of International and Human Rights Law

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Abstract

This paper addresses, discusses, and analyzes the growing amount of human rights violations within immigrant detention centers throughout the United States. It uses case studies found by legal scholars and then analyzes them through the scope of international law. This paper finds that the United States is in violation of numerous conventions of both international and human rights law in regards to how it practices immigrant detention.

Introduction

Thirty-four thousand. Thirty-four thousand, as of December 2015, is the number of beds the United States has in its immigrant detention centers, beds which are nearly always at capacity.¹ Thousands and thousands of individuals, unaware of what the future holds for them, separated from their families, uprooted from the life they were hoping for or had already achieved, many of whom fear for their lives if they go back to their homelands—the reason many hoped to find refuge in the United States. The detention policies put into place by immigration policy makers have been long-practiced and continue to be the default approach as the numbers of immigrants detained continues to grow exponentially through the passing years.

By all accounts, immigrant detention is the fastest growing incarceration system in the United States.² Much of the population is

unaware of its existence. More importantly, many are uninformed about the practices inside the detention centers. Many of these migrants and asylum-seekers are detained for prolonged periods of time without any evidence that they are a danger to society.³ Inside, they often face cruel and inhumane conditions and are given few resources to aid them through their current situation. It is important for the public to know that this popular immigration policy of the United States is illegal in various ways. The practices within detention centers are in violation of numerous conventions under international law to which the United States is party to; they also violate numerous human rights to which each individual is entitled regardless of where he or she is in the world.

Background and Data

The immigration detention practices and infrastructure in the United States are the largest in the world and growing.⁴ The United States has had the capacity to detain 34,000 immigrants since 2009, up from 27,500 in 2006.⁵ The use of detention against migrants has grown in popularity since the United States Congress expanded the use of detention in 1996 after passing the *Antiterrorism and Effective Death Penalty Act* and the *Illegal Immigration Reform and Immigrant Responsibility Act*.⁶ This legislation brought about mandatory detention for legal immigrants with minor criminal convictions, or those without proper documentation, including refugees.⁷ Those awaiting deportation are held for an average of thirty-eight days, while refugees whose claim for asylum is investigated spend a minimum average of ten months detained, with one case being three and a half years.⁸ Because of the legislation passed in 1996, detention has become the primary enforcement strategy in the United States and has drastically increased the amount of individuals who are detained each year. In 2008 alone, 230,000 people were detained, more than three times the number of people held in detention in 1999.⁹

Violations of International Law

As the practice continues to grow, so does the number of violations of international law that the United States commits against those detained. The United States violates the law in the way it handles grievances, the medical care provided to detainees, and the treatment shown towards the detainees, which is often inhumane and degrading in nature. Detention policies show no respect for family unity, often violate the rights of refugees and asylum seekers, and violate many laws, both domestically and internationally, in regards to due process. This paper will look at how the practice of detention is in strict violation of international law in the areas mentioned above through reports by international political organizations, legal advocacy groups, and the detainees' own personal narratives.

Grievance Procedure Violations

A grievance is a complaint filed when someone believes a wrong has been done against them. In the detention system, a grievance is a formal complaint made when persons wish to report a serious problem or make an official complaint that they believe is grounds for disciplinary action or should be investigated further by administrators.¹⁰ The grievance idea is supposed to allow for detention officials to be kept in check and prevent abuse of power. However, many reports show that grievances filed by detainees are often overlooked or ignored, or that detainees are often denied the chance to even file a grievance.¹¹ In many cases, the detention center officials violate international law, as grievances are guaranteed to individuals detained under international law.¹² The Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT), which entered into force in 1987, is a United Nations treaty to which the United States is a party.¹³ It contains two articles that specifically speak to the issue of grievances. Article 12 states:

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.¹⁴

One example of ignored or improperly investigated grievances comes from the Northwest Detention Center (NWDC) in Tacoma, Washington. After a United States Immigration and Customs Enforcement (ICE) investigation of the NWDC, “several grievances were not addressed in a timely manner; some were actually resolved a month later.”¹⁵ These practices are in strict violation of the CAT. When a grievance is not given attention or is not respectfully treated, the grievance process is undermined and discourages detainees from filing future grievances due to the futility of the process. Undermining the grievance process symbolically and literally takes away a right detainees have under international law.

In regards to grievances, immigrant detention centers have been found not only to violate Article 12 of the CAT, but Article 13 as well. The article states:

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.¹⁶

This article not only demands a prompt and impartial investigation and follow-up on grievances, similar to Article 12, but also requires that detainees have access to file such a grievance and protection from any harm or unfair treatment that might come from filing the complaint. Article 13 is violated by retaliation from detention

officers, as Article 13 states, "...Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given."¹⁷ While retaliation is not allowed under Article 13, detainees continue to observe retaliatory behavior and treatment.¹⁸ One detainee at the Buffalo Federal Detention Center reported to the American Civil Liberties Union (ACLU) that he was beaten and threatened with solitary confinement when he asked for a grievance form.¹⁹ In another instance from the NWDC in Tacoma, Washington, a male detainee filed a grievance reporting stolen property.²⁰ An officer told the detainee that his grievance would not be investigated because "stolen property" was not an appropriate issue for a grievance.²¹ The right to file grievances under the CAT is effectively eliminated when the grievances are not allowed to be filed or are not filed because of fear of retaliation.

Medical Care Violations

Under international law the United States must respect the human rights of every individual while that individual is subject to detention within the nation's jurisdiction, including the right to adequate medical care. This right is universal and was first codified in the 1948 under the United Nation's Universal Declaration on Human Rights (UDHR). Although the UDHR is not binding, it "has inspired a rich body of legally binding international human rights treaties," in which the United States is a signatory.²² Under Article 25 paragraph 1, "[e]veryone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services..."²³

Lack of access to adequate medical care is the most common complaint detainees mention based on reports from legal advocacy groups. As many as 80 percent of detainees were dissatisfied or had experienced problems with medical care.²⁴ Officers are often found to ignore or refuse requests for emergency medical care. For example, Seattle University School of Law noted in an investigation on the

NWDC one instance of ignoring emergency medical care requests.²⁵ When a food poisoning outbreak occurred, over 300 detainees complained of severe abdominal cramps and diarrhea.²⁶ Officers told detainees they had to wait until the in-house medical clinic opened in the morning before they could receive treatment.²⁷ However, the in-house staff could not treat the number of detainees affected by the outbreak and thus many went without care.²⁸ Not only is this in violation of Article 25 of the UDHR, but also Principle 24 under the UN's Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Principle 24 states:

A proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary.²⁹

Another case reported by the ACLU found that the San Diego Correctional Facility and the San Pedro Service Processing Center were also in violation of this human right and UN principle.³⁰ The detainee spent eleven months in immigration custody suffering from extremely painful lesions on his genitals that were increasing in size and frequently of outbreaks.³¹ He regularly complained to staff about the problem and was also reported to have shown blood and discharge in his underpants in order to get medical attention.³² During his eleven months in custody, he received authorization to meet with one oncologist and several urologists; all of these specialists concluded that he required circumcision to alleviate his pain and a biopsy to determine whether he was suffering from penile cancer.³³ However, these recommendations were denied by the United States Public Health Service and the Division of Immigration Health Services because they deemed these procedures to be "elective."³⁴ When he was finally released from immigration detention, the subject received the treatment he required.³⁵ By this

point though, doctors' determined that it was necessary that nearly his entire penis be surgically removed.³⁶

Not only is medical care ignored, inadequate, or denied, but in some cases it can be argued to be inhumane. The ACLU reported one instance after interviewing a Haitian detainee in Florida.³⁷ The detainee had an abscess on his neck and the detention center's clinic observed his condition and instructed him to lie down.³⁸ A physician, nurse, and jail sergeant held him down and without his consent "came at [him] with a knife" and sliced open the abscess.³⁹ The detainee reported that no anesthesia was administered.⁴⁰ A few weeks later his abscess was still continuing to expel pus, but after multiple requests for more medical care he gave up.⁴¹ He told the ACLU, "I think this was abuse. They treated me like an animal".⁴² As a universal human right, program administrators must respect access to adequate health care for detainees. It is their responsibility to meet all medical care requests appropriately.

Cruel, Inhumane and Degrading Treatment/Punitive Actions

International human rights law prohibits cruel, inhumane, and degrading treatment of all people in custody. This prohibition can be found in the UDHR, where, in Article 5, it states, "[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."⁴³ Under the CAT, inhumane and degrading treatment may fit the definition of torture under the convention:

For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or

with the consent or acquiescence of a public official or other person acting in an official capacity . . .⁴⁴

It is also in violation of the International Covenant on Civil and Political Rights, Article 10, which states, “[a]ll persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person.”⁴⁵ Lastly, under Article XXV of the American Declaration of Rights and Duties of Man, any person detained, “has the right to humane treatment during the time he is in custody.”⁴⁶

Under these laws, the United States is not only prohibited from inflicting cruel, inhumane, and degrading treatment (CIDT), but is required to make sure all detainees are protected from such treatment. Sadly, many reports give evidence that—while detained—many immigrant detainees do, in fact, face just such inhumane and degrading treatment.⁴⁷

CIDT has been reported to occur in these detention centers in various forms. For example, officers made degrading comments in the NWDC in Washington, where one officer was reported to refer to Mexican detainees as “*cucarachas*,” a Spanish word which translates to cockroaches in English.⁴⁸ In a more serious case, at the same detention center in Washington, “one officer sprayed cleaning chemicals on detainees’ food while they were eating.”⁴⁹ One of the most disturbing events reported by detainees came after a transfer to Alabama from a detention center in Portland, Oregon, where detainees reported not being allowed to use the restroom for over seven hours during the transfer.⁵⁰ This lack of access resulted in some of the detainees defecating in their seats and having to sit in their own feces for the duration of the process.⁵¹ It would be sufficient to say that the transfer situation described would constitute cruel and unusual punishment based on past court decisions regarding similar situations.⁵²

Many consider punitive disciplinary procedures within immigrant detention to violate articles in the CAT and the International Covenant on Civil and Political Rights (ICCPR) in

regards to CIDT. Immigrant detention is not supposed to be punitive in nature.⁵³ Many detainees at the San Diego Correctional Facility report receiving disciplinary segregation, or solitary confinement, for merely complaining about overcrowding or refusing to have a third detainee sleep on the floor of their two-person cell.⁵⁴ Many would argue that not only are the actions described minor and not deserving of such a harsh disciplinary consequence as solitary confinement, but that the act of solitary confinement itself constitutes CIDT.⁵⁵

These practices in detention centers do not line up with international law on the prohibition of CIDT. States must respect the human rights of those in its custody, ensure that they are treated humanely, and remember that immigration detentions are civil in nature.

Family Unity Violations

The UDHR describes the family as the natural and fundamental group unit of society and states that the family relationship is a right to which all humans are entitled if they choose it and that no one may disrupt that unity.⁵⁶ It is such an important subject that numerous international laws have been put into place to protect the idea of family. For example, the American Declaration of the Rights and Duties of Man includes two articles that form the core of this protection of family life.⁵⁷ Article V states that, “[e]very person has the right to the protection of the law against abusive attacks upon . . . his private and family life.”⁵⁸ Article VI states, “[e]very person has the right to establish a family, the basic element of society and to receive protection therefore.”⁵⁹ It is codified further in the ICCPR. Article 23, paragraph 1 of the ICCPR states that, “[t]he family is the natural and fundamental group unit of society and is entitled to protection by society and the State.”⁶⁰ Article 17 of the ICCPR also addresses the subject stating: “[n]o one shall be subjected to arbitrary or unlawful interference with his privacy, family or correspondence”⁶¹ Specifically, in the case of detained persons, the UN Principles for Detained Persons on the right to family unity states in Principle 19:

A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family, and shall be given adequate opportunity to communicate with the outside world, subject to reasonable conditions and restriction as specified by law or lawful regulations.⁶²

However, the idea of family unity, although respected and protected by international law, is often violated in detention centers. Chen Jiang was an immigrant smuggled into the United States at the age of sixteen.⁶³ He believed that after working for his smugglers in a factory, he had acquired legal status.⁶⁴ He married a United States citizen and had two children before his detention.⁶⁵ He has been detained for fifteen months and reported that he has never seen his youngest child.⁶⁶ Chen says that he cries at night because he has been separated from his family for so long.⁶⁷

Many detainees also report that detention officers disrespect the law regarding visitation. The Detainee Handbook states that each detainee is allowed one hour of visitation.⁶⁸ However, many detainees report that their visits are limited to fifteen to thirty minutes.⁶⁹ Legal experts reported on one visit to a detention center where they witnessed visitors being turned away before visiting hours were officially over, thus denying detainees' access to their family members.⁷⁰ This is an indirect violation of Principle 19 of the UN Principles for Detained Persons, to which the United States is a party.⁷¹ Reports by experts and detainees shed light on the truth: the United States is often in violation of international law at its detention centers when it comes to respecting and protecting family unity.

Violations towards Refugees and Asylum Seekers

Refugees are individuals who seek escape and protection from persecution through residency in another nation. The exact definition created by the United Nations in 1951 refers to a refugee as:

Any person who has a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return it.⁷²

The United Nations stated that the detention of a refugee is undesirable and should be avoided; however, the United States has often used it as its first mode of operation when determining asylum claims.⁷³ This detention of asylum seekers violates Article 26 of the 1951 Convention on Refugees, which states that “[e]ach Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances.”⁷⁴ This article indicates that all who are lawfully in the United States may live and move freely while their case is being decided, and under United States law, any asylum seeker is lawfully in the United States while their status is being determined.⁷⁵ Therefore, in this instance, the United States is violating both international and domestic laws by detaining refugees while their status is verified.⁷⁶ Article 31 of the Convention on Refugees also speaks on the issue of those refugees who are smuggled in or enter the United States illegally without a visa:

The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present

themselves without delay to the authorities and show good cause for their illegal entry or presence.⁷⁷

Refugees often have to flee at a moment's notice with little time to secure a valid visa. The only legal reason the United States has to detain refugees is for purposes of verifying the identity of the person.⁷⁸ Many are detained for much longer.⁷⁹

Due Process Violations

Out of all the concerns of immigrant detention violations, due process is the most evident. There are many factors involved in due process and, therefore, many possible violations. Many involve domestic due process laws, but there are also many practices that violate international law.⁸⁰ Language barriers seem to play a major role.⁸¹ Under the ICCPR, Article 14, paragraph 3:

A person shall be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him.... The free assistance of an interpreter should be provided if the person does not speak or understand the language used in court.⁸²

At the NWDC in Tacoma, Washington, Kuo, a detainee who speaks only Chinese, reported such violations.⁸³ He said that upon his arrival to NWDC he was given an instruction manual, but it was not in Chinese, and he was not offered an interpreter.⁸⁴ Legal advocacy groups noted that at NWDC, there are signs posted on the walls explaining that all telephone calls will be monitored.⁸⁵ Because the signs are in English, non-English speakers, like Kuo, are unaware that their conversations are recorded.⁸⁶

There are allegations that detainees often lack access to legal material and counsel as well, something which is guaranteed to them under international law. The ICCPR, Article 4, paragraph 3, states, “[a] person shall have adequate time and facilities for the preparation

of his defense and to communicate with counsel.”⁸⁷ Since, as reported, law libraries in detention facilities often lack sufficient material, it can be difficult for detainees who are working on their own appeal cases to be successful in achieving these goals. In many centers, detainees are not allowed access to newspapers or the internet, two things they might use to find out what is happening in their countries of origin, which may be useful and necessary as evidence to support an asylum claim.⁸⁸

Those who can afford counsel often find their rights violated as well. Immigrant detention centers are often in remote locations, which can make it difficult for legal counsels to arrive at the facilities to meet with their clients.⁸⁹ Lawyers and detainees often find their meetings being delayed for hours.⁹⁰ Another issue involves lawyer-client confidentiality: mail between lawyers and their clients is often opened by detention officers.⁹¹ In other cases, detainees are not provided private rooms for meetings.⁹²

Immigration laws in the United States are among the most complex in the United States legal system, putting many detainees at a disadvantage during the legal process. There are international and domestic laws in place to protect an individual from being treated unfairly in this process. However, the practices in detention centers have shown little respect for these laws in many cases.

Conclusion

The numerous violations carried out within the immigrant detention system in the United States shine a harsh light on the nation’s immigration policy. The United States has a powerful role in the global arena and, therefore, has an obligation to comply with international legal standards in which it takes part. Many of these detention centers are without proper oversight, and if detention center officials are not held accountable to the standards of international and human rights law it is likely violations will continue to occur. The United States must look for alternatives to current detention procedures that would comply with international and

human rights laws, especially with regards to refugees and asylum seekers. Detained individuals deserve the same respect for their rights and respect under the law as individuals who are not detained. The current practice too often ignores those rights and thus, in the words of Jorge Bustamante, UN Special Rapporteur on the human rights of migrants, “violates the spirit of international law and goals of the international community.”⁹³

Notes

¹ Consolidated Appropriations Act, 2016, H.R. 2029, P.L. 114-113, 114th Cong. at p. 257 (Dec. 18, 2015), <https://www.congress.gov/114/bills/hr2029/BILLS-114hr2029enr.pdf>.

² Gretchen Gavett, Map: “The U.S. Immigration Detention Boom.” *PBS: Frontline* (2011), <http://www.pbs.org/wgbh/frontline/article/map-the-u-s-immigration-detention-boom/> (last visited Mar 31, 2016).

³ American Civil Liberties Union, Prolonged Detention Fact Sheet. 2015, https://www.aclu.org/sites/default/files/assets/prolonged_detention_fact_sheet.pdf (last visited March 31, 2016).

⁴ Globaldetentionproject.org. 2015. *Global Detention Project: United States Profile*. Retrieved 15 November 2015, from <http://www.globaldetentionproject.org/countries/americas/united-states/introduction.html>.

⁵ *Ibid*

⁶ *United States of America: Antiterrorism and Effective Death Penalty Act of 1996* [United States of America], S. 735, 3 January 1996; 104th Congress. (1996). *Illegal Immigration Reform and Immigrant Responsibility Act of 1996*. 104th Congress.

⁷ United Nations. 2008. *Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural Rights, including the Right to Development*. New York City: United Nations: Human Rights Council.

⁸ Seattle University School of Law. 2008. *Voices from Detention: A Report on Human Rights Violations at the Northwest Detention Center*. Tacoma: OneAmerica.

⁹ United Nations. 2008. *Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural Rights, including the Right to Development*. New York City: United Nations: Human Rights Council.

¹⁰ Marty Drapkin, “Does your inmate grievance policy protect you?” *Corrections One*. 2009. available at <http://www.correctionsone.com/corrections/articles/1844067-Does-your-inmate-grievance-policy-protect-you/>; Federal Bureau of Prisons. 2002., U.S. Bureau of Prison Policies (2002).

¹¹ American Civil Liberties Union of Arizona. (2011). *Enduring Abuse in Arizona Immigration Detention Centers*. Phoenix: ACLU.

¹² United Nations, *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)* 2016.

¹³ United Nations, *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. 1984.

¹⁴ *Ibid*

¹⁵ 2007 ICE Annual Review of NWDC, 19-21 2007.

¹⁶ United Nations. 1984. *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. New York City: United Nations.

¹⁷ *Ibid*

¹⁸ American Civil Liberties Union. 2015. *Conditions of Confinement in Immigration Detention Facilities*. ACLU.

¹⁹ *Ibid*

²⁰ Seattle University School of Law. 2008. *Voices from Detention: A Report on Human Rights Violations at the Northwest Detention Center*. Tacoma: OneAmerica.

²¹ *Ibid*

²² UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III)

²³ *Ibid*

²⁴ Seattle University School of Law. 2008. *Voices from Detention: A Report on Human Rights Violations at the Northwest Detention Center*. Tacoma: OneAmerica.

²⁵ *Ibid*

²⁶ *Ibid*

²⁷ *Ibid*

²⁸ *Ibid*

²⁹ UN General Assembly. 1988. *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*. New York City: United Nations.

³⁰ American Civil Liberties Union. 2015. *Conditions of Confinement in Immigration Detention Facilities*. ACLU.

³¹ Email from Tom Jawetz, Staff Attorney, ACLU National Prison Project, to Sunita Patel, Staff Attorney, The Legal Aid Society, April 15, 2007 as cited in American Civil Liberties Union. (2015). *Conditions of Confinement in Immigration Detention Facilities*. ACLU.

³² *Ibid*

³³ *Ibid*

³⁴ *Ibid*

³⁵ *Ibid*

³⁶ *Ibid*

³⁷ Email from Charu al-Sahli, Staff Attorney, FIAC, to Sunita Patel, Staff Attorney, The Legal Aid Society, April 16, 2007 as cited in American Civil Liberties Union. (2015). *Conditions of Confinement in Immigration Detention Facilities*. ACLU.

³⁸ *Ibid*

³⁹ *Ibid*

⁴⁰ *Ibid*

⁴¹ *Ibid*

⁴² *Ibid*

⁴³ UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III).

⁴⁴ UN General Assembly, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment : resolution / adopted by the General Assembly.*, 10 December 1984,

⁴⁵ UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <http://www.refworld.org/docid/3ae6b3aa0.html> [accessed 16 November 2015].

⁴⁶ Inter-American Commission on Human Rights (IACHR), *American Declaration of the Rights and Duties of Man*, 2 May 1948

⁴⁸ Seattle University School of Law. 2008. *Voices from Detention: A Report on Human Rights Violations at the Northwest Detention Center*. Tacoma: OneAmerica

⁴⁹ *Ibid*

⁵⁰ *Ibid*

⁵¹ *Ibid*

⁵² *Mitchell v. Newryder*, 245 F.Supp.2d 200 (D.Me., 2003) (Detainee's complaint sufficiently proved both that he was denied minimal civilized measure of life's necessity and that county jail correctional officer had a culpable state of mind, as required for Eighth Amendment cruel and unusual punishment claim; complaint alleged that detainee was purposefully subjected to dehumanizing conditions when he was denied access to facilities both to go to the restroom and to clean himself up during five hour-period in which he sat in his feces, and that the officer displayed hostility towards him, using insulting and offensive language and expressions); Seattle University School of Law. 2008. *Voices from Detention: A Report on Human Rights Violations at the Northwest Detention Center*. Tacoma: OneAmerica

⁵³ *Ending the Use of Immigration Detention to Deter Migration*. (2015). *Detention Watch Network*.

⁵⁴ American Civil Liberties Union. 2015. *Conditions of Confinement in Immigration Confinement in Immigration Detention Facilities*. ACLU.

⁵⁵ Pizarro, Jesenia and Stenius, Vanja M. K. 2004. "Supermax Prisons: Their Rise, Current Practices, and Effect on inmates." *The Prison Journal*. 84(2): 248-264.

⁵⁶ UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III)

⁵⁷ Inter-American Commission on Human Rights. 2015. *Refugees and Migrants in the United States: Families and Unaccompanied Children*. Washington D.C.: Organization of American States.

⁵⁸ Inter-American Commission on Human Rights (IACHR), *American Declaration of the Rights and Duties of Man*, 2 May 1948.

⁵⁹ *Ibid*

⁶⁰ UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171.

⁶¹ *Ibid*

⁶² UN Commission on Human Rights, *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*, 7 March 1978, E/CN.4/RES/19 (XXXIV), available at: <http://www.refworld.org/docid/3b00f0846c.html> [accessed 18 November 2015].

⁶³ Seattle University School of Law. 2008. *Voices from Detention: A Report on Human Rights Violations at the Northwest Detention Center*. Tacoma: OneAmerica.

⁶⁴ *Ibid*

⁶⁵ *Ibid*

⁶⁶ *Ibid*

⁶⁷ *Ibid*

⁶⁸ *INS Detention Standard: The Detainee Handbook*. ICE. Retrieved from <https://www.ice.gov/doclib/dro/detention-standards/pdf/handbk.pdf>

⁶⁹ Seattle University School of Law. (2008). *Voices from Detention: A Report on Human Rights Violations at the Northwest Detention Center*. Tacoma: OneAmerica

⁷⁰ *Ibid*

⁷¹ UN General Assembly, *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment : resolution / adopted by the General Assembly*, 9 December 1988, A/RES/43/173

⁷² UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137

⁷³ UN Refugee Agency. *The detention of Refugees and Asylum-Seekers by Reason of Their Unauthorized Entry or Presence*. United Nations.

⁷⁴ UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137

⁷⁵ *Ibid*

⁷⁶ *Ibid*

⁷⁷ *Ibid*

- ⁷⁸ Frelick, B. (2005). *U.S. Detention of Asylum Seekers and Human Rights*. *migrationpolicy.org*. Retrieved from <http://www.migrationpolicy.org/article/us-detention-asylum-seekers-and-human-rights>
- ⁷⁹ Seattle University School of Law. (2008). *Voices from Detention: A Report on Human Rights Violations at the Northwest Detention Center*. Tacoma: OneAmerica
- ⁸⁰ *Ibid*
- ⁸¹ *Ibid*
- ⁸² UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171.
- ⁸³ Seattle University School of Law. (2008). *Voices from Detention: A Report on Human Rights Violations at the Northwest Detention Center*. Tacoma: OneAmerica
- ⁸⁴ *Ibid*
- ⁸⁵ *Ibid*
- ⁸⁶ *Ibid*
- ⁸⁷ UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171.
- ⁸⁸ End ICE's Overreliance on Unjust Immigration Detention | National Immigrant Justice Center. National Immigrant Justice Center. Retrieved from <http://www.immigrantjustice.org/end-ices-overreliance-unjust-immigration-detention>; Seattle University School of Law. (2008). *Voices from Detention: A Report on Human Rights Violations*
- ⁸⁹ Parker, A. (2009). *Locked up far away*. New York, NY: Human Rights Watch
- ⁹⁰ SPLC: *Immigrant detention center denying detainees access to attorneys*. (2016). *Southern Poverty Law Center*.
- ⁹¹ Seattle University School of Law. (2008). *Voices from Detention: A Report on Human Rights Violations*. Tacoma: OneAmerica.
- ⁹² *Ibid*
- ⁹³ United Nations. 2008. *Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural Rights, including the Right to Development*. New York City: United Nations: Human Rights Council.