HUMAN RIGHTS IN THE UNITED STATES:

PRIMER ON RECOMMENDATIONS FROM THE INTER-AMERICAN HUMAN RIGHTS COMMISSION & THE UNITED NATIONS

A Resource for Advocates Interested in Using the U.N. and Inter-American Human Rights Commission to Advance Social Justice

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HRI's Human Rights in the U.S. Project builds the capacity of domestic lawyers, policy-makers, and advocates to incorporate a human rights framework into social justice advocacy. As part of this effort, HRI coordinates the Bringing Human Rights Home Lawyers' Network Inter-American Working Group, which provides a forum for members discuss key issues regarding the IAHRS, to exchange information and updates as well as to discuss advocacy and litigation strategies among the members.

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INTRODUCTION TO THE PRIMER

Over the past decade, U.S. social justice advocates have increasingly recognized that international and regional human rights mechanisms are important avenues for seeking human rights accountability. A broad and diverse range of advocates have mobilized, in particular, around United Nations human rights reviews, including treaty compliance reviews, Special Rapporteur visits to the United States, and the U.N. Human Rights Council Universal Periodic Review process, increasing visibility of numerous domestic human rights concerns.

A smaller number of advocates and social justice groups have engaged with the Americas' regional human rights system, **the Inter-American Human Rights System**, which offers additional and complementary tools to seek redress for human rights violations.

Both the U.N. and the Inter-American System offer unique and valuable opportunities for advancing human rights protections in the United States. They are governed by mutually reinforcing standards and the recommendations and findings of human rights experts within each system build upon each other. By using these systems in a complementary and strategic way, advocates can develop a more complete record of human rights conditions in the United States, turn international attention on issues of concern and ultimately influence domestic decision-making.

This primer serves to support a more integrated approach to human rights advocacy by highlighting the value of the Inter-American Human Rights System as a tool for U.S. lawyers and advocates. It offers a resource for ongoing advocacy, synthesizing the key human rights standards that apply to the range of issues that U.S. advocates have already brought before the **Inter-American Commission on Human Rights (IACHR or Commission).**

Section I broadly maps how human rights standards can bolster social justice advocacy. Section II provides insight into the U.S. relationship to the IACHR and the status of Inter-American Commission recommendations and decisions within the United States. This section further describes the specific ways that advocates can use the Commission to raise the visibility of human rights concerns and strengthen human rights accountability, focusing on cases and public hearings.

Section III enumerates the human rights standards that apply to the range of human rights violations advocates have sought to address through the Commission. These issues are categorized as follows: **criminal justice, domestic violence/gender, health/environment**, **immigrant/migrant rights**, **indigenous land**, **national security/military action**, **the right to an adequate standard of living** and **the right to vote**. Distilled from the more than 130 cases and requests for precautionary measures already filed with the Commission, these categories offer a valuable starting point for identifying the connections between international and regional human rights standards. To support a more integrated approach to advocacy, the primer highlights the key articles of the American Declaration on the Rights and Duties of Man and describes the applicable IACHR recommendations and U.N. treaty provisions for each category. It

further includes the recommendations made to the United States during U.N. treaty reviews and those accepted by the United States as part of the Universal Periodic Review (UPR).[1] The result is an overview of the related international and human rights standards that apply to the range of issues U.S. civil society groups have brought to the IACHR.

Emphasizing the overlap between regional and international human rights standards, this Primer is a starting for incorporating human rights standards into social justice advocacy.

For readers interested in learning more, the Appendices include additional resources for understanding the Inter-American system and strategies for integrating human rights into domestic social justice advocacy. This information includes the provisions of the American Declaration (Appendix A); names of cases filed against the U.S. by category (Appendix B);[2] IACHR hearings related to the United States (Appendix C); and resources on using human rights in domestic advocacy (Appendix D).

I. FOUR WAYS TO USE HUMAN RIGHTS IN YOUR WORK

Human rights are internationally accepted norms that provide a minimum floor of protections that enable individuals to meet their basic needs. They are universal: they apply to everyone, without distinction based on race, sex, religion, nationality, age, disability, sexual orientation, social class or other status. Governments must take proactive and affirmative steps to respect and ensure these rights. Fundamental human rights principles are enshrined in human rights agreements, which are interpreted by human rights experts at the international and regional level.

INCORPORATING HUMAN RIGHTS INTO ADVOCACY

Integrating regional and international human rights standards and strategies into your advocacy can foster greater U.S. compliance with existing human rights commitments and obligations. Human rights norms, whether articulated by the IACHR or the United Nations, are reinforcing and, taken together, can bolster claims of human rights violations. By using U.N. and regional mechanisms, civil society can also create opportunities to address decision-makers, identify new coalition partners, influence the interpretations of human rights standards and shed greater light on issues of concern.

The standards presented in this primer can be used in a variety of specific ways to support greater human rights accountability. Specifically civil society can:

1. **INTEGRATE HUMAN RIGHTS NORMS INTO REGIONAL AND INTERNATIONAL ADVOCACY**
   - There are multiple avenues for inclusion, such as
     - At the U.N.: Shadow Reports, Written and Oral Testimony before UN Special Rapporteurs, UPR reports
     - Within the IACHR: Petitions, Briefs, Thematic Hearings, and Site Visit Requests to the IACHR

2. **ADVOCATE FOR LAWS AND POLICIES BASED ON HUMAN RIGHTS PRINCIPLES**
   - Incorporate standards and recommendations into
     - state and local ordinances, policies, resolutions and proclamations
     - communications to federal, state and local actors calling for greater human rights implementation
     - legislative testimony

3. **ARTICULATE HUMAN RIGHTS STANDARDS IN BRIEFS AND ARGUMENTS IN LOCAL, STATE AND FEDERAL COURTS**
   - Include human rights norms and IACHR recommendations as persuasive authority, or an interpretive tool, in order to bolster your legal argument

4. **RAISE PUBLIC AWARENESS OF THE RELATIONSHIP BETWEEN HUMAN RIGHTS AND DOMESTIC LAW**
    - Publicize the use of human rights standards in legal publications, blogs, and websites in order to increase awareness
    - Issue press releases regarding recent IACHR hearings, petitions, and decisions to bolster the influence of the Commission
    - Develop and share effective practices for human rights implementation

II. UNDERSTANDING INTER-AMERICAN HUMAN RIGHTS SYSTEM

A. THE U.S. & THE INTERAMERICAN SYSTEM

The U.S. is a member of the Organization of American States (OAS). Therefore, U.S. advocates can bring human rights concerns to the **Inter-American Commission on Human Rights,** a regional human rights body located in Washington, D.C.[3] The Commission seeks to promote and protect human rights throughout the Americas by monitoring human rights conditions and issuing decisions and recommendations to OAS member states, including the United States. The Commission hears cases, holds thematic and country specific-hearings upon request, and issues reports on human rights issues.[4]

Recognizing the benefits of the IACHR, U.S. advocates have increasingly engaged with the Commission over the past three decades. They have filed cases, requested hearings and sought precautionary measures regarding U.S. human rights violations. In total, more than 130 communications have been filed against the U.S. (this includes cases and requests for precautionary measures).

INTER-AMERICAN HUMAN RIGHTS STANDARDS

The core human rights documents within the Inter-American System are the **American Convention on Human Rights ("the American Convention")** and **the American Declaration on the Rights and Duties of Man ("The American Declaration")**.[5] The United States has signed, but not yet ratified, the American Convention. As a result, the American Declaration must serve as the primary basis for any claims brought to the IACHR against the United States. Indeed, the IACHR and the Inter-American Court of Human Rights have recognized that the American Declaration is a source of "fundamental human rights"[6] and a "source of international legal obligations"[7] for OAS member states. Despite the U.S. failure to ratify the American Convention, the Convention's provisions can be raised as additional authority in U.S. human rights advocacy before the Commission[8] and in other contexts.

U.S PARTICIPATION IN THE INTER-AMERICAN SYSTEM

The U.S. formally participates in cases before the IACHR, submitting legal briefs, offering hearing testimony, and attending working meetings to explore friendly settlement and implementation. The Obama Administration has strengthened engagement with the Inter-American system, yet the United States continues to assert that the American Declaration, and the Commission's recommendations, are not binding on the United States.[9] (In contrast, the U.S. recognizes an obligation to comply with treaty obligations under core international treaties the U.S. has ratified: the International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), and the Convention Against Torture (CAT).[10]

While the IACHR already offers an avenue for accountability, there are ongoing calls for the U.S. to ratify the American Convention for several reasons.[11] First, ratification would address the current U.S. position that U.S. obligations within the Inter-

American System are not binding. Second, ratification of the American Convention would allow U.S. advocates to pursue their claims at the Inter-American Court of Human Rights, the regional judicial body.[12] Finally, ratification of the IACHR could bolster U.S. credibility within the Inter-American system by demonstrating that the U.S. holds itself to the same standards that apply to other countries in the Americas.

In spite of the U.S.'s failure to recognize that IACHR recommendations are binding, the IACHR offers many opportunities for advocacy and the federal government has taken steps to achieve partial compliance with Commission recommendations in a number of cases.[13] Further, while American Declaration provisions are not directly enforceable in domestic courts, they offer a basis to address human rights concerns and can be incorporated into litigation, advocacy and coalition building, just like U.N. treaty standards. Indeed, recent U.S. government involvement in the UPR process (the results of which are not legally binding), has led to an increased focus on human rights implementation. This focus is demonstrated by the creation of a federal Equality Working Group – an ad hoc body comprised of federal agency and department representatives, established as a response to U.S. engagement with the UPR, and which is now focused on implementation CERD.[14] Engagement with the IACHR can similarly lead to a greater government emphasis on incorporating human rights in U.S. law and policy.

The Obama Administration has expressed a greater commitment towards, and willingness to engage with, international and regional fora in recent years. As the U.S. engages with these mechanisms, advocates have an increasing opportunity to further U.S. accountability and push for stronger domestic human rights protections as well as to influence the evolving interpretations of international human rights norms.

THE IACHR AND U.S. TREATY OBLIGATIONS

While the IACHR and the U.N. are separate systems, the interpretations of human rights norms from each system are dynamic and they build upon each other. Indeed, the Inter-American Commission has explicitly recognized that it interprets the American Convention and the American Declaration in light of evolving international standards.[15] Thus, U.S. advocates can incorporate U.N. treaty provisions in advocacy at the Inter-American Commission to both strengthen the basis for claims, and develop stronger IACHR norms and recommendations. Likewise, Inter-American norms can be utilized in U.N. advocacy as well as domestic advocacy, including litigation.

In its 2015 Report to the U.N. Human Rights Council for the UPR, the United States noted that its financial support for the Commission and stated the U.S. "actively participate[s] in IACHR hearings and afford[s] due consideration to the IACHR's recommendations."[16] The Inter-American Commission, for its part, submitted a stakeholder report to the U.N. to inform the U.S. UPR.[17]

B. ADVOCACY OPPORTUNITIES AT THE IACHR

The Commission offers several tools for addressing human rights violations in the United States. Below is a brief overview of the different ways U.S. advocates have used the IACHR to address human rights concerns.[18] This section highlights the multiple benefits advocates can reap through engagement with the regional human rights system. The Commission's Rules of Procedure offer additional guidance on the Commission's functions and specifics on how to engage these tools.[19]

BRINGING CLAIMS AGAINST THE UNITED STATES

1. CASES

The IACHR is a powerful asset in an advocate's toolbox because it is currently the only venue that accepts cases and recommends remedies solely on the basis that the U.S. has violated human rights norms. Any individual or group can file a petition on the basis that the United States (including its states and localities) has violated the human rights of specific persons. The Commission only accepts cases when there are no appropriate remedies available under domestic law (*i.e.*, domestic remedies have been exhausted; or under existing law or procedure there is no access to a remedy). There are a variety of procedural and timing requirements for cases as well.

Cases have two phases: the admissibility phase and the merits phase. To declare a case admissible, the Commission must determine that all of the procedural requirements are met and that a petition presents a colorable claim of a violation of the American Declaration or American Convention. In its admissibility evaluation, the Commission seeks input from the government, and may request additional information from petitioners. The Commission may also hold an admissibility hearing. If the alleged facts, taken to be true, fail to establish a valid claim, the Commission will issue a decision finding the petition inadmissible. In contrast, if the Commission decides a petition is admissible, the case moves on to the merits phase.

During the merits phase, the petitioners and the government present their evidence primarily through briefs and case hearings. The Commission may conduct its own investigations into allegations and advocates can submit expert statements and amicus briefs. As a case proceeds, The Commission may also facilitate "working meetings," bringing petitioners and the United States together to discuss how a case may be resolved amicably.

If petitioners prevail in a case, the Commission concludes the case by issuing a detailed decision with recommendations to address the violations that occurred and prevent future violations. These recommendations include individual relief, such as reparations, apologies, and investigations. Recommendations may also lay out steps the government should take to ensure that law and policy comply with human rights standards. To date, the Commission has issued merits decisions in 26 cases.

Through cases, petitioners can advance advocacy goals in several ways. IACHR proceedings are also a way to develop the record on a particular issue. During hearings, individuals who have suffered human rights violations can testify and tell their story. The United States must articulate government positions, and may share information and

policy rationales. Petitioners can specifically request that state and local authorities participate in hearings and play a role in the proceedings, providing a potential opportunity for dialogue. Cases further offer an opportunity to garner allies through a comprehensive amicus strategy. Additionally, advocates can use cases strategically to raise awareness of an issue by publicizing hearings and decisions.

Once the Commission issues recommendations, there are myriad ways to foster implementation. These include leveraging the Commission's finding into advocacy with federal, state and local governments, as well as community organizing around the recommendations.[20] Part III of this Primer, distills U.S. cases into thematic areas and presents the applicable IACHR and U.N. standards. (Appendix B offers a comprehensive list of U.S. cases at the Commission).

2. PRECAUTIONARY MEASURES

U.S. advocates can request precautionary measures to address "serious and urgent cases" and "prevent irreparable harm to persons."[21] Precautionary measures are meant to prevent harm that is "irreparable" to those facing "imminent risk."[22] These measures are similar to an injunction in domestic court proceedings: they call on government actors to either (a) refrain from taking particular action, or (b) take an immediate action to prevent a human rights violation.

Establishing imminent harm is difficult, but there are fewer procedural barriers for precautionary measures than for cases. Namely, there is no need to show that domestic remedies are exhausted. Additionally, the process for precautionary measures is expedited, on the basis that the underlying concern must be addressed immediately. The IACHR issues precautionary measures in a report to the government, and publicizes these measures through press releases. Once the Commission issues precautionary measures, it is empowered to monitor and supervise state compliance. Precautionary measures, however, are not a substitute for a case. They do not result in an analysis of the relevant law and facts or a final decision on the merits.

Precautionary measures are not binding on the United States and U.S. compliance is generally low. Nevertheless, precautionary measures can be used to demonstrate that current law, policy or practice violates human rights. These measures can be raised in meetings with federal, state, and local officials, and in domestic court proceedings.

Advocates have sought and received precautionary measures in death penalty cases, cases challenging detention and deportation, and in national security cases, among others. Precautionary measures have also been granted relating to the right to medical treatment for undocumented immigrants. (An overview of precautionary measures granted by the IACHR are included in Part III and listed in Appendix B).

THEMATIC HEARINGS

The IACHR also provides advocates with the opportunity to hold hearings to address, and raise awareness of, serious human rights issues without filing a specific case. Thematic hearings may focus on a substantive human rights issue that impacts multiple countries in the region, or on a particular region that experiences interrelated human rights issues. The IACHR also holds general hearings on the human rights situation in

one individual country. Thematic hearings are valuable because they are not tied to the specific facts or violations required for a case, and can be broader in scope. Nor are there procedural requirements for thematic hearings. Individuals, organizations, and coalitions, can request hearings, providing opportunities to address structural, systemic, and cross-cutting issues.

During these hearings, civil society has the opportunity to present information to a panel of commissioners. Civil society, or the IACHR, can also request participation of the relevant government actors (from one or more countries). If present, government officials have an opportunity to make their own presentations. The U.S. has been invited to numerous hearings and actively participates, with broad agency and state department representation.

Hearings also offer advocates an opportunity to educate the Commission and the government on particular issues of concern, and can lay the groundwork for future cases. Because they are often webcast and archived, hearings can increase visibility of an issue. The Commission also issues a press release at the end of each hearing session, offering an opportunity for advocates to garner attention to an issue and the facts on the ground. In recent years, Commission hearings have addressed numerous human rights concerns: solitary confinement, juvenile justice, national security indigenous women's rights, rights of migrant and farm workers, and detention at the U.S.-Mexico Border. Hearings can serve as a catalyst for the Commission to focus on ongoing human rights violations, leading to more sustained focus on an issue. Solitary Confinement and conditions at Guantanamo Bay offer two recent examples.[23] (Appendix C lists hearings on U.S. human rights concerns and links to audio archives, where available).

SITE VISITS AND REPORTS

The Commission visits specific countries or region to conduct fact-finding regarding alleged human rights violations. These visits can take place upon request or at the Commission's discretion. Like thematic hearings, site visits are meant to address widespread issues, rather than individual cases. During the visits, Commission members meet with impacted individuals, nongovernmental organizations, and government officials. A visit is an opportunity to bring relevant stakeholders together, as well as a means to exert pressure on decision-makers. Additionally, visits may result in a formal report on the country visited or on thematic regional issues. Each report highlights the Commission's key findings and recommendations. Site visits can also lead to working meetings with the government and additional opportunities for advocacy.

The Commission has completed several site visits to the U.S. regarding specific petitions, as well as broader areas of concern, including immigration detention.[24] (IACHR reports and recommendations related to the issue areas raised in U.S. communications are included in Part III).

III. U.S. ISSUES AT THE INTER-AMERICAN COMMISSION

This section distills the more than 100 cases and requests for precautionary measures that advocates have brought to the **Inter-American Human Rights Commission** regarding the United States into thematic categories.[25]

Within each category, the Primer presents applicable regional and international human rights standards. Each section begins with a brief synopsis of the petitions filed to date and their disposition. (Here, it is important to note that the Commission has not yet issued decisions in many pending cases). After the brief overview of cases filed, the following norms and recommendations are laid out:

- **Key provisions of the American Declaration;**[26]
- **The Commission's recommendations to the United States** – drawn from IACHR decisions, precautionary measures[27] and IACHR reports on U.S. practice;[28]
- Provisions from the **International Covenant on Civil and Political Rights (ICCPR)**,[29] **the International Convention on the Elimination of All Forms of Racial Discrimination (CERD)**,[30] **and the Convention Against Torture (CAT)**,[31] along with related **Concluding Observations through June 2015;**
- **Recommendations accepted by the U.S. during the 2010 UPR**.[32]

THEMATIC CATEGORIES[33]

We conceived the following categories to reflect the core issues raised in communications to the IACHR related to the United States. These categories were not created by the Commission or any other human rights body.

- **CRIMINAL JUSTICE**
  - **A. CRIMINAL JUSTICE PROCEDURE***
  - **B. DEATH PENALTY**
  - **C. JUVENILE LIFE WITHOUT PAROLE***
- **DOMESTIC VIOLENCE AND GENDER**
- **HEALTH/ENVIRONMENT***
- **IMMIGRANT/MIGRANT RIGHTS**
  - **A. BORDER CONCERNS (Private Violence and Border Control)***
  - **B. IMMIGRATION (Detention/Due Process/Interdiction)**
  - **C. WORKER RIGHTS (Documented and Undocumented)***
- **INDIGENOUS LAND**
- **MILITARY/NATIONAL SECURITY**
  - **A. MILITARY ACTION OUTSIDE THE UNITED STATES**
  - **B. MILITARY POLICY AND DETENTION***
- **RIGHT TO AN ADEQUATE STANDARD OF LIVING***
- **RIGHT TO VOTE**

**An asterisk (*) indicates the categories where the petitions are pending, but the Commission has not issued merits decisions as of June, 2015.*

ADDITIONAL CROSS-CUTTING THEMES

A number of common, structural concerns cut across these thematic categories. These include structural and systemic discrimination, a lack of meaningful access to justice, limited transparency and accountability for human rights violations by government and private actors, as well as the challenges that the U.S. federalist system poses to respecting, protecting and fulfilling human rights. Indeed, the lack of awareness of human rights at the federal, state and local levels is at the root of the broad failure to respect human rights. Due to the prevalence of these cross-cutting concerns, numerous treaty body recommendations, treaty provisions, and articles of the American Declaration on the Rights and Duties of Man appear within multiple issue categories.

1. CRIMINAL JUSTICE

A. CRIMINAL JUSTICE PROCEDURE

Eight petitions filed with the IACHR focus on issues of criminal justice procedure, including inappropriate law enforcement behavior, such as faulty arrests and targeting of radical domestic groups, as well as the prosecution of foreign felons, faulty warrants and entrapment. Three of the cases were filed in the 1970s and were declared inadmissible or never resolved. Of the more recent cases, the Commission found the petition alleging faulty warrants to be inadmissible, and the petition regarding the prosecution of foreign felons was found inadmissible. The one case in this category that is pending in the admissibility stage addresses the denial of justice based on race after the Tulsa race riots that occurred in 1921 (the *Melvin case)*. The case involving the alleged arbitrary arrest of a foreign businessman is pending in the merits phase.

Cases in this category address concerns of due process, discriminatory procedures and inadequate process in the administration of justice. Similar concerns are raised in cases in the Immigration/Immigrant Rights, Military Policy, Detention/National Security, JLWOP and Death Penalty categories.

I. INTERAMERICAN SYSTEM

Relevant Provisions of the American Declaration

- **Art I**: Right to life, liberty, and personal security
- **Art II:** Right to equality before the law
- **Art XVIII:** Right to a fair trial
- **Art XXIV:** Right to petition and receive a decision
- **Art XXV:** Right of protection from arbitrary arrest
- **Art XXVI**: Right to due process of law

Petitions

- Africa, Ramona (Case 10.865; filed April 15, 1991) – *found inadmissible*
- Alexander, John Melvin, et. al (Petition 1207/05; filed March 2, 2007) – *pending an admissibility decision*
- Alikhani, Hossein (Petition 4618/02; filed July 17, 1995, reactivated May 20, 2002) – *found admissible*; *pending a merits decision*
- Bosch and Alvarez Solano (No. 1705; filed February 23, 1971) – *case held in abeyance and resolution unknown*
- Fjellhammer, Viktorsen (No. 1751; filed August 25, 1972) –*inadmissible*
- Thompson (Case 11.629; filed November 1991) – *file closed*
- Valdez, Juan Isidro (No. 1752; filed September 7, 1972) – *inadmissible*
- Walker et. al (Case 12.049; filed July 1995) – *inadmissible*

Reports – none

Recommendations

- **Precautionary Measures** – none

- **Merits Decisions**– none

II. ICCPR

Relevant Provisions

- **Art 2:** Respect and ensure the rights recognized in the Covenant without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status
- **Art 7**: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment
- **Art 9(1)**: Everyone has the right to liberty and security of person; no one shall be subjected to arbitrary arrest or detention
- **Art 9(3)**: Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release
- **Art 9(4)**: Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful
- **Art 10(1)**: All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person
- **Art 14(1)**: All persons shall be equal before the courts and tribunals
- **Art 14(3)**: In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be **informed** promptly and in detail in a language which he understands of the nature and cause of the charge against him; (b) To have **adequate time and facilities** for the preparation of his defence and to communicate with counsel of his own choosing; (c) To be **tried without undue delay** . . .
- **Art 26:** All persons are equal before the law and are entitled without any discrimination to the equal protection of the law

Recommendations

- review [current] practice with a view to **ensuring that the Material Witness Statute and immigration laws are not used so as to detain persons suspected of terrorism** or any other criminal offences with fewer guarantees than in criminal proceedings; the State party should also ensure that those improperly so detained receive appropriate reparation [2006, Concluding Observation, ¶ 19]
- **review [government's current restrictive] approach [to some substantive provisions of the Covenant] and interpret the Covenant in good faith**, in accordance with the ordinary meaning to be given to its terms in their context, including subsequent practice, and in the light of its object and purpose [2006, Concluding Observation, ¶ 10]
- **acknowledge the applicability of the Covenant** with respect to individuals under its jurisdiction but outside its territory, **as well as its applicability in time of war** [2006, Concluding Observation, ¶ 10]
- **robustly address racial disparities in the criminal justice system,** including

by **amending regulations and policies leading to racially disparate impact** at the federal, state and local levels [2014, Concluding Observation, ¶ 6]
- **ensure the retroactive application of the Fair Sentencing Act and reform mandatory minimum sentencing statutes** [2014, Concluding Observation, ¶ 6]

III. CERD

Relevant Provisions

- **Art 5(a)**: Prohibit and eliminate discrimination in the enjoyment of the right to equal treatment before the tribunals and all other organs administering justice
- **Art 5(b)**: Prohibit and eliminate discrimination in the enjoyment of the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution
- **Art 6**: Assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention

Recommendations

- adopt all necessary measures **to eliminate the disproportionate impact that persistent systemic inadequacies in criminal defence programmes for indigent persons have on defendants belonging to racial, ethnic and national minorities** . . . by **increasing its efforts to improve the quality of legal representation provided to indigent defendants** and ensuring that public legal aid systems are adequately funded and supervised [and] allocat[ing] sufficient resources to **ensure legal representation of indigent persons belonging to racial, ethnic and national minorities in civil proceedings**, with particular regard to those proceedings where basic human needs, such as housing, health care, or child custody, are at stake [2008, Concluding Observation, ¶ 22]
- take all necessary steps to **guarantee the right of everyone to equal treatment before tribunals and all other organs administering justice**, including further studies to determine the nature and scope of the problem, and the implementation of national strategies or plans of action aimed at the elimination of structural racial discrimination [2008, Concluding Observation, ¶ 20]
- amend laws and policies leading to racially disparate impacts in the criminal justice system at the federal, state and local levels and implement effective national strategies or plans of action aimed at eliminating structural discrimination [2014, Concluding Observation, ¶ 20]
- ensure that the impact of incarceration on children and/or other dependents is taken into account when sentencing an individual convicted of a non-violent offence and promoting the use of alternatives to imprisonment [2014, Concluding Observation, ¶ 20]

IV. CAT -- N/A

V. UPR

Accepted

- do not prosecute those arrested for terrorist crimes or any other crime in exceptional tribunals or jurisdictions, but bring them to judicial instances legally established, with the protection of due process and under all the guarantees of the American Constitution
- take appropriate legislative and practical measures to prevent racial bias in the criminal justice system

Accepted in Part

- review, reform and adequate its federal and state laws, in consultation with civil society, to comply with the protection of the right to nondiscrimination established by the Convention on the Elimination of all Forms of Racial Discrimination, especially in the areas of employment, housing, health, education and justice

B. DEATH PENALTY

Death penalty petitions constitute, by far, the largest category of petitions filed against the United States (over 70), with merits decisions in more than three dozen of these cases. This is also the category with the largest number of precautionary measures issued to the United States. The Commission itself shown a high level of interest in addressing the Death Penalty, issuing its own report on the topic.

Death penalty cases have challenged the death penalty itself, based on a number of objections including discrimination, lengthy incarceration and deprivation of life and liberty. These cases also raise allegations of inadequate counsel and other procedural deficiencies, such as abuse prior to trial, insufficient consideration of mental disability. Several cases further challenge methods of execution as torture. A number of cases involve foreign-nationals and explicitly address the right to consular access. In the death penalty context, precautionary measures have focused on staying an execution.

Cross-cutting issues raised in death penalty cases include the right to life, the right to a fair trial, and the right to due process, also appear in cases categorized under Criminal Justice Procedure, Military Policy, Detention/National Security, Immigration/Immigrant Rights, and Juvenile Life Without Parole. Death penalty cases also raise issues of federalism. Despite some United States intervention to stop executions, states continue to exercise their authority to execute individuals.[34]

I. INTERAMERICAN SYSTEM

Relevant Provisions of the American Declaration

- **Art I**: Right to life, liberty, and personal security
- **Art II**: Right to equality before the law
- **Art VII**: Right to protection for mothers and children
- **Art XVIII**: Right to a fair trial
- **Art XXV**: Right of protection from arbitrary arrest
- **Art XXVI**: Right to due process of law, and not to receive cruel, infamous or unusual punishment

Petitions

- Due to the volume of petitions in this category, individual cases are listed in Appendix B.

Report – *The Death Penalty in the Inter-American Human Rights System: From Restrictions to Abolition* (2011)[35]

- **International law Requires that States adhere to standards of due process** in death penalty cases . . . and recognize:
  - the right to a fair trial;
  - the right not to be sentenced based on evidence of an unadjudicated crime;
  - the right to consular notification and assistance for foreign nationals

- It is necessary to **ensure the strictest compliance with the right to defense**, including the right to competent state counsel for those who require it, to have legal aid for constitutional motions regarding the imposition of the death penalty and to have sufficient time and means for an adequate defense
- Governments are responsible to **ensure and guarantee the right to equality and non-discrimination** [¶ 141]

- **State Practices that Violate International Human Rights,** include**:**
  - Applying **the death penalty mandatorily** without consideration of the specifics of a case;
  - Failure **to limit the application of the death penalty** to the "most serious" crimes
  - Executing persons who have been tried and sentenced for crimes committed when **they were under 18 years old**;
  - Executing persons pending requests for amnesty pardon or commutation or when they **do not have an appropriate procedure in place for persons sentenced to death to seek pardon or clemency** [¶ 140]

- **To Comply with their Obligations, States Should**[36]
  - Impose a moratorium on executions as a step toward the gradual disappearance of this penalty;
  - Ratify the Protocol to the American Convention on Human Rights to Abolish the Death Penalty;
  - Refrain from any measure that would expand the application of the death penalty or reintroduce it;
  - Ensure compliance with the strictest standards of due process in capital cases;
  - Ensure that domestic legal standards conform to the heightened level of review applicable in death penalty cases; and
  - Ensure full compliance with decisions of the Inter-American Commission and Court, and specifically with decisions concerning individual death penalty cases and precautionary and provisional measures [¶143]

Recommendations

- **Precautionary Measures**[37]
  - Stay executions for petitioners in cases pending before the IACHR
  - Preserve life and physical integrity of petitioners

- **Merits Decisions**[38]
  - provide defendant **with effective remedy**, which includes re-trial in accordance with the due process and fair trial protections
  - review laws, procedures and practices to **ensure that foreign nationals who are arrested or committed to prison or to custody pending trial**

or are detained in any other manner in the United States are informed without delay of their right to consular assistance and that, with his or her concurrence, the appropriate consulate is informed without delay of the foreign national's circumstances, in accordance with the due process and fair trial protections

- **ensure that capital punishment is not imposed upon persons who, at the time his or her crime was committed, were under 18 years of age**
- **ensure that persons who are accused of capital crimes are tried and, if convicted, sentenced in accordance with the rights established in the American Declaration**, including the right to life, liberty and personal security, the right to a fair trial, and the right to due process of law
- **prohibit the introduction of evidence of un-adjudicated crimes** during the sentencing phase of capital trials
- **ensure that defendants in capital proceedings are not denied the right to effective recourse to a competent court or tribunal to challenge the competency of their legal representation** on the basis that the issue was not raised at an earlier stage of the process against them
- **ensure that persons who are accused of capital crimes can apply for amnesty, pardon or commutation of sentence with minimal fairness guarantees,** including the right to an impartial hearing
- **provide reparations to families of petitioners executed** despite precautionary measures staying executions
- **push for urgent passage of the bill for the "Consular Notification Compliance Act" ("CNCA"),** which has been pending with the United States Congress since 2011
- **ensure that the legal counsel provided by the State in death penalty cases is effective, trained to serve in death penalty cases, and able to thoroughly and diligently investigate all mitigating evidence**
- **review its laws, procedures and practices to make certain that no one with a mental disability at the time of the commission of the crime or execution of the death sentence, receives the death penalty or is executed; t**he State should also ensure that anyone accused of a capital offense who requests an independent evaluation of his or her mental health and who does not have the means to retain the services of an independent expert, has access to such an evaluation
- review its laws, procedures and practices to **ensure that solitary confinement is not used as a court-imposed sentence in the case of persons sentenced to death**; ensure that solitary confinement is reserved for only the most exceptional circumstances, in accordance with international standards
- **ensure that persons convicted and sentenced to death have the opportunity to have contact with family members** and access to various programs and activities
- **ensure compliance with the precautionary measures granted by the IACHR for persons facing the death penalty**

II. ICCPR

Relevant Provisions

- **Art 1**: Right to self-determination, to freely pursue economic, social and cultural development
- **Art 2:** Respect and ensure the rights recognized in the Covenant without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status
- **Art 6:** Every human being has the inherent right to life
- **Art 7:** No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment
- **Art 10(1):** All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person
- **Art 10(3):** The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation; Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status
- **Art 14(1)**: All persons shall be equal before the courts and tribunals
- **Art 14(3)**: In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be **informed** promptly and in detail in a language which he understands of the nature and cause of the charge against him; (b) To have **adequate time and facilities** for the preparation of his defence and to communicate with counsel of his own choosing; (c) To be **tried without undue delay** . . .
- **Art 24:** Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State
- **Art 26:** All persons are equal before the law and are entitled without any discrimination to the equal protection of the law

Recommendations

- **review federal and state legislation with a view to restricting the number of offences carrying the death penalty** [2006, Concluding Observation, ¶ 29]
- **assess the extent to which death penalty is disproportionately imposed on ethnic minorities and on low-income population groups**, as well as the reasons for this and adopt all appropriate measures to address the problem [2006, Concluding Observation, ¶ 29]
- **place a moratorium on capital sentences**, bearing in mind the desirability of abolishing the death penalty [2006, Concluding Observation, ¶ 29], [2014, Concluding Observation, ¶ 8]
- **ensure that the death penalty is not imposed as a result of racial bias** [2014, Concluding Observation, ¶ 8]
- **strengthen safeguards against wrongful sentencing to death and subsequent wrongful execution** by ensuring, inter alia, effective legal representation for defendants in death penalty cases, including at the post-

conviction stage [2014, Concluding Observation, ¶ 8]

- **ensure that lethal drugs used for executions originate from legal, regulated sources, and are approved by the United States Food and Drug Administration** and that information on the origin and composition of such drugs is made available to individuals scheduled for execution [2014, Concluding Observation, ¶ 8]
- **consider acceding to the Second Optional Protocol to the International Covenant on Civil and Political Rights,** aiming at the abolition of the death penalty, on the occasion of the 25**th** anniversary of the Protocol [2014, Concluding Observation, ¶ 8]
- **bring the detention conditions of prisoners on death row into line with international standards** [2014, Concluding Observation, ¶ 20]

III. CERD

Relevant Provisions

- **Art 2(1)(c)**: Take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists
- **Art 2(1)(d):** Prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization
- **Art 5(a)**: Prohibit and eliminate discrimination in the enjoyment of the right to equal treatment before the tribunals and all other organs administering justice
- **Art 5(b)**: Prohibit and eliminate discrimination in the enjoyment of the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution
- **Art 6**: Assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention

Recommendations

- adopt all necessary measures **to eliminate the disproportionate impact that persistent systemic inadequacies in criminal defence programmes for indigent persons have on defendants belonging to racial, ethnic and national minorities**, inter alia, by increasing its efforts to improve the quality of legal representation provided to indigent defendants and ensuring that public legal aid systems are adequately funded and supervised . . . [and] allocate sufficient resources to ensure legal representation of indigent persons belonging to racial, ethnic and national minorities in civil proceedings, with particular regard to those proceedings where basic human needs, such as housing, health care, or child custody, are at stake [2008, Concluding Observation, ¶ 22]
- undertake further studies to identify the underlying factors of the substantial

racial disparities in the imposition of the death penalty, with a view to **elaborating effective strategies aimed at rooting out discriminatory practices** . . . [and] **adopt all necessary measures, including a moratorium, to ensure that death penalty is not imposed as a result of racial bias** on the part of prosecutors, judges, juries and lawyers [2008, Concluding Observation, ¶ 23]

- impose a moratorium on the death penalty, at the federal level, with a view to abolishing the death penalty [2014, Concluding Observation, ¶ 20]

IV. CAT

Relevant Provisions

- **Art 1:** "Torture" means any act by which severe pain or suffering is intentionally inflicted on a person
- **Art 2(1)**: Take effective legislative, administrative, judicial or other measures to **prevent acts of torture in any territory under its jurisdiction**
- **Art 2(2)**: No exceptional circumstances whatsoever, whether a state of war or a threat or war, internal political instability or any other public emergency, may be invoked as a justification of torture
- **Art 4:** Ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture [and] **make these offenses punishable by appropriate penalties** which take into account their grave nature.
- **Art 10(1):** Ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment
- **Art 11**: Keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture
- **Art 13**: 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 competent authorities
- **Art 14:** Ensure in its legal system that the victim of an act of torture **obtains redress and has an enforceable right to fair and adequate compensation**, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation
- **Art 16(1)**: Undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity

Recommendations

- **ensure that acts of psychological torture, prohibited by the Convention, are not limited to "prolonged mental harm"** as set out in the State party's understandings lodged at the time of ratification of the Convention, but constitute a wider category of acts, which cause severe mental suffering, irrespective of their prolongation or its duration [2006, Concluding Observation, ¶ 13]
- **adopt clear legal provisions to implement the principle of absolute prohibition of torture in its domestic law without any possible derogation**; derogation from this principle is incompatible with paragraph 2 of article 2 of the Convention, and cannot limit criminal responsibility [2006, Concluding Observation, ¶ 19]
- **ensure that any interrogation rules, instructions or methods do not derogate from the principle of absolute prohibition of torture** and **that no doctrine under domestic law impedes the full criminal responsibility of perpetrators** of acts of torture [2006, Concluding Observation, ¶ 19]
- **ensure that education and training of all law-enforcement or military personnel, are conducted on a regular basis**, in particular for personnel involved in the interrogation of suspects; this should include training on interrogation rules, instructions and methods, and specific training on how to identify signs of torture and cruel, inhuman or degrading treatment; such personnel should also be instructed to report such incidents [2006, Concluding Observation, ¶ 23]
- **ensure,** in accordance with the Convention, **that mechanisms to obtain full redress, compensation and rehabilitation are accessible to all victims of acts of torture or abuse,** including sexual violence, perpetrated by its officials [2006, Concluding Observation, ¶ 28]
- carefully **review its execution methods, in particular lethal injection, in order to prevent severe pain and suffering** [2006, Concluding Observation, ¶ 31]
- **ensure that detained children are kept in facilities separate from those for adults in conformity with international standards**; the State party should address the question of sentences of life imprisonment of children, as these could constitute cruel, inhuman or degrading treatment or punishment [2006, Concluding Observation, ¶ 34]
- **carefully review the use of electroshock devices, strictly regulate their use**, restricting it to substitution for lethal weapons, and eliminate the use of these devices to restrain persons in custody, as this leads to breaches of article 16 of the Convention [2006, Concluding Observation, ¶ 35]
- **review the regime imposed on detainees in "supermaximum prisons,"** in particular the practice of prolonged isolation [2006, Concluding Observation, ¶ 36]
- review execution methods in order to **prevent pain and prolonged suffering; reduce the procedural delays that keep prisoners sentenced to capital punishment in the death row** for prolonged periods [2014, Concluding Observation, ¶ 25]
- establish **a moratorium on executions** with a view to abolish the death

penalty [2014, Concluding Observation, ¶ 25]

- **commute the sentences of individuals currently on death row** [2014, Concluding Observation, ¶ 25]
- accede to the Second Optional Protocol of the International Covenant on Civil and Political Rights [2014, Concluding Observation, ¶ 25]

V. UPR

Accepted

- end the execution of mentally-ill persons and minors
- take the necessary measures to consider lifting the United States reservation to article 5, paragraph 6 of the ICCPR that bans the imposition of the death penalty for crimes committed by persons under 18
- undertake studies to determine the factors of racial disparity in the application of the death penalty, to prepare effective strategies aimed at ending possible discriminatory practices
- extend the exclusion of death penalty to all crimes committed by persons with mental illness
- before a moratorium is introduced, take all necessary measures to ensure that any use of the death penalty complies with minimum standards under international law relating to the death penalty such as under article 6 and 14 of the ICCPR
- consider the withdrawal of all reservations and declarations that undermine the objective and spirit of the human rights instruments, in particular reservation to article 6 paragraph 5 of the ICCPR that bans the imposition of the death penalty to those who committed a crime when they were minors

C. JUVENILE LIFE WITHOUT PAROLE

The Commission has received one petition regarding juvenile life without parole (JLWOP), which was declared admissible. Petitioners include 32 juveniles who were tried and sentenced as adults under Michigan state law. This petition highlights broad concerns about due process, conditions of confinement, the treatment of juveniles in the criminal justice system, and systemic racial discrimination. It further raises issues of access to justice and juvenile rights to education and rehabilitation, as well as the responsibilities of federal and state governments in human rights implementation. The Commission issued a report on juvenile justice and human rights in the Americas in 2011.

The concerns raised regarding JLWOP are closely related to cases in the Death Penalty and Immigration/Immigrant Rights categories. The Commission has held hearings on related topics, such as the treatment of juveniles as adults in prison. The Commission issued a report on juvenile justice and human rights in the Americas in 2011.

I. INTERAMERICAN SYSTEM

Relevant Provisions of the American Declaration

- **Art I**: Right to life, liberty, and personal security
- **Art II**: Right to equality before the law
- **Art VII**: Right to protection for mothers and children
- **Art XII**: Right to education
- **Art XXIV**: Right to petition and receive a decision
- **Art XXV**: Right of protection from arbitrary arrest
- **Art XXVI**: Right to due process of law, and not to receive cruel, infamous or unusual punishment

Petition

- Juveniles Sentenced to Life Imprisonment without Parole (Petition P-161-06; filed February 21, 2006) – *found admissible; pending a merits decision*

Report - *Juvenile Justice and Human Rights in the Americas* (2011)[39]

- **International law Requires that States adhere to guarantees set forth in Arts 8 and 25 of the American Convention** (right to a fair trial and judicial protection) and ensure equally for all persons:
  - the right to due process and judicial guarantees;
  - the right of defense;
  - the right to be heard by a competent, independent and impartial judge;
  - the right to be presumed innocent. [¶ 145-175]
- States must also **ensure that a specialized system of juvenile justice must be in place for children, and must respect and ensure, in the case of children, the same rights that all other persons enjoy**. [¶ 3]

- **To Comply with their Obligations, States Should:**[40]
  - **Undertake to comply with international obligations to protect and ensure the human rights of children**, while guaranteeing the special standards of protection that children facing the juvenile justice system require and the obligations to protect and guarantee that the States must ensure to all persons subject to their jurisdiction
  - **Establish alternatives to adjudication in cases involving children accused of violating criminal law**, so that their cases can be resolved by means of measures that help their personalities develop and **ensure their constructive reintegration into society**
  - **Adopt laws that prohibit children under the age of 18 from being prosecuted by adult courts**, sentenced by the same guidelines that would apply in the case of adults, or required to serve their custodial sentences in adult facilities
  - **Respect the principles of equality and non-discrimination**, which means ensuring that the norms of the juvenile justice system are not applied with greater frequency or with greater severity in the case of minority children
  - **Make certain that the juvenile justice systems effectively ensure children's rights to procedural guarantees and judicial protection** by respecting basic, internationally recognized principles of criminal law; ensuring services of public defenders specializing in juvenile justice; establishing reasonable maximum time periods within which a child must be sentenced; observing the principle of proportionality
  - Establish, by law, that **alternatives to adjudication must be considered with respect to issues that arise out of a child's violation of criminal law**; order adequate and sufficient programs to implement those alternatives, and encourage judges and the other officers of the juvenile justice system to use those alternatives
  - **Establish limits for the enforcement of custodial sentences in the case of children**
  - **Establish mechanisms to supervise and monitor the situation of children that have had contact with the juvenile justice system**, and mechanisms to investigate, prevent, punish and redress any violation of human rights that occurred within the juvenile justice system [¶ 614]

Recommendations

- **Precautionary Measures** – none
- **Merits Decisions** – none

II. ICCPR

Relevant Provisions

- **Art 7**: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment

- **Art 10(1)**: All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person
- **Art 10(3)**: The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation; Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status
- **Art 14(4)**: In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation
- **Art 24(1)**: Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State

Recommendations

- ensure that **no such child offender is sentenced to life imprisonment without parole**, and adopt all appropriate measures to review the situation of persons already serving such sentences [2006, Concluding Observation, ¶ 34][41]
- **prohibit and abolish the sentence of life imprisonment without parole for juveniles,** irrespective of the crime committed, as well as **the mandatory and non-homicide-related sentence of life imprisonment without parole** [2014, Concluding Observations, ¶ 23]
- **ensure that juveniles are separated from adults during pretrial detention and after sentencing**, and that juveniles are not transferred to adult courts [2014, Concluding Observations, ¶ 23]
- **encourage states that automatically exclude 16 and 17 year olds from juvenile court jurisdictions to change their laws** [2014, Concluding Observations, ¶ 23]
- **abolish the practice [of solitary confinement] in respect of anyone under the age of 18 and prisoners with serious mental illness** [2014, Concluding Observations, ¶ 20]

III. CERD

Relevant Provisions

- **Art 5(a)**: Prohibit and eliminate discrimination in the enjoyment of the right to equal treatment before the tribunals and all other organs administering justice

Recommendations

- **discontinue the use of life sentence without parole against persons under the age of eighteen** at the time the offence was committed, and review the situation of persons already serving such sentences[42] [2008, Concluding Observation, ¶ 21; 2014, Concluding Observation, ¶ 21]
- ensure that the impact of incarceration on children and/or other dependents is taken into account when sentencing an individual convicted of a non-violent offence and promoting the use of alternatives to imprisonment [2014, Concluding Observation, ¶ 20]

- address racial disparities in the application of disciplinary measures, as well as the resulting "school-to-prison pipeline" … and ensure that juveniles are not transferred to adult courts and are separated from adults during pretrial detention and after sentencing. [2014, Concluding Observation, ¶ 21]

IV. CAT

Relevant Provisions

- **Art 16(1)**: undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity

Recommendations

- **ensure that detained children are kept in facilities separate from those for adults** in conformity with international standards [2006, Concluding Observation, ¶ 34; 2014, Concluding Observation, ¶ 23]
- address the question of **sentences of life imprisonment of children, as these constitute cruel, inhuman or degrading treatment or punishment** [2006, Concluding Observation, ¶ 34]
- **abolish the sentence of life imprisonment without parole for offences committed by children under 18 years of age**, irrespective of the crime committed and enable those serving JLWOP to have their cases reviewed for reassessment and resentencing, as well as restore parole eligibility and a possible reduction of sentence [2014, Concluding Observation, ¶ 24]
- **prohibit any use of solitary confinement against juveniles**, persons with intellectual or psychosocial disabilities, pregnant women, women with infants and breastfeeding mothers in prison [2014, Concluding Observation, ¶ 20]
- **take measures to ensure the proper functioning of the juvenile system in compliance with international standards**, including full implementation of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice and the United Nations Guidelines for the Prevention of Juvenile Delinquency [2014, Concluding Observation, ¶ 23]
- **develop more to alternatives to incarceration** [2014, Concluding Observation, ¶ 23]

V. UPR– N/A

2. DOMESTIC VIOLENCE/GENDER

Three petitions focus specifically on claims relating to sex and gender. Two of the few merits decisions issued in U.S. cases are in this category. The decision in the *Jessica Lenahan (Gonzales)* case, emphasizes the government's obligation to prevent private acts of violence and domestic violence, specifically. The IACHR found that petitioners' rights were violated when police failed to enforce an order of protection, and that failure resulted in the shooting death of three children. The decision includes recommendations for changes to U.S. domestic violence law and policy. The U.S. is currently working to implement the decision. The Commission also issued a decision in the 1970s *Baby Boy* petition, which challenged laws on abortion and the point "when life begins." The Commission found the petition failed to establish a violation of the American Declaration. The final case in this category challenges U.S. court's widespread practice of granting child custody or unsupervised visitation rights to known domestic violence abusers. This case is pending in the admissibility phase.

These cases highlight broad concerns about discrimination on the basis of gender, the right to a remedy, the role of the government in protecting individuals from private violence, the obligation to protect vulnerable groups (especially women and children), and the allocation of human rights obligations between federal and state actors. The U.S.' obligation to protect individuals from private violence is also central in the cases regarding Criminal Justice Procedure and Border Concerns.

I. INTERAMERICAN SYSTEM

Relevant Provisions of the American Declaration

- **Art I**: Right to life, liberty, and personal security
- **Art II**: Right to equality before the law
- **Art V**: Right to protection of honor, personal reputation, and private and family life
- **Art VI**: Right to a family and to protection thereof
- **Art VII**: Right to protection for mothers and children
- **Art IX**: Right to inviolability of the home
- **Art XVIII**: Right to a fair trial
- **Art XXIV**: Right to petition and receive a decision
- **Art XXVI**: Right to due process of law

Petitions

- Baby Boy (Case 2141; filed January 19, 1977) – *merits decision issued*
- Dombrowski, et al. (filed May 11, 2007) – *pending an admissibility decision*
- Lenahan (Gonzales), Jessica (Petition 1490-05; filed July 24, 2007) – *merits decision issued*

Reports – none

Recommendations

- **Precautionary Measures** – none

- **Merits Decisions**[43]
  - enact legislative, policy and other measures to mandate enforcement of protection orders and other measures to shield women from violence
  - enact legislative, policy and other measures to protect children in the domestic-violence context
  - act to reshape stereotypes of domestic-violence victims and to end discrimination against them
  - design model law enforcement protocols for investigating missing children reports in the domestic-violence context
  - undertake serious, impartial, and exhaustive investigation to ascertain the cause, time, and place of domestic-violence related deaths and the systemic failures that led to the circumstances
  - investigate systemic failures related to the enforcement of relevant protection orders; determine the responsibilities of public officials and hold them accountable for violating state and federal law
  - award full reparations to victims of domestic and sexual violence that resulted from failure to comply with due diligence standards

II. ICCPR

Relevant Provisions

- **Art 2:** Respect and ensure the rights recognized in the Covenant without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status
- **Art 3**: Ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant
- **Art 6:** Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.
- **Art 17 (1)**: No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation
- **Art 23(1)**: The family is the natural and fundamental group unit of society and is entitled to protection by society and the State
- **Art 26:** All persons are equal before the law and are entitled without any discrimination to the equal protection of the law

Recommendations

- **strengthen measures to prevent and combat domestic violence and ensure that law enforcement personnel appropriately respond to acts of domestic violence;** ensure that cases of domestic violence are effectively investigated and that perpetrators are prosecuted and sanctioned [2014, Concluding Observation, ¶ 16]
- ensure remedies for all victims of domestic violence and **take steps to improve the provision of emergency shelter, housing, child care,**

rehabilitative services and legal representation for women victims of domestic violence [2014, Concluding Observation, ¶ 16]

- **take measures to assist tribal authorities in their efforts to address domestic violence against Native American women** [2014, Concluding Observation, ¶ 16]

III. CERD

Relevant Provisions

- **Art 5(a):** Prohibit and eliminate discrimination in the enjoyment of the right to equal treatment before the tribunals and all other organs administering justice
- **Art 5(b)**: Prohibit and eliminate discrimination in the enjoyment of the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution
- **Art 6**: Assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention

Recommendations

- increase its efforts to **prevent and punish violence and abuse against women belonging to racial, ethnic and national minorities** [by,] inter alia, . . . providing **specific training** for those working within the criminal justice system, including police officers . . . prosecutors and judges [2008, Concluding Observation, ¶ 26]l
- intensify efforts to prevent and combat violence against women, particularly American Indian and Alaska Native women, and ensure that all cases of violence against women are effectively investigated, perpetrators are prosecuted and sanctioned, and victims are provided with appropriate remedies [2014, Concluding Observation, ¶ 19]
- take measures to guarantee, in law and in practice, the right to access justice and effective remedies for all indigenous women who are victims of violence [2014, Concluding Observation, ¶ 19]
- allocate sufficient resources to ensure effective access to legal representation for indigent persons belonging to racial and ethnic minorities in civil proceedings, particularly with regard to proceedings that have serious consequences for their security and stability, such as evictions, foreclosures, domestic violence, discrimination in employment, termination of subsistence income or medical assistance, loss of child custody and deportation proceedings [2014, Concluding Observation, ¶ 23]
- provide sufficient resources for violence prevention and service programs; provide specific training for those working within the criminal justice system, including police officers, lawyers, prosecutors, judges and medical personnel; and undertake awareness-raising campaigns on the mechanisms and procedures available to seek remedies for violence against women [2014, Concluding Observation, ¶ 19]

- **take concrete measures to ensure that all individuals,** in particular those belonging to racial and ethnic minorities who reside in states that have opted out of the Affordable Care Act, **undocumented immigrants and immigrants and their families who have been residing lawfully in the United States** for less than five years, **have effective access to affordable and adequate health-care services** [2014, Concluding Observation, ¶ 15]

IV. CAT

Relevant Provisions

- **Art 14:** Ensure in its legal system that the victim of an act of torture **obtains redress and has an enforceable right to fair and adequate compensation**, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation

Recommendations

- ensure that all victims of torture and ill-treatment **obtain redress and have an enforceable right to fair and adequate compensation**, including the means for as full rehabilitation as possible, in particular victims of police brutality, terror suspects claiming abuse, victims of gender violence, asylum-seekers, refugees and others under international protection [2014, Concluding Observation, ¶ 29]

• UPR

Accepted

- take effective steps to put an end to child prostitution, and effectively combat violence against women and gun violence
- further foster its measures in relation to migrant women and foreign adopted children that are exposed to domestic violence
- take further measures in the areas of economic and social rights for women and minorities, including providing equal access to decent work and reducing the number of homeless people
- consider taking further action to better ensure gender equality at work

Accepted in Part

- ratify CEDAW

3. ENVIRONMENT/HEALTH

Five petitions have focused primarily on the right to preserve the environment and health. The petitions touch on a wide-range of issues, including access to healthcare for undocumented persons, health impacts of limited access to water and electricity, the effects of global warming on Inuit populations, expropriation of land and toxic pollution from military practices, and environmental racism. The IACHR has issued precautionary measures in the petition on access to healthcare. The petition relating to global warming was found inadmissible. The petitions regarding lack of access to water and electricity and access to healthcare are pending in the admissibility phase. There is one case pending in the merits phase, relating to toxic pollution as environmental racism (the *Mossville* case).

While focused on economic, social and cultural rights, these petitions also raise issues of personal liberty, equality and non-discrimination. In particular, they highlight broad concerns about discrimination on the basis of national origin and ethnicity, the obligation to protect vulnerable individuals, structural discrimination, and federalism. These issues are closely related to concerns raised in the Immigrant/Migrant Rights and Indigenous Land categories.

I. INTERAMERICAN SYSTEM

Relevant Provisions of the American Declaration

- **Art I**: Right to life, liberty, and personal security
- **Art II**: Right to equality
- **Art IV: Right of access to information**
- **Art V**: Right to protection of honor, personal reputation, and private and family life
- **Art VIII: Right to residence and freedom of movement**
- **Art IX**: Right to inviolability of home
- **Art XVIII**: Right to fair trial
- **Art XI**: Right to preservation of health and well-being
- **Art XIII**: Right to the benefits of culture
- **Art XIV: Right to work and fair remuneration**
- **Art XXIII**: Right to property

Petitions

- Inuit (filed December 7, 2005) – *found inadmissible*
- Mossville Environmental Action Now (Petition 242-05; filed March 17, 2010) – *found admissible; pending a merits decision*
- Residents of Vieques, Puerto Rico (filed September 23, 2013)
- Undocumented Immigrants Residing in Atlanta, Georgia, United States[44] (PM 385-09) – *precautionary measure issued; pending an admissibility decision*
- Villas del Sol (filed April 28, 2010) – *pending an admissibility decision*

Reports – none

Recommendations

- **Precautionary Measures**
  - Take urgent measures necessary to ensure that individuals have access to the medical treatment that may be required for their condition[45]

- **Merits Decisions** – none

II. ICCPR

Relevant Provisions

- **Art 2:** Respect and ensure the rights recognized in the Covenant without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status
- **Art 6:** Every human being has the inherent right to life
- **Art 17 (1)**: No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation
- **Art 26:** All persons are equal before the law and are entitled without any discrimination to the equal protection of the law

Recommendations

- **review its practices and policies to ensure the full implementation of its obligation to protect life and of the prohibition of discrimination,** whether direct or indirect, as well as of the United Nations Guiding Principles on Internal Displacement**, in matters related to disaster prevention and preparedness, emergency assistance and relief measures** [2008, Concluding Observation, ¶ 26]
- **increase its efforts to ensure that the rights of the poor, and in particular African-Americans,** are fully taken into consideration in the reconstruction plans with regard to **access to housing, education and healthcare** [2008, Concluding Observation, ¶ 26]
- **identify ways to facilitate access to adequate health care**, including reproductive health-care services, **by undocumented immigrants and immigrants and their families** who have been residing lawfully in the United States for less than five years [2014, Concluding Observation, ¶ 15]

III. CERD

Relevant Provisions

- **Art 5(e)(iv)**: Prohibit and eliminate discrimination in enjoyment of the right to public health, medical care, social security and social services
- **Art 6**: Assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention

Recommendations

- continue efforts to **address the persistent health disparities affecting persons belonging to racial, ethnic and national minorities,** in particular by **eliminating the obstacles that currently prevent or limit their access to adequate health care,** such as lack of health insurance, unequal distribution of health-care resources, persistent racial discrimination in the provision of health care and poor quality of public health-care services [2008, Concluding Observation, ¶ 22]
- **collect statistical data on health disparities affecting persons belonging to racial, ethnic and national minorities,** disaggregated by age, gender, race, ethnic or national origin, and to include it in its next periodic report [2008, Concluding Observation, ¶ 22]
- continue efforts to address persistent racial disparities in sexual and reproductive health, in particular by:
  - **improving access to maternal health care, family planning, pre and post-natal care and emergency obstetric services,** inter alia, through the **reduction of eligibility barriers for Medicaid coverage;**
  - **facilitating access to adequate contraceptive and family planning** methods; and
  - **providing adequate sexual education** aimed at the prevention of unintended pregnancies and sexually-transmitted infections [2008, Concluding Observation, ¶ 33]
- ensure that **federal legislation prohibiting environmental pollution** is **effectively enforced at state and local levels [**2014, Concluding Observation, ¶ 10]
- undertake **an independent and effective investigation into all cases of environmentally polluting activities and their impact on the rights of affected communities**; bring those responsible to account; and ensure that victims have access to appropriate remedies; [2014, Concluding Observation, ¶ 10]
- **clean up any remaining radioactive and toxic waste** … as a matter of urgency, paying particular attention to areas inhabited by racial and ethnic minorities and indigenous peoples that have been neglected to date [2014, Concluding Observation, ¶ 10]
- **take concrete measures to ensure that all individuals,** in particular those belonging to racial and ethnic minorities who reside in states that have opted out of the Affordable Care Act, undocumented immigrants and immigrants and their families who have been residing lawfully in the United States for less than five years, **have effective access to affordable and adequate health-care services** [2014, Concluding Observation, ¶ 15]
- **eliminate racial disparities in the field of sexual and reproductive health** and standardize the data collection system on maternal and infant deaths in all states to effectively identify and address the causes of disparities in maternal and infant mortality rates [2014, Concluding Observation, ¶ 15]

IV. CAT – N/A

V. UPR

Accepted

- review, reform and adequate its federal and state laws, in consultation with civil society, to comply with the protection of the right to nondiscrimination established by CERD, especially in the areas of employment, housing, health, education and justice
- ensure the realization of the rights to food and health of all who live in its territory

Accepted in Part

- comply with international obligations for the effective mitigation of greenhouse gas emissions, because of their impact in climate change
- take positive steps in regard to climate change, by assuming the responsibilities arising from capitalism that have generated major natural disasters particularly in the most impoverished countries
- implement the necessary reforms to reduce their greenhouse gas emissions and cooperate with the international community to mitigate threats against human rights resulting from climate change

4. IMMIGRANT/MIGRANT RIGHTS

A. BORDER CONCERNS (Private Violence and Border Control)

Two petitions focusing on conditions at the U.S.-Mexico border have been filed with the IACHR. The first, alleging that harsh border control policies led to immigrant deaths was found inadmissible. The second petition, regarding violence by anti-immigrant vigilante groups along the U.S.-Mexico Border, is pending in the merits phase.

These petitions highlight broad concerns about discrimination on the basis of national origin and ethnicity, the role of the government in protecting individuals from private violence, the need for human rights compliant immigration policies and federalism. Substantively, the human rights issues raised in these cases are closely related to the Immigration/Immigrant Rights and Migrant Worker Rights categories. The pending petition also raises government obligations to address conduct by private actors, which is also raised in cases in the categories of Domestic Violence/Gender and Criminal Justice Procedure.

I. INTERAMERICAN SYSTEM

Relevant Provisions of the American Declaration

- **Art I**: Right to life, liberty, and personal security
- **Art II**: Right to equality before the law
- **Art XVIII**: Right to a fair trial

Petitions

- Sanchez, Victor Nicholas et al. (Petition 65/99; filed February 10, 1999) – *found inadmissible*
- Undocumented Migrants, Legal Residents, and U.S. Citizen Victims of Anti-Immigrant Vigilantes (Petition 478/05; filed April 28, 2005) – *pending a merits decision*

Reports – none

Recommendations

- **Precautionary Measures** – none
- **Merits Decisions** – none

II. ICCPR

Relevant Provisions

- **Art 2:** Respect and ensure the rights recognized in the Covenant without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status

- **Art 9**: Everyone has the right to liberty and security of person; no one shall be subjected to arbitrary arrest or detention
- **Art 26:** All persons are equal before the law and are entitled without any discrimination to the equal protection of the law

Recommendations

- provide the Committee with more detailed information on . . . the concrete measures adopted to **ensure that only agents who have received adequate training on immigration issues enforce immigration laws**, which should be compatible with the rights guaranteed by the Covenant [2006, Concluding Observation, ¶ 27][46]

III. CERD

Relevant Provisions

- **Art 2(1)(c)**: Take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists
- **Art 5(b)**: Prohibit and eliminate racial discrimination in the enjoyment of the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution

Recommendations

- **put an end to the National Entry and Exit Registration System (NEERS) and to eliminate other forms of racial profiling** against Arabs, Muslims and South Asians [2008, Concluding Observation, ¶ 14]
- increase significantly . . . efforts to **eliminate police brutality and excessive use of force against persons belonging to racial, ethnic or national minorities, as well as undocumented migrants crossing the U.S.-Mexico border,** inter alia, by establishing adequate systems for monitoring police abuses and developing further training opportunities for law enforcement officials . . . [and] **ensure that reports of police brutality and excessive use of force are independently, promptly and thoroughly investigated and that perpetrators are prosecuted and appropriately punished** [2008, Concluding Observation, ¶ 25]

IV. CAT – N/A

V. UPR

Accepted

- prohibit, prevent and punish the use of lethal force in carrying out immigration control activities
- guarantee the prohibition of use of cruelty and excessive or fatal force by law enforcement officials against people of Latin American or African origin as well as illegal migrants and to investigate such cases of excessive use of force

Accepted in Part

- avoid the criminalization of migrants and ensure the end of police brutality, through human rights training and awareness-raising campaigns, especially to eliminate stereotypes and guarantee that the incidents of excessive use of force be investigated and the perpetrators prosecuted

B. IMMIGRATION/IMMIGRANT RIGHTS (Detention/Due Process/Interdiction)

This is the second largest category of cases: thirteen petitions have been filed, with merits decisions issued in five of these cases. The petitions in this category allege violations of immigrants' rights in the context of removal and detention and challenging current immigration policies. Specifically, these claims have been based on wrongful causes of removal (such as criminal convictions), as well the negative consequences of removal (such as lack of access to medical treatment and potential persecution). The communications in this area further address detention conditions and violations of due process, including through mandatory removal. Notably, the IACHR itself has devoted attention to these human rights violations, and released a report on immigration detention in 2010.

In eight cases of the cases in this category, the Commission has issued precautionary measures to either stay deportations or ensure deportees would obtain adequate medical treatment. The IACHR has issued merits decisions in five of these cases, finding that detention conditions and deportations violated petitioners' fundamental rights and due process. Two petitions, one regarding deportation due to criminal convictions and one alleging denial of equality and nationality due to limited english language proficiency, were found inadmissible.

These petitions in this category highlight cross-cutting concerns about discrimination on the basis of national origin and ethnicity, access to justice, the challenges of human rights implementation in our federal system, the obligation to protect vulnerable individuals, and the overall need for a human rights-based approach to immigration. The concerns raised in this category are linked to claims regarding Border Concerns, Criminal Justice Procedure, Environment/Health, Migrant Worker Rights, and Military Policy, Detention/National Security.

I. INTERAMERICAN SYTEM

Relevant Provisions of the American Declaration

- **Art II**: Right to equality before law
- **Art V**: Right to protection of honor, personal reputation, and private and family life
- **Art VI**: Right to a family and protection thereof
- **Art XI**: Right to preservation of health and well-being
- **Art XVI**: Right to social security
- **Art XVII**: Right to recognition of juridical personality and civil rights
- **Art XVIII**: Right to a fair trial
- **Art XXVI**: Right to due process of law
- **Art XXVII**: Right of asylum

Petitions

- Armendariz, Hugo (Case 12.562; filed July 17, 2003)[47] – *merits decision issued*
- Certain foreign nationals detained in the United States, 9/11 INS Detainees Ordered Deported or Granted Voluntary Departure – *precautionary measure granted; pending an admissibility decision*
- Enwonwu, Frank Igwebuike (Case 12.706; filed January 18, 2008) – *precautionary measure granted; pending a merits decision*
- Ferrer-Mazorra, Rafel and others (Mariel Cubans) (Case 9.903; filed April 10, 1987) – *merits decision issued*
- Gary Resil, Harry Mocombe, Roland Joseph, Evel Camelien, and Pierre Louis (PM 5/11) – *precautionary measure granted; pending an admissibility decision*
- Haitian Interdiction (Case 10.675; filed October 1, 1990) – *precautionary measure granted; merits decision issued*
- Lares-Reyes, Mario and Vera Allen Frost and Samuel Segura (Case 12.379; filed November 21, 2010) – *found inadmissible*
- Marquez Gonzalez, Edwin A. (PM-171-11) – *precautionary measure granted; pending an admissibility decision*
- Mortlock, Andrea (Case 12.534; filed August 15, 2005) – *precautionary measure granted; merits decision issued*
- Nyamanhindi, Boniface (PM 149/08; filed August 18, 2008) – *precautionary measure granted; pending an admissibility decision*
- Pierre, Paul (Petition 1431/08) – *precautionary measure granted*; *pending an admissibility decision*
- Soto, Ambrosio and Others (No. 1733) – *found inadmissible*
- Smith, Wayne (Case 12.562; filed December 27, 2002)[48] – *merits decision issued*

Report – *Immigration in the United States: Detention and Due Process* (2010) [49]

- **International law Requires that States ensure the human rights of all immigrants**, including:
  - the right to personal liberty;
  - the right to humane treatment;
  - the right to the minimum guarantees of due process, and;
  - the right to equality and nondiscrimination and to protection of private and family life.

- States have **the obligation to respect and to ensure respect for the human rights of all persons under the their respective** jurisdictions, in the light of the principle of equality and non-discrimination, irrespective of whether such persons are nationals or foreigners. [¶ 32]

- **Immigrant and Customs Enforcement (ICE) Should:**[50]
  - improve systems to determine work authorization

- limit Fugitive Operations program to eliminate or severely restrict home raids to circumstances where targeted individual is a serious risk to the community and create safeguards for these raids
- create accountability mechanisms for law enforcement agency partners and state and local agencies, including disaggregated data collection and review to better identify racial profiling and eliminate the possibility of racial profiling
- limit the participation of state and local partners in civil immigration enforcement to cases where there is a fully adjudicated criminal case
- codify its current practice of placing families apprehended at or near the border to normal immigration proceedings, pursuant to INA § 240

- **Necessary Changes to Detention Conditions:**[51]
  - significantly curtail prison-like detention conditions and carry through with its commitment to develop a genuinely civil detention system, accessible to legal counsel
  - design and implement proper oversight and monitoring mechanisms by federal immigration authorities, to ensure that those centers that are run by private firms comply with international standards on immigration detention
  - the DIHS and other providers of health care services for immigrant detainees should eliminate the current model of emergency care
  - DIHS should establish a new protocol which gives primacy to the medical care decisions of the attending and qualified medical, dental and mental health personnel
  - DIHS should establish an independent review panel, which would permit detainees to appeal denials of care
  - earmark sufficient funds so that each facility has a clinic and medical staff to provide comprehensive health care services, including dental and mental health care
  - detainees should have direct access to the medical, dental and mental health care clinics in the facilities, so that they can make appointments and receive emergency treatment
  - immediately end the practice of placing detainees with mental health issues in administrative segregation

- **To Ensure Due Process:**[52]
  - federal, state and local governments should refrain from passing laws that use criminal offenses to criminalize immigration, and from developing administrative or other practices that violate the fundamental principle of nondiscrimination and the immigrants' rights to due process of law, personal liberty, and humane treatment
  - eliminate the practice of mandatory detention for broad classes of immigrants with criminal convictions, but who have served their sentence
  - develop a risk assessment tool premised upon a presumption for release and establish clear criteria to determine whether detention is in

order; those criteria should be dictated exclusively by procedural factors in order to ensure that detention does not become punitive (for example, when there is a flight risk) and proceedings should ensure case by case evaluations, subject to judicial review
    - guarantee that in the event persons are found to be in violation of immigration law or are not granted legal status, they are to be deported from the United States in a manner that is respectful of their human rights
    - greatly reduce the use of expedited removal when adjudicating immigrants' claims
    - devote significant additional resources to improve access to legal representation
    - ensure that every immigrant receives a fair hearing, conducted close to where family and support resources may be located; [and] require that a completed "Notice to Appear" (NTA) be promptly filed in the jurisdiction where an individual was apprehended, eliminating the possibility of ICE moving the immigrants to a jurisdiction in which the likelihood of securing an order of removal is much greater
    - respect the rights of the family, adhere to the "best interests of the child" principle and coordinate with state and local governments to ensure that detained immigrants are able to maintain custody of their U.S. citizen children while in detention

Recommendations

- **Precautionary Measures**[53]
    - suspend deportation of non-citizens until their native countries can guarantee access to medical services
    - take urgent measures necessary to protect detainees, including their rights to person, liberty, and security, to humane treatment, medical treatment, and to resort to the courts for the protection of their legal rights
    - allow independent courts to determine whether detainees have been lawfully detained and whether they are in need of protection (in cases where the U.S. claims domestic remedies not exhausted)

- **Merits Decisions**
    - convene **reviews to ascertain the legality of the detention** of those who were detained because of illegal entry into the U.S. in accordance with the applicable norms of the American Declaration [54]
    - review laws, procedures and practices **to ensure that all aliens who are detained under the authority and control of the State, including aliens who are considered "excludable" under the State's immigration laws, are afforded full protection of all of the rights established in the American Declaration**[55]
    - provide adequate compensation to petitioners who were interdicted and returned to their country of residence against their will [56]
    - permit petitioners who were facing deportation as a result of criminal convictions to return to the United States at the expense of the State[57]

- **reopen immigration proceedings** for petitioners facing deportation because of criminal convictions and **permit them to present their humanitarian defenses during removal from the United States** and ensure a competent, independent immigration judge applies a balancing test to consider humanitarian defenses and offer meaningful relief[58]
- implement laws to **ensure that non-citizen residents' right to family life** . . . **are duly protected and given due process** on a case-by-case basis in U.S. immigration removal proceedings[59]
- in the case of a non-citizen with HIV/AIDS who would not receive appropriate medical treatment in her country of residence, the Commission has ordered the U.S. to **refrain from removing the petitioner despite an existing deportation order**[60]

II. ICCPR

Relevant Provisions

- **Art 2:** Respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status
- **Art 6:** Every human being has the inherent right to life
- **Art 9(1)**: Everyone has the right to liberty and security of person; no one shall be subjected to arbitrary arrest or detention
- **Art 9(4)**: Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court
- **Art 10(1)**: All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person
- **Art 13**: An alien lawfully in the territory of a State Party to the present Covenant may be expelled only in pursuance of a decision reached in accordance with law
- **Art 26:** All persons are equal before the law and are entitled without any discrimination to the equal protection of the law

Recommendations

- Provide . . . more detailed information on the issues regarding undocumented migrants, in particular on **the concrete measures adopted to ensure that only agents who have received adequate training on immigration issues enforce immigration laws**, which should be compatible with the rights guaranteed by the Covenant [2006, Concluding Observation, ¶ 27]
- review its practice **with a view to ensuring that the Material Witness Statute and immigration laws are not used so as to detain persons suspected of terrorism or any other criminal offences with fewer guarantees than in criminal proceedings**; the State party should also ensure that **those improperly so detained receive appropriate reparation** [2006, Concluding Observation, ¶ 19]
- **review its practices and policies to ensure the full implementation of its obligation to protect life and of the prohibition of discrimination,** whether

direct or indirect, as well as of the United Nations Guiding Principles on Internal Displacement**, in matters related to disaster prevention and preparedness, emergency assistance and relief measures** [2008, Concluding Observation, ¶ 26]

- **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 [2014, Concluding Observation, ¶ 15]
- **strictly apply the absolute prohibition against refoulement** under articles 6 and 7 of the Covenant; continue exercising the utmost care in evaluating diplomatic assurances, and refrain from relying on such assurances where it is not in a position to effectively monitor the treatment of such persons after their extradition, expulsion, transfer or return to other countries; and take appropriate remedial action when assurances are not fulfilled [2014, Concluding Observation, ¶ 13]

III. CERD

Relevant Provisions

- **Art 2(1)(c)**: Take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists
- **Art 5(a)**: Prohibit and eliminate discrimination in the enjoyment of the right to equal treatment before the tribunals and all other organs administering justice
- **Art 5(b)**: Prohibit and eliminate discrimination in the enjoyment of the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution
- **Art 5(e)(iv)**: Prohibit and eliminate discrimination in the enjoyment of the right to public health, medical care, social security and social benefits
- **Art 6**: Assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention

Recommendations

- continue efforts to **address the persistent health disparities affecting persons belonging to racial, ethnic and national minorities,** in particular by **eliminating the obstacles that currently prevent or limit their access to adequate health care,** such as lack of health insurance, unequal distribution of health-care resources, persistent racial discrimination in the provision of health care and poor quality of public health-care services [2008, Concluding Observation, ¶ 22]
- **take concrete measures to ensure that all individuals,** in particular those belonging to racial and ethnic minorities who reside in states that have opted out of the Affordable Care Act, undocumented immigrants and immigrants

and their families who have been residing lawfully in the United States for less than five years, **have effective access to affordable and adequate health-care services** [2014, Concluding Observation, ¶ 15]

- **collect statistical data on health disparities affecting persons belonging to racial, ethnic and national minorities,** disaggregated by age, gender, race, ethnic or national origin, and to include it in its next periodic report [2008, Concluding Observation, ¶ 22]
- **collect detailed information on the legislation applicable to refugees and asylum-seekers, and on the alleged mandatory and prolonged detention of a large number of non-citizen**s, including undocumented migrant workers, victims of trafficking, asylum-seekers and refugees, as well as members of their families [2008, Concluding Observation, ¶ 37]
- increase efforts **to eliminate profiling by federal, state and local law enforcement by ending immigration enforcement programmes and policies** which indirectly promote racial profiling, such as the Secure Communities programme and the Immigration and Nationality Act section 287(g) programme [2014, Concluding Observation, ¶ 8]
- ensure that each allegation of excessive use of force by law enforcement officials is **promptly and effectively investigated;** that the alleged **perpetrators are prosecuted** and, if convicted, **punished with appropriate sanctions;** that investigations are re-opened when new evidence becomes available; and that victims or their families are provided with **adequate compensation** [2014, Concluding Observation, ¶ 17]
- intensify efforts to **prevent the excessive use of force by law enforcement officials** by ensuring compliance with the 1990 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and ensure that the new CBP directive on the use of force is applied and enforced in practice [2014, Concluding Observation, ¶ 17]
- **abolish "Operation Streamline" and deale with any breaches of immigration law through the civil, rather than criminal immigration system** [2014, Concluding Observation, ¶ 18]
- **undertake thorough and individualized assessment for decisions concerning detention and deportation and guaranteeing access to legal representation in all immigration-related matters** [2014, Concluding Observation, ¶ 18]
- **protect all migrant workers from exploitative and abusive working conditions,** including by raising the minimum age for harvesting and hazardous work in agriculture under the Fair Labor Standards Act in line with international labour standards and ensuring effective oversight of labour conditions [2014, Concluding Observation, ¶ 18]
- allocate sufficient resources to ensure effective access to legal representation for indigent persons belonging to racial and ethnic minorities in civil proceedings, particularly with regard to proceedings that have serious consequences for their security and stability, such as evictions, foreclosures, domestic violence, discrimination in employment, termination of subsistence income or medical assistance, loss of child custody and deportation proceedings [2014, Concluding Observation, ¶ 23]

- **ratify** International Labour Office Convention No. 29 (1930) concerning Forced or Compulsory Labour and Convention No. 138 (1973) concerning Minimum Age for Admission to Employment [2014, Concluding Observation, ¶ 18]

IV. CAT

Relevant Provisions

- **Art 3(1)**: No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture
- **Art 11**: Keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture
- **Art 14:** Ensure in its legal system that the victim of an act of torture **obtains redress and has an enforceable right to fair and adequate compensation**, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation
- **Art 16(1)**: Undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity

Recommendations

- review **the use of mandatory detention** of certain categories of immigrants [2014, Concluding Observation, ¶ 19]
- **expand community-based alternatives to immigration detention**, expand the use of foster care for unaccompanied children, and halt the expansion of family detention, with a view to progressively eliminating it completely [2014, Concluding Observation, ¶ 19]
- **design and implement appropriate measures to prevent all sexual violence in all its detention centres** . . . [and] **ensure that all allegations of violence in detention centres are investigated promptly and independently,** perpetrators are prosecuted and appropriately sentenced and victims can seek redress, including appropriate compensation [2006, Concluding Observation, ¶ 32; 2014, Concluding Observation, ¶ 19]
- ensure that **all facilities holding immigration detainees are in compliance with Prison Rape Elimination Act standards** [2014, Concluding Observation, ¶ 19]
- **ensure that reports of brutality and ill-treatment** of members of vulnerable groups by its law-enforcement personnel **are independently, promptly and thoroughly investigated** and that **perpetrators are prosecuted and appropriately punished** [2006, Concluding Observation, ¶ 37; 2014, Concluding Observation, ¶ 19]

- **ensure compliance with the 2013 Directive on the appropriate use of segregation in U.S. Immigration and Customs Enforcement (ICE) detention** facilities and the **2011 Performance-based national standards in all immigration detention facilities** [2014, Concluding Observation, ¶ 19]
- **ensure the adequacy of the refugee determination process and asylum procedures for migrants of all nationalities;** this includes respecting confidential, providing special consideration for minors, women, victims of torture or traumatisation and other asylum seekers with specific needs; ensuring non-refoulment through thorough risk assessment of situations covered by article 3 of the Convention [2014, Concluding Observation, ¶ 18]
- **review the use of expedited removal** procedures [2014, Concluding Observation, ¶ 18]
- **guarantee access to counsel** [2014, Concluding Observation, ¶ 18]
- **ensure that the "credible fear" screening standard is interpreted in its original**, less restrictive application for all individuals expressing a fear of return and referred for such screening interviews [2014, Concluding Observation, ¶ 18]
- ensure that all victims of torture and ill-treatment **obtain redress and have an enforceable right to fair and adequate compensation**, including the means for as full rehabilitation as possible, in particular victims of police brutality, terror suspects claiming abuse, victims of gender violence, asylum-seekers, refugees and others under international protection [2014, Concluding Observation, ¶ 29]

V. UPR

Accepted

- ensure that detention centers for migrants and the treatment they receive meet the basic conditions and universal human rights law
- ensure that migrants in detention, subject to a process of expulsion are entitled to counsel, a fair trial and fully understand their rights, even in their own language
- reconsider alternatives to the detention of migrants
- investigate carefully each case of immigrants' incarceration
- increase efforts to eliminate alleged brutality and use of excessive force by law enforcement officials against, inter alia, Latino and African American persons and undocumented migrants, and to ensure that relevant allegations are investigated and that perpetrators are prosecuted

Accepted in Part

- review, with a view to their amendment and elimination, all laws and practices that discriminate against African, Arab and Muslim Americans, as well as migrants, in the administration of justice, including racial and religious profiling

C. MIGRANT WORKER RIGHTS (Documented and Undocumented)

Two petitions regarding migrant workers' rights have been filed with the IACHR. One petition, alleging discrimination in employment, and exploitation, was found admissible and is pending in the merits phase. The second, challenging the exploitation and abuse of domestic workers by diplomats, is pending in the admissibility phase.

These petitions highlight broad concerns about discrimination on the basis of national origin and ethnicity, access to justice, the division of federal and state responsibilities, the obligation to protect vulnerable individuals, the role of the government in protecting individuals from private violence, and the need for human rights-based immigration policies. The IACHR has also held several hearings addressing undocumented workers rights.

The issues raised in this category relate to petitions in the Border Concerns, Domestic Violence/Gender, Environment/Health, and Immigration/Immigrant Rights categories.

I. INTERAMERICAN SYSTEM

Relevant Provisions of the American Declaration

- **Art II**: Right to equality before law
- **Art V**: Right to protection of honor, personal reputation, and private and family life
- **Art VI**: Right to a family and protection thereof
- **Art XVI**: Right to social security
- **Art XVII**: Right to recognition of juridical personality and civil rights
- **Art XVIII**: Right to a fair trial
- **Art XXII:** Right of association
- **Art XXVI**: Right to due process of law

Petitions

- Domestic Workers Employed by Diplomats (P-1481-07; filed November 15, 2007) – *pending an admissibility decision*
- Undocumented Workers, (P-1190-06) – *found admissible; pending a merits decision*

Reports – none

Recommendations

- **Precautionary Measures** – none
- **Merits Decisions** – none

II. ICCPR

Relevant Provisions

- **Art 2:** Respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status
- **Art 13**: An alien lawfully in the territory of a State Party to the present Covenant may be expelled only in pursuance of a decision reached in accordance with law
- **Art 26:** All persons are equal before the law and are entitled without any discrimination to the equal protection of the law

Recommendations – none

III. CERD

Relevant Provisions

- **Art 5(a)**: Prohibit and eliminate discrimination in the right to equal treatment before the tribunals and all other organs administering justice
- **Art 5(e)(i)** Prohibit and eliminate discrimination in the enjoyment of the rights to work, to free choice of employment, to just and favorable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favorable remuneration
- **Art 5(e)(iv)** Prohibit and eliminate discrimination in the enjoyment of the right to public health, medical care, social security and social benefits

Recommendations

- take effective measures, including the enactment of legislation, such as the proposed Civil Rights Act of 2008, to **ensure the right of workers belonging to racial, ethnic and national minorities, including undocumented migrant workers, to obtain effective protection and remedies** in case of violations of their human rights by their employer [2008, Concluding Observation, ¶ 28]

IV. CAT – N/A

V. UPR

Accepted

- protect the human rights of migrants, regardless of their migratory status
- recognize the right to association as established by ILO, for migrant, agricultural workers and domestic workers
- observe international standards in regards to migrant workers and members of their families

Accepted in Part

- take the necessary measures in favor of the right to work and fair conditions of work so that workers belonging to minorities, in particular women and undocumented migrant workers, do not become victims of discriminatory treatment and abuse in the work place and enjoy the full protection of the labour legislation, regardless of their migratory status
- eliminate discrimination against migrants and religious and ethnic minorities and ensure equal opportunity for enjoyment of their economic, social and cultural rights

5. INDIGENOUS LAND

Three cases have been filed concerning ownership and occupation of indigenous land. A case filed on behalf of the Onondaga Nation and Haudenosaunee, seeking relief for land takings by the State of New York, is pending an admissibility decision. One petition, regarding a settlement for land that affected the homeland of Cherokee Nation, was found inadmissible. The second petition, regarding state appropriation of ancestral land through the Indian Claims Commission procedures, has reached a decision on the merits. This case raises the right to effective remedies, issues of ancestral lands, and the property rights of indigenous persons. More broadly, this petition also concerns issues of equality and equal protection, and discrimination on the basis of ethnicity, religion, and race. These issues are raised in several other case categories, including Criminal Justice Procedure and Environment/Health (which includes a case filed on behalf of Inuit people).

I. INTERAMERICAN SYSTEM

Relevant Provisions of the American Declaration

- **Art II:** Right to equality before the law
- **Art III:** Right to religious worship and freedom
- **Art V:** Right to protection of honor, personal reputation, and private and family life
- **Art VI:** Right to family and protection thereof
- **Art XIII:** Right to the benefits of culture
- **Art XVIII**: Right to a fair trial
- **Art XXII:** Right of association
- **Art XXIII:** Right to property
- **Art XXIV:** Right of petition
- **Art XXVIII:** Scope of the rights of man

Petitions

- Onondaga Nation and Haudenosaunee (filed April 14, 2014) – *pending an admissibility decision*
- Cherokee Nation (Case 11.071; filed March 12, 1997) – *found inadmissible*
- Dann, Mary and Carrie (Case 11.140; filed April 2, 1993) – *merits decision issued*

Reports – none

Recommendations

- **Precautionary Measures**
  - stay the efforts of the Bureau of Land Management to impound livestock of petitioners[61]

- **Merits Decisions**[62]

- provide petitioners with an **effective remedy** to ensure respect for petitioners' right to property **in connection with claims to property rights in ancestral lands**
- review laws, procedures and practices **to ensure property rights of indigenous persons** in accordance with the American Declaration

II. ICCPR

Relevant Provisions

- **Art 1**: Right to self-determination, to freely pursue economic, social and cultural development
- **Art 2:** Respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status
- **Art 26:** All persons are equal and entitled to equal protection of the law without discrimination
- **Art 27:** Persons belonging to minorities shall not be denied the right to enjoy their culture, practice their own religion, or use their own language

Recommendations

- **review State policy toward indigenous peoples as regards to the extinguishment of aboriginal rights** on the basis of the plenary power of Congress regarding Indian affairs and **grant them the same degree of judicial protection** that is available to the non-indigenous population [2006, Concluding Observation, ¶ 37]
- take further steps to **secure the rights of all indigenous peoples**, under articles 1 and 27 of the Covenant, so as to give them greater influence in decision-making affecting their natural environment and their means of subsistence as well as their own culture [2006, Concluding Observation, ¶ 37]
- **adopt measures to effectively protect sacred areas of indigenous peoples** against desecration, contamination and destruction [2014, Concluding Observation, ¶ 25]
- **ensure that consultations are held with the indigenous communities that might be adversely affected by the State party's development projects and exploitation of natural resources** with a view to obtaining their free, prior and informed consent for proposed project activities [2014, Concluding Observation, ¶ 25]

III. CERD

Relevant Provisions

- **Art 2(1)(d):** Prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization
- **Art 5(d)(v)** Prohibit and eliminate discrimination in the enjoyment of the right to own property alone and in association with others

- **Art 5(e)(iv)**: Prohibit and eliminate discrimination in the enjoyment of the right to public health, medical care, social security and social services
- **Art 5(e)(vi)**: Prohibit and eliminate discrimination in the enjoyment of the right to equal participation in cultural activities

Recommendations

- ensure that activities carried out in areas of spiritual and cultural significance to Native Americans **do not have a negative impact on the enjoyment of their rights** under the Convention [2008, Concluding Observation, ¶ 29]
- **recognize the right of Native Americans to participate in decisions affecting them,** and consult and cooperate in good faith with the indigenous peoples concerned before adopting and implementing any activity in areas of spiritual and cultural significance to Native Americans [2008, Concluding Observation, ¶ 29]
- guarantee, in law and in practice, the right of indigenous peoples to effective participation in public life and in decisions that affect them, based on their free, prior and informed consent [2014, Concluding Observation, ¶ 24]
- take effective measures to eliminate undue obstacles to the recognition of tribes [2014, Concluding Observation, ¶ 24]
- adopt concrete measures to effectively protect the sacred sites of indigenous peoples in the context of … development or national security projects and exploitation of natural resources, and ensure that those responsible for any damages caused are held accountable [2014, Concluding Observation, ¶ 24]
- effectively implement and enforce the Indian Child Welfare Act of 1978 to halt the removal of indigenous children from their families and communities [2014, Concluding Observation, ¶ 24]
- take immediate action to **implement the recommendations contained in Decision 1(68) on the Western Shoshone peoples** and provide comprehensive information to the Committee on concrete measures taken in that regard [2014, Concluding Observation, ¶ 24]
- intensify efforts to prevent and combat violence against women, particularly American Indian and Alaska Native women, **and ensure that all cases of violence against women are effectively investigated, perpetrators are prosecuted and sanctioned, and victims are provided with appropriate remedies** [2014, Concluding Observation, ¶ 19]
- take measures to guarantee, in law and in practice, **the right to access justice and effective remedies for all indigenous women** who are victims of violence [2014, Concluding Observation, ¶ 19]
- **ensure that indigenous peoples can effectively exercise their right to vote [**2014, Concluding Observation, ¶ 11]

IV. CAT – N/A

V. UPR

Accepted

- implement concrete measures consistent with the ICCPR to ensure the participation of indigenous peoples in the decisions affecting their natural environment, measures of subsistence, culture and spiritual practices
- formulate goals and policy guidelines for the promotion of the rights of indigenous peoples and cooperation between government and indigenous peoples
- end the violation of the rights of indigenous peoples
- guarantee the rights of indigenous Americans, fully implement the UN Declaration on the Rights of Indigenous Peoples
- implement the UN Declaration on the Rights of Indigenous Peoples at the federal and state levels

6. MILITARY ACTION/NATIONAL SECURITY

A. MILITARY ACTION (Outside the United States)

The Commission has received three petitions in this category. Two petitions address military action in Grenada – one concerns the bombing of a psychiatric facility and one alleges abusive treatment at the hands of U.S. actors. A merits decision was issued in one case and the case regarding the bombing was closed. A third petition, concerning military action in Panama, is pending in the merits phase.

These petitions raise issues of extraterritoriality and the use of military technology that causes damage to civilian populations and infrastructure. They further address U.S. military accountability, similar to cases in the Military Detention/National Security category.

I. INTERAMERICAN SYSTEM

Relevant Provisions of the American Declaration

- **Art I:** Right to life, liberty, and security of person
- **Art II**: Right to equality before the law
- **Art VII**: Right to protection for mothers and children
- **Art IX**: Right to inviolability of the home
- **Art XI**: Right to preservation of health and well-being
- **Art XIV**: Right to work and fair remuneration
- **Art XVII**: Right to recognition of juridical personality and civil rights
- **Art XVIII**: Right to a fair trial
- **Art XXIII**: Right to property
- **Art XXV:** Right of protection from arbitrary arrest
- **Art XXVI**: Right to due process of law
- **Art XXVIII:** Rights of man limited by rights of others and general welfare

Petitions

- Coard, Bernard (Case 10.951; filed July 25, 1991) – *merits decision issued*
- Hill, Richmond (Case 9213; filed November 5, 1983) – *admissible; petitioners asked case to be closed*
- Salas and Others (Case 10.573; filed May 10, 1990) – *found admissible; pending a merits decision*

Reports – none

Recommendations

- **Precautionary Measures** – none
- **Merits Decisions**[63]
  - investigate the events alleged and attribute responsibility to the military personnel involved in the transgression

- review procedures and practices to make sure future violations [of U.S. actors holding individuals, treating them badly, and negatively influencing trials in international judicial systems] do not occur

II. ICCPR

Relevant Provisions

- **Art 2:** Respect and ensure the rights recognized in the Covenant without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status
- **Art 6:** Every human being has the inherent right to life
- **Art 7:** No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment
- **Art 10(1):** All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person
- **Art 26**: All persons are equal before the law and are entitled without any discrimination to the equal protection of the law

Recommendations

- **acknowledge the applicability of the Covenant with respect to individuals under its jurisdiction but outside its territory**, as well as its applicability in time of war [2006, Concluding Observation, ¶ 10]
- take positive steps, when necessary, to **ensure the full implementation** of all rights prescribed by the Covenant [2006, Concluding Observation, ¶ 10]
- **conduct prompt and independent investigations** into all allegations concerning suspicious deaths, torture or cruel, inhuman or degrading treatment or punishment inflicted by its personnel (including commanders) as well as contract employees, in detention facilities in . . . overseas locations; ensure that those responsible are prosecuted and punished [2006, Concluding Observation, ¶ 14]
- **adopt all necessary measures to prevent the recurrence of such behaviors, in particular by providing adequate training and clear guidance** to its personnel (including commanders) and contract employees, about their respective obligations and responsibilities, in line with articles 7 and 10 of the Covenant [2006, Concluding Observation, ¶ 14]
- **ensure that all cases of unlawful killing, torture or other ill-treatment, unlawful detention or enforced disappearance are** effectively, independently and impartially **investigated, that perpetrators, including, in particular, persons in positions of command, are prosecuted and sanctioned,** and that victims are provided with effective remedies [2014, Concluding Observation, ¶ 5]
- **consider the full incorporation of the doctrine of "command responsibility"** in its criminal law [2014, Concluding Observation, ¶ 5]
- **enact legislation to explicitly prohibit torture, including mental torture,** wherever committed, and ensure that the law provides for penalties commensurate with the gravity of such acts, whether committed by public officials or other persons acting on behalf of the State, or by private persons;

ensure the availability of compensation to victims of torture [2014, Concluding Observation, ¶ 5]

III. CERD – N/A

IV. CAT

Relevant Provisions

- **Art 1(2)**: This Convention applies without prejudice to any international instrument or national legislation which does or may contain provisions of wider application
- **Art 16:** Undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity

Recommendations

- **recognize and ensure that the Convention applies at all times**, whether in peace, war or armed conflict, **in any territory under its jurisdiction** and that the application of the Convention's provisions are without prejudice to the provisions of any other international instrument [2006, Concluding Observations, ¶ 14; 2014, Concluding Observations, ¶ 10]

V. UPR

Accepted

- end the use of military technology and weaponry that have proven to be indiscriminate and cause excessive and disproportionate damage to civilian life
- that measures be taken to eradicate all forms of torture and ill treatment of detainees by military or civilian personnel, in any territory of jurisdiction, and that any such acts be thoroughly investigated
- respect the human rights of prisoners of war, guaranteed by the penal norms

Accepted in Part

- take effective legal steps to halt human rights violations by its military forces and private security firms in Afghanistan and other States
- end the use of military technology and weaponry that have proven to be indiscriminate and cause excessive and disproportionate damage to civilian life

B. MILITARY POLICY, DETENTION/NATIONAL SECURITY

These petitions challenge the capture and detention of individuals on foreign soil, detention at Guantanamo, forced disappearances, and rendition to torture; they also include military policy toward U.S. servicemen and women. Eight of the ten petitions in this category concern foreign nationals. One petition, *Jose Padilla*, involves a U.S. citizen detained by the military. One petition was filed on behalf of former members of the U.S. Military and its branches, alleging lack of adequate safeguards against, and responses to, sexual assault. These petitions raise claims of torture and degrading treatment and indefinite detention, as well as the denial of reparations. Cases regarding treatment of servicemen also raise issues of equality, accountability and remedies

The IACHR has issued precautionary measures in four instances. Three of the petitions have been declared admissible and are pending merits decisions. Admissibility decisions are pending for the *Jose Padilla case* and five petitions addressing treatment of foreign nationals.

These cases highlight broad concerns about personal liberty and due process and more specifically, discrimination on the basis of national origin and ethnicity, access to justice, the obligation to protect vulnerable individuals, and the relationship between the military and federal systems. Also at the core of these cases are concerns regarding arbitrary and indefinite detention and torture and ill-treatment. These petitions address systemic issues that also arise in the Immigration/Immigrant Rights, Military Action, Juvenile Life Without Parole, and Criminal Justice Procedure categories.

Since 2002, the Commission has been very active in publicly highlighting the need to close Guantanamo, issuing a number of press releases, sometimes in conjunction with U.N. bodies, as well as holding a hearing.[64]

I. INTERAMERICAN SYSTEM

Relevant Provisions of the American Declaration

- **Art I**: Right to life, liberty, and personal security
- **Art II**: Right to equality
- **Art IV**: Right to truth
- **Art V**: Right to protection of honor, personal reputation, and private and family life
- **Art VI**: Right to family and protection thereof
- **Art VII**: Right to protection of mothers and children
- **Art. IX:** Right to inviolability of one's home
- **Art XII**: Right to education
- **Art XIV**: Right to work and fair remuneration
- **Art XVIII**: Right to a fair trial
- **Art XXIV:** Right to petition and receive a prompt decision
- **Art XXV**: Right of protection from arbitrary arrest

- **Art XXVI**: Right to due process of law . . . and not to receive cruel, infamous or unusual punishment

Petitions

- **Petitions Regarding Foreign Nationals**
  - Al-Alwi, Moath (PM 46/15) – *precautionary measures granted; pending an admissibility decision*
  - Ameziane, Djamel (Petition 900-08; filed August 6, 2008) – *found admissible; precautionary measure granted; pending a merits decision*
  - Detainees being held by the United States at Guantanamo Bay, Cuba (filed February 25, 2002) – *precautionary measure granted; pending an admissibility decision*
  - El-Masri, Khaled (Petition 419-08; April 9, 2008) – *found admissible; pending a merits decision*
  - Khadr, Omar (PM 8/06; filed in 2006 during 124th Session) – *precautionary measure granted; pending an admissibility decision*
  - Mohamed, Binyam et al (filed November 14, 2011) – *pending an admissibility decision*
  - Sabar, Thahe Mohamed et al (filed March 19, 2012) – *pending an admissibility decision*
  - Shibayama, Isamu Carlos et al. (filed June 13, 2003) – *found admissible; pending a merits decision*

- **Petition Regarding U.S. Citizens**
  - Padilla, Jose and Estela Lebron (filed December 11, 2012) – *pending an admissibility decision*
  - Gallagher, Mary et. al. (filed January 23, 2014) –*pending an admissibility decision*

Reports – none

Recommendations

- **Precautionary Measures**[65]
  - ensure detainees are not subject to torture or to cruel, inhumane or degrading treatment
  - ensure detainees are not deported to any country where they might be subjected to torture or other mistreatment
  - ensure detainees receive effective medical attention for physical and psychological ailments
  - provide an adequate, individualized examination of detainees' circumstances through a fair and transparent process
  - protect detainees' right to physical, mental, and moral integrity through measures to prevent him being kept incommunicado for long periods or subjected to forms of interrogation that infringe international standards of humane treatment

- respect the prohibition on the use of any statement obtained by means of torture or cruel, inhumane, or degrading treatment against detainees, and investigate the events and bring to justice those responsible, including those implicated when the doctrine of "management accountability" is applied
- have a competent tribunal define the legal status of the detainees in Guantanamo Bay

- **Merits Decisions** – none

II. ICCPR

Relevant Provisions

- **Art 2:** Respect and ensure the rights recognized in the Covenant without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status
- **Art 7**: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment
- **Art 9(1)**: Everyone has the right to liberty and security of person; No one shall be subjected to arbitrary arrest or detention
- **Art 9(3)**: Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release
- **Art 9(4)**: Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful
- **Art 10(1)**: All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person
- **Art 14(1)**: All persons shall be equal before the courts and tribunals
- **Art 14(3)**: In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be **informed** promptly and in detail in a language which he understands of the nature and cause of the charge against him; (b) To have **adequate time and facilities** for the preparation of his defence and to communicate with counsel of his own choosing; (c) To be **tried without undue delay** . . .
- **Art 26**: All persons are equal before the law and are entitled without any discrimination to the equal protection of the law

Recommendations

- immediately **cease its practice of secret detention and close all secret detention facilities** . . . [and] grant the International Committee of the Red Cross prompt access to any person detained in connection with an armed conflict . . . [and] **ensure that detainees, regardless of their place of detention, always benefit from the full protection of the law** [2006, Concluding Observation, ¶ 18]
- ensure **that any revision of the Army Field Manual only provides for interrogation techniques in conformity with the international understanding of the scope of the prohibition contained** in . . . the

Covenant; **ensure that the current interrogation techniques or any revised techniques are binding on all agencies of the United States Government and any others acting on its behalf**; **ensure that there are effective means to follow suit against abuses committed by agencies operating outside the military structure** and that appropriate sanctions be imposed on its personnel who used or approved the use of the now prohibited techniques; **ensure that the right to reparation of the victims of such practices is respected** [2006, Concluding Observation, ¶ 13]

- **acknowledge the applicability of the Covenant with respect to individuals under its jurisdiction but outside its territory**, as well as **its applicability in time of war** [2006, Concluding Observation, ¶ 10]
- **conduct prompt and independent investigations** into all allegations concerning suspicious deaths, torture or cruel, inhuman or degrading treatment or punishment inflicted by its personnel (including commanders) as well as contract employees, **in detention facilities in Guantanamo Bay, Afghanistan, Iraq and other overseas locations** [2006, Concluding Observation, ¶ 14]
- ensure that those responsible are prosecuted and punished in accordance with the gravity of the crime [2006, Concluding Observation, ¶ 14]
- adopt all necessary measures to prevent the recurrence of such behaviors, in particular by **providing adequate training and clear guidance** to its personnel (including commanders) and contract employees, about their respective obligations and responsibilities . . . [and] **refrain from relying on evidence obtained by treatment incompatible with** [the Covenant] [2006, Concluding Observation, ¶ 14]
- **amend section 1005 of the Detainee Treatment Act** so as to allow detainees in Guantanamo Bay to seek review of their treatment or conditions of detention before a court [2006, Concluding Observation, ¶ 15]
- **ensure that individuals, including those it detains outside its own territory, are not returned to another country by way of inter alia, their transfer, rendition, extradition, expulsion or refoulement** if there are substantial reasons for believing that they would be in danger of being subjected to torture or cruel, inhuman or degrading treatment or punishment [2006, Concluding Observation, ¶ 16]
- **conduct thorough and independent investigations into the allegations that persons have been sent to third countries where they have undergone torture or cruel, inhuman or degrading treatment or punishment** [and] **modify its legislation and policies** to ensure that no such situation will recur, and provide appropriate remedy to the victims [2006, Concluding Observation, ¶ 16]
- **exercise the utmost care in the use of diplomatic assurances and adopt clear and transparent procedures with adequate judicial mechanisms for review before individuals are deported**, as well as effective mechanisms to monitor scrupulously and vigorously the fate of the affected individuals [2006, Concluding Observation, ¶ 16]
- **ensure** . . . **that persons detained in Guantanamo Bay are entitled to proceedings before a court to decide, without delay, on the lawfulness of their detention or order their release,** [such proceedings should reflect] [d]ue

process, independence of the reviewing courts from the executive branch and the army, access of detainees to counsel of their choice and to all proceedings and evidence [2006, Concluding Observation, ¶ 18]

- review its practice with a view to **ensuring that the Material Witness Statute and immigration laws are not used so as to detain persons suspected of terrorism or any other criminal offences with fewer guarantees than in criminal proceedings**; the State party should also ensure that those improperly so detained receive appropriate reparation [2006, Concluding Observation, ¶ 19]
- **ensure that all cases of unlawful killing, torture or other ill-treatment, unlawful detention or enforced disappearance are** effectively, independently and impartially **investigated, that perpetrators, including, in particular, persons in positions of command, are prosecuted and sanctioned,** and that victims are provided with effective remedies [2014, Concluding Observation, ¶ 5]
- **consider the full incorporation of the doctrine of "command responsibility"** in its criminal law [2014, Concluding Observation, ¶ 5]
- **declassify and make public the report of the Senate Special Committee on Intelligence into the CIA secret detention programme** [2014, Concluding Observation, ¶ 5]
- **expedite the transfer of detainees designated for transfer,** including to Yemen, **as well as the process of periodic review for Guantánamo detainees** and **ensure either their trial or their immediate release and the closure of the Guantánamo Bay facility** [2014, Concluding Observation, ¶ 21]
- **end the system of administrative detention** without charge or trial and **ensure that any criminal cases against detainees held in Guantánamo and in military facilities in Afghanistan are dealt with through the criminal justice system rather than military commissions,** and that those detainees are afforded the fair trial guarantees enshrined in article 14 of the Covenant [2014, Concluding Observation, ¶ 21]
- **monitor the conditions of detention in prisons,** including private detention facilities, with a view to ensuring that persons deprived of their liberty are treated in accordance with the requirements of articles 7 and 10 of the Covenant and the Standard Minimum Rules for the Treatment of Prisoners [2014, Concluding Observation, ¶ 20]
- **impose strict limits on the use of solitary confinement,** both pretrial and following conviction, in the federal system as well as nationwide [2014, Concluding Observation, ¶ 20]
- **enact legislation to explicitly prohibit torture, including mental torture,** wherever committed, and ensure that the law provides for penalties commensurate with the gravity of such acts, whether committed by public officials or other persons acting on behalf of the State, or by private persons; ensure the availability of compensation to victims of torture [2014, Concluding Observation, ¶ 5]

III. CERD

Relevant Provisions

- **Art 2(1)(c)**: Take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists
- **Art 5(a)**: Prohibit and eliminate discrimination in the right to equal treatment before the tribunals and all other organs administering justice
- **Art 5(b)**: Prohibit and eliminate discrimination in the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution
- **Art 6**: Assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention

Recommendations

- adopt all necessary measures to **guarantee the right of foreign detainees held as "enemy combatants" to judicial review of the lawfulness and conditions of detention, as well as their right to remedy for human rights violations** . . . [and] **ensure that non-citizens detained or arrested in the fight against terrorism are effectively protected by domestic law,** in compliance with international human rights, refugee and humanitarian law [2008, Concluding Observation, ¶ 24]
- end the system of administrative detention without charge or trial and **ensure the closure of the Guantanamo Bay facility without further delay;** guarantee the right of **detainees to a fair trial,** in compliance with international human rights standards, and to ensure that any detainee who is not charged and tried is released immediately [2014, Concluding Observation, ¶ 22]

IV. CAT

Relevant Provisions (though the entire treaty is implicated)

- **Art 2(1)**: Take effective legislative, administrative, judicial or other measures to **prevent acts of torture in any territory under its jurisdiction**
- **Art 2(2)**: No exceptional circumstances whatsoever, whether a state of war or a threat or war, internal political instability or any other public emergency, may be invoked as a justification of torture
- **Art 11**: Keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture
- **Art 12**: Ensure that 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 a state's jurisdiction

- **Art 13**: Ensure that any individual who alleges he has been subjected to torture in any territory under a state's jurisdiction has the right to complain and have his case promptly and impartially examined by competent authorities.
- **Art 14:** Ensure in its legal system that the victim of an act of torture **obtains redress and has an enforceable right to fair and adequate compensation**, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation
- **Art 15**: Ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings
- **Art 16(1)**: Undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity

Recommendations

- **ensure that the provisions of the Convention** expressed as applicable to "territory under the State party's jurisdiction" **apply to, and are fully enjoyed, by all persons under the effective control of its authorities, of whichever type, wherever located in the world** [2006, Concluding Observation, ¶ 15; 2014 Concluding Observation, ¶ 10]
- **register all persons it detains in any territory under its jurisdiction,** as one measure to prevent acts of torture; registration should contain the identity of the detainee, the date, time and place of the detention, the identity of the authority that detained the person, the ground for the detention, the date and time of admission to the detention facility and the state of health of the detainee upon admission and any changes thereto, the time and place of interrogations, with the names of all interrogators present, as well as the date and time of release or transfer to another detention facility [2006, Concluding Observation, ¶ 16]
- **ensure that no one is detained in any secret detention facility under its de facto effective control** . . . [and] investigate and disclose the existence of any such facilities and the authority under which they have been established and the manner in which detainees are treated [2006, Concluding Observation, ¶ 17; 2014, Concluding Observation, ¶ 11; 14]
- **cease to detain any person at Guantánamo Bay and close this detention facility,** permit access by the detainees to judicial process or release them as soon as possible, **ensuring that they are not returned to any State where they could face a real risk of being tortured** [2006, Concluding Observation, ¶ 22; 2014, Concluding Observation, ¶ 14]
- **adopt clear legal provisions to implement the principle of absolute prohibition of torture** in domestic law without any possible derogation . . . [and] ensure that perpetrators of acts of torture are prosecuted and punished appropriately [2006, Concluding Observation, ¶ 19]
- **ensure that any interrogation rules, instructions or methods do not derogate from the principle of absolute prohibition of torture** and that no

doctrine under domestic law impedes the full criminal responsibility of perpetrators of acts of torture [2006, Concluding Observation, ¶ 19] and **review the Army Field Manual** to ensure compliance [2014, Concluding Observation, ¶ 17]

- **promptly, thoroughly, and impartially investigate any responsibility of senior military and civilian officials authorizing, acquiescing or consenting, in any way, to acts of torture** committed by their subordinates [2006, Concluding Observation, ¶ 19; 2014 Concluding Observation, ¶ 12]
- **promptly, thoroughly, and impartially investigate any reasonable allegations of torture and ill-treatment within the jurisdiction of the United States**, especially where death in custody occurs and **provide effective remedies and redress to victims**, including fair and adequate compensation, and rehabilitation; Ensure that alleged military perpetrators are suspended from duty immediately for the duration of the investigation. These protections should apply **regardless of nationality** [2014 Concluding Observation, ¶¶ 12; 14; 15; 29].
- **apply the *non-refoulement* guarantee to all detainees in its custody, cease the rendition of suspects**, in particular by its intelligence agencies, to States where they face a real risk of torture . . . [and] always **ensure that suspects have the possibility to challenge decisions of *refoulement*** [2006, Concluding Observation, ¶ 20; 2014, Concluding Observation, ¶ 16]
- refrain from seeking and relying on diplomatic assurances where the danger of being subjected to torture is based on substantial grounds [2014, Concluding Observation, ¶ 16]
- take immediate measures to **eradicate all forms of torture and ill-treatment of detainees by its military or civilian personnel, in any territory under its jurisdiction**, and . . . promptly and thoroughly investigate such acts, prosecute all those responsible for such acts, and ensure they are appropriately punished, in accordance with the seriousness of the crime [2006, Concluding Observation, ¶ 26]
- **ensure that independent, prompt and thorough procedures to review the circumstances of detention and the status of detainees are available to all detainees** [2006, Concluding Observation, ¶ 27]
- ensure . . . obligations under articles 13 and 15 are fulfilled in all circumstances, including in the context of military commissions and . . . consider establishing an independent mechanism to guarantee the rights of all detainees in its custody [2006, Concluding Observation, ¶ 30]
- **declassify all evidence of torture,** particularly related to Guantanamo, including the Senate Select Committee on Intelligence's report on the CIA's secret detention program with minimal redactions [2014, Concluding Observation, ¶¶ 11;15]
- **ensure that its legislative, administrative and other anti-terrorism measures are compatible with the provisions of the Convention** and that all detainees are afforded all legal safeguards as soon as they are detained [2014, Concluding Observation, ¶ 11]

- **undertake a full review into the way the CIA's responsibilities were discharged** in relation to the allegations of torture and ill-treatment against suspects during U.S. custody abroad [2014, Concluding Observation, ¶ 11]
- ensure that **detainees held at Guantanamo who are designated for potential prosecution be charged and tried in ordinary federal civilian courts. Any other detainees** who are not to be charged or tried **should be immediately released** [2014, Concluding Observation, ¶ 14];
- **invite the UN Special Rapporteur on torture to visit Guantanamo Bay** detention facilities, with full access to the detainees [2014, Concluding Observation, ¶ 14]
- **ensure the provision of mutual judicial assistance in all matters of criminal procedure regarding the offence of torture** and related crimes of attempting to commit, complicity and participation in torture [2014, Concluding Observation, ¶ 15]
- develop and continue to assess **mandatory training** to **ensure that all public servants** … employed in prisons and psychiatric hospitals … **are well acquainted in the provisions of the Convention** and …. trained to identify cases of torture and ill-treatment [2014 Concluding Observation, ¶ 28]
- ratify the International Convention for the Protection of All Persons from Enforced Disappearance. [2014, Concluding Observation, ¶ 11]
- **increase efforts to prevent and eradicate sexual violence in the military** through prompt, impartial and effective investigations of all allegations of sexual violence; protecting witnesses and complainants from retaliation; and ensure equal access to disability compensation to those survivors of sexual assault who are veterans [2014, Concluding Observation, ¶ 30]
- ensure that all victims of torture and ill-treatment **obtain redress and have an enforceable right to fair and adequate compensation**, including the means for as full rehabilitation as possible, in particular victims of police brutality, terror suspects claiming abuse, victims of gender violence, asylum-seekers, refugees and others under international protection [2014, Concluding Observation, ¶ 29]

V. UPR

Accepted

- do not prosecute those arrested for terrorist crimes or any other crime in exceptional tribunals or jurisdictions, but bring them to judicial instances legally established, with the protection of due process and under all the guarantees of the American Constitution
- halt all transfers of detainees to third countries unless there are adequate safeguards to ensure that they will be treated in accordance with international law requirements
- guarantee the complete prohibition of torture in all prisons under its control
- that measures be taken to eradicate all forms of torture and ill treatment of detainees by military or civilian personnel, in any territory of jurisdiction, and that any such acts be thoroughly investigated

- define torture as a federal offense in line with the Convention against Torture and investigate, prosecute and punish those responsible of crimes of extraterritorial torture

Accepted in Part

- take legal and administrative measures to address civilian killings by the U.S. military troops during and after its invasion of Afghanistan and Iraq by investigating and bringing perpetrators to justice and remedying the victims and to close its detention facilities in foreign territories like Guantanamo, including CIA secret camps
- prosecute the perpetrators of torture, extrajudicial executions and other serious violations of human rights committed in Guantanamo, Abu Ghraib, Bagram, the NAMA and BALAD camps, and those carried out by the Joint Special Operations Command and the CIA
- conduct thorough and objective investigation of facts concerning use of torture against imprisoned persons in the secret prisons of United States of America and detainees of the detention centres in Bagram and Guantanamo; bring those who are responsible for these violations to justice, and undertake all necessary measures to provide redress to those whose rights were violated, including payment of necessary compensation
- take measures to ensure reparation to victims of acts of torture committed under United States' control and allow access to the International Committee of the Red Cross to detention facilities under the control of the United States
- expedite efforts aimed at closing the detention facility at Guantanamo Bay and ensure that all remaining detainees are tried, without delay, in accordance with the relevant international standards
- ensure the right to habeas corpus in all cases of detention
- take measures with a view to prohibiting and punishing the brutality and the use of excessive or deadly force by law enforcement officials and to banning torture and other ill-treatment in its detention facilities at home and abroad
- proceed with the closure of Guantanamo at the earliest possible date and bring to trial promptly in accordance with the applicable rules of international law the detainees held there

7. RIGHT TO AN ADEQUATE STANDARD OF LIVING

To date, one petition has squarely raised the right to an adequate standard of living. This petition challenges several U.S. welfare laws and policies, in particular the 1996 Personal Responsibility and Work Opportunity Reconciliation Act, on the basis of its harmful implications on certain segments of the population. The petition was filed in 1999 and is pending in the admissibility phase. This petition alleges violations of equal treatment and equal access, and highlights concerns regarding discrimination and residential segregation. These concerns are echoed by petitions within other categories, including Criminal Justice Procedure, Death Penalty, and the Right to Vote.

II. INTERAMERICAN SYSTEM

Relevant Provisions of the American Declaration

- **Art II**: Right to equality before the law
- **Art VI**: Right to a family and to protection thereof
- **Art XI**: Right to preservation of health and well-being
- **Art XII**: Right to education
- **Art XIV**: Right to work and fair remuneration
- **Art XVI**: Right to social security

Petitions

- Poor People's Economic Human Rights Campaign (filed October 1, 1999) – *pending an admissibility decision*

Reports – none

Recommendations

- **Precautionary Measures** – none
- **Merits Decisions** – none

I. ICCPR

Relevant Provisions

- **Art 2:** Respect and ensure the rights recognized in the Covenant without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status
- **Art 26:** All persons are equal before the law and are entitled without any discrimination to the equal protection of the law

Recommendations

- take measures, including adequately implementing policies, to **bring an end to such de facto and historically generated racial discrimination**[66] [2006, Concluding Observation, ¶ 22]
- review practices and policies to ensure the **full implementation of the obligation to protect life and of the prohibition of discrimination**, whether direct or indirect, as well as the United Nations Guiding Principles on Internal

Displacement, **in matters related to disaster prevention and preparedness, emergency assistance and relief measures** [2006, Concluding Observation, ¶ 26]

- **Abolish the laws and policies criminalizing homelessness at state and local levels;** ensure close cooperation among all relevant stakeholders, including social, health, law enforcement and justice professionals at all levels, to intensify efforts to find solutions for the homeless, in accordance with human rights standards; and offer incentives for decriminalization and the implementation of such solutions, including by providing continued financial support to local authorities that implement alternatives to criminalization, and withdrawing funding from local authorities that criminalize the homeless. [2014, Concluding Observation, ¶ 19]

II. CERD

Relevant Provisions

- **Art 3:** State Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction
- **Art 5(e):** Prohibit and eliminate racial discrimination in the enjoyment of the right to work, the right to housing, the right to form and join unions, the right to public health, the right to education and training

Recommendations

- intensify efforts aimed at **reducing the phenomenon of residential segregation** based on racial, ethnic and national origin, **as well as its negative consequences** for the affected individuals and groups [by]:
  - **supporting the development of public housing complexes outside poor, racially segregated areas**;
  - **eliminating the obstacles that limit affordable housing choice and mobility** for beneficiaries of Section 8 Housing Choice Voucher Program; and,
  - **ensuring the effective implementation of legislation adopted at the federal and state levels to combat discrimination in housing**, including the phenomenon of "steering" and other discriminatory practices carried out by private actors [2008, Concluding Observation, ¶ 16]
- ensure the availability of affordable and adequate housing for all, including by **effectively**
  implementing the Affirmatively Furthering Fair Housing requirement [2014, Concluding Observation, ¶ 13]
- **strengthen the implementation of legislation to combat discrimination in housing, such as the Fair Housing Act and Title VIII of the Civil Rights Act of 1968, including** through the provision of adequate resources and increasing the capacity of the Department of Housing and Urban Development [2014, Concluding Observation, ¶ 13]
- undertake **prompt, independent and thorough investigation into all cases of discriminatory practices by private actors, including in relation to discriminatory mortgage lending practices, steering, and redlining;**

holding those responsible to account; and providing effective remedies, including appropriate compensation, guarantees of non-repetition and changes in relevant laws and practices. [2014, Concluding Observation, ¶ 13]

III. CAT – N/A

IV. UPR

Accepted

- review, reform and adequate its federal and state laws, in consultation with civil society, to comply with the protection of the right to nondiscrimination established by the Convention on the Elimination of all Forms of Racial Discrimination, especially in the areas of employment, housing, health, education and justice
- continue efforts in the domain of access to housing, vital for the realization of several other rights, in order to meet the needs for adequate housing at an affordable price for all segments of the American society
- take further measures in the areas of economic and social rights for women and minorities, including providing equal access to decent work and reducing the number of homeless people

8. RIGHT TO VOTE

Two petitions address the right to vote in the United States. One focuses on laws excluding citizens of Washington, D.C. from voting for members of congress. This petition was deemed admissible and the Commission issued a merits decision. The second petition, challenging felon disenfranchisement in New Jersey, is in the admissibility phase.

These petitions specifically address the right to participate in government, as well as equality and non-discrimination. Underlying claims of felon disenfranchisement are also issues of structural discrimination within the criminal justice system and the collateral consequences of incarceration. These concerns are mirrored in cases within the cases in the criminal justice categories.

III. INTERAMERICAN SYSTEM

Relevant Provisions of the American Declaration:

- **Art II**: Right to equality before the law
- **Art XVII:** Right to recognition of juridical personality and civil rights
- **Art XX:** Right to participate in government

Petitions

- Statehood Solidarity Committee et. al (Case 11.204; filed April 1, 1993) – *merits decision issued*
- Michael Mackson et. al (Petition P-990-06; filed September 13, 2006) – *pending an admissibility decision*

Reports – none

Recommendations

- **Precautionary Measures** – none
- **Merits Decisions**
  - provide petitioners with **an effective remedy**, which includes adopting legislative or other measures necessary to guarantee to the petitioners **the effective right to participate** in their national legislature[67]

I. ICCPR

Relevant Provisions

- **Art 2:** Respect and ensure the rights recognized in the Covenant without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status
- **Art 25(b):** The universal and equal right to vote at periodic elections
- **Art 26:** All persons are equal before the law and are entitled without any discrimination to the equal protection of the law

Recommendations

- ensure **the right of residents of the District of Columbia to take part** in the conduct of public affairs, in particular with regard to the House of Representatives [2006, Concluding Observation, ¶ 36], [2014, Concluding Observation, ¶ 24]
- **adopt appropriate measures to ensure that states restore voting rights** to citizens who have fully served their sentences and those who have been released on parole [2006 Concluding Observation, ¶ 35], [2014, Concluding Observation, ¶ 24]
- **review regulations relating to deprivation of votes for felony convictions** to ensure that they always meet the reasonableness test of article 25, and **assess the extent to which such regulations disproportionately impact** the rights of minority groups [2006 Concluding Observation, ¶ 35],
- **provide inmates with information about their voting restoration options;** remove or streamline lengthy and cumbersome voting restoration procedures; as well as review automatic denial of the vote to any imprisoned felon, regardless of the nature of the offence [2014, Concluding Observation, ¶ 24]
- **ensure that voter identification requirements** and the new eligibility requirements **do not impose excessive burdens on voters and result in de facto disenfranchisement** [2014, Concluding Observation, ¶ 24]

II. CERD

Relevant Provisions

- **Art 5(c)**: Prohibit and eliminate racial discrimination in the right to participate in elections – to vote, stand for election, take part in Government and conduct public affairs

Recommendations

- **adopt all appropriate measures to ensure that the denial of voting rights is used only with regard to persons convicted of the most serious crimes**, and that the right to vote is in any case **automatically restored after the completion of the criminal sentence** [2008, Concluding Observation, ¶ 27]
- **enforce federal voting rights legislation** … to encourage voter participation, **and adopt federal legislation to prevent … voting regulations which have discriminatory impact** [2014, Concluding Observation, ¶ 11]
- **ensure that indigenous peoples can effectively exercise their right to vote [**2014, Concluding Observation, ¶ 11]
- **ensure that all states reinstate voting rights to persons convicted of felony who have completed their sentences;** provide inmates with information about their voting restoration options; and review automatic denial of the right to vote to imprisoned felons, regardless of the nature of the offence **[**2014, Concluding Observation, ¶ 11]
- **provide for full voting rights of residents of Washington, D.C. [**2014, Concluding Observation, ¶ 11]

III. CAT – N/A

IV. UPR

Accepted

- ensure the enjoyment of the right to vote both by persons deprived of their liberty and of persons who have completed their prison sentences

APPENDIX A: AMERICAN DECLARATION PROVISIONS

- **Art. I:** Every human being has the right to life, liberty and the security of his person.
- **Art. II:** All persons are equal before the law and have the rights and duties established in this Declaration, without distinction as to race, sex, language, creed or any other factor.
- **Art. III:** Every person has the right freely to profess a religious faith, and to manifest and practice it both in public and in private.
- **Art. IV:** Every person has the right to freedom of investigation, of opinion, and of the expression and dissemination of ideas, by any medium whatsoever.
- **Art. V:** Every person has the right to the protection of the law against abusive attacks upon his honor, his reputation, and his private and family life.
- **Art. VI:** Every person has the right to establish a family, the basic element of society, and to receive protection therefore.
- **Art. VII:** All women, during pregnancy and the nursing period, and all children have the right to special protection, care and aid.
- **Art. VIII:** Every person has the right to fix his residence within the territory of the state of which he is a national, to move about freely within such territory, and not to leave it except by his own will.
- **Art. IX:** Every person has the right to the inviolability of his home.
- **Art. X:** Every person has the right to the inviolability and transmission of his correspondence.
- **Art. XI**: Every person has the right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources.
- **Art. XII:** Every person has the right to an education, which should be based on the principles of liberty, morality and human solidarity. Likewise every person has the right to an education that will prepare him to attain a decent life, to raise his standard of living, and to be a useful member of society. The right to an education includes the right to equality of opportunity in every case, in accordance with natural talents, merit and the desire to utilize the resources that the state or the community is in a position to provide.
- **Art. XIII:** Every person has the right to take part in the cultural life of the community, to enjoy the arts, and to participate in the benefits that result from intellectual progress, especially scientific discoveries. He likewise has the right to the protection of his moral and material interests as regards his inventions or any literary, scientific or artistic works of which he is the author.
- **Art. XIV:** Every person has the right to work, under proper conditions, and to follow his vocation freely, insofar as existing conditions of employment permit. Every person who works has the right to receive such remuneration as will, in proportion to his capacity and skill, assure him a standard of living suitable for himself and for his family.
- **Art. XV:** Every person has the right to leisure time, to wholesome recreation, and to the opportunity for advantageous use of his free time to his spiritual, cultural and physical benefit.

- **Art. XVI:** Every person has the right to social security which will protect him from the consequences of unemployment, old age, and any disabilities arising from causes beyond his control that make it physically or mentally impossible for him to earn a living.
- **Art. XVII:** Every person has the right to be recognized everywhere as a person having rights and obligations, and to enjoy the basic civil rights.
- **Art. XVIII:** Every person may resort to the courts to ensure respect for his legal rights. There should likewise be available to him a simple, brief procedure whereby the courts will protect him from acts of authority that, to his prejudice, violate any fundamental constitutional rights.
- **Art. XIX:** Every person has the right to the nationality to which he is entitled by law and to change it, if he so wishes, for the nationality of any other country that is willing to grant it to him.
- **Art. XX:** Every person having legal capacity is entitled to participate in the government of his country, directly or through his representatives, and to take part in popular elections, which shall be by secret ballot, and shall be honest, periodic and free.
- **Art. XXI:** Every person has the right to assemble peaceably with others in a formal public meeting or an informal gathering, in connection with matters of common interest of any nature.
- **Art. XXII:** Every person has the right to associate with others to promote, exercise and protect his legitimate interests of a political, economic, religious, social, cultural, professional, labor union or other nature.
- **Art. XXIII:** Every person has a right to own such private property as meets the essential needs of decent living and helps to maintain the dignity of the individual and of the home.
- **Art. XXIV:** Every person has the right to submit respectful petitions to any competent authority, for reasons of either general or private interest, and the right to obtain a prompt decision thereon.
- **Art. XXV:** No person may be deprived of his liberty except in the cases and according to the procedures established by pre-existing law. No person may be deprived of liberty for nonfulfillment of obligations of a purely civil character. Every individual who has been deprived of his liberty has the right to have the legality of his detention ascertained without delay by a court, and the right to be tried without undue delay or, otherwise, to be released. He also has the right to humane treatment during the time he is in custody.
- **Art. XXVI:** Every accused person is presumed to be innocent until proved guilty. Every person accused of an offense has the right to be given an impartial and public hearing, and to be tried by courts previously established in accordance with pre-existing laws, and not to receive cruel, infamous or unusual punishment.
- **Art. XXVII:** Every person has the right, in case of pursuit not resulting from ordinary crimes, to seek and receive asylum in foreign territory, in accordance with the laws of each country and with international agreements.
- **Art. XXVIII:** The rights of man are limited by the rights of others, by the security of all, and by the just demands of the general welfare and the advancement of democracy.

APPENDIX B: IACHR CASES BY SUBJECT MATTER

Criminal Justice Procedure

- Africa, Ramona (Case 10.865; filed April 15, 1991)
  - Alleging bogus criminal warrants: Inadmissible
- Alexander, John Melvin, et. al (Petition 1207/05; filed March 2, 2007)
  - Alleging U.S. violations of the human rights of African Americans resulting from racially-motivated rioting in Tulsa, Oklahoma
- Alikhani, Hossein (Petition 4618/02; filed July 17, 1995, reactivated May 20, 2002)
  - Alleging US Customs Service set up Alikhani to be arrested: Admissible
- Bosch and Alvarez Solano (No. 1705; filed February 23, 1971)
  - Regarding arrest and trial in Florida and Georgia of Cuban nationalists charged with terrorism and other crimes; arose from activities of radical Cuban nationalists attempting to overthrow the government of Fidel Castro: Held in abeyance, resolution unknown
- Fjellhammer, Viktorsen (No. 1751; filed August 25, 1972)
  - Foreign Norwegian citizen detained in state prison: Inadmissible
- Thompson (Case 11.629; filed November 1991)
  - Arguing that the mandatory minimum sentence of fifteen years for first offender drug distribution violates the Declaration and general human rights regime: File closed
- Valdez, Juan Isidro (No. 1752; filed September 7, 1972)
  - Spanish speaking U.S. citizens claim discrimination in arrest and detention: Inadmissible
- Walker et. al (Case 12.049; filed July 1995)
  - Challenging the practice of luring and kidnapping suspected foreign felons into US territory to gain criminal jurisdiction: Inadmissible

Death Penalty

- Amaya Ruiz, Jose Jacobo (Case 12.351)
  - Salvadoran citizens on death row in Arizona
- Andrews, William (Case 11.139)
  - Death penalty case involving racial discrimination: Precautionary Measure granted, Admissible and Merits
- Arias, Edgar Tamayo (Petition 15/12; filed January 6, 2012)
  - Mexican national on death row in Texas, suffering from mental disabilities: Precautionary Measure granted, Admissible and Merits
- Bacon Jr., Robert (Case 12.831)
  - Death row in North Carolina – sentence commuted: Precautionary Measure granted
- Beazley, Napoleon (Case 12.412; filed February 19, 2002)
  - African American youth sentenced to death in Texas for crime committed at age 17 – executed: Precautionary Measures granted, Admissible and Merits
- Brown, James Willie (Petition 4538-02)

    - Death row in Georgia – executed: Precautionary Measure granted, Admissible, and Merits
- Bucklew, Russell & Warner, Charles (Petition 684-14; PM-177-14)
    - Death row and inhumane nature of lethal injections in Missouri and Oklahama – Charles Warner executed: Precautionary Measures granted, Admissible
- Burdine, Calvin (Case 11.423)
    - Defense lawyer slept during petitioner's capital trial and petitioner claims ineffective assistance of counsel: Precautionary Measure granted, conviction overturned and remanded
- Carty, Linda (P-2309/12, PM 490/12)
    - British national sentenced to death in Texas, arguing not notified of her right to consular assistance: Precautionary Measures granted
- Celestine, Willie L. (Case 10.031; filed July 15, 1987)
    - African American man on death row – executed: Inadmissible (insufficient evidence that statistical studies make a prima facie case to prove allegations of racial discrimination)
- Chambers, James Wilson (Case 12.341; filed November 10, 2000)
    - Death row in Missouri – executed: Admissible and Merits
- Chi Aceituno, Heliberto (Petition 1232-07)
    - Honduran citizen on death row in Texas – executed: Precautionary Measure granted, Admissible and Merits
- Cooper, Kevin (Petition 593/11; filed April 29, 2011)
    - Death row in California: Admissible
- Domingues, Michael (Case 12.285; filed May 1, 2000)
    - Sentenced to death in Nevada while a juvenile – spared: Admissible and Merits (full compliance)
- Elizalde Jr., Jaime (Petition P1246-05)
    - Death row in Texas: Precautionary Measure granted, Admissible and Merits
- Elliott, John (Petition 28/03; filed January 6, 2003)
    - Suffering from death row syndrome – executed: Admissible
- Faulder, Joseph Stanley (Case 12.168)
    - Death row in Texas – executed
- Fierro, Cesar Roberto (Case 11.331; filed July 21, 1994)
    - Mexican national on death row, arguing he could not seek consular assistance – remains on death row: Admissible and Merits
- Flores, Miguel Angel (filed October 16, 2000)
    - Mexican citizen on death row in Texas – executed: Admissible and Merits
- Gardner, Ronnie Lee (Petition 907-10)
    - Lengthy incarceration on death row – executed: Precautionary Measure granted Admissible, and Merits
- Garza, Juan Raul (Case 12.243; filed December 20, 1999)
    - On federal death row, alleging violations of rights, including use of un-adjudicated murders in sentencing phase – executed: Admissible and Merits
- Garza, Robert Gene (Petition P-1278/13)

    - Petitioner sentenced to death in Texas, question regarding mental disability: Precautionary Measure Granted and Admissible
- Graham, Gary, known as Shaka Sankofa (Case 11.193; filed April 26, 1993)
    - Sentenced to death, raising violations including inadequate counsel, failure to present a forum to submit mitigating evidence, delay, being a minor at time of offense – executed: Admissible and Merits (partial compliance)
- Gray, Marlin (Petition P396-04; filed April 26, 2004)
    - Death row in Missouri, accomplice: Precautionary Measure granted and Admissible
- Green, Anthony (P 2566-02; filed July 29, 2002)
    - African American male on death row in South Carolina – executed: Precautionary Measure granted, Admissible, and Merits
- Hall, Orlando Cordia (Petition 1349/06 and 240/07; filed October 16, 2007)
    - African American on death row in Texas, claiming racial bias: Precautionary Measure granted and Admissible
- Hartman, Edward Ernest (Petition 784/03)
    - Sentenced to death in 'irregular' judicial proceeding – executed: Precautionary Measure granted, Admissible, and Merits
- Hicks, Robert Karl (Petition P580-04)
    - Sentenced to death, on death row for 18 years, inadequate counsel – executed: Precautionary Measure granted, Admissible, and Merits
- Housel, Tracy Lee (Petition 129/02; filed February 25, 2002)
    - Alleging abuse prior to trial and claiming un-adjudicated facts were used against petitioner – executed: Precautionary Measure granted and Admissible
- Kadamovas, Jurijus and Others (Petition 1285/11)
    - Sentenced to death: Precautionary Measure granted
- Kunkle, Troy Albert (Petition P607-04)
    - Sentenced to death – execution stayed because pending before the Supreme Court of the United States: Precautionary Measure granted, Admissible, and Merits
- Lackey, Clarence Allen (P-11.574)
    - Death row, mental disability: Admissible and Merits
- Landrigan, Jeffrey Timothy (Case 12.776; filed November 2, 2004)
    - Sentenced to death by judge acting alone, not jury: Merits
- Leal Garcia, Humberto (see Medellin case)
    - Mexican national on death row: Precautionary Measure granted, US transmitted IACHR request to Texas
- LeGrande, Guy (Petition P1282-06; filed November 27, 2006)
    - Death row, suffers from mental disability, impartiality questioned: Petition Dropped
- Leisure, David (Case 12.201)
    - Death row in Missouri – executed: Precautionary Measure granted, Admissible, and Merits
- Llanas, Ramiro Hernandez (Petition P-455/14; filed March 19, 2014)
    - Mexican national on death row in Texas: Precautionary Measure granted
- Maldonado Rodriguez Virgilio (Petition 1762/11; filed December 9, 2001)

    - Mexican national on death row, suffering from mental disabilities: Precautionary Measure granted and Admissible
- Maltos, Gerado Valdez (Petition P0353.2001; filed June 14, 2001)
    - Mexican citizen on death row in Oklahoma: Precautionary Measure granted
- Medellin, Jose Ernesto (Ramirex Cardenas and Leal Garcia) (Case 12.644; filed November 22. 2006 and December 2006)
    - Mexican nationals sentenced to death in Texas – executed: Precautionary Measure granted and Merits
- Medina, Javier Suarez (Case 12.421; filed July 23, 2002)
    - Mexican national on death row in Texas: Precautionary Measure granted, Admissible and Merits
- Medina, Pedro Luis (Petition 11.829; filed September 20, 1997)
    - Tortured at moment of execution in Florida: Admissible
- Mickens, Walter
    - Death row in Virginia – executed: Precautionary Measure granted
- Miller-El, Thomas Joe
    - Death row in Texas – execution stayed: Precautionary Measure granted
- Mobley, Stephen (Petition P187-05)
    - Death row in Georgia – executed: Precautionary Measure granted, Admissible, and Merits
- Moon, Larry Eugene (Petition 4.659/2002)
    - Death row in Georgia – executed: Precautionary Measure granted, Admissible, and Merits
- Moreno Ramos, Roberto (Case 12.430; filed November 4, 2002)
    - Mexican citizen on death row in Texas: Precautionary Measure granted, Admissible and Merits (partial compliance)
- Moreland, Samuel (Petition 610-14; PM 37-14)
    - Death row in Ohio: Precautionary Measure granted
- Nevius, Thomas
    - Death row in Nevada – sentence commuted because of US Supreme Court decision making it illegal for mentally ill persons to be executed: Precautionary Measure granted
- Patterson, Toronto Markkey (Case 12.439; filed June 3, 2002)
    - Sentenced to death when 17 years old in Texas – executed: Precautionary Measure granted, Admissible and Merits
- Penry, Johnny Paul (Case 12.340; filed November 8, 2000)
    - Death row in Texas – Supreme Court of United States stayed the execution
- Powell, David (Petition 873-10)
    - Awaiting death penalty – executed: Precautionary Measure granted, Admissible, and Merits
- Powell, James Rexford (Petition 3885/02; filed September 11, 2002)
    - Death row in Texas – executed: Precautionary Measure granted and Admissible
- Rahman, Abu-Ali, Abdur' (Petition 136/02; filed February 28, 2002; Case 12/422)

    - Stayed by Supreme Court of the United States: Precautionary Measure granted, Admissible and Merits
- Ramirez Cardenas, Ruben (see Medellin case)
- Resendiz, Angel Maturino (Petition P360/06; filed April 2006)
    - Death row in Texas, suffered symptoms of mental instability and schizophrenia – executed: Admissible and Merits
- Roach, James Terry and Pinkerton, Jay (Case 9647; filed September 22, 1987)
    - Petitioners sentenced to death for crimes committed at age 17: Admissible and Merits
- Robinson, Julius O. (Petition 561/12)
    - Death penalty in Texas: Precautionary Measure granted
- Rocha Diaz, Felix (Petition 259/11; filed March 2, 2011)
    - Death row in Texas: Precautionary Measure granted and Admissible
- Rogovich, Pete Carl (Petition P-1663/13)
    - Petitioner sentenced to death in Arizona, issues of mental health and competency: Precautionary Measure granted
- Rolando Medina, Hector (Petition 1907/11)
    - Death penalty in Texas: Precautionary Measure granted
- Saldano, Victor (Case 12.254)
    - Argentine citizen on death row in Texas – returned for retrial: Precautionary Measure granted
- Sellers, Sean
    - Death row in Oklahoma, mentally incapacitated and a minor at time of committing crime – executed: Precautionary Measure granted
- Serrano Saenz, Nelson Ivan (Petition 1643/11)
    - Death penalty in Florida: Precautionary Measure granted
- Sequoyah, N.I. vs. US (Petition 120-07; filed February 2, 2007)
    - Death row in California: Admissible
- Simmons, Christopher (filed April 19, 2002)
    - Death row in Missouri – execution postponed: Precautionary Measure granted
- Stroman, Mark Anthony
    - Death penalty in Texas – executed: Precautionary Measure granted
- Summerlin, Warren Wesley and Jeffrey Timothy Landrigan and Richard Michael Rossi (Petition P1177-04; filed November 2, 2004)
    - Petitioners sentenced to death in AZ: Precautionary Measure granted and Admissible
- Teleguz, Ivan (Petition 1528/11; filed November 2, 2011)
    - Death row in Virginia, arguing not notified of right to consular assistance: Precautionary Measure granted, Admissible, and Merits
- Tercero, Bernardo Aban (Petition P-1752-09)
    - Petitioner sentenced to death: Precautionary Measure granted
- Thomas, Douglas Christopher (Case 12.240 file January 7, 2000)
    - 17 when committed the crime, executed: Admissible and Merits
- Thompson, Gregory (Petition P194-2004)
    - Death row in Tennessee, mentally ill – execution stayed: Precautionary Measure granted

- Valle, Manuel (Petition 1058-11, PM 301-11; filed August 10, 2011)
    - Sentenced to death in Florida, executed: Precautionary Measure granted
- Villareal, Ramon Martinez (Case 11.753; filed September 20, 1997)
    - Mexican national on death row, claiming ineffective assistance, mentally ill: Admissible and Merits (partial compliance)
- Williams, Alexander (Case 12.348; filed July 28, 1992)
    - Death row in Georgia, under 18 years of age when offense committed – sentence commuted: Merits
- Winfield, John (P-815-14; PM 2014/14)
    - Death row in Missouri -executed: Precautionary Measures granted.
- Workman, Philip (Case 12.261; filed April 3, 2000)
    - Death row in Tennessee, alleging violation of rights in not being allowed to produce exculpatory evidence: Admissible
- Zeitvogel, Richard Steven
    - Death row in Missouri: Precautionary Measure granted

Juvenile Life Without Parole

- Juveniles Sentenced to Life Imprisonment without Parole (Petition P-161-06; filed February 21, 2006)
    - Regarding 32 juveniles tried and sentenced as adults: Admissible

Domestic Violence/Gender

- Baby Boy (Case 2141; filed January 19, 1977)
    - Regarding abortion: Addmissible and Merits
- Dombrowski, et al. (filed May 11, 2007)
    - Regarding pattern or practice of granting child custody and unsupervised visitation rights to known domestic violence abusers
- Lenahan (Gonzales), Jessica (Petition 1490-05; filed July 24, 2007)
    - Regarding domestic violence and the state's failure to enforce a restraining order: Admissible and Merits Decision

Environment/Health

- Inuit (filed December 7, 2005)
    - Regarding human rights violations caused by global warming: Inadmissible
- Mossville Environmental Action Now (Petition 242-05; filed March 17, 2010)
    - Regarding toxic pollution: Admissible
- Undocumented Immigrants Residing in Atlanta, Georgia, United State (PM 385-09)[68]
    - Regarding termination of medical treatment for 31 undocumented immigrants: Precautionary Measure granted
- Residents of Vieques, Puerto Rico (filed September 23, 2013)
    - Regarding military expropriation of Vieques, Puerto Rico and toxic pollution caused by military exercises
- Villas del Sol (filed April 28, 2010)
    - Regarding lack of access to basic water and electrical services

Border Concerns (Private Violence and Border Control)

- Sanchez, Victor Nicholas et al. (Petition 65/99; filed February 10, 1999)
  - Regarding harsh border control policies: Inadmissible
- Undocumented Migrants, Legal Residents, and U.S. Citizen Victims of Anti-Immigrant Vigilantes (Petition 478/05; filed April 28, 2005)
  - Regarding violence by anti-immigrant groups: Admissible

Immigration/Immigrants' Rights (Detention/Due Process/Interdiction)

- Armendariz, Hugo (Case 12.562; filed July 17, 2003)[69]
  - Deportation due to criminal conviction: Admissible and Merits
- Certain foreign nationals detained in the United States/ 9/11 INS Detainees Ordered Deported or Granted Voluntary Departure
  - Detainees held for extended periods of time for minor immigration violations: Precautionary Measure granted
- Enwonwu, Frank Igwebuike (Case 12.706; filed January 18, 2008)
  - Deportation would result in violations of due process: Precautionary Measure granted and Admissible
- Ferrer-Mazorra, Rafel and others (Mariel Cubans) (Case 9.903; filed April 10, 1987)
  - Detention of 335 Cubans: Admissible and Merits Decision
- Gary Resil, Harry Mocombe, Roland Joseph, Evel Camelien, and Pierre Louis (PM 5/11)
  - Deportation to Haiti shouldn't occur without guarantee of detention conditions and access to medical treatment: Precautionary Measure granted
- Haitian Interdiction (Case 10.675; filed October 1, 1990)
  - Group of Haitians tried to enter U.S. by boat, interdicted and returned to Haiti: Precautionary Measure granted, Admissible and Merits Decision
- Lares-Reyes, Mario and Vera Allen Frost and Samuel Segura (Case 12.379; filed November 21, 2010)
  - Deportation due to criminal convictions: Inadmissible (failure to exhaust domestic remedies)
- Marquez Gonzalez, Edwin A. (PM-171-11)
  - Deportation would result in lack of medical treatment: Precautionary Measure granted
- Mortlock, Andrea (Case 12.534; filed August 15, 2005)
  - Deportation would result in lack of medical treatment (HIV/AIDS): Precautionary Measure granted, Admissible, and Merits
- Nyamanhindi, Boniface (PM 149/08; filed August 18, 2008)
  - Deportation would result in persecution: Precautionary Measure granted
- Pierre, Paul (Petition 1431/08)
  - Deportation would result in lack of medical treatment: Precautionary Measure
- Soto, Ambrosio and Others (No. 1733)
  - Spanish-speaking aliens residing in the U.S. claimed discrimination in naturalization based on language
- Smith, Wayne (Case 12.562; filed December 27, 2002)[70]
  - Deportation due to criminal conviction: Admissible and Merits

Migrant Worker's Rights (Documented and Undocumented)

- Domestic Workers Employed by Diplomats (P-1481-07; filed November 15, 2007)
  - Exploitation and abuse of domestic workers by diplomats with immunity
- Undocumented Workers, (P-1190-06)
  - Regarding discrimination in employment rights: Admissible

Indigenous Land

- Cherokee Nation (Case 11.071; filed March 12, 1997)
  - Arguing that a settlement for land signed with Eastern Band affected homeland of Western Band of Cherokee Nation: Inadmissible
- Dann, Mary and Carrie (Case 11.140; filed April 2, 1993)
  - Regarding state appropriation of ancestral land through Indian Claims Commission procedures: Admissibility and Merits

Military Action (Outside the United States)

- Coard, Bernard (Case 10.951; filed July 25, 1991)
  - Concerning U.S. military action in Grenada: Admissible and Merits
- Hill, Richmond (Case 9213; filed November 5, 1983)
  - Claiming Richmond Hill psychiatric facility in Grenada was bombed by the United States: Admissible, but petitioners asked case to be closed
- Salas and Others (Case 10.573; filed May 10, 1990)
  - Involving U.S. military action in Panama: Admissible

Military Policy, Detention/National Security

- Ameziane, Djamel (Petition 900-08; filed August 6, 2008)
  - Detained in Guantanamo: Precautionary Measure granted and Admissible
- Detainees being held by the United States at Guantanamo Bay, Cuba (filed February 25, 2002)
  - 254 petitioners detained at Guantanamo: Precautionary Measure granted and extended based on failure to comply with previous measures
- El-Masri, Khaled (Petition 419-08; April 9, 2008)
  - Detained in Macedonia: Admissible
- Gallagher, Mary et. al. (filed January 23, 2014) *–pending an admissibility decision*
- Khadr, Omar (PM 8/06; filed in 2006 during 124th Session)
  - Detained at Guantanamo: Precautionary Measure granted
- Mohamed, Binyam et al (filed November 14, 2011)
  - Alleging five petitioners subjected to forced disappearance and torture as a consequence of "extraordinary rendition"
- Padilla, Jose and Estela Lebron (filed December 11, 2012)
  - Alleging prolonged military confinement and mistreatment while in custody of the U.S. military in South Carolina
- Sabar, Thahe Mohamed et al (filed March 19, 2012)
  - Three petitioners detained in Iraq and Afghanistan
- Shibayama, Isamu Carlos et al. (filed June 13, 2003)

- Two brothers of Japanese descent capture in Peru and detained in U.S. internment camp: Admissible

Right to Adequate Standard of Living

- Poor People's Economic Human Rights Campaign (filed October 1, 1999)
  - Challenging several U.S. welfare laws and policies

Right to Vote

- Statehood Solidarity Committee et. al (Case 11.204; filed April 1, 1993)
  - Regarding inability of D.C. citizens to vote for members of Congress: Admissibility and Merits
- Michael Mackson et. al (Petition P-990-06)
  - Regarding felons' right to vote

APPENDIX C: IACHR HEARINGS RELATED TO THE U.S.
(audio links are included where available)

154th Session (2015)

- ***Criminal Justice and Race in the United States (at the State's initiative)-*** United States, ACLU, CRR, Lawyers Committee for Civil Rights Under Law
  - https://www.youtube.com/watch?v=j_OIkzDAaxA
- **General Human Rights Situation in Puerto Rico, United States -** Comite de America Latina y el Caribe para la Defensa de los Derechos de la Mujer (CLADEM), American Civil Liberties Union Foundation (ACLU), Clínica Internacional de Derechos Humanos de la Facultad de Derecho de la Universidad Interamericana de Puerto Rico , Clínica de Asistencia Legal de la Escuela de Derecho de la Universidad de Puerto Rico
  - https://www.youtube.com/watch?v=C5YhoCuV0rM
- ***Case 12.834 - Leopoldo Zumaya and Francisco Berumen Lizalde (MERITS), United States*** - Transnational Legal Clinic, University of Pennsylvania Law School, State of the United States, American Civil Liberties Union Foundation (ACLU), National Employment Law Project (NELP)
  - https://www.youtube.com/watch?v=GtZumYHuqAU
- ***Human Rights Situation of Persons Deprived of Liberty at the Guantánamo Naval Base, Cuba -*** State of the United States, Lieutenant Colonel Sterling Thomas, Major Raashid Williams, James G. Connell, Mr. Walter B. Ruiz, Esq., Lieutenant Colonel Sean M. Gleason, Lieutenant Colonel Jennifer N. Williams, Juan Mendez , Melina Milazzo , Dr. Stephen Xenakis
  - **https://www.youtube.com/watch?v=gBDhGP_sl1U**
- ***Human Rights Situation of Child Victims of Trafficking and Sexual Exploitation in the United States -*** State of the United States, Robert F. Kennedy Memorial Center for Human Rights , Human Rights Project for Girls (Rights4Girls)
  - https://www.youtube.com/watch?v=fY9BS1drejE

153rd Session (2014)

- ***Case 12.626 - Jesica Lenahan (Gonzales), United States*** - Human Rights Clinic, Columbia Law School, American Civil Liberties Union Foundation (ACLU), Robert F. Kennedy, Center for Justice and Human Rights (RFK Center), University of Miami Human Rights Clinic (HRC), University of Chicago, Law School International Human Rights Clinic
  - http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=136
- ***Human Rights Situation of Migrant and Refugee Children and Families in the United States -*** Transnational Legal Clinic, University of Pennsylvania Law School, University of Texas, School of Law Immigration Clinic , State of the United States, Center for Justice and International Law (CEJIL), American Civil Liberties Union Foundation (ACLU), Washington Office on Latin America (WOLA), Women's Refugee Commission (WRC), National Immigrant Justice Center (NIJC) , National Alliance of Latin American and Caribbean Communities

- http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=136

- ***Reports of Racism in the Justice System of the United States*** - On the Commission's Initiative
  - http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=136
- ***Human Rights Situation of Persons Deprived of Liberty in Texas, United States*** - University of Texas, School of Law Immigration Clinic , State of the United States, Texas Civil Rights Project
  - http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=136

150th Session (2014)

- ***Case 12.866 – Henry Hill et al., United States*** - State of the United States, Human Rights Clinic, Columbia Law School, ACLU Human Rights Program, ACLU Michigan Juvenile Life Without Parole Initiative
  - https://www.youtube.com/watch?v=UqtUi7qIOhg
- ***Challenges of Protecting Women from Violence 20 Years after the Belém do Pará Convention*** – Center for Justice and International Law (CEJIL), Comite de America Latina y el Caribe para la Defensa de los Derechos de la Mujer (CLADEM), Unidad de Protección de Defensores y Defensoras de Derechos Humanos (UDEFEGUA), Amnesty International, Asociación para los derechos de la Mujer (AWID), Asociadas por lo Justo (JASS) , Consorcio Para el Diálogo y la Equidad Oaxaca A.C. (Consorcio-Oaxaca), Colectiva Feminista para el Desarrollo Local, Iniciativa Mesoamericana de Mujeres Defensoras de Derechos Humanos (IM Defensoras), Red Nacional de Defensoras de Derechos Humanos ,México and El Salvador
  - ttps://www.youtube.com/watch?v=5jAAWqEKJVc
- ***Criminal Justice and Human Rights of Children and Adolescents in the Americas***
  - https://www.youtube.com/watch?v=KioEvROcoVg
- ***Drug Policies and Human Rights in the Americas*** – Comisión Mexicana de Defensa y Promoción de los Derechos Humanos (CMDPDH), Conectas Direitos Humanos, Comité de Familiares de Detenidos Desaparecidos en Honduras (COFADEH), Centro de Estudios Legales y Sociales (CELS), Fundación Myrna Mack, Corporación Humanas, Asociación Pro Derechos Humanos (APRODEH), American Civil Liberties Union Foundation (ACLU), Washington Office on Latin America (WOLA), Instituto de Estudios Legales y Sociales del Uruguay (IELSUR), Centro de Estudios de Derechos Justicia y Sociedad (DeJusticia),, Centro de investigación Drogas y Derechos Humanos (CIDDH), Canadian Civil Liberties Association (CCLA), Colegio Médico de Chile, Colectivo por una Política Integral hacia las Drogas (CUPIHD), México, Instituto Latinoamericano de Seguridad y Democracia (ILSED)
  - https://www.youtube.com/watch?v=YqsAddPVcMI
- ***Human Rights Situation and the Death Penalty in the Americas*** – State of Mexico, State of Chile, State of Brazil, State of Honduras, State of Argentina,

State of Costa Rica, State of Panama, State of Uruguay, State of Paraguay, Permanent Observer of France to the Organization of American States
    - https://www.youtube.com/watch?v=LqgkFWZmUCc
- ***Human Rights Situation of Workers in the Meatpacking and Poultry Industry in the United States*** – State of the United States, Southern Poverty Law Center, Midwest Coalition for Human Rights, Nebraska Appleseed Center for Law in the Public Interest
    - https://www.youtube.com/watch?v=YJm6JNAzOM4
- ***Impact of Stand Your Ground" Laws on Minorities in the United States*** – State of the United States, National Association for the Advancement of Colored People (NAACP), University of Miami Human Rights Clinic (HRC), Community Justice Project, Florida Legal Services, Inc., The Dream Defenders, Inc., Free Marissa Now Mobilization Campaign
    - https://www.youtube.com/watch?v=X0EV8Rbpg2s
- ***Impunity for Violations of the Right to Freedom of Expression in the Americas***
    - https://www.youtube.com/watch?v=-yhm8DUxjO0
- ***Situation of Human Rights Defenders in the Americas*** – Center for Justice and International Law (CEJIL), Comisión Mexicana de Defensa y Promoción de los Derechos Humanos (CMDPDH), Centro de Derechos Humanos Fray Bartolomé de las Cases (FRAYBA), Grupo Interdisciplinario por los Derechos Humanos (GIDH), Centro Nicaragüense de Derechos Humanos (CENIDH), Comité de Familiares de Detenidos Desaparecidos en Honduras (COFADEH), Coordinadora Nacional de Derechos Humanos (CNDDHH) of Peru, Centro de Derechos Humanos de la Universidad Católica Andrés Bello (UCAB), Corporación Colectivo de Abogados José Alvear Restrepo (CCAJAR), Justiça Global, Comite de America Latina y el Caribe para la Defensa de los Derechos de la Mujer (CLADEM), Comité de Familiares Victimas de los sucesos de febrero y marzo de 1989 (COFAVIC), Unidad de Protección de Defensores y Defensoras de Derechos Humanos (UDEFEGUA), Asociación Pro Derechos Humanos (APRODEH), Fundación de Estudios para la Aplicación del Derecho (FESPAD), Equipo de Reflexión, Investigación de la Compañía de Jesús (ERIC), Centro de Derechos Humanos de las Mujeres (CEDEHM), Instituto de Derechos Humanos de la Universidad Centroamericana (IDHUCA), Asociación Interamericana para la Defensa del Ambiente (AIDA), Consultoría para los Derechos Humanos y el Desplazamiento (COHDES), Amnesty International, Oficina Jurídica para la Mujer, Plataforma Interamericana de Derechos Humanos, Democracia y Desarrollo (PIDHDD), Asociación Minga, Red latinoamericana y Caribeña por la Defensa de los Derechos de los Niños, Niñas y Adolescentes (REDLAMYC), Ciudadanos en Apoyo a los Derechos Humanos A.C (CADHAC) , Amazon Watch , Centro de Derechos y Desarrollo (CEDAL), Abogados Sin Fronteras Canadá (ASFC) , Peace Brigades International , Luz Marina Monzón, Paz y Esperanza, Centro Regional de Derechos Humanos y Justicia de Género: Corporación Humanas, Chile, DNI, Costa Rica, Comisión de Derechos Humanos de Guatemala en Estados Unidos, Consultorio Jurídico Internacional de la Facultad de Derecho de la Universidad Santo Tomas de Bogotá, Colombia
    - https://www.youtube.com/watch?v=2iw4dLkZcPQ

149th Session (2013)

- ***Case 12.831; Precautionary Measure 160/11 – Kevin Cooper, United States*** – State of the United States, Orrick, Herrington & Sutcliffe LLP
- ***Freedom of Expression and Communications Surveillance by the United States*** – State of the United States, American Civil Liberties Union Foundation (ACLU
    - https://www.youtube.com/watch?v=VzRNu7b3vhA
- ***Human Rights of Migrants and Legislative Reforms in the United States –*** State of the United States, Center for Justice and International Law (CEJIL), Gibbs Houston Pauw, National Day Laborer Organizing Network (NDLON), American Federation of Labor – Congress of Industrial Organizations (AFL-CIO), Stanford Immigrant Rights Clinic, Boston College Post-Deportation Human Rights Project, Immigration Equality, Advocates for Human Rights, Boston University
    - https://www.youtube.com/watch?v=rFK1fMnzCqY
- ***Human Rights Situation of Haitian Migrants in the Americas –*** Conectas Direitos Humanos
    - https://www.youtube.com/watch?v=4leVpUHDvrQ
- ***Human Rights Situation of People Affected by Mining in the Americas and Responsibilities of the Host and Home States of the Mining Companies*** – Colectivo de Abogados José Alvear Restrepo (CCAJAR), Fundación para el Debido Proceso Legal (DPLF), Centro Hondureño de Promoción y Desarrollo Comunitario (CEHPRODEC), Red Agua, Desarrollo y Democracia (REDAD), Asociación Marianista de Acción Social (AMAS)
- ***Human Rights Situation of Persons Detained in the Naval Base of Guantanamo, United States*** – State of the United States, Center for Justice and International Law (CEJIL), Center for Constitutional Rights (CCR), Relator Especial de la ONU contra la Tortura
    - https://www.youtube.com/watch?v=1dmfu5f3KyQ
- ***Human Rights Situation of Refugees in the Americas*** – Center for Justice and International Law (CEJIL), Consultoría para los Derechos Humanos y el Desplazamiento (COHDES), International Human Rights Law Clinic, American University-Washington College of Law, Sin Fronteras, Observatorio Migrantes del Caribe (OBMICA), Asylum Access Ecuador, U.S. Committee for Refugees and Immigrants, Refugee Council USA , Instituto Migrações e Direitos Humanos, International Detention Coalition , Alto Comisionado de las Naciones Unidas para los Refugiados (ACNUR)
    - https://www.youtube.com/watch?v=0dXRzSFirTU
- ***Impunity for Grave Human Rights Violations in the Americas*** – Instituto de Defensa Legal (IDL), Fundación Myrna Mack, Centro de Derechos Humanos de la Universidad Diego Portales, Fundación de Estudios para la Aplicación del Derecho (FESPAD), Instituto de Derechos Humanos de la Universidad Centroamericana (IDHUCA), Fundación para el Debido Proceso Legal (DPLF), Centro de Investigación y Docencia Económica (CIDE)
    - https://www.youtube.com/watch?v=9WyGpb1gQMI
- ***Reproductive Rights and Emergency Contraception in the Americas*** - Comite de America Latina y el Caribe para la Defensa de los Derechos de la Mujer (CLADEM), Estudio para la Defensa de los Derechos de la Mujer (DEMUS), Centro de Derechos Reproductivos (CRR), Centro de Promoción y Defensa de los Derechos Sexuales y Reproductivos (PROMSEX), Colectiva por el Derecho a

Decidir, Planned Parenthood Federation of America (PPFA) , Federación Latinoamericana de Sociedades de Obstetricia y Ginecología (FLASOG) , Consorcio Latinoamericano de Anticoncepción de Emergencia (CLAE) , Consorcio Internacional de Anticoncepción de Emergencia (ICEC) , Centro de Derechos de Mujeres, Honduras , Frente Ecuatoriano por la Defensa de los Derechos Sexuales y Reproductivos, Ecuador , Miles por la Interrupción Legal del Embarazo
    - https://www.youtube.com/watch?v=eozCenDaLeU
- ***Situation of Violence Against Women in the Americas*** – Center for Justice and International Law (CEJIL), Comite de America Latina y el Caribe para la Defensa de los Derechos de la Mujer (CLADEM), Plataforma Interamericana de Derechos Humanos, Red de Mujeres Afrolatinoamericanas, Afrocaribeñas y de la Diáspora, Coordinadora del Enlace Continental de Mujeres Indígenas, Observatorio Ciudadano Nacional de Feminicidio de México
    - https://www.youtube.com/watch?v=rSBVTvoEKuM
- ***Use of Drones and its Impact on Human Rights in the Americas*** – Robert F. Kennedy, Center for Justice and Human Rights (RFK Center), Universidad Torcuato di Tella , Clínica Internacional de Derechos Humanos y Resolución de Conflictos de la Universidad de Stanford
    - https://www.youtube.com/watch?v=to0EImeza30

147th Session (2013)

- ***Human Rights and Hiring Practices under the H-2 Program in the United States*** – Transnational Legal Clinic, University of Pennsylvania Law School, State of the United States, FUNDAR, Centro de Análisis e Investigación, Centro de los Derechos del Migrante (CDM), AFL-CIO, Southern Poverty Law Center
    - http://www.youtube.com/watch?v=HS1k399xz28&list=PLkh9EPEuEx2st1_l-W6cr0o3oH9DxBSDc
- ***Human Rights and Solitary Confinement in the Americas*** – American Civil Liberties Union Foundation (ACLU)
    - http://www.youtube.com/watch?v=jpmQ6jJlPY0&list=PLkh9EPEuEx2st1_l-W6cr0o3oH9DxBSDc&index=9
- ***Human Rights Situation of Children Deprived of Liberty with Adults in the United States*** – American Civil Liberties Union Foundation (ACLU), State of the United States
    - http://www.youtube.com/watch?v=DtIHjB1m76o&list=PLkh9EPEuEx2st1_l-W6cr0o3oH9DxBSDc
- ***Human Rights Situation of Persons Detained in the Naval Base of Guantanamo, United States*** – State of the United States, Center for Justice and International Law (CEJIL), Center for Constitutional Rights (CCR), Physicians for Human Rights (PHR), REPRIEVE
    - http://www.youtube.com/watch?v=_mV9OUTr_DA&list=PLkh9EPEuEx2st1_l-W6cr0o3oH9DxBSDc&index=1
- ***Measures on Human Trafficking in the United States*** – Freedom Network (USA), State of the United States
    - http://www.youtube.com/watch?v=uJutTmtdw3o&list=PLkh9EPEuEx2st1_l-W6cr0o3oH9DxBSDc&index=2

146th Session (2012)

- ***Rights of Migrants and Farm Workers in the United States*** – Robert F. Kennedy Center for Justice and Human Rights (RFK Center) and the State of the United States
  - http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=En&Session=129&page=2

144th Session (2012)

- ***Human Rights Situation of Detained and Deported Migrants along the Southern Border of the United States*** – State of the United States, Rights Working Group, Women's Refugee Commission, National Immigration Forum, No More Deaths, ACLU of New Mexico – Regional Center for Border Rights, Latin America Working Group Education Fund
  - http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=125
- ***Petition 1762/11, Virgilio Maldonado, United States*** – State of the United States, Center for International Human Rights, Northwestern University School of Law
  - http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=125

143rd Session (2011)

- ***Case 12.720, Border Action Network, United States*** – State of the United States, University of Arizona Indigenous Peoples Law and Policy Program
  - http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=123
- ***Violence Against Indigenous Women in the United States*** – State of the United States, Indian Law Resource Center
  - http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=123

141st Session (2011)

- ***Human Rights and Deportation and Detention Policies of Migrants in the United States*** – Transnational Legal Clinic at University of Pennsylvania Law School, Immigration Clinic at University of Texas School of Law, State of the United States, Rights Working Group, Women's Refugee Commission, National Immigration Forum
  - http://www.cidh.org/audiencias/141/22.mp3

140th Session (2010)

- ***Case 12.719, Orlando Cordia Hall, United States*** – Owen Bonheimer (Steptoe & Johnson LLP); State of the United States
  - http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=120&page=2

- ***Petition 900/08, Djamel Ameziane, United States*** – State of the United States, Center for Justice and International Law (CEJIL), Center for Constitutional Rights (CCR)
    - http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=120&page=2
- ***Situation of Indigenous Children in Schools in the United States*** – Boarding School Healing Project and others; State of the United States
    - http://www.cidh.org/audiencias/140/43.mp3

137th Session (2009)

- ***Case 12.254, Víctor Saldaño,United States*** – State of the United States, Juan Carlos Vega, Jonathan Miller
    - http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=117

134th Session (2009)

- ***Accountability for Violations of Human Rights in the United States*** – State of the United States, World Organization for Human Rights USA, Center for Constitutional Rights
    - http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=8
- ***Immigrant Detention and Deportation Policies in the United States*** – Transnational Legal Clinic at University of Pennsylvania Law School, Immigration Clinic at University of Texas School of Law, State of the United States
    - http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=8

133rd Session (2008)

- ***Border Wall in Texas, United States*** – State of the United States, University of Texas Working Group on Human Rights and the Border Wall
    - http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=9
- ***Case 12.626, Jessica Gonzales, United States*** – State of the United States, Human Rights Institute at Columbia Law School
    - http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=9
- ***Due process problems in the application of policies on immigrant detention and deportation in the United States*** – Transnational Legal Clinic at University of Pennsylvania Law School, State of the United States
    - http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=9&page=2
- ***PM 259/02, Detainees at the Guantánamo Naval Base/ PM 211/08 – Djamel Ameziane, United States*** – State of the United States, Center for Justice and International Law (CEJIL), Center for Constitutional Rights (CCR)
    - http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=9&page=2

131st Session (2008)

- ***Case 12.644, José Medellín Rojas (MC 317/06), Rubén Ramírez Cárdenas (MC 328/06) and Humberto Leal García (MC 349/06)*** – State of the United States, Sandra Babcock , Center for International Human Rights
  - http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=12
- ***Petition 478/05, Victims of anti-immigrant activities and violence in southern Arizona, United States*** – State of the United States, University of Arizona College of Law, Seanna Howard, Robert Hershey
  - http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=12

130th Session (2007)

- ***Human Rights Situation of Migrant Workers, Refugee Children and Other Vulnerable Groups in the United States*** – State of the United States, Rights Working Group, Women´s Commission for Refugees
  - http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=13
- ***Petition 177/04 and Precautionary Measures 26/04, Warren Summerlin and Others, United States*** – State of the United States, Sandra Babcock, Jon Sands
  - http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=13

128th Session (2007)

- ***Cases 12.561 and 12.562, Wayne Smith and Hugo Armendariz, United States*** – State of the United States, Center for Justice and International Law (CEJIL), Center for Global Justice, Gibbs Houston Pauw
  - http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=15
- ***Precautionary measures for the Detainees in the Naval Base of the United States in Guantanamo*** – State of the United States, Center for Justice and International Law (CEJIL), Center for Constitutional Rights
  - http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=15

127th Session (2007)

- ***Petition 1207/05, John Melvin Alexander and others, United States*** – State of the United States, Gay McDougall, Charles Ogletree Jr. (127th Session, 2007)
  - http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=14
- ***Petition 1490/05, Jessica Gonzales, United States*** – State of the United States, Human Rights Institute at Columbia Law School, American Civil Liberties Union (ACLU)
  - http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=14

126th Session (2006)

- ***Case 12.512, Hossein Alikhani, United States*** – State of the United States, International Human Rights Law Clinic at American University Washington College of Law

124th Session (2006)

- ***Case 12.354 and Precautionary Measure 184-05, Andrea Mortlock, United States*** – State of the United States, International Human Rights Law Clinic at American University Washington College of Law, The Legal Aid Society of New York, Hughes Hubbard Reed LLP (124th Session, 2006)
- ***Precautionary Measure 8/06, Omar Ahmed Khdar, United States*** – State of the United States, International Human Rights Law Clinic at American University Washington College of Law
- ***Situation of persons affected by mandatory minimum sentences in the United States*** – American Civil Liberties Union Foundation (ACLU), Justice Roundtable, Open Society Policy Center, National Association for the Advancement of Colored People (NAACP)

123rd Session (2005)

- ***Allegations of Acts of Torture by the Police against Afro-descendents in Chicago, US*** – State of the United States, Locke Bowman, McArthur Justice Center
- ***Precautionary Measure 259/02, Detainees in the Guantanamo Bay Military Base, United States*** – State of the United States, Center for Justice and International Law (CEJIL), Center for Constitutional Rights (CCR)

122nd Session (2005)

- ***Case 12.261, Phillip Ray Workman, United States*** – State of the United States, Clínica de los Derechos Humanos Internacionales, American University Washington College of Law
- ***Human Rights Situation of Migrant Workers in the United States*** – Robert F. Kennedy Memorial Center for Human Rights , International Human Rights Law Clinic at American University Washington College of Law
- ***Precautionary Measures for Persons Detained in Guantanamo, United States*** – State of the United States, Center for Constitutional Rights (CCR)

119th Session (2004)

- ***Petition 4446/02, Roberto Moreno Ramos, United States*** – State of the United States, Sandra Babcock

118th Session (2003)

- ***Case 12.495, James Rexford Powell, United States*** – State of the United States, Center for Equal Justice
- ***Information on Racial Discrimination in the United States*** – International Human Rights Law Group
- ***Precautionary Measures for Persons Detained in Guantanamo, United States*** – State of the United States, Center for Constitutional Rights (CCR)

116th Session (2002)

- ***Petition 2263/02, Javier Suárez Medina, United States*** – State of the United States, Sandra Babcock
- ***Precautionary Measures for Persons Detained in Guantanamo, United States –*** State of the United States, Center for Constitutional Rights (CCR)

113th Session (2001)

- ***Case 12.379, Mario Alfredo Lares Reyes et.al, United States*** – State of the United States, Center for Justice and International Law (CEJIL), Gibbs Houston Pauw, Center for Human Rights and Justice

108th Session (2000)

- ***Case 12.243, Juan Raúl Garza, United States*** – State of the United States, Hugh Southey, Tooks Chambers
- ***Human Rights Situation in Puerto Rico*** – State of the United States, Colegio de Abogados de Puerto Rico, Manuel Rivera

102nd Session (1999)

- ***Case 9.903, Cubanos Marielitos, United States*** – State of the United States, International Human Rights Law Group
- ***Case 12.049, Kenneth Walker et al., United States*** – State of the United States, Elliot Milstein

- ***Follow Up to the Roach Decision and information on the application of the death penalty to minors, United States*** – State of the United States, Citizens United for the Rehabilitation of Errants (CURE), Charles Sullivan

100th Session (1998)

- ***Case 11.082, Humberto Alvarez Machaín, United States*** – State of the United States, Center for Constitutional Rights (CCR), Beinusz Smuckler, American Association of Jurists

97th Session (1997)

- ***Case 11.700, Richard Steven Zeitvogel, United States*** – State of the United States, James Oury
- ***General Situation related to the United States' Immigration Service and the Deportation Process*** – Florida Immigrant Advocacy Center

93rd Session (1996)

- ***Case 11.072, Border Patrol, United States*** – State of the United States
- ***Case 11.140, Danns-Western Shoshone, United States*** – State of the United States

91st Session (1996)

- ***Case 11.139, William Andrews, United States*** – State of the United States, American University Law Clinic

APPENDIX D: RESOURCES ON HUMAN RIGHTS AND DOMESTIC ADVOCACY

- Caroline Bettinger Lopez, *The Inter-American Human Rights System: A Primer*, Clearinghouse Review, Journal of Poverty Law and Policy (March – April 2009)

- Clearinghouse Review, Journal of Poverty Law and Policy, September-October Edition (2011) (Entire Issue)

- Columbia Law School's Human Rights Institute, *Bringing Human Rights Home: How State and Local Governments Can Use Human Rights to Advance Local Policy* (December 2012)

- The Opportunity Agenda: *Legal and Policy Analysis: Human Rights in State Courts* (2011)

- The U.S. Human Rights Fund, *Perfecting Our Union: Human Rights Success Stories from Across the United States* (March 2010)

- *Bringing Human Rights Home: A History of Human Rights in the United States* (Cynthia Soohoo, et al. ed) (2010) (Three volume series)

- Elizabeth M. Schneider et al., *Implementing the Inter-American Commission on Human Rights' Domestic-Violence Ruling,* Clearinghouse Review, Journal of Poverty Law and Policy 113-121(July-Aug. 2012)

ENDNOTES

[1] The U.N. monitors how State Parties are implementing U.N. treaties through treaty body reviews. In addition to its obligation to implement the substantive provisions of the treaty, each State party is also under an obligation to submit regular reports to the relevant treaty body on how the rights are being implemented. UN treaty bodies receive and consider reports submitted periodically by State Parties detailing how they are applying the treaty provisions nationally. For more information on the treaty body review process generally, *see* United Nations Human Rights Office of the High Commissioner, *The United Nations Human Rights Treaty System*, Fact Sheet No. 30, Rev. 1 (2012), available at http://www.ohchr.org/Documents/Publications/FactSheet30Rev1.pdf. For more specific information on the treaty bodies the U.S. submits reports to, *see* OHCHR, Human Rights Committee, *available at* http://www2.ohchr.org/english/bodies/hrc/index.htm; OHCHR, Committee on Economic, Social, and Cultural Rights, *available at* http://www2.ohchr.org/english/bodies/cescr/index.htm; OHCHR, Committee on the Elimination of Racial Discrimination, *available at* http://www2.ohchr.org/english/bodies/cerd/index.htm. The Universal Periodic Review (UPR) is a unique State-driven process, which involves a review of the human rights records of all UN Member States and provides the opportunity for each State to declare what actions they have taken to improve the human rights situations in their countries and to fulfill their human rights obligations. The UPR was established in 2006, with the creation of the Human Rights Council and is designed to ensure equal treatment for every country when their human rights situations are assessed. *See* OHCHR, Universal Periodic Review, *available at* http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx, for more information on the UPR process.

[2] All the information provided in this primer is based on publicly available information. As a result, the information accurately represents the petitions we are aware of after conducting research and consulting with advocates.

[3] Inter-American Commission on Human Rights, http://www.oas.org/en/iachr/; Caroline Bettinger-Lopez, *Inter-American Human Rights System: A Primer*, Clearinghouse Rev. Vol 42, 581-95 (Mar. – April 2009), *available at* http://old.povertylaw.org/clearinghouse-review/issues/2009/2009-mar-apr/bettinger-lopez.pdf.

[4] *Id.*

[5] *See, e.g.*, OAS General Assembly Res. 314 (VII-0/77) (June 22, 1977) (charging the Inter-American Commission with the preparation of a study to "set forth their obligation to carry out the commitments assumed in the American Declaration of the Rights and Duties of Man").

[6] Interpretation of the American Declaration of the Rights and Duties of Man within the Framework of Article 64 of the American Convention on Human Rights, Advisory Opinion OC-10/89, Inter-Am. C.H.R. (ser. A) No. 10, ¶¶ 43, 45 (July 14, 1989) [hereinafter OC-10/89].

[7] *See, e.g.*, *Hector Geronimo Lopez Aurelli* (Argentina), Case 9850, Inter-Am. C.H.R. 41, OEA/ser. L/V/II.79, doc. 12 rev.1, ¶ III.6 (1991) (quoting OC-10/89, *supra* n. 6, ¶ 45); *see also* Statute of the Inter-American Commission on Human Rights, art. 20; *Dann v. United States*, Case 11.140, Inter-Am. C.H.R. 860, OEA/ser. L./V/II.117, doc. 1 rev. 1, ¶ 163 (2002);
Request for Precautionary Measures Concerning the Detainees at Guantanamo Bay, Cuba, Inter-Am. C.H.R. decision of Mar. 12, 2002, 41 ILM 532, at 2 (2002); *Roach v. United States*, Case 9647, Inter-Am. C.H.R. 147, OEA/ser. L/V/II.71, doc. 9 rev.1, ¶ 46 (1987) (finding that because the United States is not a party to the American Convention the OAS Charter and American Declaration are a source of international obligation).

[8] *See, e.g.,* Petition Alleging Violations of the Human Rights of Juvenile Sentenced to Life Without Parole in the United States of America, submitted February 21, 2006, *available at* http://www.scribd.com/doc/1027604/Petition-to-InterAmerican-Commission-on-Human-Rights; Petition Alleging Violations of the Human Rights of Jessica Gonzales by the United States of America and the State of Colorado, submitted December 23, 2005, *available at* http://web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/files/petition%20to%20IAC%2005.pdf; Petition Alleging Violations of the Human Rights of Jose Padilla and Estela Lebron by the United States of America, submitted December 11, 2012, *available at* http://www.aclu.org/files/assets/iachr_padilla_petition.pdf.

[9] OC-10/89, *supra* note 6, ¶ 37, *available at* http://www1.umn.edu/humanrts/iachr/b_11_4j.htm (United States stating, "The American Declaration of the Rights and Duties of Man represents a noble statement of the human rights aspirations of the American States." The United States also states, "Unlike the American

Convention, [the Declaration] was not drafted as a legal instrument and lacks the precision necessary to resolve complex legal questions. Its normative value lies as a declaration of basic moral principles and broad political commitments and as a basis to review the general human rights performance of member states, not as a binding set of obligations.").

[10] *See, e.g.*, Memorandum from Harold Koh, Legal Adviser, U.S. Dept't of State to State Governors Regarding U.S. Human Rights Treaty Reports, *available at* http://www.state.gov/documents/organization/137292.pdf (noting that it is in compliance with these obligations); United States Department of State, Fourth Periodic Report of the United States of America to the United Nations Committee on Human Rights Concerning the International Covenant on Civil and Political Rights, *available at* http://www.state.gov/j/drl/rls/179781.htm; Initial Report of the United States of America to the Committee Against Torture, *available at* http://2001-2009.state.gov/documents/organization/100296.pdf, 18-20; Initial Report of the United States of America to the Committee on the Elimination of Racial Discrimination, *available at* http://www.state.gov/documents/organization/100306.pdf, 13-17. *See also* Report of the United States of America Submitted to the U.N. High Commissioner for Human Rights In Conjunction with the Universal Periodic Review, *available at* http://www.state.gov/documents/organization/146379.pdf, 26.

[11] *See e.g.,* Columbia Human Rights Institute *et. al*., Submission to the United Nations Universal Periodic Review for the United States regarding Treaty Ratification, Nov. 2010, *available at* http://web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/files/HRI%20Cluster%20report%20UPR.pdf; Franciso J. Rivera Juaristi, *U.S. Exceptionalism and the Strengthening Process of the Inter-American Human Rights System*, Human Rights Brief 20, no. 2 (2013), *available at* http://www.wcl.american.edu/hrbrief/20/2juaristi.pdf.

[12] The ability to utilize the Inter-American Court would be subject to U.S. agreement. *See* Statute of the Inter-American Court of Human Rights, art. 1, Oct. 1979, O.A.S. Res. 448 (IX-0/79), OEA/Ser. P/IX.0.2/80, vol. 1 at 98 (1979) (entered into force Jan. 1, 1989), *available at* www.cidh.org/Basicos/English/Basic.TOC.htm; American Convention on Human Rights, OAS Treaty Series No. 36; 1144 U.N.T.S 123; 9 ILM 99, Art. 62.3 (1969). For more information, see the Court's website, http://www.corteidh.or.cr/index.cfm?&CFID=2119180&CFTOKEN=59862027 and Tara Melish, *Lodging a Complaint with the Inter-American Human Rights Organs: Steps and Procedure*, in Protecting Economic, Social and Cultural Rights in the Inter-American Human Rights System: A Manual on Presenting Claims (2002), *available at* http://www.law.yale.edu/documents/pdf/Intellectual_Life/MANUAL_OAS_INGLES.pdf.

[13] *See, e.g.*, IACHR 2012 Annual Report, *available at* http://www.oas.org/en/iachr/docs/annual/2012/TOC.asp (illustrating the IACHR's visits, thematic and country reports, hearing sessions, and petitions for the year and thus identifying opportunities for implementation and partial compliance).

[14] *See Periodic Report of the United States of America to the United Nations Comm. on the Elimination of Racial Discrimination Concerning the International Convention on the Elimination of All Forms of Racial Discrimination*, *available at* http://www.state.gov/documents/organization/210817.pdf; Emily Fleckner, Remarks on behalf of the United States Delegation at the 20th Session of the Human Rights Council, *available at* http://www.humanrights.gov/2012/07/03/open-and-free-expression-exposes-bigotry-and-hatred-to-the-forces-of-reason-and-criticism/.

[15] *See* OC-10/89, *supra n. 6,* ¶ 37, *available at* http://www1.umn.edu/humanrts/iachr/b_11_4j.htm (finding that "to determine the legal status of the American Declaration it is appropriate to look to the inter-American system of today in light of the evolution it has undergone since the adoption of the Declaration, rather than to examine the normative value and significance which that instrument was believed to have had in 1948").

[16] Report of the United States of America, Submitted to the U.N. High Commissioner for Human Rights In Conjunction with the Universal Periodic Review (Feb 6, 2015), ¶ 117, *available at* http://www.state.gov/j/drl/upr/2015/237250.htm.

[17] Inter-American Commission on Human Rights, *United States of America, Submission from the Inter-American Commission on Human Rights to the United Nations Universal Periodic Review, 22nd Session of the Working Group on the UPR* (May 2015) SUBMISSION *FROM THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS TO THE UNITED NATIONS UNIVERSAL PERIODIC REVIEW*

[18] The information on IACHR procedures and opportunities for engagement in this Part is drawn from Bettinger-Lopez, *Inter-American Human Rights System: A Primer*, Clearinghouse Rev., *supra* n. 3.

[19] *See* Rules of Procedure of the Inter-American Commission on Human Rights, *available at* http://www.oas.org/xxxivga/english/reference_docs/Reglamento_CIDH.pdf (hereinafter IACHR Rules of Procedure). Comprehensive information on the Commission is also available on the Commission's website, http://www.oas.org/en/iachr/.

[20] *See, e.g.,* Michael Becker, *Interview: Annette Martinez*, The Human Rights Brief, Aug. 23, 2011 (discussing *The Case of Wayne Smith, Hugo Armendariz et al., v. United States,* including federal advocacy to implement the decision), *available at* http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1174&context=hrbrief; *see also* Elizabeth Schneider *et al.*, *Implementing the Inter-American Commission on Human Rights' Domestic-Violence Ruling,* Clearinghouse Rev. Vol. 113-121 (July-Aug. 2012), *available at* http://www.law.miami.edu/faculty-administration/pdf/caroline-bettinger-lopez/Implementing_the_Inter-American_Commission_on_Human_Rights'_Domestic-Violence_Ruling.pdf (laying out concrete strategies to implement the IACHR's decision in the case *Jessica Lenahan (Gonzales) v. United States*).

[21] IACHR Rules of Procedure, *supra* note 19, art. 25.

[22] *Id.;* IACHR, Second Report on the Situation of Human Rights Defenders in the Americas, ¶ 417 (Dec. 31, 2011), *available at* http://www.oas.org/en/iachr/defenders/docs/pdf/defenders2011.pdf; *see also* Diego Rodriguez-Pinzon, Precautionary Measures of the Inter-American Commission on Human Rights: Legal Status and Importance, Human Rights Brief 20, no. 2 (2013), *available at* http://www.wcl.american.edu/hrbrief/20/2pinzon.pdf.

[23] *See* Press Release, *IACHR Expresses Concern over Excessive Use of Solitary Confinement in the United States* (July 18, 2013), http://www.oas.org/en/iachr/media_center/PReleases/2013/051.asp; Press Release, IACHR, UN Working Group on Arbitrary Detention, UN Rapporteur on Torture, UN Rapporteur on Human Rights and Counter-Terrorism, and UN Rapporteur on Health Reiterate Need to End the Indefinite Detention of Individuals at Guantánamo Naval Base in Light of Current Human Rights Crisis, http://www.oas.org/en/iachr/media_center/PReleases/2013/029.asp

[24] *See* IACHR, Report on Immigration in the United States: Detention and Due Process, OEA/ser. L/V/II, Doc. 78/10 (Dec. 30, 2010), *available at* http://cidh.org/countryrep/USImmigration/TOC.htm; *see also* IACHR, The Death Penalty in the Inter-American Human Rights System: From Restrictions to Abolition, OEA/ser. L/V/II, Doc. 68 (Dec. 31, 2011), *available at* http://www.oas.org/en/iachr/docs/pdf/deathpenalty.pdf; IACHR, Report on the Human Rights of Persons Deprived of Liberty in the Americas, OEA/ser. L/V/II, Doc. 64 (Dec. 31, 2011), *available at* http://www.oas.org/en/iachr/pdl/docs/pdf/PPL2011eng.pdf; IACHR, Juvenile Justice and Human Rights in the Americas, (July 11, 2010), *available at* http://www.oas.org/en/iachr/children/docs/pdf/JuvenileJustice.pdf.

[25] All the information provided in this primer is based on publicly available information. As a result, the information accurately represents the petitions we are aware of after conducting research and consulting with advocates.

[26] In particular, we have highlighted provisions of the American Declaration that specifically relate to the claims made in petitions for each category.

[27] Precautionary measures are issued by the IACHR, through its own initiative or at the request of a State party, to prevent irreparable harm to persons under the jurisdiction of the State or to the persons or the subject matter of a pending petition or case before the IACHR. Article 25 of the Rules of Procedure of the IACHR provides the mechanism for precautionary measures. *See* supra n. 17. In this primer, where precautionary measures span multiple cases, please refer to Appendix B, where specific cases are noted. Many cases before the IACHR are pending and there have been no recommendations yet.

[28] This primer does focus on reports regarding the broader situation in the Americas.

[29] International Covenant on Civil and Political Rights, Dec. 16, 1966, art. 1, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976); ICCPR, Concluding Observations for the United States, CCPR/C/USA/CO/4 (April 23, 2014); ICCPR, Concluding Observations for the United States, CCPR/C/USA/CO/3/Rev.1 (December 18, 2006).

[30] International Convention on the Elimination of All Forms of Racial Discrimination, art. 1, 660 U.N.T.S. 195 (entered into force Jan. 4, 1969); CERD, Concluding Observations for the United States, CERD/C/USA/CO/6 (May 8, 2008).

[31] Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 1, 1465 U.N.T.S. 85 (entered into force June 26, 1987); CAT, Concluding Observations for the United States, CAT/C/USA/CO/2 (July 25, 2006).

[32] Report of the Working Group on the Universal Periodic Review for the United States of America, Human Rights Council, 16th Session, Feb, 28–March 25, 2011, U.N. Doc. A/HRC/16/11; UPR Info, Database of UPR Recommendations, *available at* http://www.upr-info.org/database/. UPR recommendations rejected by the United States are not included.
[33] Identifying the range of communications involved a multi-pronged approach. Initial research included a review of publicly available information, including the Commission's website. This research was supplemented with input from NGOs, including members of the Bringing Human Rights Home Lawyers' Network's Inter-American Working Group. The cases and petitioners were then categorized into thematic categories as a means to present the information in an organized and accessible manner. For more information on the Commission, *see* Reports on Cases, *available at* http://www.oas.org/en/iachr/decisions/cases_reports.asp. To learn about the Bringing Human Rights Home Lawyers' Network Inter-American Working Group, *see* The Bringing Human Rights Home Lawyers' Network coordinated by Columbia Law School's Human Rights Institute, *available at* http://web.law.columbia.edu/human-rights-institute/bhrh-lawyers-network/inter-american-human-rights-system.
[34] For example, in the *Chambers* case, Case 12.341, the United States government indicated that it would forward the precautionary measures decision to the relevant authorities but Mr. Chambers was executed notwithstanding precautionary measures.
[35] IACHR, "The Death Penalty in the Inter-American Human Rights System: From Restrictions to Abolition," OEA/ser. L/V/II, Doc. 68 (Dec. 31, 2011), *available at* http://www.oas.org/en/iachr/docs/pdf/deathpenalty.pdf.
[36] The recommendations here are distilled from paragraph 143 of this report.
[37] These precautionary measures, or measures very similar to them, were made in a number of death penalty cases before the IACHR. Please refer to Appendix B, where specific cases are noted.
[38] These recommendations were, in essence and for the most part, issued in a number of death penalty cases before the IACHR. Please refer to Appendix B, where specific cases are noted.
[39] IACHR, Juvenile Justice and Human Rights in the Americas, OEZ/ser. L/V/II, doc. 78 (July 11, 2010), *available at* http://www.oas.org/en/iachr/children/docs/pdf/JuvenileJustice.pdf.
[40] The recommendations here are distilled from paragraphs 614 of this report.
[41] In making this recommendation, the Committee noted "the State party's reservation to treat juveniles as adults in exceptional circumstances notwithstanding articles 10(2)(b) and (3) and 14(4) of the Covenant," and expressed concern "that treatment of children as adults is not only applied in exceptional circumstances" and emphasized it "is of the view that sentencing children to life sentence without parole is of itself not in compliance with article 24(1) of the Covenant."
[42] In making this recommendation, the Committee noted that, "In light of the disproportionate imposition of life imprisonment without parole on young offenders, including children, belonging to racial, ethnic and national minorities, the Committee considers that the persistence of such sentencing is incompatible with article 5(a) of the Convention."
[43] *Gonzales v. United States*, Petition No. 1490-05, Inter-Am. Comm/n H.R., Report No. 52/07, OEA/ser. L/V/II.128, doc.19 (2007).
[44] This case also implicates immigrants' rights but is primarily concerned with discrimination and the resulting denial of access to healthcare.
[45] 31 Undocumented Immigrants Residing in Atlanta, Georgia, United States, Precautionary Measure 385-09.
[46] In making this recommendation, the Committee noted that it "remains concerned about the increased level of militarization on the southwest border of Mexico."
[47] This case was consolidated with the case of Wayne Smith.
[48] This case was consolidated with the case of Hugo Armendariz.
[49] IACHR, Report on Immigration in the United States: Detention and Due Process, OEA/ser. L/V/II, doc. 78/10 (Dec. 30, 2010), *available at* http://cidh.org/countryrep/USImmigration/TOC.htm.
[50] The recommendations here are distilled from paragraphs 421 to 427 of this report.
[51] The recommendations here are distilled from paragraphs 428 to 439 of this report.
[52] The recommendations here are distilled from paragraphs 440 to 447 of this report.
[53] The precautionary measures in this category span multiple cases. Please refer to Appendix B, where specific cases are noted.
[54] *Ferrer-Mazorra et al. v. United States,* Case 9.903, Inter-Am. C.H.R., OEA/ser. L/V/II.111, doc. 20 rev. (2011).

[55] *Id.*
[56] *Haitian Interdiction*, Case 10.675, Inter-Am. C.H.R., OEA/ser. L/V/II.95, doc. 7 rev. (1997).
[57] *Smith & Armendariz*, *et al. v. United States*, Case 12.562, Inter-Am. C.H.R., Report No. 81/10 (2010).
[58] *Id.*
[59] *Id*.
[60] *Mortlock v. United States*, Inter-Am. C.H.R., Report No. 63/08, Case 12.534 (2008).
[61] *Dann v. United States*, Inter-Am. C.H.R., Report No. 72/02, Case No. 11.140 (2002).
[62] *Id*.
[63] These recommendations were made as part of the merits decision in the case of Coard, Bernard (Case 10.951) pertaining to allegations that petitioners were held by U.S. actors, treated badly, and given lengthy prison sentences or sentenced to death as a result of U.S. influence of the Grenadian judicial system.
[64] *See* IACHR, Need to End the Indefinite Detention of Individuals at Guantánamo Naval Base in Light of Current Human Rights Crisis, (May 1, 2013), *available at* http://www.oas.org/en/iachr/media_center/PReleases/2013/029.asp.
[65] The precautionary measures in this category span multiple cases. Please refer to Appendix B, where specific cases are noted.
[66] In making this recommendation, the Committee noted reports that "some 50% of homeless people are African American, although they constitute only 12% of the United States population."
[67] *Statehood Solidarity Committee v. United States*, Inter-Am. C.H.R., Report No. 98/03, Case 11.204 (2003).
[68] This case also implicates immigrants' rights but is primarily concerned with discrimination and resulting denial of access to healthcare.
[69] This case was consolidated with the case of Wayne Smith.
[70] This case was consolidated with the case of Hugo Armendariz.