

**Human Rights Watch Submission to the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families General Comment No. 5 (2020) on migrants’ rights to liberty and freedom from arbitrary detention**

*November 3, 2020*

Human Rights Watch welcomes the opportunity to provide input to the Committee on Protection of the Rights of All Migrant Workers and Members of Their Families for its General Comment No. 5 (2020) on migrants’ rights to liberty and freedom from arbitrary detention. Our suggestions below are based on Human Rights Watch’s research on this topic across different countries and legal systems.

This submission follows the structure of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families draft General Comment.

**Introduction**

Paragraph 7 refers to the Covid-19 pandemic as posing new challenges for states. We agree that the unique situation posed by Covid-19 calls for innovative approaches and alternatives to detention. However, we recommend that the Committee also include in its General Comment specific reference to situations in which states have used Covid-19 as a pretext for detention. Human Rights Watch’s research has shown that states, such as Greece, have forced migrants into unsanitary conditions in overcrowded detention centers used to quarantine new arrivals.[[1]](#footnote-1) The conditions in these centers, including inability to socially distance and the lack of access to basic necessities such as soap and water, put detainees at higher risk of contracting the virus.[[2]](#footnote-2) Further, Human Rights Watch has documented cases in which migrants returning to their country of origin are being quarantined in abusive conditions upon reentry. In Venezuela, for example, returnees were held in cramped and unsanitary quarantine centers for weeks longer than the 14 days recommended by the World Health Organization (WHO).[[3]](#footnote-3)

**Regulatory framework on protection of the right to liberty of migrant workers and members of their families**

Part A of this section references articles 16 and 17 of the Convention, the right to liberty and security and protection when deprived of liberty. We suggest that the Committee also include a reference to article 10, the right to protection from torture or cruel, inhuman or degrading conditions or treatment. Article 10 is relevant to the obligation on states to guarantee adequate conditions in places of detention.

Paragraph 11 refers to article 17 of the Convention, the right of all migrant workers and members of their families to be treated with humanity and respect for the inherent dignity of the human person and for their cultural identity. We recommend that the Committee include a specific reference to the language in article 17 calling for the separation of migrant workers and members of their families from convicted persons. We also suggest you include a statement calling for the appropriate treatment of migrants as “unconvicted persons.” It is critical to reinforce the distinction between migrants and individuals convicted of criminal offenses.

Paragraph 13 lists euphemisms for detention, but then includes the word “detention” itself in that list. We recommend that you delete the word “detention” where it first appears in quotes and add the word “reception,” so instead of saying, “such as ‘filing and accommodation’, ‘detention’ and ‘placement’”, it should say, “such as ‘filing and accommodation’, ‘reception’ and ‘placement’.” Reception centers sometimes operate as detention centers. For example, the Lampedusa “reception center,” operated by the Italian government, was a detention center, despite its nomenclature.[[4]](#footnote-4)

Paragraph 15 clarifies that immigration detention includes when migrants are deprived of their liberty in “prisons, police stations, immigration detention centers and other enclosed spaces.” We suggest that the Committee add “camps” and “reception centers” to this list, as it makes this list more comprehensive.

Paragraph 16 also includes examples of systems of deprivation of liberty imposed on migrants. Again, we suggest the addition of “camps” and “reception centers” to this list.

Paragraph 18 provides that “The Committee expresses its serious concern at the criminalization of the irregular entry or stay of migrant workers and members of their families and the practice of punishing such conduct with deprivation of liberty.” We recommend that the Committee add the word “reentry” to this sentence, so that it reads “The Committee expresses its serious concern at the criminalization of the irregular entry, *reentry* or stay of migrant workers and members of their families and the practice of punishing such conduct with deprivation of liberty.” We also recommend that the committee add the following sentence after this: “It is also concerned with the employer-tied visa systems, such as the *kafala* (sponsorship) system, which gives employers control over migrant workers’ legal status in which employers’ can fail to issue or renew residency visas or report workers as ‘absconding’ leaving migrants liable to arrest and detention. Such systems have allowed employers to use the threat of deprivation of liberty to subject workers to abusive conditions including trafficking and forced labour.”

We believe the Committee should include such a reference to employer tied-visa systems, like the *kafala* (sponsorship) system, which exists in varying degrees in the Middle East, as such systems allow employers to threaten and punish migrant workers with immigration detention.[[5]](#footnote-5) Under these systems, migrant workers are sponsored by an employer to enter the country, and their employer has immense control over their legal status in the country, including control over issuing or renewal of a migrant worker’s residence permit, and can decide whether a migrant worker can leave or change jobs.[[6]](#footnote-6) In some countries, the tie to the employer extends to the migrant workers’ residence. Workers may be required to live at their employer’s residence, severely restricting their liberty of movement.[[7]](#footnote-7) Migrant workers may be punished with imprisonment, fines and deportation for “absconding” - leaving their employer without obtaining permission.[[8]](#footnote-8) Human Rights Watch research has shown that these systems can lead to extortion and abuse by employers, including forcing workers to work without pay, or delayed wages, long working hours, and other abuse that can amount to forced labor. Employers may retaliate against workers by threatening to not issue or renew their residency or report them for “absconding,” which automatically leaves workers undocumented and liable to arrest.[[9]](#footnote-9) Migrant domestic workers who escaped their employers’ homes and attempted to report abuse to police said they were arrested instead for ‘absconding’ and returned to their employers or subject to detention before deportation.[[10]](#footnote-10) This issue has worsened during the Covid-19 pandemic, with employers using the pandemic as an excuse to withhold wages or to abuse migrant workers even further.[[11]](#footnote-11)

We suggest that you remove the first sentence of paragraph 20. Referring to immigration detention as an “undesirable measure” may appear to minimize the Committee’s position of using detention as an exceptional measure of last resort. Instead, we recommend that you begin paragraph 20 with the second sentence: “There should always be a presumption against detention and therefore in favour of freedom.” This sentence reflects the views of the Committee that immigration detention should be an exceptional measure of last resort. Including this at the beginning of the paragraph ensures that the Committee’s message is communicated clearly and prevents the risk of reducing immigration detention to an “undesirable measure,” rather than a recourse to be implemented only when all other options have been exhausted.

Paragraph 20 calls for context-specific assessments in determining the necessity of detention of migrants and members of their families. We are pleased to see this language but recommend that the Committee clarify the requirements for carrying out these assessments. We suggest that you include language calling upon relevant authorities to carry out *individualized* context-specific assessments of the migrant’s personal situation and ensure that the period for detaining that person is as short as possible. This language would provide guidance to states in conducting such assessments.

Paragraph 23 notes that the Special Rapporteur on the human rights of migrants and the Office of the United Nations High Commissioner for Refugees (UNHCR) have indicated that “immigration detention can be justified only if a person poses a danger to himself or herself or to society, or if there is a risk that he or she will avoid administrative or other proceedings.” If immigration authorities are able to detain migrants because there is a possibility of avoiding administrative proceedings, there is a risk that they will use detention as a means to coerce a migrant’s cooperation in their own removal. Bearing in mind that detention should be an exceptional measure of last resort, we think detention should only be employed as a graduated measure of control after it has been shown that the migrant who does not pose a danger did not appear for proceedings when alternatives to detention were provided. We suggest amending this to be a Committee recommendation that “immigration detention can be justified only if a person poses a danger to himself or herself or to society, or if *the person has* *demonstrated unwillingness to appear at* administrative or other proceedings.” We also suggest that the Committee clarify what is meant by the language “poses a danger to himself or herself or to society.” The language is broad, and we recommend that the Committee provide further guidance on what constitutes a danger to society. Relatedly, we recommend that you add language to the last sentence of paragraph 23, so that the sentence reads “In any event, the threat posed by those two scenarios must be substantiated by proven facts *specific and relevant to the individual being detained*.” Providing clearer guidelines reduces the likelihood that the criteria will be applied overbroadly without an individualized and tailored assessment of the risks that a particular individual poses to themselves or society.

Paragraph 30 refers to the obligation on states parties to “respect and guarantee the rights enshrined in the Convention to all migrant workers and members of their families within their territory or subject to their jurisdiction.” We recommend that the Committee use the comment to remind states parties’ that those subject to their “jurisdiction” includes those subject to their [effective] control. The sentence could read “within their territory or subject to their jurisdiction, *including those under their control.”* [[12]](#footnote-12) This underscores that a state’s jurisdiction includes anywhere it enjoys effective control including extraterritorially. Further, it reflects the language used in paragraph 30 to describe the obligations on states parties with regards to the right to liberty.

Paragraphs 30 and 31 refer to “detention centers.” This wording may be too narrow. We recommend that you replace “detention centers” with “places of detention.” “Places of detention” captures the many different forms of detention.

Paragraph 32 includes obligations on states when entering into transfer agreements. Part (e) requires states to “improve asylum conditions in the receiving State, the transferring State, and/or the region as a whole, when entering into transfer agreements.” We suggest that the Committee clarify what is meant by “[improving] asylum conditions.” It may be helpful to provide states with guidance regarding their obligations. For example, requiring states to “ensure safe, decent, and humane conditions in the process of transfer and reception and for the duration of detention,” provides a framework for states parties to follow.

**Legal obligations of states parties to the Convention to protect the right to liberty of migrant workers and members of their families**

We found the section on the legal obligations of states parties to the Convention to protect the right to liberty of migrant workers and members of their families to be very detailed and informative, and are pleased to see that the Committee is committed to fair and reasonable alternatives to detention. We also support the Committee’s rejection of the use of measures in the field of criminal justice as viable alternatives to detention.

Paragraph 52 provides classes of individuals states should avoid detaining, which includes “persons with disabilities.” We recommend that the Committee amend this language to read “persons with *mental health conditions and other disabilities*.” This language encompasses a broader range of individuals. Relatedly, we suggest you remove the phrase “migrants with special physical or mental health needs.” Referring to individuals as having “special needs” is problematic; we recommend that the Committee amend this language to read “persons with *physical or mental health needs, including disabilities*.”

We suggest that you include an additional paragraph after paragraph 53 highlighting the harmful effects of even brief experiences in immigration detention. We recommend that you include the following language: “Widespread research indicates that immigration detention can have severe consequences for the physical and mental health of all migrants, such that immigration detainees can become persons in vulnerable situations as a result of even brief periods of detention.[[13]](#footnote-13) Adjudicative proceedings should be carried out in a sensitive manner that protects individuals in vulnerable circumstances.”

Paragraph 54 calls on states to “take measures to abolish immigration detention gradually.” We recommend that you delete the word “gradually,” and amend this sentence to read “The Committee considers that states should take *progressive measures toward rapidly abolishing immigration detention*.” This strengthens the message that abolishing immigration detention is urgent and critical and should proceed apace.

We welcome the use of language in paragraph 61 discussing the benefits of alternatives to detention, including that they are less costly and more humane. We recommend that you strengthen this message by discussing additional advantages of alternatives to detention. Alternatives to detention also reduce overcrowding in places of detention,[[14]](#footnote-14) which may be of particular importance due to risks associated with Covid-19.

We are pleased to see that the Committee highlights the importance of community-based non-custodial options as alternatives to detention. We recommend that the Committee expand on this section in paragraph 62 by addressing specific alternatives. Asking migrants to register with authorities and issuing them temporary documentation is one such alternative.[[15]](#footnote-15) This method allows migrants liberty and freedom of movement. Further, it is a practical solution since many states already have systems in place to support this approach.[[16]](#footnote-16) Another alternative is to provide migrants with case management or case worker support.[[17]](#footnote-17) Case workers assist migrants in all aspects of the application process, such as providing critical information and representation during immigration procedures.[[18]](#footnote-18) This method helps migrants navigate complicated processes and ensures that they are provided with adequate access to justice if arbitrarily arrested or detained. Including specific alternatives provided further guidance to states parties.

Paragraph 64 states that if there are obstacles to deportation which are not attributable to the individual, “thus making deportation or expulsion impossible, the detained person must be released in order to avoid indefinite detention, which would be arbitrary.” We suggest that this language be amended to say that where obstacles arise that “make deportation or expulsion impossible, *that person must not be detained and a detained person who cannot be removed* must be released in order to avoid indefinite detention, which would be arbitrary.” This language reflects the view that an individual should not be detained for any period of time if detention would be arbitrary.

The General Comment comprehensively reviews judicial guarantees and includes important language regarding the lack of safeguards afforded to migrants in paragraph 68. However, we recommend that the Committee expand the section on judicial guarantees to address the impacts of the Covid-19 pandemic on access to courts and other complaint mechanisms. Human Rights Watch research has shown that at the peak of the global pandemic the Greek government halted access to asylum procedures, even while continuing to detain asylum seekers arriving in the country.[[19]](#footnote-19) Further, there is evidence that migrants are being denied entry to the country without being afforded a fair assessment of their asylum claims.[[20]](#footnote-20) We recommend that the Committee take into account the threat of similar future actions by states.

Paragraph 71 calls on authorities to “inform the migrant worker about the reasons for detention as soon as possible and, as far as possible, in a language that the person understands…” We recommend that the Committee remove the language “as far as possible” from this sentence, in order to strengthen the message that authorities are required to inform migrants about the reason for their detention in a language they understand. We also recommend that you replace the word “disability” in this sentence with “mental health condition or other disability,” in order to increase inclusivity.

Paragraph 72 notes the obligations on states to make available “economic and human resources” necessary to allow migrants to understand the procedures and procedural safeguards they may invoke if faced with a human rights violation. We recommend you expand this to include “economic, *legal, medical, social* and human resources.” We also recommend that you amend the language in this paragraph to require states to “provide migrants with information in a language and *in a manner* that allows them to clearly understand *their legal rights, as well as* the procedures and procedural safeguards they may invoke if they face a violation of their human rights.” This highlights the importance of making information accessible to all migrants.

We recommend the addition of language in paragraph 73 regarding the obligation on states to ensure that migrants understand the nature of notification forms and arrest warrants. We recommend the Committee include the following language after the last sentence in paragraph 73: “The information in the forms and arrest warrants should be thoroughly explained in a language and sensitive manner that allows migrants to clearly understand their legal rights. Immigration detainees should be able to immediately access an individual, independent from the detaining authority and authorized to provide legal advice, who could thoroughly explain the information in the forms and arrest warrants in a language and sensitive manner that ensures detainees have a clear understanding of their legal rights.” This language provides further guidance to states regarding their obligation to ensure migrants are adequately informed.

We recommend the addition of language in paragraph 74, after mention of the right to be brought promptly before a judge or court in the criminal law context that states the Committee recommends this right be applied to all migrant workers and members of their family deprived of their liberty, reflecting the need for judicial review and control of detention as an essential and non-deportable right, and that the legal basis for detention of migrant workers may be unclear from the start. We also recommend an additional sentence in paragraph 74 that says “promptly” should mean a maximum of 48 hours from the moment of detention, or 24 hours for children and other vulnerable detainees, reflecting comments of the Human Rights Committee and other expert bodies.

The last sentence in paragraph 79 refers to the obligation on states to provide information to migrant workers in “understandable terms free of technicalities.” We suggest that you replace this with the requirement that such information be provided “*in plain language and* free of technicalities.” We also suggest that you add the following sentence at the end of paragraph 79: “Information should be accessible and interpretation services should include qualified sign language to accommodate individuals with hearing disabilities.” This provides additional details to states regarding their obligation to assist individuals with disabilities.

Paragraph 83 refers to “women, girls and members of the LGBT+ community” as being “highly vulnerable to abuse” in detention centers. We recommend that you amend this language to reflect the following: “women, girls, members of the LGBT+ community, *and persons with mental health conditions* are highly *exposed* to abuse in immigration detention centers.” This draws attention to the vulnerabilities of persons with mental health conditions in such situations, and by replacing vulnerable with exposed, the comment can avoid reinforcing the notion that such groups are inherently vulnerable but are made vulnerable.

Paragraph 84 highlights the negative health effects of solitary confinement. We recommend that the Committee amend the language in the third sentence of paragraph 84 to reflect the view that “solitary confinement is not appropriate to manage or ensure the protection of migrants, stateless person, *persons with mental health conditions*, asylum seekers or refugees.”

Paragraph 86 discusses forced and compulsory labor imposed on migrant workers, including within immigration detention centers. We recommend that the Committee expand this section to include reference to human trafficking networks operated by detention authorities themselves. Human Rights Watch has documented incidents in which individuals have been forced to work without pay while detained in detention centers in Libya.[[21]](#footnote-21)

Paragraph 90 refers to difficulties that migrants have in accessing health services and medical care in detention centers. We suggest that the Committee include the following language after the first sentence of paragraph 90: “This is particularly so for persons with mental health conditions and other disabilities.” This emphasizes the challenges people with mental health conditions and other disabilities face in detention centers.

Paragraph 91 calls on states to ensure detained migrants have access to health services. We recommend that the Committee include specific language that calls on states to provide “mental health care” in addition to the call for sexual and reproductive health care already mentioned in the General comment. We also recommend that the second sentence in paragraph 91 be amended to read the following: “Detained migrants, including pregnant women, and those in need of medical *or mental health* care should be transferred to adequate facilities *or released from detention, in recognition of the fact that deprivation of liberty contributes to deterioration of health and wellbeing*.” Further, we suggest that in the last sentence of paragraph 91, the Committee call on states to provide “access to emergency medical care, *pre and postnatal care, mental health care*, and basic health services under the same conditions as nationals of the State party.” The inclusion of mental health care conveys the message that the Committee views this as a priority along with physical health care as well as prioritizing the importance of pre and postnatal healthcare where states might not otherwise deem it as basic or emergency healthcare.

In paragraph 92, we again recommend that the Committee include reference to mental health care in the last sentence. We suggest that you call on states to ensure that detained migrants have access to “appropriate levels of medical *and mental health* care.”

Paragraph 97 highlights the risk that poor conditions of detention may constitute cruel, inhuman or degrading treatment. We recommend that the Committee add language in the second sentence to read: “torture may occur if inadequate detention conditions are intentionally imposed, encouraged or tolerated by the State on the basis of discrimination of any kind, including immigration status, *gender,* *disability, and race*…” This language is clearer and more direct.

Paragraph 98 notes that immigration detention facilities should ensure the dignity and well-being of detainees and meet the standards required for detention facilities in the criminal context. We recommend that the Committee remove the reference to detention facilities in the criminal context. Criminal standards should not be imposed in the case of administrative infringements and to refer to such standards creates a risk of misinterpretation.

Paragraph 99 helpfully references the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules). In part (e) of paragraph 99, the Committee notes the guarantee that facilities provide open space for coexistence and recreation. We recommend that you add language that this guarantee includes “private spaces for religious and group activities.” We also recommend that you include the following guarantees in paragraph 99: access to health care is provided, including health care professionals equipped to diagnose and treat mental health conditions on a voluntary basis, and who are independent from detaining authorities; facilities have spaces available for confidential visits from legal representation, social supports and family; facilities are not run like prisons, using strict rules and routines that limit mobility, recreational activities and meal times. This provides a more comprehensive overview of the requirements.

1. Human Rights Watch, *Greece: Nearly 2,000 New Arrivals Detained in Overcrowded, Mainland Camps*, March 31, 2020, <https://www.hrw.org/news/2020/03/31/greece-nearly-2000-new-arrivals-detained-overcrowded-mainland-camps>. [↑](#footnote-ref-1)
2. Ibid. [↑](#footnote-ref-2)
3. Human Rights Watch, *Venezuela: Abusive Treatment of Returnees*, October 13, 2020, <https://www.hrw.org/news/2020/10/13/venezuela-abusive-treatment-returnees>. [↑](#footnote-ref-3)
4. Judith Sunderland (Human Rights Watch), “Lampedusa: a National Shame for Italy,” Dispatch, December 18, 2013, <https://www.hrw.org/news/2013/12/18/dispatches-lampedusa-national-shame-italy>. [↑](#footnote-ref-4)
5. Human Rights Watch, “*How Can We Work Without Wages?”: Salary Abuses Facing Migrant Workers Ahead of Qatar’s FIFA World Cup 2022* (Human Rights Watch, August, 2020), p. 16, <https://www.hrw.org/report/2020/08/24/how-can-we-work-without-wages/salary-abuses-facing-migrant-workers-ahead-qatars>. [↑](#footnote-ref-5)
6. Human Rights Watch, *Gulf States: Ease Immigration Detention in Pandemic*, April 7, 2020, <https://www.hrw.org/news/2020/04/07/gulf-states-ease-immigration-detention-pandemic>. [↑](#footnote-ref-6)
7. Human Rights Watch, *Lebanon: Abolish Kafala (Sponsorship) System*, July 27, 2020, <https://www.hrw.org/news/2020/07/27/lebanon-abolish-kafala-sponsorship-system>. [↑](#footnote-ref-7)
8. Ibid. [↑](#footnote-ref-8)
9. Ibid. [↑](#footnote-ref-9)
10. See Human Rights Watch, *“I Was Sold”: Abuse and Exploitation of Migrant Domestic Workers in Oman*, July 2016, <https://www.hrw.org/report/2016/07/13/i-was-sold/abuse-and-exploitation-migrant-domestic-workers-oman>. [↑](#footnote-ref-10)
11. Human Rights Watch, *Qatar: Little Progress on Protecting Migrant Workers*, August 24, 2020, <https://www.hrw.org/news/2020/08/24/qatar-little-progress-protecting-migrant-workers>. [↑](#footnote-ref-11)
12. See  *Al-Skeini and Others v. the United Kingdom* [GC], no. [55721/07](https://hudoc.echr.coe.int/eng#{%22appno%22:[%2255721/07%22]}), § 136, ECHR 2011, and *Medvedyev and Others*, § 67 (holding “… in certain circumstances, the use of force by a State’s agents operating outside its territory may bring the individual thereby brought under the control of the State’s authorities into the State’s Article 1 jurisdiction.”). [↑](#footnote-ref-12)
13. M von Werthern et al., “The impact of immigration detention on mental health: a systematic overview” (2018), 18:382 BMC Psychiatry, <https://bmcpsychiatry.biomedcentral.com/articles/10.1186/s12888-018-1945-y>; Zachary Steel et al, “Psychiatric status of asylum seeker families held for a protracted period in a remote detention centre in Australia” (2004) 28:6 Australian and New Zealand Journal of Public Health 527; Janet Cleveland, Rachel Kronick, Hanna Gros and Cécile Rousseau, "Symbolic violence and disempowerment as factors in the adverse impact of immigration detention on adult asylum seekers' mental health" (2018) 63:12 International Journal of Public Health. [↑](#footnote-ref-13)
14. International Detention Coalition, *There are alternatives: A handbook for preventing unnecessary immigration detention (revised edition)* (International Detention Coalition), pp. 8-9, <https://idcoalition.org/wp-content/uploads/2016/01/There-Are-Alternatives-2015.pdf>. [↑](#footnote-ref-14)
15. Council of Europe, Human Rights and Migration: Legal and practical aspects of effective alternatives to detention in the context of migration (Analysis of the Steering Committee for Human Rights, Adopted on 7 December 2017), pp. 102-03, <https://rm.coe.int/legal-and-practical-aspects-of-effective-alternatives-to-detention-in-/16808f699f>. [↑](#footnote-ref-15)
16. Ibid. [↑](#footnote-ref-16)
17. Ibid at 104-05. [↑](#footnote-ref-17)
18. Ibid. [↑](#footnote-ref-18)
19. Human Rights Watch, *Europe: Curb Immigration Detention Amid Pandemic*, March 27, 2020, <https://www.hrw.org/news/2020/03/27/europe-curb-immigration-detention-amid-pandemic>. [↑](#footnote-ref-19)
20. Human Rights Watch, *Greece: Violence Against Asylum Seekers at Border*, March 17, 2020, <https://www.hrw.org/news/2020/03/17/greece-violence-against-asylum-seekers-border>. [↑](#footnote-ref-20)
21. Human Rights Watch, *No Escape from Hell: EU Policies Contribute to Abuse of Migrants in Libya*, (Human Rights Watch, January, 2019), <https://www.hrw.org/report/2019/01/21/no-escape-hell/eu-policies-contribute-abuse-migrants-libya#_ftn21>; Katy Murdza (Immigration Impact), *Thousands in ICE Detention Sue Private Prison Company for Forced Labor*, December 16, 2019, <https://immigrationimpact.com/2019/12/16/ice-private-prison-forced-labor-lawsuit/#.X433KkBFw2w> (Instances of forced labor have also been documented in the United States. Detainees in the privately operated Adelanto Detention Facility filed a lawsuit against the GEO Group, which contracts with U.S. Immigration and Customs Enforcement (ICE) to run detention centers. The detainees alleged that they were forced to participate in a work program while they were detained. If they refused, they were denied basic necessities such as food, water and hygiene supplies, which could only be purchased at the detention center’s commissary. Detainees alleged that they “were threatened with solitary confinement, use of force and legal repercussions” if they refused to participate in the program). [↑](#footnote-ref-21)