

Immigrant Rights in the U.S. state of Georgia

For Consideration as part of ICCPR LoIPR: United States CCPR Session 125, March 2019

Submitted by: Project South and Freedom University with support from the Transnational Legal Clinic, University of Pennsylvania School of Law.

[Project South](#) is a social justice organization that fosters key social movements in the Southern United States, including immigrants' rights advocacy.

[Freedom University](#) is an organization that seeks to advance the human right to education by providing tuition-free college-level courses to undocumented youth impacted by Georgia's discrimination in higher education, and by teaching undocumented youth international human rights principles and advocacy methods.

The United States' Engages in the Persistent and Pervasive Violation of the Rights of Immigrants Detained and Living in the U.S. State of Georgia

The United States has acted in breach of its obligations under the ICCPR in its treatment of immigrants throughout the United States. This is particularly pronounced in the U.S. state of Georgia, where the United States detains thousands of immigrants in privately-held and operated detention centers where immigrants who present with mental illness are held in solitary confinement, immigrants are denied meaningful medical care, and are subject to forced labor. Four (4) immigrants have died in U.S. immigration custody in Georgia in the past 20 months. These abuses are the subject of a detailed [Communication](#) submitted to several U.N. human rights entities in May 2018 on behalf of Project South, the Detention Watch Network, and Georgia Detention Watch, and joined by 70 other human rights and immigrants' rights organizations across the U.S. South and throughout the country.

Rights abuses against immigrants in Georgia extend beyond the walls of detention and immigration enforcement, into the day-to-day lives of immigrants who experience systemic discrimination and denial of meaningful access to higher education and the rights pursuant to education. Specifically, the U.S. state of Georgia has enacted laws and policies that rescind or otherwise limit access to the state's public institutions of higher education for all Georgia residents without lawful immigration status through a total bar on their admission to its selective public universities and a discriminatory requirement that undocumented residents pay out-of-state tuition at its non-selective campuses. The United States' failure to ensure Georgia's undocumented youth full and equal access to education and the rights inherent thereto are detailed in a [Communication](#) submitted by Project South and Freedom University to the Special Rapporteur on the Rights of Migrants, the Special Rapporteur on the Right to Education and the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia, and Related Intolerance.

Immigrant Rights in the U.S. state of Georgia:
Submission for ICCPR LoIPR: United States
CCPR Session 125, March 2019

I. Prior Concluding Observations and ICCPR Legal Framework

- The United States' actions vis-à-vis immigrants detained in the U.S. state of Georgia, violate articles 2, 6, 7, 8, 9, 10, 18, and 23 of the ICCPR.
- The United States' failure to take action in response to the state of Georgia's discriminatory exclusion of undocumented youth from access to higher education violates articles 2 and 26 of the ICCPR.
- The United States has failed to respond to this Committee's recommendation arising out of its 2014 review, in which it noted its concerns regarding mandatory detention, and the exclusion of undocumented immigrants and their children from basic health care services, and recommended to the State that it "review its policies of mandatory detention and deportation of certain categories of immigrants in order to allow for individualized decisions; take measures to ensure that affected persons have access to legal representation; and identify ways to facilitate [immigrant] access to healthcare." (para. 15) It also addressed the United States' failure to take effective measures to guard against forced labor (para. 14), failure to ensure the right to non-refoulement (para. 13), and use of solitary confinement (para. 20), all of which are implicated in the United States' treatment of detained immigrants in Georgia. Furthermore, the state's denial of access to higher education implicates several of the rights specific to the United States' denial of access to higher education, including the right to equality and non-discrimination.

II. Current U.S. Government Policy or Practice

As detailed in the [Communication Addressing U.S. Violations of International Law at Immigration Detention Facilities in the U.S. State of Georgia and Calling for a Coordinated Site Visit and International Condemnation](#), the United States has persistently and aggressively increased its use of detention and its reliance on private corporations in detention of immigrants. While detention itself creates significant barriers to access to legal representation, additional [measures to curtail access to counsel](#) have affirmatively been initiated within [Georgia detention centers](#). The United States has gone further to violate rights specific to mental torture through the use of solitary confinement for persons who have demonstrated mental illness, and the perpetuation of [forced labor](#) within the detention facilities. The United States has failed in its duties to exercise any meaningful oversight over these privately held detention centers, despite its clear knowledge of the abuses committed and that persist; it has failed to take actions to ensure such abuses do not continue, and has failed to ensure accountability for the perpetrators of those violations, or redress for their victims.

Immigrant Rights in the U.S. state of Georgia:
Submission for ICCPR LoIPR: United States
CCPR Session 125, March 2019

As detailed in as set forth in the above referenced [Communication Addressing the U.S. State of Georgia's Violations of International Law in its Denial of Undocumented Students' Access to Public Institutions of Higher Education](#), the Georgia Board of Regents and the Georgia state legislature have violated the fundamental human rights of its undocumented resident students by: (1) enacting a total ban on undocumented students from earning admission to Georgia's selective public institutions of higher education, presently including the University of Georgia, the Georgia Institute of Technology, and Georgia College and State University; and (2) requiring that undocumented students residing in Georgia pay exorbitant out-of-state tuition at its other public colleges and universities, despite the fact that most of them have spent the vast majority of their lives living within the state, attending primary and secondary education in state public schools, and paying state taxes. But for their immigration status, these students would be considered residents like any others. Not only does the state of Georgia plainly violate the human right to education as afforded to all in Article 26 of the Universal Declaration of Human Rights, but it also contravenes the right to equality and non-discrimination by denying access to education and in-state tuition to otherwise qualified individuals on the sole basis of their national origin and immigration status (or, alternatively, on the basis of their *lack* of citizenship), as set forth in Art. 2 of the ICCPR. The United States federal government has taken no action to address or remediate this discriminatory policy.

III. Recommended Questions

- What steps is the United States undertaking to ensure the rights of immigrants detained in privately-held facilities in the State of Georgia?
 1. Specifically, what the United States doing to ensure that detained immigrants have access to adequate physical and mental healthcare, access to counsel, equality and non-discrimination in proceedings before the Georgia immigration courts, the right to free and non-discriminatory exercise of their religion, and the right to be free from forced labor?
 2. What is the United States doing to ensure accountability for those facilities and their officers that maintain control over the privately held detention centers to ensure that the rights of immigrants detained therein are respected, protected and fulfilled?

- What is the United States doing to ensure that the right to equality and non-discrimination in accessing higher education are guaranteed for undocumented youth in Georgia?

IV. Suggested Recommendations

- We recommend that the U.S. government ensure that immigrants are subject to detention only as a matter of last resort, and to ensure that detention conditions for those who are detained meet accepted standards under international law. This includes:
 1. Guaranteeing the right to physical and mental health for all immigrants detained;
 2. Eliminating the use of solitary confinement as a means of punishment or control, particularly for immigrants with mental health issues;
 3. Ensuring access to legal counsel, and full and equal access to the courts, and guaranteeing the right to non-refoulement;
 4. Guaranteeing the free exercise of religion, without discrimination; and,
 5. Eliminating the use of forced labor in detention.

- We recommend that the U.S. government take measures to ensure that the right to equality and non-discrimination is guaranteed to all undocumented youth, and that undocumented youth are granted access to citizenship and the rights incumbent thereto. This includes:
 1. Passage of federal legislation to create a pathway to citizenship for undocumented youth, such as the proposed DREAM Act;
 2. Working with the state of Georgia to repeal Board of Regents Policy 4.1.6 and 4.3.4, which ban undocumented students from admission to the top public universities in Georgia and from in-state tuition, respectively, to ensure undocumented students have equal access to public higher education.