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# The Puerto Rico-Chicago Connection: Cross-Boundary Drug-Treatment in the United States (2016)

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**SUBMISSION TO THE U.N. COMMITTEE AGAINST TORTURE**

# THE PUERTO RICO-CHICAGO CONNECTION: CROSS-BOUNDARY DRUG-TREATMENT IN THE UNITED STATES

**IN RELATION TO THE UNITED STATES LIST OF ISSUES PRIOR TO REPORTING**

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## Introduction and Summary

1. The John Marshall Law School International Human Rights Clinic is a law school student-practice clinic that is committed to the investigation of human rights abuses, the publication of abuses, and the protection against abuses within the United States and around the world.

2. The International Human Rights Clinic has been investigating human rights abuses arising out of a systematic practice of government officials and cooperating private individuals to relocate homeless, drug-addicted persons to putative drug-treatment centers in Chicago, Illinois. In fact, these so-called drug-treatment centers deprive individuals of their physical liberty; fail to provide adequate food, shelter, and other necessities; engage in abusive and degrading treatment; and fail to provide adequate medical treatment to victims.[1]

3. Officials of Puerto Rico, an island territory within the jurisdiction of the United States of America,[2] engage in a systematic practice of relocating homeless, drug-addicted Puerto Ricans to sites within the continental United States, including Chicago, for drug treatment.

4. Officials and cooperating private individuals arrange for transportation of these victims from Puerto Rico to the continental United States. Officials and cooperating private individuals also arrange for housing in putative residential drug-treatment centers. These so-called drug-treatment centers are often located in overcrowded and uninhabitable or substandard facilities. They are not licensed or regulated.

5. Private operators who run these so-called drug-treatment centers often take their victims' identification and restrict their victims' physical liberty. New arrivals are not permitted to leave the premises for 30 days; if they do, they cannot come back. Operators also charge victims a fee, forcing victims to work, or at least to earn money, in exchange for their housing and "treatment."

6. These so-called drug-treatment centers fail to provide appropriate medical treatment for the victims, resulting in torture or ill-treatment of the victims in violation of the Convention Against Torture. Moreover, these so-called treatment centers frequently deny victims access to adequate food and water. Several victims have died.

7. This practice is well known and actively supported by officials in Puerto Rico and at least several of its municipalities. The practice is well known by officials in the City of Chicago, the State of Illinois, and the U.S. government.

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[1] The International Human Rights Clinic collected information in this Submission through publicly available sources; government sources, pursuant to freedom-of-information laws; and private interviews with victims, advocates, and others involved in the programs.

[2] The United States has been quite clear that "obligations under the Convention shall be implemented by the Federal Government to the extent of its legislative and judicial jurisdiction, and otherwise by the state and local governments," including Puerto Rico and local governments within Puerto Rico. CAT/C/28Add.5, paras. 17 and 19.

8. As described more fully below, this practice constitutes a violation of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the "CAT").[3]

## I. Factual Background

### A. Overview

9. Puerto Rico is an island-territory under the jurisdiction of the United States of America. While Puerto Rico has some authority to adopt its own law, under the United States Constitution, federal law and treaties of the United States are supreme over Puerto Rican law. The United States and Puerto Rico have concomitant obligations to implement the provisions of the CAT to the extent of their respective jurisdictions.[4]

10. Officials in Puerto Rico and six of its municipalities, along with cooperating private individuals, advertise medical treatment to individuals within Puerto Rico.[5] One of these programs, in Juncos, is called "De Vuelta a La Vida"; another, in Bayamón, is called "Nuevo Amanecer." (Similar programs operate in at least six Puerto Rican municipalities.) Government officials and private individuals associated with these programs, along with local and municipal police, actively target and recruit homeless, drug-addicted individuals to participate in these programs. Many of these programs receive funds from the United States Department of Housing and Urban Development.

11. In some cases, a government officer or cooperating individual identifies and approaches homeless, drug-addicted individuals to recruit the victim into a program. In other cases, a police officer or government official threatens a victim with prosecution for anti-vagrancy laws if they do not participate in a program. In yet other cases, family members refer homeless, drug-addicted individuals to these programs. Family members often pay for travel and related program expenses, at least initially.

12. Puerto Rican officials make a number of false representations about these programs when presenting them to targeted individuals and their families. They claim that the U.S facilities will provide the victims with food and clothing; that they are staffed with doctors, nurses, and therapists; and that they will receive appropriate and adequate drug-treatment therapy. Virtually all victims are told that the facilities have a swimming pool.

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[3] For analysis of the human rights issues involved in drug-treatment centers around the world, see Treatment or Torture? Applying International Human Rights Standards to Drug Detention Centers (Open Society Foundations 2011), available at https://www.opensocietyfoundations.org/sites/default/files/treatment-or-torture-20110624.pdf (last visited June 27, 2016); Torture in the Name of Treatment: Human Rights Abuses in Vietnam, China, Cambodia, and Lao PDR (Human Rights Watch 2012), available at https://www.hrw.org/report/2012/07/24/torture-name-treatment/human-rights-abuses-vietnam-china-cambodia-and-lao-pdr (last visited June 27, 2016).

[4] *Id*.

[5] *See, e.g.,* Ciudad de Bayamón, Programa Nuevo Amanecer, available at http://www.municipiodebayamon.com/servicios-municipales/salud/programa-nuevo-amanecer/ (last visited June 27, 2016).

13. At the same time, municipality websites accurately publicize these programs as having collaborative agreements with so-called treatment facilities in the continental United States.[6]

14. Government officials or cooperating individuals arrange for transportation of victims to sites within the continental United States. Upon arrival, victims are met by "Media Luz" who transport victims to a putative drug-treatment center in Chicago. ("Media Luz" are themselves victims who have "graduated" from a putative drug-treatment program and who now are working for the program, often to pay off their expenses.)

15. Upon arrival, operators of the facilities routinely take victims' identification, documents, and other personal possessions. Operators often do not return the victims' identification and documents, thus restricting victims from traveling or working outside the facility.

16. The facilities are often over-crowded and uninhabitable or barely inhabitable. They often lack basic necessities like bathrooms and adequate bedding; and they are often overrun by insects or rodents. Operators do not provide victims with adequate food.

17. Treatment does not include medically appropriate treatment for drug-addicted individuals, like opioid-replacement therapy. Instead, some victims are treated only with degrading talk "therapy." Others are forcibly restrained in a futile attempt to break their addiction.

18. As a result of this treatment, many victims suffer severe pain and physical and psychological complications associated with withdrawal. Some victims end up on the streets, and some victims have died.[7]

### B. Victim Case Examples

The following "case examples" are representative stories of actual victims.

*Victim 1*

19. Victim 1 is a 36-year-old male from Juncos, Puerto Rico. He started using heroin at age 15. He left his mother's house and lived on the streets, sleeping under a bridge, for more than a decade.

20. In 2007 or 2008, his mother learned of the "De Vuelta a la Vida" program through the mayor of Juncos, Jose Alfredo Alejandro. Believing that they would provide necessary treatment to her son, Victim 1's mother approached the police in Juncos who administer the program and asked them for help. Police officers subsequently located Victim 1 and threatened to prosecute

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6 *Id.*

7 For more background on these programs, see generally Puerto Rico-Chicago Pipeline, WBEZ, available at http://interactive.wbez.org/puertoricochicagopipeline/ (last visited June 27, 2016).

him for vagrancy if he did not take part in the program. They promised Victim 1 that the treatment center in the U.S. included nurses and psychologists. They told him he did not need to bring any clothes because they would be provided. They promised that food, health benefits, and a bed were included for three months. Following the three months of treatment, they claimed, they would find him a job.

21. Victim 1's mother collected $600 from friends and people from the town for his plane ticket. Three days after the police approached him with the ultimatum, Victim 1 was on a plane to Chicago. There, he was met by two individuals Media Luz, who brought him to "Segunda Vida," one of the putative treatment facilities on the city's west side. The two individuals Media Luz took his wallet, money, identification, and his shoes so that he could not leave. These items were never returned.

22. The premises were derelict and unlivable. Over sixty people were sleeping on the floor and on dirty mattresses. There was no bathroom, so victims used bags; they bathed with a hose on the porch. The food was limited to bread, rice, oatmeal, beans, and cornflakes. Treatment consisted of 90 days of a kind of group therapy lasting from 7:30 a.m. to 10:00 p.m. and featuring aggressive verbal abuse and degrading treatment.

23. After completing 90 days with the program, Victim 1 was made to pay $50 a week for past services and to purchase food for other victims in the program. When he was unable to pay, the program managers forced him to clean the house and build a bathroom. Victim 1 eventually separated from "Segunda Vida." He described his ordeal as "the worst of my life," adding "the worst was that I felt like I was contributing to a profiting business."

*Victim 2*

24. Victim 2 is from Agua Buenas, Puerto Rico. In Puerto Rico, he struggled with addiction. Police officers from Aguas Buenas referred him to a detoxification program in Juncos. Victim 2 went to Juncos, where he was met by municipal police officers, and stayed for 21 days. Officers then referred Victim 2 to Segunda Vida in Chicago.

25. Victim 2's brother bought him a plane ticket to Chicago, and a Juncos police officer drove him to the airport in Puerto Rico. Victim 2 arrived in Chicago on October 2, 2014.

26. Two men picked Victim 2 up from the airport in Chicago. Victim 2 gave them $100. A Juncos police officer called the men to arrange the pick up. The men took Victim 2 to the Segunda Vida facility in Chicago.

27. Operators at the Segunda Vida facility took Victim 2's wallet, identification, and Social Security card, along with his other possessions. Operators never returned his identification or Social Security card.

28. The Segunda Vida facilities were run down. Operators provided only corn flakes and milk for breakfast, and rice and beans for lunch and dinner.

29. Victim 2 did not complete the program at Segunda Vida. He was taken instead to another program, Nueva Era. He only received Advil and water as treatment.

30. The Juncos police officers who initially brought Victim 2 into the program attended the "graduation" from Nueva Era in Chicago.

*Victim 3*

31. Victim 3 is from Rio Piedras, Puerto Rico, and lived in Toa Alta, Puerto Rico. He was addicted in Puerto Rico for 24 years. Victim 3 was brought into the Nuevo Amanecer program in Bayamón by Gladys Cintrón, a municipal government official. Cintrón told Victim 3 that he could go to Chicago or be arrested.

32. Cintrón arranged for Victim 3 to obtain a plane ticket in 2013 for Chicago. Victim 3 arrived in Chicago in 2013 or 2014.

33. Victim 3 was taken to a youth center in Chicago. There were 14 other victims from Bayamón at the center, all brought by Cintrón. Victim 3 slept on comforters that smelled of urine and ate food brought from local food pantries. Operators at the center put Victim 3 in a closet to break his addiction and subjected him to degrading therapy as treatment. Victim 3 stayed at the youth center for three months.

34. Victim 3 and others were then relocated to another center, Grito Desesperado. Operators took their documents and did not return them. Operators also took their public-benefits cards without giving the victims their benefits or equivalent money. Operators charged victims $75 a week for rent. The facility was overcrowded and lacked ventilation.

35. After a month, Victim 3 moved on the streets. He lived on the streets until he moved to Rincón Family Services, where he now lives with his wife and receives psychological treatment.

*Victim 4*

36. Victim 4 is from Rio Piedras, Puerto Rico, and one of the rare women in the program. While in Puerto Rico, she suffered from addiction and did not receive treatment. When homeless individuals like Victim 4 looked for food, Gladys Cintrón, the local government official, took names in order to bring them into the program.

37. Victim 4's father approached Cintrón about helping her. Cintrón located Victim 4 and told her about the program in Chicago. Cintrón and an associate promised Victim 4 a treatment facility, doctors, and pools. Victim 4 decided to enter the program. Victim 4's parents paid for her plane ticket to Chicago.

38. Victim 4 arrived in Chicago in 2008 or 2009. When she arrived at the airport, an individual picked her up and took her to a facility in Chicago. She was the only woman among 35 men.

39. Operators at the facility denied Victim 4 any medication or treatment. They also denied her adequate food.

40. Operators did not permit Victim 4 to contact her family for 29 days. Operators charged her $60 a week for rent during her stay, and $30 a week for the rest of her life. Victim 4 had to work to pay rent. Because of her medical conditions, however, she was unable to work, and she left the facility. Victim 4 is now homeless in Chicago.

## II. Violations of the CAT

### A. Violation of the Prohibition Against Torture

41. Article 2 of the CAT categorically bans torture. In particular, Article 2(1) requires that "[e]ach State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction."[8]

42. The ban on torture is absolute and non-derogable.[9] It is also a matter of *jus cogens*, a peremptory norm of customary international law binding on every State, regardless of whether the State has ratified any particular treaty.[10]

43. The CAT defines "torture" as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as . . . intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity."[11] The definition contains four elements: severe pain or suffering; intent to inflict; a particular purpose; and State involvement, at least by acquiescence.[12]

44. "In particular, the Committee emphasizes that the elements of intent and purpose in article 1 do not involve a subjective inquiry into the motivations of the perpetrators, but rather must be objective determinations under the circumstances."[13] As to the element of intent, the Special Rapporteur has stated that "[i]ntent . . . can be effectively implied where a person has been discriminated against on the basis of disability."[14]As to the element of purpose, the Special Rapporteur has stated that the purpose of the treatment may include the enumerated purposes in the CAT—extraction of a confession; obtaining information from a victim or a third person; punishment, intimidation and coercion; and discrimination—as well as any purpose that has "something in common with the purposes expressly listed."[15] The principle of non-

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8 CAT, art. 2(1).
9 CAT, art. 2(2). *See also* CAT/C/GC2, para. 1.
10 CAT/C/GC2, para. 1.
11 CAT, art. 1(1).
12 A/HRC/22/53, para. 17 (citing A/HRC/13/39/Add.5, para. 30).
13 CAT/C/GC2, para. 9.
14 A/HRC/22/53, para. 20.
15 A/HRC/22/53, para. 21 (quoting A/HRC/13/39/Add.5, para. 35).

discrimination (the final enumerated purpose under the CAT) requires State parties "to ensure the protection" of members of groups especially at risk of torture and ill-treatment, including groups identified by "mental health or other disability," "health status," and "economic or indigenous status," among others.[16]

45. The definition of torture may evolve in light of changing circumstances and changing values.[17]

46. State-parties' obligations under the CAT apply to health-care settings, medical treatment, and drug treatment facilities.[18]

47. State parties have particular obligations in the special context of medical treatment. In general, certain medical treatment for persons with disabilities, without informed consent, may constitute torture or ill-treatment.[19] In particular, lack of appropriate drug treatment therapy can constitute torture or ill-treatment. Thus, denial of opioid substitution therapy, and the accompanying withdrawal symptoms, can constitute torture or ill-treatment.[20] Denial of appropriate antiretroviral treatment for persons with HIV can constitute torture or ill-treatment.[21] And certain other non-consensual medical treatment and experimentation can constitute torture or ill-treatment.[22]

48. The Special Rapporteur issued the following conclusion with regard to treatment standards for drug dependence:

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16 CAT/C/GC2, paras. 20 and 21.

17 *See* A/HRC/22/53, para. 14 (citing *Cantoral-Benavides v. Peru*, Inter-American Court of Human Rights Series C, No. 69 (2000) para. 99; *Selmouni v. France*, European Court of Human Rights, Application No. 25803/94 (1999), para. 101.).

18 *See generally* A/HRC/22/53, para. 15 (stating that "the Special Rapporteur embraces this ongoing paradigm shift, which increasingly encompasses various forms of abuse in health-care settings within the discourse on torture."); A/HRC/10/44, paras. 58-62 (describing how drug treatment programs can amount to torture or cruel, inhuman, or degrading treatment under the CAT).

19 A/63/175, para. 47 ("Whereas a fully justified medical treatment may lead to severe pain or suffering, medical treatments of an intrusive and irreversible nature, when they lack a therapeutic purpose, or aim at correcting or alleviating a disability, may constitute torture and ill-treatment if enforced or administered without the free and informed consent of the person concerned."). *See also* A/HRC/10/44, paras 57-59 (stating how lack of access to medical treatment and inappropriate medical treatment during detention can constitute torture or ill-treatment); A/HRC/22/53, paras. 28-30 (citing the work of other Special Rapporteurs in emphasizing the importance of consent).

20 A/HRC/10/44, para 57 (citing *McGlinchey and others v. The United Kingdom* (Application No. 50390/99), judgment of April 29, 2003, para. 57).

21 A/HRC/10/44, paras. 58-62.

22 A/HRC/10/44, paras. 57-59. The Special Rapporteur looks to standards of treatment established by the World Health Organization and the United Nations Office of Drugs and Crime to determine appropriate treatment for drug addiction. *See id*.

> With regard to human rights and drug policies, the Special Rapporteur wishes to recall that, from a human rights perspective, drug dependence should be treated like any other health-care condition. Consequently, he would like to reiterate that denial of medical treatment and/or absence of access to medical care in custodial situations may constitute cruel, inhuman or degrading treatment or punishment and is therefore prohibited under international human rights law. Equally, subjecting persons to treatment or testing without their consent may constitute a violation of the right to physical integrity. He would also like to stress that, in this regard, States have a positive obligation to ensure the same access to prevention and treatment in places of detention as outside.[23]

49. In particular, the Special Rapporteur concluded that denial of opiate substitution treatment could violate the CAT. "A particular form of ill-treatment and possibly torture of drug users is the denial of opiate substitution treatment, including as a way of eliciting criminal confessions through inducing painful withdrawal symptoms. The denial of methadone treatment in custodial settings has been declared to be a violation of the right to be free from torture and ill-treatment in certain circumstances."[24]

50. The Special Rapporteur recognized that drug users in compulsory detention centers often suffer State-sanctioned beatings, forced labor, sexual abuse, and intentional humiliation.[25] Moreover, victims often suffer painful withdrawal from drug dependence without medical assistance.[26] The Special Rapporteur concluded that "neither detention nor forced labor have been recognized by science as treatment for drug use disorders."[27] "Detention and forced labour programmes therefore violate international human rights law and are illegitimate substitutes for evidence-based measures . . . ."[28]

51. The programs described above violate these principles and prohibitions.

52. The so-called drug treatment centers described above and the individuals who operate them fail to provide appropriate medical treatment. Centers fail to provide opioid-replacement therapy; they may fail to provide adequate HIV treatment; and they fail to provide adequate food, shelter, and other basic necessities.

53. The denial of opioid-replacement therapy, the failure to provide adequate HIV treatment, and the failure to provide adequate food, shelter, and other basic necessities can constitute "severe pain and suffering" in violation of the first element of "torture" under the CAT.[29]

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23 A/HRC/10/44, para 71.

24 A/HRC/22/53, para. 73.

25 A/HRC/22/53, para. 40.

26 A/HRC/22/53, para. 41.

27 A/HRC/22/53, para. 41 (citing health and treatment standards of the World Health Organization and the United Nations Office on Drugs and Crime).

28 A/HRC/22/53, para. 41.

29 A/HRC/22/53, para. 73.

54. Victims of these programs experience severe pain and suffering, both physical and mental, as they endure the symptoms of opioid withdrawal. New arrivals at the detention centers are not permitted to leave the premises for the first 30 days; if they leave they are not allowed to return. Yet painful withdrawal symptoms can start within 12 hours of last heroin use.[30]

55. By being confined and prevented from seeking medical attention, victims are forced to experience the full brunt of detoxification symptoms. Victims experience stomach pain, muscle pain, body aches, vomiting, headaches, hot and cold sweats.[31] They are rarely able to sleep for the first few weeks, both due to the physical symptoms and the overcrowded, unsanitary state of the detention center.[32]

56. An evidence-based course of treatment would be administered by medical professionals and likely include medication, such as methadone or clonidine. According to a report by the American Association of Addiction Medicine, "Using medications for opioid withdrawal management is recommended over abrupt cessation of opioids. Abrupt cessation of opioids may lead to strong cravings, which can lead to continued use."[33]

57. After disengaging from the drug detention center many victims do, in fact, relapse or continue to use. In sum, the cold-turkey regimen forced on program victims is ineffective in treating drug dependency and the manner in which it is employed exacerbates victims' pain and suffering.

58. Puerto Rican officials and cooperating private individuals systematically target, recruit, and transport victims, and operate the so-called treatment centers, and thus intentionally inflict this treatment on victims in violation of the second element of "torture" under the CAT.

59. Puerto Rican officials and cooperating private individuals systematically target and recruit homeless, drug-addicted individuals within Puerto Rico. These officials and individuals thus engage in these practices with the purpose of discriminating against a medically disabled and especially vulnerable population in violation of the third element of "torture" under the CAT.

60. Puerto Rican officials and cooperating private individuals act under the authority of the Puerto Rican and municipal governments. Officials in the City of Chicago, the State of Illinois, and the United States are aware of these practices. Officials and individuals thus act under the

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30 Opiate and opiod withdrawal, U.S. National Library of Medicine, https://www.nlm.nih.gov/medlineplus/ency/article/000949.htm (last visited June 27, 2016).

31 U.S. National Library of Medicine, Opiate and opioid withdrawal, available at https://www.nlm.nih.gov/medlineplus/ency/article/000949.htm (last visited June 27, 2016).

32 *Id.*

33 Kyle Kampman, MD and Margaret Jarvis, MD, FASAM, *American Society of Addiction Medicine (ASAM) National Practice Guideline for the Use of Medications in the Treatment of Addiction Involving Opioid Use.* J Addict Med. 2015 Oct; 9(5): 358–367, available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4605275/ (last visited June 27, 2016).

authority of the States, or in conjunction with the State, or with the knowledge and acquiescence of the State in violation of the fourth element of "torture" under the CAT.

### B. Violation of the Prohibition Against Cruel, Inhuman, or Degrading Treatment

61. According to the Committee, "[t]he obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment . . . under article 16, paragraph 1, are indivisible, interdependent and interrelated."[34] Moreover, "[t]he obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture."[35]

62. Like the ban on torture, the prohibition on ill-treatment is also non-derogable.[36]

63. While there is no precise definition of "cruel, inhuman or degrading treatment," and while there is no precise line between ill-treatment and torture, "[a]cts falling short of [the four-element definition of torture] may constitute cruel, inhuman or degrading treatment . . . ."[37] For example, in the medical context, where treatment may lack the intent required for torture, negligent treatment may nevertheless constitute ill-treatment if it results in severe pain and suffering.[38]

64. Even if these programs do not violate the prohibition against torture, for the reasons described above, they violate the prohibition against cruel, inhuman, or degrading treatment. In particular, even if officials and cooperating private individuals engaged in this systematic practice without an intent to inflict severe pain and suffering upon the victims, officials and cooperating private individuals were nevertheless negligent, or even willfully negligent, in providing treatment, in violation of the CAT's prohibition on cruel, inhuman, or degrading treatment.

### C. Violation of the Obligation to Halt Torture and Ill Treatment

65. The CAT bans torture and ill-treatment by State parties and by certain cooperating private entities alike. The Committee has defined the scope of state responsibility broadly, to include not only State officials, but also "agents, private contractors, and others acting in official capacity or acting on behalf of the State, in conjunction with the State, under its direction or control, or otherwise under colour of law."[39]

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34 CAT/C/GC2, para. 2.

35 CAT/C/GC2, para. 2.

36 CAT/C/GC2, para. 3 ("Accordingly, the Committee has considered the prohibition of ill-treatment to be likewise non-derogable under the Convention and its prevention to be an effective and non-derogable measure.")

37 A/63/175, para. 46. *See also* A/HRC/22/53, para. 17.

38 A/HRC/22/53, para. 20.

39 CAT/C/GC2, para. 15.

66. Accordingly, each State party should prohibit, prevent and redress torture and ill-treatment in all contexts of custody or control, for example, in prisons, hospitals, schools, institutions that engage in the care of children, the aged, the mentally ill or disabled, in military service, and other institutions as well as contexts where the failure of the State to intervene encourages and enhances the danger of privately inflicted harm.[40]

67. The CAT applies not only to a State-party's sovereign territory, but also to "any territory under its jurisdiction,"[41] including "all areas where the State party exercises, directly or indirectly, in whole or in part, de jure or de facto effective control, in accordance with international law."[42]

68. Importantly, the Committee specifically identified private detention centers as locations under a State-party's control:

> For example, where detention centers are privately owned or run, the Committee considers that personnel are acting in an official capacity on account of their responsibility for carrying out the State function without derogation of the obligation of State officials to monitor and take all effective measures to prevent torture and ill-treatment.[43]

69. Moreover, the obligations under the CAT apply when State officials "knew or have reasonable grounds to believe" that purely private actors are engaging in torture or ill-treatment:

> The Committee has made clear that where State authorities or others acting in official capacity or under colour of law, know or have reasonable grounds to believe that acts of torture or ill-treatment are being committed by non-State officials or private actors and they fail to exercise due diligence to prevent, investigate, prosecute and punish such non-State officials or private actors consistently with the Convention, the State bears responsibility and its officials should be considered as authors, complicit or otherwise responsible under the Convention for consenting to or acquiescing in such impermissible acts. Since the

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40 CAT/C/GC2, para. 15. *See also* CAT/C/GC2, para. 7 ("The Committee emphasizes that the State's obligation to prevent torture also applies to all persons who act, de jure or de facto, in the name of, in conjunction with, or at the behest of the State party."); A/63/175, para. 51 ("In relation to the State involvement requirement, the Special Rapporteur notes that the prohibition against torture relates not only to public officials, such as law enforcement agents in the strictest sense, but may apply to doctors, health professionals and social workers, including those working in private hospitals, other institutions and detention centres."); A/HRC/22/53, para. 24 ("Indeed, the State's obligation to prevent torture applies not only to public officials, such as law enforcement agents, but also to doctors, health-care professionals and social workers, including those working in private hospitals, other institutions and detention centres."); *Ximenes Lopes v. Brazil*, Inter-American Court of Human Rights, Series C, No. 149 (2006), paras. 103, 150.

41 CAT, art. 2(1). *See also* CAT/C/GC2, para. 16.

42 CAT/C/GC2, para. 16.

43 CAT/C/GC2, para. 17.

> failure of the State to exercise due diligence to intervene to stop, sanction and provide remedies to victims of torture facilities and enables non-State actors to commit acts impermissible under the Convention with impunity, the State's indifference or inaction provides a form of encouragement and/or de facto permission.[44]

70. The "knew or had reasonable grounds to believe" standard also applies when a State party "transfer[s] or sen[ds] to the custody or control of an individual or institution known to have engaged in torture or ill-treatment, or has not implemented adequate safeguards."[45]

71. The United States has violated its obligation to halt torture and ill-treatment in these programs.

72. Puerto Rican authorities, officials, and state agents know or have reason to know of the alleged "treatment" programs, such as "De Vuelta a La Vida" and "Nuevo Amanecer." These programs are authorized by Puerto Rican municipalities and their officials, and they are widely advertised by the municipalities.

73. Some state officials in the United States mainland are aware of this practice. The Cook County Sheriff has said that his office is investigating these practices in Chicago.[46] Similarly, the Acting Director of the Illinois Department of Alcoholism and Substance Abuse, indicated that she has received information through media of this practice. She said that she is looking to obtain information of particular victims in Chicago who were brought from Puerto Rico who are in need of real treatment and that she will try to provide them access treatment through legitimate facilities.[47]

74. Federal authorities may also be aware of this practice.

75. Despite the widespread knowledge by local, state, and even federal officials, however, the practice continues. Puerto Rico government officials continue to send homeless, drug-addicted individuals to so-called drug-treatment facilities in Chicago. This practice continues to violate the rights of these victims and subject them to torture or cruel, inhuman, or degrading treatment.

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44 CAT/C/GC2, para. 18.

45 CAT/C/GC2, para. 19.

46 Nick Blumberg, Cook County Sheriff on Reducing the Jail Population, Chicago Tonight WTTW, May 19, 2015, available at http://chicagotonight.wttw.com/2015/05/19/cook-county-sheriff-reducing-jail-population (last visited June 27, 2016).

47 DASA Director responds to Puerto Rican addict pipeline, WBEZ's Morning Shift, available at https://soundcloud.com/morningshiftwbez/dasa-director-responds-to (last visited June 27, 2016).

## Conclusion

76. For all of these reasons, these so-called drug-treatment programs violate the prohibition against torture or the prohibition against cruel, inhuman, or degrading treatment under the CAT.

77. Moreover, the United States has violated its obligation under the CAT to halt torture and ill-treatment within its jurisdiction.

78. The United States and state and local governments under its jurisdiction may further violate their obligations under the CAT if they fail to educate and inform officials and cooperating individuals of the prohibitions under the CAT;[48] if they fail to review practices within its jurisdiction;[49] if they fail to permit victims to complain about their treatment;[50] or if they fail to authorize and recognize judicial remedies for victims.[51]

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48 CAT, art. 10.

49 CAT, arts. 11 and 12.

50 CAT, art. 13.

51 CAT, arts. 13 and 14.