

RECOMMENDATIONS TO THE
BIDEN-HARRIS ADMINISTRATION ON
IMMIGRANTS WITH DISABILITIES

CREEC

CIVIL RIGHTS EDUCATION
AND ENFORCEMENT CENTER

WE CHALLENGE DISCRIMINATION

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EXECUTIVE SUMMARY

The Civil Rights and Education Enforcement Center (CREEC)'s Immigration Detention Accountability Project (IDAP), through years of advocacy and litigation, has found that civil rights violations against immigrants with disabilities in detention and at the U.S.-Mexico border are rampant. Since its inception, Immigration and Customs Enforcement (ICE) and its contractors have flouted federal disability civil rights laws such as the Section 504 of the Rehabilitation Act of 1973 (Section 504), as well as its own policies in its detention centers. At the same time, Customs and Border Protection (CBP) discriminates against vulnerable asylum seekers with disabilities at the southern border by returning them to dangerous Mexican states with little to no accessible accommodations or medical care. CBP's problematic practices also pre-date the practice of returning asylum seekers to Mexico.

First, the MPP should be rescinded on the first day and those who were placed in the program should immediately be paroled. Those paroled should include the class of persons with disabilities covered by *E.A.R.R. v. DHS*, a border-wide class action lawsuit brought by CREEC and others that challenges the discriminatory practices against persons with disabilities in the MPP.

It is imperative that the MPP be rescinded on the first day because it will be a long-term, complex course of action to process the number of persons who were placed into the program. Those in the MPP are languishing on the streets of Mexico, many of whom are living in Level 4 U.S. Department of State Travel Advisory areas, which is on par with nations such as Syria and Afghanistan. Asylum seekers in the MPP are especially vulnerable. One *E.A.R.R.* class member is a one-year-old baby living with a condition that causes seizures, developmental delay, and brain damage. Her medication was confiscated and discarded by CBP even though CBP agents knew of her conditions. Another, *D.Y.S.*, a nine-year-old autistic child with hyperactivity and epilepsy, was staying at an overcrowded shelter, where he was sexually assaulted.

Second, within the first 100 days in office, all immigrants with high risk factors making them vulnerable to COVID-19 should immediately be given a meaningful review for release from detention pursuant to the preliminary injunction order in *Fraihat v. ICE*. In bringing this systemwide class action lawsuit, CREEC alleged that ICE and its contractors were violating Section 504 regarding treatment of detained people with disabilities. One *Fraihat* named plaintiff, Hamida Ali, a refugee from Sudan, has schizophrenia, depression, and a history of suicide attempts. Despite this, ICE and its contractor GEO Group left her in a dorm alone for nine months, causing her mental health to deteriorate to the point of suicidality. As this memo will demonstrate, Ms. Ali's experience is not an exception but rather the rule.

Third, within the first 100 days in office, Former President Obama's Presidential Executive Order 13,768 should be reinstated immediately. The order allowed for the exercise of "prosecutorial discretion" for special populations, such as those with disabilities and medical

vulnerabilities. For every day that persons with disabilities or medical vulnerabilities spend in a detention center, their health precipitously deteriorates. ICE and its contractors do not have the health care administration or medical expertise to maintain the health of detained people, especially those with disabilities. Most importantly, detained people with disabilities lose their support systems, such as built relationships with therapists, animal aids, and community support.

Fourth, while CREEC believes that immigration civil detention should be completely abolished, until then, detention for persons with disabilities and medical vulnerabilities who do not receive the accommodations they require must end. This starts with ceasing to contract with for-profit private prison corporations and canceling existing contracts with those that violate disability laws and policies. There must also be an independent disability rights office under the Department of Homeland Security (DHS) and a grievance procedure to oversee compliance. In order to execute such oversight, ICE must create one integrated medical care electronic system and uniform medical documentation requirements, as well as create positions for disability-specific caseworker positions to prioritize persons with disabilities.

Fifth, in order to better uphold the rights of persons with disabilities in detention, DHS must begin to make a concerted effort in recruiting and hiring persons with disabilities throughout its immigration agencies. Persons with disabilities have historically been excluded from society's most basic activities, but especially those related to decision-making. We need persons with disabilities in positions with relevant lived experience and authority to make changes.

Sixth, the Executive Office of Immigration Review (EOIR) must begin to educate its judges, clerks, and staff on disability law and the lived experiences of persons with disabilities. Doing so will, in turn, raise awareness about the importance of providing the necessary and correct accommodations to immigrants with disabilities in court.

Finally, we urge the Biden-Harris Administration to live up to our nation's reputation as a global leader in disability rights law. It is our strong recommendation that former President Obama's push to ratify the Convention on the Rights of Persons with Disabilities (CRPD) is finally fulfilled.

INTRODUCTION

The Civil Rights Education and Enforcement Center (CREEC) is a nonprofit membership organization whose goal is to ensure that everyone can fully and independently participate in our nation's civic life without discrimination based on race, gender, disability, religion, national origin, age, sexual orientation, or gender identity.

CREEC believes that immigration civil detention – in which people are confined in prison-like settings – is inherently constitutionally suspect and should be abolished. However, while detention is sanctioned by the courts and Congress, CREEC's Immigration Detention Accountability Project (IDAP) fights to enforce the civil rights of persons with disabilities in immigration detention. IDAP works to ensure that persons with disabilities in ICE custody are held in constitutionally adequate conditions, receive constitutionally adequate care, and are not discriminated against on the basis of disability. IDAP achieves this mission through direct representation, class action litigation, and education of persons with disabilities in the immigrant community and their advocates and allies.

In undertaking our mission, on August 19, 2019, CREEC filed a systemwide class action lawsuit, *Fraihat v. ICE*. The lawsuit challenges the federal government's failure to provide detained immigrants with appropriate medical and mental health care and its punitive use of segregation in violation of the Fifth Amendment of the U.S. Constitution; and its failure to ensure that detained persons with disabilities are provided accommodations and do not face discrimination as required by Section 504 of the Rehabilitation Act of 1973. Currently, CREEC is fighting to enforce an April 20, 2020, preliminary injunction order holding that ICE must (1) immediately identify and track individuals in its custody with high risk factors and/or disabilities that makes them especially vulnerable to COVID-19 and (2) make timely custody redeterminations for all class members.

The future Biden-Harris Administration has an opportunity to reverse the effects of unlawful policies and practices instated or exacerbated by the Trump Administration, such as those challenged in *Fraihat*, that disproportionately discriminate against persons with disabilities in immigration detention. However, the policies and practices of the Trump Administration are merely reiterations of past administration policies. ICE has had free reign to engage in unlawful practices for too long.

Our nation is only as great as its treatment of its most vulnerable populations. It is our hope that the below policy recommendations will bring forth transformative change for immigrants with disabilities.

THE FIRST 100 DAYS

RESCIND THE SO-CALLED MIGRANT PROTECTION PROTOCOLS (MPP) & PAROLE ASYLUM SEEKERS TRAPPED IN MPP

CREEC expects that President-Elect Biden will rescind the MPP in his first 100 days of office – however, we urge him to do so on his first day. Remedying the devastating effects of the MPP will not be accomplished merely by its rescission. It will be a long-term, complex process that must start on the first day. It will take months, if not years, to dismantle the system and restore the due process and disability rights of asylum seekers in the MPP. There are countless political and logistical issues involved in addressing the cases of the more than 67,000 asylum seekers that have been returned to Mexico.ⁱ Asylum seekers in the MPP face the dangers of extortion, trafficking, sexual assault, homelessness, disease, and xenophobia on a daily basis.ⁱⁱ Any delay prolongs their precarious existence in Mexican border states, one of which holds a Level 4 U.S. Department of State Travel Advisory.ⁱⁱⁱ Indeed, asylum seekers with disabilities are among the most vulnerable in the MPP, most of whom live in overcrowded shelters and unsanitary tent encampments with no accessible medical resources or accommodations.^{iv}

On November 2, 2020, CREEC and partner organizations filed the first class action lawsuit challenging the MPP’s discriminatory practices on the basis of disability in *E.A.R.R. v. DHS*.^v Under the U.S. Customs and Border Protection’s (CBP) own stated procedures, asylum seekers with “known physical or mental health issues” were not to be sent to Mexico. The lawsuit argues that the Trump Administration is violating the Administrative Procedures Act by failing to abide by its own stated policy, trapping hundreds of asylum seekers with disabilities, including children and their families, in Mexico at enormous risk to their health and safety. These violations also infringe on federal disability law protections, including Section 504 of the Rehabilitation Act.

Indeed, the individual class members in *E.A.R.R.* reflect the realities on the ground. La.V.S.O. is a one-year-old baby with congenital hydrocephalus, which causes seizures, developmental delay, and brain damage. Her medication was confiscated and discarded by CBP even though CBP agents knew of her conditions. D.Y.S. a nine-year-old autistic child with hyperactivity and epilepsy, was staying at an overcrowded shelter, where he was sexually assaulted. H.A.H.G., a father of two with several chronic conditions, cannot access the Mexican health care system for the specialized health treatment he requires since he is not a Mexican citizen. These are just three persons with disabilities amongst countless other examples.

Recommendations:

- Rescind MPP on President Biden’s first day in office.
- Take immediate steps to parole in those who were enrolled in MPP, including class of people with disabilities covered by *E.A.R.R.*

ENFORCE THE CIVIL RIGHTS OF IMMIGRANTS WITH DISABILITIES IN DETENTION

Throughout CREEC’s years of work in this space, we have seen ICE and its contractors commit civil rights violations against immigrants with disabilities in contravention of Section 504 of the Rehabilitation Act and ICE’s own Performance-Based National Detention Standards (PBNDS). Due to ICE's violative actions, CREEC brings systemwide class action lawsuits, such as *Fraihat v. ICE*. One *Fraihat* class member, Hamida Ali, a refugee from Sudan detained at Aurora ICE Processing Center (“Aurora”) in Colorado, has schizophrenia, depression, and a history of suicide attempts. Despite this, Ms. Ali was left in a dorm alone for nine months, exacerbating her symptoms to the point of suicidality. This is just one example among the 15 individual plaintiffs.

CREEC also submits complaints to the DHS Office of Civil Rights and Civil Liberties (CRCL) for immigrants with disabilities in detention. One such complaint was filed on behalf of an asylum seeker from Guatemala with post-traumatic stress disorder and major depressive disorder with psychotic features. He had been detained at Richwood Correctional Center and LaSalle ICE Processing Center, both in rural areas of Louisiana. The client spent approximately eight months in segregation without adequate medical care. While in segregation, he was only allowed outside for an hour a day. As a result, his mental health deteriorated to the point of suicidality.

These are just two examples out of thousands of persons with disabilities suffering from neglect and outright abuse in prolonged, unnecessary detention – and immigrant rights organizations are not the only entities that have taken note. Even the DHS Officer of Inspector General recently noted “immediate risks or egregious violations of detention standards” during unannounced inspections at four detention centers.^{vi} A few violations that were observed during the inspections included nooses in detainee cells, overly restrictive segregation practices, and inadequate medical care.^{vii} Basic needs such as proper hygienic products or safe food were also not provided.^{viii} Yet, the OIG only issued a paltry one paragraph recommendation stating that the Director of ICE should ensure that field offices address the observed issues in order to comply with the PBNDS.^{ix}

Recommendations:

- Ensure that all immigrants with high risk factors making them especially vulnerable to COVID-19 are immediately and meaningfully reviewed for release from immigration detention pursuant to the preliminary injunction order in *Fraihat v. ICE*.
- Ensure that ICE enforces Section 504 and its own standards. In particular, ICE and its contractors are required to:
 - “[A]ct affirmatively to prevent disability discrimination” and provide reasonable accommodations to detainees with disabilities so they will have an “equal opportunity to access, participate in, or benefit from the facility’s programs, services, and activities.”^x

- "[E]ngage in an interactive and individualized process" with detainees when considering reasonable accommodations.^{xi}
- Identify detainees with disabilities that are "open, obvious, and apparent", as well as to remain "particularly vigilant for impairments that affect a detainee's...ability to communicate."^{xii}
- Provide assistance to detainees with cognitive or intellectual disabilities, even if not explicitly requested.^{xiii}
- Provide communication assistance for those detainees with limited English proficiency (LEP) during all therapeutic and medical appointments through bilingual personnel, professional interpretation and translation services in order to provide them with meaningful access to programs and activities.^{xiv}
- Provide disabled detainees with effective communication, including, but not limited to, the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers to provide them with meaningful access to programs and activities.^{xv}
- Provide accommodations to detainees with physical disabilities, including, but not limited to, wheelchairs and architectural accessibility such as bars and ramps.^{xvi}
- Change the following practices:
 - Cease placing persons on suicide watch in administrative segregation cells in a Special Management Units^{xvii} and instead them transfer to local psychiatric hospitals if there are no special isolation cells in medical housing units.
 - Require detention centers to have medical housing units that do not feel punitive.^{xviii}
 - Require that advance health directives for detained persons with severe mental illnesses and cognitive or intellectual disabilities are affirmatively offered to them, even if not requested.
 - Require that medical advocates be provided to detained people with disabilities to accompany them to medical and therapeutic appointments.
 - Staff each detention facility with a Disability Compliance Manager^{xix} hired by DHS, not ICE's contractors, who has education or work experience related directly to disability issues and adequate decision-making authority.
- Cancel contracts with private detention companies who engage in disability discrimination.

DIVERT IMMIGRANTS WITH DISABILITIES FROM IMMIGRATION DETENTION

As a matter of law, immigration detention is civil, rather than criminal. Yet, immigration detention and criminal incarceration are perceived as comparable, as the populations of both

systems are managed in similar ways.^{xx} Additionally, ICE and its contractors consist primarily of law enforcement personnel and private prison operators with extensive expertise in performing removal functions, but not in health care or the provision of accommodations to its most vulnerable populations.^{xxi} Indeed, this combination results in the unnecessary, prolonged detention of immigrants who are medically vulnerable or have disabilities, often while not receiving constitutionally adequate care. Two *Fraihat* plaintiffs, Faour Abdallah Fraihat and Alex Hernandez, were detained for four years. Mr. Fraihat is 57 years old and has vision loss, mental health disabilities, and a mobility disability that requires him to use a wheelchair. Mr. Hernandez is 48 years old and has mobility disabilities, PTSD, and vision loss, amongst other serious health issues. Their health dramatically deteriorated in ICE custody due to neglect and inadequate care.

Prolonged detentions lasting two to four years or longer are not exceptions to a rule. For example, Sylvester Owino, an asylum seeker from Kenya, was in ICE detention for ten years from 2005 to 2015.^{xxii} Two Rwandan men with no criminal records were detained at Farmville Detention Center for *over* 10 years - spanning three presidential administrations.^{xxiii} Even a child was held in detention for seven months.^{xxiv}

Prolonged detention and its consequences were further exacerbated by the Trump Administration rescinding former President Obama's Presidential Executive Order 13,768, which allowed for the exercise of "prosecutorial discretion" for special populations, such as those with medical vulnerabilities or disabilities.^{xxv} Without such a policy and other protective measures, it can only be expected that the population of detained persons with medical vulnerabilities and disabilities will continue to rise, along with the legal and real-world harm that they will undoubtedly experience, especially during the era of COVID-19.

Recommendations:

- Reinstatement and build upon former President Obama's guidance allowing for the exercise of "prosecutorial discretion" to end or limit detention of special populations, including, but not limited to, those with medical vulnerabilities or disabilities and asylum seekers.
- Implement policies, such as a nationwide alternative to detention program, to eliminate the detention of people with histories of physical and mental trauma, particularly for asylum seekers.
- Require the least restrictive immigration detention practices to reflect the civil nature of immigration detention and prevent *de facto* criminal enforcement practices that violate detainees' constitutional right not to be subjected to punitive conditions of confinement, which disproportionately harms persons with disabilities.
- Create intake evaluation systems that properly identify persons with medical vulnerabilities and disabilities.

OVER THE PRESIDENTIAL TERM

END THE DETENTION OF IMMIGRANTS WITH DISABILITIES

CREEC believes that immigration civil detention should be completely abolished. However, while detention is sanctioned by our government, the civil rights of immigrants with disabilities must be protected. Indeed, persons with disabilities are among the most likely to suffer when detention facility conditions fall below legal standards. Prolonged detention – usually in rural areas far from medical services - diminishes the daily support immigrants with medical vulnerabilities and disabilities benefit from, including family relationships, animal aid accommodations, social contacts, and established relationships with medical providers. Many of these people rapidly and drastically deteriorate both mentally and physically once they are detained. Oftentimes, this can lead to life threatening situations. Therefore, until immigration is completely abolished, CREEC calls for the end of for-profit detention centers, the independent oversight of ICE and its contractors' compliance with all applicable disability laws, improved systems for medical care and disability accommodations, and the community integration of all detained people with disabilities or medical vulnerabilities.

Recommendations:

- **End For-Profit Detention Centers**
 - A large reason why civil immigration detention mirrors criminal incarceration is because multi-billion-dollar private prison corporations, like CoreCivic, Inc. and GEO Group, Inc., hold around 71 percent of all detained immigrants through contracts with the federal government. These corporations spend millions of dollars a year lobbying for detention-focused immigration policies that favor their bottom-line – not the dignity and well-being of immigrants, especially those with disabilities.^{xxvi}
- **Community Integration**
 - Ensure DHS and ICE compliance with the United States Supreme Court decision, *Olmstead v. L.C.*, which requires that persons with disabilities receive services in the most integrated setting possible, including community settings.
 - Dedicate existing DHS funding to support immigrants with disabilities on parole – relying on frequently over-stretched NGOs, nonprofits, and faith-based organizations is not acceptable.
 - Ensure that detained persons with medical vulnerabilities or disabilities have discharge plans created through an interactive process with a specialized caseworker, so they are released back into the community with aids, medication, medical services, or specialized housing.
 - NGOs and nonprofit agencies should be invited to assist detained people with disabilities and medical vulnerabilities to develop release plans for full, sustainable community integration and compensated for their work.

- Independent Oversight of ICE and Its Contractors
 - Create an independent disability rights office under DHS with the aim of implementing, overseeing, and enforcing the civil rights of persons with disabilities in immigration detention.
- Improve Systems of Medical Care in Detention
 - Any grievance procedures for reporting disability civil rights violations or otherwise should not be controlled by ICE or its contractors.
 - Create specialized, disability-specific caseworker positions in order to prioritize and care for detained people with disabilities.
- Create One Integrated Medical Care Electronic System
 - ICE does not have a centralized electronic medical records system for all facilities or uniform paper reporting requirements. Thus, there is little reliable medical care information available to detained people, their authorized advocates, or even ICE facility health care providers. Indeed, a new medical record, often a hard copy only, is opened each time a detained person is transferred to another detention facility because their medical files are not transferred.^{xxvii}

APPOINT AND HIRE PERSONS WITH DISABILITIES TO DECISION-MAKING PLATFORMS

Well-meaning intentions will never make up for the negative impact persons with disabilities may experience due to a non-disabled person’s oversight, assumption, or unconscious bias. Historically, persons with disabilities have been excluded from society's most basic activities, especially those related to decision-making. The Biden-Harris Administration should make a commitment to amplify the voices of disability communities by appointing and hiring persons with disabilities to platforms of power. This includes in the immigration space.

Recommendations:

- Affirmatively recruit and hire persons with disabilities at each U.S. Citizenship and Immigration Services (USCIS) Asylum Office across the nation.
- Affirmatively recruit and hire persons with disabilities for ICE and CBP.
- Appoint persons with disabilities to Executive Office of Immigration Review (EOIR) immigration judge positions.
- Appoint persons with disabilities as appellate immigration judges to the Board of Immigration Appeals (BIA).

MANDATE DISABILITY EDUCATION FOR IMMIGRATION JUDGES & INCREASE RESOURCES FOR IMMIGRANTS WITH DISABILITIES IN IMMIGRATION PROCEEDINGS

The disability community is not a monolith, and even within specific disability communities, there is a multitude of differences in the lived experiences. It is for this reason that we utilize the

phrase “persons with disabilities” rather than “people with disabilities.” Lack of knowledge or cultural competency regarding the different lived experiences of persons with disabilities often results in, even if inadvertently, violating a person’s dignity, diminished due process rights, or failure to provide reasonable accommodations. For example, an individual without a mental health disability may not realize that attending hearings in the morning may negatively impact a person with such disability’s ability to participate in their own defense due to the effects of certain medications. In such a case, an accommodation would be scheduling a hearing in the afternoon. This is only one of many examples. Educating judges and court staff should be a priority.

Recommendations:

- Regularly Educate EOIR Immigration Judges, BIA Appellate Judges, and Clerks
 - Hire disability rights and advocacy organizations to provide education to immigration judges, clerks, and administrative assistants on the lived experiences of persons with disabilities and on accommodations required by Section 504 of the Rehabilitation Act of 1974.
- Always Provide In-Person Interpretation
 - Reverse the Trump Administration’s requirement that immigration judges use videos to explain the court system at immigrants’ initial appearances at master calendar hearings instead of in-person interpreters^{xxviii}, which has a disproportionate negative impact on persons with disabilities.
 - Never use remote interpretation during court proceedings where someone’s rights are at stake and for those who are elderly, deaf, hard of hearing, have an intellectual or developmental disability, or have a history of experiencing auditory or visual hallucinations.
 - Reverse the trend begun under the Trump administration of video-based immigration court proceedings.
- Improve Screening and Process of Hiring Certified Deaf Interpreters
 - Create a process in which the needs of the deaf individual are assessed before hiring a Certified Deaf Interpreter. For example, some deaf individuals may speak American Sign Language (ASL), a foreign sign language (such as Mexican Sign Language), or home sign. Oftentimes, hearing individuals like immigration judges do not realize the diversity in sign language communication, which results in ordering an interpreter from a service company who does not know how to communicate with the deaf individual.
 - Immigration agencies should contract with companies that specialize provision of interpreters for deaf persons, not companies that provide interpreters for spoken languages such as Spanish who subcontract with interpreters for deaf persons.

- Immigration agencies should only hire Certified Deaf Interpreters or sign language interpreters who have experience interpreting for immigration hearings or are qualified to interpret in legal settings.
- Maintain interpreter consistency and continuity by utilizing the same Certified Deaf Interpreter or sign language interpreter for all of the deaf individual's hearings.
- Certified Deaf Interpreters and sign language interpreters should be provided in a timely manner and hearings should not be postponed due to the government's failure in hiring a competent interpreter.
- Keep Materials that Facilitate Effective Communication On-Hand at All Times
 - Keep materials and devices that facilitate effective communication on-hand at all times, including, but not limited to, materials in Braille, telephone handset amplifiers, telephones compatible with hearing aids, and videophones to provide them with meaningful access to programs and activities.

PROVIDE COURT-APPOINTED ATTORNEYS FOR IMMIGRANTS WITH DISABILITIES IN IMMIGRATION PROCEEDINGS

Retaining counsel could mean the difference between someone safely remaining in the United States with their family or being permanently separated from them. Yet, because immigration proceedings are civil, immigrants in detention are not automatically provided court-appointed counsel. Indeed, only 14 percent of immigrants in detention have legal representation.^{xxix} Additionally, immigrants who are not detained and have attorneys are five times more likely to win their case than those without attorneys.^{xxx} For immigrants with disabilities, especially severe mental health disabilities, this can spell disaster, especially if they are deported to a country that commits human rights violations against persons with disabilities. Despite *Franco Gonzales v. Holder*, a Ninth Circuit decision that held a court-appointed attorney must be provided to detained immigrants with severe mental illnesses who are unable to represent themselves, persons with mental health disabilities continue to be denied a meaningful hearing. Moreover appointed counsel is not available in every detained courtroom or for people who are not detained. Finally, policies pressure immigration judges to process cases as quickly as possible, which has a disproportionately adverse effect on people with disabilities.

Recommendations:

- Provide court-appointed attorneys to all immigrants in detention.
- Consistent with *Franco*, institute appointed counsel for immigrants who are found incompetent in every immigration court, both detained and non-detained.

RATIFY THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Worldwide, an estimated one billion (15%) people have a disability, making it the world's largest minority group.^{xxx} Similarly, persons with disabilities comprise 26% of the United States population.^{xxxii} Yet, despite this, the United States has not ratified the Convention on the Rights of Persons with Disabilities (CRPD).

The CRPD recognizes disability as largely socially created, rather than medically, and that persons with disabilities are rights-bearing individuals with self-determination. The CRPD also recognizes that some persons with disabilities may be vulnerable to “multiple or aggravated forms of discrimination” due to their intersectional identities. Indeed, the CRPD recognizes immigrants with disabilities under Article 18, stating that they may not be “deprived, on the basis of disability...to utilize relevant processes such as immigration proceedings, that may be needed to facilitate exercise of the right to liberty of movement”.

It is our strong recommendation that the Biden-Harris Administration resume former President Obama's push to ratify the CRPD.

ENDNOTES

ⁱ Julián Aguilar, *Joe Biden can quickly reverse many of Donald Trump's immigration policies, experts say. Others will be more complicated*, Texas Tribune (Nov. 10, 2020) <https://www.texastribune.org/2020/11/10/joe-biden-trump-immigration-policies-reverse/>.

ⁱⁱ See generally, Megan Diamond, et al., *A Population in Peril: A Health Crisis Among Asylum Seekers on the Northern Border of Mexico*, HARV. GLOB. HEALTH INST. & B.C. SCH. SOC. WORK 1 (2020), https://globalhealth.harvard.edu/wp-content/uploads/2020/07/A_Population_in_Peril.pdf; Carlos Ríos Espinosa, *Life with a Disability in the Migrant Caravan*, HUM. RTS. WATCH (Dec. 20, 2018), <https://www.hrw.org/news/2018/12/20/life-disability-migrant-caravan>; *Mexico: Risks at Border for Those with Disabilities*, HUM. RTS. WATCH (Oct. 29, 2019), <https://www.hrw.org/news/2019/10/29/mexico-risks-border-those-disabilities>; *US 'Remain in Mexico' Policy Endangers Lives of Asylum Seekers in Tamaulipas State*, DOCTORS WITHOUT BORDERS (Sept. 5, 2019), <https://www.doctorswithoutborders.org/what-we-do/news-stories/news/us-remain-mexico-policy-endangers-lives-asylum-seekers-tamaulipas>.

ⁱⁱⁱ U.S. Dep't of State Bureau of Consular Affairs, Mexico International Travel Information (updated June 17, 2020), <https://travel.state.gov/content/travel/en/international-travel/International-Travel-Country-Information-Pages/Mexico.html>; U.S. Dep't of State Bureau of Consular Affairs, Travel Advisories, <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories.html/>.

^{iv} Diamond, et al., *supra* note iv; Ríos Espinosa, *supra* note iv.

^v Class Action Complaint for Injunctive and Declaratory Relief, *E.A.R.R. v. DHS*, (S.D. Cal. 2020), <https://creeclaw.org/wp-content/uploads/2020/11/E.A.R.R.-v.-US-Department-of-Homeland-Security-Class-Action-Complaint.pdf>.

^{vi} DHS Office of Inspector General, *Concerns about ICE Detainee Treatment and Care at Four Detention Facilities* (June 3, 2019), i, <https://www.oig.dhs.gov/sites/default/files/assets/2019-06/OIG-19-47-Jun19.pdf>.

^{vii} *Id.*

^{viii} *Id.*

^{ix} *Id.* at 12.

^x ICE, *2011 Performance-Based National Detention Standards* (rev. Dec. 2016), 344, <https://www.ice.gov/doclib/detention-standards/2011/pbnds2011r2016.pdf>.

^{xi} *Id.*

^{xii} *Id.* at 348.

^{xiii} *Id.* at 349.

^{xiv} *Id.* at 261, 322, 331, 338, 345.

^{xv} *Id.* at 261, 322, 331, 338, 345.

^{xvi} *Id.* at 345.

^{xvii} *Id.* at 335.

^{xviii} *Id.* At 265, 334-335.

^{xix} *Id.* at 344, 347.

^{xx} Dr. Dora Shriro, *ICE Immigration Detention Overview and Recommendations* (Oct. 6, 2009), 4 <https://www.ice.gov/doclib/about/offices/odpp/pdf/ice-detention-rpt.pdf>.

^{xxi} *Id.* at 3.

^{xxii} Andrea Castillo, *With or without criminal records, some immigrants spend many years in detention*, Los Angeles Times (Nov. 12, 2018), <https://www.latimes.com/local/lanow/la-me-immigrant-detainees-20181112-story.html>.

^{xxiii} *Id.*

^{xxiv} Alexandra Villarreal, *Seven months detained: seven-year-old is longest-held child migrant in US*, The Guardian (Jan. 26, 2020), <https://www.theguardian.com/us-news/2020/jan/26/ice-us-immigration-child-longest-held-in-us>

^{xxv} Exec. Order No. 13,768, 82 Fed. Reg. 8799 (Jan. 25, 2017); Memorandum re: Enforcement of the Immigration Laws to Serve the National Interest, from John Kelly, Secretary of Dep't of Homeland Security (Feb. 20, 2017), https://www.dhs.gov/sites/default/files/publications/17_0220_S1_Enforcement-of-the-Immigration-Laws-to-Serve-the-National-Interest.pdf.

^{xxvi} Tara Tidwell Cullen, *ICE Released Its Most Comprehensive Data Yet. It's Alarming*, National Immigrant Justice Center (Mar. 13, 2018), <https://immigrantjustice.org/staff/blog/ice-released-its-mostcomprehensive-immigration-detention-data-yet>.

^{xxvii} Shriro, *supra* note xxii, at 3.

^{xxviii} Tal Kopan, *Trump officials cut immigration court interpreters after misstating costs, report finds*, San Francisco Chronicle (June 9, 2020), <https://www.sfchronicle.com/politics/article/Trump-officials-cut-immigration-court-15327674.php>.

^{xxix} National Immigrant Justice Center, *Access to Counsel*, [https://immigrantjustice.org/issues/access-counsel#:~:text=Yet%20the%20immigration%20system%20does,Immigration%20Council%20\(AIC\)%20study](https://immigrantjustice.org/issues/access-counsel#:~:text=Yet%20the%20immigration%20system%20does,Immigration%20Council%20(AIC)%20study).

^{xxx} *Id.*

^{xxxi} U.N. Dep't of Econ. & Soc. Affairs, Disability, *Factsheet on Persons with Disabilities*, <https://www.un.org/development/desa/disabilities/resources/factsheet-on-persons-with-disabilities.html>.

^{xxxii} Center for Disease Control & Prevention, *Disability Inclusion* (last reviewed Sept. 16, 2020), <https://www.cdc.gov/ncbddd/disabilityandhealth/disability-inclusion.html>.

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We look forward to hearing from you.

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