

July 27, 2015

Professor François Crépeau
U.N. Special Rapporteur on the Human Rights of Migrants
Office of the High Commissioner for Human Rights
United Nations
8-14 Avenue de la Paix
1211 Geneva 10
Switzerland
E-mail: migrant@ohchr.org

Re: United States' Failure to Return Belongings to Deported Migrants

Dear Professor Crépeau:

The undersigned organizations are writing to bring to your attention the U.S. government's failure to return belongings of migrants upon deportation. This matter affects thousands of migrants and, as explained below, has devastating consequences on deportees and substantially increase the risk of human rights violations, including their rights to life, human dignity and security, freedom from arbitrary deprivation of property, freedom from torture, cruel, inhuman, or degrading treatment or punishment, freedom from enforced disappearance, and freedom of movement.¹

In fiscal year 2014, U.S. authorities deported approximately 316,000 individuals, of which 96.1 percent were returned to Mexico, Honduras, Guatemala, and El Salvador. Once deported, migrants are highly vulnerable to violence and abuse, which is greatly exacerbated by the routine failure of U.S. authorities to return key belongings to migrants, including cash, prescription medications, cell phones, and identification documents.

This border-wide concern has been reflected in numerous reports, including in documentation gathered by the University of Arizona and released in March 2013 as preliminary report findings for *In the Shadow of the Wall: Family Separation, Immigration Enforcement and Security*. In more than 1,000 interviews conducted from 2010 to 2012 in shelters at Mexico's northern border from Tijuana to Nuevo Laredo and in Mexico City, researchers found that 39 percent of individuals reported "having belongings taken and never returned" upon deportation.

¹ See, U.N. Recommended Principles and Guidelines on Human Rights at International Borders as well as other human rights treaties ratified by the United States that protect the rights of migrants, such as the International Covenant on Civil and Political Rights, the Convention Against Torture, and the International Convention on the Elimination of All Forms of Racial Discrimination.

For more than a decade, U.S. border policy has focused on deterrence-based strategies, which have created an increasingly complicated process through which migrants are processed from the point of apprehension until their subsequent deportation. This process is embodied by what U.S. Customs and Border Protection (CBP) calls a “consequence delivery system,” which includes the Alien Transfer Exit Program (also known as lateral repatriations) and criminal prosecution and imprisonment for illegal entry and re-entry, including those channeled through Operation Streamline. The mass criminal prosecutions and incarcerations of migrants for illegal entry and re-entry result in multiple custody transfers of migrants between federal law enforcement agencies, a factor that has been shown to increase the likelihood that migrants’ belongings will fail to follow them until the point of their repatriation.

For example, an individual may be apprehended by CBP and spend a few hours in short-term custody, then be transferred to U.S. Marshals’ custody for pre-trial detention in a county jail, and then sent after conviction to a Bureau of Prisons facility to serve out a sentence, at which time they end up released to U.S. Immigration and Customs Enforcement (ICE) custody to effectuate their removal.

Each of these agencies (CBP and ICE under the Department of Homeland Security and U.S. Marshals and Bureau of Prisons under the Department of Justice) maintains distinct protocols for handling belongings. The U.S. Marshals policy permits them to accept limited, specific items (for example, a wedding ring, prescription glasses, no more than \$50 in cash, and so on). CBP’s overarching policy is to hold all non-perishable personal belongings for up to 30 days, at which time they will be destroyed per a written agreement signed by the migrants prior to leaving CBP custody—often without their knowledge of how long they will be in the custody of U.S. authorities. Individuals may authorize a third party to retrieve these belongings on their behalf. However, this 30-day window is often unrealistically short given the challenges detainees may face in identifying and contacting someone able to collect their belongings, as well as the bureaucratic hurdles faced by a detainee who receives a sentence longer than 30 days.

Although CBP has a general belongings policy, different practices are followed in some sectors. For example, in the CBP Tucson Sector, staff members of the Office of Protection of Migrants of the Mexican Consulate in Tucson retrieve and store the belongings of individuals referred from CBP to Operation Streamline proceedings. Consulate staff members then mail belongings to Mexico City (in consular pouches), which are then sent to the regional offices for Mexico’s Secretariat of Foreign Relations (*Secretaría de Relaciones Exteriores*, or SRE) for the property owners to retrieve. Although these individuals may ultimately receive some or all of their belongings, this process may take several months and does not always prevent the vulnerability migrants experience when first deported to Mexico, typically in the border region, without their belongings. Furthermore, long distances and travel costs may be an additional barrier for some retrieving their belongings at SRE offices. In addition, the Mexican Consulates

can only help those individuals who have provided an exact, current address in Mexico—even when migrants have lived several years in the U.S. and have no family left in Mexico. This practice also does not address the need to return belongings to individuals who are from other Latin American or Central American countries. A better policy solution would ensure that belongings follow migrants throughout the custody transfers from one U.S. agency to another and that belongings are returned to them prior to repatriation.

Consequences of Failing to Return Migrants' Belongings Prior to Repatriation

Individuals often find themselves in unfamiliar cities upon deportation. Those deported without their cell phones, IDs, or cash to towns where they lack any contacts face significant hurdles to access resources or integrate into Mexican society. Some wind up homeless and unable to get a job because they can't prove to prospective employers who they are. Others try to return to the original towns in Mexico they left years ago, but to get there they have to acquire enough money for transportation and then they face a slew of checkpoints put up by federal, military, and state police that are difficult to pass through without a proper form of ID. In addition, they are unable to cash checks or even be reunited with their children because they cannot verify their identity without an ID. Even when the government returns migrants' money, it is often in an unusable form. Instead of cash, migrants receive U.S. checks that they cannot cash without a bank account in Mexico or U.S. prepaid debit cards that carry high fees, including maintenance fees and restrictions.

Several media and human rights reports suggest that the practice of not returning belongings makes migrants, who are already targets of crime and violence, even more vulnerable to abuse upon repatriation. This is an even greater problem when migrants are returned to areas with exceptionally high indices of homicide, kidnapping, and other forms of violence. Mexico's National Human Rights Commission identified over 200 cases of migrant kidnappings, impacting over 11,000 victims during a six-month timeframe in 2010. This vulnerability is compounded when migrants are deported without their belongings. A 2012 CNN investigative piece identified the failure to return belongings as a practice that puts migrants at increased risk of violence.

While the recent U.S. UPR submission states that the “United States has an unwavering commitment to respect the human rights of all migrants, regardless of their immigration status,”² the report fails to recognize the hardships and real risks associated with failure to return migrants' belongings and the need to establish and enforce an inter-agency agreement ensuring the return of migrants' personal belongings.

² U.S. Department of State, *Report of the United States of America Submitted to the U.N. High Commissioner for Human Rights in Conjunction with the Universal Periodic Review*, Feb. 2, 2015, <http://www.state.gov/documents/organization/146379.pdf>.

In light of the above information, we request your urgent intervention in this matter and make the following recommendations, which we hope you will be raising with the U.S. government:

1. The U.S. government should develop and implement an inter-agency agreement among Customs and Border Protection, U.S. Marshals, Bureau of Prisons, Immigration and Customs Enforcement, the Office of Refugee Resettlement, and any other federal agency responsible for the handling of migrants' belongings, that will ensure the return of personal belongings, including cell phones, IDs, currency, and other key belongings, to migrants at the moment of release or repatriation. The interagency agreement should also state that it applies to all contracted or subcontracted facilities and that all facilities are required to return belongings to migrants prior to any transfer of custody or release.
2. The agreement should also instruct these agencies that belongings are not to be destroyed or disposed of while an individual is still in custody, except those specific items whose nature or condition requires their immediate destruction (such as food that is perishable).
3. All detainee funds should be returned in cash in the currency of the destination country, or in U.S. currency, whichever is preferred by the migrant.
4. The Department of Homeland Security and the Department of Justice should institute a complaint/retrieval system for people whose belongings were not returned and have been recently deported.

We thank you for your attention to this matter. If you have any questions, please contact Jamil Dakwar, Director of the ACLU Human Rights Program (jdakwar@aclu.org), or Vicki Gaubeca, Director of the ACLU of New Mexico Regional Center for Border Rights (vgaubeca@aclu-nm.org).

Sincerely,

American Civil Liberties Union (ACLU), United States

Albergue para Migrantes Senda de Vida Reynosa, Tamaulipas, México

Alliance San Diego, San Diego, California, United States

Albuquerque Center for Peace & Justice, Albuquerque, New Mexico, United States

American Friends Service Committee, Philadelphia, Pennsylvania, United States

American Immigration Council, Washington, D.C., United States

American Immigration Lawyers Association (AILA), Washington, D.C., United States

Annunciation House, El Paso, Texas, United States
Arizona Dream Act Coalition, Phoenix, Arizona, United States
Asamblea Popular de Familias de Migrantes, México
Border Action Network, Tucson, Arizona, United States
Capítulo Boliviano de Derechos Humanos, Democracia y Desarrollo, La Paz, Bolivia
Casa de Esperanza: National Latin@ Network, United States
Casa del Migrante “Betania”, Mexicali, Baja California, México
Casa del Migrante en Tijuana A.C., Tijuana, Baja California, México
Centro de Atención al Migrante Retornado de Honduras, San Pedro Sula, Honduras
Centro de Documentación en Derechos Humanos “Segundo Montes Mozo S.J.” (CSMM), Quito, Ecuador
Centro de Estudios Legales y Sociales (CELS), Buenos Aires, Argentina
Centro de Recursos para Migrantes, Agua Prieta, México
Centro Pastoral “Mana”, Mexicali, Baja California, Mexico
Christian Church (Disciples of Christ) Refugee & Immigration Ministries, United States
Coalición de Derechos Humanos, Tucson, Arizona, United States
Colibrí Center for Human Rights, Tucson, Arizona, United States
Comedor del Migrante “El Buen Samaritano”, Mexicali, Baja California, México
Comité Permanente por la Defensa de los Derechos Humanos (CDH), Guayaquil, Ecuador
Consejo Ciudadano del Instituto Nacional de Migración, México
Conversations With Friends (Minnesota), United States
Derechos Humanos Integrales en Acción, A.C. (DHIA), Ciudad Juárez, Chihuahua, México
Desayunador Salesiano Padre Chava, Tijuana, Baja California, México
Diocesan Migrant & Refugee Services, Inc., El Paso, Texas, United States
El CENTRO de Igualdad y Derechos, Albuquerque, New Mexico, United States
End Streamline Coalition, Tucson, Arizona, United States
Equality New Mexico, United States
First Friends of New Jersey and New York, Kearney, New Jersey, United States
Forward Together, Oakland, California, United States
Fundar, Centro de Análisis e Investigación, México
Grassroots Leadership, Austin, Texas, United States
Grupo de Monitoreo Independiente de El Salvador (GMIES), El Salvador
HealthRight International, New York, New York, United States

Humane Borders, Tucson, Arizona, United States
Human Rights Center, Berkeley, California, United States
Human Rights Defense Center, Lake Worth, Florida, United States
Illinois Coalition for Immigrant and Refugee Rights, Chicago, Illinois, United States
Immigration Taskforce, Southwestern Pennsylvania Synod, Evangelical Lutheran Church in America, Pittsburgh, Pennsylvania, United States
Instituto de Investigación y Práctica Social y Cultural, A.C., México
Instituto Salvadoreño del Migrante INSAMI, San Salvador, El Salvador
Interfaith Center for Worker Justice of San Diego County, San Diego, California, United States
Keep Tucson Together (KTT). Tucson, Arizona, United States
Kino Border Initiative Nogales, Arizona, United States and Nogales, Sonora, Mexico
Latin America Working Group Education Fund (LAWGEF), Washington, D.C., United States
Law Office of Patricia M. Corrales, Pasadena, California, United States
Law Office of Suzannah Maclay, PLLC, Phoenix, Arizona, United States
Lisa Brodyaga, Attorney, San Benito, Texas, United States
Lutheran Immigration and Refugee Service, Baltimore, Maryland, United States
Maria Baldini-Potermin & Associates, P.C., Chicago, Illinois, United States
Minnesota Conference United Church of Christ Immigration Team, United States
Modulo Fronterizo “El Buen Samaritano,” Mexicali, Baja California, México
National Center for Lesbian Rights, San Francisco, California, United States
National Immigration Forum, Washington, D.C., United States
National Immigrant Justice Center, Washington, D.C., United States
National Lawyers Guild, United States
National Network for Immigrant and Refugee Rights, Oakland, California, United States
New Mexico Criminal Defense Lawyers Association, United States
New Mexico Faith Coalition for Immigrant Justice, United States
New Sanctuary Coalition of NY, New York, United States
No More Deaths, Tucson, Arizona, United States
Northern Borders Coalition, U.S.-Canada border
Pastoral Social Caritas Diócesis de Mexicali, Mexicali, Baja California, México
Pennsylvania Immigration Resource Center (PIRC), York, Pennsylvania, United States
Plataforma Interamericana de Derechos Humanos, Democracia y Desarrollo (PIDHDD)/Inter-American Platform of Human Rights, Democracy and Development, Quito, Ecuador

Political Asylum/Immigration Representation Project, Boston, Massachusetts, United States
Programa de Defensa e Incidencia Binacional (PDIB), Frontera Mexico-EEUU
Puentes: Advocacy, Counseling & Education, Seattle, Washington, United States
Rio Grande Valley Equal Voice Network, Rio Grande Valley, Texas, United States
Religiosas de la Asunción/Religious of the Assumption, Chaparral, New Mexico, United States;
Casa Provincial en Worcester, Massachusetts, Worcester, Massachusetts, United States;
Religieuses de l'Assumption, Paris, France
Red para las Migraciones (REDMIGRES), El Salvador
Red Solidaria Década Contra la Impunidad, A.C. , México
Red Internacional de Migración y Desarrollo, México
Reformed Church of Highland Park, New Jersey, United States
Refugio del Rio Grande, San Benito, Texas, United States
San Toribio Romo Migrante AC, Nogales, Sonora, México
Scalabrini International Migration Network/Red Internacional de Migración Scalabrini, San Salvador, El Salvador
Scott D. Pollock & Associates, P.C., Chicago, Illinois, United States
Sisters of Mercy, Laredo, Texas
Sisters of Mercy of the Americas
Southern Border Communities Coalition, U.S.-Mexico border
Southwest Environmental Center, Las Cruces, New Mexico, United States
Strong Families New Mexico, United States
United Church of Christ Southwest Conference (Arizona, New Mexico, and El Paso), Phoenix, Arizona, United States
United States Human Rights Network (USHRN), United States
We Belong Together/Nos Mantenemos Unidas, Washington, D.C., United States
Young Women United, Albuquerque, New Mexico, United States