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### Human Pipeline to the Continental United States: Puerto Rico's Trafficking of a Vulnerable Population as a Violation of The Right to Health (2019)

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#### Recommended Citation

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**HUMAN PIPELINE TO THE CONTINENTAL UNITED STATES: PUERTO RICO'S  
TRAFFICKING OF A VULNERABLE POPULATION AS A VIOLATION OF THE  
RIGHT TO HEALTH**

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## REPORTING ORGANIZATIONS

### INTERNATIONAL HUMAN RIGHTS CLINIC

The International Human Rights Clinic at UIC John Marshall Law School (“IHRC”) is a nonprofit, nonpartisan law school legal clinic dedicated to promoting and protecting human rights in the United States and around the world. The IHRC offers students a background in human rights advocacy through the practical experience of working in international human rights cases and projects.

### THE PUERTO RICO PROJECT

The Puerto RICO Project (“The Project”) works to provide direct aid to victims who were targeted by the Puerto Rican government. The Project aims to listen to and help each person according to their individual needs. The Project coordinates with victims and takes them into licensed treatment facilities and directs them to safe housing facilities. The Project also provides support, love, and compassion. The Project hopes to one day be able to provide its own rehabilitation housing services, transportation, food, clothing, and counseling services.

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## INTRODUCTION

The IHRC has been investigating the Puerto Rican government's involvement in the systematic trafficking of Puerto Rican persons experiencing homelessness and drug addiction to the continental United States. Puerto Rico—an island territory under the control of the United States—has been the epicenter for systematic trafficking of persons experiencing homelessness and suffering from addiction. Such persons, living in Puerto Rico, are sent from the island to alleged rehabilitation centers located in the continental United States. The trafficking of these persons has been facilitated by illicit drug rehab centers throughout Puerto Rico that falsely promise treatment for drug dependency. The Puerto Rican government, and its acting officials, cooperate with employees of these illicit programs to locate vulnerable persons throughout the island and promise them adequate rehabilitative treatment in the continental United States.<sup>1</sup> However, these alleged rehabilitation centers are causing irreparable harm while depriving these individuals of their right to the highest attainable standard of physical and mental health, further aggravating their already vulnerable status.<sup>2</sup>

This systematic trafficking of persons suffering from drug addiction while living in Puerto Rico has been referred to as “The Air-Bridge” in a series of publications and news articles.<sup>3</sup> The Air-Bridge program, upon closer inspection, illustrates how multiple programs sponsored and promoted by the Puerto Rican government collectively streamline the trafficking of these individuals.<sup>4</sup> Officials of the Puerto Rican government and its municipalities, along with cooperating employees, advertise medical treatment directed at these marginalized and vulnerable persons.<sup>5</sup> These targeted individuals suffer not only from addiction, but are also highly susceptible to infection of HIV and Hepatitis-C as a result of intravenous drug use.<sup>6</sup> In addition, many of these individuals are suffering from chronic illnesses.<sup>7</sup> Without access to adequate treatment, they often end up destitute and homeless.<sup>8</sup> After being “sponsored”—misled—by Puerto Rican officials, or private citizens affiliated with these illicit rehab centers, these vulnerable persons are sent to the

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<sup>1</sup> Leysa Caro González, *Desmienten alegado “trafico de adictos”*, (2015), <https://www.primerahora.com/noticias/puerto-rico/nota/desmientenalegadotraficodeadictos-1077900/> (last visited April 21, 2019) (providing an English translation by the original author).

<sup>2</sup> See UN COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (hereinafter “CESCR”), GENERAL COMMENT NO. 14: THE RIGHT TO THE HIGHEST ATTAINABLE STANDARD OF HEALTH (ART. 12 OF THE COVENANT) (2000), available at <http://www.refworld.org/docid/4538838d0.html>.

<sup>3</sup> See Devin Golden, *The Unresolved Reality of Puerto Rico's Drug Crisis*, (2018), <https://www.therecoveryvillage.com/recovery-blog/unresolved-reality-puerto-ricos-drug-crisis/#gref> (last visited April 21, 2019). In Chicago, this is also referred to as the Pipeline Network. E.g., Alfred Lubrano, *Promised Paradise, Delivered to Despair*, Phila. Inquirer (Nov. 13, 2016), [http://www.philly.com/philly/news/special\\_packages/Puerto\\_Ricos\\_solution\\_to\\_heroin\\_crisis\\_one-way\\_tickets\\_to\\_Philly.html](http://www.philly.com/philly/news/special_packages/Puerto_Ricos_solution_to_heroin_crisis_one-way_tickets_to_Philly.html).

<sup>4</sup> See Municipio de Bayamón, *Programa Nuevo Amanecer*, <http://www.municipiodebayamon.com/servicios-municipales/salud/programa-nuevo-amanecer/> (last visited April, 21 2019).

<sup>5</sup> Golden, *supra* note 3.

<sup>6</sup> See Rafael Torruella, *¿Allá en Nueva York Todo es Mejor?: A Qualitative Study on the Relocation of Drug Users from Puerto Rico to the United States*, City University of New York (2010).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

continental U.S. under the illusion of treatment and rehabilitation through one of the many advertised programs.<sup>9</sup>

Most notable of these programs is “Nuevo Amanecer.”<sup>10</sup> Through this municipality specific program, the Puerto Rican government locates and enrolls individuals throughout the island and traffics them to the continental United States.<sup>11</sup> Funding is partially granted to this program through the United States’ Department of Housing and Urban Development.<sup>12</sup> Like Nuevo Amanecer, Puerto Rico’s various municipalities offer similar programs - i.e., “De Vuelta a La Vida”—that target and traffic this same marginalized population.<sup>13</sup>

Some individuals targeted and enrolled into these programs are given ultimatums to either participate in these programs or face incarceration.<sup>14</sup> Puerto Rican government officials, police, and cooperating employees involved in recruiting for these programs often assert that these illicit rehabilitation centers are comparable to that of a resort or hotel.<sup>15</sup> In reality, these unregulated rehabilitation centers are under-funded, unlicensed, and violate human rights by failing to provide adequate medical treatment for persons suffering from addiction. In addition to failing to provide adequate medical treatment, these vulnerable persons’ situations are further aggravated through staff confiscating their personal documents and subjecting them to abusive, degrading, and inhumane treatment.<sup>16</sup>

Most commonly, these individuals are sent to various U.S. cities, including Chicago, IL, Philadelphia, PA, The Bronx, NY, as well as various other cities in the continental U.S.<sup>17</sup> Transportation to and from the airports is often provided to individuals who have enrolled for the various aforementioned programs.<sup>18</sup> The illicit rehab centers are located in uninhabitable, abandoned, and dilapidated buildings.<sup>19</sup> These facilities often lack electricity, plumbing, and equipment for rehabilitative treatment.<sup>20</sup>

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<sup>9</sup> See Adriana Cardona-Maguigad, *Puerto Rico Exports its Drug Addicts to Chicago*, WBEZ, <https://www.wbez.org/shows/puerto-rico-exports-its-drug-addicts-to-chicago/ee2c2bc5-8410-4dfa-b2fd-5a5f4aa119ee> (last visited Sept. 16, 2019).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> See Municipality of Bayamón, *2016-2020 Consolidated Plan & 2016 Annual Action Plan*, <http://www.municipiodebayamon.com/wp-content/uploads/2016/12/Plan-Bayamon-Final-Sometido-05-17-2016.pdf> (last visited Sept. 16, 2019).

<sup>13</sup> See Gobierno de Puerto Rico Policía, *Normas y Procedimientos para el Funcionamiento del Programa de Vuelta a la Vida*, <http://policia.pr.gov/orden-general/normas-y-procedimientos-para-el-funcionamiento-del-programa-de-vuelta-a-la-vida/> (last visited Apr. 21, 2019).

<sup>14</sup> The John Marshall Law School’s International Human Rights Clinic’s (JMLS-IHRC) Submission to the U.N. Committee Against Torture, *The Puerto Rico-Chicago Connection: Cross-Boundary Drug-Treatment in the United States*, at ¶ 20 (2016) <http://humanrights.jmls.edu/wp-content/uploads/2014/10/JMLS-IHRC-CAT-LOIPR.pdf>.

<sup>15</sup> See Alfredo Lubrano, *Puerto Rico’s Solution to Heroin Crisis: One-Way Tickets to Philly*, at ¶ 1 (Nov. 13, 2016), [http://theasthmafiles.org/sites/default/files/artifacts/media/pdf/puerto\\_ricos\\_solution\\_to\\_heroin\\_crisis\\_-\\_one-way\\_tickets\\_to\\_philly.pdf](http://theasthmafiles.org/sites/default/files/artifacts/media/pdf/puerto_ricos_solution_to_heroin_crisis_-_one-way_tickets_to_philly.pdf).

<sup>16</sup> JMLS-IHRC, *supra* note 14, at ¶ 25.

<sup>17</sup> Lubrano, *supra* note 15.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

Upon arrival to the continental United States, the trafficked persons find themselves faced with false imprisonment, inhumane conditions, and minimal—if any—medical treatment.<sup>21</sup> These illicit rehab centers involved in the Air-Bridge program are over-crowded, unsanitary, unregulated, and lack accreditation.<sup>22</sup> The illicit rehab centers often lack basic necessities such as bathrooms, adequate bedding, and are infested with insects and rodents.<sup>23</sup> Reportedly, these illicit rehabilitation centers often compel the trafficked persons to apply for all applicable government aid, and public benefits, such as food stamps, supplemental security income, and temporary assistance for needy families.<sup>24</sup> When the trafficked persons in these unregulated facilities are successful in obtaining government assistance, the funds are generally confiscated and used by the staff or directors at the center.<sup>25</sup> There have been reports of these individual's identities being sold on the black market to people who need social security numbers and false identities.<sup>26</sup> Further, the centers confiscate these individual's governmental documents and identification, leaving them in an unfamiliar location with limited mobility to seek help from the local U.S. government.<sup>27</sup> Already lacking a support system, the confiscation of their documents leaves this vulnerable population with little-to-no recourse to address the inhumane conditions they are forced to endure. This problem is exasperated by the fact that many of them do not speak English.

In addition to failing to provide adequate housing and sanitation,<sup>28</sup> these centers fail to provide adequate treatment—despite the assurance of the Puerto Rican Government.<sup>29</sup> Instead, the centers have forced a series of non-standard treatment methods on these vulnerable individuals that focus on verbal and physical abuse, humiliation, abstinence, degrading treatment, and forced prayer.<sup>30</sup> The conditions these trafficked individuals are forced to endure are unbearable and inhumane:

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[.]<sup>31</sup>

The inhumane living conditions and destructive treatment by these centers, results in further detriment of these vulnerable and marginalized persons suffering from addiction. The physical state of these centers are run down and do not provide the conditions necessary for proper

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<sup>21</sup> See JMLS-IHRC *supra* note 14.

<sup>22</sup> Alfredo Lubrano, *Philly begins to look into the dumping of Puerto Rican addicts*, INQUIRER (Nov. 19, 2016), [https://www.philly.com/philly/news/20161120\\_Philly\\_begins\\_to\\_look\\_into\\_the\\_dumping\\_of\\_Puerto\\_Rican\\_addicts.html](https://www.philly.com/philly/news/20161120_Philly_begins_to_look_into_the_dumping_of_Puerto_Rican_addicts.html).

<sup>23</sup> *Id.*

<sup>24</sup> Torruella, *supra* note 6, at 60.

<sup>25</sup> Lubrano, *supra* n. 15.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> CESCRC, *supra* n. 2.

<sup>29</sup> Torruella, *supra* note 6, at 64.

<sup>30</sup> *Id.*

<sup>31</sup> JMLS-IHRC, *supra* note 14, at ¶ 22.

treatment of individuals who are drug dependent.<sup>32</sup> Those who decide to leave within the first thirty days of the so-called rehabilitation process are denied re-entry to the centers, programs, and access to their possessions and documents.<sup>33</sup> Without government issued identification, the trafficked individuals are unable to seek shelter elsewhere; the individuals are unable to seek government assistance; and, the individuals are unable to return to Puerto Rico—leaving them separated from their family and unable to seek any type of real assistance.<sup>34</sup>

As a result, these individuals are forced out on to the streets and are often incapable of taking care of themselves. They are ill-equipped to bear the harsh winters, they are generally unfamiliar with the cities, and they have no support system to rely on. If they would have remained in Puerto Rico, they would be familiar with their surroundings, speak the language, and have access to programs which would provide them with clean needles and syringes as a means to reduce harms associated with drug addiction.<sup>35</sup> As it stands, these trafficked individuals are left more vulnerable in the continental United States than they would be if they were never enrolled in these “rehabilitation” programs.<sup>36</sup>

To make matters worse, these individuals’ health worsens—often drastically—as a direct result of the lack of access to treatment once back on the streets. Examples of worsening health conditions include severe inflammation to extremities, open sores, untreated wounds, infections, deteriorating flesh, amputated fingers, and death.<sup>37</sup> These conditions are a direct result of government funded programs that have left these individuals stranded, isolated, and destitute in the United States.

These programs—which, functionally, are more akin to human trafficking rings than drug treatment facilities—are funded by both the Puerto Rican and U.S. governments.<sup>38</sup> Despite lavish funding, the largest program in Puerto Rico, De Vuelta a la Vida, does not verify that the U.S. facilities they are sending people to are licensed.<sup>39</sup> In Puerto Rico, politicians, with the help of the police, are eager to send persons struggling with addiction to the U.S., sometimes personally funding flights to the U.S.<sup>40</sup> However, once these people arrive in the U.S., they are left to fend for

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<sup>32</sup> JMLS\_IHRC, *supra* note 14, at ¶ 25.

<sup>33</sup> *Id.*

<sup>34</sup> Lubrano, *supra* note 15.

<sup>35</sup> Torruella, *supra* note 6, at 65.

<sup>36</sup> See Cardona-Maguigad, *supra* note 9.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*; see also DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, HUD’S 2016 CONTINUUM OF CARE PROGRAM FUNDING AWARDS 2 (2017), available at [https://www.hudexchange.info/resource/reportmanagement/published/CoC\\_AwardComp\\_CoC\\_PR-502-2016\\_PR\\_2016.pdf](https://www.hudexchange.info/resource/reportmanagement/published/CoC_AwardComp_CoC_PR-502-2016_PR_2016.pdf) (showing that, in 2016, HUD provided De Vuelta a la Vida \$1,507,760.00 in funding); DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, HUD’S 2017 CONTINUUM OF CARE PROGRAM FUNDING AWARDS 2 (2018), available at <https://www.hud.gov/sites/dfiles/documents/2017-puerto-rico-coc-grants.pdf> (showing that, in 2017, HUD provided De Vuelta a la Vida \$1,507,760.00 in funding, the same as the previous year).

<sup>39</sup> Cardona-Maguigad, *supra* note 9 (“[A coordinator for De Vuelta a la Vida, Doval Fernandez] said the addict’s relatives are responsible for checking out the rehab services. Doval Fernandez said it’s up to the family to make sure the place they’re going to is licensed and effective.”).

<sup>40</sup> *Id.*



themselves.<sup>41</sup> Reliable information on the number of people sent from Puerto Rico is both hard to obtain and contradictory.<sup>42</sup>

In 2015, then-Illinois State Senator Delgado and journalist Adriana Cardona-Maguigad began separate investigations.<sup>43</sup> Former State Senator Delgado launched a senate investigation where he personally visited many of the locations in Chicago.<sup>44</sup> His investigation revealed that Gladys Cintrón—a Puerto Rican living on the island—was a key player in coordinating the programs and sending the individuals to various cities across the United States.<sup>45</sup> Senator Delgado was unable to contact Ms. Cintrón.<sup>46</sup> Through a prepared statement, Ms. Cintrón claimed that, “[t]he program Nuevo Amanecer only uses homes that have been certified and legally established in Puerto Rico and in the United States.”<sup>47</sup> She made a similar claim in reference to similar programs in Philadelphia.<sup>48</sup> A separate spokesperson for Nuevo Amanecer, Migdalia Rivera, claimed that, “the individuals are sent from here [Bayamon, Puerto Rico] to Chicago, where they are sent to 24-hour Alcoholic Anonymous (AA) centers, and Healthcare Alternative Systems [(“HAS”).”<sup>49</sup> Over the course of Adriana Cardona-Maguigad’s investigation, she learned that there are no 24 hour facilities associated with AA.<sup>50</sup> Furthermore, she learned that Marco Jacome, Chief Executive Officer of HAS, stated that he had no knowledge of the trafficking from Puerto Rico, had never met with Gladys Cintrón, and that neither he nor HAS have any connection to her or her affiliates.<sup>51</sup>

Although these efforts have helped shed light on this tragedy, they have failed to end trafficking of this vulnerable population nor their inhumane treatment. Individuals suffering from homelessness and drug addiction are members of a marginalized and vulnerable population that requires special attention. These marginalized groups are deprived of their rights, but more specifically, their right to the highest attainable standard of health. For the reasons stated above, the United States government knows or has reason to know of the existence of these programs. As a party to the International Covenant on Economic, Social and Cultural Rights (“ICESCR”), the

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<sup>41</sup> Cardona-Maguigad, *supra* note 9.

<sup>42</sup> *Compare* Letter from Comisionado Policía Municipal Municipio Autónomo de Juncos Roberto C. Roldán to Adriana Cardona-Maguigad (Aug. 4, 2014), *available at* [https://www.scribd.com/document/261490219/Juncos-Numbers-\(Sp.\)](https://www.scribd.com/document/261490219/Juncos-Numbers-(Sp.)) (stating that, from 2007 to 2013, 259 citizens of the Juncos municipality were sent to the U.S., with a little over half of them being sent to Chicago), *with* Puerto Rico Police Department Press Release, *available at* <https://www.scribd.com/document/261490221/Programa-de-Vuelta-a-La-Vida> (last visited Sept. 25, 2019) (Sp.) (providing that, from 2005 to 2014, a total of 758 people were sent to the U.S., with 120 sent to Chicago).

<sup>43</sup> *E.g.*, Adriana Cardona-Maguigad, *Sent to US for Drug Rehab, Puerto Ricans Endure Humiliation at Unregulated Centers*, TRUTHOUT (Nov. 25, 2015), <https://truthout.org/articles/sent-to-us-for-drug-rehab-puerto-ricans-endure-humiliation-at-unregulated-centers/?tmpl=component&print=1>.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> Lubrano, *supra* note 15.

<sup>49</sup> Adriana Cardona-Maguigad, *Officials Respond to Unlicensed Drug Rehab Groups, Demand Answers from Puerto Rican Authorities*, GATE NEWS (Apr. 30, 2015), <http://thegatenewspaper.com/2015/04/officials-respond-to-unlicensed-drug-rehab-groups-demand-answers-from-puerto-rican-authorities/>.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

United States’ has an obligation to investigate these violations and hold the perpetrators liable—it has failed to do so.<sup>52</sup>

## I. THE RIGHT TO HEALTH

The human right to the highest attainable standard of physical and mental health is explicitly protected in article 12 of the ICESCR.<sup>53</sup> This right protects all humans from non-consensual medical treatment, torture and other cruel, inhuman or degrading treatment, or punishment in order to help provide the highest attainable standard of health conducive to a life of dignity.<sup>54</sup> The right to health is interconnected with the exercise of other human rights such as the rights to food, housing, work, education, human dignity, life, non-discrimination, equality, the prohibition against torture, privacy, access to information, and the freedoms of association, assembly and movement.<sup>55</sup> The right to health is broad and includes the freedom of choice and entitlement to equality and encompasses more than timely and appropriate healthcare, but also the “underlying determinants” of health.<sup>56</sup> The right to health embraces a wide range of socio-economic factors that are referred to as underlying determinants of health.<sup>57</sup> The underlying determinants of health include, but are not limited to, access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information—which includes education and information on sexual and reproductive health.<sup>58</sup> States have the obligation to grant all individuals access to these underlying determinants of health, and to secure those individuals the right to freedom of choice and control regarding their bodies, equality of access, and the right to be free from interference with all rights.<sup>59</sup>

States must also provide the highest attainable standard of physical and mental health to their citizens through the prevention, treatment, and control of epidemic, endemic, occupational and other diseases, and the creation of conditions that ensure medical service and medical attention in the event of sickness.<sup>60</sup> The right to health can be pursued through numerous, complementary approaches such as the formulation of health policies, the implementation of health programs developed by the World Health Organization, and through the adoption of specific legal instruments to realize the right to health.<sup>61</sup> States not only have an obligation to ensure that its people are provided the highest standard of health within their territory, but also owe a higher duty of care for vulnerable and marginalized populations.<sup>62</sup>

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<sup>52</sup> International Covenant on Economic, Social and Cultural Rights (hereinafter “ICESCR”), Dec. 16, 1966, S. Treaty Doc. No. 95-19, 6 I.L.M. 360 (1967), 993 U.N.T.S. 3.

<sup>53</sup> ICESCR art. 12.

<sup>54</sup> UN OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS (hereinafter “OHCHR”), THE RIGHT TO HEALTH: FACT SHEET 31 at 3-11 (2008), available at <https://www.ohchr.org/Documents/Publications/Factsheet31.pdf>.

<sup>55</sup> CESCR, *supra* note 2.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> ICESCR art. 12.2 (c).

<sup>61</sup> OHCHR, *supra* note 54.

<sup>62</sup> *Id.*

### A. *Vulnerable Populations*

Vulnerable populations—in the context of the right to health—include the economically disadvantaged, the uninsured, the homeless, those HIV, those with other chronic health conditions (including severe mental illness), and racial and ethnic minorities.<sup>63</sup> The vulnerability of these individuals is enhanced by race, ethnicity, age, sex, and other socioeconomic factors.<sup>64</sup> Their health and healthcare problems intersect with social factors, including housing, poverty, and inadequate education further amplifying their marginalization.<sup>65</sup> Non-discriminatory access to health is pivotal to the realization of the right to health.<sup>66</sup> States have the obligation to, “respect, protect, facilitate and promote the work of human rights advocates and other members of civil society with a view to assisting vulnerable or marginalized groups in the realization of their right to health.”<sup>67</sup> Marginalization is a direct result of a collective negative perception of those who suffer from drug addiction and homelessness.<sup>68</sup> These perceptions result in discrimination against this vulnerable population, negatively affecting their accessibility to health care.<sup>69</sup> States must especially protect those who do not have the means to reach the highest attainable standard of health through health insurance and health-care facilities.<sup>70</sup>

States must prevent any discrimination on internationally prohibited grounds in the provision of health care and health services, especially realizing the right to health.<sup>71</sup> Those who face discrimination on the grounds of race, ethnicity, place of origin, socioeconomic status, family status, gender, mental or physical disability, health condition, sexual orientation and/or gender identity, and age are more likely to become homeless—further increasing the discrimination and marginalization they face.<sup>72</sup> A high percentage of persons experiencing homelessness struggle with addictions that require a great deal of treatment, counseling, and support to overcome.<sup>73</sup> Substance abuse is both a cause and a result of homelessness.<sup>74</sup> In 2003, the Substance Abuse and Mental Health Services Administration estimated about 38% of persons experiencing homelessness were dependent on alcohol and 26% abused other drugs.<sup>75</sup> Alcohol abuse is more common in older generations, while drug abuse is more common in homeless youth and young adults.<sup>76</sup> However,

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<sup>63</sup> CESCR, *supra* note 2, at ¶ 12(b).

<sup>64</sup> *Id.*

<sup>65</sup> Michael E. Chernew et al., *Vulnerable Populations: Who Are They?* AMERICAN J. OF MANAGED CARE (Nov. 1, 2006), available at <https://www.ajmc.com/journals/supplement/2006/2006-11-vol12-n13suppl/nov06-2390ps348-s352?p=2>.

<sup>66</sup> CESCR, *supra* note 2, at ¶ 12(a).

<sup>67</sup> *Id.* at ¶ 62.

<sup>68</sup> *Id.* at ¶ 12.

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> UN Human Rights Council, *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, 30 December 2015, A/HRC/31/54.

<sup>73</sup> NATIONAL COALITION FOR THE HOMELESS, SUBSTANCE ABUSE AND HOMELESSNESS (2009), available at <https://www.nationalhomeless.org/factsheets/addiction.pdf>.

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> Eugenia Didenko and Nicole Pankratz, *Substance Use: Pathways to homelessness? Or a way of adapting to street life?* 4 "HOUSING AND HOMELESSNESS" ISSUE OF VISIONS J. 9.

substance abuse is much more common among persons experiencing homelessness than the general population.<sup>77</sup>

### B. *International Standards Require Evidence-Based Treatment for Drug Use Disorders*

According to the World Health Organization Lexicon of Alcohol and Drug Terms, addiction is regarded by some experts as “a debilitating disorder rooted in the pharmacological effects of the drug, which is remorselessly progressive.”<sup>78</sup> As a marginalized population with lower social status, individuals who are drug dependent often face discrimination from all levels of society.<sup>79</sup> Individuals struggling with addiction are a highly stigmatized and criminalized population and, as a result, have a harder time accessing proper healthcare.<sup>80</sup> Access to the highest attainable standard of health is to be exercised without discrimination of any kind.<sup>81</sup>

Treatment services must be specifically tailored to an individual.<sup>82</sup> Not only do these services need to match the individual’s specific needs, it is required that treatment services include evidence-based pharmacological treatment for management of drug-induced acute clinical conditions.<sup>83</sup> Examples of such conditions include drug overdoses, withdrawal syndromes, drug-induced psychoses, inpatient services for the management of severe withdrawal, long-term residential services, and treatment of common comorbidities.<sup>84</sup> Humiliating or degrading interventions should never be used—treatment services must ensure ethical standards of care.<sup>85</sup> In all cases, treatment services for drug use disorders must respect the human rights and dignity of service users.<sup>86</sup>

Evidence-based treatments have been shown to be the safest and most effective in combatting drug and alcohol dependence.<sup>87</sup> Evidence-based treatments include substitution therapy, psychological interventions and other forms of treatment given with full, informed consent.<sup>88</sup> Substitution therapy requires a medical professional to administer the treatment to help individuals with the physical symptoms of withdrawal.<sup>89</sup> Individuals suffering from drug use disorders should be provided with staff that are adequately qualified, and receive ongoing evidence-based training, certification, support, and clinical supervision.<sup>90</sup> Primary health care

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<sup>77</sup> Didenko & Pankratz, *supra* note 76.

<sup>78</sup> World Health Organization, *Management of Substance Abuse: Lexicon of alcohol and drug terms*, [https://www.who.int/substance\\_abuse/terminology/who\\_lexicon/en/](https://www.who.int/substance_abuse/terminology/who_lexicon/en/) (last visited Apr. 29, 2019).

<sup>79</sup> *Id.*

<sup>80</sup> UN Human Rights Council, *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 1 February 2013, A/HRC/22/53.

<sup>81</sup> *Id.*

<sup>82</sup> United Nations Office on Drugs and Crime, *International Standards for the Treatment of Drug Use Disorders*, World Health Organization (March 2017).

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> UN Human Rights Council, *supra* note 82.

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

professionals should be trained in the identification and management of the most prevalent disorders due to drug use.<sup>91</sup> Treatment policies, services, and procedures should support an integrated treatment approach.<sup>92</sup> While integration is important, complimentary services must be constantly monitored and evaluated. These prerequisites are crucial because individuals with drug use disorders deserve ethical and science-based standards of care that are similar to the standards used in treatment of other chronic diseases.<sup>93</sup> Anything less than the standard of care is torture.<sup>94</sup>

### 1. *High Risks of Intravenous Drug Use*

Evidence-based treatment is necessary for this population because of their high risk of contracting illnesses through the use of intravenous drugs.<sup>95</sup> Lack of access to clean and sterile needles renders homeless populations extremely susceptible to contracting the HIV virus through intravenous drugs.<sup>96</sup> This subgroup of people (homeless, drug-dependent, and HIV positive) are an extremely marginalized population and, therefore, they are owed a high duty of care.<sup>97</sup> HIV positive populations are to be specially protected as a vulnerable population so that they can acquire proper medical treatment.<sup>98</sup> Proper medical treatment for HIV/AIDS is known as Standard Antiretroviral Therapy and consists of the combination of antiretroviral treatment (ART) to maximally suppress the HIV virus and stop the progression of HIV disease.<sup>99</sup> ART also prevents onward transmission of HIV.<sup>100</sup> Three UN agencies, the World Health Organization, the United Nations Office of Drugs and Crime, and the Joint United Nations Program on HIV/AIDS, have provided a framework for countries to develop, implement, monitor, and evaluate HIV prevention, treatment, and care programs for drug users and non-drug users.<sup>101</sup> This comprehensive package was developed in order to set achievable, national targets for scaling up towards universal access to HIV prevention and treatment.<sup>102</sup> Universal access encompasses the principles of equity, equality, non-discrimination, comprehensiveness, accessibility, and sustainability.<sup>103</sup> These interventions must be physically accessible, affordable, non-discriminatory, and unrationed.<sup>104</sup>

This proposed comprehensive package of interventions for the prevention, treatment and care of HIV among people who inject drugs has been internationally endorsed because people who

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<sup>91</sup> UN Human Rights Council, *supra* note 82.

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> Torruella, *supra* note 6, at 6.

<sup>96</sup> *Id.*

<sup>97</sup> UN Human Rights Council, *supra* note 82, at 12.

<sup>98</sup> CESCR, *supra* note 2.

<sup>99</sup> UN Human Rights Council, *supra* note 82, at 13.

<sup>100</sup> World Health Organization, *HIV/AIDS: Treatment and Care*, <https://www.who.int/hiv/topics/treatment/en/> (last visited Apr. 29, 2019).

<sup>101</sup> World Health Organization et al. (hereinafter “WHO”), WHO, UNODC, UNAIDS TECHNICAL GUIDE FOR COUNTRIES TO SET TARGETS FOR UNIVERSAL ACCESS TO HIV PREVENTION, TREATMENT AND CARE FOR INJECTING DRUG USERS (2012), *available at* [https://www.unodc.org/documents/hiv-aids/publications/People\\_who\\_use\\_drugs/Target\\_setting\\_guide2012\\_eng.pdf](https://www.unodc.org/documents/hiv-aids/publications/People_who_use_drugs/Target_setting_guide2012_eng.pdf) (last visited Sept. 24, 2019).

<sup>102</sup> *Id.*

<sup>103</sup> *Id.* at 24.

<sup>104</sup> *Id.*

inject drugs are at high risk of HIV due to using unsterile needles and syringes.<sup>105</sup> Needle and syringe programs (NSP) that provide people who inject drugs with clean needles and syringes are recommended.<sup>106</sup> The NSP would include initiatives that provide needles and syringes free of charge.<sup>107</sup> The NSP would prevent or reduce the transmission of HIV in people who inject drugs by avoiding contraction through unsterile needles.<sup>108</sup> Interventions, such as the NSP, are effective in reducing illicit drug use and the frequency of injection, as well as improving health and social functioning.<sup>109</sup> Drug dependence treatments such as agonist opioid substitution therapy (OST) have been found to be highly effective in reducing injecting behaviors that put opioid-dependent injectors at risk for HIV.<sup>110</sup> OST is important in the response to HIV associated with drug use. This is because in many countries the majority of people who are opioid-dependent are also injecting drug users.<sup>111</sup>

To effectively combat HIV, communities must establish testing and counselling programs.<sup>112</sup> These programs incorporate rapid testing techniques to provide individuals with tests and results during the same contact.<sup>113</sup> Community-based testing may reach greater numbers of people, including those who inject drugs, that are unlikely to go to a facility for testing or to return for a later follow-up visit to receive test results.<sup>114</sup> Sexual transmission of HIV among people who inject drugs and sexual partners that do not inject drugs constitutes an important pathway of HIV infection.<sup>115</sup> Intravenous drug users are also at a high risk of other infections such as Hepatitis B (HBV) and C (HCV).<sup>116</sup> Recent reviews indicate that, worldwide, 10 million people who inject drugs may be living with HCV, compared with the 3 million estimated to be living with HIV.<sup>117</sup> HCV co-infection is common among injection drug users living with HIV.<sup>118</sup> HBV is typically more prevalent among people who inject drugs than in the general population.<sup>119</sup> Further, viral hepatitis is a significant cause of disease burden among people who inject drugs.<sup>120</sup> HIV coinfection is associated with more rapid progression of liver disease and mortality among those infected with HCV or HBV.<sup>121</sup> Blood-borne transmission is common to HIV and hepatitis viruses.<sup>122</sup> Therefore, interventions effective in preventing HIV among people who inject drugs help to prevent HCV/HBV transmission and vice versa.<sup>123</sup>

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<sup>105</sup> WHO, *supra* note 101, at 24.

<sup>106</sup> *Id.* at 12.

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> *Id.* at 13.

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

<sup>112</sup> *Id.* at 15.

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> *Id.* at 18.

<sup>117</sup> *Id.* at 20.

<sup>118</sup> *Id.*

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

<sup>121</sup> *Id.*

<sup>122</sup> *Id.*

<sup>123</sup> *Id.*

The interventions such as treatment programs, recommended by UN agencies, along with targeted information and education help to increase and sustain positive change in HIV risk behaviors.<sup>124</sup> Educational programs should target: HIV risks associated with drug use and how to reduce drug use; information on sexual risks and risk reduction strategies; other risks associated with drug use and how to reduce them; how to obtain services and support; basic information on the drugs being used; access to legal rights and support; and overdose prevention.<sup>125</sup> Given that overdose remains a primary cause of death among people who inject drugs, training programs on resuscitation in case of an overdose should also be provided.<sup>126</sup>

### C. Access to Adequate Housing

Importantly, access to the interventions included in the above comprehensive package should not be restricted by socio-demographic or other criteria such as housing-status.<sup>127</sup> Adequate housing and the highest attainable standard of physical and mental health are interrelated and interdependent rights.<sup>128</sup> Homelessness is an extreme violation of the human right to adequate housing, and often a violation of the rights to life and health.<sup>129</sup> The right to health is an inclusive right and is an underlying determinant of the exercise of numerous human rights such as the rights to food, housing, work, education, human dignity, life, non-discrimination, equality, the prohibition against torture, privacy, access to information, and the freedoms of association, assembly, and movement.<sup>130</sup> As an underlying determinant of the right to health, the right to adequate housing is a component in the realization of the right to health as well as many other interconnected human rights.<sup>131</sup> As such, States have the obligation to ensure access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water.<sup>132</sup>

State obligations regarding the full realization of the right to adequate health include taking measures to provide adequate housing to prevent homelessness.<sup>133</sup> In order for housing to be adequate the state must: provide security of tenure, make services and materials available, provide facilities and infrastructure, ensure that housing is affordable, habitable, and accessible and in a location close to services and opportunities that are culturally adequate.<sup>134</sup>

Security of tenure is “a central component of the right to adequate housing.”<sup>135</sup> Specifically, it is security that provides legal protection against forced evictions, harassment and other threats.<sup>136</sup> All persons should have security of tenure that guarantees legal protection against forced eviction,

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<sup>124</sup> WHO, *supra* note 101, at 24.

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

<sup>127</sup> *Id.* at 24.

<sup>128</sup> CESCR, *supra* note 2.

<sup>129</sup> UN General Assembly, *Adequate housing as a component of the right to an adequate standard of living*, 8 August 2016, A/71/310.

<sup>130</sup> CESCR, *supra* note 2.

<sup>131</sup> *Id.*

<sup>132</sup> *Id.* at ¶ 43(b).

<sup>133</sup> UN Human Rights Council, *supra* note 72.

<sup>134</sup> *Id.* at ¶ 49.

<sup>135</sup> UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER, GUIDING PRINCIPLES ON SECURITY OF TENURE (2014), available at <https://www.ohchr.org/en/issues/housing/pages/studyonsecurityoftenure.aspx>.

<sup>136</sup> UN Human Rights Council, *supra* note 72, at ¶ 49(d).

harassment, and other threats.<sup>137</sup> Housing is deemed inadequate if it does not guarantee physical safety or provide adequate space, and protection against the cold, damp, heat, rain, wind or other threats to health and structural hazards.<sup>138</sup> Further, housing is considered inaccessible if the specific needs of disadvantaged and marginalized groups are not taken into account.<sup>139</sup> Homelessness is directly linked to systemic patterns of discrimination and as a result, homeless people are rendered voiceless and invisible being banished to the peripheries of society.<sup>140</sup> Homelessness may be linked to individual dynamics such as psychosocial disabilities, unexpected job loss, addictions or complex choices to become street-connected.<sup>141</sup> A major cause of homelessness is the failure of governments to respond to unique individual circumstances with compassion and respect for individual dignity.<sup>142</sup> A human rights approach must also address the overarching structural and institutional causes of homelessness—the cumulative effect of domestic policies, programs and legislation, as well as international financial and development agreements that contribute to and create homelessness.<sup>143</sup> The homeless population is identified as a people that constitute a discreet social group, suffering discrimination, stigmatization, criminalization, and social exclusion based on imputed characteristics.<sup>144</sup> “They are denied access to basic services or places to shower, urinate or defecate; forced out of cities and relocated to uninhabitable places and are subject to extreme forms of violence, including hate crimes and sexual violence.”<sup>145</sup>

As evidenced, the right to health is an inclusive right, encompassing access to safe and potable water, adequate sanitation, adequate and safe food supply, housing, healthy occupational and environmental conditions, and access to health-related education and information, including sexual and reproductive health.<sup>146</sup> Health is a fundamental human right indispensable for the exercise of other human rights.<sup>147</sup> Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity and states are obligated to protect this right.<sup>148</sup>

## II. THE PUERTO RICO AIR-BRIDGE PROGRAM HAS RESULTED IN THE VIOLATION OF A VULNERABLE POPULATION’S RIGHT TO THE HIGHEST ATTAINABLE STANDARD OF PHYSICAL AND MENTAL HEALTH

The Puerto Rican government’s Air-Bridge program is a systematic operation that violates an already vulnerable population’s right to the highest standard of physical and mental health. First, the unsanitary living conditions of the so-called treatment centers promote additional diseases. The individuals trafficked to the United States from Puerto Rico are subjected to

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<sup>137</sup> UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER, *supra* note 135.

<sup>138</sup> UN Human Rights Council, *supra* note 72, at ¶ 39.

<sup>139</sup> *Id.* at ¶ 40.

<sup>140</sup> *Id.* at ¶¶ 85, 88.

<sup>141</sup> *Id.* at ¶ 28.

<sup>142</sup> *Id.*

<sup>143</sup> *Id.*

<sup>144</sup> *Id.* at ¶ 16.

<sup>145</sup> *Id.*

<sup>146</sup> CESCR, *supra* note 2.

<sup>147</sup> *Id.*

<sup>148</sup> *Id.*



unlicensed and unregulated “drug treatment centers that are often located in overcrowded and uninhabitable or substandard facilities.”<sup>149</sup> The drug treatment centers have putative based recovery programs further subjecting the victims to endure torture such as inhumane living conditions, unsanitary facilities, overcrowding, and inhumane medical treatment.<sup>150</sup>

The right to the highest attainable standard of physical and mental health extends to housing, access to safe and potable water and adequate sanitation.<sup>151</sup> Unsanitary living conditions and inadequate housing violate the human rights of trafficked individuals from the Puerto Rico Air-Bridge under the ICESCR. By allowing these unlicensed programs to continue operating within its borders, the U.S. has failed its obligation to these individuals to ensure they are provided clean living conditions, adequate housing, and quality medical facilities.

Second, many of the trafficked individuals have been infected with HIV due to the nature of their drug habits. CESCR emphasizes that HIV positive populations are to be specially protected as a vulnerable population so they can acquire proper medical care.<sup>152</sup> The trafficked individuals of the Air Bridge program are denied these treatments which include, but is not limited to, anti-retroviral treatment.<sup>153</sup> The CESCR specifically identifies HIV positive persons as a vulnerable or marginalized population that has the right to accessible medical treatment in sanitary facilities.<sup>154</sup> Again, those individuals enduring the abuses within the Air Bridge’s various supposed recovery houses are having their rights violated because as a vulnerable population suffering from drug addiction and contracting HIV, they are denied proper treatment for HIV.<sup>155</sup> Again, the U.S. has failed to enforce minimum medical standards of treatment for these trafficked individuals who are suffering from HIV by allowing these unlicensed programs and centers to fail to provide minimum medical treatment.

The most abhorrent aspect of the Air Bridge’s supposed recovery houses is the medical “treatment” given to individuals going through drug withdrawals. The withdrawal medical treatment does not come close to meeting the customary standard for recovery programs in the U.S. These victims are held hostage in a foreign country with little to no medical treatment.<sup>156</sup> One person recalled a minor being locked in a closet as a form of withdrawal treatment.<sup>157</sup> A separate person was given only water and Advil, while others were denied any form of treatment

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<sup>149</sup> JMLS-IHRC, *supra* note 14, at ¶ 4.

<sup>150</sup> *Id.* at ¶ 5-7; *see also* Open Society Foundations, TREATMENT OR TORTURE? APPLYING INTERNATIONAL HUMAN RIGHTS STANDARDS TO DRUG DETENTION CENTERS (2011), *available at* <https://www.opensocietyfoundations.org/sites/default/files/treatment-or-torture-20110624.pdf> (relaying incidents of health care facilities torturing people in Southeast Asia); HUMAN RIGHTS WATCH, TORTURE IN THE NAME OF TREATMENT: HUMAN RIGHTS ABUSES IN VIETNAM, CHINA, CAMBODIA, AND LAO PDR (2012), *available at* <https://www.hrw.org/report/2012/07/24/torture-name-treatment/human-rights-abuses-vietnamchina-cambodia-and-lao-pdr> (providing incidents of health care facilities torturing people in Southeast Asia).

<sup>151</sup> CESCR, *supra* note 2, at ¶¶ 4, 43(b).

<sup>152</sup> *Id.* at ¶ 12(b)(ii).

<sup>153</sup> *Id.*

<sup>154</sup> *Id.* at ¶ 12(b)(ii).

<sup>155</sup> *E.g.*, Cordona-Maguigad, *supra* note 9.

<sup>156</sup> The trafficked individuals’ legal documents and identification are taken and held by the recovery house administration. If they leave within 90 days, the administration refuses to give them back their legal papers. *See* JMLS-IHRC, *supra* note 14.

<sup>157</sup> *Id.*

at all.<sup>158</sup> Another person subjected to these uninhabitable centers said that he, “slept on comforters that smelled of urine and ate food brought from local food pantries. Operators at the center put him in a closet to break his addiction and subjected him to degrading therapy as treatment.”<sup>159</sup> Similarly, operators at the facility denied another individual any medication or treatment. They also denied that same individual adequate food.”<sup>160</sup>

The trafficked individuals of the Air-Bridge purport that the rules of the Air Bridge is that once a person enters the program’s location, they are not allowed to leave for the first thirty days of the ninety day program.<sup>161</sup> If these individuals leave for any reason, they are denied reentry, refused their legal papers and belongings, and left helpless and alone.<sup>162</sup> The forced confinement to the “recovery” house as well as multi-hour long abusive therapies are direct violations to the right to the highest attainable mental health. These therapies consist of group shaming, beratement, and forced prayer. All of these “treatments” equate individually to emotional and psychological abuse.<sup>163</sup> When combined, these abuses result in devastating effects on these individuals with long term consequences. The abusive treatments lead one member to commit a murder of another within the program.<sup>164</sup> Others who left the abusive program end up homeless, remain dependent on drugs, and have died on the streets.<sup>165</sup> Others come into contact with new drugs such as krokodil, a highly addictive and powerful intravenous drug that turns skin green and scaly, eventually rotting the flesh off of the area it is injected into.<sup>166</sup> Very few, if any, of the trafficked individuals end up drug free with a successful recovery. The U.S. has failed to investigate and prevent these centers from abusing these vulnerable individuals.

Additionally, the Air Bridge program does not utilize formally trained medical professionals and does not follow customary standard of using substitution therapy to both protect the drug dependent and provide relief from the excruciating withdrawal that will occur.<sup>167</sup> By not utilizing formally trained medical professionals, these individuals are placed at risk during withdrawal due to its harsh symptoms. Withholding proper substitution therapy has been equated to torture by the former Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Juan E. Mendez.<sup>168</sup> Substitution therapy provides relief through alternative drugs to lessen the withdrawal symptoms.<sup>169</sup> Through investigation and testimony, it was concluded that at least one house does illegally distribute a substitution therapy drug to those

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<sup>158</sup> JMLS-IHRC, *supra* note 14.

<sup>159</sup> *Id.*

<sup>160</sup> *Id.*

<sup>161</sup> *Id.*

<sup>162</sup> *Id.*

<sup>163</sup> *Id.*

<sup>164</sup> Chicago Tribune, *\$2 million bail set in fatal stabbing*, (July 30, 2006), <https://www.chicagotribune.com/news/ct-xpm-2006-07-30-0607300139-story.html>.

<sup>165</sup> Odette Yousef, “*They Shouldn’t Exist*”: *Father Blames Drug Programs for Son’s Death*, WBEZ (July 13, 2016), <https://www.wbez.org/shows/wbez-news/they-shouldnt-exist-father-blames-drug-programs-for-sons-death/76cd954d-9713-4e8f-abac-8085cfea0512>.

<sup>166</sup> Narconon, *Krokodil Information*, <http://www.narconon.org/drug-information/krokodil.html> (last visited Apr. 29, 2019).

<sup>167</sup> JMLS-IHRC, *supra* note 14.

<sup>168</sup> UN Human Rights Council, *supra* note 82.

<sup>169</sup> *Id.*

staying at the house.<sup>170</sup> However, it is a controlled substance called suboxone, a highly dangerous substance when not administered by a medical professional—a further violation these individual’s rights to the highest attainable standard of health. The U.S. has failed to prevent and hold these centers accountable for their abuse of prescription drugs, denial of prescription drugs and standard medical treatment as defined under federal and state law.

Further, the Air Bridge program violates the human rights of these persons by failing to provide adequate access to food. Despite having the program take their food stamps, the individuals were denied nutritious food and are fed inadequately: “Operators provided only corn flakes and milk for breakfast, and rice and beans for lunch and dinner... 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.”<sup>171</sup>

Further, these programs violate the right to food or nourishment by providing limited quantities of food.<sup>172</sup> While these facilities do provide food—such as rice, bread, and cornflakes—the facilities provide the food in low quantities, and, the food itself is nutritionally deficient, especially for recovering patients.<sup>173</sup> By violating the right to food or nourishment, these facilities are exasperating an existent violation of the right to health; and, when combined with the withholding of proper medical treatment, constitutes torture.<sup>174</sup>

The U.S. government is in violation of the ICESCR’s right to the highest attainable physical and mental health by failing to prevent the trafficked individuals from being forced to participate the Air Bridge program, by failing to ensure that these programs provide adequate food and housing, by preventing these programs from the use abusive therapies, by failing to prevent these programs from forcibly detaining the individuals, and by allowing these centers to risk the lives of these vulnerable individuals through inadequate medical treatment. Further, the U.S. has failed to follow up on the investigation which provided proof of these abuses by shutting down these illegal programs which violate the right to health. The U.S. has failed to enforce ICESCR’s right to health requires nutritious foods, adequate sanitary housing and the freedom from nonconsensual and illegal medical practices.

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<sup>170</sup> UN Human Rights Council, *supra* note 82.

<sup>171</sup> *Id.*

<sup>172</sup> General Comment 14 of the CESCR describes the right to food or nourishment as “[t]he express wording of article 12.2 acknowledge that the right to health embraces a wide range of socioeconomic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition...” CESCR, *supra* note 2. The CESCR’s general comment 14 further define adequate food and nutrition as requiring the state member’s “core obligations include at least the following obligations...To ensure access to the minimum essential food, which is nutritionally adequate and safe, to ensure freedom from hunger to everyone.”

<sup>173</sup> JMLS-IHRC, *supra* note 14, ¶¶ 19-30 (outlining the lack of adequate food and nutrition in these facilities).

<sup>174</sup> *See id.* at ¶¶ 41-60 (explaining how lack of adequate food and inadequate medical treatment constitutes torture under the Convention Against Torture).

### III. ATTEMPTED REMEDIAL MEASURES

Government action is essential to providing the right to adequate housing. The right to adequate housing “require[s] intervention from the Government at various levels: legislative, administrative, policy or spending priorities.”<sup>175</sup> Further, “States must make every possible effort, within their available resources, to realize the right to adequate housing and to take steps in the direction without delay.”<sup>176</sup> Despite public opposition by elected officials and law enforcement officers, the U.S. government has failed to protect these trafficked individual. Given the nature of the critics, it is clear that the U.S. has knowledge of the ongoing human rights violations occurring within its border. The U.S.’s knowledge of an ongoing human rights violation within its borders requires it to halt the violation.<sup>177</sup> As of 2019, the U.S. has not made any attempt to halt or mitigate the ongoing human rights violations.

However, some states have attempted remedial measures. The states most affected by the Air Bridge are Pennsylvania, Illinois, and New York.<sup>178</sup> Pennsylvania has been the most proactive in enacting legislation to protect those effected by the Air Bridge. In December 2017, Pennsylvania legislature passed Senate Bill 446 which provided for the regulation and certification of recovery houses.<sup>179</sup> Specifically State Representative Angel Cruz proposed language in the Bill that will help victims of the Air Bridge.<sup>180</sup> The proposed language will “prevent owners, administrator and employees of recovery houses from requiring residents to sign over their public assistance benefits.”<sup>181</sup> However, this Bill only focuses on half of the devastation caused by the Air Bridge. There is no record of Pennsylvania law makers urging the United States government to launch an investigation into the solicitation of these individuals in Puerto Rico.

The Chicago General Assemblies Amended Alcoholism and Other Drug Abuse Dependency Act, 20 ILCS 301/55-35 went into effect on January 1, 2019.<sup>182</sup> This amendment requires the Department of Human Services to develop and maintain an online registry for recovery residences operating in Illinois.<sup>183</sup> This amendment also encourages other non-licensed facilities to register as well as encourages local facilities to receive national accreditation from an entity that has developed uniform national standards.<sup>184</sup> Although this amendment is a step in the right

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<sup>175</sup> UN Office of the High Commissioner for Human Rights (OHCHR), *Fact Sheet No. 21, The Human Right to Adequate Housing*, Nov. 2009, Fact Sheet No. 21/Rev.

<sup>176</sup> *Id.* at 7.

<sup>177</sup> *See, e.g., Velásquez-Rodríguez v. Honduras* (Judgment), IACHR para. 172 (July 29, 1988) (“any violation of rights recognized by the Convention carried out by an act of public authority or by persons who use their position of authority is imputable to the State”)

<sup>178</sup> Cordona-Maguigad, *supra* note 9.

<sup>179</sup> State Rep. Angel Cruz, *Human Services Committee Update*, (2018) at 2 [http://www.pahouse.com/files/Documents/Newsletter/2018-02\\_1310432\\_180%20Human%20Services%20Committee%20NL.pdf](http://www.pahouse.com/files/Documents/Newsletter/2018-02_1310432_180%20Human%20Services%20Committee%20NL.pdf) (last visited Apr. 29, 2019).

<sup>180</sup> *Id.*

<sup>181</sup> *Id.*

<sup>182</sup> 20 ILCS 301/55-35.

<sup>183</sup> *Id.*

<sup>184</sup> *Id.*

direction, it is much too similar to Pennsylvania’s Senate Bill 446.<sup>185</sup> This new amendment encourages unlicensed facilities like Segunda Vida to get licensed. However, the Bill does not propose how it will get renegade facilities like Segunda Vida to comply.<sup>186</sup>

Although the Cook County Sherriff’s department began an investigation, it is currently not moving forward.<sup>187</sup> Melissa Hernandez, head of The Project, was told that a “major event” needs to occur in order for the department to move forward with their investigation.<sup>188</sup> Illinois political leaders that have spoken out against the federal government’s lack of response to the Air Bridge program include former-state Senator Delgado and current Illinois Senator Dick Durbin.<sup>189</sup> Sheriff Tom Dart has also pledged to launch an investigation into this topic and has called for action against these unlicensed facilities in Chicago.<sup>190</sup>

Abusive and unlicensed centers continue to victimize these trafficked individuals. The United States House of Representatives passed the Ensuring Access to Quality Sober Living Act in 2018.<sup>191</sup> This law directs the Secretary of Health and Human Services to identify or create best practices for operating recovery housing, disseminate best practices to the states and recovery housing, as well as allocate \$3 Million to help support recovery activities.<sup>192</sup> However, the federal government has yet to directly address Puerto Rican officials involvement in trafficking displaced individuals or to enact any legislation to provide aid and support for those effected by the Air Bridge.

#### IV. CONCLUSION

The United States and Puerto Rico government are violating the rights of trafficked individuals with the Air Bridge program. Specifically, they are violating the right to the highest attainable standard of health because they are failing to provide adequate health care and treatment, adequate housing, and adequate food or nutrition. This violation of the right to health is aggravated by the fact these programs are targeting existing vulnerable populations—persons experiencing homelessness and persons experiencing drug addiction. Neither the United States government nor the Puerto Rican government have addressed this ongoing human rights violation. Further, remedial measures—so far—have been unsuccessful in halting these violations. At this moment, increasing awareness appears to be the most effective solution to this ongoing crisis. We hope that the office of the United Nations Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health can assist us in spreading awareness.

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<sup>185</sup> See Pennsylvania General Assembly, <https://www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?yr=2017&sessInd=0&act=59> (last visited Sept. 25, 2019).

<sup>186</sup> Cordona-Maguigad, *supra* note 9.

<sup>187</sup> E-mail from Melissa Hernandez, Founder, The Puerto Rican Project, to Author (Oct. 8, 2019, 3:13 PM CST) (on file with author).

<sup>188</sup> *Id.*

<sup>189</sup> *Id.*

<sup>190</sup> *Id.*

<sup>191</sup> H.R.4684 - Ensuring Access to Quality Sober Living Act of 2018 115th Congress (2017-2018).

<sup>192</sup> *Id.*