



# Human Rights Advocates

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## Immigrant Children & Private Detention Facilities

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## **I. Introduction**

Many children across the globe are currently being held in private for-profit immigrant detention centers. This paper discusses some of the human rights violations that result from immigration detention, then goes on to discuss private business's place in the operation of these detention centers. The information focuses on the United States (U.S.) due to recent events surrounding immigration. In response to last summer's surge of minors and families crossing the U.S.-Mexico border, the U.S. is rapidly expanding immigration detention of women and children.<sup>1</sup> Lastly, this paper will briefly discuss ways in which the problem of private detention companies also exists in Australia<sup>2</sup> and the United Kingdom (U.K.).<sup>3</sup>

## **II. Human Rights Violations Resulting from Immigration Detention**

### **A. Background**

Many Latin American children are entering the United States through Mexico to escape violent situations faced at home.

In the Americas, the most violent region in the world and with the highest levels of child homicide, the protection of children from violence is put at risk on a daily basis; and it is compounded by high levels of inequality and social exclusion, lack of opportunities, the widespread use of arms, the presence of organized crime and gangs, and a culture of impunity.<sup>4</sup>

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<sup>1</sup> Julia Preston, *Detention Center Presented as Deterrent to Border Crossings*, THE NEW YORK TIMES, (Dec. 25, 2014), available at <http://www.nytimes.com/2014/12/16/us/homeland-security-chief-opens-largest-immigration-detention-center-in-us.html>.

<sup>2</sup> LAW COUNCIL OF AUSTRALIA, SUBMISSION TO NATIONAL INQUIRY INTO CHILDREN IN IMMIGRATION DETENTION 2014, AUSTRALIAN HUMAN RIGHTS COMMISSION (2014).

<sup>3</sup> Jonathan Owen, *Immigrant children still being detained, figures show*, THE INDEPENDENT (Jan. 8, 2015), available at <http://www.independent.co.uk/news/uk/politics/immigrant-children-still-being-detained-figures-show-9966155.html>.

<sup>4</sup> U.N. Special Rep. of the Sec'y-Gen. on Violence Against Children, SRSR Marta Santos Pais calls for the effective protection of children from violence in the Americas (Dec. 15, 2014), available at [http://srsg.violenceagainstchildren.org/story/2014-12-15\\_1201](http://srsg.violenceagainstchildren.org/story/2014-12-15_1201).

When these children reach the U.S. and become detained, they are often put into private for-profit immigrant detention centers, where many will continue to suffer both tangible and structural violence.

Pursuant to the General Assembly's resolution 56/138, an in-depth study on violence against children addressed alternative care institutions and correctional detention facilities.<sup>5</sup> The study found that the impact of institutionalization goes beyond the experience by children of violence, and that long-term effects can include severe developmental delays, disability, and irreversible psychological damage.<sup>6</sup> Private detention centers for migrant children are neither alternative care institutions nor correctional in nature; they comprise a unique set of attributes that require safeguards for protecting children from violence. This under-recognized distinction contributes to the invisibility of violence endured by these children.

The Committee Against Torture expressed concern at the recent expansion of family detention for undocumented migrant families with children in the U.S.<sup>7</sup> It observed that many unaccompanied and separated children continue to be held in prison-like facilities. It also remains concerned about reports of substandard conditions of immigrant detention facilities, use of solitary confinement, and sexual violence by staff and other detainees. In its Concluding Observations on the combined third to fifth period reports of the U.S., the Committee has recommended that the U.S. halt the expansion of family detention, with a view to progressively eliminating it completely.<sup>8</sup>

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<sup>5</sup> Independent expert for the U.N. study on violence against children, *Rep. of the independent expert for the U.N. study on violence against children*, U.N. Doc. A/61/299 (Aug. 29, 2006).

<sup>6</sup> *Id.* at ¶ 16.

<sup>7</sup> U.N. Comm. Against Torture, Concluding observations on the combined third to fifth periodic reports of the U.S., ¶ 9, 1276-1277th Sess., Nov. 20, 2014, CAT/C/USA/CO/3-5 (Dec. 19, 2014).

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

## **B. Legal Standards Governing Immigration Detention**

### **1. Arbitrary Deprivation of Liberty**

Children in immigrant detention centers are being arbitrarily deprived of their liberty, in violation of the Convention on the Rights of the Child (CRC) and other treaties. Although the U.S. is not party to the CRC, it cannot ignore the fact that the treaty's provisions have risen to the level of customary international law. The Committee on the Rights of the Child has stated:

In application of article 37 of the Convention and the principle of the best interests of the child, unaccompanied or separated children should not, as a general rule, be detained. Detention cannot be justified solely on the basis of the child being unaccompanied or separated, or on their migratory or residence status, or lack thereof.<sup>9</sup>

According to the Global Survey by the Special Representative of the Secretary General on violence against children, thousands of children are deprived of their liberty as a first option rather than the last.<sup>10</sup> These children do not belong in prison-like facilities that publicly criminalize them, and also make them feel as if they are in fact criminals. They pose no security risk, and are especially vulnerable. They arrive to countries traumatized from the violence they are seeking to escape, and from the trauma of their journey to the border.

According to Human Rights Watch,

Jailing immigrant children is hardly in their best interest. Cost-effective, humane, and reliable alternatives to detention are used around the world and have been found to benefit government and the community, as well as children.<sup>11</sup>

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<sup>9</sup> U.N. Comm. on the Rights of the Child, General Comment No. 6: Treatment of Unaccompanied and Separated Children Outside their Country of Origin, ¶ 18, 39th Sess., May 17–June 3, 2005, CRC/GC/2005/6 (Sept. 1, 2005).

<sup>10</sup> U.N. Spec. Rep. of the Secretary General on violence against children, *Toward a world free from violence; Global survey on violence against children*, ¶40, (Oct. 2013).

<sup>11</sup> Human Rights Watch, *US: Halt Expansion of Immigrant Family Detention*;

Alternatives can include electronic monitoring or supervised release, in which the head of the family checks in regularly with authorities.<sup>12</sup>

In 2007, the American Civil Liberties Union (ACLU) reached a landmark settlement with Immigration and Customs Enforcement (ICE), which was the result of lawsuits brought on behalf of 26 immigrant children detained with their parents at Hutto Center, a Corrections Corporation of America (CCA) facility that was shut down in 2009. Prior to this settlement, children were required to wear prison uniforms, were allowed very little time outdoors, and guards would discipline children by threatening to separate them from their parents. Hutto had also employed a count system, which forced families to stay in their cells 12 hours a day.<sup>13</sup>

#### **a. Structural Violence and Discrimination**

Immigration charges now make up half of all federal arrests, and drug offenses rank second at 15 percent.<sup>14</sup> The U.S.'s 'war on drugs' normalized the prison industrial complex and violent police actions toward African Americans in urban inner cities. Now, the post-9/11 'war on terror' is normalizing the immigration industrial complex and violent police action toward Latin American immigrants at the U.S.-Mexico border; what began as a heightened focus on detaining undocumented immigrants in the interest of curbing terrorism quickly transformed into mass incarceration regardless of whether or not those being detained

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*Problems With Detaining Children Evident in New Mexico Center*, (July 29, 2014), available at <http://www.hrw.org/news/2014/07/29/us-halt-expansion-immigrant-family-detention>.

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

<sup>13</sup> ACLU, *ACLU Challenges Prison-Like Conditions at Hutto Detention Center* (Mar. 6, 2007), available at <https://www.aclu.org/immigrants-rights-racial-justice-prisoners-rights/aclu-challenges-prison-conditions-hutto-detention>.

<sup>14</sup> Mark Motivans, *Fed. Justice Statistics*, BULLETIN, Jan. 2015 (U.S. Dept. of Justice Bureau of Justice Statistics).

actually pose a threat to national security. And just as African American children have been absorbed into the former scheme, Latin American immigrant children are now within the latter. Creating immigrant detention centers meant for children normalizes and condones a framework of violence and discrimination against immigrant children.

These children suffer structural violence—chronic, historically entrenched political-economic oppression and social inequality. They face symbolic violence, the internalized humiliations and legitimations of inequality and hierarchy. They experience everyday violence, the daily practices of violence on a micro-interactional level: interpersonal, domestic and delinquent. This refers to, “the individual lived experience that normalizes petty brutalities and terror at the community level and creates a common sense or ethos of violence.”<sup>15</sup> Normalizing this violence concurrently normalizes discrimination, in violation of Convention on the Elimination of all forms of Racial Discrimination.

## **2. Degrading Treatment**

### **a. Health Concerns**

Poorly maintained private facilities foster substandard living conditions that threaten the health of those in detention. The ACLU has reported CCA detainee complaints of temperature extremes, overcrowding, facilities running out of hygiene products, and detainees being given used underwear.<sup>16</sup> Food was spoiled, meager, and provided at irregular times, and the water non-potable.<sup>17</sup> At Hutto, children with a skin infection were not treated until

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<sup>15</sup> Philippe Bourgois, *The Continuum of Violence in War and Peace: Post-Cold War Lessons from El Salvador*, IN *VIOLENCE IN WAR AND PEACE* 425-426 (Nancy Scheper-Hughes and Philippe Bourgois eds., Blackwell Pub., 2004).

<sup>16</sup> AM. CIVIL LIBERTIES UNION, *PRISONERS OF PROFIT: IMMIGRANTS AND DETENTION IN GEORGIA* (2012).

<sup>17</sup> *Id.*

they bled from the rash.<sup>18</sup> One child who was frequently vomiting was not allowed medical attention unless the staff saw the vomit.<sup>19</sup> Detainees experience unreasonable delays in receiving medical care and in the case of people with mental disabilities, punitive rather than care-oriented treatment is given. Lack of adequate medical care has also caused unnecessary deaths.<sup>20</sup>

### **b. Sexual Abuse**

Sexual abuse of detainees occurring in immigration facilities has been widely reported. Despite children's status as an especially vulnerable group at particularly high risk for sexual abuse, there is little data regarding immigrant children's experiences in U.S. facilities. Women in Karnes, a family detention center owned and operated by the private prison corporation GEO Group, reported ongoing and substantial sexual abuse by male staff.<sup>21</sup> The Department of Homeland Security (DHS) inspector general found no evidence, and cleared Karnes of all allegations.<sup>22</sup> An investigation by Frontline revealed that few of the more than 170 complaints filed against guards by immigration detainees for sexual abuse over the course of four years were ever even investigated by DHS,<sup>23</sup> raising questions about the

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<sup>18</sup> *Crossing the Border: Immigrants in Detention and Victims of Trafficking: Hearing Before the Subcomm. on Border, Mar., and Global Counterterrorism of the Comm. on Homeland Sec., H.R.*, 110th Cong., 110-16 (2007).

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

<sup>20</sup> AM. CIVIL LIBERTIES UNION, *supra* note 16, at 27, 108-109.

<sup>21</sup> Marisa Taylor, *Immigrant Women allege sexual abuse at detention center*, ALJAZEERA AMERICA (Oct. 9, 2014), available at <http://america.aljazeera.com/articles/2014/10/9/family-detentioncenterabuse.html>.

<sup>22</sup> Julia Preston, *Report Finds No Evidence of Abuse at Immigration Center in Texas*, NEW YORK TIMES, (Feb. 6, 2015), available at <http://www.nytimes.com/2015/02/07/us/report-finds-no-evidence-of-sexual-abuse-at-texas-immigration-detention-center.html>.

<sup>23</sup> Taylor Wofford, *The Operators of America's Largest Immigrant Detention Center Have A History of Inmate Abuse*, NEWSWEEK (Dec. 20, 2014), available at <http://www.newsweek.com/operators-americas-largest-immigrant-detention-center-have-history-inmate-293632>.

DHS investigation's finding in favor of GEO. This raises concerns that biased oversight perpetuates impunity among corrupt administration and invisibility of the plights of women and children in detention. Without guaranteed access to legal counsel, many detainees don't even bother to report their abuse. Additionally, lack of adequate supervision can result in sexual abuse of young children by troubled older minors in detention.<sup>24</sup>

### **c. Immigration Workers**

The HRC has called upon States to ensure proper training of all persons working with children, including prison staff, immigration and border control agents, and persons working on legislation and policies relevant to the rights of the child, including anti discrimination, alternatives to detention, and child-sensitive counseling and communication skills.<sup>25</sup> The Organization of American States Declaration on violence and exploitation of children calls for the reduction of secondary victimization—behaviors and attitudes of social service providers that are victim-blaming and insensitive, and which traumatize victims of violence who are being served by these agencies.<sup>26</sup>

CCA's record of abusive treatment is not entirely confined to its detainees, but also extends to its employees. CCA cuts corners to increase profits by maintaining dangerously low staff-to-detainee ratios, reducing employee benefits and salaries, and not providing

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<sup>24</sup> Melissa del Bosque, *As Feds Lock Up More Immigrant Families, Abuse Allegations Grow*, THE TEXAS OBSERVER (Nov. 4, 2014), available at <http://www.texasobserver.org/growing-number-abuse-cases-immigrant-family-detention-facilities/>.

<sup>25</sup> Human Rights Council Res. 25/6, Rights of the child: access to justice for children, 25th Sess., Mar. 3-28, 2014, A/HRC/RES/25/6, ¶ 6 (April 14, 2014).

<sup>26</sup> Org. of Am. States [OAS], *Declaration on violence against and exploitation of children*, 2d Plenary Sess., June 4, 2014, OAS Doc. AG/DEC. 76 (XLIV-O/14) ¶ 12 (June 10, 2014), available at <http://www.oas.org/en/sla/docs/AG06712E04.pdf>.



adequate staff training.<sup>27</sup> Many employees have sued CCA over issues such as unreasonably long work hours, no overtime compensation, poor pay, denial of meal breaks, and forced work with no compensation.<sup>28</sup> The ACLU has reported verbal and physical abuse of detainees and retaliatory behavior from guards, including placing detainees in segregation.<sup>29</sup> In light of CCA's negligence in training and supervision of its employees, it is no surprise that misconduct and violence often ensue.

### **3. Right to Counsel**

Children in immigrant detention centers are not likely know their rights under U.S. and international law, and it is very difficult for them to access legal counsel. Incarcerated criminal suspects in the U.S. have the right to government-funded counsel. Although children in private immigration centers are detained in an environment that thoroughly resembles incarceration, they do not have this right, despite UNHCR's guidelines providing that counsel should be available to immigration detainees.<sup>30</sup> The remoteness of many immigrant detention centers in the southwestern borderlands makes it difficult for pro-bono attorneys to reach the facilities with any kind of frequency or longevity.<sup>31</sup> Most of these children are forced to navigate the convoluted U.S. legal system on their own, a system that U.S.-born English-speaking adults can often hardly comprehend.

U.S. courts of appeals have repeatedly recognized that an immigrant facing removal from the U.S. should be allowed sufficient time to find and hire an attorney. The "rocket

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<sup>27</sup> Grass Roots Leadership, *The Dirty Thirty: Nothing to Celebrate About 30 Years of Corrections Corp. of America* 3 (2013).

<sup>28</sup> *Id.*

<sup>29</sup> ACLU, *supra* note 16.

<sup>30</sup> Human Rights Watch, *supra* note 11.

<sup>31</sup> Wil S. Hylton, *The Shame of America's Family Detention Camps*, NEW YORK TIMES MAGAZINE, (Feb. 4, 2015), available at [http://www.nytimes.com/2015/02/08/magazine/the-shame-of-americas-family-detention-camps.html?\\_r=3](http://www.nytimes.com/2015/02/08/magazine/the-shame-of-americas-family-detention-camps.html?_r=3).

docket,” however, impedes upon this right. The rocket docket is a product of the U.S. Department of Justice’s attempt to deal with the large number of Latin American immigrants, many of whom are unaccompanied minors, fleeing their homes to seek refuge. U.S. immigration courts have been directed to “fast track” the cases of these more recent arrivals. The problem with this system is that those individuals who are being fast tracked do not have enough time to obtain affective legal counsel. Statistics have shown that children who have legal representation are far more likely to be awarded asylum than those who are forced to represent themselves.<sup>32</sup> The other problem is that these non-criminal children’s cases are prioritized over all other immigration cases, thus delaying cases that are already pending. Judge Dana Leigh Marks, President of the National Association of Immigration Judges has noted that interrupting the rest of the docket to fast track the removal of these children does not make sense because their claims will require more rather than less time.<sup>33</sup>

### **III. Private Detention Facilities**

#### **A. The United States**

The South Texas Family Residential Center (STFRC) is a new immigrant detention center for women and children only.<sup>34</sup> ICE has contracted CCA, the U.S.’s largest private prison company, to operate the center.<sup>35</sup> A private prison corporation owning and operating a non-penal children’s facility is exceedingly problematic, in that the *Corrections Corporation*

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<sup>32</sup> Jayashri Srikantiah, *The Immigration Rocket Docket: Understanding the Due Process Implications*, STANFORD LAWYER, (Aug. 15, 2014), available at <https://stanfordlawyer.law.stanford.edu/2014/08/the-immigration-rocket-docket-understanding-the-due-process-implications/>.

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

<sup>34</sup> Preston, *supra* note 1.

<sup>35</sup> CCA, *CCA Expands Existing Intergovernmental Service Agreement to Manage the South Texas Family Residential Center in Dilley, Texas*, (Sept. 24, 2014), available at <https://www.cca.com/press-releases/cca-expands-existing-intergovernmental-service-agreement-to-manage-the-south-texas-family-residential-center-in-dilley-texas>.

by name describes punitive incarceration. Further, CCA has a record of disregarding inmate safety and violating federal laws, and the ACLU has reported rampant human rights violations at CCA's immigrant detention facilities, as discussed above.<sup>36</sup> Because of this record, there is concern that CCA will proceed with business as usual at STFRC.

The immigration industrial complex has become a lucrative extension of the prison industrial complex. In 2013, CCA, who is publicly traded on the New York Stock Exchange, boasted \$1.69 billion in total yearly revenue and \$473 million in gross yearly profit.<sup>37</sup> If the U.S. stopped mandatory detention of immigrants, companies like CCA would have a major financial crisis. It has been reported that they have spent millions lobbying Congress and DHS for harsher immigration laws in order to build their business and increase profits.<sup>38</sup> This detention scheme has resulted in the commodification of immigrants, including children. For-profit prison management fosters a ripe environment for human rights abuses that violate a number of rights, including the rights to life, health, food, and water; when CCA inevitably cuts corners to save money, the children will suffer the degrading conditions discussed above.

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<sup>36</sup> Wofford, *supra* note 23.

AM. CIVIL LIBERTIES UNION, *supra* note 16.

<sup>37</sup> INVESTOR RELATIONS, CORRECTIONS CORP. OF AM., ANNUAL INCOME, available at <http://ir.correctionscorp.com/phoenix.zhtml?c=117983&p=irol-fundIncomeA> (last visited Feb. 1, 2015).

<sup>38</sup> Chris Kirkham, *Private Prisons Profit From Immigration Crackdown, Federal And Local Law Enforcement Partnerships*, HUFFINGTON POST (Nov. 26, 2013), available at [http://www.huffingtonpost.com/2012/06/07/private-prisons-immigration-federal-law-enforcement\\_n\\_1569219.html](http://www.huffingtonpost.com/2012/06/07/private-prisons-immigration-federal-law-enforcement_n_1569219.html).

Azadeh Shahshahani, *The 'sunk costs' of a profit-driven prison system*, ALJAZEERA (May 29, 2012), available at <http://www.aljazeera.com/indepth/opinion/2012/05/2012526112812469344.html>.

## B. Australia

In Australia, the entire immigration detention system is operated by private contractors.<sup>39</sup> Unlike the U.S., Australia does not yet appear to be gearing up for the widespread use of women-and-children-only facilities. Australia is also distinguished from the U.S. in that it has conducted State inquiries into children in immigration detention, such as the 2014 inquiry administered by the Australian Human Rights Commission (AHRC).<sup>40</sup> This is a step toward accountability, a step that the U.S. has yet to embark upon. But like the U.S., there have been many reports of rampant human rights violations in private facilities that hold children.<sup>41</sup>

The U.N. reported that hundreds of asylum seeking children have been held in Australian detention centers for prolonged periods of time, which has often resulted in mental and physical health problems, depression, post-traumatic stress disorder, and anxiety disorders.<sup>42</sup> Detained children engage in self-harm, some of whom went so far as to sew their lips together during a hunger strike.<sup>43</sup> The AHRC reported that from January 2013 to March 2014, there were 233 assaults involving children, 33 incidents of reported sexual assault (the majority involving children), and 27 incidents of voluntary starvation/hunger strikes involving children in Australian detention centers.<sup>44</sup> And like the U.S., many Australian detention

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<sup>39</sup> *Kirkham*, supra note 39.

<sup>40</sup> AUSTRALIAN HUMAN RIGHTS COMMISSION, *THE FORGOTTEN CHILDREN; NATIONAL INQUIRY INTO CHILDREN IN IMMIGRATION DETENTION* (2014).

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

U.N. INT'L CHILDREN'S EMERGENCY FUND, *WORLD REPORT ON VIOLENCE AGAINST CHILDREN 202* (2006).

<sup>43</sup> U.N. INT'L CHILDREN'S EMERGENCY FUND, supra note 43.

<sup>44</sup> AUSTRALIAN HUMAN RIGHTS COMMISSION, supra note 41 at 62.

centers are substantially remote (located offshore), which makes detainees' access to counsel more difficult, and general transparency of the facilities especially low.

The Law Council of Australia (LCA) has pointed out that the UNHCR Guideline 8 provides that private contractors should be subject to statutory duties in regards to the welfare of their detainees, and that the State cannot contract out of their obligations under international refugee or human rights law, and do remain accountable as a matter of international law.<sup>45</sup> LCA has also highlighted obligations under the Optional Protocol to the Convention Against Torture (OPCAT), which says that State parties are obliged to establish an independent National Preventative Mechanism (NPM).<sup>46</sup> This NPM will monitor the treatment of persons deprived of their liberty in places of detention as defined in Article 4 (any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority), in order to increase protections against torture and other cruel, inhuman or degrading treatment or punishment.<sup>47</sup>

The State practice of contracting private prison companies or security firms to look after immigrant children held in detention centers is not intuitive from the human rights perspective. Even less intuitive, however, is the State practice of contracting companies that have no grounding in the kinds of business operations that are based upon human interaction. For example, Australia has contracted with the Serco Group, a British company that handles

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<sup>45</sup> LAW COUNCIL OF AUSTL., *supra* note 2 at 19. UNHCR Guidelines, [48](xvii).

<sup>46</sup> LAW COUNCIL OF AUSTL., *supra* note 2 at 47. OPCAT, art 17.

<sup>47</sup> OPCAT, art 19.

air traffic control in the United Arab Emirates and atomic weapons management in the U.K.<sup>48</sup> However, under this contract Serco is overseeing vulnerable immigrant populations, including women and children. It is no wonder that Serco has received ample negative publicity, from complaints of poorly trained guards and overcrowding to detainee suicidal protests.<sup>49</sup>

### **C. United Kingdom**

In 2010 the U.K. announced its plan to end child detention for immigration purposes. Immigrant children are now detained in a “pre-departure accommodation” called Cedars (Compassion, Empathy, Dignity, Approachability, Respect and Support), the only detention center in the U.K. designed for families with children.<sup>50</sup> The British government has received criticism for this strategy; it can be argued that simply rebranding child immigrant detention is not the ideal way to keep a promise made to the public. This family detention center operates under a contract with British corporation G4S, the world's largest private security firm. A children’s charity called Barnardo’s is also contracted to work with the children held at Cedars. There is a debate amongst human rights organizations as to whether this “accommodation” scheme and Barnardo’s presence improves the situation for these detained children. Even if the conditions are arguably better than those in immigrant detention centers that house children in the U.S. or Australia, Cedars remains a fenced in facility patrolled by G4S guards.

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<sup>48</sup> Chris Kirkham, *How Corporations are Cashing in on the Worldwide Immigration Crackdown*, HUFFINGTON POST, (Jan. 23, 2014), available at [http://www.huffingtonpost.com/2014/01/23/private-prisons-immigration\\_n\\_4603448.html](http://www.huffingtonpost.com/2014/01/23/private-prisons-immigration_n_4603448.html).

<sup>49</sup> Nina Bernstein, *Companies Use Immigration Crackdown to Turn a Profit*, NEW YORK TIMES, (Sept. 28, 2011), available at [http://www.nytimes.com/2011/09/29/world/asia/getting-tough-on-immigrants-to-turn-a-profit.html?\\_r=3&pagewanted=all&](http://www.nytimes.com/2011/09/29/world/asia/getting-tough-on-immigrants-to-turn-a-profit.html?_r=3&pagewanted=all&).

<sup>50</sup> Owen, *supra* note 3.

G4S, like CCA, has a long-standing record for human rights abuses of detainees. The first inspection of Cedars in 2012 revealed that staff caused significant risk of injury to a pregnant woman's unborn child when they used substantial force in response to her resisting removal.<sup>51</sup> Parents and children alike have been forcefully restrained, and one disruptive detainee was grabbed by the hair.<sup>52</sup> Allegations of human rights violations extend to many other countries where this British corporation operates; they have been accused of profiting from Guantanamo human rights abuses, and of being complicit in Israel's systematic torture and ill-treatment of Palestinian prisoners, including child prisoners, held in solitary confinement.<sup>53</sup>

#### **D. Other Countries**

In 2013, Greece began the bidding process to contract private companies to operate detention centers. Spain has hired a private company to oversee detainees in parts of its immigration system.<sup>54</sup> So while the U.S., Australia, and the U.K. lead the trend in private immigrant detention, other countries are beginning to follow.

#### **IV. Conclusion**

More quantitative data is needed in studies of the situation of children held in immigrant detention centers operated by private prison companies. In the Annual Report of

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<sup>51</sup> HM Chief Inspector of Prisons, *Report on an announced inspection of Cedars Pre-Departure Accommodation*, 12 (2012).

<sup>52</sup> *Id.* at 12, 25.

<sup>53</sup> Chris Green, *Exclusive: Activists report security company G4S to police over its 'illegal' work at Guantanamo Bay*, THE INDEPENDENT, (Jan. 12, 2015), available at <http://www.independent.co.uk/news/uk/crime/exclusive-activists-report-g4s-to-police-over-its-illegal-work-at-guantanamo-bay-9971328.html>.

*G4S must end its complicity in Israel's abuse of child prisoners*, THE GUARDIAN, (June 4, 2014), available at <http://www.theguardian.com/world/2014/jun/04/g4s-complicity-israel-abuse-child-prisoners>.

<sup>54</sup> Kirkham, *supra* note 49.

the Special Representative of the Secretary-General on Violence against Children, the SRSG noted,

It is critical to invest in sound data on violence against children, and agree on a set of indicators and monitoring tools to track progress in that area and to promote global accountability mechanisms at the local, national and international levels.<sup>55</sup>

Accountability for violence against children in these detention centers is difficult to achieve because the actors are private businesses and not the State. The incongruity here is that the government contracts private companies to deal with social and economic issues that are entirely the concern of the State. This unique task blurs private and State responsibilities. This issue should be included in national action plans on business and human rights in efforts to implement the Guiding Principles on Business and Human Rights.

## **V. Recommendations**

Human Rights Advocates recommends that the Council urge:

1. The Special Representative of the Secretary General on violence against children and relevant stakeholders to study the situation of children held in immigrant detention centers operated by private prison companies.
2. The Working Group on the issue of human rights and transnational corporations and other business enterprises to consider the issue of children held in immigrant detention centers operated by private prison companies.
3. The Working Group drafting the treaty on Transnational Corporations and Other Business Enterprises with respect to human rights to include private detention businesses in the instrument.

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<sup>55</sup> Annual Report of the Special Representative of the Secretary-General on Violence against Children, ¶ 9, 28th Sess., A/HRC/28/55 (Dec. 30, 2014).