



3 March 2021

Re: Oppose HB 1 on combating public disorder

Dear Florida Legislator,

I write you on behalf of Amnesty International USA¹ in strong opposition of HB 1, which would criminalize dissent and have a chilling effect on Floridians' rights to Freedom of Peaceful Assembly.

The summer of 2020 saw widespread protests across the United States to demand justice for Black lives following the deaths of George Floyd, Breonna Taylor and so many others who have died at the hands of police in the USA. Despite the media attention given to violence and vandalism by the few, in more than 93% of all demonstrations connected to the summer's protests, demonstrators did not engage in violence or destructive activity.² Protests that took place in Florida during this period were similarly overwhelmingly peaceful. Though Florida witnessed the third most number of protests related to the Black Lives Matter protests that took place between 24 May and 22 August (380), the state saw relatively few incidents of violence by protesters that resulted in violence or the declaration of a riot. Meanwhile, Amnesty International documented more than 125 separate incidents of police violence against peaceful protesters between May 26 and June 5, 2020, a period when hundreds of thousands of people in the USA and around the world protested against racism and police violence and to demand that Black lives matter, including incidents in Ft. Lauderdale, Tampa and Orlando.³

Creating a solution that is looking for a problem in Florida, the Governor and Legislature responded to these calls for greater oversight and accountability of law enforcement by enacting a repressive measure that will chill people's rights to Freedom of Assembly. Under HB1, Floridians wishing to exercise their rights to protest in the streets would have to weigh their ability to spend a night in jail if the protest is deemed an "unlawful assembly." The bill increases already stringent

¹ Amnesty International is a global movement of more than ten million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights. We have hundreds of thousands of supporters, members and activists in the U.S. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

² ACLED, Demonstrations and Political Violence in America, September 2020, acleddata.com/acleddatanew/wp-content/uploads/2020/09/ACLED_USDataReview_Sum2020_SeptWebPDF_HiRes.pdf

³ Amnesty International, USA: Amnesty International Documents Widespread Police Violence Against Protesters for Black Lives, 23 June 2020, www.amnestyusa.org/protest-map/; see also, Amnesty International, USA: The World is Watching – Mass violations by US police of Black Lives Matters protesters' rights, August 2020, www.amnestyusa.org/wp-content/uploads/2020/07/WorldisWatchingFullReport080220.pdf

criminal penalties for existing crimes, and includes broad and vague definitions of what would constitute a “riot” which would allow for the arrest and charge of a third-degree felony based on the violent conduct of others, even though the individual arrested was lawfully protesting and did not engage in any violent and destructive acts. The bill also includes provisions where several offenses would no longer be eligible for release on bail prior to the individual’s first appearance in court. These “no release until first appearance” provisions require individuals to be held in custody beyond that which is currently required by law. For instance, individuals arrested for the minor offense of unlawful assembly “shall be held in custody until brought before the court for admittance to bail” – thus, arbitrarily keeping individuals in detention due to the circumstances in which the crime occurred and a naked attempt to keep protesters from continuing participation in ongoing protests. Current Florida law already criminalizes unlawful assembly, violence, property damage, traffic violations, violence directed at law enforcement, riots and sedition. Florida law enforcement officers and the criminal legal system do not need harsher penalties to be misapplied against Black and brown communities exercising their rights to Freedom of Peaceful Assembly.

Despite calls by communities to reassess the monuments which adorn public lands and spaces, HB 1 takes the opposite track by upholding monuments to white supremacy. Though using facially neutral language, HB 1 seeks to protect confederate monuments by creating a new second degree felony offense, punished by up to 15 years imprisonment, for pulling down or destroying ‘memorials’ that honor or recount “the military service of any past or present United States Armed Forces military personnel,” or public service of a resident of the United States. Current Florida laws already protect against damage to public property. Therefore, the purpose of this bill is to elevate the protection of monuments to a system of white supremacy and slavery and harshly criminalize those who seek their removal.

Lastly, while Amnesty International has documented the widespread police violence that peaceful protesters experienced during protests against police violence, this bill would embolden and even encourage violence against peaceful protesters by others. HB 1 provides a new affirmative defense in civil lawsuits for personal injury, death, or property damage, such that a person could avoid liability by establishing that the injury, death, or damage they committed “arose from” conduct by a protester “acting in furtherance of a riot or unlawful assembly” – which the bill defines broadly.

The right to freedom of peaceful assembly is guaranteed under Art. 21 of the International Covenant on Civil and Political Rights (ICCPR) which the USA has signed and ratified.⁴ As such, states must respect, protect and facilitate these rights. While the state may place limits on these rights, such limits must be necessary and proportionate to a legitimate objective. The UN Human

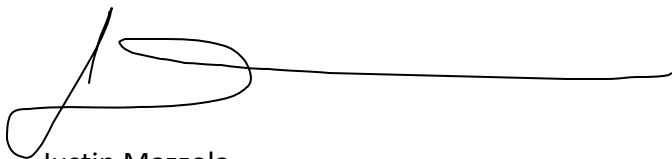
⁴ Art. 21, International Covenant on Civil and Political Rights, which states: “The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.”

Rights Committee, which oversees implementation of the ICCPR, has interpreted Art. 21 and the limits of governments regarding restrictions or limitations on this right by stating: “The imposition of any restrictions should be guided by the objective of facilitating the right [to freedom of peaceful assembly], rather than seeking unnecessary and disproportionate limitations on it. Restrictions must not be discriminatory, impair the essence of the right, or be aimed at discouraging participation in assemblies or causing a chilling effect.”⁵

Rather than protecting people’s human rights, HB 1 will inevitably chill Floridians’ rights to peacefully engage in protest, violating their rights to freedom of peaceful assembly. For this reason, we are calling on you to oppose this unnecessary and overly-broad legislation. Should you have any questions or wish to discuss this letter further, please feel free to email Justin Mazzola at jmazzola@aiusa.org.

Thank you for your time and consideration of this matter.

Sincerely,

A handwritten signature in black ink, consisting of a stylized 'J' followed by a horizontal line that loops back under the 'J' and then extends to the right.

Justin Mazzola

Deputy Director, Research

Amnesty International USA

⁵ UN Human Rights Committee, General comment No. 37 (2020) on the right of peaceful assembly (article 21), para 36, tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f37&Lang=en