



January 27, 2021

Re: Domestic Human Rights Legislation to Advance in Congress in Early 2021

Dear Member of Congress:

On behalf of Amnesty International and our ten million members, activists, and supporters worldwide, I am writing to share our recommendations for domestic legislation the Judiciary Committee should advance in early 2021; we ask for your support in prioritizing and supporting these issues.

The list of issues that follows is not exhaustive but are critical issues that can be immediately tackled by the 117th Congress.

1. Restore a Fair Asylum System at the Border and Robust U.S. Refugee Admissions Program

Seeking [asylum](#) and [safety from armed conflict or persecution](#) is a human right. But in recent years people, including families and [children](#), in search of safety all around the world, including along the U.S.-Mexico border, have been [punished for seeking protection](#). Instead of upholding its responsibilities, the U.S. has abdicated its duty to protect refugees, drastically cutting the number of refugees it will accept for resettlement and devising a series of policies to offshore them, criminalize them and those that seek to protect them, and deny them protection altogether. The U.S. government has also sought to cut programs that offer lifesaving and life-preserving humanitarian aid to displaced populations the world over. The U.S. government has a responsibility to step up and be a robust participant in offering protection for refugees and asylum-seekers and lead the way in investing in innovative solutions that protect the human rights of all displaced, persecuted, and at-risk populations.

At the start of the 117th Congress, we are calling on the House to move with urgency to address the many damaging policies that have been enacted against refugees, migrants, and asylum-seekers, both in the U.S. and around the world, these last years. The U.S. should seek to ease pressure on countries currently hosting the greatest number of refugees by participating in equitable and predictable pathways to protection for refugees, including by expanding access to traditional resettlement, and by facilitating the successful integration of refugees in their host countries or helping to facilitate the conditions for voluntary return to refugees' countries of origin. In addition to expanding resettlement, the U.S. should invest in other admission pathways, including humanitarian programs, family reunification, and a private sponsorship model, and expand community involvement in resettlement by robustly promoting community sponsorship through co-sponsorship programs and private sponsorship. Further, Congress should call on the President to increase the FY 2021 refugee admissions goal to at least 100,000 and provide for necessary additional funds to meet this goal.

As a start, the House should take up and pass the Refugee Protection Act ([H.R. 5210](#), [S. 2936](#)) which would provide for the admission and protection of refugees, asylum-seekers, and other vulnerable

individuals, sets a minimum refugee admissions goal of at least 95,000, provides for in-country processing of refugees and asylum-seekers in the Northern Triangle countries, ensures due process and legal representation for asylum-seekers including unaccompanied children, and restores due process for asylum-seekers, among other provisions. We also strongly encourage the Judiciary Committee to hold public hearings at the start of the new Congress to explore how the U.S. can ensure we are fully applying the provisions of the 1951 Refugee Convention and its 1967 Protocol without discrimination, and ensuring the U.S. is doing all it can to be a robust participant in refugee protection and leading the way in investing in innovative solutions to protect the human rights of refugees, internally displaced persons, and all displaced persons worldwide.

2. Curb immigration detention

In recent years, the use of immigration detention has ballooned. Today, tens of thousands of immigrants, including thousands of asylum-seekers and families with children, are held in Department of Homeland Security (DHS) facilities throughout the country while they fight for their right to stay in the United States. Immigration detention serves as a form of punishment against people solely on the basis of their status and penalizes people who are fleeing persecution.

Immigration and Customs Enforcement (ICE) has ample discretion to release all people in immigration detention. Yet, disregarding the cries of detained immigrants, medical experts, and advocates, it has failed to do so. Since the onset of the pandemic, COVID-19 has spread throughout detention facilities: as of September 2020, at least seven people had died after contracting the virus in detention, and over 5,000 detained people thus far have tested positive for the virus.

Experts have estimated that the virus is likely spreading rates much higher than DHS has publicized, a fear which has been borne out in the few facilities where ICE has engaged in mass testing: for example, in August, 90% of people detained at the privately operated ICE facility in Farmville tested positive for COVID-19.

Both people in detention and their lawyers have shared harrowing details of ICE's reckless endangerment of people in its custody, in violation of Centers for Disease Control and Prevention (CDC) standards on the prevention of COVID-19 in places of detention. ICE and its detention facilities have failed to provide detainees with sufficient soap and sanitizer or adequate social distancing. Additionally, ICE has not abided by CDC standards for quarantining and medical isolation, instead "cohorting" people presumed to be positive for the virus, a form of treatment one medical expert has likened to "COVID-19 torture."

As COVID-19 cases increase exponentially across the United States, detained people have launched hunger strikes in multiple ICE immigration detention facilities, demanding to be released, and have often been met with brutal repression by guards and security personnel.

Now, ICE's detention practices are exacerbating a crisis beyond U.S. borders: tens of thousands of people have been deported during the COVID-19 pandemic, including hundreds of people who tested positive after contracting the virus after being detained in unsafe and unsanitary US detention facilities. Deported people have reported facing exposure to the virus, rights-abusing quarantine regimes in their countries of return, and stigma.

This public health crisis presents an opportunity for the United States to reform its practice of needless, costly, and punitive immigration detention, which has caused tremendous human suffering and has caused a crisis of contagion during the pandemic.

We urge the swift passage of the Dignity for Detained Immigrants Act once reintroduced, which would make immigration detention the rare exception, not the norm, and eliminate the profit motive from immigration detention, as well as the Immigration Enforcement Moratorium Act, which would halt most enforcement activities during the pandemic and place a moratorium on deportations.

3. Rescind All Versions of the Muslim and African Bans

On September 24, 2017, President Trump issued the third version of his Muslim ban blocking travel to the United States from six predominantly Muslim countries, North Korea, and by certain Venezuelan officials.¹ On January 31, 2020, an additional travel ban was placed on nationals of four African countries, Myanmar, and Kazakhstan.² The Trump Administration's multiple Muslim and Africa bans violate the rights enshrined in the Universal Declaration of Human Rights and are an affront to human dignity. The Muslim ban is fueled by anti-Muslim sentiment and has caused [direct harm](#) to families in the U.S. [and around the world](#), as we have documented for years. Similarly, the African ban demonizes those most at risk in the countries affected and sanctions discrimination against those fleeing conflict, torture, and who simply want to unite with their families in the United States. A fundamental principle of refugee protection is responsibility-sharing and international cooperation. Unfortunately, the U.S. government is abandoning its duty to share in its responsibility to protect refugees. Successive bans and policy changes have taken their toll, with many refugees who expected to be resettled to the U.S. stuck in a never-ending limbo of security vetting.

Congress should immediately work to reverse policies and procedures intended to limit refugee resettlement and asylum in the United States - which violate the rights enshrined in the Universal Declaration of Human Rights and other internationally recognized human rights standards - including passing legislation to rescind the Muslim, African, refugee, asylum, and immigration bans (Presidential Proclamations 9645, 9822, 9983, 9984, 9993, and 10014, and Executive Orders 13769, 13780, 13815, and 13888). In July 2020, the House passed the National Origin-Based Antidiscrimination for Nonimmigrants Act ("NO BAN Act") (H.R. 2486, formerly H.R. 2214; S. 1123 in the Senate). The bill would [undo the Trump administration's Muslim ban](#) in place since 2017; check the President's ability to discriminate on the basis of religion; rescind the administration's initiatives to unlawfully limit the right to seek asylum at the U.S. border; remove impediments placed on refugees who are already subject to more vetting than any other group entering the U.S., and ensure that before any future restrictions are imposed the State Department and Department of Homeland Security (DHS) must consult with Congress.

The NO BAN Act sends a clear message that the U.S. welcomes and protects people from all faiths and backgrounds. This legislation should be a top priority of the 117th Congress, coming right out of the gates in January 2021.

¹ On September 24, 2017, the Trump administration issued a presidential proclamation suspending and limiting the entry of nationals of the following countries to the United States: Chad (later removed), Iran, Libya, North Korea, Syria, Venezuela (certain government officials), Yemen, Somalia. See Proclamation No. 9645, 82 FR 45161 (September 24, 2017). <https://www.whitehouse.gov/presidential-actions/presidential-proclamation-enhancing-vetting-capabilities-processes-detecting-attempted-entry-united-states-terrorists-public-safety-threats/>

² See Proclamation No, 9983, 85 FR 6699 (January 31, 2020). <https://www.whitehouse.gov/presidential-actions/proclamation-improving-enhanced-vetting-capabilities-processes-detecting-attempted-entry/>

4. Prioritize Passing Legislation to End Gun Violence and Providing Critical Funding for Programs Aimed at Ending and Preventing Gun Violence

The U.S. has both the highest absolute and highest per capita rates of gun ownership in the world, and guns are easily accessible by those likely to misuse them. Killing an average of 109 people each day, gun violence is the second leading cause of death among children and disproportionately affects communities of color. Yet the U.S. has failed to implement even a basic system for the regulation of firearms – with no requirements for universal background checks, licensing, and training for gun purchasers or for registration of guns. Further, it has continually failed to adequately fund violence prevention and intervention. The U.S. crisis of gun violence impacts a broad range of people domestically, including women, children, communities of color, and students.

It is time for a change: the crisis of gun violence in the U.S. and failure of the U.S. government to take effective action has resulted in the death of thousands and injuries to even more. The U.S. has an obligation under international law to ensure the rights and individual safety of people living in the country. Amnesty International USA believes that the U.S. has a duty to take positive action to address gun violence, especially where models exist that could reduce it while making a long term and lifechanging impact on systemically disenfranchised communities.

Thus, in the 117th Congress, AIUSA renews its call on Congress take bold action to end gun violence by:

- Pass legislation which supports the funding and implementation of evidence-based violence prevention and intervention programs, including passing the **Break the Cycle of Violence Act (S. 2671, H.R. 4836)**.
- Making universal background checks the law of the land with the **Background Check Expansion Act (S. 42, H.R. 8)**.
- Passing the **Assault Weapons Ban Act (S. 66, H.R. 1296) and the Keep American Safe Act (S. 447, H.R. 1186)** which will reinstitute the ban on assault weapons and take weapons of war off our streets and out of our communities
- Passing **Ethan's Law (S. 193, H.R. 2867)** to ensure the safe storage of firearms and protect children from harm
- Passing legislation such as the **Extreme Risk Protection Order Act of 2019 (S. 506, H.R. 3076)** to support State, Tribal and local efforts to temporarily remove access to firearms for people at heightened risk of harming themselves or others, in accordance with due process and human rights obligations
- Passing the **Disarm Hate Act (S. 1462, H.R. 2708)** to prevent individuals convicted of hate crimes from possessing or receiving a firearm
- Supporting legislation to keep guns out of the hands of domestic abusers, including the **Zero Tolerance for Domestic Abusers Act (H.R. 569)** and **Protecting Domestic Violence and Stalking Victims Act (S. 120, H.R. 511)**.
- **Authorize \$150 million annually**, for at least 10 years, to **community gun violence prevention and intervention programs** that have proven effective in decreasing gun violence in communities where there are persistently high levels of firearm violence.
- Robustly funding **Gun Violence Prevention Research** in annual appropriations.

- Provide funding, support and technical assistance for state and federal entities to submit records in an accurate and timely manner to **National Instant Criminal Background Check System**.

5. Reform Policing

In May 2020, the world came to know of George Floyd, but excessive force against and killings of Black people by law enforcement are as old as policing in the U.S. itself. Black people comprise about 13% of the US population, yet the Mapping Police Violence estimates that in 2020, Black people make up 28% of those killed by law enforcement. The video of the last moments of Mr. Floyd's life, uttering a familiar refrain "I can't breathe" woke up people around the world, and sparked possibly the largest protest movement in U.S. history and spurred Congress to advance policing reforms, including the George Floyd Justice in Policing Act (JPA, H.R. 7120), passed by this committee on June 19, 2020 and the House on June 25, 2020.

Before the introduction of the JPA, on June 1, [over 400 organizations sent a letter to Congress](#) supporting these priorities to be included in meaningful policing reform: (1) the creation of a use of force standard that allows force when necessary and as a last resort; (2) a statutory ban on chokeholds; (3) a ban on racial profiling; (4) the establishment of a publicly available police misconduct registry; (5) the inclusion of a "reckless" standard in 18 U.S.C. Section 242 that enables federal prosecutors to hold law enforcement accountable for criminal civil rights violations; (6) a prohibition on no-knock warrants, especially in drug cases; (7) the elimination of the judge-made doctrine of qualified immunity, which allows officers and other government actors to evade accountability when they violate individuals' civil rights; and (8) the demilitarization of law enforcement agencies.

While H.R. 7120 from the 116th Congress makes clear improvements to the status quo, and some of the recommendations noted above were included in House-passed bill, since June 25, people continue to be killed by law enforcement in incidents that appear excessive. The bill, as is, fails to meet the needs of this moment and must better provide for meaningful transparency, accountability and recalibrate the role and scope of law enforcement in line with what historically over-policed communities need to feel safe.

An overarching problem with the JPA as currently drafted is the amount of additional federal funding it would allocate to support law enforcement through provisions such as those that expand training, establish accreditation programs and body worn cameras grant programs, and create task forces to research "best practices." The JPA provides hundreds of millions of additional federal dollars to state and local law enforcement agencies, including prosecutors' offices, is particularly problematic because of its lack of significant guardrails to ensure those resources are used in the manner in which they are intended.

These and all other additional funding provisions in the bill should be stricken. New funding in this bill not only contradicts our reasonable request to limit federal funding allocated for law enforcement and condition receipt of existing federal dollars on the adoption of the critical policies outlined in the bill. Now more than ever, it is critical that the federal government reallocate resources to provide for those programs that reduce the need for unnecessary law enforcement interactions and promote genuine public safety by improving the health and well-being of communities.

We urge the committee to work to improve the JPA before its reintroduction in the 117th Congress to meet all eight priorities named above and welcome the opportunity to provide feedback and input. We all want to see an end to these painful and too often unnecessary law enforcements caused fatalities and we sincerely believe that in order for that to happen, these improvements must be made.

6. End Violence Against Native American and Alaska Native Women

Rape and violence are committed against Native women in the United States with [almost total impunity](#). While the available data does not accurately portray the extent of sexual violence against Native American and Alaska Native women, the U.S. Department of Justice's [own statistics](#) indicate that Native American and Alaska Native women are more than two and a half times more likely to be raped or sexually assaulted than women in the United States in general and that 86% of the reported crimes are committed by non-Native men. At least one in three Native women will be raped during her lifetime, and survivors face significant barriers to securing justice following rape or sexual violence, including inadequate police response, inadequate health and forensic services, and a [lack of prosecutions](#).

The federal government's steady erosion of tribal authority and chronic underfunding of law enforcement agencies and health service providers compounds the failure to protect Native women from sexual violence. Tribal prosecutors cannot prosecute crimes committed by non-Native perpetrators. Tribal courts are also prohibited from passing custodial sentences that are in keeping with the seriousness of the crimes of rape or other forms of sexual violence. As a direct result of passage of the Tribal Law and Order Act, the maximum prison sentence tribal courts can now impose for any crimes, including rape, is three years, up from the previous maximum of one year. In comparison, the average prison sentence for rape handed down by state or federal courts is between eight years and eight months and 12 years and 10 months respectively.

Tribal law enforcement agencies are also chronically under-funded – federal and state governments provide significantly fewer resources for law enforcement on tribal land than are provided for comparable non-Native communities. The lack of appropriate training in all police forces — federal, state and tribal — also undermines survivors' right to justice. Survivors of sexual violence are not guaranteed access to adequate and timely [sexual assault forensic examinations](#). As a consequence, Native women are [denied justice](#). And the perpetrators are going unpunished.

Current [loopholes](#) in the Violence Against Women Act mean that violent crimes against Native women and families committed by non-Native perpetrators are committed with virtual impunity. This loophole is so widely known that the Department of Justice [reports](#) that some non-Native perpetrators flaunt the law openly, knowing that they can't be prosecuted by local authorities.

Amnesty International USA calls on Congress to:

- Reauthorize the Violence Against Women Act that strengthens provisions for Native women and families, including provisions that expand current tribal jurisdiction over non-Indians to include sexual violence, sex trafficking, stalking, child abuse, and violence against tribal law enforcement attempting to execute these provisions;
- Ensure the full implementation, funding and resources for the Tribal Law and Order Act;

- Work in collaboration with Native American and Alaska Native women to obtain a clear and accurate understanding about the prevalence and nature of sexual violence against Indigenous women;
- Ensure that American Indian and Alaska Native women have access to adequate and timely sexual assault forensic examinations without charge to the survivor, holding a hearing to investigate why Indian Health Service has not fully implemented their sexual assault protocols required by the Tribal Law and Order Act.
- Provide resources to Indian tribes for additional criminal justice and victim services to respond to crimes of sexual violence against Native American and Alaska Native women.

7. End the Federal Death Penalty

The death penalty is a punishment that is error-prone, racially biased, and arbitrary; it carries irrevocable consequences and is incompatible with human rights. The US remains just one of 20 countries in the world that actively executes people. There is a growing consensus against the death penalty in the United States. Twenty-two states and Washington, DC, have repealed the death penalty as a sentencing option, and three states, California, Pennsylvania, and Oregon, have gubernatorial moratoria prohibiting executions. An additional 12 states have not carried out an execution in at least 10 years. Executions and new death sentences have both sharply declined, falling to 25 or fewer per year for each of the last five years, compared to a record high in 1999 of 98 executions. New death sentences have also fallen below 50 per year over the last five years, in comparison to the mid-1990s when 300 new death sentences were the norm. In 2019, the annual Gallup polls on the death penalty showed a record high number of people who support sentences other than the death penalty and a record low number of people who believe that this irrevocable punishment is applied fairly.

This decline in public support stands in stark contrast to what has happened recently at the federal level, as the Trump Administration resumed executions for the first time in 17 years, in the midst of a global pandemic. In 2019, the Department of Justice (DOJ) issued a new lethal injection protocol, and with it, five federal execution dates were originally set to take place between 2019 and 2020. Between July 2020 and January 2021 Trump Administration carried out three time more federal executions than had been carried out by the federal government in the prior six decades.

Today, people of color comprise 60 percent of those on federal death row, and most of those people of color are Black. Nearly half of the people on federal death row were sentenced to death in just three states: Texas, Missouri, and Virginia. The racial disparities in those jurisdictions are striking: all of the federal sentences from Virginia, all of the federal sentences from the Eastern District of Missouri, and three-quarters of the federal death sentences from Texas were imposed against people of color. Black federal defendants are still being sentenced by all white juries. Nationally, people of color have a higher risk of wrongful death sentences and executions. A majority of the 174 people who have been exonerated of all charges related to the wrongful convictions that initially put them on death row nationwide have been people of color, and most of those people are Black.

As the federal government seeks to reimagine public safety and reject approaches that victimize communities of color and reinforce structural racism, the death penalty must be closely examined by this committee and ultimately rejected.

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Amnesty International's experts stand ready to provide briefings on any issues outlined above. Should you have any questions, please do not hesitate to contact me at (202) 281-0017 or jlin@aiusa.org.

Sincerely,



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