

END THE HARMFUL AND UNJUST DETENTION OF IMMIGRANTS AND ASYLUM-SEEKERS

ALL MEMBERS OF CONGRESS SHOULD REJECT THE INHUMANE AND PROFIT-DRIVEN SYSTEM OF ARBITRARY, MASS IMMIGRATION DETENTION IN FAVOR OF A MORE TRANSPARENT AND ACCOUNTABLE APPROACH THAT MOVES THE U.S. TOWARD ADHERING TO ITS HUMAN RIGHTS OBLIGATIONS BY MAKING DETENTION THE EXCEPTION, NOT THE RULE, AND UTILIZING JUST AND HUMANE COMMUNITY-BASED PROGRAMS THAT HAVE BEEN DEMONSTRATED TO WORK.

Every day, tens of thousands of immigrants and asylum-seekers are held in a sprawling network of over 200 immigration detention facilities throughout the country while they fight for their right to stay in the United States.

Spending months or even years behind bars, immigrants and asylum-seekers in detention have limited access to legal counsel and are detained far from their loved ones in remote locations, in conditions that are oftentimes abusive and sometimes even deadly. Black and brown immigrants make up the overwhelming majority of people detained by Immigration and Customs Enforcement (ICE). The COVID-19 pandemic has only heightened the dangers of detention as the illness continues to sweep through facilities under ICE's watch, and at least nine people have died due to COVID-19 in detention.

Immigration detention has also become a booming business: 70 to 80 percent of facilities are run by for-profit corporations, which are notorious for poor treatment of people in ICE detention, including unsafe and unsanitary conditions, reports of assault and abuse, negligent medical care, and excessive use of solitary confinement. In the past 15 years, the vast majority of deaths in custody have taken place in ICE facilities run by private prison companies.

The Dignity for Detained Immigrants Act (H.R. 2222, S. 1186) sets out a transformative vision and practical framework to address these harms and brings the U.S. more in line with our human rights obligations by:

- **Establishing a presumption of liberty for all.** The Act requires detained immigrants have a custody hearing within 48 hours in which there is a presumption that they will be released. The Act puts the burden on the government to prove using clear and convincing evidence that someone must remain in detention in order to protect public safety or ensure their presence in court. This will result in a total overhaul of immigration detention, ending the mass detention system as we know it today.
- **Making detention the exception, not the rule.** Right now, many migrants are subject to “mandatory” detention – meaning they are forced to remain behind bars for the months or years their proceedings may take to complete without being allowed to seek bond. The Act eliminates mandatory detention and requires judges to conduct fair and timely bond hearings for all detained immigrants and asylum-seekers.
- **Protecting groups at risk of human rights violations from detention.** The Act creates an even higher standard to ensure that vulnerable groups – including asylum-seekers who have passed initial screenings, families with children, pregnant people, LGBT immigrants, and survivors of torture or gender-based violence – do not end up in detention. It requires the government to prove, before detaining vulnerable populations, that detention is absolutely necessary and that community-based supervision alternatives won't work. Right

now, people in these groups often spend months and even years in detention, which can be irreversibly traumatic for them and their families.

- **Promoting community-based case support instead of detention.** The Act also promotes access to community-based case management support programs for those that need them, which are more humane and cost effective. The U.S. government has previously found that people participating in its case management programs appeared at their immigration hearings in 99.6 percent of cases. Community-based case management helps immigrants and asylum-seekers find legal representation, guides them through the court system, and connects them with other community resources.
- **Eliminating for-profit immigration detention.** The Act eliminates the use of private prisons and jails for ICE detention, giving the Department of Homeland Security (DHS) three years to phase out their use. This will end profiteering incentives which helped drive the expansion of immigration detention to a historic high of over 50,000 people detained during the Trump administration.
- **Increasing transparency and accountability and ending the use of solitary confinement.** The Act dramatically reduces the use of immigration detention and in the few cases where DHS will continue to detain immigrants and asylum-seekers, the Act mandates new civil detention standards for humane treatment, including a ban on solitary confinement, and strengthens oversight, transparency, and accountability across the system.

AIUSA RECOMMENDATIONS TO CONGRESS

- **Cosponsor the Dignity for Detained Immigrants Act (H.R. 2222, S. 1186).** The bill is a visionary measure and pragmatic framework that eliminates the blanket use of immigration detention, promotes humane alternatives, eliminates the profit motive in detention, end solitary confinement, and strengthens transparency and accountability.
- **Call on the Biden administration to free people from ICE detention.** Detention levels have sharply and needlessly risen this year, the ongoing COVID-19 pandemic has made detention facilities especially deadly, and the continued mass detention of Black and brown people perpetuates the systemic harms of racial inequity. There are rights-respecting alternatives for people that need that support going through the immigration court process.

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