

Dear Members of Congress,

We, the undersigned organizations, have repeatedly raised concerns about the mistreatment and deprivation of due process rights of migrants being held in the custody of the US Immigration and Customs Enforcement (ICE). We write again to reiterate our deep and urgent concern about the treatment of detained migrants across the nation, specifically the nine Punjabi Sikh hunger-strikers formerly held at the El Paso Service Processing Center (EPSPC) and other similarly situated detained individuals from other parts of the globe.

In mid-January and early February of this year, nine asylum-seeking Sikh men from Punjab, India were brutally force-fed at the EPSPC.¹ They suffered a myriad of civil rights and other abuses, including medical neglect and mistreatment, cruel treatment, inappropriate use of solitary confinement, denial of religious accommodations, and a lack of language access.

On February 7, sixteen members of Congress called on ICE to halt the force feeding.² On February 19, your office was one among 49 that called on ICE to investigate force-feeding.³ Prompted by your letter, the Department of Homeland Security's (DHS) Office of Inspector General (OIG) conducted an investigation that involved interviewing the men who were force fed. To date, an OIG report detailing the results of that investigation has yet to materialize.

On February 12, 2019 and April 1, 2019, the Sikh Coalition wrote to the DHS OIG outlining the mistreatment and deprivation of due process rights of Punjabi Sikhs held in ICE custody. On February 8, 2019, South Asian Americans Leading Together (SAALT), Sikh Coalition, Advocate Visitors with Immigrants in Detention (AVID), Detained Migrant Solidarity Committee (DMSC), and 23 national and local immigrant and civil rights organizations wrote to the Secretary of the DHS outlining the litany of civil rights violations faced by the nine Sikh men from Punjab detained in the EPSPC. This letter was turned over to the Civil Rights and Civil Liberties (CRCL) division of the DHS.

Other organizations have similarly commented on the abuses faced in ICE detention. For instance, the U.S. Commission on Civil Rights (USCCR) has documented civil rights

¹ Burke and Mendoza, "AP NewsBreak"; Moore, "Citing Inhumane Conditions, Detained Asylum Seekers in El Paso Go On Hunger Strike"; Washington, "Inside an ICE Detention Center, Indian Detainees Continue Their Hunger Strike"; Brown Vega and Craig, "A New Horror."

² Escobar, Bonamici, and 14 other members of Congress, "Call to Halt Force Feeding of ICE Detainees."

<https://escobar.house.gov/sites/escobar.house.gov/files/Letter%20to%20Acting%20Director%20Vito%20ello.pdf>

³ Escobar, Bonamici, and 47 other members of Congress, "Concerns Regarding Force Feeding of Hunger Strikers in ICE Detention."

<https://escobar.house.gov/sites/escobar.house.gov/files/Letter%20to%20DHS%20Forced-Feeding.pdf>

concerns with U.S. immigration policies and practices for nearly forty years.⁴ The USCCR's 2015 statutory enforcement report on ICE detention detailed a litany of civil rights abuses, and in his remarks the commission chairman repeatedly described ICE detention as constituting "torture like" conditions.⁵ The findings of the USCCR mirror the complaints made by the nine hunger-striking Punjabi Sikhs highlighted in our coalition's letters of complaint. As your February 19 letter makes clear, force feeding is a "cruel and inhumane practice" that may violate the Convention Against Torture.

AVID, the Sikh Coalition, SAALT, DWN, and other organizations diligently worked with CRCL in an attempt to resolve civil rights violations occurring in ICE detention facilities. However, after just two meetings it became abundantly clear that CRCL lacked the appropriate oversight mechanisms to rectify the matter, as their investigations are subject to prolonged timelines and result only in advisory recommendations that ICE is not required to implement. Importantly, DHS's own OIG is similarly constrained and can provide only advisory recommendations based upon their inspections of ICE's detention facilities. As a result, advocates are left to turn to Congress and ICE to seek resolution on matters related to immigrant detention.

Your office was instrumental in securing the release of two of the men who remained on hunger strike for nearly 80 days. Three other men, having ended their hunger strike after 60 days, remained in detention. Our coalition has been working to secure the release of these three men through legal channels. However they, along with four additional men who were earlier removed within days of ending their months' long hunger strike, have now been removed. All nine of these men suffered clear civil rights violations, for which your office requested an investigation, and these victims will no longer be able to provide information about the abuses they suffered and pursue legal remedies for the wrongs they experienced at the hands of ICE.

While we appreciate and value the work undertaken by some members of Congress, what has emerged is the urgent need for Congress to ensure: (1) that the appropriate oversight mechanisms are put in place, (2) that human rights violations and abuses at the hands of immigration officials are addressed in a timely manner, and (3) that abuses cannot be repeated or exacerbated.

We remain deeply troubled by the federal government's lack of timely response in addressing serious allegations of civil rights and humanitarian violations, such as medical neglect, lack of language access, denial of religious accommodations, use of solitary confinement, and the like. Rather than work to provide a timely resolution to the repeated wrongs inflicted upon detained individuals, the federal government has chosen to deport

⁴ USCCR, "Summary of Migrant Civil Rights Issues Along the Southwest Border"; USCCR, "The Tarnished Golden Door: Civil Rights Issues in Immigration"; USCCR, "With Liberty and Justice for All: The State of Civil Rights at Immigration Detention Facilities."

⁵ USCCR, "With Liberty and Justice for All: The State of Civil Rights at Immigration Detention Facilities." pg 149-152

these individuals, depriving them of the ability to obtain recourse for the harm they suffered. Further, the deportation of these individuals prevents the government from conducting meaningful investigations into the allegations of wrongdoing since they are no longer available to be interviewed. Worse, these men and other detained individuals who were deprived of due process and lacked adequate access (language, medical, and language), were returned to their countries of origin, where they will potentially suffer the same harms that caused them to seek asylum.

Because of the negative outcomes in their immigration proceedings, some of these men are presently living in hiding in India. This fact raises serious questions about the integrity of the EPSPC immigration court and underscores the reasons it has been dubbed an “asylum free zone.”⁶ The American Immigration Lawyers Association (AILA) has expressed significant concerns regarding due process issues at the EPSPC immigration court.⁷ In 2018, citing the general dysfunction of the Department of Justice (DOJ) Executive Office for Immigration Review (EOIR) and lack of due process protections in immigration proceedings, AILA called on Congress to completely overhaul immigration courts and to create a new system that falls under Article I of the Constitution.⁸ On April 3, 2019, AILA and the American Immigration Counsel raised additional concerns about a lack of due process within the EPSPC immigration court.⁹ These hunger strikers were concerned about the same due process issues raised by these complaints.

The DOJ has oversight over the EOIR and the immigration court system and must do more to incorporate due process protections for detained individuals when outstanding complaints and investigations are being conducted on behalf of a detained individual’s allegations of wrongful action. Yet, far too often, the DOJ allows immigration courts to issue deportation orders against individuals who have filed legitimate civil rights claims against ICE. As a result, the complainant is unable to seek recourse and unable to continue providing assistance in any ongoing investigations into misconduct. Thus, immigration officials are provided unfettered discretion to abuse detained individuals with no repercussions, and advocates are rendered powerless to stop these abuses from reoccurring.

For example, it came to our attention that Sikhs detained at the EPSPC and Otero County Processing Center (OCPC) facilities lacked appropriate access to vital documents, such as the National Detainee Handbook (NDH), translated into Punjabi. While working with CRCL

⁶ Washington, “These Jurisdictions Have Become ‘Asylum Free Zones.’” Langford, “Lawyers Blast ‘Hostility’ in Texas Immigration Court.”

⁷ AILA, “Administrative Complaint Regarding El Paso Service Processing Center Immigration Court Judges.” <https://www.aila.org/infonet/complaint-highlights-due-process-violations>

⁸ AILA, “AILA Statement on Strengthening and Reforming America’s Immigration Court System Hearing.” <https://www.aila.org/advo-media/press-releases/2018/aila-statement-on-strengthening-and-reforming>

⁹ AILA and AIC “Administrative Complaint Regarding El Paso Service Processing Center Immigration Court” (April 3, 2019), <https://www.aila.org/infonet/complaint-highlights-due-process-violations>.

to address inadequacies in language access for Punjabi-speaking detainees, the Sikh Coalition was informed that the NDH had already been translated into Punjabi. However, individual facilities were unaware that it existed in languages other than English and Spanish. Upon review, the Sikh Coalition found that the NDH was not translated in a comprehensible manner. As a result, we are engaging with ICE to correct translation errors in the hopes that detainees are informed of their most basic rights while in custody and that facilities know what languages the NDH has been translated into.

It is important to note, though, that the NDH is not the only set of rules detained individuals must follow. Each detention facility also has its own set of rules. It is our understanding that these facility-specific rules at EPSPC and OCPC have not been translated into Punjabi. The failure to provide written rules to detained individuals in a language they can understand often results in misunderstanding of facility rules, which can lead to harsh and unnecessary disciplinary action, including solitary confinement, a problem that was noted in at least one OIG report.¹⁰

Moreover, we remain concerned about the quality of the interpreters being provided within ICE detention facilities and in immigration courts. These concerns relate to both in-person and electronic interpretation services. Recent news of the Trump Administration's plans to end in-person interpreters at initial immigration court hearings further jeopardizes due process rights and adds to the confusion of an overly complicated immigration court system.

The failure to provide in-person interpretation services severely impairs a person's ability to present his or her case and to communicate effectively with counsel and immigration judges.¹¹ The inability to speak confidentially to one's attorney or to advise one's attorney and/or the immigration judge of relevant information can result in dire consequences, including the inability to obtain bond and have one's asylum claim properly adjudicated. Even though immigration cases are considered civil in nature, the effect of deportation is severe, particularly for those at risk of harm in their countries of origin. It is essential that immigrants be given the opportunity to fully and fairly present their cases in court, and this can only be done if they are able to communicate effectively. Thus, providing competent, in-person interpreters is necessary for all phases of the immigration process.

Plans to provide only video recitations of rights are an even more egregious violation of due process rights. If this plan goes forward, non-English speakers will not even be

¹⁰ Office of the Inspector General, *Concerns about ICE Detainee Treatment and Care at Detention Facilities* (Dec. 11, 2017) at pp 4-5, 6-7.

¹¹ Other organizations have filed administrative complaints regarding the failure to provide language access in immigration courts. See, e.g. the April 3, 2019 administrative complaint filed by the American Immigration Counsel and American Immigration Lawyers' Counsel with the Department of Justice, available at <https://www.aila.org/infonet/complaint-highlights-due-process-violations>. See also, Southern Poverty Law's March 7, 2018 administrative complaint filed with the Department of Justice detailing problems with electronic interpretation in immigration courts, available at: https://www.splcenter.org/sites/default/files/20180307_eoir_complaint_letter.pdf.

provided the opportunity to ask clarifying questions about their rights, and it will be impossible to determine if these people understand the rights and processes that have been explained. It will also be impossible for them to ask questions or provide information to the immigration judge. Those who have managed to retain attorneys may be unable to communicate with their legal counsel. The DOJ should not be permitted to neglect the due process rights of detained individuals, nor should the agency be allowed to turn a blind eye towards misconduct by immigration judges and enforcement agencies. It is exactly this neglect and misconduct that created a situation where these nine Sikh men had little recourse but to go on hunger strike. The force-feeding received the most attention, but they were victims of the civil rights violations detailed here well before they were subjected to force-feeding.

Historically, the U.S. Supreme Court has deferred to Congress in determining applicability of constitutional protections in the realm of immigration law. What is clear is that Congress has collectively failed to provide the necessary legal framework and oversight to ensure detained migrants are treated with dignity and respect and are provided a fair opportunity to have their cases heard.

Due process dictates that the government must operate under a clearly defined set of standards to protect the personal liberties of individuals, regardless of their country of origin. Unfortunately, Congress has repeatedly failed to properly exercise its oversight and legislative authority to address the systemic issues on immigration enforcement and detention.

The undersigned organizations call upon Congress to take necessary steps to obtain full information about how this Administration's immigration enforcement and detention policies are being implemented, including conducting hearings and mandating regular reporting from the Administration regarding key aspects of these policies. We call on your office to exert pressure on the DHS OIG to release the results of the investigation of force-feeding that your office called for.¹² We also request that Congress exercise its oversight power over the DOJ, the DHS, and other federal agencies to ensure that the civil and human rights of detained individuals in the care and custody of the U.S. government are investigated and remedied in a timely, fair, and reasonable manner.

Signed,

The Sikh Coalition
South Asian Americans Leading Together (SAALT)
Advocate Visitors with Immigrants in Detention (AVID)
NAACP
ADL (Anti-Defamation League)
Southern Poverty Law Center

¹² Escobar, Bonamici, and 47 other members of Congress, "Concerns Regarding Force Feeding of Hunger Strikers in ICE Detention."

Asian Americans Advancing Justice | AAJC
American-Arab Anti-Discrimination Committee (ADC)
Sakhi for South Asian Women
DRUM - Desis Rising Up & Moving
Defending Rights & Dissent
Partnership for the Advancement of New Americans
T'ruah: The Rabbinic Call for Human Rights
Apna Ghar, Inc.
Sikh American Legal Defense and Education Fund (SALDEF)
National Center for Transgender Equality
Sadhana: Coalition of Progressive Hindus
South Asian Youth Action (SAYA)
Project South
Reformed Church of Highland Park
American Muslim Empowerment Network
Detained Migrant Solidarity Committee
Japanese American Citizens League
Freedom for Immigrants
Detention Watch Network
Muslim Public Affairs Council (MPAC)
NQAPIA
Jews Against Anti-Muslim Racism (JAAMR)
Asian Americans Advancing Justice - Atlanta
Advancing Justice - Asian Law Caucus
Alliance of South Asians Taking Action
South Asian American Policy & Research Institute (SAAPRI)
Arab American Association of New York
Asian Americans Advancing Justice-LA
Service Employees International Union (SEIU)
The Revolutionary Love Project

Cc: Representative Suzanne Bonamici, Representative Veronica Escobar, Representative Jerrold "Jerry" Nadler, Representative Bennie G. Thompson, Representative Zoe Lofgren, Representative Judy Chu, Representative José E. Serrano, Representative Barbara Lee, Representative Ilhan Omar, Representative Darren Soto, Representative Tulsi Gabbard, Representative Debra Haaland, Representative Susan A. Davis, Representative David Trone, Representative Donald S. Beyer Jr., Representative Earl Blumenauer, Representative Dan Kildee, Representative James P. McGovern, Representative Ted W. Lieu, Representative Andy Levin, Representative Ro Khanna, Representative Alan Lowenthal, Representative Gregory W. Meeks, Representative Carolyn B. Maloney, Representative Linda T. Sanchez, Representative Betty McCollum, Representative Nydia M. Velázquez, Representative Juan Vargas, Representative Gwen Moore, Representative Henry C. "Hank" Johnson, Jr., Representative David N. Cicilline, Representative Nanette

Diaz Barragán, Representative Eleanor Holmes Norton, Representative, Representative Adriano Espaillat, Representative Rashida Tlaib, Representative Syvia Garcia, Representative Al Green, Representative, Representative, Representative Adam Smith, Representative Bonnie Watson, Representative Coleman, Representative Ted Deutch, Representative Grace Meng, Representative Jan Sohakowsky, Representative Norma J. Torres, Representative Alexandria Ocasio-Cortez, Representative Pramila Jayapal, Representative Frank Pallone, Jr., Representative Albio Sires, Representative Rosa DeLauro, Representative Diana DeGette

House Committee on Homeland Security, House Committee on Oversight and Reform, House Judiciary Committee, Senate Homeland Security and Governmental Affairs Committee, Senate Committee on the Judiciary, American Sikh Congressional Caucus