

## US Immigration Enforcement and US Obligations Under the International Convention on the Elimination of Racial Discrimination (ICERD)

Written Testimony Submitted to the US State Department and other Federal Agencies  
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Thank you for this opportunity to provide information and raise questions about US immigration enforcement and US obligations under the International Convention on the Elimination of Racial Discrimination (ICERD). Human Rights Watch recognizes the Biden administration's [Executive Order 13985](#), and the administration's several reversals of abusive immigration policies that had been in place under the previous administration. However, on a daily basis the US enforces its immigration laws in ways that are racially discriminatory in purpose or effect in violation of ICERD.

Article 5 of ICERD guarantees equality before the law. Yet, at the federal level, the US government uses [criminal provisions punishing illegal entry](#) into the US that were enacted with [racially discriminatory intent and have racially disparate impacts](#). ICE disproportionately places Black migrants in solitary confinement (as documented in a [2020 study](#)) and according to a [2021 study](#) in Louisiana, Black migrants experience disproportionately long periods in ICE detention. At the state level, in Texas, [Operation LoneStar continues](#) to target people based on their perceived ethnic and racial background for [disparate and abusive treatment](#), including lengthy periods of pretrial detention.

With regard to deportation, the Committee on the Elimination of Racial Discrimination has repeatedly reiterated the requirements that deportation laws not discriminate on the basis of race or ethnic origin and that non-citizens not be returned to a country where they are at risk. While acknowledging the administration's efforts (now stalled due to litigation) to end Title 42 and the Migration Protection Protocols (MPP), I would like to point out that these requirements of non-discrimination and non-return to harm continue to be [violated by Title 42 border expulsions](#) and by returns of individuals to Mexico under the [MPP](#), both of which disproportionately affect Black and Latinx migrants.

Further, Human Rights Watch has shown in several investigations that the United States consistently returns Black and Latinx migrants to countries where they are at risk. We have documented such cases in [Honduras](#), [El Salvador](#), [Mexico](#), and [Haiti](#). Recently, in February 2022, [we reported on](#) the cases of Cameroonian asylum seekers who were deported by the US to face arbitrary arrest and detention, rape, torture and other abuse. These deportations occurred after US immigration procedures rife with due process problems and fact-finding inaccuracies and after migrants were confined in ICE detention where they experienced excessive use of force, prolonged detention, and other mistreatment. All of these abuses contradict the recommendations of the Committee on the Elimination of Racial Discrimination.

Finally, on data, Article 2(c) of ICERD requires states parties to "take effective measures" to make sure all government policies do not violate the treaty, which cannot be accomplished without accurate data. EO 13985 makes a similar point. Unfortunately, the US government does not publish or collect adequate data about border deaths, distress calls, and other border enforcement actions, other immigration enforcement, detention, use of force incidents, removals, or Department of

Homeland Security Civil Rights and Civil Liberties complaints or investigations, [disaggregated by race](#), ethnicity, nationality, immigration status and other case type criteria. We urge you to do so.

We respectfully insist that the United States needs to do better to end policy failures and immigration enforcement actions that violate US obligations under ICERD. Thank you for the opportunity to raise these concerns.