

# FLORIDA: A SHADOW OVER THE SUNSHINE STATE

A SHADOW REPORT TO THE  
UNITED NATIONS HUMAN RIGHTS COMMITTEE  
FOR ITS REVIEW OF THE 5TH PERIODIC REPORT  
OF THE UNITED STATES OF AMERICA  
UNDER THE INTERNATIONAL COVENANT  
ON CIVIL AND POLITICAL RIGHTS

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SEPTEMBER 12, 2023



Novo Collegian Alliance



COMMUNITY  
JUSTICE  
PROJECT

## **I. Reporting Organizations**

This report is submitted by the following organizations: Dream Defenders, Florida Rising, Power U, Novo Collegian Alliance, SURJ and Community Justice Project.

Dream Defenders came together following the 2012 murder of teenager Trayvon Martin in Sanford, Florida, and is now a statewide organization focused on ending policing, criminalization and the prison industrial complex.

Florida Rising builds independent political power that centers historically marginalized communities so everyday Floridians can shape the future.

Power U is a Miami-based non-profit that organizes Black and Brown youth to fight against the school-to-prison pipeline, unjust education policies and gender violence.

Novo Collegian Alliance provides support for the alumni, students, staff, faculty, and allies working to maintain the essence of New College of Florida.

Showing Up for Racial Justice (“SURJ”) is a network organizing white people for racial and economic justice.

Finally, Community Justice Project is a movement lawyering organization that uses the law and arts to support organizing for racial justice and human rights in Florida.

## **II. Introduction and Issue Summary**

*“...freedom to seek, receive and impart information and ideas of all kinds...”*

-ICCPR Article 19(2)

*“...incitement to discrimination, hostility or violence shall be prohibited by law.”*

- ICCPR Article 20(2)

We are submitting this report in light of the alarming and rapidly metastasizing developments in Florida under Governor Ron DeSantis. As we explain below, in a country that has long touted its respect for civil and political rights, Florida has lamentably become the model for authoritarian tactics that undermine multiple rights under the International Covenant on Civil and Political Rights. While the United States calls itself a leader in human rights, it is allowing a dramatic backslide on rights related to fundamentals of freedom of expression in Florida.

Since early 2019, Florida has turned into a laboratory for authoritarian experiments that should sound the alarm bells at the state, national and international levels. This is because these forms of authoritarian administrative acts easily replicable. They threaten democracy in Florida and have served as models for similarly repressive, anti-democratic projects in other states. Most notably, perhaps, Governor DeSantis has executed a calculated attack on freedom of expression, assembly and association, targeting social movements led by Black, immigrant and LGBTQ+ communities, dissenters and even private businesses that speak out against his administration's policies.<sup>1</sup>

Florida has pioneered draconian anti-protest laws in direct response to Black-led protest movements.<sup>2</sup> These laws were a reaction to racial justice protests that took place in the summer of 2020, following the murders of George Floyd, Breonna Taylor and others by police. Not only did these laws attempt to chill speech and assembly, they served as tools to foment and legalize violence against Black protestors.<sup>3</sup> These repressive anti-protest laws have been replicated throughout the country—as Florida lawmakers intended—most recently, and perhaps unexpectedly, in North Carolina.<sup>4</sup> Grassroots leaders in Florida understood that Florida's anti-protest law would not be the end of this agenda, but they could not predict the expansive reach his agenda would have or indeed how repressive the laws would become. Florida government, under the DeSantis Administration, has attempted to wield its authoritarian power over thought and political expression throughout all areas and levels of government, expanding control through local school administrations to multi-county prosecutor offices to the statewide legislature.

This report focuses on two tactics that the Florida government, under the DeSantis Administration, has deployed to stifle expression, assembly and association and to accomplish its related anti-democratic goal of disempowering dissenters: (1) infringement on expression in order to shift political power or restrict truth-telling about American history; and (2) criminalization and

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<sup>1</sup> Pema Levy, *Ron DeSantis Is All In—on Creating an American Autocracy*, Mother Jones, <https://www.motherjones.com/politics/2023/05/ron-desantis-autocracy/> (July & August 2023).

<sup>2</sup> In a shockingly contrary response, Governor DeSantis recently stated that he would consider presidential pardons for Proud Boys and other white supremacists convicted in relation to the January 6, 2021 attack on the United States Capitol. A.G. Gancarski, *Ron DeSantis floats 'pardons and commutations' after Proud Boy sentenced to 22 years*, Florida Politics, <https://floridapolitics.com/archives/633161-pardons-and-commutations/> (September 6, 2023).

<sup>3</sup> See An Urgent Submission to the United Nations Special Rapporteur on the Rights of Peaceful Assembly and Association Regarding Florida's HB1 (April 9, 2021) (*available at* <https://static1.squarespace.com/static/54179ca4e4b0b0c7bc710d3d/t/6070c8b546920a7a41ad9f7f/1618004149930/HB+1+UN+Submission.pdf>).

<sup>4</sup> Avi Bajpai, *Tougher penalties for rioting become law in NC, as Gov. Cooper declines to block them*, The News and Observer, <https://www.newsobserver.com/news/politics-government/article273283545.html> (March 19, 2023).

stoking fear in marginalized communities in order to restrict freedom of expression, assembly and association. The explicit and implicit goals of each of these tactics is to enshrine discrimination across institutions. This report not only details the contours of the policies that contravene obligations under the ICCPR, but it also includes personal stories to illustrate the impact these policies have had on the ability of students, teachers and other individuals to enjoy the rights protected under the treaty.

### III. Legal Framework

ICCPR Article 19(2) states: “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

ICCPR Article 21 states: “The right of peaceful assembly shall be recognized.”

ICCPR Article 22 states: “Everyone shall have the right to freedom of association with others.”

Further, and perhaps most pressingly in light of recent murders in Jacksonville motivated by hate,<sup>5</sup> ICCPR Article 20(2) states: “Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.” Despite that, the Florida government has enacted laws that allow such hatred to flourish. And while Articles 19 through 22 address some appropriate limits to the rights therein (namely, security and respect of others), those limits are acknowledged as necessary to an effort to *increase* overall freedom of expression, assembly and association.

Importantly for this Committee, the frightening rise in state-led hostility towards and recent anti-democratic restrictions on expression, assembly and association in Florida discussed below were *designed* to stifle opposing viewpoints and return society to a period when civil rights were not valued or widely extended to historically marginalized people, including Black and LGBTQ+ community members.

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<sup>5</sup> Alex Binley, *Jacksonville shooting: Racist gunman kills three black people in Florida store*, BBC News, <https://www.bbc.com/news/world-us-canada-66630263> (August 27, 2023).

#### **IV. Infringement on Expression, Assembly and Association: Laws push Florida’s most marginalized community members out of public spaces.**

##### **a. Attacks on Public Education**

The so-called “culture wars” in Florida have played out perhaps most notably in the school setting, where efforts to control content have threatened students, parents and even private corporations.<sup>6</sup> The impact has been devastating: school libraries emptied of books for “review,” curricula banned, educators and the most vulnerable students pushed out.

The primary and secondary public education system has been targeted by the Florida government in efforts to exclude critical conversations about race or gender with the ultimate goal of erasing Black and LGBTQ+ communities. These include a law purportedly focused on “Parental Rights in Education” (and more commonly known as the “Don’t Say Gay” bill) that passed in 2022 and restricts conversations in school about gender identity and sexual orientation<sup>7</sup> and the July 2023 adoption of new curriculum standards<sup>8</sup> that include instruction on “how slaves developed skills which, in some instances, could be applied for their personal benefit.”<sup>9</sup>

During the 2022 legislative session, Florida leaders approved the Individual Freedom Act, which is, in a show of political transparency, also known as the Stop WOKE Act. The bill restricts certain teachings and employee trainings related to aspects of race and sex (among other subject areas) and is a direct attack on racial justice and Diversity, Equity and Inclusion efforts. According to the law, “required instruction, instructional materials, and professional development in public schools must be consistent with the following principles” including:

- Meritocracy or traits such as a hard work ethic are not racist but fundamental to the right to pursue happiness and be rewarded for industry.

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<sup>6</sup> Elizabeth Blair, *After protests, Disney CEO speaks out against Florida’s ‘Don’t Say Gay’ bill*, NPR, <https://www.npr.org/2022/03/08/1085130633/disney-response-florida-bill-dont-say-gay> (March 10, 2022); Jesus Jimenez and Brooks Barnes, *What We Know About the DeSantis-Disney Dispute*, <https://www.nytimes.com/article/disney-florida-desantis.html> (March 19, 2023).

<sup>7</sup> House Bill 1557 (2022), Parental Rights In Education, *available at* <https://www.flsenate.gov/Session/Bill/2022/1557>.

<sup>8</sup> Florida State Academic Standards – Social Studies 2023, *available at* <https://www.fldoe.org/core/fileparse.php/20653/urlt/6-4.pdf>.

<sup>9</sup> *Id.* at 6; Gloria Aladipo and Maya Yang, *Kamala Harris condemns Florida over curriculum claim of slavery ‘benefit’*, The Guardian, <https://www.theguardian.com/us-news/2023/jul/21/kamala-harris-florida-schools-black-history-slavery> (July 21, 2023).

- A person, by virtue of his or her race or sex, does not bear responsibility for actions committed in the past by other members of the same race or sex.
- A person should not be instructed that he or she must feel guilt, anguish, or other forms of psychological distress for actions, in which he or she played no part, committed in the past by other members of the same race or sex.

In an order granting a preliminary injunction of the Stop WOKE Act, Federal Judge Mark Walker repudiated the law: “Florida’s Legislators may well find Plaintiffs’ speech repugnant. But under our constitutional scheme, the remedy for repugnant speech is more speech, not enforced silence... If Florida truly believes we live in a post-racial society, then let it make its case. But it cannot win the argument by muzzling its opponents.”<sup>10</sup> In a later appellate proceeding, a lawyer representing Florida admitted that the law was designed to block speech “even if [the listener] would, misguidedly, welcome it.”<sup>11</sup>

And despite the law being preliminarily enjoined, its chilling effects on teachers and students prevail.<sup>12</sup> The calculated and deliberate impact of the Stop WOKE Act is in contravention of ICCPR Article 19(2), guaranteeing the “freedom to seek, receive and impart information and ideas of all kinds...”

#### **i. Ebony Felton, age 18, Power U Center for Social Change**

Ebony Felton is 18 and in her last year at Miami Northwestern Senior High School, a predominantly Black school in Miami-Dade County. She has seen the impact of curriculum restrictions in her own classes, but also worries about their bigger impact. “It’s upsetting because history is important and makes connections to what is happening in front of us. I’m very scared about where education is headed

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<sup>10</sup> Preliminary Injunction Order, *Honeyfund.com, Inc. v. DeSantis*, 622 F. Supp. 3d 1159 (N.D. Fla. 2022), Doc. 55.

<sup>11</sup> See Jason Garcia, *A lawyer for Ron DeSantis revealed the real motive behind one of Florida’s most controversial laws*, Seeking Rents Substack, <https://jasongarcia.substack.com/p/a-lawyer-for-ron-desantis-revealed> (August 31, 2023).

<sup>12</sup> Some school districts in Florida have interpreted new state laws as requiring that books be removed or vetted, while in others, teachers have felt pressure to do so with or without specific direction. See Tesfaye Negussie and Rahma Ahmed, *Florida schools directed to cover or remove classroom books that are not vetted*, ABC News, <https://abcnews.go.com/Politics/florida-schools-directed-cover-remove-classroom-books-vetted/story?id=96884323> (February 6, 2023).

right now in Florida,” she said. “Even now, there have been attacks on psychology<sup>13</sup> because it connects with sexual orientation and that is facing bans. Every aspect of our education is being censored.”

Ms. Felton is a member of Power U and concerned about the young people who will still be in school in Florida after she graduates this year. “School won’t feel like a safe space anymore, especially talking about being Black or queer. Whatever we did have in school, that is eroding away,” Ms. Felton said. “We can’t even talk about sexual orientation and we can’t talk about race. It’s going to be especially scary for Black kids who go to predominantly white schools.”

Earlier in the year, Florida had already rejected Advanced Placement African American Studies, asserting that the program “lacks educational value.”<sup>14</sup> According to the Florida government, the program would also have violated the Stop WOKE Act.<sup>15</sup> Recent reports on the feedback from course reviewers in Florida reveal that in addition to objecting to specific content on Black Queer Studies,<sup>16</sup> reviewers took issue with the curriculum’s lack of presentation of “opposing viewpoints” on slavery.<sup>17</sup>

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<sup>13</sup> “We are sad to have learned that today the Florida Department of Education has effectively banned AP Psychology in the state by instructing Florida superintendents that teaching foundational content on sexual orientation and gender identity is illegal under state law. The state has said districts are free to teach AP Psychology only if it excludes any mention of these essential topics.

“The AP course asks students to ‘describe how sex and gender influence socialization and other aspects of development.’ This element of the framework is not new: gender and sexual orientation have been part of AP Psychology since the course launched 30 years ago.” College Board, Statement on AP Psychology and Florida, <https://newsroom.collegeboard.org/statement-ap-psychology-and-florida> (August 3, 2023).

<sup>14</sup> Kelly McCleary and Tina Burnside, *Changes are coming to AP African American Studies course that’s faced criticism from Florida governor*, CNN, <https://www.cnn.com/2023/04/25/us/african-american-studies-ron-desantis/index.html> (April 25, 2023).

<sup>15</sup> Samantha Putterman, *PolitiFact FL: DeSantis says he removed CRT from K-12 schools. Districts say it wasn’t taught*, WUSF News, <https://wusfnews.wusf.usf.edu/education/2023-08-14/politifact-fl-desantis-says-removed-crt-from-k-12-schools-districts-say-wasnt-taught> (August 14, 2023).

<sup>16</sup> Dana Goldstein, *Inside the College Board’s Revised African American Studies Curriculum*, The New York Times, <https://www.nytimes.com/2023/02/01/us/ap-african-american-studies-course.html> (February 2, 2023)

<sup>17</sup> Ana Ceballos and Alyssa Johnson, *Florida reviewers of AP African American Studies sought ‘opposing viewpoints’ of slavery*, Miami Herald, <https://www.miamiherald.com/news/local/education/article278582149.html> (August 31, 2023).

In [a] lesson about the beginnings of slavery, the course delved into how tens of thousands of enslaved Africans had been ‘removed from the continent to work on Portuguese-colonized Atlantic islands and in Europe’ and how those ‘plantations became a model for slave-based economy in the Americas.’

In response, the state raised concerns that the unit ‘may not address the internal slave trade/system within Africa’ and that it ‘may only present one side of this issue and may not offer any opposing viewpoints or other perspectives on the subject.’<sup>18</sup>

Alexander Weheliye, African American studies professor at Brown University, has framed this response as part of a historical effort to distort facts: “It’s really trying to go back to an earlier historical moment, where slavery was mainly depicted by white historians through a white perspective. So to say that the enslaved and the sister African nations and kingdoms and white colonizers and enslavers were the same really misrecognizes the fundamentals of the situation.”<sup>19</sup>

## **ii. Educator Renee O’Connor**

Renee O’Connor had been teaching African-American history as an elective for nine years when she got the opportunity to teach the Advanced Placement African American Studies class at Miami Norland Senior High School. Ms. O’Connor was scheduled to attend a training program for teachers of the class last summer, but in January she learned that the class would not be offered at her school because of state restrictions. “This is a predominantly Black school with a Black principal,” she said. Ms. O’Connor was told she could continue to teach the elective.

Over the summer, though, Ms. O’Connor learned that the Florida curriculum standards had changed. “That’s when the new Florida standards came down that we had to teach that enslaved people somehow benefited from slavery. Not that I would ever utter that nonsense, but I would be one of the few educators teaching African-American history in Miami-Dade full-time, and I feel like everything I did would be under attack for teaching the truth. It’s madness,” Ms. O’Connor said. Rather than be put in that impossible position, Ms. O’Connor decided to take a leave from teaching.

“I love teaching, but I need to mentally be able to do this work—but I can’t be in the classroom right now,” she said. “I have until December to decide if I’m

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<sup>18</sup> *Id.*

<sup>19</sup> *Id.*



going to go back, but right now I don't think I will. This is my protest, by leaving the classroom I can speak out and fight. I cannot be anonymous.”

## **b. Higher education and the anti-democratic project at New College of Florida**

Many of the general education restrictions discussed above also extend to the college setting and should be equally concerning to the Committee in that context. Of perhaps greater concern to the Committee, specifically because of its capacity for replication, the Florida government staged a direct takeover of the board and presidency of New College, a liberal arts college that is part of the Florida public university system and well-known for its diverse community and support for LGBTQ+ students.<sup>20</sup> Over the course of just a few months, the New College president and multiple board members were replaced with right-wing leaders hostile to the school’s mission. Entire academic and support departments were eliminated as a result. Recent attacks have focused on students, staff and faculty who are LGBTQ+, part of a religious minority on campus, people of color, women or people with disabilities. This produced an exodus of staff, faculty and students.

### **i. Madison Markham, recent graduate of New College of Florida**

Madison Markham graduated from New College in May 2023, amidst this turmoil. A Sociology and Gender Studies major, Ms. Markham watched her treasured departments and thesis advisor wrangle under the changes.

The gender studies department was one of the hardest hit, by both personal and ideological attacks, Ms. Markham said. Because of her involvement in a project to help transgender or transitioning students change their names by connecting them with resources, Ms. Markham came under attack, and a document containing her email address was widely shared with critics. At New College, where a senior thesis is required to graduate and the campus tradition is for thesis defenses to be held publicly, Ms. Markham chose to have a private thesis defense out of fear for the safety of herself and her professors.

“It’s just heartbreaking. I remember this semester, a sense of dread was always there, you kind of just felt on edge a lot, especially as you were coming up to the board meetings,” Ms. Markham said. As board meetings approached, students and faculty feared what the next changes would be. “It left this feeling of dread all the time, and also a fear for your personal safety.”

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<sup>20</sup> Patricia Okker, *I was president of Florida’s New College. Then I was Fired.*, The Chronicle of Higher Education, <https://www.chronicle.com/article/i-was-president-of-floridas-new-college-then-i-was-fired> (July 19, 2023); *Anatomy of a Political Takeover at Florida public college*, AP News, <https://apnews.com/article/desantis-new-college-florida-woke-timeline-5a5bcd78230ddd2a1adb8021fea8a755> (March 30, 2023).

At one board meeting in February 2023, the board voted to eliminate the Office of Outreach and Inclusive Excellence, which housed inclusive programming for marginalized people at New College. As a result of that decision, the Dean of Diversity, Equity and Inclusion was moved to student affairs and then fired. That left Ms. Markham without a teacher in one class senior year, but also with substantial work to do. Where the Office of Outreach and Inclusive Excellence had held responsibility, students had to fill gaps. For example, the office worked during Ramadan to coordinate Iftar meals for Muslim students who break fast after the cafeteria closes each day. This year, student volunteers had to coordinate those meals because the office could not. “It’s the most marginalized students at New College who are taking care of themselves in the absence of an office whose job it is to do that,” Ms. Markham said.

During orientation week for new students in August 2023, student orientation leaders typically wear and distribute pins that indicate their pronoun usage and other statements, including “BLM” (Black Lives Matter) and Pride pins. This year, on the second day of orientation, student leaders were told they could only wear name tags on their uniform polo shirts, no pins. When these students responded by wearing their pins on their shoes or in their hair—complying with the letter of the rule—they were told they couldn’t wear pins at all. Similarly, the signs for a student-run “Gender and Diversity Center” were removed just before new students arrived onto campus.

Ms. Markham’s thesis advisor left New College last summer after the gender studies department was eliminated.<sup>21</sup> If Ms. Markham had not been set to graduate last spring, she probably would have transferred too. Most professors that Ms. Markham knows who have left New College have moved out of state. Most of the students she knows who transferred out of New College have chosen no longer to attend school in Florida. She worries both about the brain drain from Florida, but also about the model the New College takeover will provide. “It will create an Americanized playbook for how to do this at every public university in the country,” she said. “I put so much energy into this school, and care. That was ripped away, not just for me, but all the students who put energy into it.”

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<sup>21</sup> Roxy Szal, et al., *Key Gender Studies Staff Resign from New College of Florida, ‘The State Where Learning Goes to Die’*, Ms. Magazine, <https://msmagazine.com/2023/08/19/gender-studies-new-college-florida-woke-desantis/> (August 19, 2023).

## V. **Restrictions in the private sector also limit access to safe spaces for marginalized groups.**

Attacks on freedom of expression threaten communities in Florida inside and outside the classroom. In addition to the Stop WOKE Act discussed above, private businesses have been threatened by the state in attacks on gender expression: A Miami drag brunch came under attack when state leadership threatened to remove its liquor license in response to its regular drag show<sup>22</sup> and the liquor license at the downtown Hyatt Regency Hotel was threatened because a facility affiliated with the hotel hosted a ticketed Christmas show featuring an internationally acclaimed drag performer.<sup>23</sup> The seemingly boundless overreach of Florida's government into even private businesses further threatens marginalized communities and freedom of expression.

### i. **Corey Davis, Maven Leadership Collective**

Corey Davis is the founder of Maven Leadership Collective, based in Miami, Florida. "The work that we're doing at Maven Leadership Collective is helping queer and trans people of color who are on the front lines of preserving our democracy in Florida to have the resources to persist, because these attacks are demanding on the human body and mind under this constant threat," he said. "At the end of these repressive policies really are people's lives." Maven Leadership Collective is an ideas lab that creates the conditions for talented queer and trans social impact leaders of color and allies to build ecosystems of support for more just communities with greater ease, agency, and belonging.

Mr. Davis knows queer and trans people who have been forced to leave Florida to seek gender-affirming medical care or because they fear that care they are receiving will be eliminated. The Maven Leadership Collective has been threatened as unjust policies targeting queer and trans people persist. "Earlier this year, our organization got a big stack of Bible verses mailed to us in a manila folder with no return address," Mr. Davis said. "That felt scary in light of everything."

Mr. Davis linked Florida's laws that increase criminalization and authoritarianism to a rise in fear in the Maven community. "You don't know what these hateful policies give people license to do," he said. "You're constantly on-

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<sup>22</sup> Ana Ceballos, *'I would never do anything to hurt a child': R House responds to drag show complaint*, Miami Herald, <https://www.miamiherald.com/news/local/community/miami-dade/article265763401.html#storylink=cpy> (September 14, 2022).

<sup>23</sup> Ana Ceballos and Joey Flechas, *Another drag show showdown: Florida targets prominent Miami hotel's liquor license*, Miami Herald, <https://www.miamiherald.com/news/local/community/miami-dade/article273137760.html> (March 15, 2023).

guard to protect yourself personally, but as an organization, we're also holding space for queer people who put their trust in us. Every time you hear about one of these horrible bills, it is an onslaught and violence on queer people and you really do have to question if the moral arc bends towards justice at this point. There are travel advisories to Florida, the place I live—travel warnings for LGBTQ+ people and Black people because Florida does not respect human rights, so there are travel advisories because it's not safe for them in Florida. And I live here as a queer Black man.”

The laws discussed above do more than limit or restrict individual speech. They were designed with the intention of forcing entire groups of people out of public spaces and out of educational systems for good. The associated threats have reached crisis levels, requiring that all avenues be explored to deter this type of governance.

## **VI. Stoking Fear: Authoritarian laws create fear in communities, which leads to infringement on expression.**

### **a. Florida's anti-protest legislation**

In 2021, the Florida government successfully enacted anti-protest legislation. In supporting the law, Governor DeSantis vowed to have “a ton of bricks rain down” on folks who violate the law—specifically here, Black communities that lead protests against police violence during the summer of 2020. The law increased penalties for protest-related activity, including requirements that people arrested be held without bond in certain situations, extending their time in jail; established a vague and ambiguous definition of “riot” outside the common law that threatens any group of three or more people in the vicinity of a protest; and created numerous new protest-related offenses.

Portions of the law were enjoined in a federal court ruling in 2021.<sup>24</sup> Despite that, the actual and far more dangerous impact of the anti-protest legislation has played out. Contrary to Governor DeSantis' promise to “rain bricks,” the real threats associated with the law were not in what would inevitably happen to those who allegedly violate the law, but in what happened to communities across the state of Florida after its enactment. The law successfully silenced protest around the state, harming the rights to expression, association and assembly outlined in the ICCPR.

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<sup>24</sup> Preliminary Injunction Order, *Dream Defenders v. DeSantis*, 559 F. Supp. 3d 1238 (N.D. Fla. 2021), Doc. 137.

Prior to the enactment of the anti-protest laws, community organizations like Dream Defenders regularly organized and participated in political demonstrations.<sup>25</sup> “The enactment of the Act has rendered Dream Defenders fearful of arrest and prosecution for engaging in speech, organizing, or participating in demonstrations that constitute permissible and protected speech, particularly given its experience with violence at protests initiated by police and counter-protestors. Because of that fear, Dream Defenders [] canceled demonstrations and refrained from publishing electronic communications.”<sup>26</sup>

#### **i. Dream Defender and college student Malik Ready**

Malik Ready, a student at the historically Black university FAMU, was a Dream Defender student organizer and is now on staff with the organization. In 2020, Mr. Ready was giving a speech near campus about the dangers posed by Florida’s anti-protest law when he and others were hit by a truck that entered the crowd. The truck driver deliberately targeted the non-violent Black Lives Matter protest that Mr. Ready was attending.<sup>27</sup> “That started the current wake of white supremacy in Florida,” Mr. Ready said. “That to me was the beginning of it.”

New Florida laws make Mr. Ready’s work extremely difficult. “It’s hurting organizers and activities because we are limited to what we can do or can’t do. Even from an organizational standpoint as a person just trying to register voters is extremely hard. If it’s not one thing, it’s another,” he said.

Mr. Ready said that the overall impact of Florida’s anti-authoritarian laws has been an increase in fear. “It’s almost like you’re walking on eggshells as a student. I can only imagine what it’s like as a professor,” Mr. Ready said. He has heard professors announce that certain conversations should not be repeated outside of the classroom because of fear of repercussion.

But Mr. Ready explained that his fear goes beyond what can or cannot be said in the classroom and is really about personal safety for him and his community.

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<sup>25</sup> Complaint, *Dream Defenders v. DeSantis*, 4:21cv191-MW/MAF (MDFL May 11, 2021), Doc. 1 at 11.

<sup>26</sup> *Id.* at 12.

<sup>27</sup> Nada Hassanein, *et al.*, *Peaceful Tallahassee protests marred after truck hits demonstrators; no serious injuries*, *Tallahassee Democrat*, <https://www.tallahassee.com/story/news/2020/05/30/protests-erupt-tallahassee-after-minneapolis-local-police-involved-shootings/5291951002/> (May 31, 2020).

“It’s a fear of what happened in Jacksonville,”<sup>28</sup> Mr. Ready said, referencing a recent anti-Black shooting. “That someone would come to an HBCU<sup>29</sup> and open fire.”

Mr. Ready connected the recent laws discussed in this report that interfere with freedom of expression in schools directly with violent actions like driving a truck into a protest or opening fire in a classroom at a historically Black university. “They intersect. The fight is still the same on issues,” he said. “It gives white supremacists even more power to feel like the law is protecting them.”

### **b. Florida’s immigrant community**

The Florida government began targeting Florida’s large immigrant community early in Governor DeSantis’ administration, arguably first with Senate Bill 168, which attempted to ban immigrant sanctuary cities in Florida.<sup>30</sup> That early move started to push Florida’s robust and powerful immigrant community, once proud to stand under the slogan “undocumented and unafraid,” back into the shadows. This raises concerns regarding protections outlined in ICCPR Articles 19, 21 and 22.

Subsequent attacks on immigrants and their communities have successfully rendered Florida one of the most dangerous states to be an immigrant in. These include in 2022, when Governor DeSantis asked the Florida Supreme Court to convene a statewide grand jury, which would have the impact of making Florida even more inhospitable to immigrants and immigrant children. The Florida Supreme Court fell in line, agreeing to establish the grand jury in one of Florida’s most anti-immigrant judicial circuits. Since its establishment, the grand jury has released three reports, including one that directly influenced subsequent anti-immigrant legislation.

Moreover, the threat of being called to testify before the secretive grand jury has further chilled community organizations from serving their constituents. Like many of the efforts discussed in this report, the impact of the grand jury on communities has been to stifle association and expression, forcing organizations and members to focus not on the important work they are charged with, but on preparing for or responding to state threats.

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<sup>28</sup> Alex Binley, *Jacksonville shooting: Racist gunman kills three black people in Florida store*, BBC News, <https://www.bbc.com/news/world-us-canada-66630263> (August 27, 2023).

<sup>29</sup> Historically Black Colleges and Universities

<sup>30</sup> While a federal judge found that SB 168 had been unlawfully racially motivated, that decision was later overturned by an appellate court that reinstated the law. Alex Pickett, *11th Circuit lifts block on Florida sanctuary city law*, Courthouse News Service, <https://www.courthousenews.com/11th-circuit-lifts-block-on-florida-sanctuary-city-law/> (April 13, 2023).

### **c. Removal of political opponents from office**

Governor DeSantis has invoked his executive powers on numerous occasions to remove ideological opponents from office, an action that fits squarely into the Florida government's pattern of utilizing authoritarian laws and threats to stifle expression in communities. The impact of the threat of removal has been to quiet dissenters in local communities and to keep leaders questioning new local laws or policies that might garner the state's attention. This signals, once again, that marginalized communities and minority leaders do not have a place or a voice in Florida.

Most recently, State Attorney Monique Worrell was removed from her position under criticism from Governor DeSantis that she had promised to explore alternatives to incarceration for children charged with crimes, among other platforms.<sup>31</sup> In removing Ms. Worrell from office, Governor DeSantis cited statements he found problematic and her positions regarding criminal sentencings. Similarly, State Attorney Andrew Warren was removed from office after stating that he would not seek to prosecute people who sought abortions outside of Florida's recent abortion ban.<sup>32</sup> In addition to those legal leaders, a prominent sheriff and multiple school board members have been removed from office—all Democrats, all dissenters to leaders in the current Florida government, and all people whose removal sends a chilling message to those who seek to express themselves freely and in compliance with ICCPR protections.

## **VII. Relevant Question in List of Issues**

The List of Issues to be considered with the Fifth Periodic Report of the United States that are most relevant to those in the present document are Paragraphs 23-25, though they do not adequately address the specific racist and anti-LGBTQ+ motivations or impacts of related laws and restrictions. It is of utmost urgency that the Committee turn its attention to the specific and accelerating actions in Florida that brazenly violate the human rights to freedom of expression, assembly and association.

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<sup>31</sup> Brendan Farrington and Freida Frisaro, *Florida Gov. DeSantis suspends another Democratic prosecutor as he seeks GOP presidential nomination*, AP News, <https://apnews.com/article/desantis-suspends-florida-prosecutor-monique-worrell-45d2f5955b87fb5c0e817d9da9133393> (August 9, 2023).

<sup>32</sup> A federal judge later held that Mr. Warren's removal was unconstitutional, but that he was unable to reinstate the State Attorney. Lawrence Mower, *Andrew Warren ruling: A deep dive into what the judge was thinking*, Tampa Bay Times, <https://www.tampabay.com/news/florida-politics/2023/01/21/andrew-warren-ruling-deep-dive-into-what-judge-was-thinking/> (January 21, 2023).

## **VIII. U.S. Government Response**

The United States Government’s response on the issues of freedom of expression, assembly and association does not adequately speak to the extent of its compliance with its obligations under the ICCPR, namely Articles 19(2), 20(2), 21 and 22. And while the Fifth Periodic Report does pre-date many of the actions taken by the Florida government and addressed above, it failed to identify threats in Florida that were imminent. Where the United States government addresses threats to expression, it focuses on restrictions on journalists, hate crimes and political demonstrations. And the United States fails to identify any disproportionate impact as to those communities at greatest risk—including Black, brown, LGBTQ+ and immigrant communities, and it does not acknowledge existing racial biases in the United States that restrictions on expression further exacerbate.

## **IX. Recommended Questions**

We recommend that the Committee pose the following questions to the U.S.:

1. What potential violations of federal civil rights laws or federal anti-discrimination laws are posed by Florida’s recent restrictions on expression and association in the public education context?
2. How much federal funding goes to Local Education Agencies or school districts throughout Florida and to what extent has the federal government examined the ways in which the purposes of its funding have been restricted by Florida state and local legislation?
3. What can the federal government do to strengthen freedom of expression, assembly and association in Florida and decrease fear in immigrant communities and other targeted communities?

## **X. Suggested Recommendations**

1. Initiate federal legal intervention in challenges to the unconstitutional and illegal restrictions on expression, assembly and association recently enacted by the Florida government;
2. Use federal enforcement mechanisms that prohibit “intimidation motivated by race, religion, color, ethnicity, gender, sexual orientation, gender identity, or disability” to challenge actions by the Florida government and restrict future limitations on expression, assembly and association;



3. Direct the Florida Advisory Committee to the U.S. Commission on Civil Rights to conduct inquiries into the state of freedoms of expression, association and assembly in Florida, with a particular focus on the impact of restrictions on historically marginalized communities;
4. Florida should repeal laws that are in direct conflict with rights enshrined in the ICCPR, including the Stop WOKE Act, 'Don't Say Gay' Bill and anti-protest laws;
5. Florida should lift restrictions on the teaching of African-American and LGBTQ+ history and end the practice of removing books from school libraries and classrooms (whether for "review" or permanent bans).