

January 29, 2021

The Hon. Zoe Lofgren
Chair
House Administration Comm.
1309 Longworth HOB
Washington, DC 20515

The Hon. Jerrold Nadler
Chair
House Judiciary Comm.
2141 Rayburn HOB
Washington, DC 20515

The Hon. John Sarbanes
2370 Rayburn HOB
Washington, DC 20515

RE: H.R. 1, For the People Act

Dear Chair Lofgren, Chair Nadler, and Rep. Sarbanes:



National Political
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Washington, D.C. 20005
aclu.org

Susan Herman
President

Anthony Romero
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Director*

The American Civil Liberties Union (ACLU) writes to request the House Administration Committee, House Judiciary Committee, and any other committee of jurisdiction to hold hearings and mark ups of H.R. 1, the For the People Act, before voting on final passage. After the non-stop assault on the integrity of our elections by the Trump Administration, culminating in a mob of his white supremacist supporters storming the Capitol building to disrupt the counting of the electoral votes that certified President Biden's election, it is more important than ever for Congress to pass legislation to restore and expand voting rights and strengthen our democracy. The For the People Act, at its heart, seeks to serve those goals and we applaud Congress for setting this important legislation as a priority. But H.R. 1 still contains flaws that leave it vulnerable to legal challenges and that could disproportionately harm progressive advocacy. It is our understanding that the House of Representatives may permit a vote on final passage of H.R. 1 without a hearing on its content in this Congress or a markup in any of the committees of jurisdiction. At over 700 pages, H.R. 1 is a significant, ambitious, and complicated piece of legislation that addresses a wide range of issues. Committees, Members, and members of the public should have the opportunity to examine the bill and to debate and amend its contents before final passage.

The current version of H.R. 1 is similar to H.R. 1 as it was passed by the House of Representatives in the 116th Congress. The latest version of H.R. 1 also contains a number of significant additions, notably from H.R. 4617, the SHIELD Act and, H.R. 6800, the HEROES Act. Many of the concerns we raised in our previous letters regarding H.R. 1 remain,¹ and, while some improvements have been made, additions to

¹ Letter from the American Civil Liberties Union to the House of Representatives Opposing H.R. 1 (Mar. 6, 2019) <https://www.aclu.org/aclu-letter-opposing-hr-1-people-act-2019>.

the previously passed bill raise more concerns, some of which we pointed out in our previous letter opposing the SHIELD Act in the 116th Congress.

We greatly appreciate the several productive conversations we have had with House staff regarding the content of the bill. We hope to continue these discussion as we work to improve the bill before a vote on final passage.

Regarding Division A of the bill addressing election access, we have made extensive suggestions to improve the voting modernization provisions. We believe the set of recommendations we have proposed would greatly improve the goals of the bill's voting rights policies, including increasing voter registration rates, and also mitigate the risk of litigation regarding those provisions. With respect to other voting provisions under Division A on which we have not yet commented, including additions from the HEROES Act, the ACLU requires additional time to analyze those sections. We underscore that we are deeply supportive of many of the policies in Division A, which the ACLU has fought to enact for many years.

We continue to have significant constitutional concerns with the bill, particularly the ways it would restrict nonprofit organizations' advocacy about issues of national importance, such as immigration, racist police violence, voting rights, and reproductive freedom when that advocacy merely mentions candidates for federal office. Our concerns with the ways this bill could deter such advocacy are heightened by the progressive advocacy burgeoning in the wake of the protests against racist police violence, the white supremacy-fueled attempt to undermine and overturn the election of President Biden, and the recent changes in the composition of the Supreme Court. At a minimum, the House Judiciary Committee should hold hearings to examine the constitutional questions raised by the DISCLOSE Act and other provisions of H.R. 1 that could harm political advocacy and expose non-profit donors to harassment and threats of violence should their support for organizations be subject to forced disclosure.

In addition to our concerns with the previous iteration of the bill, which we shared with the bill's sponsors last Congress prior to passage,² the new version of H.R. 1 incorporates provisions of H.R. 4617, the SHIELD Act.³ First, the bill makes campaign finance law violations deportable offenses. Additionally, many of these provisions would particularly harm the speech of DACA recipients, people with temporary protected status, stateless people, and asylum seekers who engage in political advocacy. Dreamers, people with temporary protected status, stateless people, and asylum seekers should not have to rely on citizens and green card holders to engage in any kind of advocacy about issues affecting them, which include but are not limited to pandemic relief, immigration, and education issues.

We urge the House committees to follow regular order, including holding hearings and markups during this Congress--taking the time necessary to deliberate the provisions of

² Letter from the American Civil Liberties Union to the House Rules Committee Urging Changes to H.R. 1 (Mar. 1, 2019), <https://www.aclu.org/letter/aclu-letter-house-rules-committee-hr-1>.

³ Letter from the American Civil Liberties Union to the House Administration Committee Expressing Concerns About H.R. 4617 (Oct. 16, 2019), <https://www.aclu.org/letter/aclu-letter-expressing-significant-first-amendment-concerns-re-shield-act-hr-4617>.

this bill and to engage in a process that will ensure H.R. 1 strengthens and protects the right to vote, preserves the ability of organizations new and old to build their advocacy power, and protects the speech rights of DACA recipients and other immigrants. Thank you for your consideration and attention. We look forward to working with Congress to improve the proposed package through the legislative process. Please reach out to Kate Ruane, kruane@aclu.org, and Sonia Gill, sgill@aclu.org, if you have any questions.

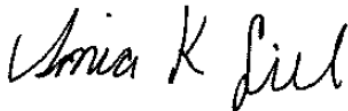
Sincerely,



Ronald Newman
National Political Director



Kate Ruane
Senior Legislative Counsel



Sonia Gill
Senior Legislative Counsel

CC: Speaker Nancy Pelosi
Majority Leader Steny Hoyer
Majority Whip Jim Clyburn