



NEW YORK
CITY BAR

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Hon. Paul Ryan
Speaker
U.S. House of Representatives
H-232, The Capitol
Washington, DC 20515

Hon. Nancy Pelosi
Minority Leader
U.S. House of Representatives
H-204, The Capitol
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Hon. Mitch McConnell
Majority Leader
U.S. Senate
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Washington, DC 20510

Hon. Charles Schumer
Minority Leader
U.S. Senate
322 Hart Senate Office Building
Washington, DC 20510

Dear Speaker Ryan, Representative Pelosi, Senator McConnell, and Senator Schumer:

I write on behalf of the New York City Bar Association to convey our concerns with regard to the Trump administration's handling of human rights issues and international engagement during its first one hundred days in office. The approach taken by the new administration raises questions about the future protection of rights at home and abroad which, in turn, may contribute to international instability and threaten domestic security. We urge you and your colleagues to take concrete actions to promote human rights, to uphold the highest standards of human dignity in the laws and policies of the United States, and to demand the same of executive branch officials.

The Association is an independent nongovernmental organization of over 24,000 lawyers, judges, law professors, and government officials in the United States and over fifty other countries. Throughout its 145-year history, the Association has consistently maintained that respect for the rule of law is essential in all jurisdictions, and has a long history of investigating and reporting on human rights concerns around the world, including within the United States, through the work of its International Human Rights Committee.

For decades, the executive branch has been subject to congressional directives that require the promotion of human rights to be a "principal goal" of U.S. foreign policy.¹ Especially in light of that longstanding congressional mandate, we are troubled

¹ As Congress mandated by statute in 1974:

by the Trump administration’s notable lack of engagement thus far with respect to human rights principles, international institutions, and diplomacy—all of which are bedrock sources of U.S. moral authority on the world stage.

For example, like other observers, we were concerned by Secretary of State Rex Tillerson’s decision not to participate in the launch of the State Department’s *Country Reports on Human Rights Practices*, which Congress has required the State Department to prepare annually.² By choosing instead to have the report’s release merely accompanied by a phone call between reporters and a senior administration official who spoke on condition of anonymity, the administration signaled disinterest—or worse, disregard—for norms to which prior administrations have adhered for decades. The State Department’s annual human rights report has long demonstrated that the details of human rights abuses around the world are monitored by both government officials and civil society in the United States and are of central importance to U.S. foreign policy. As Secretary of State Condoleezza Rice stated when she announced the publication of the State Department’s human rights report in March 2008:

In every region of the world, men and women are working peacefully, and often at great risk to themselves and their families, to secure human rights and fundamental freedoms, to follow their consciences and speak their minds without fear, to choose those who would govern them and to hold their leaders accountable and to achieve equal justice under the law. . . . We gather today to support them and it is our hope that this Human Rights Report will highlight the obstacles that still stand in their way, so that they

The United States shall, in accordance with its international obligations as set forth in the Charter of the United Nations and in keeping with the constitutional heritage and traditions of the United States, promote and encourage increased respect for human rights and fundamental freedoms throughout the world without distinction as to race, sex, language, or religion. Accordingly, a principal goal of the foreign policy of the United States shall be to promote the increased observance of internationally recognized human rights by all countries.

22 U.S.C. § 2304(a)(1); *see also* 22 U.S.C. § 2151n(a) (prohibiting economic assistance to countries engaged “in a consistent pattern of gross violations of internationally recognized rights . . . unless such assistance will directly benefit the needy people in such country”); 22 U.S.C. § 262d (requiring the government, “in connection with its voice and vote” in various international financial institutions, to “advance the cause of human rights, including by seeking to channel assistance toward countries other than those whose governments engage in . . . a pattern of gross violations of internationally recognized human rights”).

² 22 U.S.C. § 2304(b); U.S. DEPARTMENT OF STATE, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2016 (2017), <https://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm>; *see* Carol Morello, *Rex Tillerson Skips State Department’s Annual Announcement on Human Rights, Alarming Advocates*, WASH. POST (Mar. 3, 2017), https://www.washingtonpost.com/world/national-security/rex-tillerson-skips-state-departments-annual-announcement-on-human-rights-alarming-advocates/2017/03/03/7fbf8584-002d-11e7-8f41-ea6ed597e4ca_story.html.

may bear the mantle of justice . . . at less risk to themselves and to their families.³

Especially for these human rights defenders—who often look to the United States for both moral and practical support—Secretary Tillerson’s silence was deafening. Taken together with an accumulating list of sympathetic comments by Trump administration officials about authoritarian leaders with well-documented and extensive records of human rights violations, the administration is sending signals the United States should not send about the level of priority it attaches to human rights violations around the world.⁴

We are also concerned by reports that the Trump administration might abandon U.S. membership on the U.N. Human Rights Council, the highest profile human rights body within the U.N. system, and that it might seek to withdraw the United States from important multilateral treaties.⁵ Moreover, the administration’s decision not to participate in three important U.S.-related hearings conducted in March by the Inter-American Commission on Human Rights, which addressed human rights concerns arising from the Trump administration’s executive orders banning immigration from six predominantly Muslim countries and other U.S. immigration enforcement policies, threatens to undermine the important work of an institution that has long played a crucial role in formally investigating human rights violations throughout our hemisphere.⁶

³ Condoleezza Rice, Secretary of State, Remarks on The State Department’s 2007 Country Reports on Human Rights Practices (Mar. 11, 2008), <https://2001-2009.state.gov/secretary/rm/2008/03/102103.htm>.

⁴ Christian Caryl, *Donald Trump’s Foreign Policy Is Already Undercutting Human Rights Around the World*, WASH. POST (Mar. 8, 2017), <https://www.washingtonpost.com/news/democracy-post/wp/2017/03/08/donald-trumps-foreign-policy-is-already-undercutting-human-rights-around-the-world/>; see also David E. Sanger & Eric Schmitt, *Rex Tillerson to Lift Human Rights Conditions on Arms Sale to Bahrain*, N.Y. TIMES (Mar. 29, 2017), <https://www.nytimes.com/2017/03/29/world/middleeast/rex-tillerson-bahrain-weapons-sales.html> (noting that dropping of human rights conditions on arms sales to Bahrain “is bound to be read by Saudi Arabia and other states in the region as a sign that the new administration plans to ease its demands to protect and respect political dissidents and protesters”).

⁵ Colum Lynch and John Hudson, *Tillerson to U.N. Rights Council: Reform or We’re Leaving*, FOREIGN POLICY (Mar. 14, 2017), <http://foreignpolicy.com/2017/03/14/tillerson-to-u-n-rights-council-reform-or-were-leaving/>; Max Fisher, *Trump Prepares Orders Aiming at Global Funding and Treaties*, N.Y. TIMES (Jan. 25, 2017), <https://www.nytimes.com/2017/01/25/us/politics/united-nations-trump-administration.html>; see also Somini Sengupta, *Nikki Haley Calls United Nations Human Rights Council ‘So Corrupt’*, N.Y. TIMES (Mar. 29, 2017), <https://www.nytimes.com/2017/03/29/world/nikki-haley-un-human-rights-council-corrupt.html> (discussing Ambassador Haley’s casual accusation, “without offering evidence,” that the Human Rights Council is “so corrupt”).

⁶ Elise Foley, *Trump Administration Is a No-Show at Hearings on Human Rights*, HUFFINGTON POST (Mar. 22, 2017), http://www.huffingtonpost.com/entry/trump-administration-iachr_us_58d17201e4b0be71dcf8b27b; Andrés Oppenheimer, *U.S. Shot Itself in the Foot By Skipping Hearings at Human Rights Commission*, MIAMI HERALD (Mar. 22, 2017), <http://www.miamiherald.com/news/local/news-columns-blogs/andres-oppenheimer/article140107773.html> (noting that skipping the IACHR hearings “sets a terrible precedent, because it amounts to giving a green light to authoritarian populist regimes to do the same”).

In this context, we oppose the proposed cuts to U.S. financial assistance to international organizations and other international spending outlined in the Trump administration's recent budget request for fiscal year 2018. The proposed budget urges drastic cuts to spending on diplomacy, foreign assistance, and other international programs—including a 28 percent budget reduction for the State Department and U.S. Agency for International Development and a 35 percent budget reduction for Treasury International Programs.⁷ Cutting across multiple agencies, the administration reportedly plans to eliminate over 50 percent of U.S. funding to support United Nations programs. This would be at odds with statements made to the Senate by the new U.S. Ambassador to the United Nations, Nikki Haley, during her confirmation hearing, confirming that she supports engagement with the United Nations and would oppose a “slash-and-burn” approach to U.N. funding. The administration's proposed reductions, which amount to billions of dollars, would be devastating to human rights promotion, humanitarian aid projects, peacekeeping, and health initiatives around the world.⁸

We are heartened by the objections to these proposals raised by both Democratic and Republican members of Congress, including Senators Mitch McConnell, Lindsey Graham and Marco Rubio and Representatives Rodney Frelinghuysen, Mac Thornberry, Harold Rogers, and Ed Royce.⁹ As Senator Rubio has stated, U.S. foreign assistance is “critical to our national security,”¹⁰ and as Representative Royce notes, slashing spending on international affairs “could damage efforts to combat terrorism, save lives, and create

⁷ Off. of Mgmt. & Budget, *America First: A Budget Blueprint to Make America Great Again*, at 33, https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/budget/fy2018/2018_blueprint.pdf.

⁸ Colum Lynch, *White House Seeks to Cut Billions in Funding for United Nations*, FOREIGN POLICY (Mar. 13, 2017), <http://foreignpolicy.com/2017/03/13/white-house-seeks-to-cut-billions-in-funding-for-united-nations/>; Colum Lynch, *White House Hobbles Nikki Haley Before Her First Day at the U.N.*, FOREIGN POLICY (Jan. 26, 2017), <http://foreignpolicy.com/2017/01/26/white-house-hobbles-nikki-haley-before-her-first-day-at-the-u-n/>.

⁹ Anne Gearan, *Possible Budget Cuts to State Dept., Foreign Aid Draw Bipartisan Opposition*, WASH. POST (Feb. 28, 2017), https://www.washingtonpost.com/world/national-security/possible-budget-cuts-to-state-dept-foreign-aid-draw-bipartisan-opposition/2017/02/28/46ab5004-fdfb-11e6-8f41-ea6ed597e4ca_story.html; Eli Yokley, *McConnell Pours Cold Water on Trump Plan to Cut State Dept. Funding*, MORNING CONSULT (Feb. 28, 2017), <https://morningconsult.com/2017/02/28/mcconnell-pours-cold-water-trumps-plan-slash-state-dept-funding>; John Bresnahan & Sarah Ferris, *Key House Republican Balks at Trump's Budget Cuts*, POLITICO (Feb. 28, 2017), <http://www.politico.com/story/2017/02/republicans-budget-cuts-trump-frelinghuysen-235513>; Rebecca Kheel, *House Chairman Won't Rule Out Spending More Than Trump's Defense Budget*, THE HILL, (Mar. 1, 2017), <http://thehill.com/policy/defense/321853-armed-services-chairman-talks-for-640b-defense-budget-regardless-of-trump>; Sylvan Lane, *GOP Senator: Trump Budget “Dead on Arrival”*, THE HILL (Feb. 28, 2017), <http://thehill.com/policy/finance/321576-gop-senator-trump-budget-dead-on-arrival>; Kelsey Snell and Karoun Demirjian, *Capitol Hill Republicans Not on Board With Trump Budget*, WASH. POST (Mar. 16, 2017), https://www.washingtonpost.com/powerpost/capitol-hill-republicans-not-on-board-with-trump-budget/2017/03/16/9952d63e-0a6b-11e7-b77c-0047d15a24e0_story.html.

¹⁰ Marco Rubio (@marcorubio), TWITTER (Feb. 28, 2017, 6:27 AM) <https://twitter.com/marcorubio/status/836583503768748033>.

opportunities for American workers.”¹¹ We also concur in the recent letter from over 120 retired three- and four-star generals, including retired Gen. David Petraeus, urging Congress to ensure that resources for diplomacy, development, and rights promotion keep pace with both global threats and international opportunities.¹² As these experienced officers observe, bipartisan legislative initiatives addressing the rights of women and girls, food security, water, and transparency and accountability promote international stability and security. Failing to ensure that these kinds of initiatives are adequately funded threatens to undermine the longstanding commitment of the United States to promote human rights and address the conditions that lead to conflict in societies around the world.

We respectfully urge you, as congressional leaders, to ensure that the United States preserve its stature as a global leader on human rights. Especially since World War II, the United States has been at the forefront of the development of international human rights standards and mechanisms of protection. Maintaining that global position of leadership benefits our country for reasons of morality, security, and economic strength—but also requires the government to take concrete actions to promote and defend human rights, to engage with international institutions, to develop constructive relationships with global partners, and to guarantee the protection and advancement of human rights here at home. In practical terms, global security is threatened when human rights obligations are overlooked.

In the current climate, your support in upholding U.S. leadership on human rights through proactive measures is of paramount importance. First, we urge the Senate to give its advice and consent to ratification of core international human rights treaties that provide a baseline of protections in alignment with existing U.S. law, including the Convention on the Rights of Persons with Disabilities,¹³ the Convention on the Rights of the Child,¹⁴ and the Convention on the Elimination of All Forms of Discrimination Against Women.¹⁵ Congressional leadership has always played an important role in the formulation and exercise of U.S. foreign policy, and we urge you to continue to play that role by demanding thoughtful engagement by the White House on the international stage.

¹¹ U.S. House of Representatives, Foreign Affairs Committee, Press Release, Chairman Royce Statement on Admin Budget Proposal (Feb. 28, 2017), <https://foreignaffairs.house.gov/press-release/chairman-royce-statement-admin-budget-proposal>.

¹² Letter from Gen (Ret’d). Keith B. Alexander, et al. to Paul Ryan, Nancy Pelosi, Mitch McConnell, and Chuck Schumer (Feb. 27, 2017), http://www.usglc.org/downloads/2017/02/FY18_International_Affairs_Budget_House_Senate.pdf (letter from 121 retired three and four star flag and general officers expressing their “strong conviction that elevating and strengthening diplomacy and development alongside defense are critical to keeping America safe”).

¹³ Convention on the Rights of Persons with Disabilities, *adopted* Dec. 13, 2006, 2515 U.N.T.S. 3 (signed by President Obama on July 30, 2009).

¹⁴ Convention on the Rights of the Child, *adopted* Nov. 20, 1989, 1577 U.N.T.S. 3 (signed by President Clinton on Feb. 16, 1995).

¹⁵ Convention on the Elimination of All Forms of Discrimination Against Women, *adopted* Dec. 18, 1979, 1249 U.N.T.S. 13 (signed by President Carter on July 17, 1980).

In addition to promoting the human rights of individuals around the world, ratifying these international human rights treaties will affirm the commitment of the United States to the rule of law and strengthen U.S. credibility.

Second, we urge you to conduct robust oversight to ensure that the United States adheres to its own obligations to guarantee human rights. The moral leadership of the United States on human rights around the world is enhanced when human rights protections are guaranteed and promoted at home. Our strength is our tolerance, our diversity, and the protections that are ensured by the U.S. Constitution. Compliance with domestic and international law—norms that are binding on the government of the United States—requires just and humane immigration policies, transparency in governance, adherence to the rule of law, and acceptance of accountability mechanisms.

Finally, we encourage you to support full cooperation and engagement with the United Nations and other international institutions and human rights mechanisms. Such participation not only is consistent with our longstanding values and principles as a country, but also can help the United States best protect its own interests. For example, the Obama administration chose to engage with the International Criminal Court by participating in meetings of the ICC's governing body, the Assembly of State Parties. This engagement allowed the United States to significantly influence proposed amendments to the Rome Statute. The interests of the United States are also enhanced by ensuring sufficient financial support of U.N. institutions and peacekeeping efforts.

Dignity, equality, and fundamental rights are not partisan issues, and we are encouraged by congressional leaders who have demonstrated their willingness to put these values ahead of partisan politics. Congress provides a vital check on executive authority and has an obligation to provide vigorous oversight and to insist that the executive branch protect U.S. interests and adhere to U.S. values and legal commitments.

Like other bar associations around the world, the Association has a strong and longstanding interest in closely monitoring executive, legislative, and judicial actions to ensure adherence to the rule of law and fundamental rights. We anticipate a continuing need for civil society to be vigilant about these values, and we will continue to hold the administration to account for its commitment to the rule of law. As we do so, we look forward to strong and active support from members of Congress.

Respectfully yours,

A handwritten signature in black ink, appearing to read "John S. Kiernan", with a horizontal line extending to the right.

John S. Kiernan

cc: Hon. Bob Corker
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