

# United States Senate

WASHINGTON, DC 20510

May 20, 2020

The Honorable Mike Pompeo  
Secretary  
Department of State  
2201 C Street NW  
Washington, D.C. 20520

Dear Secretary Pompeo,

We write to convey our ongoing concerns regarding the Department of State's Commission on Unalienable Rights ("the Commission"), and to set out our expectations for this body's work and its final report. Despite repeated outreach to you and your staff, we have yet to receive satisfactory answers in response to questions regarding the Commission's purpose, membership selection, and expected outputs.

We must emphasize, once again, that Congress has given the State Department's Bureau of Democracy, Human Rights, and Labor, working through its Assistant Secretary, the authority to advise the Secretary of State on U.S. foreign policy regarding human rights. We fail to see how this Commission complements that work. Indeed, we firmly believe that the Bureau's strategic priorities should be guided by the findings of its Congressionally-mandated annual human rights reporting, rather than the inclinations of a group of largely ideologically uniform scholars, some of whom have expressed views openly hostile to internationally-recognized human rights, and many of whom do not have practical experience in protecting human rights through foreign policy.

We fundamentally disagree with your characterization that human rights claims have somehow "proliferated," in a way that provokes "clashes about which rights are entitled to gain respect" thereby justifying the establishment of this Commission. We believe that the United States must always strive to embrace fundamental rights for all and recognize groups that are uniquely vulnerable to human rights abuse—including groups such as the lesbian, gay, bisexual, transgender and intersex (LGBTI) community, which our own country previously ignored and persecuted. Over recent decades, more individuals have benefitted from the protections of universal human rights both within the United States and globally, due in large part to a better understanding of the unique barriers that marginalized groups, like the LGBTI community, face in accessing those rights. We therefore do not see a "proliferation" of rights claims, but rather a better understanding of and increased protections for communities that had been denied their rights. A goal of our nation's human rights work should be to protect *more* vulnerable groups and individuals—not fewer.

Despite our grave concerns regarding the establishment and aims of the Commission, it appears that the Commission is moving forward with a final report. As Senators with oversight of the operations of the State Department, we reiterate our expectations that any report must include the following commitments to long-standing human rights principles:

First, the Commission's report should reaffirm longstanding positions and understandings concerning the role of the international human rights framework in U.S. foreign policy. The United States is a signatory to seven of the nine core international human rights instruments, having played a significant role in the drafting of each. The United States joined three of these treaties upon the advice and consent of the Senate, making the rights and obligations contained therein binding upon the United States. Moreover, we also expect the Commission to reaffirm the U.S. government's commitment to advocating for all of the rights and obligations enshrined in the Universal Declaration of Human Rights (UDHR).

Second, as the United States has signed and ratified the International Covenant on Civil and Political Rights (ICCPR), we call for the Commission to affirm in its final report that, consistent with Article 5 of the ICCPR, the Executive Branch is obligated to respect and promote the rights contained within the Covenant under both domestic and international law. The Commission should reaffirm the U.S. government's commitment to the treaty's non-discrimination provisions and to the promotion and protection of the rights of all individuals, including members of traditionally marginalized groups, such as LGBTI individuals, women and girls, and racial, ethnic and religious minorities.

Third, the Commission should respect the full realization of human rights, including access to reproductive health and rights. The interpretive body responsible for identifying the rights and obligations of states party to the ICCPR has specifically stated that the obligation to protect the right to life requires access to reproductive health. Those who are denied or are otherwise unable to access reproductive healthcare cannot realize other human rights. This position is consistent with U.S. law and cannot be set aside due to your personal beliefs or those of the Commissioners who seek to challenge abortion rights as a matter of domestic politics.

Finally, in keeping with U.S. law, the Commission must recognize and bolster the role of the Assistant Secretary of State for Democracy, Human Rights, and Labor as the principal advisor to the Secretary of State for matters pertaining to human rights, and likewise seek to strengthen other congressionally-mandated positions within the U.S. government responsible for advancing human rights. The Commission also should promote the robust use of U.S. foreign assistance to support human rights as directed by Congress. We note with great disappointment that yet again, President Trump's most recent budget request threatens funding for many essential programs and calls this commitment into question.

Instead of studying the history of natural law, the Commission should have examined the ways in which U.S. law and policy, as developed and as currently implemented, undermine our human rights commitments. Our country's moral authority to champion human rights is weakened by the unconscionable treatment of asylum seekers and immigrants at our border, and the President's shameful defense of war criminals and authoritarian dictators. As the President isolates America by withdrawing from multilateral agreements and human rights bodies, he simultaneously undermines the human rights framework our country helped build and the individuals around the world who need these protections the most. These actions tarnish our country's proud tradition of leadership on human rights and are impediments to an effective foreign policy.

The publication of a Commission report that reaffirms the United States' commitment to supporting human rights worldwide in line with the standards outlined above could be a small positive step against the backdrop of this Administration's appalling record on human rights.

Thank you for your attention to this matter.

Sincerely,



Robert Menendez  
United States Senator



Patrick Leahy  
United States Senator



Richard J. Durbin  
United States Senator



Patty Murray  
United States Senator



Sherrod Brown  
United States Senator



Christopher A. Coons  
United States Senator



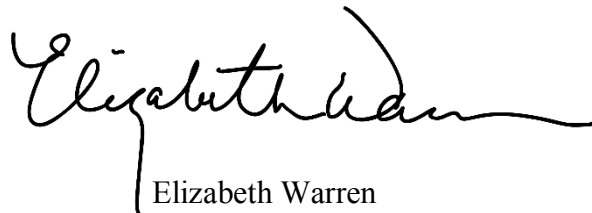
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Elizabeth Warren  
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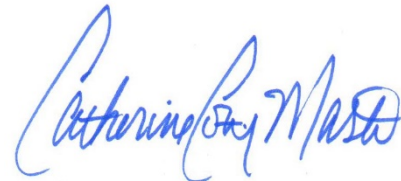
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Bernard Sanders  
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Catherine Cortez Masto  
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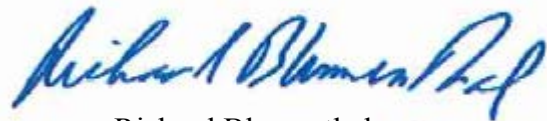
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