

CRUDE ACCOUNTABILITY

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U.S. State Department Commission on Unalienable Rights
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To the U.S. State Department Commission on Unalienable Rights:

As the executive director of Crude Accountability, an environmental and human rights nonprofit organization, I write to express our deep concern with the Commission's work to date, and the potential harm that a final report produced by the Commission, in line with its mandate and the views expressed by several of its members, may have on internationally recognized human rights and the credibility of U.S. foreign policy in the international arena.

As you know, the Commission is an advisory body that was organized and chartered by the Secretary of State under the Federal Advisory Committee Act ("FACA"). The purpose of the Commission, according to Secretary of State Mike Pompeo, is to identify which internationally recognized human rights are "unalienable" and which are "ad hoc," in apparent opposition to U.S. treaty and legal obligations and longstanding foreign policy positions.¹ From its inception, the Commission's mandate, the opaque process by which it came into being, the duplicative nature of the body vis-à-vis the State Department's legally authorized human rights bureau, the publicly-stated views of several of its members, and the lack of diversity of expertise of its membership have deeply troubled our organization and hundreds of other human rights defenders and groups who previously asked that the Commission be disbanded.² The work of the Commission over the past several months has only reinforced our concerns.

We do not believe that a prioritization of rights is proper. The Commission's prioritization of freedom of religion or belief over the enjoyment of other human rights would constitute a violation of the United States' binding obligations under human rights law.

Secretary Pompeo and several of the commissioners have justified the Commission's work by arguing that a "proliferation" of human rights claims has undermined "fundamental" individual rights, namely freedom of religion and freedom of speech.³

¹ See Michael Pompeo, *Unalienable Rights and U.S. Foreign Policy*, Wall Street Journal, (July 7, 2019), <https://www.wsj.com/articles/unalienable-rights-and-u-s-foreign-policy-11562526448>.

² <https://www.humanrightsfirst.org/sites/default/files/Unalienable-Rights-Commission-NGO-Ltr.pdf>

³ During the Commission's second meeting (held on 11/1/2019), chairwomen Glendon noted that the Commission was created to address the "proliferation" of rights and stated that "[t]his is one of the reasons to go back to basics, what rights are fundamental, it is right to say that proliferation of rights can lead to a situation where you're either in

This argument is deeply misguided, and supports widespread concerns within the human rights advocacy community that the Commission's work will be cited as support for policies that would limit rights, including those of women and/or LGBTQ individuals.

The Commission's work sends a signal to the international community that the U.S. government views the international human rights framework as malleable and open to unilateral re-interpretation. The Commission's willingness to question the basic foundations of the human rights framework risks emboldening populist and authoritarian regimes actively promoting revisionist and culturally relativist interpretations of this framework to justify their repressive policies.

As has been widely documented by many human rights organizations, the Trump administration has produced an abysmal policy record concerning internationally recognized human rights. Under the leadership of President Trump, Secretary Pompeo, and other cabinet members, the administration that chartered the Commission on Unalienable Rights has detained migrant children and separated them from their parents; denied individuals their legal right to seek asylum; facilitated widespread Saudi and Emirati war crimes in Yemen; downplayed human rights abuses in countries from North Korea to Central Asia to the Persian Gulf; actively rolled back reproductive health rights at home and abroad; verbally attacked the concept of a free press and individual reporters; and undermined America's independent judiciary, among other actions.

Unlike the work of the Commission thus far, a good faith review of the role of human rights in U.S. government policy would necessarily focus on how the U.S. could both improve its human rights record at home and promote greater protections for *all* human rights abroad. Such a commission would start by reaffirming the U.S. government's commitment to the international human rights framework as defined by the UDHR and the subsequent human rights treaties. The commission would make clear that the rights recognized in both the ICCPR and ICESCR are indivisible, interdependent, and enjoyed by all people, regardless of where they come from, what they look like, or who they love. Finally, a properly constituted commission would also recognize that it is in the U.S. government's national interest to make the promotion and protection of human rights a cornerstone of U.S. foreign policy, and would recommend appropriate changes to Trump administration policy.

The COVID-19 pandemic reveals how rewriting human rights law and policy to exclude certain protections is a life and death mistake. The coronavirus demonstrates how, in an actual global humanitarian crisis, all life-saving human rights are essential and interdependent. The right to life, considered a political right, depends on the right to universal access to affordable health care, an economic right. Health care must be given

paralysis or the currency is devalued where truly fundamental rights become meaningless. In his Wall Street Journal op-ed, Secretary Pompeo argued that a "proliferation of rights claims" has "unmoor[ed] us from the principles of liberal democracy." See Michael Pompeo, *Unalienable Rights and U.S. Foreign Policy*, Wall Street Journal, (July 7, 2019), <https://www.wsj.com/articles/unalienable-rights-and-u-s-foreign-policy-11562526448>.

to all who need it without discrimination on the basis of wealth, race, ethnicity, gender, sexual identity and orientation, political affiliation, or immigration status. Other economic rights—to wages, leave from work, and caregiving support—will ensure that people can support themselves and their families during the crisis. Immigrants and other minorities must be protected from those who would wrongly blame them for the spread of the virus. The rights of the acutely vulnerable—children, the elderly, and the disabled—must be preserved. Religious freedom cannot be used as a basis for denying life-preserving medical care or life-sustaining economic support. There can be no disposing of any of these rights, nor is there a hierarchy among them. Since a society's response to a pandemic is only as strong as its most vulnerable person, all of these rights must be honored to protect everyone.

This is true not only during a pandemic—we are all only as strong as our most vulnerable, and our institutions must be structured to ensure the protection of all human rights.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kate Watters".

Kate Watters
Executive Director