

May 8, 2017

Secretary of State Tillerson  
U.S. Department of State  
2201 C Street, NW  
Washington, DC 20520

**RE: U.S. Engagement with the Inter-American Human Rights Commission**

Dear Secretary Tillerson:

The undersigned civil and human rights organizations, scholars, and advocates practicing in the United States write to urge this Administration to prioritize U.S. leadership on human rights in the Americas, including within the United States. This letter focuses specifically on the importance of U.S. support for, and engagement with, the Inter-American Commission on Human Rights (IACHR) and the Organization of American States (OAS).

As a founding member of the OAS, the United States has long been participant in a system that has advanced core OAS Charter principles, including democracy, human rights, security, rule of law, and development for all the peoples of the Americas. The United States has also been a strong supporter of the independence and autonomy of the Inter-American Commission.

We are thus dismayed by the failure of the United States to participate in the March 21, 2017 hearings convened by the Inter-American Commission in Washington, D.C., and the damaging message this sent about the United States' commitment to human rights throughout the Hemisphere, and here in the United States. We urge the United States to adopt a policy of robust and active engagement with the Commission, the key mechanism for human rights promotion and protection within the OAS.

While the United States has not ratified the American Convention on Human Rights, it has pursued a policy of constructive engagement with the IACHR by responding to petitions, appearing for hearings related to the U.S.' own human rights record, and facilitating fact-finding visits by the Commission. And while the United States has not always lived up to its own human rights commitments, its engagement with the Commission was critical to strengthening human rights at home, as well as the U.S. promotion of human rights across the region. Throughout many years of continued IACHR engagement, U.S. civil society groups and human rights advocates have applauded and valued U.S. participation. The willingness of the federal government to engage in dialogue with advocates and IACHR Commissioners has signaled to

the U.S. public, as well as to advocates and governments throughout the Americas, that the U.S. takes the Commission, and its own regional human rights commitments, seriously.<sup>1</sup>

U.S. participation in Commission proceedings has long bolstered U.S. legitimacy as a credible voice on human rights. In contrast, the recent decision not to participate at the hearings has suggested that the United States may be turning its back on the Americas, and the Commission, at this pivotal moment in the region.<sup>2</sup> While we acknowledge the State Department’s formal statement that the U.S. decision not to participate was premised on the existence of ongoing litigation, we respectfully voice our disagreement both factually and on principle. Only the President’s Executive Order on Protecting the Nation from Foreign Terrorist Entry into the United States (better known as the Muslim and refugee ban), addressed during one of the three hearings, was the subject of active litigation. Furthermore, ongoing litigation has not precluded U.S. participation in hearings before the Commission in the past, nor should it in the future. The U.S. should participate in hearings, and if appropriate, government representatives can decline to respond to specific questions that directly implicate pending litigation. By choosing to be absent during the most recent period of sessions, the U.S. government missed an opportunity to engage with civil society and the Commission on issues of pressing concern to millions of people in the United States, and to the international community, and to publicly defend its human rights record and policy prerogatives.

The opportunity still remains for the U.S. to demonstrate regional human rights leadership in the first months of this Administration. On the same day the United States failed to appear, State Department Representative Mark Toner said that the United States has “tremendous respect for the role performed by the IACHR in safeguarding human rights and fundamental freedoms throughout the hemisphere, including the United States.”<sup>3</sup> This statement demonstrates good intentions. Indeed, the Commission provides a valuable and constructive space for the government and civil society to address human rights and fundamental freedoms in the United States, through the Commission’s thematic hearings, the petition process, and site visits. By taking a seat at the table, engaging with civil society, and confronting critical and challenging human rights issues head on, the United States has modeled the democratic principles of civic engagement for countries across the region, and the globe.

We urge this Administration to demonstrate regional leadership through constructive and meaningful participation in Inter-American proceedings, as well as at the OAS, building upon the work of past administrations, Republican and Democrat. If the U.S. steps away from its support of the Commission and the OAS – in word and in deed – it sets a dangerous precedent for other governments, and threatens to weaken critical regional institutions, as well as the U.S. role within them. We join with others who have cautioned “against an isolationist policy of

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<sup>1</sup> Historically, U.S. advocates have disagreed with many of legal interpretations, factual assertions and political positions put forth by the government before the Commission, but have continued to appreciate robust dialogue as an essential component of democratic governance, and the realization of human rights principles.

<sup>2</sup> See, e.g., Andres Oppenheimer, *Trump should not turn his back on Latin America — like he did last week*, Miami Herald (March 23, 2017), <http://www.miamiherald.com/news/local/news-columns-blogs/andres-oppenheimer/article140381658.html>.

<sup>3</sup> See Transcript, U.S. Department of State Press Briefing, March 21, 2017, at <https://www.state.gov/r/pa/prs/dpb/2017/03/268596.htm>.

disengagement with regional and international human rights bodies,” and emphasized that “this tactic is characteristic of authoritarian regimes, not of democratic nations committed to universal human rights.”<sup>4</sup> Regional human rights leadership, including through participation in the Inter-American System and the OAS, is vital to securing stability in countries such as Venezuela, who just announced withdrawal from the OAS last week.

We have already seen this Administration participate in United Nations proceedings, and express positions on pivotal global issues, including at the April 18<sup>th</sup> U.N. Security Council session on human rights. It is also imperative that the U.S. serves as a supportive voice on human rights within the OAS.

Leadership on human rights requires action. We urge this Administration to make a public statement that clearly and emphatically expresses its support for the Inter-American Commission as an independent and autonomous institution dedicated to advancing human rights. Such a statement from the highest level of the State Department would signal the United States’ ongoing commitment to human rights. But, as you know, words alone are not enough. To make good on a commitment to human rights, the United States must offer ongoing support for the IACHR. This includes both funding the Commission at levels adequate to fulfill its mandate. It also requires constructive participation in hearings, cases, site visits, and the implementation of Commission recommendations to ultimately bring U.S. policies in line with international and regional human rights commitments. Indeed, connecting human rights engagement with domestic policies is essential to advancing human rights at home, and serving as a credible and legitimate voice abroad. The June OAS General Assembly and the upcoming fall period of sessions are clear opportunities for the United States to participate and demonstrate human rights leadership.

We look forward to the opportunity to work with you to strengthen the IACHR and advance these goals, and we welcome the chance to discuss these recommendations through a formal consultation or other means. Indeed, a meeting with U.S. civil society leaders committed to advancing human rights in the region would be a welcome step towards constructive engagement with the Commission and the OAS.

Sincerely,

## **ORGANIZATIONS**

American Civil Liberties Union  
Albuquerque Center for Peace and Justice  
CEJIL  
Center for Constitutional Rights (CCR)  
Center for Gender & Refugee Studies, UC Hastings College of Law  
Center for Reproductive Rights (CRR)  
Columbia Law School Human Rights Institute

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<sup>4</sup> See April 5, 2017 letter to Secretary of State Rex Tillerson from participants in the March 21, 2017 hearings related to the United States

Disability Rights International  
Equality Now  
Four Freedoms Forum  
Global Justice Center  
Human Rights Advocates  
Human Rights Educators USA  
Indian Law Resource Center  
interACT: Advocates for Intersex Youth  
International Center for Advocates Against Discrimination (ICAAD)  
International Corporate Accountability Roundtable (ICAR)  
International Human Rights Clinic, Loyola Law School, Los Angeles  
International Justice Resource Center  
Justice in Motion  
National Law Center on Homelessness and Poverty  
New Mexico Environmental Law Center  
Program on Human Rights and the Global Economy, Northeastern University School of Law  
Robert F Kennedy Human Rights  
Santa Clara Law, International Human Rights Clinic  
Sanctuary for Families  
United Nations Association of the United States of America (UNA-USA)  
United States International Council on Disabilities  
US Human Rights Network  
Women Enabled International

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