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Scott Busby, Director for Human Rights,
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Dear Mr. Posner, Mr. Koh, Mr. Sullivan and Mr. Busby:

As organizations and individuals dedicated to promoting U.S. ratification of, and full compliance with, international human rights treaties, and as signatories to the U.S. Universal Periodic Review (UPR) stakeholder report on Treaty Ratification, we write to follow-up on the Administration’s UPR Process and suggest a course of action regarding the many recommendations made to the United States regarding treaty ratification and implementation.

We appreciate the level of the government’s participation in the UPR process, including its engagement with civil society in follow-up meetings to discuss key issues raised during the Review. Through its efforts, the U.S. is strengthening the UPR process. Recognizing that the UPR also provides an opportunity to strengthen human rights domestically, the Administration should, in particular, endeavor to make real progress towards human rights treaty ratification and implementation in the United States.

As you are aware, during the review, over 40 countries offered recommendations that the United States ratify core human rights agreements. While some of the recommendations were general, many focused on specific treaties. Additionally, almost a dozen countries called on the United States to review and remove existing Reservations, Understandings and Declarations (RUDs). Other recommendations urged the United

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1 These include the Convention on the Elimination of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), the Convention on the Rights of Persons with Disabilities (CRPD), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the Optional Protocol to the Convention Against Torture (OPCAT), the International Labor Organization Fundamental Conventions, the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families and the American Convention.
States to improve treaty compliance by establishing a more robust domestic human rights infrastructure, including a National Human Rights Institution. All of these recommendations are entirely consistent with those set forth in the U.S. UPR stakeholder report on [Treaty Ratification](#), endorsed by more than 55 individuals and organizations.

The March adoption of the UPR recommendations offers an important opportunity for the Administration to commit itself to the goal of ratification and implementation of core human rights treaties. At a minimum, the U.S. should accept the recommendations calling for ratification of core human rights treaties and commit to concrete steps toward ratification. In addition, the Administration should set measurable benchmarks for both achieving ratification and strengthening treaty compliance, accompanied by a timeline to meet these benchmarks.

Recognizing that ratification ultimately requires Congressional action, there are several steps the Administration can take to move towards compliance and ultimately ratification of core human rights treaties. First and foremost, the Administration should affirm that treaty ratification is a priority. Similarly, the Administration should demonstrate its leadership on human rights by incorporating human rights language and treaty standards into domestic speeches and conversations about fundamental issues such as unemployment, social security, housing, healthcare, education and voting. In addition, the Administration should engage in ongoing education, both of members of Congress and state and local officials, to create a climate necessary for both ratification and improved implementation. And the Administration should promote greater transparency and partnership with civil society by providing periodic updates on steps that are being taken towards ratification.

With respect to those treaties that the U.S. has signed but not yet ratified, two additional steps would constitute genuine progress. The Administration should produce an assessment of current U.S. policy and areas where progress can be made. Additionally, the Administration should submit treaty packages to the Senate or, in the case of CEDAW, where a package has been submitted, advocate for the Senate Foreign Relations Committee to hold hearings and appoint a White House coordinator to facilitate briefings and hearings.

In addition, President Obama should consider signing the international and regional human rights agreements that the U.S. has not yet signed, facilitating

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2 As a signatory to CEDAW, CRPD, CRC, the ICESCR and the American Convention, the United States is obligated to “refrain from acts that would defeat the object and purpose” of those treaties and to move toward ratification as well as avoiding backsliding in compliance. See Article 18 of the Vienna Convention on the Law of Treaties, opened for signature May 23, 1969, 1155 U.N.T.S. 331; Restatement (Third) Foreign Relations Law of the United States §312 (3) (1987).
3 Many civil society organizations are already assessing domestic treaty compliance and we are confident the Administration can access relevant data by pursuing partnerships and dialogue with civil society.
4 These include the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, the International Convention for the Protection of all Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and certain International Labor Organization Fundamental Conventions as well as Protocol I and II to the Geneva Conventions.
constructive engagement of Administration officials in international fora and committing the United States to uphold the object and purpose of those treaties.

While we understand the very real political challenges that the Administration faces with respect to human rights treaty ratification, we nevertheless urge the Administration to take these positive steps towards the ultimate goal of ratification, rather than abandon the goal altogether. Now more than ever, the Administration must signal its dedication to pursuing ratification and exhibit leadership towards achieving that goal.

It is clear that when this Administration is committed to ratification of a treaty, it can make significant progress to advance the ratification process. The New START treaty provides an example of how the White House can take such a leadership role, creating bipartisan agreement even where there appears to be insurmountable opposition to ratification. The Administration was able to garner 71 votes in support of ratification through a proactive campaign that included appointing a White House coordinator for the treaty, facilitating 21 Senate hearings and briefings as well as engaging in individual outreach and public statements of support for the treaty.

In response to civil society and peer country recommendations that the U.S. ratify core human rights treaties, the Administration has repeatedly stated that, due to the political difficulty of treaty ratification, the U.S. has adopted the policy of “compliance before ratification.” We question the accuracy of this rationale, given the significant gaps in compliance that remain between U.S. law and core human rights treaties, signed and/or ratified.\(^5\)

The accuracy of the “compliance before ratification” policy notwithstanding, there is significant value in pursuing ratification. By joining human rights treaties that are widely embraced by the international community, the U.S. bolsters its international standing as a leader in the promotion of human rights norms. Furthermore, ratification commits the United States to periodic reviews and ongoing internal assessments of how well we are living up to international human rights standards.


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\(^5\) For example, the CRC recognizes the right to a standard of living adequate for the child’s full development and requires that States take appropriate measures within their means to assist caregivers and provide material assistance and support programs in areas such as nutrition, clothing and housing. Despite the country’s high GDP, in 2008 19 percent of U.S. children lived in poverty, a higher rate than for both adults and the elderly. While children make up less than 25 percent of the total population, they comprise 35 percent of people in poverty.

The ICESCR recognizes the right of everyone to education, available without discrimination. In the United States, students of color, immigrant and low-income students are more likely to attend under-resourced schools, contributing to nationwide disparities in education and opportunity. In 2003, 60 percent of Black and 56 percent of Latino fourth graders nationally scored below the basic reading level for their grade, compared to only 25 percent of White students.
highlight both the significant progress the United States has made in combating child exploitation and some of the remaining gaps in coverage for vulnerable children. Following the review, the United States passed the PROTECT Our Children Act of 2008, which was responsive to the recommendations from the review process and strengthened U.S. law in this important area. In this way, U.S. ratification of human rights treaties and the corresponding review processes can help identify areas in which the United States can strengthen its laws and ensure the rights of its population.

Ratification of human rights treaties is necessary to strengthen the domestic human rights framework, but it is not sufficient. The Administration should also work with Congress to pass necessary implementing legislation and review and remove RUDs that violate the object and purpose of ratified treaties. For example, despite the fact that the death penalty for juveniles violates our own Supreme Court jurisprudence, the U.S. continues to reserve the right to impose such punishment in its RUDs to the International Covenant on Civil and Political Rights (ICCPR). Currently, no standard procedure exists for the government to reconsider the reservation’s continued necessity.

The creation of federal mechanisms, including a federal implementation body, such as an improved and reinvigorated Inter-Agency Working Group (IAWG), would institutionalize processes to review domestic policy and practices with international human rights obligations and create a lasting legacy for the Obama Administration. The IAWG would also serve as a focal point to coordinate federal, state and local efforts to implement human rights. We urge the Administration to establish an improved IAWG immediately and commit to supporting and coordinating state and local efforts to monitor and implement human rights through formalized processes.

In preliminary response to the UPR recommendations, Legal Adviser Koh asserted the Administration’s commitment to strive for a “more perfect union” to help promote a “more perfect world.” As part of that effort, and to fulfill President Obama’s pledge to rehabilitate the United States’ role as a leader in human rights, we urge you to act upon the recommendations laid out here and during the UPR process to ratify and ensure compliance with core human rights treaties.

Sincerely,

Columbia Law School’s Human Rights Institute

Amnesty International USA

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7 The U.S. reservation states “[t]hat the United States reserves the right, subject to its Constitutional constraints, to impose capital punishment on any person (other than a pregnant woman) duly convicted under existing or future laws permitting the imposition of capital punishment, including such punishment for crimes committed by persons below eighteen years of age.” See U.S. reservations, declarations, and understandings, International Covenant on Civil and Political Rights, 138 Cong. Rec. S4781-01 (daily ed., April 2, 1992).
The Center for International Human Rights at John Jay College of Criminal Justice

The Center for Reproductive Rights

Human Rights First

Human Rights Watch

Just Detention International

National Economic and Social Rights Initiative (NESRI)

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