

United States Senate

WASHINGTON, DC 20510

May 7, 2020

Ms. Michelle Bachelet
United Nations High Commissioner for Human Rights
Palais des Nations
CH-1211 Geneva 10, Switzerland

Dear High Commissioner,

We write to express our concern about the impact of COVID-19 on human rights, including on the critical mandate of your office. Your office is charged with the essential work of promoting and protecting human rights around the world and we appreciate your continued transparency, dialogue, and proactive engagement on human rights during the current pandemic. We respectfully request additional information on your contingency plans for maintaining this crucial human rights oversight in the midst of COVID-19, as well as steps you are taking to ensure governments do not use the pandemic as a pretext for crackdowns on internationally recognized human rights.

Your office and several human rights monitoring organizations have sounded the alarm that the COVID-19 crisis could provide a window for governments to misuse swiftly-enacted emergency powers, violate human rights, and suppress civil society under the cover of pandemic response. As of April 15th, 2020, at least 84 countries and territories have enacted COVID-19 emergency policies and measures, and it is our understanding that 23 have notified the United Nations, Organization of American States, and Council of Europe of derogations from human rights treaties. To prevent abuses, it is vital these steps be proportionate to the current crisis, consistent with maintaining public health, time-limited, and subject to appropriate legislative or judicial oversight.

The excessive use of force, media and social media crackdowns, and discrimination against migrants and minorities under the pretext of COVID-19 emergency authorities have been documented in dozens of countries and territories. On April 15th, Hong Kong police conducted mass arrests of 15 pro-democracy leaders for organizing “unlawful assemblies.” Hungary and Cambodia have adopted state of emergency laws suspending civil and political liberties indefinitely. Turkey has detained hundreds of people for expressing opinions about the virus on social media. The Philippines has reportedly made more than 30,000 arrests for violations of curfews and quarantines. El Salvador has arrested and imprisoned more than 1,200 people alleged to have violated curfews, and the president has threatened to ignore Supreme Court rulings upholding the rights of citizens.

We are pleased that in response to these expanded authorities, on April 14th the United Nations special rapporteur on the right to peaceful assembly and association issued detailed recommendations calling on states to strengthen checks and balances to counteract the arbitrary exercise of executive powers, incorporate sunset clauses to ensure such powers are lifted once the pandemic subsides, and guarantee that pandemic response does not become a pathway to human rights violations. We also welcome your office’s additional guidance that COVID-19

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emergency measures must adhere to principles of legality, necessity, proportionality, and non-discrimination, and should not be used as a cover for repressing minorities or silencing human rights defenders.

The COVID-19 crisis has also exacerbated the vulnerability of populations already in urgent need of protection against repression and human rights abuse. In Bangladesh, Rohingya victims of the genocide in Burma face increasingly dire conditions as government lockdowns severing access of humanitarian aid workers have left the country's refugee camps at risk of food and water shortages as well as disease outbreak. In China, millions of Uyghurs and other ethnic minorities remain subjected to arbitrary detention, forced labor, intrusive surveillance, and cruel suppression of cultural and religious practices. In Sudan, advocates for a transition to civilian-led government following decades of conflict face severe challenges in fulfilling the promise of economic and social development. In Guatemala and Honduras, populations suffering from corruption, impunity, and violence at the hands of security forces and organized crime lack mechanisms to seek justice. These areas and many others require the sustained attention of your office.

Your office is charged with monitoring, documenting, and reporting human rights violations around the world, including by collecting interviews, complaints, testimony, and survey data from local courts, police units, judicial authorities, perpetrators, and victims of abuse. On-the-ground access facilitates the capacity of monitors to provide timely, reliable, and independent human rights information, assess compliance with treaty obligations, and offer administrative and technical expertise to local fact-finding mechanisms, including special rapporteurs, human rights ombudsmen, independent experts, and working groups. Much of this work involves extended contact with the public and unfettered entry to countries already reluctant to grant independent monitors access to conduct these observations for fear of exposing state actors as perpetrators of abuse. As of May 5th, 2020, more than 140 countries have imposed complete or partial border closures limiting travel and entry due to COVID-19. And on March 16th, the ten human rights treaty bodies backed by the United Nations, which are charged with monitoring the implementation of international treaties and optional protocols, suspended committee sessions until the end of May.

Recognizing the public health necessity of some social distancing and border policies, we remain concerned that these restrictions will nonetheless constrain your office's capacity to fulfill its critical mandate, especially in the field. Conducting human rights oversight, while always essential, has become even more imperative in the context of the COVID-19 pandemic. In order to better support your mission, we respectfully request answers to the following questions:

1. What is your strategy to maintain observations, on-the-ground reporting, and other field operations, including any operational contingency plans your office intends to implement to ensure that human rights monitoring is maintained?
2. What steps has your office taken or do you plan to take to mitigate attempts to use the pandemic as a pretext for human rights violations or evading independent oversight?

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3. In which countries has restricted on-the-ground access due to COVID-19 significantly impeded your work?
4. What additional assistance do you require from national governments to better support your office's mandate amidst the COVID-19 pandemic? Have funding reductions by national governments diminished your ability to respond, and if so, in what ways?

We thank you and look forward to your response.

Sincerely,

/s/

Jeffrey A. Merkley
United States Senator

/s/

Todd Young
United States Senator

/s/

Patrick Leahy
United States Senator

/s/

Susan M. Collins
United States Senator

/s/

Chris Van Hollen
United States Senator

/s/

Ron Wyden
United States Senator

/s/

Elizabeth Warren
United States Senator

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Kamala D. Harris
United States Senator

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Christopher S. Murphy
United States Senator

/s/

Sherrod Brown
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/s/

Richard Blumenthal
United States Senator

/s/

Edward J. Markey
United States Senator