Dear Chairperson Glendon:

On July 23, 2019, hundreds of human rights, civil liberties, social justice, and faith-based organizations and leaders, including many signatories of this letter, wrote to Secretary of State Pompeo to object to the Commission on Unalienable Rights’ ("Commission") mandate, rationale, and composition. Having reviewed the Commission’s draft “Report of the Commission on Unalienable Rights” of July 16 ("report") and Secretary Pompeo’s speech at its unveiling, we write again to object strenuously to the work product that has emerged from this fundamentally flawed and unnecessary undertaking.

The 111 organizations and 119 individuals listed below submit this letter as a joint, official comment on the draft report. We do so while recognizing that a two-week public comment period is an inadequate timeframe for providing appropriately substantive response to a 60-page document. We furthermore understand that Secretary Pompeo has, as of July 20, instructed all State Department personnel to “read the report thoroughly” as a means to “guide every State Department employee” in the work of carrying out U.S. foreign policy. That the Secretary of State would issue such direction to State Department personnel while you continue to solicit public comment from civil society on a document described as a “draft” epitomizes the bad faith of this enterprise.

We again reiterate the impossibility of separating the Commission’s work, which we believe undermines decades of human rights progress, from the political agenda it serves and the historical moment in which it has been written. The report asserts (appropriately, in our view) that the United States should “vigorously champion human rights in its foreign policy,” and that “America can only be an effective advocate for human rights abroad if she demonstrates her commitment to those same rights at home.” Yet the policies and rhetoric of the Trump administration, and the conclusions of the report itself, undermine these very statements.

From Secretary Pompeo’s original call for the Commission to differentiate between “unalienable” and so-called “ad hoc” rights, to his inflammatory speech at the report’s launch,
the political agenda underlying the Commission’s work has been transparent and deeply alarming. The Secretary’s willingness to use a speech purportedly about human rights to suggest that a Pulitzer Prize-winning *New York Times* series and largely peaceful protestors demonstrating against racial injustice are part of an ongoing “assault” on America’s rights tradition calls into question the very premise upon which the Commission’s work is based. Secretary Pompeo’s assertion that “foremost among [human] rights are property rights and religious liberty” makes clear his intention to use the report to create a hierarchy of rights—despite your assertions to the contrary—based on his personal political and religious beliefs, as opposed to decades of domestic and international human rights law. And the failure of the Secretary and the Commission to acknowledge the many Trump administration policies that have significantly undermined America’s leadership on human rights undercuts both the Commission’s standing and the report itself.

Beyond these facts, the Commission has never established any compelling argument for why it need exist. The State Department has stonewalled legitimate congressional inquiry concerning its mandate, rationale, and operations; while a number of human rights NGOs have sued the Department over the lawfulness of a body formed to advise Secretary Pompeo on how the United States could abandon its commitment to longstanding interpretations of human rights in favor of a framework grounded in “natural law.” As the plaintiffs of this lawsuit and countless human rights organizations, academics, and advocates have correctly highlighted, the United States is incapable of unilaterally reinterpreting the contours of the human rights framework. The Commission’s work, therefore, amounts to little more than an instance of the “proliferation of nonlegal standards” that the report itself decries—an internal contradiction strongly suggestive of the true purpose of this effort.

For all of these reasons, the Commission’s report will undoubtedly be rejected by the international human rights community. Below, we identify the most concerning aspects of the report itself.

First, we reject the notion—fundamental to the Commission’s mandate—that a proliferation of rights claims has undermined the legitimacy and credibility of the human rights framework. The human rights movement is, indeed, under considerable stress from repressive governments, violent non-state groups, and populist leaders eager to undermine rights-based governance and exacerbate social cleavages for political gain. Yet despite these headwinds, the validity of the human rights project is in no way imperiled by the increasing number of rights claims made by those whose rights have historically been denied them. To the contrary, as we stated in our letter of July 2019, “the story of the international human rights movement is one of the deepened recognition and protective reach of rights based on the painstaking work of social movements, scholars, and diplomats, through international agreements and law.” This growing understanding of rights should be celebrated as an
accomplishment worth protecting—one that fulfills the promise of human rights—not denigrated as a threat.

**Second, we reject the idea that there is an untenable uncertainty regarding the meaning and scope of the human rights framework that necessitates sidelining binding treaties.** During his speech, Secretary Pompeo repeatedly stated that the purpose of the Commission is to establish a “framework” for a “proper understanding of unalienable rights,” and made clear his view that these rights come from God. Yet, as many of us have highlighted, the Universal Declaration of Human Rights (“UDHR”) and the nine core human rights treaties negotiated among states, particularly the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights, codify human rights under widely-recognized rules of international law. These treaties are the product of decades of multilateral negotiations and represent an international consensus regarding the scope of human rights. That they received virtually no mention or analysis in the draft report suggests a fundamentally flawed, and purposefully skewed, approach to the question of what does and does not constitute a human right. That the current administration might not agree with these instruments and their obligations in full or in part does not mean that there is confusion about human rights.

**Third, we reject the manner in which the report promotes rights hierarchies through its emphasis on a certain subset of civil and political rights.** The report itself acknowledges that human rights are “universal, indivisible and interdependent and interrelated.” Yet it then prioritizes property rights and religious liberty over other civil and political rights, and advocates for the de-prioritization of socioeconomic rights, including by putting increased emphasis on rights interpreted from specific American documents, rather than those guaranteed in international treaties that bind the United States and other governments. Americanization of the human rights framework is both unnecessary and harmful. While we are cognizant that the U.S. government will—like all governments—make foreign policy decisions based on resources and policy priorities, we reject the report’s recommendation that the United States adopt a foreign policy that identifies certain rights as more important than others. This effort to rank rights opens the door to any number of problematic actions by governments that seek to undermine their human rights obligations and violate individual liberties.

**Fourth, we strongly reject the Commission’s dismissal of certain rights as “divisive social and political controversies.”** The report makes a deeply disturbing distinction between “unalienable rights” and what it describes as the “social and political controversies” of “abortion, affirmative action, [and] same-sex marriage.” To be clear, each of the aforementioned issues relate to human rights guaranteed by international and domestic law, including by the U.S. Supreme Court. To suggest otherwise is to seek to substitute the ideology of the Administration and opinion of 11 individuals for the weight of both domestic and international human rights law
that clearly establishes and recognizes the protection of LGBTQI+ rights and sexual and reproductive rights, including abortion, as human rights imperatives.

**Fifth, we reject the report’s focus on so-called new rights and its criteria for recognizing them.** According to the report, the legitimacy of the human rights framework is threatened by the recognition of new rights and “novel” applications of existing ones. Such an approach would sideline the post-1948 treaties and processes by which human rights have properly been interpreted to cover marginalized groups and circumstances not explicitly addressed in the treaties in a manner consistent with their principles. The Commission has instead developed its own, restrictive criteria for recognizing “new rights” that will, in practice, circumscribe the ability of all people to claim their full rights. This transparent and unnecessary effort to preclude the extension of universal rights to all people has no place in a document meant to inform the U.S. government.

In sum, we find that the Commission and its report reflect a broader pattern concerning this administration’s retreat from the human rights framework. We believe that the work you have produced will undermine American commitments to human rights and provide cover for those who wish to narrow certain categories of rights protections, resulting in a weakening of the international human rights system and its protections in the process.

Signed,

**Non-Governmental Organization (NGO) Signatories**

1. Accountability Lab
2. Advocacy for Principled Action in Government
3. The Advocates for Human Rights
4. Advocates for Youth
5. Allard K. Lowenstein International Human Rights Clinic, Yale Law School
6. Ameinu
7. American Atheists
8. American Civil Liberties Union (ACLU)
9. The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)
10. American Jewish World Service (AJWS)
11. Amnesty International USA
12. Anti-Defamation League (ADL)
13. Art and Resistance Through Education (ARTE)
14. Bayard Rustin Liberation Initiative
15. Better World Campaign
16. Beyond the Bomb
17. Cairo Institute for Human Rights Studies
18. Center for American Progress
19. Center for Disability Rights Inc.
20. Center for Health and Gender Equity (CHANGE)
21. Center for Justice and Accountability
22. Center for Reproductive Rights
23. Central AZ National Lawyers Guild
24. Clearinghouse on Women's Issues
25. Coalition for Ethical Psychology
26. Columbia Law School Human Rights Clinic
27. Columbia Law School Human Rights Institute
28. Columbia Law School Immigrants' Rights Clinic
29. Cornell Gender Justice Clinic
30. Council for Global Equality
31. Crude Accountability
32. DignityUSA
33. Equality California
34. EqualityMaine
35. Equality North Carolina
36. Equity Forward
37. Feminist Majority Foundation
38. The Fenway Institute
39. Foreign Policy for America
40. Freedom From Religion Foundation
41. Global Faith and Justice Project
42. Global Health Justice Partnership of the Yale Law School and Yale School of Public Health (GHJP)
43. Global Justice Center
44. Global Justice Clinic, NYU School of Law
45. Global Women’s Institute
46. Happy & Bennett LLC
47. Hawaiʻi Institute for Human Rights
48. Health GAP
49. Heartland Alliance International
50. Heartland Initiative
51. Human Rights and Gender Justice Clinic, CUNY School of Law
52. Human Rights Campaign
53. Human Rights First
54. Human Rights Funders Network
55. Human Rights Watch
56. Institute on Inequalities in Global Health, University of Southern California
57. International Action Network for Gender Equity & Law (IANGEL)
58. International Center for Advocates Against Discrimination (ICAAD)
59. International Center for Not-for-Profit Law (ICNL)
60. International Center on Religion and Justice
61. International Service for Human Rights (ISHR)
62. International Women’s Health Coalition
63. Kent State Truth Tribunal
64. Lambda Legal
65. Latin America Working Group (LAWG)
66. Legal Resources Centre, South Africa
67. MADRE
68. Malcolm X Center for Self Determination
69. Minnesota Peace Project
70. Muslims for Progressive Values
71. NARAL Pro-Choice America
72. National Advocates for Pregnant Women
73. National Council of Jewish Women
74. National Equality Action Team (NEAT)
75. National Lawyers Guild
76. National Network for Immigrant and Refugee Rights
77. Never Again Coalition
78. PAI
79. PFLAG National
80. Pittsburgh Human Rights City Alliance
81. Planned Parenthood Federation of America
82. Population Connection Action Fund
83. Population Institute
84. Presbyterian Church (USA)
85. Program on Human Rights and the Global Economy, Northeastern University School of Law
86. Project Blueprint
87. Radiant International
88. ReThinking Foreign Policy
89. Robert F. Kennedy Human Rights
90. Safeguard Defenders
91. San Jose State University Human Rights Institute
92. Santa Clara Law International Human Rights Clinic
93. Silver State Equality
94. The Solidarity Center
95. Southern Poverty Law Center (SPLC)
96. Synergía - Initiatives for Human Rights
97. T’ruah: The Rabbinic Call for Human Rights
98. The Global Justice Institute
99. The LGBT Bar Association of New York
100. The National Center for Civil and Human Rights
101. Ubuntu Institute for Community Development
102. United Nations Association of the National Capital Area
103. United Nations Association of the USA
104. Universal Access Project, UN Foundation
105. Urgent Action Fund for Women's Human Rights
106. US Human Rights Network
107. Women’s Alliance for Theology, Ethics, and Ritual (WATER)
108. Women Lead Network
109. Woodhull Freedom Foundation
110. Work Group Minnesota for Human Rights
111. World Without Genocide at Mitchell Hamline School of Law

**Individual Signatories**

* Note: those listed below have signed in an individual capacity. Affiliations are listed for identification purposes only.

**Former Senior Government Officials**

1. Daniel Baer  

2. Rob Berschinski  
   Deputy Assistant Secretary of State for Democracy, Human Rights, and Labor, 2015-2017

3. Eric R. Biel  
   Associate Deputy Undersecretary of Labor for International Labor Affairs, 2012-2017

4. Mary McGowan Davis  
   Justice of the Supreme Court of the State of New York (Retired)

5. Luis C. deBaca  
   Ambassador-at-Large to Monitor and Combat Trafficking in Persons, 2009-2014

6. Ariel Dulitzky  
   Former Chair-Rapporteur, United Nations Working Group on Enforced or Involuntary Disappearances, 2013-2015

7. Michael Fuchs  
   Deputy Assistant Secretary of State for East Asian and Pacific Affairs, 2013-2016

8. Patrick Gaspard  
   Ambassador to South Africa, 2013-2016

9. Raffi Freedman-Gurspan  
   Senior Associate Director for Public Engagement and Obama Administration LGBTQ Liaison, 2016-2017

10. Bennett Freeman  
    Deputy Assistant Secretary of State for Democracy, Human Rights, and Labor, 1999-2001
11. Jennifer Hunt  
   James Cullen Chair in Economics, Rutgers University; Chief Economist at the Department of Labor, 2013-2014; Deputy Assistant Secretary for Microeconomic Analysis, Department of the Treasury, 2014-2015

12. Victoria K. Holt  
   Vice President, The Henry L. Stimson Center; Deputy Assistant Secretary of State, International Organization Affairs, 2009-2017

13. Harold Hongju Koh  
   Sterling Professor of International Law, Yale Law School; Assistant Secretary of State for Democracy, Human Rights and Labor, 1998-2001; Legal Adviser, US Department of State, 2009-2013

14. Rose Jackson  
   Chief of Staff, State Department Bureau of Democracy, Human Rights, and Labor, 2013-2016

15. Jonathan Katz  
   Senior Fellow, German Marshall Fund of the United States; Former Deputy Assistant Administrator, Europe and Eurasia Bureau, USAID, 2014-2017

16. Ambassador Ian Kelly (Ret.)  
   Ambassador in Residence, Northwestern University; U.S. Ambassador to Georgia, 2015-2018; U.S. Ambassador to the Organization for Security and Cooperation in Europe 2010-2013

17. David J. Kramer  
   Senior Fellow, Florida International University Václav Havel Program for Human Rights and Diplomacy; Assistant Secretary of State for Democracy, Human Rights and Labor, 2008-2009

18. Christopher Le Mon  
   Special Assistant to the President & National Security Council Senior Director, 2013-2017; U.S. State Department Senior Advisor for Multilateral Affairs and Human Rights, 2009-2013

19. Christopher P. Lu  
   Senior Fellow, University of Virginia Miller Center; U.S. Deputy Secretary of Labor, 2014-2017

20. Blake Narendra  
   Special Advisor, Bureau of Arms Control, Verification, and Compliance, U.S. Department of State, 2015-2017

   Deputy Assistant Secretary of State for Defense Trade Controls, 2015-2017

22. Matthew G. Olsen  
   Director, National Counterterrorism Center, 2011-2014

23. Stephen Pomper  
   Special Assistant to the President and NSC Senior Director for Multilateral Affairs and Human Rights, 2013-2016

24. Ned Price  
   Special Assistant to the President, 2016-2017; NSC Spokesperson, 2015-2017
25. Amanda Sloat  
Deputy Assistant Secretary of State for Southern Europe and Eastern Mediterranean Affairs, 2013-2016

**Scholars and Educators**

26. Richard L. Abel  
Connell Distinguished Professor of Law Emeritus and Distinguished Research Professor  
UCLA

27. Sarah Babcock  
Clinical Professor, Human Rights Clinic  
Cornell Law School International

28. Jeff Bachman  
Senior Lecturer, School of American Service  
American University

29. Dr. Linda Bell  
Emerita Professor of Philosophy; Director of the Women's Studies Institute  
Georgia State University

30. Robert C. Blitt  
Professor of Law  
University of Tennessee College of Law

31. Carolyn Patty Blum  
Clinical Professor of Law, Emerita, Berkeley Law, UC Berkeley

32. Charles B. Boldsmith  
Former Artistic Director, Borderlands Theater

33. Alison Brysk  
Distinguished Mellichamp Professor, University of California Santa Barbara

34. Megan Carney  
Assistant Professor  
University of Arizona

35. Monica J. Casper, Ph.D.  
Dean and Professor  
San Diego State University

36. Anthony Tirado Chase  
Professor, Occidental College

37. Brian Citro  
Assistant Clinical Professor of Law, Northwestern Pritzker School of Law

38. Ann Marie Clark  
Associate Professor  
Purdue University

39. Sarah H. Cleveland  
Louis Henkin Professor of Human and Constitutional Rights, Columbia Law School; Former Vice Chair, UN Human Rights Committee; Former Counselor on International Law to the Legal Adviser, U.S. Department of State

40. Jenny-Brooke Condon  
Professor of Law  
Seton Hall Law School

41. Avidan Y. Cover  
Professor, Case Western Reserve University School of Law
42. Maria De La Torre  
Associate Professor  
Northeastern Illinois University

43. Miguel H. Diaz, Ph.D.  
Ambassador to the Holy See, Ret.,  
Loyola University Chicago

44. Margaret Drew  
Associate Professor of Law, Human Rights at Home Clinic  
UMass Law School

45. William R. Fernekes  
Lecturer, Rutgers University Graduate School of Education

46. Martin Flaherty  
Leitner Family Professor of International Human Rights Law, Leitner Center for International Law and Justice, Fordham Law School

47. Claudia Flores  
Associate Clinical Professor of Law and Director of the International Human Rights Clinic  
University of Chicago Law School

48. Barbara A. Fray  
Director, Human Rights Program  
University of Minnesota

49. Eric Friedman  
Global Health Justice Scholar, O'Neill Institute for National and Global Health Law  
Georgetown University

50. Aya Fujimura-Fanselow  
Clinical Professor of Law and Supervising Attorney, International Human Rights Clinic  
Duke University School of Law

51. Charles Gelsinger  
Human Rights and Comparative Law Educator

52. Stephen E. Gottlieb  
Jay & Ruth Caplan Distinguished Professor of Law Emeritus  
Albany Law School

53. Jennifer Green  
Clinical Professor of Law and Director of the Human Rights Litigation and Advocacy Clinic  
University of Minnesota Law School

54. Gergana Halpern  
Director of Education Programs, Institute for the Study of Human Rights  
Columbia University

55. Hille Haker, Ph.D.  
Richard A. McCormick, S.J., Chair of Catholic Moral Theology  
Loyola University Chicago

56. Laurence R. Helfer  
Harry R. Chadwick, Sr. Professor of Law  
Duke University School of Law

57. John Quentin Heywood  
Associate Professor/Law Librarian, Chair of the AU Faculty Senate, American University

58. Jayne Huckerby  
Clinical Professor of Law, International Human Rights Clinic  
Duke University School of Law

59. Mark R. Jacobson  
Assistant Dean, Washington Programs  
Syracuse University
60. Anil Kalhan  
Professor of Law  
Drexel University

61. Susan Kang  
Associate Professor  
City University of New York

62. Jocelyn Getgen Kestenbaum  
Associate Professor of Clinical Law,  
Benjamin B. Ferencz Human Rights and Attorney Prevention Clinic,  
Cardozo Law

63. Bassam Khawaja  
Co-Director, Human Rights and Privilege Project  
New York University School of Law

64. Helen M. Kinsella  
Associate Professor  
University of Minnesota-Twin Cities

65. Jonneke Koomen  
Associate Professor  
Willamette University

66. Catherine Lutz  
Thomas J. Watson, Jr. Professor Emerita of Anthropology and International Studies  
Brown University

67. Harry A. Lando  
Distinguished International Professor  
University of Minnesota

68. Susan C. Mapp  
Professor of Social Work  
Elizabethtown College

69. Elisa Massimino  
Robert F. Drinan, S.J., Chair in Human Rights  
Georgetown University Law Center

70. Nancy A. Matthews  
Professor of Justice Studies  
Northeastern Illinois University

71. Peter Micek  
Lecturer, School of International and Public Affairs  
Columbia University

72. Ken Neubeck  
Emeritus Professor  
University of Connecticut

73. Sarah H. Paoletti  
Practice Professor of Law and Director, Transnational Legal Clinic  
University of Pennsylvania

74. V. Spike Peterson  
Professor  
University of Arizona

75. Jean H. Quataert  
Distinguished Professor of History  
Binghamton University

76. Catherine Powell  
Professor of Law, Fordham Law School; NSC Director of Human Rights, 2011

77. Dr. Paula R. Rhodes  
International Human Rights Educator and Attorney  
University of Denver

78. Rebecca Riddell  
Co-director of the Human Rights and Privatization Project, The Center for Human Rights and Global Justice at New York University School of Law

79. Gabor Rona  
Professor of Practice  
Cardozo Law School
80. Mindy Jane Roseman  
Director, Gruber Program for Global Justice and Women’s Rights  
Yale Law School

81. Stephen A. Rosenbaum  
Frank C. Newman Lecturer  
Berkeley School of Law

82. Joachim Salvelsberg  
Professor of Sociology and Law,  
Arsham and Charlotte Ohanessian Chair  
University of Minnesota

83. Anne Schaufele  
Practitioner-in-Residence,  
International Human Rights Law Clinic  
American University Washington

84. Naomi Scheman  
Professor Emerita of Philosophy and Gender, Women, & Sexuality Studies  
University of Minnesota

85. Beth Van Schaack  
Leah Kaplan Professor of Human Rights  
Stanford Law School

86. Payal Shah  
Fellow, University of Texas Faculty of Law International Reproductive and Sexual Health Law Program

87. Debbie Shamak  
Assistant Professor  
Rowan University

88. Sarah B. Snyder  
Professor, School of International Service  
American University

89. Stephen Soldz  
Professor,  
Boston Graduate School of Psychoanalysis

90. Beth Stephens  
Distinguished Professor  
Rutgers Law School

91. Dr. Jennifer Suchland  
Associate Professor  
Ohio State University

92. Carrie Booth Walling  
Associate Professor Political Science  
Albion College

93. Deborah M. Weissman  
Reef C. Ivey II Distinguished Professor of Law  
University of North Carolina School of Law

94. Richard J. Wilson  
Emeritus Professor of Law  
American University

95. Malia Lee Womack  
Graduate Teaching Associate  
The Ohio State University

96. Randi Aho  
Civic Education Program Manager,  
Pat Brown Institute

97. Philip D. Althouse  
Attorney, Bringing Human Rights Home Lawyers Network
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<th>No</th>
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<td>Rabbi Aryeh Bernstein</td>
<td>Chicago Justice Fellowship Director, Avodah</td>
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<td>Marco Castro-Bojorquez</td>
<td>Co-Chair, HIV Racial Justice Now</td>
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<td>100</td>
<td>Dr. Trudy Bond</td>
<td>Psychologist</td>
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<td>Toledo, OH</td>
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<td>Mette Brogden, Ph.D.</td>
<td>Anthropologist</td>
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<td>Tucson, Arizona</td>
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<td>Rev. Dr. Shannon Clarkson</td>
<td>First Congregational Church</td>
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<td>Susan Corke</td>
<td>Senior Fellow and Executive</td>
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<td>Director of Transatlantic Democracy Working Group, German Marshall Fund</td>
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<td>Gregory Feifer</td>
<td>Executive Director, Institute of Current World Affairs</td>
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<td>Fr. Joseph K. Grieboski</td>
<td>Senior Fellow, The Dietrich Bonhoeffer Institute</td>
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<td>106</td>
<td>Sarah Holewinski</td>
<td>Senior Fellow, U.S. Institute of Peace</td>
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<td>107</td>
<td>Deena R. Hurwitz</td>
<td>International Human Rights Lawyer and Consultant, Charlottesville, Virginia</td>
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<td>108</td>
<td>Dr. Kwame-Osagyefo Kalimara</td>
<td>New Afrikan People's Organization/Malcolm X Grassroots Organization</td>
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<td>109</td>
<td>Kerry Kennedy</td>
<td>Author, Attorney &amp; Activist, New York, NY</td>
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<td>110</td>
<td>Daniel R. Mahanty</td>
<td>Director, US Program, Center for Civilians in Conflict</td>
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<td>111</td>
<td>Ted Piccone</td>
<td>Chief Engagement Officer, World Justice Project</td>
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<td>Rev. Dr. Christopher Pierson</td>
<td>Senior Pastor, Gary United Methodist Church, Wheaton, IL</td>
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<td>113</td>
<td>Carey Shenkman</td>
<td>Human Rights Attorney, Law Office of Carey Shenkman</td>
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<td>Anastasia Taskin</td>
<td>Attorney, Taskin Law and Mediation</td>
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<td>116</td>
<td>Jaime Todd-Gher, JD, LLM</td>
<td>Human Rights Attorney</td>
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<td>117</td>
<td>M. Thandabantu Iverson, Ph.D.</td>
<td>Convention on the Elimination of all forms of Racial Discrimination (CERD) Taskforce</td>
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<tr>
<td>118</td>
<td>Andréa Worden</td>
<td>Non-resident Research Fellow, Sinopsis</td>
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<tr>
<td>119</td>
<td>Mona Younis</td>
<td>Strategic Planning and Evaluation Consultant, Washington, DC</td>
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