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The Honorable Nancy Pelosi  
Speaker  
U.S. House of Representatives  
H-232 The Capitol  
Washington, DC 20515

The Honorable Steny Hoyer  
Majority Leader  
U.S. House of Representatives  
H-107 The Capitol  
Washington, DC 20515

May 11, 2020

Dear Speaker Pelosi and Majority Leader Hoyer:

I write on behalf of the Center for Constitutional Rights (CCR) to urge you to exercise the boldest leadership to pass legislation firmly grounded in human rights principles and obligations in response to the COVID-19 pandemic. It is incumbent upon the government to respect, protect, and fulfill the rights to life, health, a decent wage, and safe working conditions. This was true before the pandemic; it is true and even more critical now. Rights-based policies urged by progressive leaders in the House, which must be made prominent in future relief legislation, will help us emerge from this crisis as a stronger, healthier, and more just community than we were when it descended upon us.

Legislative responses originating in the Senate have refused to put people first and foremost, especially those made most vulnerable in our society. With no end in sight to the pandemic, this urgent situation demands innovative policies to effect long-overdue and necessary structural change. Considering the scale and magnitude of human suffering caused by the government's failed and inadequate responses to the crisis to date, we know that anything less will only result in further serious and widespread human rights violations.

Short-term fixes to existing policies and programs will undoubtedly fall short, perpetuating and worsening the structural injustices and state-created harms that existed before the pandemic. For example, before the COVID-19 crisis, people of color were at higher risk of being uninsured than non-Hispanic whites and one in five uninsured adults went without needed medical care due to cost. It is no surprise, then, that during the crisis, Black communities have been among the hardest hit and are disproportionately impacted by COVID-19, according to data published by the Center for Disease Control and individual states. Black people are infected and dying at significantly higher rates than other racial and ethnic groups in Louisiana, Michigan, Illinois, Mississippi, and other states.

While aspects of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and the recent Paycheck Protection and Health Care Enhancement Act have had bipartisan support, there are significant differences in the values underlying and consequences emerging from the various

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policy considerations. One set of policy approaches, designed to protect corporate profit, a wealthy donor base, and political power, will continue to result in unnecessary death and human suffering, particularly for marginalized communities. Given the systemic discrimination being magnified and exacerbated through this crisis and the scale of easily predictable and unnecessary human suffering resulting from governmental responses, these non-rights respecting policies may amount to crimes against humanity. They must be seen and understood as “intentionally causing great suffering, or serious injury to body or to mental or physical health,” and on a widespread or systematic basis, intentionally and severely depriving fundamental rights on the basis of race and other prohibited grounds of discrimination. Failing to put people first and continuing to prioritize corporations makes lawmakers complicit in harms that, when viewed through the lens of history, would meet the threshold for international crimes.

The devastating human cost of the COVID-19 pandemic on already vulnerable communities, including immigrants, people experiencing homelessness, and people who are incarcerated and detained, cannot be adequately addressed by a one-time, means-tested stimulus payment. As the unemployment rate soars toward Great Depression-era rates, profit-centered emergency responses do nothing to address existing economic inequality that has only been intensified by the pandemic. In order to facilitate a just solution to an unprecedented crisis, Congress must address racial disparities of COVID-19 while also recalibrating priorities and committing to structural social change that remedies historical injustices and upends systemic racial inequality and discrimination.

As Congress prepares CARES-2, we strongly urge you to prioritize relief for the most vulnerable individuals and communities by utilizing a rights-based approach that guarantees basic economic, social, civil and political rights to all, including the right to a remedy, in accordance with international human rights standards and obligations.

This moment has made clear that such a transformation is possible—that we are able to urgently leverage vast amounts of public wealth—so we urge you to move beyond any self-imposed limits based on what seems practicable and to work boldly to pursue the structural change necessary to address historical root causes.

The next legislative response, CARES-2, must center the priorities and principles below:

- 1. Ensuring access to justice and remedies for historical injustices.** COVID-19’s impact on Black and indigenous people is compounding and magnifying vulnerabilities that have resulted from historical injustices, including genocide, forcible transfer, slavery, Jim Crow, and racial segregation and inequality. The failure to reckon with these historical injustices perpetuates and reinforces current systemic racial discrimination and oppression that has resulted in dramatic health disparities and disproportionate COVID-19 infection and death rates. As massive amounts of public wealth are devoted to short-term relief, it is imperative that lawmakers work to address historical injustices, including through reparations. The scope of duties included in H.R. 40, the Commission to Study and Develop Reparation Proposals for African-Americans Act, should be expanded beyond 1865 up to the present so the full impact of slavery and its legacy can be measured and reparations can be assessed. Congress must act to reinstate treaty-making with Native nations and acknowledge Native independence, guaranteeing the

fundamental right to self-determination for Native people, communities, land bases, and political and economic systems.

- 2. Invest in safe communities, rather than police and criminalization.** The current crisis must not be an excuse to increasingly criminalize communities of color. CARES-2 must work to free communities of color from oppressive and discriminatory law enforcement. Lawmakers must recognize the collective failure to address underlying economic and social circumstances that ensnare people in the criminal legal system and commit to investing in programs, solutions, and infrastructure that strengthen communities of color. CARES-2 should include support for community-based efforts that provide community safety through non-law enforcement means, such as community programs to address food insecurity, homelessness, and education on COVID-19 and related health issues, and access to healthcare. Law enforcement agencies should develop thorough redeployment plans recognizing resources can and should be adjusted given that law enforcement and policing needs have changed significantly as the majority of the population stays at home. Law enforcement officials must develop clear guidelines to limit arrests, refrain from any nonessential arrests, and make only necessary contacts in interactions with already vulnerable communities.
- 3. Prioritize decarceration.** There must be a robust plan and funding to release people from jails, prisons, and detention centers. Officials must expand release for people in custodial detention, including pretrial detainees, people held for minor offenses, detainees who have not been charged, and juvenile offenders; and prioritize the immediate release of medically vulnerable, immunocompromised, elderly, and long-term prisoners. Substantial federal government resources should be directed to initiatives that release people from incarceration, including people held in immigrant detention and indefinite detention at Guantánamo, and reduce the spread of the virus in custodial detention settings where overcrowding and unsanitary conditions create heightened health risks. Public resources must be divested from perpetuating mass incarceration and invested in community-based services and infrastructure.
- 4. Ensure full and genuine access to the democratic process.** Ensure every citizen in every territory of the United States—including Puerto Rico—be allowed to participate in the U.S. democratic process by casting their ballot without risking their health. CARES-2 should include measures to help states prepare for the 2020 election, including funding to update voting infrastructure, extending voter registration deadlines, implementing or extending early voting, suspending or revising signature match policies, and supporting universal vote-by-mail initiatives. The right to vote should be extended to incarcerated and formerly incarcerated people and remedies provided to address the disenfranchisement of formerly and currently incarcerated people, which is a particular threat to Black civic participation in the United States. CARES-2 should ensure voters who cannot use vote-by-mail have safe and accessible in-person voting at polling places. Congress must establish independent, non-partisan electoral commissions to oversee redistricting to help ensure free and fair elections and prevent gerrymandering.
- 5. Ensure fair distribution of public resources.** For decades the federal budget has prioritized and devoted trillions of dollars to wage endless wars creating soaring economic inequality and critical gaps in public health infrastructure. CARES-2 must

ensure fair distribution of public resources by recognizing that the most vulnerable and marginalized communities and individuals need much more to be made whole. Military spending included in CARES-2 should be limited to necessary COVID-19 responses, such as vaccine development and procurement of personal protective equipment, and not be a vehicle to enrich private contractors. Additionally, military spending must be substantially reduced and reallocated to address non-military security concerns such as economic inequality; universal access to housing, healthcare, and education; and climate change.

- 6. Support essential workers, with particular attention to those from marginalized communities.** Many workers labeled “essential” during the COVID-19 emergency are from marginalized communities made most vulnerable by historical inequities and an unjust status quo before the crisis. They have no choice but to work despite health risks created by COVID-19. According to the Economic Policy Institute, only 16.2% of Hispanic workers and 19.7% of Black workers are able to telework. CARES-2 must not provide corporations with immunity from liability for harm to workers, consumers, and patients. Incentives for women, women of color, undocumented individuals, and low-wage workers serving essential roles must not only prioritize continued work but must also incentivize and facilitate a choice to *not* work and stay home. Economic policies must be undertaken with a view to their longer-term sustainability. CARES-2 must ensure that all essential workers can care for their families, their children, and themselves during and after the pandemic by providing access to affordable childcare, requiring that employers provide workers with paid leave for childcare, extending paid sick leave to all workers, and providing funding to cover COVID-19-related expenses incurred by individual workers.

The Center for Constitutional Rights’ mission is to work with communities under threat to fight for justice and liberation through litigation, advocacy, and strategic communications. Since 1966, CCR’s work has been motivated by a fundamental commitment to transforming what are the key social, cultural, legal, economic, and political systems that support and maintain racism and gender oppression, economic injustice, and abusive state power. CCR’s efforts are informed by and directed at protecting and promoting human rights, and we work within domestic and international fora to hold the United States accountable to its human rights obligations.

We seek to ensure that any federal response to the COVID-19 pandemic is forward-looking, rights-respecting, and rooted in justice, dignity, and equality. We are committed to working with the people under threat and refusing to allow shortsightedness and cruelty to obstruct the building of the society everyone deserves. We urge you to join us in this endeavor by exhibiting bold leadership to enact legislation that, at a minimum, meets the needs listed above and prioritizes human rights, safety, health, and well-being of the most vulnerable.

Sincerely,



Nadia Ben-Youssef  
Advocacy Director