



January 9, 2017

The Honorable Chuck Grassley

Chairman
Committee on the Judiciary
U.S. Senate
Washington, DC 20510

The Honorable Dianne Feinstein

Ranking Member
Committee on the Judiciary
U.S. Senate
Washington, DC 20510

Senate Committee on the Judiciary

U.S. Senate
Washington, D.C. 20510

Dear Chairman Grassley, Ranking Member Feinstein, and Members of the Committee on the Judiciary,

We, the undersigned organizations, write concerning the nomination of Senator Jefferson Sessions as the United States Attorney General. We urge you to use the confirmation hearings to clarify Senator Sessions' commitment to upholding rule of law, including by supporting and enforcing anti-corruption measures, and measures to ensure accountability for human rights harms, including those committed by corporations.

The U.S. government has a longstanding commitment to promoting and protecting human rights, including through its membership in the UN Human Rights Council in 2016¹ and its

¹ *United States Election to the Human Rights Council*, U.S. DEP'T OF STATE (Oct. 28, 2016), <https://www.state.gov/secretary/remarks/2016/10/263798.htm>.

endorsement of the UN Guiding Principles on Business and Human Rights (UNGPs), a seminal development in recognizing corporations' human rights responsibilities. The Department of Justice plays a crucial role in ensuring the realization of such commitments by enforcing existing laws and administering justice fairly and impartially, however powerful and wealthy the defendant may be.

When corporations commit wrongdoings that have human rights impacts, they very rarely are held to account. Such corporate impunity has a pernicious effect on our society as it denies justice to victims of the crime, weakens the rule of law, and creates an uneven playing field for law-abiding businesses. The Department of Justice is tasked with "seek[ing] just punishment for those guilty of unlawful behavior."² This should include prosecution of human rights crimes, including when such violations of law are committed by corporations.

Eradicating corrupt businesses practices abroad is an essential step to protecting human rights and ensuring corporate accountability. Experts have recognized that where corruption is widespread, human rights are subject to abuse.³ One of the key laws in combatting corruption abroad is the Foreign Corrupt Practices Act (FCPA) which bars American businesses from making corrupt payments to foreign officials and engaging in financial fraud. Unlike other areas of the law, FCPA enforcement has been rigorous and proven effective in punishing corrupt business actors while promoting economic growth by ensuring a fair and competitive business environment.

Senator Sessions has recognized the need for corporate accountability and the current prosecution gap. He has made comments expressing a desire for ending corporate impunity. During a 2010 confirmation hearing for the U.S. deputy attorney general, James Cole, Senator Sessions identified Cole's prosecution record on corporate crimes as one of his main areas of concern. Senator Sessions raised doubts on the "dangerous" philosophy of not charging companies criminally out of the concern for collateral damage to the shareholders and employees. He said, "Normally, I was taught if they violated a law, you charge them. If they didn't violate the law, you don't charge them."⁴

It is critical for the United States to maintain a leadership role on human rights and the Attorney General to commit to upholding such principles.

As such, we urge you to use the confirmation process to clarify Senator Sessions' views and commitments to the following:

² *About DOJ*, U.S. DEP'T OF JUST., <https://www.justice.gov/about> (last visited Jan. 8, 2017).

³ See International Council on Human Rights Policy, *Corruption and Human Rights: Making the Connection*, 23 fn. 33 (2009) (quoting Committee on Economic, Social and Cultural Rights as stating that "states face serious problems of corruption, which have negative effects on the full exercise of rights covered by the ... [ICESCR]" and quoting the Committee on the Rights of the Child as stating that it "remains concerned at the negative impact corruption may have on the allocation of already limited resources to effectively improve the promotion and protection of children's rights, including their right to education and health") (internal citations omitted).

⁴ *Hearing, Nomination Of James Michael Cole, Nominee To Be Deputy Attorney General, U.S. Department Of Justice*, U.S. SENATE JUDICIARY COMMITTEE 98-99 (Jun. 15, 2010), <https://www.judiciary.senate.gov/imo/media/doc/CHRG-111shrg64377.pdf>.

If confirmed as the U.S. Attorney General,

- 1) Will Senator Sessions ensure effective prosecution of corporate human rights abuses as a key priority of the Department of Justice, and ensure U.S. compliance with international obligations? What steps will he take to ensure that law enforcement have sufficient resources, training, and political support to take on corporate wrongdoers?
- 2) Will Senator Sessions continue rigorous enforcement of the FCPA and dedicate the same or even elevated resources to this area of law? Through which steps?
- 3) The Human Rights and Special Prosecutions Section (HRSP) within the Department of Justice was established in 2010 to investigate and prosecute cases against human rights violators and other international criminals. Will Senator Sessions continue to support, with resources, time, and commitment, the HRSP? Through which steps?

We are thankful for your consideration, and look to you to safeguard the United States' commitment to upholding rule of law, including by supporting and enforcing anti-corruption measures, and measures to ensure accountability for human rights harms, including those committed by corporations.

Sincerely,

Amazon Watch

Coalition of Immokalee Workers

EG Justice

FIDH

Global Witness

Greenpeace USA

The International Corporate Accountability Roundtable (ICAR)

International Rights Advocates

Mercy Investment Services

Northwest Coalition for Responsible Investment

Project on Organizing, Development, Education, and Research (PODER)

Tri-State Coalition for Responsible Investment