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The U.S. Must Challenge Autocratic Regimes at the Beijing Interpol Meeting

Ted R. Bromund, PhD

The 86th annual meeting of the Interpol General Assembly will be held from September 26 to 29 in Beijing. Interpol, an international organization of police and law enforcement organizations, has in recent years been heavily criticized for failing to ensure that—as its constitution requires—it focuses exclusively on ordinary crime, and does not become an instrument of political oppression in the hands of autocratic regimes.

The United States has so far failed to devise an effective strategy to resist, and roll back, the politicization of Interpol. The Trump Administration should take the opportunity of the General Assembly meeting to develop and implement such a strategy. If it does not, Interpol, which is heavily used by U.S. law enforcement, will continue to lose credibility in ways that will damage both it and the interests of the U.S.

What Interpol Is, and What It Is Not

The media often portray Interpol as an international police force, with armed agents on the ground around the world pursuing and arresting criminals. Every part of the portrayal is incorrect. Interpol is better understood as a sophisticated bulletin board on which its member nations can post “wanted” notices and other information. At the request of a

member nation, Interpol can also issue a Red Notice, which notifies other member nations that an individual is wanted by the nation that made the request. Interpol can only issue Red Notices that have no political, military, religious, or racial character: Like all of Interpol’s activities, Red Notices can only concern ordinary crimes, such as murder or robbery.¹

The Politicization of Interpol

In 2015, the last year on which data is available, Interpol issued 11,492 Red Notices. While most of these Notices attract no controversy, concern that autocratic regimes, such as Russia and Iran, are using Interpol to harass their political opponents has risen dramatically in the past decade. Most recently, in March 2017, the Parliamentary Assembly of the Council of Europe published a report on “Abusive Use of the Interpol System: The Need for More Stringent Legal Safeguards,” which found that “Red Notices can cause serious human rights violations when they are abused...by oppressive regimes in order to persecute their opponents even beyond their borders.”²

Concerns the U.S. Should Address at the Interpol General Assembly Meeting

The General Assembly is Interpol’s supreme authority. Like the U.N. General Assembly, it operates on a “one-nation, one-vote” rule, though unlike the U.N., Interpol has no equivalent of the Security Council. In practice, however, Interpol has since its re-founding after World War II been dominated by France, the United Kingdom, and the United States. The fact that this year’s General Assembly is being held in Beijing is evidence that this dominance is fading. But Interpol is not just changing; it is being politi-

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The Heritage Foundation
214 Massachusetts Avenue, NE
Washington, DC 20002
(202) 546-4400 | heritage.org

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cized. The U.S., and other democracies, must use the General Assembly meeting to challenge the rise of the autocrats by taking the following steps in seven areas:

1. State Department and National Security Council Oversight. In the U.S., relations with Interpol are handled through the U.S.'s National Central Bureau, responsibility for which is shared by the Department of Justice and the Department of Homeland Security. If Interpol were solely an apolitical organization, that would be appropriate. But as autocratic nations have sought to politicize it, the U.S. can no longer treat meetings of the General Assembly as apolitical meetings of law enforcement officials. The U.S. delegation to the General Assembly should include seconded officials from the State Department and the National Security Council, who should have the diplomatic or international experience to assess effectively proposals that domestic law enforcement officials cannot properly evaluate.

2. Interpol's Executive Committee. The Executive Committee meets three times a year to set organizational policy and direction for Interpol. It is currently chaired by Meng Hongwei, China's Vice-Minister of Public Security, who was elected unanimously in 2016. Meng is no ordinary, apolitical policeman from a law-abiding democracy: He is a Communist Party loyalist from a powerful autocracy with a track record of abusing Interpol.³ As such, he is unsuited to lead an organization that is constitutionally bound to be apolitical. In 2017, elections will replace the Vice President for Africa, two delegates from Europe, one delegate from Africa, and one delegate from the Americas. The U.S. should work with democracies around the world, and especially in Europe and the Americas,

to ensure that candidates for the committee come from democratic and law-abiding nations, and it should publicly oppose unsuitable candidates from non-democracies, even if it loses the ensuing General Assembly vote.

3. Interpol's Funding. Interpol states that its "principal source of funding is the annual statutory contribution" provided by each of its 190 member nations. But since 2011, the share of expenditure from other, unspecified sources has risen from 8 percent to 30 percent in 2015. Also in 2015, Interpol suspended a donation arrangement with FIFA, the international governing body of soccer, after worldwide investigations were launched into FIFA's corruption.⁴ The rise of these other funding sources reduces the ability of Interpol's member nations to control it, poses a risk that Interpol will become enmeshed in corrupt activity, and creates the possibility of improper external influence on Interpol's activities. The U.S. should press for (a) full and public transparency on all sources of past and present Interpol income; (b) Interpol's exclusive future reliance on national contributions; and (c) a reduction in peripheral activities sufficient to allow Interpol to live within its nationally provided means.

4. Candidate Nations. Interpol currently has 190 member nations. In 2017, Kosovo, the Palestinian Authority, the Solomon Islands, and Taiwan may seek either membership in Interpol or observer status. The U.S. position should always be that only nations that can live up to the requirements of Interpol membership should be admitted to it. In 2016, the U.S. passed a law requiring the State Department to develop a strategy to obtain observer status for Taiwan.⁵ The correct goal for

1. This summary of Interpol's activities is heavily abbreviated. For fuller information, see Ted R. Bromund and David Kopel, "Necessary Reforms Can Keep Interpol Working in the U.S. Interest," Heritage Foundation *Backgrounder* No. 2861, December 11, 2013, <http://www.heritage.org/global-politics/report/necessary-reforms-can-keep-interpol-working-the-us-interest>.

2. Bernd Fabritius, Rapporteur of the Parliamentary Assembly of the Council of Europe, "Abusive use of the Interpol System: The Need for More Stringent Legal Safeguards," March 29, 2017, <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=23524&lang=en> (accessed September 14, 2017).

3. Jonathan Kaiman, "Chinese Public Security Official Named Head of Interpol, Raising Concerns Among Human Rights Advocates," *Los Angeles Times*, November 10, 2016, <http://www.latimes.com/world/asia/la-fg-china-interpol-20161110-story.html> (accessed September 21, 2017).

4. Michelle Estlund, "Interpol Suspends FIFA Donation Funds, But What Happens to the Money Now, and What Happens to Interpol?" *JDSupra*, June 15, 2015, <http://www.jdsupra.com/legalnews/interpol-suspends-fifa-donation-funds-39221/> (accessed September 14, 2017).

5. Wendy Zeldin, "Taiwan/United States: Support for Taiwan's Interpol Participation," *Global Legal Monitor*, Library of Congress, May 6, 2016, <http://www.loc.gov/law/foreign-news/article/taiwanunited-states-support-for-taiwans-interpol-participation/> (accessed September 20, 2017).

the U.S. is to support Taiwan's full membership in Interpol, but—especially at a meeting held in Beijing—this is unlikely to happen soon. As an interim goal, the U.S. should press for Taiwan to obtain observer status.

The case of the Palestinian Authority is particularly troubling. As Palestinian Authority President Mahmoud Abbas put it in 2011, it only seeks membership in international bodies to “pave the way for us to pursue claims against Israel at the United Nations.”⁶ In short, the Palestinian Authority only wants to join Interpol as part of its political war against Israel. In 2016, the General Assembly punted on the Palestinian question by commissioning a report on membership criteria from Hans Corell, a Swedish diplomat with a long record of aligning himself with Israel's critics.⁷ The U.S. should (a) oppose Palestinian membership of Interpol on the grounds that it will further politicize Interpol; (b) warn the General Assembly that admitting the Palestinian Authority is likely to jeopardize U.S. support for Interpol; (c) ensure that the U.S. delegation has acceptable candidates ready for proposal if further reports are called for on this or other questions; and (d) investigate the backgrounds of report authors proposed by other nations before voting in their favor, and publicly oppose unsuitable or biased authors.

5. Politicized Red Notices. Interpol cannot prevent autocratic nations from making requests for politicized Red Notices—it can only refuse to issue them. The responsibility for not making politicized requests rests with Interpol's member nations. But Interpol's rules make it clear that, if a nation persistently makes requests that seek to break those rules, its access to Interpol's systems can be suspended.⁸ It will ultimately not be possible to protect Interpol from abuse unless nations

face consequences for seeking to abuse it: Without a deterrent, the abuse will continue. The U.S. should work in advance with democratic nations to propose a General Assembly resolution affirming that Interpol has the power, and stating that it has the responsibility, to suspend abusive nations, and directing Interpol's General Secretariat to carry out a factual study (to be published at the 2018 General Assembly meeting) on which nations have submitted the most requests, and the highest proportion of requests, that it rejected as abusive.

6. Mass Requests. It has been widely reported that Turkey has sought Interpol action against 60,000 people in 2016 on the grounds that they were members of the so-called Fethullahist Terrorist Organization, which the Turkish regime alleges was behind the failed July 2016 coup attempt against Recep Erdogan. If these reports are accurate, this is an abusive effort of unprecedented scale. Interpol assesses national requests on a case-by-case basis. It cannot possibly evaluate 60,000 requests submitted nearly simultaneously. The U.S. should work in advance with democratic nations to propose a General Assembly resolution directing the General Secretariat to develop criteria for defining mass requests and for rejecting them as inherently politicized. These criteria should be published prior to the General Assembly meeting in 2018, and voted on at that meeting.

7. Shining Sunlight on the Commission for the Control of Files (CCF). The CCF is a quasi-appellate body responsible for ensuring that Interpol's activities comply with its rules. Under the leadership of Interpol Secretary General Jürgen Stock, Interpol has made significant reforms to the CCF's rules and structure, though it is too soon to know if these reforms have been effective.⁹ But the data the CCF provides on its operations and deci-

6. Ted R. Bromund, “Interpol Did Not Reject the Palestinian Authority's Bid for Membership,” *Forbes*, November 30, 2016, <https://www.forbes.com/sites/tedbromund/2016/11/30/interpol-did-not-reject-the-palestinian-authoritys-bid-for-membership/#531de2273171> (accessed September 14, 2017).

7. Ted R. Bromund, “Will Interpol Be Able to Create Fair Standards for Membership?” *Forbes*, November 30, 2016, <https://www.forbes.com/sites/tedbromund/2016/11/30/will-interpol-be-able-to-create-fair-standards-for-membership/#465e969835d3> (accessed September 14, 2017).

8. “Interpol's Rules on the Processing of Data,” Article 123, “Evaluation of National Entities,” Interpol, 2016, <https://www.interpol.int/content/download/13042/90082/version/37/file/OLA%20RPD%20UPDATE-EN-11%2016%20.pdf> (accessed September 14, 2017). See also Article 131(1)(c).

9. Yuriy L. Nemets, “Due Process and the Presumption of Innocence in the Interpretation and Enforcement of Interpol's Rules,” March 6, 2017, SSRN, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2928438 (accessed September 15, 2017).

sions, while improving, is still insufficient. The U.S. should work in advance with democratic nations to propose a General Assembly resolution commending the CCF for the improvements it has made, while requiring it to (a) publish decision excerpts so as to create case law on which attorneys and other experts can rely; (b) publish such excerpts in a timely, reliable, and regular manner;¹⁰ and (c) publish annual reports containing full and standardized information on the requests it received, the actions it took, and the nations that were involved.

What the U.S. Should Do

Interpol assumes that all requests made by all of its member nations deserve the same respect and consideration. That assumption is unwarranted: One of the differences between a democracy and an autocracy is that the latter often uses the instruments of criminal justice for political purposes.

Autocracies are thus inherently unlikely to respect Interpol's requirement that they use its mechanisms only to pursue ordinary criminals. The autocracies of the world have learned that Interpol can be a valuable instrument of oppression, and are acting accordingly. The U.S., and the rest of the world's democracies, have failed to respond effectively to this challenge. By recognizing that the Interpol General Assembly is, regrettably, not an apolitical meeting of law enforcement officials, and by working in advance with other democracies to promote resolutions that will deter abuses and improve transparency, the U.S. can reform Interpol to ensure that it can work effectively as an apolitical instrument of law enforcement.

—*Ted R. Bromund, PhD, is Senior Research Fellow in Anglo-American Relations in the Margaret Thatcher Center for Freedom, of the Kathryn and Shelby Cullom Davis Institute for National Security and Foreign Policy, at The Heritage Foundation.*

10. Michelle Estlund, "Interpol's CCF to Begin Publication of Decisions," *Red Notice Law Journal* (April 7, 2017), <http://www.rednoticelawjournal.com/2017/04/interpol-s-ccf-to-begin-publication-of-decisions-part-2-of-rnljs-new-rules-series/> (accessed September 14, 2017).