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## **Are Rights a Reality? Evaluating Federal Civil Rights Enforcement**

International Association of Official Human Rights Agencies (IAOHRA)

Human Rights Institute  
*Columbia Law School*

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**Public Comment to the U.S Commission on Civil Rights:**  
**Are Rights a Reality? Evaluating Federal Civil Rights Enforcement**  
**(Hearing Held November 2, 2018)**

**Columbia Law School Human Rights Institute and the International Association of Official  
Human Rights Agencies (IAOHRA)**

**I. Comment Authors**

The International Association of Official Human Rights Agencies (IAOHRA), founded in 1949, is a non-profit membership association of state and local statutory civil and human rights and human relations agencies mandated by state, county or city governments to enforce human and civil rights laws and/or to conduct research, training, and public education (“Human Rights Agencies”). IAOHRA also develops educational programs on human rights and civil rights issues, and serves as a clearinghouse for information exchange between human rights agencies around the world. IAOHRA members are mainly in the United States but membership is open to other similar agencies around the world.<sup>1</sup>

Founded in 1998, the Columbia Law School Human Rights Institute advances international human rights through education, advocacy, fact-finding, research, scholarship, and critical reflection. The Institute works in partnership with advocates, communities, and organizations pushing for social change to develop and strengthen the human rights legal framework and mechanisms, promote justice and accountability for human rights violations, and build and amplify collective power in the United States and throughout the world. The Institute’s signature Human Rights in the U.S. Project challenges discrimination on the basis of race and ethnicity, advances economic and social rights protections, and promotes gender equity in order to combat inequality in the United States. Through this project, the Institute works to build the capacity of state and local governments to use human rights in their daily work and secure federal support for state and local human rights implementation.

This comment draws upon prior submissions to UN human rights experts,<sup>2</sup> and past resources and scholarship,<sup>3</sup> as well as independent research conducted by the Columbia Law School Human Rights Institute, in partnership with state and local actors, including a 2018 survey of IAOHRA member agencies.<sup>4</sup>

**II. Gaps in Civil and Human Rights Protections**

In the United States, state and local government agencies are essential to enforcing federal, state and local anti-discrimination protections, and more broadly and proactively promoting and protecting fundamental human rights, including the right to equality and be free from discrimination in all its forms, as well as rights to housing, education, and employment.

Between 2009 and 2016, the U.S. federal government repeatedly affirmed that state and local

actors play a pivotal role in comprehensive human rights implementation<sup>5</sup> and took some encouraging steps to communicate with them on human rights.<sup>6</sup> In April of 2015, the U.S. State Department's Office of the Legal Adviser disseminated UN treaty body Concluding Observations to state and local governments for the first time,<sup>7</sup> complementing prior communications focused on treaty reporting.<sup>8</sup>

However, the U.S. continues to lack a comprehensive or coordinated approach to human rights promotion and protection at the federal, state and local level. In contrast to countries around the world, there is no institutionalized federal infrastructure to support human rights education, monitoring or implementation, or provide guidance on human rights.<sup>9</sup>

What currently exists at the federal level is an ad-hoc and under-resourced approach to human rights education, reporting, and implementation, without meaningful avenues for state and local government participation.<sup>10</sup>

As a result, there are significant gaps between the United States' human rights commitments and state and local practice. Many state and local agencies lack the capacity necessary to effectively monitor and implement human rights because they are unaware of human rights treaties, and face resource and staffing constraints. Commitments to promote and protect human rights vary widely across jurisdictions, and the efforts that exist are currently vulnerable to elimination.

As the federal government, as well as state governments, take actions that undercut or limit rights-protective measures at the municipal level, the need for stronger protections, based on globally recognized human rights principles, is clear.

This submission highlights general trends witnessed by state and local agencies (based on recent survey), and highlights specific threats to protecting basic rights, which hinder the ability of state and local human rights agencies to promote and protect human rights and stand in contrast to global human rights principles.<sup>11</sup>

To address these challenges, a comprehensive and effective approach to human rights implementation with federal mechanisms and initiatives to support and coordinate state and local efforts to comply with international human rights treaty standards is essential to eliminate all forms of discrimination, foster inclusion and positive community relations, and ensure basic rights for all. **Key components of such an approach include recognition of the importance of human rights training and education for state and local governments, as well as tangible resources and support for their efforts to promote and protect human rights.**

Holding the U.S. accountable for human rights protections has always been challenging, but today these challenges have reached a new and unprecedented scale. Opportunities for human rights accountability also remain elusive, as the U.S. has ratified only three of the core human rights treaties, and has failed to submit its report on CERD compliance, which was due in 2017.

This remainder of this submission: (1) underscores some trends identified by IAOHRA members; (2) highlights provisions of human rights law that require federal action to ensure states and localities have the capacity to promote and protect human rights, (3) distills relevant UN recommendations to the United States on the need for a human rights infrastructure, as well as those that relate to housing and employment; (4) emphasizes the need for a comprehensive

approach to human rights compliance and notes recent challenges to ensuring human rights are respected, protected, and fulfilled at the local level; and (5) provides specific recommendations to the U.S. Commission on Civil Rights.

### **III. Synopsis of Human Rights Challenges that State and Local Agencies are Addressing**

A 2018 survey of IAOHRA members has surfaced a number of issues prevalent in the work of state and local agencies. Specifically, respondents noted that their agencies frequently address discrimination on the basis of or related to disability, race, sex, LGBT status, and national origin and immigration status.<sup>12</sup>

Many state and local agencies monitor and enforce discrimination protections by responding to complaints. Discrimination complaints regarding the housing and employment context are predominant among a number of agencies.<sup>13</sup> These include general issues of racial inequality and discrimination in housing,<sup>14</sup> education,<sup>15</sup> and in employment.<sup>16</sup> Recent political and social developments have elevated the work of the state and local agencies, but the ability for agencies to absorb new complaints can also be challenging. For example, discrimination on the basis of gender and sex are prevalent.<sup>17</sup> In September of 2018, the Chicago Tribune reported that the #MeToo movement was “straining many of the state and local offices tasked with policing workplace discrimination,” highlighting that while “[p]laces such as New York City and Massachusetts have added resources to deal with the surge in complaints, but human rights agencies elsewhere say their small staffs are struggling to keep up with growing caseloads.”<sup>18</sup>

Commissions, however, deal with a broad range of issues, and a predominant function of many agencies is fostering inclusion and facilitating positive community relations. Consistent with the 2018 USCCR report *Contemporary Civil Rights Challenges: A View from the States* – which identifies raids by Immigration and Customs Enforcement (ICE) as a civil rights concern, and highlights immigration as a challenging issue<sup>19</sup> – IAOHRA members identified heightened discrimination on the perceived national origin and immigration status, with a significant impact on Latinx communities.<sup>20</sup> Discrimination and community discord on the basis of perceived religion was also a concern impacting jurisdictions around the country.<sup>21</sup>

To respond to increases in bias, hate, and discrimination, a number of IAOHRA members are undertaking specific initiatives to reach out to and engage residents from Latinx, Muslim, Arab, and South Asian communities.<sup>22</sup> IAOHRA members also highlight the importance of their efforts to improve language access, which often intersects with efforts to include, and respond to, the needs of immigrant and English as a second language communities.<sup>23</sup> IAOHRA members have emphasized, as well, that long-term anti-bias initiatives can have significant and lasting impact on “furthering equity and reducing structural inequity, prejudice and discrimination.”<sup>24</sup> Yet, when funding is cut, staffing for outreach activities to proactively reduce discrimination is often the first function to go.<sup>25</sup> In addition to focusing on outreach and education, IAOHRA members have highlighted the need for more comprehensive collection of incidents of hate bias that allow members to detail incidents and identify trends as they are emerging.<sup>26</sup>

Three additional significant national trends are essential to understand the current context for promoting and protecting basic civil and human rights.

- Federal action such as executive orders and litigation against so called “sanctuary cities.”
- State governments are using pre-emption to limit local activities that (1) promote economic security, such as raising the minimum wage, and (2) protect vulnerable groups from discrimination, including expanding discrimination protections to include gender identity and sexual orientation.
- The ongoing and systematic attack on the right to vote at the federal and state levels. While most agencies do not work on voting issues, it is vital to emphasize the need for laws and policies that promote, rather than curtail access to the ballot box – an essential component of a democracy. The right to vote must be protected as a cornerstone of democracy and foundation for basic human rights. Past UN recommendations remain unheeded, with dire impacts for U.S. elections and democracy.<sup>27</sup>

#### **IV. Relevant Human Rights Framework**

UDHR; ICCPR Article 50; CERD Articles 2 and 7; CAT Articles 2 and 10.

According to the U.S. Constitution, ratified treaties constitute “the supreme Law of the Land.”<sup>28</sup> As the U.S. affirmed when ratifying the International Covenant on Civil and Political Rights, The Convention on the Elimination of All Forms of Racial Discrimination, and the Convention Against Torture, federal, state, and local authorities share responsibility for implementing international human rights obligations.<sup>29</sup> Such shared authority is consistent with international law, which permits the United States to delegate human rights implementation to subnational governments, while remaining ultimately responsible for treaty compliance.<sup>30</sup>

While existing case law and the U.S. federal system prevent the federal government from compelling state and local governments to comply with human rights obligations,<sup>31</sup> there are numerous avenues available for the federal government to support, incentivize, and encourage state and local human rights implementation.<sup>32</sup>

Human rights transcend the jurisdictional divides of federal, state and local governments, yet the federal government is ultimately responsible for treaty compliance throughout and within the United States. Treaties ratified by the United States emphasize that their provisions apply to all parts of federal states. This is true for the ICCPR,<sup>33</sup> as well as the CERD, which explicitly states that national and local authorities “shall act in conformity” with obligations not to discriminate.<sup>34</sup>

The importance of state and local governments in achieving human rights implementation has been emphasized as vital in countries around the world in general terms,<sup>35</sup> as well as in regard to advancing specific rights, such as the right to housing.<sup>36</sup>

## **V. Relevant UN Recommendations to the United States**

### **A. Calls for a More Comprehensive Approach to Human Rights Implementation**

Several UN treaty bodies have emphasized the need for the U.S. to establish a more comprehensive approach to human rights monitoring and implementation. In 2014, the Committee on the Elimination of All Forms of Racial Discrimination called for a permanent mechanism to coordinate monitoring and education at the state and local levels.<sup>37</sup> The Human Rights Committee also called for expanded human rights monitoring mechanisms and financial and human resources to support these efforts.<sup>38</sup> In its last review of the United States, the Committee on the Rights of the Child similarly voiced concern over the lack of a national human rights institution.<sup>39</sup> UN Special Procedures, including the Working Group on People of African Descent,<sup>40</sup> and the Working Group on Business and Human Rights,<sup>41</sup> have echoed these recommendations as well.

During the first and second cycle of the UPR, the U.S. accepted recommendations to incorporate human rights training and education into policies,<sup>42</sup> including specific training for law enforcement.<sup>43</sup> During the first cycle of the UPR, in 2011, the U.S. also supported recommendations to *consider* establishing a National Human Rights Institute,<sup>44</sup> but did not accept recommendations that explicitly call for the US to create an NHRI, and the U.S. response noted that the United States “cannot now commit to a particular plan.”<sup>45</sup> During the second cycle of the UPR, in 2015, the U.S. received over a dozen recommendations calling for a federal mechanism to ensure compliance with international human rights instruments at all levels of government.<sup>46</sup> The U.S. supported these recommendations in part. The U.S. response emphasized that the government is “taking steps to strengthen federal-level coordination,” and “considering ways to improve implementation.”<sup>47</sup> The U.S. response further clarified that “there are no current plans to establish a single national human rights institution.”<sup>48</sup> However, there is virtually no publicly available information on the steps the federal government is taking to strengthen coordination and improve human rights implementation and monitoring among federal agencies, or in coordination with state and local actors.

### **A. Recommendations to Address Ongoing Forms of Discrimination and Inequality Within the Mandate of State and Local Agencies**

Throughout UN reviews of the United States’ human rights record, there has been an emphasis on the ways that existing law and policy perpetuate discrimination and inequality, and an array of recommendations calibrated to foster equality and to eliminate discrimination in an array of areas, including housing, health, criminal justice, policing, and immigration. This section distills foundational human rights protections regarding housing and employment, as well as recent recommendations to the United States to improve in these areas given that housing and employment comprise a significant portion of the work of state and local agencies.<sup>49</sup>

#### **1. Housing**

The Universal Declaration of Human Rights (UDHR) states that “[e]veryone has the right to a standard of living adequate for the health and well-being of himself and of his family, including

food, clothing, [and] housing . . . .”<sup>50</sup> Other treaties grant similar protections.<sup>51</sup> There is a general understanding that housing is the foundation for many other fundamental rights including the rights to family, food and water, education, and physical and mental health. Both CERD and the ICCPR obligate the U.S. to protect against discrimination in housing.<sup>52</sup>

Human rights experts have repeatedly raised two housing issues of particular concern: discrimination and criminalization of homeless populations.

In its 2014 review of the U.S., the CERD Committee emphasized concern with persistent discrimination in access to housing, racial segregation, and discriminatory lending practices. The Committee urged the U.S. to expand efforts to address housing discrimination on the basis of race, ethnicity, origin, and color through measures that improve access to affordable housing. Recommendations also focused on the need to strengthen implementation of laws to combat housing discrimination, and to promptly and thoroughly investigate housing discrimination by private actors.<sup>53</sup>

During the 2015 UPR, several countries called on the U.S. to eliminate housing discrimination, including through measures that improve access to adequate housing<sup>54</sup> and guarantee the right to housing.<sup>55</sup> The U.S. supported these recommendations in part, and emphasized that the government would “continue to improve our domestic laws and policies to promote access to housing, food, health, and safe drinking water and sanitation, with the aim of decreasing poverty and preventing discrimination.”<sup>56</sup>

In 2018, the U.N. Special Rapporteur on Extreme Poverty and Human Rights visited the U.S. and called for government action to address poverty and inequality through a number of measures, including the extension of social benefits and housing for vulnerable communities.<sup>57</sup>

## 2. Employment

Everyone is entitled to the rights and freedoms contained in the UDHR, including the right to free choice of employment and favorable working conditions, “without distinction of any kind, such as race, colour, sex, language, . . . national or social origin, . . . or other status.”<sup>58</sup> International human rights treaties, including the ICCPR and CERD, contain similarly broad protections against employment discrimination.<sup>59</sup>

Article 3 of the ICCPR speaks specifically to sex and gender discrimination, calling on governments to ensure equality of men and women,<sup>60</sup> and to take proactive steps to identify and eliminate the factors that perpetuate discrimination.<sup>61</sup> In line with human rights standards, the definition of discrimination is understood to include “any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, . . . , national or social origin, . . . , or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.”<sup>62</sup>

Article 5 of CERD protects the right to work, which includes safe and fair work conditions, and the rights to unemployment protections, equal pay for equal work, as well as fair pay, regardless of race, origin, or color.<sup>63</sup> The CERD Committee further calls on governments to undertake measures to prevent discrimination against non-citizens, and to address practices and policies

that may have a discriminatory impact.<sup>64</sup> Employment discrimination has also historically been a focus of reviews of U.S. compliance with CERD and the ICCPR.<sup>65</sup>

During the 2015 UPR, a number of countries called on the U.S. to improve gender equality in the workplace, including through measures to eliminate pay inequity between men and women.<sup>66</sup> The United States supported these recommendations, while noting that the U.S. already has some laws in place to foster gender equality at work, including federal level executive orders aimed at ensuring fair pay for women.<sup>67</sup>

## **V. The Need for a Comprehensive & Coordinated National Approach**

### **A. The Longstanding Challenges Facing State and Local Agencies and Officials Working to Promote and Protect Human Rights**

Historically, the U.S. has recognized the important role of state and local actors in human rights implementation on the world stage.<sup>68</sup> Yet, the United States has historically offered an incomplete picture of the context in which state and local governments operate. The U.S. typically indicates that state and local governments already provide “protections and mechanisms” that “reinforce ... respect for human rights.”<sup>69</sup> However, the federal government continually fails to acknowledge the challenges that state and local actors face in fully participating in human rights monitoring and implementation. These constraints range from – and extend beyond – limited knowledge of international human rights standards to broader structural issues. Even where state and local governments have an awareness of international human rights and the will to engage in monitoring and implementation, they have limited capacity to do so.<sup>70</sup>

While offering a potential infrastructure for human rights implementation, the laws and mechanisms that have been discussed by the U.S. in the international arena are neither oriented around international human rights treaty standards nor adequately resourced to monitor or promote compliance with these standards.<sup>71</sup>

As the Human Rights Institute and IAOHRA have emphasized over a number of years, institutionalized and transparent federal mechanisms mandated to advance international human rights are essential to a comprehensive and coordinated approach to human rights monitoring and implementation, and to ensuring that state and local governments can reach their full potential to promote and protect human rights.

It is notable that a number of U.S. state and local governments are increasingly expressing interest in promoting and protecting human rights. An encouraging array of states and localities have explicitly incorporated international human rights standards into local law, policy and practice.<sup>72</sup> In 2013 the U.S. Conference of Mayors, an organization representing the mayors of cities of 30,000 residents or more, passed resolutions committing to promote and protect human rights locally,<sup>73</sup> and IAOHRA has continually expressed support for human rights at its annual membership convening.<sup>74</sup> Nine municipalities have adopted laws based on the Convention on the Elimination of All Forms of Discrimination Against Women CEDAW.<sup>75</sup> Yet, while existing efforts are promising, they lack the coordination and resources necessary to ensure their sustainability. A more comprehensive and coordinated approach to human rights



implementation requires sustained federal guidance and support. Indeed, state and local actors have specifically requested federal support,<sup>76</sup> but to date, little responsive action has been taken.

A national government committed to upholding and strengthening international human rights protections, must support, encourage, and incentivize state and local human rights promotion, monitoring, and implementation through measures that include: (1) education and training on international human rights standards, including recommendations from international bodies; (2) funding to engage in human rights implementation and compliance and (3) institutionalized, transparent and effective federal human rights mechanisms mandated to coordinate with state and local governments to promote and protect human rights

## **B. Heightened Challenges in the Current Political Context**

Discrimination and inequality are longstanding challenges in the United States, but over the past two years we have seen a sharp increase in acts of bias, harassment, and discrimination.<sup>77</sup> This submission has already described key general trends that impact state and local agencies. It turns now to new challenges that states and localities face in advancing human rights: **efforts to eliminate basic civil and human rights legal protections at the state and local level and threats to the basic infrastructure of the agencies that monitor and enforce these protections.**

There are examples from localities across the country.

- In 2017 in the state of Missouri the legislature changed its law to raise the standard of proof required to demonstrate discrimination. The law now requires that anyone suing for discrimination must demonstrate that membership in a protected class was the “motivating factor” in the adverse act being challenged. (The standard under U.S. law is already quite high and this measure increased the burden on individuals asserting employment and housing discrimination in particular).<sup>78</sup>
- Several states have enacted laws that prevent localities from passing or enforcing prohibitions on discrimination laws that are stronger than what state laws already protect (this is most prevalent in the context of discrimination based on gender or sexual orientation). These laws exist in North Carolina, Tennessee, and Arkansas.<sup>79</sup>

So, while there are increasing instances of discrimination and bias, legal protections are being curtailed. Thus, even where state and localities are progressive and working to advance civil and human rights, they face increasing impediments to success.

State and local civil and human rights agencies have long been under-resourced, and lacked the financial and human resources to comprehensively undertake human rights promotion and protection.<sup>80</sup> Long-standing challenges are further heightened today as states and localities face the potential loss of federal funding due to cuts in programs targeted to economic rights, like fair housing – cuts which disproportionately harm communities living in poverty, and communities of color.

Of great concern as well are federal threats to eliminate funding from cities and states that are viewed as protecting particular vulnerable groups, such as immigrants. The assault on so called “sanctuary cities” began during the first days of the current presidential administration, via

executive order<sup>81</sup> and escalated in March of 2018, when Attorney General Jeff Sessions announced litigation against the State of California on the basis of its policies to limit cooperation of state officials with federal immigration enforcement efforts.<sup>82</sup>

Funding cuts are accompanied by rollbacks in federal protections aimed at preventing discrimination.

- For example, the Department of Housing and Urban Development (HUD) continues to chip away at protections put in place to affirmatively furthering fair housing.<sup>83</sup> HUD funding has historically been a key source of funding for many state and local agencies. Notably HUD's recent moves to rollback fair housing protections undercut policy advancements lauded by UN Independent experts in 2016.<sup>84</sup>
- Additionally, the Trump Administration's 2019 budget effectively eliminates the DOJ Community Relations Service (CRS), created by the 1964 Civil Rights Act to foster affirmative efforts to build community and tolerance, and combat discrimination.<sup>85</sup> Civil rights groups have emphasized that the loss of the CRS will negatively impact communities most vulnerable to hate crimes and bias.<sup>86</sup> The U.S. Commission on Civil Rights has also criticized the cuts, which "reduce the federal role even in serving as a critical backstop against harm to vulnerable Americans."<sup>87</sup> CRS has historically partnered with state and local agencies to manage and mitigate community conflicts.<sup>88</sup>

The impact of any federal loss of funding is compounded by ongoing decreases in state level funding support for anti-discrimination work.

Early results from a recent survey of state and local human rights agencies highlight the need for additional staff in order to meet community needs in a number of diverse jurisdictions.<sup>89</sup> Without additional staff, efforts to address discrimination and engage in community outreach have stagnated. Further, while losses of direct federal funding has not been reported by these agencies to date, several agencies noted that budgets and staffing have been ongoing challenges, and there is deep concern about further loss of general funding.<sup>90</sup>

Overall, local civil and human rights monitoring and enforcement agencies, a first line of defense, are threatened, as are basic legal protections against discrimination. As the state and local governments that stand as a first line of defense against discrimination, xenophobia, and intolerance are under threat, it is communities where they are located that will pay the price.

## **VI. Recommendations**

To address the current challenges facing the United States, the Institute and IAOHRA encourage the U.S. Commission on Civil Rights to:

- Promote vigorous enforcement of proactive national, state, and local laws and policies that address the ongoing manifestations of discrimination, particularly in the arenas of housing, employment, and voting;
- Continue to monitor, document and publicly report on the human rights impacts of laws, policies, and practices of U.S. federal, state, and local governments;
- Call for constructive U.S. participation in the activities of international and regional human rights mechanisms to foster accountability;

- Promote human rights education and awareness, in particular, in relation to the Convention on the Elimination of All Forms of Discrimination, and the Universal Declaration of Human Rights;
- Similar to National Human Rights Institutions around the world, the U.S. Commission on Civil Rights should participate in UN reviews of the U.S. human rights record, including by submitting reports on human rights compliance to UN treaty body reviews and the Universal Periodic Review.<sup>91</sup>

## VII. Conclusion

The Human Rights Institute and IAOHRA thank the U.S. Commission on Civil Rights for the opportunity to share information on key trends and challenges in addressing discrimination and racism at the state and local level. The Commission is well-placed to provide recommendations to national, as well as state and local actors, on effective practices to eradicate all forms of discrimination and foster equality. We look forward to supporting these efforts.

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<sup>1</sup> More information can be found on the website of the International Association of Official Human Rights Agencies (IAOHRA): <http://www.iaohra.org/>.

<sup>2</sup> This document draws from a joint 2014 stakeholder submission to the United Nations Universal Periodic Review of the United States of America, written by Columbia Human Rights Institute & the International Association of Official Human Rights Agencies, available at [http://web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/images/state\\_and\\_local\\_upr\\_report.pdf](http://web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/images/state_and_local_upr_report.pdf), as well as *Closing the Gap: The Federal Role in Respecting and Ensuring Human Rights at the State and Local Level: Response to the Fourth Periodic Report of the United States to the United Nations Human Rights Committee (2013)*, available at [http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/USA/INT\\_CCPR\\_NGO\\_USA\\_15121\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/USA/INT_CCPR_NGO_USA_15121_E.pdf) (hereinafter “Closing the Gap”), and an unpublished submission made to the UN Working Group on People of African Descent in October of 2018. Research assistants with the Columbia Law School Human Rights Institute, Julio Sharp-Wasserman (‘19) and Michael John Kutz (‘21) also contributed to this memo.

<sup>3</sup> Relevant resources include Columbia Law School Human Rights Institute, *Gender Equity Through Human Rights: Local Efforts to Advance the Status of Women and Girls in the United States (2017)*, available at [http://www.law.columbia.edu/sites/default/files/microsites/human-rights-institute/gender\\_equity\\_through\\_human\\_rights.pdf](http://www.law.columbia.edu/sites/default/files/microsites/human-rights-institute/gender_equity_through_human_rights.pdf). Columbia Law Sch. Human Rights Inst., *Implementing Recommendations from the Universal Periodic Review: A Toolkit for State and Local Human Rights and Human Relations Commissions (2011)*, available at [http://web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/files/UPR%20Toolkit\\_0.Pdf](http://web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/files/UPR%20Toolkit_0.Pdf). There is increasing scholarship on state and local human rights commissions in particular. See JoAnn Kamuf Ward, *Challenging a Climate of Hate and Fostering Inclusion: The Role of U.S. State and Local Human Rights Commissions*, 49 *Columbia Human Rights Law Review* (2017), available at <http://hrlr.law.columbia.edu/files/2018/01/JoAnnKamufWardChallenging.pdf>; Risa E. Kaufman, *State and Local Commissions as Sites for Domestic Human Rights Implementation*, in *HUMAN RIGHTS IN THE UNITED STATES: BEYOND EXCEPTIONALISM* 89, 91 (Shareen Hertel & Kathryn Libal eds., 2011); Kenneth L. Saunders & Hyo Eun (April) Bang, *A Historical Perspective on U.S. Human Rights Commissions*, in 3 *Executive Session Papers, Human Rights Commissions and Criminal Justice*, 1, 6–7 (Marea L. Beeman ed., Aug. 2007).

<sup>4</sup> The survey is on file with the Columbia Law School Human Rights Institute. At the time of writing responses had been submitted by 23 IAOHRA member organizations in 16 states, including: Alexandria Office of Human Rights (Virginia); Saint Paul Department of Human Rights and Equal Economic Opportunity (Minnesota); City of Tampa Office of Human Rights & Pinellas County Office of Human Rights (Florida); Cambridge Human Rights Commission (Massachusetts); Durham Human Relations Commission (North Carolina); Anchorage Equal Rights Commission (Alaska); Dubuque Human Rights Commission (Iowa); Maine Human Rights Commission; Michigan Department of Civil Rights; Ohio Civil Rights Commission & YWCA Greater Cincinnati (Ohio); Bloomington

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Human Rights Commission (Indiana); Los Angeles County Commission on Human Relations (California); Champaign Office of Equity, Community, and Human Rights (Illinois); City of Omaha Human Rights and Relations Department (Nebraska), as well as agencies in Kentucky, Maryland, and Missouri. For more information, please contact JoAnn Kamuf Ward ([jward@law.columbia.edu](mailto:jward@law.columbia.edu)).

<sup>5</sup> See *Periodic Report of the United States of America to the United Nations Committee on the Elimination of Racial Discrimination Concerning the International Convention on the Elimination of All Forms of Racial Discrimination*, ¶ 32 (June 12, 2013), available at [http://www.state.gov/j/drl/rls/cerd\\_report/210605.htm](http://www.state.gov/j/drl/rls/cerd_report/210605.htm); *Report of the United States of America Submitted to the U.N. High Commissioner for Human Rights In Conjunction with the Universal Periodic Review* (Feb. 6, 2015) [U.S. 2015 UPR Report]; Annex A to the Common Core Document of the United States of America: Submitted With the Fourth Periodic Report of the United States of America to the United Nations Committee on Human Rights concerning the International Covenant on Civil and Political Rights, ¶ 129 (Dec. 30, 2011).

<sup>6</sup> U.S. 2015 UPR Report, ¶¶ 5-6; See also Letter from Mary E. McLeod, Acting Legal Adviser, U.S. Dep’t of State, to Muriel Bowser, Mayor, D.C. (Apr. 25, 2015), available at <https://2009-2017.state.gov/s/l/releases/2015/241819.htm>; Mary E. McLeod, Acting Legal Adviser, U.S. Dep’t of State, The Role of State, Territorial, and Local Government in Promoting, Respecting, and Defending Human Rights, Remarks to the National Association of Attorneys General National Conference (Feb. 25, 2015), available at <http://www.state.gov/s/l/releases/remarks/239960.htm>. See also Ann Marie Oliva, Deputy Assistant Secretary for Special Needs Acting Director, Office of Special Needs Assistance Programs, *SNAPS in Focus: the Case Against Laws that Criminalize Homelessness*, 1 (Oct. 6, 2014), available at <https://www.hudexchange.info/onecpd/assets/File/SNAPS-In-Focus-The-Case-Against-Laws-that-Criminalize-Homelessness.pdf> (“In 2012, the United States Interagency Council on Homelessness (USICH), in partnership with Department of Justice and HUD, published *Searching out Solutions: Constructive Alternatives to Criminalization*, which outlines ‘alternatives for communities who implement local measures that criminalize “acts of living”’. *Searching Out Solutions* emphasizes a human rights approach to ending homelessness and points out that criminalization measures are not aligned with this approach.”).

<sup>7</sup> See Letter From Acting Legal Adviser McLeod to Washington, D.C. Mayor Muriel Bowser (April 25, 2015), available at <http://www.state.gov/s/l/releases/2015/241819.htm>.

<sup>8</sup> See Letter from Principal Deputy Legal Adviser McLeod to Governors of U.S. State and Territories (Feb. 18, 2014), available at <http://www.state.gov/s/l/releases/2014/223238.htm>.

<sup>9</sup> The United States lacks a national human rights institution and no focal points exist to gather information on human rights compliance or disseminate and follow up with state and local actors regarding recommendations from UN treaty bodies, the UPR, or UN Special Procedures.

<sup>10</sup> *Closing the Gap*, *supra* n. 2, at 18- 19.

<sup>11</sup> To provide information on the impact of the current Administration’s policies on human rights, the Human Rights Institute, in partnership with the Columbia Human Rights Law Review and Columbia Law School’s Rightslink, and Human Rights Clinic, launched the Trump Tracker, a tool to track this Administration’s actions and their impacts on human rights. The Trump Tracker (<http://hrlr.law.columbia.edu/trump-human-rights-tracker/>) summarizes the action taken by the President, identifies the human rights implications, and provides links to sources with a more detailed analysis.

<sup>12</sup> See *supra* n. 4 with a complete list of respondents.

<sup>13</sup> The City of Tampa Office of Human Rights and the Cambridge Human Rights Commission elaborated that many housing owners are not providing reasonable accommodation to address disabilities. The Maine Human Rights Commission highlighted that almost two-thirds of cases are in the employment context, and most of these cases are disability discrimination, and that among complaints related to housing, disability discrimination claims are prevalent. Survey responses are on file with the Columbia Law School Human Rights Institute.

<sup>14</sup> The Ohio Civil Rights Commission noted that “Race continues to be the number one charge of discrimination filed.” Survey responses are on file with the Columbia Law School Human Rights Institute.

<sup>15</sup> This was emphasized, for example, by the Michigan Department of Civil Rights. Survey responses are on file with the Columbia Law School Human Rights Institute.

<sup>16</sup> The City of Champaign Office of Equity, Community, and Human Rights continues to focus on “racial equity issues related to hiring and recruiting minorities.” Survey responses are on file with the Columbia Law School Human Rights Institute.

<sup>17</sup> This was noted specifically by the Alexandria of Human Rights, the Anchorage Equal Rights Commission, and the Maine Human Rights Commission, among others. Survey responses are on file with the Columbia Law School Human Rights Institute.

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<sup>18</sup> Susan Haigh, *Wave of #MeToo complaints strains human rights agencies*, Chicago Sun Times (Sep. 4, 2018), available at <https://chicago.suntimes.com/news/metoo-complaints-strains-human-rights-agencies/> (discussing challenges faced by commissions in Idaho and Maine, but noting that the increase in complaints is not occurring everywhere).

<sup>19</sup> U.S. Commission on Civil Rights, *Contemporary Civil Rights Challenges: A View from the States: A Survey of State Advisory Committees* (Sep. 2018), available at <https://www.usccr.gov/pubs/2018/09-07-Contemporary-Civil-Rights-Challenges.pdf>

<sup>20</sup> The Michigan Department of Civil Rights reports concern regarding the impact that federal anti-immigrant and immigration policies are having at local and state levels. The Durham Human Relations Commission highlighted in recent months, the agency has addressed hate and bias incidents, as well as the legitimacy of ICE detainers. The City of Champaign Office of Equity, Community and Human Rights reported efforts to address impacts of increased presence of ICE, which include working with advocates, local organizations and local law enforcement to convene dialogues focused on solutions, building trust, and clarifying the role of the Office and of local law enforcement in public meetings and events in the City. Survey responses are on file with the Columbia Law School Human Rights Institute.

<sup>21</sup> The YWCA Greater Cincinnati specifically mentioned that the community has faced a number of bias and hate incidents (highlighting anti-semitic, anti-muslim, and race-based defacing of property; prayer disruptions; and verbal attacks). Survey responses are on file with the Columbia Law School Human Rights Institute.

<sup>22</sup> The Alexandria Human Rights Commission is specifically focusing efforts on engaging with Muslim residents. The Los Angeles County Human Relations Commission is developing county-wide anti-hate and prejudices strategies, that include annual hate crimes reporting, a countywide Network Against Hate Crime; an educational campaign, and increasingly leveraging Ramadan as an opportunity to bring communities together to foster inclusion. In Maine, the Human Rights Commission convenes events to tackle stereotyping, and has partnered with law enforcement and targeted communities to improve community relations. Survey responses are on file with the Columbia Law School Human Rights Institute; *see also* JoAnn Kamuf Ward, *Challenging a Climate of Hate and Fostering Inclusion: The Role of U.S. State and Local Human Rights Commissions*, 49 Columbia Human Rights Law Review (2017), available at <http://hrlr.law.columbia.edu/files/2018/01/JoAnnKamufWardChallenging.pdf>.

<sup>23</sup> One example is the Durham Language Access Plan. Survey responses are on file with the Columbia Law School Human Rights Institute.

<sup>24</sup> The County of Los Angeles Human Relations Commission made this observation referring specifically to its anti-implicit bias trainings. The Alexandria Office of Human Rights similarly noted that “outreach and training are very limited and we believe these are crucial elements of our work.” A government representation from the City of Durham also noted that “While much of the work is in reaction to an issue, there is a need to implement strategic proactive actions to prevent or thwart issues of disharmony and discrimination.”). The Maine Human Rights Commission also highlighted that limited staffing curtails the agency’s ability to do comprehensive outreach or education.

<sup>25</sup> For example, The City of Tampa Office of Human Rights reports that a result of recent downsizing, there is no one left to focus on outreach and community affairs. Survey responses are on file with the Columbia Law School Human Rights Institute.

<sup>26</sup> *See* Agustin Arbulu, Opinion: *Acts of Hate Need to Be Documented*, Detroit Press, at <https://www.detroitnews.com/story/opinion/2018/11/13/acts-hate-need-documented/1980886002/> (emphasizing the importance of complementing existing police data collection efforts at the state level, and referencing examples from Canada); *see also* efforts in Los Angeles County’s Network Against Hate Crime, *supra* n. 22; *see also* LA County Human Relations Commission, Network Against Hate Crimes, at <http://www.lahumanrelations.org/programs/network/network.htm>.

<sup>27</sup> In 2016, after a visit to the United States, the UN Working Group on People of African Descent highlighted concern over “voter ID laws with increased identification requirements and limits on early voting and registration,” and called for the repeal of restricting provisions. *See* Human Rights Council, Report of the Working Group of Experts on People of African Descent, ¶¶ 42, 114, A/HRC/33/61/Add.2 (Aug. 18 2016), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/183/30/PDF/G1618330.pdf?OpenElement>. The CERD Committee has also previously recommended improved enforcement of voting rights and measures that promote voter participation, as well as called for a prohibition on enforcement of laws that have discriminatory impacts. Comm. on the Elimination of All Forms of Racial Discrimination, *Concluding Observations on the combined seventh to ninth periodic reports of the United States of America*, ¶¶ 11; 85th Sess., Aug. 11-29, 2014, U.N. Doc. CERD/C/USA/CO/7-9 (Aug. 29, 2014) <https://www.state.gov/documents/organization/235644.pdf> [hereinafter 2014 CERD Concluding Observations].

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<sup>28</sup> U.S. Const. art. VI.

<sup>29</sup> See, e.g., *Reservations, Understandings and Declarations to the International Covenant on Civil and Political Rights*, 138 Cong. Rec. S4781-01 (daily ed. Apr. 2, 1992).

<sup>30</sup> Article 26 of the Vienna Convention on the Law of Treaties states, “every treaty in force is binding upon the parties.” Vienna Convention on the Law of Treaties, art. 26, May 23, 1969, 1155 U.N.T.S. 33, available at [http://untreaty.un.org/ilc/texts/instruments/english/conventions/1\\_1\\_1969.pdf](http://untreaty.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf).

<sup>31</sup> *Medellin v. Texas*, 552 U.S. 491 (2008); see also *The Lawyers’ Committee for Civil Rights Under the Law, US Federalism and its impact on ICERD Compliance: Shadow Report Submitted to the Committee on the Elimination of All Forms of Racial Discrimination* (July 2014), available at <http://www.lawyerscommittee.org/admin/site/documents/files/0481.pdf> (discussing federalism and recommending specific ways that federal agencies can encourage state and local compliance with CERD in immigration, voting, education and criminal justice).

<sup>32</sup> See, e.g., Risa E. Kaufman, “By Some Other Means”: *Considering the Executive’s Role in Fostering Subnational Human Rights Compliance*, 33 CARDOZO L. REV. 1971, 2009 (2012).

<sup>33</sup> International Covenant on Civil and Political Rights art. 50, opened for signature Dec. 16, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976).

<sup>34</sup> International Convention on the Elimination of All Forms of Racial Discrimination art. 2, opened for signature Mar. 7, 1966, 660 U.N.T.S. 195 (entered into force Jan. 4, 1969).

<sup>35</sup> See, e.g., U.N. Human Rights Council, *Role of local government in the promotion and protection of human rights – Final report of the Human Rights Council Advisory Committee*, U.N. Doc A/HRC/30/49 (2015), available at <http://www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/LocalGovernmentAndHR.aspx>; Office of the High Commissioner for Human Rights, National Mechanisms for Reporting and Follow-Up: A Practical Guide to Effective State Engagement with International Human Rights Mechanisms, pp. 18-19 (2016), at [http://www.ohchr.org/Documents/Publications/HR\\_PUB\\_16\\_1\\_NMRF\\_PracticalGuide.pdf](http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf).

<sup>36</sup> Leilani Farha, *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, UN Doc A/HRC/28/62, at 5-9 (Dec. 22, 2014), available at <http://www.refworld.org/docid/551410004.html>.

<sup>37</sup> 2014 CERD Concluding Observations, *supra* n. 26, ¶¶ 6; 32. The Committee on the Rights of the Child has also expressed concern over the lack of an NHRI. Comm. on the Rights of the Child, *List of Issues Concerning Additional and Updated Information Related to the Second Periodic Report of the United States of America*, ¶ 4, U.N. Doc. CRC/C/OPSC/USA/Q/2 (July 25, 2012) [hereinafter CRC List of Issues].

<sup>38</sup> Human Rights Comm., *Concluding Observations of the Human Rights Committee: United States of America*, 110th Sess., Mar. 10-28, ¶ 4(b); (d), U.N. Doc. CCPR/C/USA/CO/4 (Apr. 23, 2014).

<sup>39</sup> CRC List of Issues, *supra* n. 36, ¶ 4.

<sup>40</sup> Human Rights Council, Report of the Working Group of Experts on People of African Descent, ¶ 88, U.N. Doc A/HRC/15/18 (Aug. 6, 2010); Human Rights Council, Report of the Working Group of Experts on People of African Descent, ¶ 89, A/HRC/33/61/Add.2 (Aug. 18 2016), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/183/30/PDF/G1618330.pdf?OpenElement>.

<sup>41</sup> See U.N. Working Group on Business and Human Rights, Statement at the End of Visit to the United States (May 1, 2013), available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13284&LangID=E>.

<sup>42</sup> *Report of the Working Group on the Universal Periodic Review: United States of America*, ¶ 92.87, U.N. Doc. A/HRC/16/11 (Jan. 4, 2011) [Hereinafter 2011 UPR Outcomes].

<sup>43</sup> *Report of the Working Group on the Universal Periodic Review: United States of America*, ¶¶ 176.73-176.74, U.N. Doc. A/HRC/30/12 (Jul. 20, 2015) [Hereinafter 2015 UPR Outcomes].

<sup>44</sup> *Report of the Working Group on the Universal Periodic Review: United States of America, Addendum*, A/HRC/16/11.Add.1 ¶ 25 (Jan. 4, 2011), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/116/28/PDF/G1111628.pdf?OpenElement> [Hereinafter U.S. 2011 UPR Response]

<sup>45</sup> *Id.* ¶ 27.

<sup>46</sup> See 2015 UPR Outcomes, *supra* n. 42, ¶¶ 176.108; 176.75 -176.90.

<sup>47</sup> *Report of the Working Group on the Universal Periodic Review: United States of America, Addendum*, ¶ 21, U.N. Doc. A/HRC/30/12/Add.1 (Sept. 14, 2015).

<sup>48</sup> *Id.* ¶ 21.

<sup>49</sup> This section is based upon the 2016 HRI publication, *A Desk Reference for State and Local Human Rights Agencies*, at 6-8 (April 2016), available at [http://www.law.columbia.edu/sites/default/files/microsites/human-rights-institute/desk\\_reference.pdf](http://www.law.columbia.edu/sites/default/files/microsites/human-rights-institute/desk_reference.pdf)

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<sup>50</sup> Universal Declaration of Human Rights, U.N. GAOR, 3d Sess., art. 25, U.N. Doc. A/810 (1948) [hereinafter UDHR].

<sup>51</sup> See Convention on the Rights of the Child art. 27, Nov. 20, 1989, 1577 U.N.T.S. 3 [hereinafter CRC]; International Covenant on Economic, Social and Cultural Rights, art. 11, Dec. 16, 1966, 993 U.N.T.S. 3. The U.S. has signed both the CRC and the International Covenant on Economic, Social and Cultural Rights but has not ratified them.

<sup>52</sup> ICCPR, *supra* n. 32, art. 26; Human Rights Comm., *General Comment No. 31: Nature of the General Legal Obligation on States Parties to the Covenant*, 4, U.N. Doc. CCPR/C/21/Rev.1/Add. 13 (May 26, 2004); CERD, *supra* n. 33, art. 5(e)(iii).

<sup>53</sup> 2014 CERD *Concluding Observations*, *supra* n. 26, ¶ 13,

<sup>54</sup> 2015 US UPR *supra* n. 42, at 176.124.

<sup>55</sup> *Id.* at 176.309.

<sup>56</sup> Mission of the U.S. to Geneva, *Addendum of the United States of America to the Report of the Working Group on Its Universal Periodic Review*, 12 (2015) [hereinafter U.S., *UPR Addendum*], available at <https://geneva.usmission.gov/2015/09/01/addendum-of-the-united-states-of-america-to-the-report-of-the-working-group-on-its-universal-periodic-review/>.

<sup>57</sup> Alston, Philip, *Report of the Special Rapporteur on Extreme Poverty and Human Rights on his mission to the United States of America*, A/HRC/38/33/Add.1, ¶ 15-16 (May 2018), available at <https://digitallibrary.un.org/record/1629536> (“There is no magic recipe for eliminating extreme poverty, and each level of government must make its own good faith decisions. But at the end of the day, particularly in a rich country like the USA, the persistence of extreme poverty is a political choice made by those in power. With political will, it could readily be eliminated. . . . What is known, from long experience and in light of the government’s human rights obligations, is that there are indispensable ingredients for a set of policies designed to eliminate poverty. They include: democratic decision-making, full employment policies, social protection for the vulnerable, a fair and effective justice system, gender and racial equality and respect for human dignity, responsible fiscal policies, and environmental justice.”)

<sup>58</sup> UDHR, *supra* n. 49, art. 2.

<sup>59</sup> International Covenant on Civil and Political Rights arts. 2, 26, adopted Dec. 16, 1966, S. Exec. Doc. E, 95-2 (1978), 999 U.N.T.S. 171 [hereinafter ICCPR]; CERD, *supra* n. 33, art. 5(e)(i); see also CRC, *supra* n. 50, art. 2; Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13. The Convention on the Elimination of All Forms of Discrimination Against Women (“CEDAW”) is the most comprehensive treaty addressing sex and gender discrimination. However, the U.S. has only signed, not ratified it. Of particular relevance are CEDAW’s employment discrimination provisions (article 11), which encompass rights to equal employment opportunities, training, remuneration, benefits, job security, and safe working conditions.

<sup>60</sup> ICCPR, *supra* n.32, art. 3.

<sup>61</sup> Human Rights Comm., *General Comment No. 18: Non-Discrimination*, 10, U.N. Doc. HRI/GEN/1/Rev.1 (Oct. 11, 1989).

<sup>62</sup> *Id.* at 7.

<sup>63</sup> CERD, *supra* n. 33, art. 5.

<sup>64</sup> See, CERD Comm., *General Recommendation No. 30: Discrimination Against Non-Citizens*, 3, 33, 35, U.N. Doc. A/59/18 at 93 (2004) [hereinafter CERD Comm., *General Recommendation No. 30*].

<sup>65</sup> See Human Rights Comm., *Concluding Observations—United States of America*, 25, 28, U.N. Doc. CCPR/C/USA/CO/3/Rev.1 (Dec. 18, 2006) (expressing concern with employment discrimination, particularly on the basis of sexual orientation, gender, or sex, and calling on the U.S. to ensure there is protection against discrimination based on sex); CERD Comm., *Concluding Observations—United States of America*, 15, U.N. Doc. CERD/C/USA/CO/6 (May 8, 2008) (noting with concern that racial, ethnic, and national minorities faced limited employment opportunities).

<sup>66</sup> 2015 US UPR Outcome, *supra* n. 42, 176.112, 176.114–17, 176.138.

<sup>67</sup> Mission of the U.S. to Geneva, *Appendix to the Addendum to the Report on the Second Universal Periodic Review of the United States of America* 5 (2015), available at [http://lib.ohchr.org/HRBodies/UPR/Documents/Session22/US/AdditionalInfo\\_US\\_22session.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session22/US/AdditionalInfo_US_22session.pdf).

<sup>68</sup> U.S. Ambassador Keith Harper, the Permanent Representative to the Human Rights Council, emphasized the critical role of state, local, and tribal authorities at the conclusion of the 2015 UPR. See Remarks by Ambassador Keith Harper (Sept. 24, 2015), available at <https://geneva.usmission.gov/2015/09/24/ambassador-harper-im-very-proud-to-be-before-you-today-for-the-adoption-of-the-second-upr-of-the-united-states/>.

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<sup>69</sup> See *Periodic Report of the United States of America to the United Nations Comm. on the Elimination of Racial Discrimination Concerning the International Convention on the Elimination of All Forms of Racial Discrimination*, ¶ 31 (2013), available at <http://www.state.gov/documents/organization/210817.pdf>; *Common Core Document of the United States of America: Submitted With the Fourth Periodic Report of the United States of America to the United Nations Committee on Human Rights concerning the International Covenant on Civil and Political Rights*, ¶ 129 (Dec. 30, 2011), available at <http://www.state.gov/j/drl/rls/179780.htm>. As part of its report to the Committee on the Elimination of Racial Discrimination, the U.S. included by reference an Annex, which provides a snapshot of state, local, tribal and territorial human rights organizations and programs and emphasizes that state and local agencies play a “critical role” in human rights implementation. See *Annex A*, supra n. 5, ¶¶ 1-3; 124-26.

<sup>70</sup> See *Closing the Gap*, supra n. 2.

<sup>71</sup> The one known actor responsible for federal to state and local communities is The Special Representative for Global Intergovernmental Affairs. See Transcript of U.N. Human Rights Council Town Hall Meeting, Universal Periodic Review of the United States Human Rights Record, at 11, Nov. 5, 2010, available at <http://www.charityandsecurity.org/system/files/02.05.10%20UPR%20Town%20Hall%20Transcript.pdf>. Yet that office is not mandated to address domestic human rights implementation and has lacked permanent leadership for a year. See Letter from Robin Toma, Exec. Dir., Los Angeles County Human Relations Comm’n, to Reta Jo Lewis, Special Representative for Global Intergovernmental Affairs (May 3, 2011) (on file with Columbia Law Sch. Human Rights Inst.).

<sup>72</sup> See, e.g., *Bringing Human Rights Home: How State and Local Governments Can Use Human Rights to Advance Local Policy* (2012), available at <https://web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/files/Bringing%20Human%20Rights%20Home.pdf>.

<sup>73</sup> U.S. Conference of Mayors, Res. Promoting and Encouraging International Human Rights, (June 2013), available at [http://www.usmayors.org/resolutions/81st\\_conference/cs15.asp](http://www.usmayors.org/resolutions/81st_conference/cs15.asp); IAOhRA, Res. To Promote and Encourage Broader Understanding of International Human Rights (August 2013) (on file with Columbia Law Sch. Human Rights Inst.).

<sup>74</sup> See e.g., 2017 IAOhRA Resolution, Gender Equity – A Basic Human Right, available at <http://citiesforcedaw.org/wp-content/uploads/2018/03/IAOHRA-REsolution.pdf>.

<sup>75</sup> See *Cities for CEDAW: Status of Local Activities*, at <http://citiesforcedaw.org/wp-content/uploads/2018/03/Landscape-Cities-for-CEDAW-Branded-for-Website-March-2018.pdf>

<sup>76</sup> Letter from Ralph Becker, Mayor, Salt Lake City, Utah, et al., to Tom Malinowski, Asst. U.S. Sec’y of State (July 22, 2014), at [http://web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/state\\_and\\_local\\_sign\\_on\\_letter\\_to\\_dos-federal\\_support\\_final\\_with\\_sigs\\_.pdf](http://web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/state_and_local_sign_on_letter_to_dos-federal_support_final_with_sigs_.pdf).

<sup>77</sup> The FBI has documented a 17% increase in hate incidents from 2016 to 2017. See *Federal Bureau of Investigation, Uniform Crime Reporting: 2017*, available at <https://www.fbi.gov/news/stories/2017-hate-crime-statistics-released-111318>; See also Jessica Schneider, *Hate crimes increased by 17% in 2017*, FBI report finds, CNN, at <https://www.cnn.com/2018/11/13/politics/fbi-hate-crimes-2017/index.html>,

This is consistent with reports of increased hate and bias incidents across the country. See Reuters, *U.S. Hate Crimes Up 20 Percent in 2016, Fueled by Election Campaign: Report*, NBC News (Mar. 14, 2017, 12:57 PM), <http://www.nbcnews.com/news/us-news/u-s-hate-crimes-20-percent-2016-fueled-election-campaign-n733306> (“The new numbers, collected from police departments, reverse a trend toward fewer hate crimes in many of the cities in recent years.”); See also HateWatch, S. Poverty Law Ctr., <https://www.splcenter.org/hatewatch/2017/02/10/post-election-bias-incidents-1372-new-collaboration-propublica> (last visited Sept. 9, 2017); Mapping Hate, THINKPROGRESS, <https://thinkprogress.org/mapping-hate-in-trumps-america-9b166b2c52c2> (last visited Sept. 9, 2017); Documenting Hate, PROPUBLICA, <https://www.hateindex.com/> (last visited Sept. 20, 2017).

<sup>78</sup> Rick Montgomet, *Greitens signs bill that raises standards for fired employees to win discrimination cases*, The Kansas City Star (June 30, 2017), at <http://www.kansascity.com/news/politics-government/article159183319.html>. The text of Missouri’s SB 43 is available here: <https://legiscan.com/MO/bill/SB43/2017>.

<sup>79</sup> See National League of Cities, *City Rights in an Era of Pre-emption, a State-by-State Analysis* (2017), available at <http://www.nlc.org/preemption>.

<sup>80</sup> See *Closing the Gap*, supra n. 2.

<sup>81</sup> Exec. Order 13768, *Enhancing Public Safety in the Interior of the United States* (Jan. 25, 2017), <https://www.whitehouse.gov/the-press-office/2017/01/25/presidential-executive-order-enhancing-public-safety-interior-united> (hereinafter Muslim and Refugee Travel Ban)

<sup>82</sup> Tal Kopan, *Jeff Sessions takes immigration fight to California, announces lawsuit* CNN (Mar. 7, 2018).



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<sup>83</sup> Civil Rights Groups challenged the suspension of a rule that requires jurisdictions to complete fair housing assessments in a federal civil rights lawsuit. See *National Fair Housing Alliance et al. vs. Ben Carson & HUD, Complaint* (May 8, 2018). The lawsuit was dismissed but advocacy to ensure that fair housing protections are preserved, continues, including to preserve disparate impact protections. See, e.g., Kristen Capps, *Is the Fight for Fair Housing Over?* (Aug. 22, 2018), at <https://www.citylab.com/equity/2018/08/is-the-fight-for-fair-housing-over/568090/>; Kristen Capps, *How HUD Could Reverse Course on Racial Discrimination* (Jun. 21, 2018), at <https://www.citylab.com/equity/2018/06/how-hud-could-reverse-course-on-racial-discrimination/563402/> See also DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, *Notice, Affirmatively Furthering Fair Housing: Extension of Deadline for Submission of Assessment of Fair Housing for Consolidated Plan Participants* (Jan. 2018), at <https://s3.amazonaws.com/public-inspection.federalregister.gov/2018-00106.pdf> (announcing a delay in implementing the Affirmatively Furthering Fair Housing Rule)

<sup>84</sup> Human Rights Council, Report of the Working Group of Experts on People of African Descent, ¶ 18, A/HRC/33/61/Add.2 (Aug. 18 2016), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/183/30/PDF/G1618330.pdf?OpenElement>

<sup>85</sup> See Becky Monroe, *President’s Budget Would Eliminate Important “Peacemaker” Agency Created by the Civil Rights Act of 1964* (Feb 12, 2018), at <https://medium.com/@LawyersComm/presidents-budget-would-eliminate-important-peacemaker-agency-created-by-the-civil-rights-act-of-826ea0538644>

<sup>86</sup> Ryan Reilly, *Trump Budget Eliminates DOJ ‘Peacemaker’ Office Founded By Civil Rights Act* (February 12, 2018), at [https://www.huffingtonpost.com/entry/community-relations-service-doj-trump\\_us\\_5a81f1ace4b061625973aebf](https://www.huffingtonpost.com/entry/community-relations-service-doj-trump_us_5a81f1ace4b061625973aebf)

<sup>87</sup> U.S. Commission on Civil Rights, *The U.S. Commission on Civil Rights Urges Congress to Prioritize Civil Rights in the Fiscal Year 2019 Budget* (Mar. 16, 2018), at [https://www.huffingtonpost.com/entry/community-relations-service-doj-trump\\_us\\_5a81f1ace4b061625973aebf](https://www.huffingtonpost.com/entry/community-relations-service-doj-trump_us_5a81f1ace4b061625973aebf).

<sup>88</sup> The elimination of the DOJ Community Relations Service was cited by the Los Angeles County Human Relations Commission as “threaten[ing] to place a greater burden on [the agency] without any assistance from the federal government in ensuring civil rights and civic peace.” Survey responses are on file with the Columbia Law School Human Rights Institute.

<sup>89</sup> Survey responses are on file with the Columbia Law School Human Rights Institute.

<sup>90</sup> Survey responses are on file with the Columbia Law School Human Rights Institute.

<sup>91</sup> See The Columbia Law School Human Rights Institute & The Leadership Conference on Civil and Human Rights, *The Road to Rights: Establishing a Domestic Human Rights Institution in the United States*, 27 (2012), available at [http://www.civilrightsdocs.info/pdf/reports/The\\_Road\\_to\\_Rights\\_Post\\_Conference\\_Report.pdf](http://www.civilrightsdocs.info/pdf/reports/The_Road_to_Rights_Post_Conference_Report.pdf).