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## **Federal Outreach and Mechanisms to Ensure Human Rights Implementation and the Federal, State and Local Levels**

Human Rights Institute

International Association of Official Human Rights Agencies (IAOHRA)

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**Federal Outreach and Mechanisms to Ensure Human Rights Implementation and the  
Federal, State and Local Levels**

Submission to the United Nations Universal Periodic Review of

The United States of America

Second Cycle

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Submitted by: Columbia Law School Human Rights Institute & The International  
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The Human Rights Institute is the focal point of international human rights education, scholarship, and practice at Columbia Law School. Founded in 1998, the Institute fosters the development of a rich and comprehensive human rights curriculum and builds bridges between theory and practice, between law and other disciplines, between constitutional rights and international human rights, and between Columbia Law School and the worldwide human rights movement. Through our Human Rights in the United States project, we are working 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.

The International Association of Official Human Rights Agencies (IAOHRA), founded in 1949, is a non-profit membership association of over 150 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 and/or to conduct research, training, and public education ("Human Rights Agencies").

## I. SUMMARY

1. The United States has repeatedly affirmed that state and local governments are vital to comprehensive human rights implementation within and throughout the country. During the 2010 UPR, the Legal Adviser to the U.S. State Department emphasized that “the best human rights implementation combines overlapping enforcement by . . . the federal government working together with state and local partners.”<sup>1</sup> Indeed, state and local authorities are on the front lines of addressing key human rights issues, including housing, employment, criminal justice and education. This includes the over 150 state and local civil and human rights agencies that enforce federal, state and local human and civil rights laws and/or conduct research, training and education, and issue policy recommendations within the United States<sup>2</sup> (“Human Rights Agencies”). It also encompasses the full array of state and local officials with decision-making and enforcement authority, including governors, state attorneys general, mayors, state legislators, city council members, law enforcement, city, county and town executives, and boards of supervisors.
2. Despite the recognized importance of state and local agencies and officials in effective human rights promotion and protection within the United States, there is no coordinated federal effort to engage state and local actors in implementation within the U.S. To date, no permanent government entities are tasked to encourage, coordinate and support human rights education, monitoring or implementation at the state and local levels. There is no federal clearinghouse to offer guidance or technical assistance on human rights treaties or U.N. expert recommendations, or how international human rights standards relate to law and policy. No focal points exist to collect and disseminate recent developments or to translate international standards into domestic practice. The United States also lacks a national human rights monitoring body, such as an NHRI.

While human rights transcend the jurisdictional divides of federal, state and local governments, the federal government is ultimately responsible for treaty compliance throughout and within the United States.

3. In recent years, the federal government has taken some promising steps to improve federal coordination around treaty reporting and to expand outreach and engagement with state and local governments around human rights. While laudable, these steps are insufficient to educate state and local governments about international human rights obligations or to support or encourage efforts to implement human rights. As a result, many state and local officials are unaware of the treaties the U.S. has ratified and their obligations with respect to treaty implementation.<sup>3</sup> This lack of basic human rights education is compounded by resource and staffing constraints at the state and local level, which further impede the promotion and protection of human rights. State and local governments thus lack the capacity necessary to effectively collect and analyze data on human rights compliance and take other necessary steps to implement human rights.
4. What currently exists at the federal level is an ad-hoc approach to human rights reporting and implementation, which lacks meaningful avenues for state and local government

participation.<sup>4</sup> Myriad examples illustrate how the current lack of accountability has led to persistent gaps in human rights protections in areas within state and local jurisdiction. These include the impact of the recent mortgage crisis, which resulted in disproportionate rates of homelessness in communities of color,<sup>5</sup> and the persistence of employment inequality for women.<sup>6</sup> In recent months, the devastating effects of racial profiling and police brutality have garnered the attention of the international community as well.<sup>7</sup>

5. State and local governments are increasingly expressing interest in promoting and protecting human rights. A number of states and localities have explicitly incorporated international human rights standards into local law, policy and practice.<sup>8</sup> In 2013, both the IAOHRA – the umbrella organization of Human Rights Agencies – and the U.S. Conference of Mayors, an organization representing cities of 30,000 residents or more, passed resolutions committing to promote and protect human rights locally.<sup>9</sup> 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>10</sup> but to date, little responsive action has been taken.
6. As described below, the United States federal government has many untapped tools at its disposal to encourage and incentivize state and local implementation.<sup>11</sup> These include developing a federal focal point for educating state and local governments about human rights and providing tangible resources and support for their efforts.
7. The information presented here is based upon interviews and outreach to state and local agencies and officials, as well as independent research conducted by the Columbia Law School Human Rights Institute, in partnership with state and local actors.<sup>12</sup>

## II. LEGAL FRAMEWORK

8. According to the U.S. Constitution, ratified treaties constitute “the supreme Law of the Land.”<sup>13</sup> By virtue of our federal system, federal, state and local authorities share responsibility for implementation of international human rights obligations. When ratifying the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention Against Torture, the U.S. included some variation of the following understanding:

this Convention shall be implemented by the Federal Government to the extent that it exercises jurisdiction over the matters covered therein, and otherwise by the state and local governments. To the extent that state and local governments exercise jurisdiction over such matters, the Federal Government shall, as necessary, take appropriate measures to ensure the fulfilment of this Convention.<sup>14</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>15</sup>

9. Current case law and the U.S. federal system prohibit the federal government from *compelling* state and local governments to comply with human rights obligations.<sup>16</sup> However, there are numerous avenues to encourage and support state and local human rights monitoring and implementation, in line with U.S. treaty obligations and commitments.
10. During the 2010 UPR process, the U.S. Government *accepted* several recommendations related to strengthening state and local implementation:
  - 65. Review its laws at the Federal and State levels with a view to bringing them in line with its international human rights obligations (Egypt)
    - The U.S. supported this recommendation, emphasizing that “We regularly engage in such reviews of our laws in light of our human rights obligations, including through the enforcement of our Federal civil rights laws and implementation of our domestic civil rights programs, litigation and judicial review, our reports to UN human rights treaty bodies, engagement with UN Special Procedures, and active discussions with civil society. Although the Federal government *does not consistently or systematically review State laws*, our civil rights mechanisms allow for review of State laws, as appropriate.” (emphasis added)
  - 87. Incorporate human rights training and education strategies in their public policies (Costa Rica).
    - The U.S. supported this recommendation, while stating “Programs at the Federal and State levels provide training on human rights, particularly on issues related to civil rights and non-discrimination; *we are continuing to explore ways to strengthen such programs.*” (emphasis added)
  - 74. That a human rights institution at the federal level be considered in order to ensure implementation of human rights in all states (Norway).
    - The U.S. supported this recommendation, noting “There are Federal and State institutions to monitor human rights; *we are considering whether this network of protection is in need of improvement.*” (emphasis added)
11. The U.S. *did not accept* recommendations that called expressly for the creation of a national human rights institution, which included the following:
  - 72. Establish a national human rights institution, in accordance with the Paris Principles (Egypt, Germany, Ghana, Sudan, Bolivarian Republic of Venezuela);
  - 73. Implement recommendations of the United Nations human rights bodies concerning the establishment of an independent national human rights institute in line with the Paris Principles (Russian Federation); Taking necessary steps to establish an

independent national human rights institution, in accordance with Paris Principles, in order to strengthen human rights at federal and state level in addition to the local level. (Qatar); Establish an independent national human rights institution in accordance with Paris Principles, to monitor compliance with international standards and to ensure coordination in implementing its human rights obligations between federal, state and local governments (Republic of Korea); Establishment of an independent national human rights institution compliant with Paris Principles at federal level with appropriate affiliated structures at state level (Ireland).

12. Importantly, the 2010 UPR recommendations to the United States reiterate the Concluding Observations of several treaty bodies:
- a. In 2014, the Committee on the Elimination of All Forms of Racial Discrimination called on the U.S. to “create a permanent and effective coordinating mechanism, such as a national human rights institution ... to ensure the effective implementation of the Convention throughout the State party and territories under its effective control; monitor compliance of domestic laws and policies with the provisions of the Convention; and systematically carry out anti-discrimination training and awareness-raising activities at the federal, state and local levels” and “to widely publicize the concluding observations of the Committee.”<sup>17</sup> These recommendations echoed the Committee’s 2008 call for “an independent national human rights institution” and “appropriate mechanisms to ensure a co-ordinated approach towards the implementation of the Convention at the federal, state and local levels,” which were coupled with a call for increased human rights education for government officials.<sup>18</sup>
  - b. In 2014, the Human Rights Committee called on the U.S. to “strengthen and expand existing mechanisms mandated to monitor the implementation of human rights... [and] provide them with adequate human and financial resources or consider establishing an independent national human rights institution.”<sup>19</sup> In 2006, the Committee called for the creation of mechanisms to facilitate more comprehensive reviews of compliance at all levels of government and foster follow-up with the Concluding Observations, emphasizing that action was needed to ensure that federal and state laws comply with the treaty in a number of areas.<sup>20</sup>
  - c. 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>21</sup>
  - d. After its 2010 U.S. Country visit, the Working Group of Experts on Peoples of African Descent recommended that the United States create a national human rights monitoring body.<sup>22</sup>
  - e. The Working Group on Business and Human Rights, too, has noted that incentives for human rights compliance from federal, state and local authorities are needed to bolster respect for human rights among businesses.<sup>23</sup>

### III. U.S. COMPLIANCE WITH ITS INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

13. In its recent reports to U.N. treaty bodies, the U.S. has “fully agree[d] that mechanisms designed to strengthen coordination are critical,” emphasizing that “[t]he United States continues to examine ways to improve human rights treaty implementation at all levels of government.”<sup>24</sup>
14. U.S. recognition of the valuable role of state and local governments is laudable, but the U.S. continually offers an incomplete picture of the context in which they operate. The U.S. typically indicates that state and local governments already provide “complementary protections and mechanisms” that “reinforce the ability of the United States to guarantee respect for human rights.”<sup>25</sup> However, the U.S. 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>26</sup>
15. While offering a potential infrastructure for human rights implementation, the “complementary [federal, state and local] protections and mechanisms” discussed in U.S. reports to the treaty bodies are neither oriented around international human rights treaty standards nor adequately resourced to monitor or promote compliance with these standards.<sup>27</sup> A more comprehensive national approach to human rights implementation will require federal mechanisms and initiatives to support, incentivize and coordinate state and local efforts to comply with international human rights treaty standards through education, training and other means.
16. In recent years, the Obama Administration has taken a number of important steps to improve federal coordination around treaty reporting and implementation:
  - a. The United States has created a federal level inter-agency Equality Working Group to coordinate federal agencies around human rights.<sup>28</sup>
  - b. The U.S. has stepped up efforts to inform state and local actors about treaty review processes. In 2014, the State Department’s Office of the Legal Adviser sent letters to state and local governments, emphasizing the U.S. “commitment to protecting human rights domestically through the operation of our comprehensive system of laws, policies, and programs at all levels of government – federal, state, local, insular, and tribal,” and noting that the U.S. is “proud of this shared role in upholding and protecting human rights.”<sup>29</sup> The 2014 letter followed up on earlier communications to state and local actors seeking input into U.S. treaty reports.<sup>30</sup>
  - c. In 2014, the U.S. included a mayor and a state attorney general in its delegations for the ICCPR and CERD reviews.

- d. During the interactive dialogue with the Human Rights Committee, the Obama Administration committed to disseminate the Human Rights Committee's Concluding Observations to state and local actors.
  - e. The State Department made a presentation on human rights treaties at IAOHRA conferences in 2010, 2011 and 2012, and at the 2014 Equal Employment Opportunity Commission conference for state and local agencies.
17. These are positive steps, yet more must be done to foster comprehensive and coordinated human rights monitoring and implementation at the state and local level.
- a. The Equality Working Group is a welcome development, but it has yet to be institutionalized and, to date, it has not engaged with state and local governments. Further, there is no publicly available information on the Working Group's mandate, membership or activities.
  - b. The State Department's official communications with state and local governments consists largely of letters focused on treaty reporting, and have not provided substantive guidance on ways to foster state and local compliance with U.S. human rights commitments and obligations.<sup>31</sup>
  - c. To date, the federal government has not disseminated U.N. Concluding Observations or UPR recommendations to state and local government actors, nor has it offered guidance on how they relate to state and local policy or on effective practices to bolster compliance with these recommendations.
18. Moreover, there remains a significant gap in human rights implementation within the United States. The persistence of racial and ethnic profiling, housing discrimination and disparities in employment based on gender and race are a few of the ongoing concerns raised in the first cycle of the UPR. (Recommendations 68, 101, 106, 197, 81, 115).
19. To ensure effective domestic human rights implementation, and fulfill its human rights obligations and commitments, the United States, should, at a minimum:
- a. Work across federal agencies and departments to identify avenues for more comprehensive **education and training** for state and local agencies and officials on their human rights obligations, **including U.N. recommendations**.
  - b. Consider mechanisms to **provide resources and funding** to state and local agencies and officials to engage in human rights monitoring and implementation.
  - c. **Take proactive measures to support establishment of transparent and effective federal mechanisms** mandated to coordinate with state and local officials around human rights monitoring and implementation at the federal, state and local levels, including:
    - a **federal focal point** to coordinate and liaise with state and local actors regarding human rights implementation,
    - a reinvigorated **Inter-Agency Working Group on Human Rights**, and
    - a **National Human Rights Monitoring Mechanism**, such as a U.S. Commission on Civil and Human Rights.



#### IV. CONCLUSION

20. The United States has repeatedly emphasized a commitment to human rights for all. By endorsing the Universal Declaration of Human Rights and ratifying the ICCPR, the CERD, and the CAT, the federal government has undertaken obligations to promote and protect human rights throughout the U.S., through all appropriate measures, including legislation, education and policy.<sup>32</sup> To meet those obligations, and ensure that state and local governments can reach their full potential to implement human rights, the United States must develop a more comprehensive and coordinated approach to human rights implementation. Specifically, the federal government must support, encourage and incentivize state and local human rights promotion, monitoring, and implementation through (1) increased 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, such as a designated federal focal point on human rights, a reinvigorated Interagency Working Group on Human Rights, and a U.S. Commission on Civil and Human Rights.

## ENDNOTES/FOOTNOTES

<sup>1</sup> Harold Hongju Koh, Legal Adviser, U.S. Dep't of State, *Response of the United States of America to the Recommendations of the United Nations Human Rights Council* (Nov. 9, 2010), available at <http://www.state.gov/s/l/releases/remarks/150677.htm>; See Annex A to the Common Core Document of the United States: State, Local, Tribal, and Territorial Human Rights Organizations and Programs, 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, ¶¶ 1-3; 124-26 (Dec. 30, 2011), available at <http://www.state.gov/j/drl/rls/179782.htm>. [Hereinafter Annex A]

<sup>2</sup> See Kenneth L. Saunders & Hyo Eun (April) Bang, Kennedy School of Government, Harvard University, *A Historical Perspective on U.S. Human Rights Commissions* 5 (2007), available at [http://www.hks.harvard.edu/var/ezp\\_site/storage/fckeditor/file/pdfs/centers-programs/programs/criminal-justice/ExecSessionHumanRights/history\\_of\\_hrc.pdf](http://www.hks.harvard.edu/var/ezp_site/storage/fckeditor/file/pdfs/centers-programs/programs/criminal-justice/ExecSessionHumanRights/history_of_hrc.pdf); Risa 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).

<sup>3</sup> As one example, in 2008, Human Rights Watch sent letters to the Attorneys General of every state to identify whether they were aware of the International Convention on the Elimination of All Forms of Racial Discrimination and their states' responsibilities under the treaty. The responses they received were limited but illuminating. The Attorney General of Kansas, for example, responded: "It does not appear that Kansas was a party to any agreement or resolution passed by this body or the federal government" and requested a "cite to the pre-emptive federal law and/or Kansas Statute...creating a legal duty." Human Rights Watch, *Submission to the Committee on the Elimination of all Forms of Racial Discrimination During its Consideration of the Fourth, Fifth, and Sixth Periodic Reports of the United States of America CERD 72nd Session* 64 (Feb. 2008), available at <http://www2.ohchr.org/english/bodies/cerd/docs/ngos/usa/HRW.pdf>.

<sup>4</sup> Columbia Law School Human Rights Institute & International Association of Official Human Rights Agencies, *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* at 18-19 (2013); available at <https://web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/files/State%20and%20Local%20Shadow%20Report%20%28ecopy%29.pdf>.

<sup>5</sup> See, e.g., James H. Carr et al., Nat'l Community Reinvestment Coalition, *The Foreclosure Crisis and Its Impact on Communities of Color: Research and Solutions* 5 (2011), available at [http://www.ncrc.org/images/stories/pdf/research/ncrc\\_foreclosurewhitepaper\\_2011.pdf](http://www.ncrc.org/images/stories/pdf/research/ncrc_foreclosurewhitepaper_2011.pdf); Debbie Grunstein Bocian et al., Cntr. for Responsible Lending, *Foreclosures by Race and Ethnicity: The Demographics of a Crisis* (2010), available at <http://www.responsiblelending.org/mortgage-lending/research-analysis/foreclosures-by-race-and-ethnicity.html>.

<sup>6</sup> See, e.g., Maxwell Matite et al., Inst. for Women's Policy Research, *Quantifying Women's Labor Market Experiences: How a Gender Lens Changes the Conversation about the Economy* (2013), available at [http://www.iwpr.org/publications/pubs/the-truth-in-the-data-how-quantifying-women2019s-labor-market-experiences-changes-the-conversation-about-the-economy/at\\_download/file](http://www.iwpr.org/publications/pubs/the-truth-in-the-data-how-quantifying-women2019s-labor-market-experiences-changes-the-conversation-about-the-economy/at_download/file); Press Release, U.S. Equal Emp't Opportunity Comm'n, *Outback Steakhouse To Pay \$19 Million For Sex Bias Against Women in 'Glass Ceiling' Suit by EEOC* (Dec. 29, 2009), <http://www.eeoc.gov/eeoc/newsroom/release/12-29-09a.cfm>.

<sup>7</sup> See, e.g., Stephanie Nebehey, *Missouri racial violence recalls apartheid, UN rights chief says*, Reuters (Aug. 20, 2014), at <http://in.reuters.com/article/2014/08/20/un-rights-pillay-idINKBN0GJ1UF20140820>.

<sup>8</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>9</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>10</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).

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<sup>11</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 at 2009.

<sup>12</sup> *Closing the Gap*, supra n. 4; *Bringing Human Rights Home*, supra n. 8; 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); Columbia Law Sch. Human Rights Inst. & Int’l Assoc. of Official Human Rights Agencies, *State and Local Human Rights Agencies: Recommendations for Advancing Equality Through an International Human Rights Framework* (2010), available at [http://web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/files/45408\\_HRI-Text%20%5BOnline%5D%20-%202nd%2](http://web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/files/45408_HRI-Text%20%5BOnline%5D%20-%202nd%2).

<sup>13</sup> U.S. Const. art. VI.

<sup>14</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>15</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>16</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>17</sup> 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*, ¶¶ 6;32, 85<sup>th</sup> Sess., Aug 11-29, 2014, U.N. Doc. CERD/C/USA/CO/7-9 (Aug. 29, 2014).

<sup>18</sup> Comm. On the Elimination of Racial Discrimination., 72<sup>nd</sup> Sess., Feb.18-Mar. 7, 2008, *Concluding Observations of the Committee on the Elimination of Racial Discrimination: United States of America*, ¶¶ 12; 13;36, U.N. Doc. CERD/C/USA/CO/6 (Feb. 2008).

<sup>19</sup> Human Rights Comm., *Concluding Observations of the Human Rights Committee: United States of America*, 110<sup>th</sup> Sess., Mar. 10-28, ¶ 4(b); (d), U.N. Doc. CCPR/C/USA/CO/4 (Apr. 23, 2014).

<sup>20</sup> Human Rights Comm., 87<sup>th</sup> Sess., July 10-28, 2006, *Concluding Observations of the Human Rights Committee: United States of America*, ¶ 39; 22-25; 28, U.N. Doc. CCPR/C/USA/CO/3/Rev.1 (Dec. 18, 2006).

<sup>21</sup> 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).

<sup>22</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).

<sup>23</sup> U.N. Working Group on Business and Human Rights, *Statement at the End of Visit to the United States* (May 1, 2013).

<sup>24</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). [hereinafter *U.S. 2013 CERD Report*].

<sup>25</sup> See *Id.*, ¶ 31; *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 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. 1, ¶¶ 1-3; 124-26.

<sup>26</sup> *Closing the Gap*, supra note 4.

<sup>27</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

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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.); Office of Intergovernmental Global Affairs, Biography, at <http://www.state.gov/s/srgia/c38305.htm> (last visited June 12, 2014); Mike DeBonis, *Reta Jo Lewis, ex-State Department official, enters D.C. mayor race*, Washington Post, July 2, 2013. Nevertheless, state and local actors interested in participating in treaty reviews have been directed to contact that office. See Letter From Principal Deputy Legal Adviser McLeod, *infra* note 28 and accompanying text.

<sup>28</sup> See *U.S. 2013 CERD Report*, *supra* note 24, ¶¶ 4; 30 (“the newly established Equality Working Group creates a forum for dialogue between civil society and the federal government on issues of equality and human rights”).

<sup>29</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/2014/223237.htm> (disseminated to the U.S. Conference of Mayors, National Association of Counties, National Governors Association, National Association of Attorneys General and IAOHRA).

<sup>30</sup> See, e.g., Letter from Harold Koh, Legal Adviser, U.S. Dep't of State, to State and Local Human Rights Commissions (Dec. 21, 2010) (on file with Columbia Law Sch. Human Rights Inst.) (requesting information for U.S. CERD and CAT reports); Letter from Harold Hongju Koh, Legal Adviser to the U.S. Dep't of State, to State and Local Human Rights Commissions (May 3, 2010), available at [http://www.iaohra.org/storage/pdf/human-rights-campaign/Letter\\_from\\_HaroldKoh\\_to\\_Stateand%20LocalCommissions.pdf](http://www.iaohra.org/storage/pdf/human-rights-campaign/Letter_from_HaroldKoh_to_Stateand%20LocalCommissions.pdf); Memorandum from Harold Hongju Koh, Legal Adviser to the U.S. Dep't of State, to State Governors on U.S. Human Rights Treaty Reports (Jan. 20, 2010), available at <http://www.state.gov/documents/organization/137292.pdf>.

<sup>31</sup> See Letter From Principal Deputy Legal Adviser McLeod, *supra* note 28.

<sup>32</sup> See, e.g. International Covenant on Civil and Political Rights, art. 2(2); 50, Dec. 16, 1966, 999 U.N.T.S. 171; Human Rights Comm., Gen. Comment No. 18, *Non-Discrimination*, ¶ 5, U.N. Doc. HRI/GEN/1/Rev.9 at 195 (1989), available at <http://www1.umn.edu/humanrts/gencomm/hrcom18.htm>; Gen. Comment No. 31, *Nature of the General Legal Obligation on States Parties to the Covenant*, ¶ 7, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004), available at <http://www.unhchr.ch/tbs/doc.nsf/0/58f5d4646e861359c1256ff600533f5f>; International Convention on the Elimination of All Forms of Racial Discrimination, arts. 2, 5, 7, Mar. 7, 1966, 660 U.N.T.S. 195; Comm. On the Elimination of Racial Discrimination, 42nd Sess., March 1-19, 1993, *General Recommendation No. 31, Establishment of National Institutions to Facilitate Implementation of the Convention*, ¶ 1(a)-(e), U.N. Doc. A/48/18 (Supp), 116 (Mar. 19, 1993).