



Ensuring Human Rights Implementation at the Federal, State and Local Levels*

ISSUE SUMMARY

In the United States, subnational government actors are essential to human rights implementation. This includes the over 150 state and local agencies that enforce human and civil rights laws; governors; state attorneys general; mayors, legislators; and law enforcement. State and local actors have jurisdiction over a range of human rights issues, such as housing, education, and criminal justice.¹

In recent years, the U.S. has repeatedly affirmed that state and local actors play in a pivotal role in comprehensive human rights implementation² and taken some encouraging steps to communicate with them on human rights.³ **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:**

- There is no institutionalized federal infrastructure to support human rights education, monitoring or implementation, or to offer guidance on human rights.
- The United States lacks a national human rights monitoring body, such as an NHRI.
- The federal government has not disseminated U.N. Treaty Body Concluding Observations or UPR recommendations to state and local governments.

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.⁴

As a result, there are significant gaps between the U.S.' human rights commitments and state and local practice. Many state and local actors 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.

A comprehensive and effective approach to human rights implementation will require federal mechanisms

and initiatives to support and coordinate state and local efforts to comply with international human rights treaty standards through education, training, and other means.

LEGAL FRAMEWORK

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

As the U.S. affirmed when ratifying the ICCPR, CERD and CAT, federal state and local authorities share responsibility for implementing international human rights obligations.⁵

While existing case law and the federal system prevent the federal government from compelling state and local governments to comply with human rights obligations, there are numerous avenues available for the federal government to support and encourage state and local human rights implementation.

UPR AND UN TREATY BODY RECOMMENDATIONS

During the 2010 UPR, the U.S. accepted recommendations to:

- Review federal and state laws to bring them in line with international human rights;
- Incorporate human rights training and education into policies; and
- Consider establishing an NHRI.⁶

The treaty bodies have reiterated the need for the U.S. to establish a more comprehensive approach to monitoring and implementation. In 2014, the Human Rights Committee called for expanded human rights monitoring mechanisms and financial and human resources to this effort.⁷ The CERD called for a permanent mechanism to coordinate monitoring and education at the state and local level.⁸

PROGRESS MADE SINCE FIRST UPR

The U.S. UPR Report offers some steps that the U.S. has taken to improve subnational human rights implementation, such as training state and local agencies and including state and local officials in delegations for recent U.N. human rights reviews.⁹ The State Department has also sent letters to state and local governments focused

on treaty reporting.¹⁰ While positive and important, current efforts remain ad-hoc and limited in scope.

Institutionalized and transparent federal mechanisms are essential to establishing 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.

SUGGESTED QUESTION FOR THE REVIEW

Please indicate what measures the United States is taking to establish an institutionalized, transparent and coordinated approach to human rights monitoring and implementation at the federal, state and local level, including the extent to which the federal government will support state and local efforts through education, training and funding.

SUGGESTED RECOMMENDATIONS

To ensure effective domestic human rights implementation, and fulfill its human rights obligations and commitments, the United States, should, at a minimum:

- 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.
- Consider mechanisms to **provide resources and funding** to state and local agencies and officials to engage in human rights monitoring and implementation.
- **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 Institution, such as a strengthened U.S. Commission on Civil and Human Rights.

* This document is based on a [joint 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 \(IAOHRA\)](#). For more information, please contact JoAnn Kamuf Ward (jward@law.columbia.edu, +1-718-812-0868).

¹ Columbia Law School Human Rights Institute & IAOHRA, [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 8](#) (2013).

² 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; *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).

³ U.S. 2015 UPR Report, ¶¶ 5-6.

⁴ *Id.* ¶ 18.

⁵ 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).

⁶ *Report of the Working Group on the Universal Periodic Review: United States of America*, ¶ 92.65, U.N. Doc. A/HRC/16/11 (Jan. 4, 2011) (Egypt); *Id.* ¶ 92.87 (Costa Rica); *Id.* ¶ 92.74 (Norway).

⁷ 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).

⁸ 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, 85th Sess., Aug. 11-29, 2014, U.N. Doc. CERD/C/USA/CO/7-9 (Aug. 29, 2014). 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).

⁹ U.S. 2015 UPR Report ¶¶ 5-6.

¹⁰ See [Letter From Principal Deputy Legal Adviser McLeod to Governors of U.S. State and Territories](#) (Feb. 18, 2014).